

1974 WL 28034 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 18, 1974

*1 Jointly owned property does not qualify for the homestead exemption unless it is the legal residence and permanent home of all such owners and each of the said owners meets the other conditions of the exemption.

Mrs. Martha W. Redd
Auditor
Aiken County
Post Office Box 94
Aiken, South Carolina 29801

Dear Mrs. Redd:

Reference is made to your letter of December 11, 1974, wherein you set forth three circumstances and request the opinion of this office concerning the homestead exemption. The examples are as follows:

1. A sister and sister-in-law own a home that the sister lives in. The sister-in-law owns her home in which she lives. Each wants to file on the home in which each lives. They are of age.
2. A sister and brother own a home together. He has $\frac{1}{8}$ interest. The brother owns his own home. They each want to file for exemption on their respective homes.
3. A totally disabled veteran and his mother own a home. The mother owns a home outright. Each wants to file for exemption.

In each case we understand that the exemption is claimed for the property jointly owned when in fact one of the joint owners maintains his or her legal residence elsewhere and claims the exemption for the same. The statute, Section 65-1522.1, requires that the person or persons claiming the exemption 'hold complete fee simple title or a life estate to the dwelling place.' Dwelling place is defined to mean the permanent home and legal residence of the applicant. Under the circumstances set forth, the requirement of ownership of the jointly owned property is not met because the title to such property is not held in 'complete fee simple title or a life estate' by the applicant for the exemption, the person that maintains his or her legal residence in the jointly-owned property.

Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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