

1983 WL 181879 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 11, 1983

**\*1 SUBJECT: Banks and Banking**

State-chartered savings and loan associations do not have authority to guarantee customers' signatures in transactions not directly related to the savings and loan business.

Robert C. Cleveland  
Commissioner of Banking

QUESTION:

May a state-chartered savings and loan association guarantee the signature of a customer on documents requesting his broker to transfer an interest in stock?

OPINION:

No. Originally savings and loan associations were created for the purpose of raising money to be loaned among its members and to encourage thrift and the ownership of homes among people of moderate means. See, 12 C.J.S., Building & Loan Assoc. § 2 (1980); 13 Am.Jur.2d, Building and Loan Associations § 1 (1964). Because of the extensive regulation of such institutions, they are considered creatures of statute and, until recently, have not been authorized to engage in many of the activities of banks. Since 1975, the State Board of Financial Institutions has been authorized to permit state-chartered institutions to engage in activities permitted for federally-chartered savings and loans. [Section 34-1-110, South Carolina Code of Laws \(1976\)](#). As the activities of federally chartered savings and loan institutions have been broadened, the Board has authorized such activities as home improvement loans, second mortgage loans, variable rate mortgages, renegotiable rate mortgages, issuance of credit cards, NOW accounts, trust powers, etc.

There is no specific authority by statute or regulation for savings and loan associations to guarantee customers' signatures. If such authority exists, it can only arise by implication from the expressed powers of the association:

Building and loan, or savings and loan, associations and similar financial institutions can exercise only such powers as are conferred by the legislative body creating them, either by express terms or by necessary implication. 12 C.J.S., Building and Loan Assoc., § 66 (1980).

It is reasonable to assume that the situation may arise whereby an association may need to guarantee a customer's signature in the course of managing a trust (see, R 15-39, South Carolina Code of Laws (1976)) or in connection with its deposit-taking or lending functions. It is the opinion of this office that the association has implicit authority to make such guarantees in order to carry out its authorized business. However, in situations where a customer requests the institution to guarantee his signature in a transaction unrelated to a transaction with the savings and loan association, as in instance with a stock transfer request to customer's broker, such activity is impermissible in the absence of specific legal authority.

However, as previously noted, the Board of Financial Institutions, under [Section 34-1-110 of the Code](#), can by regulation authorize state-chartered savings and loan associations to engage in activities authorized for federal savings and loan

associations. The General Counsel for the Federal Home Loan Bank Board has opined that federal savings and loans are authorized under federal law to guarantee signatures of its customers even if the transaction does not involve the bank (See, Appendix A hereto). Therefore, the Board of Financial Institutions can by regulation authorize state-chartered savings and loan associations to guarantee customer signatures even in situations not directly related to a savings and loan transaction.

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