

1983 WL 181998 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 14, 1983

\*1 The Honorable Jarvis R. Klapman

Member

House of Representatives

Lexington County Courthouse

139 East Main Street

Lexington, South Carolina 29072

Dear Representative Klapman:

By your letter of June 29, 1983, to the Attorney General, you inquired as to the effective date for applicants for commissioning as Notaries Public to pay the increased filing fee. In Lexington County, approximately fifty (50) applications were pending when the new law became effective, and you were notified by the Office of the Secretary of State that these applicants would be advised that they must pay the increased filing fee of twenty (\$20.00) dollars.

Notary fees are collected by the Secretary of State at the time one files an application. [See Sections 26-1-10 and 26-1-30, Code of Laws of South Carolina \(1976\)](#). The fees for filing and for recording a name change of a Notary Public were increased by Part II, Section 8 of the Appropriations Act (Act No. 151) of 1983, which Act became effective June 20, 1983. On that date, filing fees for Notaries Public increased from ten (\$10.00) dollars to twenty (\$20.00) dollars. Because no indication that this law was to go into effect at a later date was expressed, this portion of the Act would become effective as of June 20, 1983. [See Section 2-7-10, Code of Laws of South Carolina \(1976\)](#).

Because the commission of a Notary Public may be considered to be a license or permit of sorts, the following may be applied in this situation:

In general, a change in the law pending an application for a permit or license is operative as to the application, so that the law as changed, rather than as it existed at the time the application was filed, determines whether the permit or license should be granted. If, however, action on the application is unreasonably delayed until after the change has become effective, or if the appropriate officer arbitrarily fails to perform a ministerial duty to issue the license promptly on an application that conforms to the law at the time of filing, the law at the time of filing of the application ordinarily controls.

51 Am.Jur.2d, [Licenses and Permits](#), § 46 (emphasis added). [See also, 169 A.L.R. 584](#). Because nothing in your letter suggests undue delay or arbitrary action on the part of any official, it is the opinion of this Office that applications which were pending on the date on which the Act became effective would be subject to the new filing fee of twenty (\$20.00) dollars.

It is understood that problems presented in individual fact situations could present occasions for further review on an individual basis. Absent such circumstances, I hope that this response will satisfactorily answer your question.

Sincerely,

Patricia P. Petway

Staff Attorney

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