

1980 WL 120692 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 28, 1980

\*1 Representative Michael S. Gullledge  
House of Representatives  
333-D Blatt Building  
Columbia, South Carolina 29211

Dear Representative Gullledge:

In a letter to this Office you asked for an opinion concerning the procedure to be followed by the owner of a mobile home park in removing the mobile home of a tenant who refuses to pay the rent for the space provided for his mobile home. You also questioned the procedure to be followed in disconnecting the utilities supplied to the mobile home. You further asked whether the mobile home park owner who takes such action could be civilly liable in such a situation. I appreciate your meeting with me to discuss the situation. As suggested by you, I have discussed the problem with Mr. Broome and he informed me specifically concerning his situation in his mobile home park.

Please be advised that [Section 27-37-10 et seq., Code of Laws of South Carolina](#), 1976, delineates the procedure to be followed in an ejectment action in this State. Section 27-37-40 specifically provides that on failure of the tenant to show cause as to why he should not be ejected within the time provided,

‘ . . . the magistrate shall issue a warrant of ejectment and the tenant shall be ejected . . . ’ (Emphasis added.)

Section 27-37-100 provides that following the trial of a contested ejectment, if the landlord prevails:

‘ . . . the magistrate shall within five days issue a writ of ejectment and the tenant shall be ejected . . . ’ (Emphasis added.)

It appears that it is highly questionable as to whether the above referenced sections are sufficient to provide a remedy in the situation in which a landlord seeks the removal of a mobile home where the owner refuses to pay the rent owed for the space provided for the home. Aside from the questionable authority in the statutes themselves to permit the removal of the mobile home, there arise the obvious questions of how the mobile home will be removed, whose responsibility it is to actually physically remove the mobile home, where the mobile home will be taken, and as you referenced, the problems dealing with the utilities provided to the home and the question of possible liability of the landlord in association with the removal of the mobile home. Thus, I am hesitant to suggest the procedure to be followed to eject a mobile home under the present statutory language.

Please be advised that pursuant to [Section 27-39-210 et seq., Code of Laws of South Carolina](#), 1976, an action may be initiated to collect rent by distress. Such sections provide a method by which personal property of the tenant is seized and sold with the proceeds of the sale being used to satisfy the debt of the tenant for the rent owed.

Enclosed please find a copy of a previous opinion of this Office, a letter from Mr. Hutson S. Davis, Jr., dated January 27, 1975, which discusses distraining a mobile home. As the opinion indicates in distraining against the mobile home itself, certain problems exist, namely the prohibition of seizing an encumbered mobile home unless the lien is removed and the provision that the amount of property distrained must be reasonable as to the amount of the debt. Obviously other problems such as those referenced in attempting to remove a mobile home in an ejectment action are also relevant.

\*2 The opinion does indicate that the personal property in the mobile home may be seized. I discussed the possibility of such with Mr. Broome but he appeared hesitant to initiate such proceedings. However it does appear that distraining the eligible personal property within the mobile home is a remedy by which past rent could be collected. Arguably, a tenant would 'take the hint' and proceed to remove the mobile home from the rented space to avoid any such future distress proceedings if he is unable or unwilling to pay the rent. Certainly such an option should be thoroughly explored.

As to any suggestions as to statutory changes, obviously specific language indicating that mobile homes may be ejected would be one means of proceeding to alleviate such problems. In making any such changes in the current law, specific instructions on who has the responsibility of removing the mobile home and disconnecting the utilities and where the mobile home is to be taken should be considered.

If there are any further questions concerning the above please contact me.

With best wishes.

Very truly yours,

Charles H. Richardson  
Assistant Attorney General

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