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Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-734-3636

December 5, 1988

E. Ros Huff, Jr., Esquire
Chief Counsel
State Workers' Compensation Fund
Post Office Box 102100
Columbia, South Carolina 29221-5000

Re: Structured Settlement Annuities

Dear Mr. Huff:

Attorney General Medlock has referred your letter of October 27, 1988, to me for response. You inquired as to whether the purchase of annuities for structured settlements needs to be approved by the State Budget and Control Board, pursuant to § 42-7-100 of the Code of Laws of South Carolina, 1976, as amended.

Section 42-7-100 reads as follows:

The fund director may, with the approval of the State Budget and Control Board, carry in a reliable insurance company or companies, such portion of the insurance liability as may be deemed advantageous. (Emphasis added)

The following discussion of statutory construction is applicable here:

In the interpretation of statutes, the first rule of construction is that of intention on the part of the legislature. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966). Where the terms of a statute are clear and unambiguous, there is no room for construction and the terms must be accorded their literal meaning. McCollum v. Snipes, 213 S.C. 254, 49 S.E.2d 12 (1948). Indeed, "[t]here is no safer nor better rule of interpretation than that when language is clear

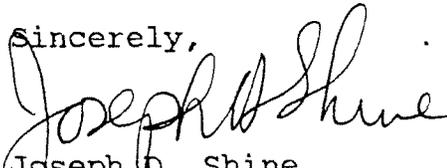
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and unambiguous it must be held to mean what it plainly says." Jones v. South Carolina State Highway Department, supra, 146 S.E.2d at 168. See Detyens v. C. E. Maguire, Inc., 284 S.C. 198, 324 S.E.2d 648 at 649 (1984).

Clearly, the Legislature gave the fund director authority to carry insurance liability in an insurance company with the approval of the State Budget and Control Board. Giving consideration to the plain language of § 42-7-100, the annuity which you propose to purchase is insurance liability for which the approval of the Budget and Control Board would be required. The phrase in the statute "with the approval of the State Budget and Control Board" is plain and unambiguous on its face and requires no further interpretation.

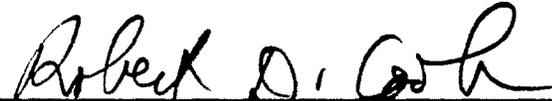
The intent of the Legislature seems unquestionably to invoke approval by the Budget and Control Board for insurance liability as may be deemed advantageous to the State Workers' Compensation Fund.

I trust this provides the clarification you need.

Sincerely,

Joseph D. Shine
Chief Deputy Attorney General
Public Interest Litigation Division

JDS:ppw

REVIEWED AND APPROVED BY:


ROBERT D. COOK
Executive Assistant for Opinions