

1984 WL 249820 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 7, 1984

*1 The Honorable Patrick B. Harris
Chairman
House Legislative Ethics Committee
P. O. Box 11867
Columbia, SC 29211

Dear Representative Harris:

In a letter to this Office you indicated that the South Carolina Jobs-Economic Development Authority, an agency of this State which provides loans to small businesses in this State, has questioned whether it would be a violation of the State Ethics Act, [Sections 8-13-10, et seq., Code of Laws of South Carolina](#), 1976, as amended, to make loan funds available to businesses that have members of the House of Representatives as principal stockholders.

Based upon a review of the State Ethics Act, I am unaware of any provisions which would absolutely prohibit the referenced agency from making the type loans described above. However, certain provisions of the Ethics Act must be followed by a State representative in such a situation to avoid conflicts with the Act.

In particular, a State representative must avoid the use of his official position or office to obtain financial gain for himself. Such is a requirement of Section 8-13-410, [supra](#). Furthermore, pursuant to the provisions of Section 8-13-440, [supra](#), a representative cannot use or disclose any confidential information gained by him in the course of his official activities in a way that would result in financial gain for himself or for a business with which he is associated.

In your letter, you indicated that the referenced agency's operating funds are loan funds from the Community Development Block Grant funds which are provided by the Governor's Office. You indicated the agency used no State appropriated dollars. Referencing such, it appears that typically a State representative would have no input into a decision which may affect his financial interests or those of a business with which he is associated. However, please be advised that if a representative is faced with a situation, in the discharge of his official duties, which would require him to take action or make a decision which would substantially affect directly his personal financial interests or those of a business with which he is associated, the representative must comply with the provisions of Section 8-13-460, [supra](#). In summary, such provisions require the preparation of a written statement describing the matter requiring action, and the nature of the potential conflict of interest with respect to such action. Such statement is to be delivered to the presiding officer of the House, and if the legislator requests, he shall be excused from votes, deliberations, and other actions on the matter on which a potential conflict of interest exists.

Again, there appear to be no direct prohibitions in the State Ethics Act to the referenced agency making loan funds available to businesses that have members of the House as principal stockholders. However, a representative should be aware of the provisions cited above which would govern his actions generally in such a situation.

*2 If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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