

1979 WL 43572 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 7, 1979

\*1 Harry B. Burchstead, Jr., Esquire  
Office of the Solicitor  
Third Judicial Circuit  
Sumter County Courthouse  
Sumter, South Carolina 29150

Dear Harry:

In a letter to this Office you requested an opinion concerning the recently enacted fraudulent check act. You referenced the fact that in April of this year the Governor approved Act R84 which amended the fraudulent check statutes. Such Act, which did not contain a 'saving clause' became effective June 1, 1979. By Act R137 such Act was amended to provide a saving clause. This Act was approved by the Governor on June 7, 1979. In your letter you specifically asked whether the Act approved June 7, 1979, which amended Act R84 is constitutionally permissible insofar as it seeks to revive the prosecution of fraudulent check violators for checks issued before June 1, 1979.

This Office has undertaken extensive research into the question put forth. However, at present, we are unable to conclude without doubt whether in fact the saving clause included in Act R137 was effective insofar as it would allow prosecution of fraudulent check violators for those checks issued before June 1, 1979. As is with any unclear issue, valid arguments may be made which would tend to support the saving clause. However, conversely, there exist serious questions which may in fact result in a determination that the insertion of the saving clause at that particular point of time is ineffective insofar as allowing such prosecutions to continue. With regard to such, it is the recommendation of this Office that the matter of whether the saving clause is effective so as to allow for the continued prosecution of fraudulent check violators for those checks issued prior to June 1, 1979 is a matter more properly for a court to consider. Therefore, it is our suggestion that such prosecutions continue until a court has concluded that such prosecutions are not permissible insofar as the saving clause does not allow for such.

If there are any further questions, please do not hesitate to contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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