

1980 S.C. Op. Atty. Gen. 53 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-25, 1980 WL 81909

Office of the Attorney General

State of South Carolina

Opinion No. 80-25

March 6, 1980

***1 SUBJECT: Property Tax—Constitutionality of Provision to Provide For a Three Percent Ratio to Be Applied to the Fair Market Value of Residential Property for Property Tax Purposes.**

A bill that would reduce the ratio applied to the value of legal residences from four percent to three percent for ad valorem tax purposes does not offend the provisions of the Constitution of South Carolina or of the Constitution of the United States.

TO: Honorable Joyce C. Hearn
Member
House of Representatives
District No. 76, Richland County

QUESTION:

Bill H. 3277 provides for an amendment to [Article X, Section 1\(3\) of the South Carolina Constitution](#) so as to reduce the ratio applied to the fair market value of legal residences from four (4%) percent to three (3%) percent. Is the bill constitutional?

APPLICABLE LAW:

[Article XVI, Section 1 of the South Carolina Constitution](#) and the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

DISCUSSION:

[Article XVI, Section 1 of the Constitution of South Carolina](#) provides in part that ‘amendments to the Constitution may be proposed in the Senate or House of Representatives * * *.’ The bill proposes the amendment in the House and would thus satisfy this constitutional requirement.

If the South Carolina Constitution was amended by the bill, its provision would be a part of the Constitution. We know of no conflict with other provisions of the South Carolina Constitution that would invalidate the inclusion of the proposed amendment.

The equal protection and due process clauses of the Federal Constitution do not preclude classification of property for tax purposes.

‘Generally, within constitutional limitation, the state has power to classify persons or property for purposes of taxation, and the exercise of such power is not forbidden by the constitutional requirement that taxation be uniform and equal, provided the tax is uniform on all members of the same class and provided the classification is reasonable and not arbitrary.’ 84 C.J.S. Taxation, § 36, p. 112.’ [Newberry Mills, Inc. v. Dawkins](#), 259 S.C. 7, 190 S. E. 2d 503.

‘The states, in exercise of their taxing power, as with respect to exertion of other powers, are subject to requirements of the due process and the equal protection clauses of the Fourteenth Amendment, but that Amendment imposes no iron rule of equality, prohibiting the flexibility and variety that are appropriate to schemes of taxation; in levying such taxes, the state need not resort

to close distinctions or maintain a precise scientific uniformity with reference to composition, use or value.’ [Kahn v. Shevin](#), 94 S.Ct. 1734, 416 U.S. 351, 40 L. Ed. 2d 189; [Lehnhausen v. Lake Shore Auto Parts Co.](#), 93 S.Ct. 1001, 410 U.S. 356, 35 L. Ed. 2d 351, rehearing denied 93 S. Ct. 1523, 411 U.S. 910, 36 L. Ed. 2d 200.

Our Constitution presently provides for a four percent ratio and it is doubtful that the reduction to three percent would constitute an unreasonable classification.

*2 In the [Lehnhausen](#) case the United States Supreme Court sustained a provision of the Constitution of the State of Illinois that precluded the taxation of personal property owned by individuals. Such was a classification based upon ownership.

CONCLUSION:

It is the opinion of this office that a bill that would reduce the ratio applied to the value of legal residences from four percent to three percent for ad valorem tax purposes does not offend the provisions of the Constitution of South Carolina or of the Constitution of the United States.

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