

1978 S.C. Op. Atty. Gen. No. 78-82 (S.C.A.G.), 1978 WL 34627

Office of the Attorney General

State of South Carolina

May 4, 1978

***1 SUBJECT: Homestead Exemption—Surviving Spouse—Age Requirement.**

The age for the surviving spouse to qualify for the homestead exemption provided by § 12-37-250 was not extended by a 1978 Act bearing ratification number R 498. It is necessary that the surviving spouse be at least fifty-seven years of age at the time of death of the deceased spouse in order to qualify for the exemption.

Honorable Gerald W. Burnett
Deputy Comptroller

QUESTION:

Does an Act bearing ratification number R 498 that amends § 12-37-250 authorize the homestead exemption when the surviving spouse is less than fifty-seven years of age at the death of the deceased spouse, however, becomes fifty-seven years of age within nine months after the death?

STATUTE:

A 1978 Act bearing ratification number R 498 that amends § 12-37-250.

DISCUSSION:

The language of the Act provides:

‘When any person who was entitled to a homestead tax 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 within nine months after the death of the spouse such dwelling place shall be exempt from real property taxes * * *.’

The Act amended the existing law that is here considered by adding the phrase ‘within nine months after the death of the spouse’. The question is whether this language applies to the age limitation as well as the property title limitation. The statute is subject to more than one construction, however, Senate Journal No. 52 relates to this language and states that the purpose of the amendment was:

‘H-2318—To continue homestead exemption for surviving spouse and to allow such surviving spouse nine months in which to obtain complete fee simple title to the homestead if spouse died intestate; * * *.’

The above is a clear statement of the legislative purpose or intent of the Act and the same governs the construction of the statute.

‘In construing a statute, all rules are subservient to one which required that legislative intent prevail.’ [State v. Harris](#), 232 S. E. 2d 231, 17 S. C. D., [Statutes](#), § 180, et seq.

CONCLUSION:

The age for the surviving spouse to qualify for the homestead exemption provided by § 12-37-250 was not extended by a 1978 Act bearing ratification number R 498. It is necessary that the surviving spouse be at least fifty-seven years of age at the time of death of the deceased spouse in order to qualify for the exemption.

Joe L. Allen, Jr.
Deputy Attorney General

1978 S.C. Op. Atty. Gen. No. 78-82 (S.C.A.G.), 1978 WL 34627

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.