

1975 S.C. Op. Atty. Gen. 87 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4017, 1975 WL 22314

Office of the Attorney General

State of South Carolina

Opinion No. 4017

April 10, 1975

***1 Re: Legal age to contract to buy or sell real estate, deed, note, mortgage, etc.**

The Honorable Robert H. Burnside
Member
House of Representatives
Box 1516
Columbia, SC 29202

Dear Mr. Burnside:

Your letter of March 10, 1975, has been referred by Mr. McLeod to me for answer. You request an opinion as to 'Whether or not under South Carolina law a person 18, 19, and 20 years of age can be legally held liable under a contract to buy or sell real estate, deed, note, mortgage or other such instrument.'

The South Carolina General Assembly, by Act No. 498, 58 STAT. 864 (1973) enacted a proposed amendment to Article XVII of the Constitution of South Carolina which reads:

Every citizen who is eighteen years of age or older, not laboring under disabilities prescribed in this Constitution or otherwise established by law, shall be deemed sui juris and endowed with full legal rights and responsibilities, provided, that the General Assembly may restrict the sale of alcoholic beverages to persons under age twenty-one.

In the November 1974 general election the South Carolina electorate voted in favor of this amendment. By Act bearing Ratification No. 19, the General Assembly ratified this amendment stating:

The amendment to Article XVII of the Constitution of South Carolina, 1895, proposed under the terms of Joint Resolution No. 498 of the Acts and Joint Resolution of 1973, having been submitted to the qualified electors at the General Election of 1974 as prescribed in Section 1 of Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received thereon, is ratified and declared to be a part of the Constitution, so that Article XVII is amended by adding a new section at the end thereof which shall read as follows.

The critical phrase in the amendment is 'shall be deemed sui juris and endowed with full legal rights and responsibilities' 'Sui juris' has been defined to mean '[o]f his own right; possessing full social and civil rights; not under any legal disability, or the power of another, or guardianship.' Blacks Law Dictionary, 4th Ed. at 1602 (1968). In view of the above, it is manifest that persons 18, 19, and 20 years of age have the same legal rights and responsibilities as persons 21 of age.

The only other question is whether the amendment is self-executing. The general rule is that constitutional amendments are self-executing.

A constitutional provision may be said to be self-executing if it supplies a rule by means by which the right given may be enjoyed and protected, or the duty imposed may be enforced; . . . ' Colley, *Constitutional Limitations*, V. 1 (1927) pp. 165-172. Constitutional provisions are self-executing where it is the manifest intention that they should go into

immediate effect and no auxiliary legislation is necessary to the enjoyment of a right given or the enforcement of a duty or liability imposed.' [State ex rel Clark v. Harris, 144 P. 109.](#)

*2 Therefore, it is the opinion of this Office that persons 18, 19, and 20 years of age legally can be held liable under a contract to buy or sell real estate, deed, note, mortgage, or other such instrument.

Yours very truly,

M. Elisabeth Crum
Assistant Attorney General

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