

The State of South Carolina



Office of the Attorney General

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The Honorable Warren K. Giese
Senator, District No. 22
608 Gressette Building
Columbia, South Carolina 29202

Dear Senator Giese:

In a letter to this Office you referenced that in executing a writ of ejectment, an additional three days are given to vacate the premises. I assume you are referencing the time period for removing tenants from leased premises after a magistrate rules that an ejectment is in order. You questioned whether such an extension is authorized.

Section 27-37-40 of the Code states:

(i)f the tenant fails to appear and show cause within the aforesaid ten days then the magistrate shall issue a warrant of ejectment and the tenant shall be ejected by his regular or special constable or by the sheriff of the county.

If the matter proceeds to trial, Section 27-37-100 of the Code provides that if the landlord prevails in the action,

... (t)he magistrate shall within five days issue a writ of ejectment and the tenant shall be ejected by the constable or special constable or the sheriff of the county.

Section 27-37-160 of the Code states further:

In executing a writ of ejectment, the constable or deputy sheriff shall proceed to the premises, present to the occupants a copy of the writ and give the occupants an opportunity to vacate voluntarily. If the occupants refuse to

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vacate or the premises appear unoccupied, the constable or deputy sheriff shall announce his identity and purpose. If necessary, the deputy sheriff, but not a constable, may then enter the premises by force, using the least destructive means possible, in order to effectuate the ejectment. Discretion may be exercised by the constable or deputy sheriff in granting a delay in the dispossession of ill or elderly tenants.

I am unaware of any provision which mandates a time limit for a law enforcement officer to act to eject a tenant. Obviously manpower considerations may figure into an officer's ability to carry out the ejectment.


With best wishes, I am

Very truly yours,


Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:


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