

1977 S.C. Op. Atty. Gen. 138 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-179, 1977 WL 24521

Office of the Attorney General

State of South Carolina

Opinion No. 77-179

June 7, 1977

*1 Title to real property acquired after the death of a spouse by acts of others would not satisfy the requirements of House Bill 2063 and the homestead exemption cannot be granted.

TO: Honorable Lindsay C. Davidson
York County Auditor

QUESTION

A man dies intestate and the widow and children inherited the dwelling place. Later the children conveyed their interest to their mother by deed. She was over 57 years of age at the time of her husband's death and he was eligible for homestead exemption the year of his death.

Would she be eligible for the exemption? I think the question is: Did this property pass to her by reason of death of spouse?

STATUTES INVOLVED

Section 65-1522.1, as amended by House Bill 2063.

DISCUSSION

House Bill 2063 extends the homestead exemption and provides in part that:

‘When any person who was entitled to a homestead exemption under this section dies and the surviving spouse is at least fifty seven years of age and acquires complete fee simple title or a life estate to the dwelling place * * *.’

Under settled rules of construction the provision is subject to strict construction.

‘Statutory exemptions from liability for payment of taxes are subject to strict construction and one claiming an exemption must come clearly within the terms in order to prevail.’ [M. B. Kahn Const. Co. v. Crain](#), 222 S. C. 17, 71 S. E. 2d 503.

The statute contemplates that the surviving spouse ‘acquire’ complete fee simple or life estate to the homestead by reason of death. The estate involved was not so acquired in that it was in part granted by the children and the same does not therefore satisfy the conditions of the statute.

CONCLUSION

Title acquired after the death of a spouse by acts of others would not satisfy the requirements of House Bill 2063 and the homestead exemption cannot be granted.

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