

1980 S.C. Op. Atty. Gen. 31 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-10, 1980 WL 81894

Office of the Attorney General

State of South Carolina

Opinion No. 80-10

January 28, 1980

***1 SUBJECT: Public information, consumer complaints, open with exception; Credit, consumer complaints, open information; Sales practices, consumer complaints are open information;**

Consumer Complaints Received Under [Section 37-6-117, South Carolina Code](#) of Laws (1976), and Which Are Not Subject to the Investigatory Powers of the Administrator Under Section 37-6-106 are Public Records Which the Public has the Right to Inspect or Copy Pursuant to [Section 30-4-30, South Carolina Code](#) of Laws (1976).

TO: Irvin D. Parker
Administrator
Department of Consumer Affairs
P. O. Box 5757
Columbia, SC 29250

QUESTIONS:

1. Does a consumer have a right under the Freedom of Information Act to inspect or copy complaints filed by consumers against a company doing business in South Carolina?
2. If a consumer has a right under the Freedom of Information Act to inspect or copy the above records, does Subsection (b) of [Section 30-4-30, South Carolina Code](#) of Laws (1976), require the Department of Consumer Affairs to make copies and mail them to the consumer or is the consumer's right restricted to personally inspecting or copying the public records?
3. If consumer complaints are public records subject to inspection and copying by consumers and if the Department of Consumer Affairs is authorized to copy and mail these records to the requesting consumer, is the Department also authorized to state to consumers the information contained in these records over the telephone?

STATUTES:

South Carolina Code of Laws (1976), [§ 37-6-106](#), [§ 37-6-117](#), [§ 30-4-20](#), [§ 30-4-30](#), [§ 30-4-40](#).

DISCUSSION:

South Carolina Code of Laws (1976), [§ 30-4-20](#) defines 'public records' as including all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of or retained by a public body. There are specific exemptions among which are records required by law to be closed to the public. You have stated that the complaints in question were received under [§ 37-6-117](#), which authorize your Department to receive complaints and that none of the complaints alleged 'an act which is subject to action by the administrator,' [§ 37-6-106](#). While that specifically closes records in investigatory proceedings, [§ 37-6-117](#) contains no such prohibition. Therefore, it is the opinion of this office that consumer complaints received by the Department of Consumer Affairs under [§ 37-6-117](#) are public records.

South Carolina Code of Laws (1976), § 30-4-30, gives to any person the right to inspect or copy any public record of a public body unless that record is exempt under § 30-4-40. Under subsection (b) of § 30-4-30 you are required to furnish such records at the lowest possible cost or you may reduce or waive any charge. The statute states, as follows:

Records shall be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for such public body to provide the records in such form.

*2 Therefore, it is the opinion of this office that you may furnish the cited records by making those records available to those persons who so request at your discretion or by supplying copies to the consumer since subsection (b) of § 30-4-30 allows you to charge for making copies of such records or to waive or reduce such charge. If it is inconvenient and impractical for a consumer to inspect and copy your records, then, by statute, you are required to furnish those records to the person requesting those records. Whether or not you charge a fee or require a deposit to cover the cost of copying is at your discretion keeping in mind the proviso that you may waive such a fee if furnishing the information is considered as primarily benefiting the general public.

Finally you ask if your Department is authorized to convey the information contained in your public records over the telephone. The statute allows for the right of public inspection and copying under § 30-4-30. Although there is no specific statutory authority for conveying public information over the telephone, it is the opinion of this office that your Department may transmit the contents of public documents to consumers via telephone at your discretion.

CONCLUSION:

Consumer complaints received under § 37-6-117 and which are not subject to the investigatory powers of the Administrator under § 37-6-106 are public records which the public has the right to inspect or copy pursuant to § 30-4-30. You may at your discretion furnish copies of documents requested to the person at actual cost or no cost. The Freedom of Information Act speaks specifically to the public right to inspect or copy records. There is no statutory authority for the verbal transmission of the information found in those documents, but there is no prohibition against this mode of transmission either. As the thrust of the statute is to make information of a public nature readily accessible to the public, you may communicate the contents of public documents via the telephone at your discretion.

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