

1972 S.C. Op. Atty. Gen. 167 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3334, 1972 WL 20472

Office of the Attorney General

State of South Carolina

Opinion No. 3334

June 27, 1972

***1** South Carolina Law pertaining to real estate brokers, counsellors, salesmen, appraisers, auctioneers and property managers does not permit the payment of 'finder's fees' to unlicensed persons.

TO: Commissioner

South Carolina Real Estate Board

You have requested that this office advise you as to the legality of the payment of a 'finder's fee' to an unlicensed person. Section 56–1545, Code of Laws of South Carolina, 1962, as amended, states,

It shall be unlawful for and person to act as a real estate broker, counsellor, real estate salesman, appraiser, property manager or real estate auctioneer, or to advertise or assume to act as such without first having obtained a license issued by the Real Estate Commissioner.

Section 56–1545.1:1 defines 'broker' in broad comprehensive language and states in pertinent part,

It also includes any person who engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby he undertakes primarily to promote the sale of real estate . . . or for referral of information concerning such real estate to brokers . . .

It appears to be clear that the applicable State Law, as quoted above, includes a 'finder' within the category of one who charges a fee for referral of information concerning real estate to brokers, and makes this practice unlawful if conducted by an unlicensed person.

The doubt raised by the case of [Sullivan v. Hopkins](#), 435 F.2d 1128, is dispelled upon noting that this Federal case is governed by the applicable State's substantive law, [Erie Railroad v. Tompkins](#), 304 U.S. 64, 58 S. Ct. 817, 82 L. Ed. 1188, and the applicable law, being that of California, expressly allows compensation to one not licensed as a real estate broker for finding and introducing a person interested in purchasing real property. [Palmer v. Wahler](#), 133 Cal. App. 2d 705, 285 P.2d 8. The [Sullivan](#) case ([supra](#).) is solely confined to its governing State Law and would result in a different decision if a similar case were heard in the Federal District Courts of South Carolina.

It is therefore the opinion of this office that a 'finder' is included within the statutory definition of a broker, and to act as such without being licensed constitutes a violation of the law.

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