

1973 S.C. Op. Atty. Gen. 65 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3480, 1973 WL 20944

Office of the Attorney General

State of South Carolina

Opinion No. 3480

February 15, 1973

***1 A person that maintains his residence and is otherwise qualified for the homestead exemption is entitled to the same, notwithstanding the fact that he may be temporarily in a rest home.**

Edgefield County Auditor

Reference is made to your letter of February 13, 1973, wherein you request the opinion of this office of whether a person that is in a rest home and who maintains his residence with the hope and expectation of returning there is entitled to the homestead exemption upon the residence. The exemption applies to the 'dwelling place' which is defined to mean 'the permanent home and legal residence of the applicant * * *'. The term legal residence has been construed to be synonymous with the term 'domicile' and means:

'* * * the place where a person has his true, fixed and permanent home and principal establishment, to which he has, whenever he is absent, an intention of returning * * *.' *Phillips v. South Carolina Tax Commission*, 195 S. C. 472, 12 S. E. 2d 13.

If the person is otherwise qualified for the exemption, the residence as above described would constitute the person's 'dwelling place' and the exemption should be granted.

With reference to the second question, we enclose a copy of an opinion of this office of January 17, 1972, providing that the mobile home located on property of persons other than the owner of the mobile home would not qualify for the exemption.

Joe L. Allen, Jr.
Assistant Attorney General

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