

1977 S.C. Op. Atty. Gen. 67 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-72, 1977 WL 24414

Office of the Attorney General

State of South Carolina

Opinion No. 77-72

March 7, 1977

*1 Mr. William M. Mackie, Jr.

Executive Director

South Carolina Student Loan Corporation

Dutch Plaza, Suite 233

800 Dutch Square Boulevard

Columbia, SC 29210

Dear Mr. Mackie:

You have requested an opinion of this Office with respect to the interpretation of Section 425(b)(1)(C) of Public Law 94-482 (90 STAT. 2105). Specifically, your inquiry concerns the applicability of part (i) or (ii) of the above mentioned Section to the bonds issued by the State Education Assistance Authority pursuant to Act No. 433 of 1971. Upon review of Act No. 433, the contract of November 15, 1974 between the State Education Assistance Authority and the South Carolina Student Loan Corporation, Public Law 94-482, relevant South Carolina case law and upon further consultation with Attorney William Youngblood of Charleston, South Carolina, it is the opinion of this Office that South Carolina's Constitution does prohibit the pledging of the State's credit against the bonds issued by the State Education Assistance Authority and that, therefore, Section 425(b)(1)(C)(ii) of Public Law 94-482 would be applicable to the loans made by the South Carolina Student Loan Corporation.

In summary, Article 10, Section 6 of the South Carolina Constitution provides, as follows:

The credit of the State shall not be pledged or loaned for the benefit of any individual, company, association or corporation . . .

In light of the construction of this language by the South Carolina Supreme Court in [Casey v. South Carolina State Housing Authority, 215 S.E.2d 184 \(1975\)](#), the State's credit may not be pledged as security for the bonds issued by the Authority for the benefit of the South Carolina Student Loan Corporation. This interpretation is, of course, consistent with Section 17 of Act 433 which provides as follows:

Bonds issued under the provisions of this act shall not be deemed to constitute a debt, liability or obligation of the State or of any political subdivision, but shall be payable solely from the revenues and other funds provided therefor. Each bond issued under this act shall contain on the face a statement to the effect that the authority shall not be obligated to pay the principal of the bond nor the interest thereon except from the revenues, proceeds and other funds pledged therefor and neither the faith and credit nor the taxing power of the State or of any political subdivision is pledged to the payment of the principal of or the interest on such bonds. Expenses incurred by the authority in carrying out the provisions of this act may be made payable from funds provided pursuant to this act and no liability or obligations shall be incurred by the authority beyond the extent to which moneys shall have been so provided.

Accordingly, Section 425(b)(1)(C)(ii) would apply to the South Carolina Student Loan Corporation.

Sincerely,

Kenneth L. Childs

Assistant Attorney General

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