

1977 S.C. Op. Atty. Gen. 330 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-403, 1977 WL 24739

Office of the Attorney General

State of South Carolina

Opinion No. 77-403

December 21, 1977

**\*1 RE: Surety Certification**

Neal Forney  
Assistant Director  
S. C. Court Administration  
Post Office Box 11788  
Columbia, South Carolina 29211

Dear Mr. Forney:

Thank you for your letter to the Attorney General of December 5, 1977, regarding the qualification of sureties by magistrates.

You have specifically asked whether magistrates, with the exception of Charleston and Sumter Counties, are required by law to have a certificate showing the legal qualifications of sureties on appearance recognizance bonds from the county auditor, register of mesne conveyances, or clerk of court. A similar question was considered by this Office in 1970–1971 Ops.Atty.Gen., No. 3097, p. 43, a copy of which I am enclosing for your convenience. That opinion concludes, in pertinent part, that generally the magistrate is charged with the duty and responsibility of determining the sufficiency of sureties, absent any special provision of law.

Specific exceptions to the general rule were previously contained in Section 43–246 of the 1962 Code of Laws of South Carolina, which section required magistrates in Charleston and Sumter Counties before discharging defendants to require sureties to file with them certificates of legal qualification from the county auditor, register of mesne conveyances, and clerk of court. Sumter County has since been removed from the application of that and other related sections. See Act No. 684 of 1964, p. 1717.

Therefore, absent special provisions, the sufficiency of sureties is to be determined by the individual magistrate, as noted in our previous opinion cited above.

I trust the preceding discussion adequately answers your question, however, if any further explanation is required, please feel free to contact me.

With best personal regards, I am  
Very truly yours,

Richard P. Wilson  
Assistant Attorney General

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