

1979 S.C. Op. Atty. Gen. 138 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-99, 1979 WL 29104

Office of the Attorney General

State of South Carolina

Opinion No. 79-99

July 31, 1979

***1 SUBJECT: Clerk of Court—Retention of Fees for Sale of Real Property**

The fees authorized by Section 15–39–770 should be paid to the Treasurer of Beaufort County.

TO: Ladson F. Howell, Esq.
Beaufort County Attorney

QUESTION:

In Beaufort County can the Clerk of Court retain the fees provided by [Section 15–39–770 of the 1976 Code](#) of Laws?

APPLICABLE LAW:

[Section 15–39–770 of the 1976 Code](#) of Laws.

DISCUSSION:

The section provides in part that:

‘The officer making judicial sales of real estate may charge for services rendered in making such sales and in paying over the proceeds of such sales to the parties entitled thereto and for rendering all services in connection with such sales for which a commission fee is authorized by law a fee of seven dollars in case of such sale for a price of five hundred dollars or less, and in the case of a sale for more than five hundred dollars he shall be entitled to an additional fee of one per cent of the excess. * * *. When such officer is upon a salary basis of compensation all such fees, charges and commissions shall be paid to the county treasurer as may be provided by law.’

Section 15–39–630 provides that the Clerk of Court is to conduct certain sales made pursuant to judicial order. It is these sales for which the fee or compensation is provided by the above-quoted language.

The Clerk of Court of Beaufort County is under Section 14–1007.1 compensated on a salary basis. By reason of such the last sentence quoted above controls and the fees or compensation is to be paid over to the County Treasurer.

CONCLUSION:

The fees authorized by [Section 15–39–770](#) should be paid to the Treasurer of Beaufort County.

Joe L. Allen, Jr.
Deputy Attorney General

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