

1980 WL 121172 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 16, 1980

*1 Honorable Don S. Rushing
Senator
State of South Carolina
506 Gressette Building
Columbia, South Carolina 29211

Dear Senator Rushing:

Ms. McLeese of your Office indicated you had two questions concerning a magisterial appointment and desired an opinion from our Office in response.

You specifically asked whether a Lancaster County Magistrate must reside in the township for which he is appointed and also whether there are any requirements as to the length of time the magisterial candidate must have resided in the township prior to appointment. Your questions were particularly raised in light of the recent legislation, specifically [Section 22-2-170, Code of Laws of South Carolina](#), 1976, as amended, which indicated that magistrates have countywide jurisdiction.

Please be advised that pursuant to Act No. 192 of 1977 [60 Acts and Joint Resolutions 505 (1977)], there are residency requirements for Lancaster County Magistrates. Section 1 of such Act states:

‘(t)here shall be appointed for Lancaster County ten magistrates, one for each township in the county as follows: Gill Creek, Cane Creek, Cedar Creek, Flat Creek, Buford, Pleasant Hill, Waxhaw and Indian Land, and one magistrate for the townships of Pleasant Hill and Flat Creek, who shall reside and keep his office in the town of Kershaw in the county, and one for the area annexed to the county from Kershaw County in 1977 who shall reside in that area. The magistrate for Gills Creek township shall reside at and keep his office at Lancaster courthouse and the magistrate for Cane Creek township shall keep his office at the Lancaster cotton mills. Each of the magistrates appointed under the provisions hereof shall be a resident of the judicial district for which he is appointed and shall reside therein during his term of office.’ (Emphasis added.)

In the opinion of this Office, such Act requiring residency is still valid. The recently enacted general provisions concerning countywide magisterial jurisdiction and the decision of the South Carolina Supreme Court in State ex rel. McLeod v. Crowe, Opinion No. 20805, filed November 13, 1978, which indicated that all magistrates have countywide jurisdiction did not make any provisions for residency requirements of magistrates. Furthermore, it appears that the term ‘judicial district’ is interchangeable with the term ‘township’ as used in the above Act.

As to your other question concerning the length of time in which a magisterial candidate must reside in a township prior to his appointment, I am unaware of any provision which mandates any such requirement.

If there are any further questions, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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