

Licensing 6078 / OS 6662



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

March 23, 1999

The Honorable James S. Klauber  
Member, House of Representatives  
518-A Blatt Building  
Columbia, SC 29211

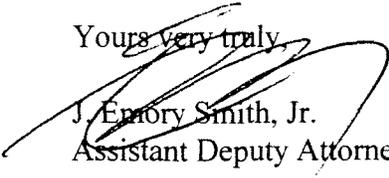
Dear Representative Klauber:

You have asked whether businesses are exempt from licensing as mortgage brokers if they only close loans in their own names or if they only sell loans to federally insured or regulated institutions. Under these circumstances, licensing is not required under the "Licensing Requirements Act of Certain Brokers of Mortgages on Residential Real Property." S.C. Code Ann. § 40-58-10, *et seq.* (Supp. 1998). Section 40-58-20(3) defines "mortgage loan broker" as meaning "... a person or organization in the business of soliciting, processing, placing, or negotiating mortgage loans for other or offering to process, place or negotiate mortgage loans for others...." The Act also exempts "...persons or organizations which sell or place all of their conventional loans on real property with federally insured and/or regulated financial institutions including, but not limited to, banks, savings and loan associations, and credit unions." § 40-58-20 (5)(a). Accordingly, a business that only closes loans in its own name rather than engaging in the business defined above for mortgage brokers or a business that sells all of its loans to federally regulated or insured institutions as provided in § 40-58-20 (3) and (5)(a) does not have to be licensed under the above Act.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,

  
J. Emory Smith, Jr.  
Assistant Deputy Attorney General