



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

February 25, 2000

Lt. John Plitsch
Investigations Division
Berkeley County Sheriff's Department
300 California Avenue
Moncks Corner, South Carolina 29461

Dear Lt. Plitsch,

Thank you for your letter of January 13, 2000, which has been referred to me for a response. You ask about the legality of revealing information from pawnbroker's records to insurance investigators.

South Carolina Code Ann. § 40-39-90 requires pawnbrokers to keep their records open to inspection to certain officials. The statute reads:

Records kept by pawnbrokers pursuant to this chapter must at all reasonable times be open to the inspection by court officials, law enforcement officers, the administrator of the Department of Consumer Affairs, and their designees. Any loan records identifying any individual must be handled in a confidential manner at all times.

The statute specifically states to whom the pawnbroker is required to release information. The statute also imposes upon the entity acquiring the information a duty to keep the material confidential if it identifies any individuals. Because insurance investigators are not listed in the statute, they do not have the authority to demand inspection of the records. Because of the statutory mandate of confidentiality, any official who gains access to the records pursuant to this provision may not disclose the information to another not authorized by the statute. Therefore, the police should not share the information to investigators for insurance companies who are conducting their own investigation.

You also ask for clarification of the term "designees" as it is used in § 40-39-90. Although the Code does not further define the term as it is used in this statute, the words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988).

The Court must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). A designee is defined as one who is appointed, *see generally* WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 344 (1991). However, in interpreting a statute, the primary purpose is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). A designee could refer to anyone the named officers in the statute appoint to inspect the records, but the obligation to maintain the confidentiality implies the intent of the General Assembly to limit who has access to the information. Thus, the term should not be used to circumvent the intent of the General Assembly to assure some degree of confidentiality when pawnbroker records are open to inspection. We would therefore advise a more conservative reading of the term designee, to include only those acting under the authority of, and for the same purposes as, the named official.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General not officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to be 'R. D. Cook', written in a cursive style.

Robert D. Cook
Assistant Deputy Attorney General