

1980 WL 120996 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 9, 1980

\*1 Honorable Jasper M. Cureton  
Master in Equity  
Richland County Courthouse  
Columbia, SC 29201

Dear Mr. Cureton:

In a letter to this Office you questioned whether a master-in-equity is authorized to utilize the services of an auctioneer to auction properties ordered sold by the court and whether the auctioneer's fees could be assessed as a cost in the case.

I have reviewed those statutes pertaining to the office of master-in-equity and judicial sales and found nothing which specifically authorizes the utilization of the services of an auctioneer in the circumstances described above. As to judicial sales conducted by a master-in-equity, Section 14-11-80 of the 1976 Code of Laws, as amended, states in part:

'[t]he master shall make all such sales as the circumstances may require or as the court may order him to make in granting equitable relief and shall execute all proper conveyances thereof.'

[Sections 15-39-610 et. seq. of the 1976 Code](#) of Laws also provide for the manner of conducting judicial sales generally. While it may be asserted that such statutes could be broadly construed to authorize the utilization of the services of an auctioneer, I believe such an interpretation would be ill-advised. My research has revealed that the Legislature has in the past enacted legislation specifically authorizing the employment of an auctioneer to conduct judicial sales in various counties. [See, e.g., Act No. 78 of 1937 (Barnwell County); Act No. 79 of 1937 (Abbeville County); Act No. 37 of 1939 (Laurens and Spartanburg Counties); Act No. 739 of 1938 (Chester County); Act No. 877 of 1938 (Cherokee County); Act No. 905 of 1950 (York County); and Act No. 992 of 1966 (Lexington County)].

In addition to the problem of interpreting the above referenced statutes to permit the utilization of the services of an auctioneer by a master-in-equity to conduct a judicial sale, there does not appear to be specific authority for the assessment of the fee of an auctioneer as a cost in a case or for the payment of such to the auctioneer for his services. Several of the above-referenced special acts, however, do provide for such an assessment and payment to the auctioneer.

[Section 14-11-310 of the 1976 Code](#) of Laws, as amended, authorizes the collection of certain fees by a master-in-equity for various acts, but makes no provision for the collection of a fee for the services of an auctioneer. Furthermore, as to whether any fee for an auctioneer which was collected could be paid to an auctioneer, [Section 14-11-40 of the 1976 Code](#) of Laws, as amended, specifically states that:

'[a]ll fees and costs received and recovered by any master-in-equity shall be accounted for and paid into the general fund of the county as directed by the governing body thereof.'

Therefore, referencing the apparent lack of clear authority for the utilization of the services of an auctioneer by a master-in-equity for a judicial sale and for the assessment of a fee for the auctioneer as a cost in a case, it appears that authorization for such may only be accomplished through legislation. If there are any questions concerning the above, please contact me.

Sincerely,

\*2 Charles H. Richardson  
Assistant Attorney General

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