

1983 S.C. Op. Atty. Gen. 37 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-21, 1983 WL 142692

Office of the Attorney General

State of South Carolina

Opinion No. 83-21

June 20, 1983

***1 SUBJECT: Pawnbrokers**

A pawnbroker who acquires precious metals for a consideration of cash, goods, or other precious metals is a dealer in precious metals under Act No. 147, ACTS AND JOINT RESOLUTIONS—1981 (§ 40-54-10 et seq., S.C. CODE ANN.).

TO: State Senator

You have requested our opinion as to whether Act No. 147, ACTS AND JOINT RESOLUTIONS—1981, which regulates dealers in precious metals is applicable to pawnbrokers. This Act, codified as § 40-54-10 et seq., S.C. CODE ANN., places certain licensing and record keeping requirements on such dealers.

An answer to your inquiry must be based upon whether a ‘pawnbroker,’ as defined in [§ 40-39-10 CODE](#), is a ‘dealer’ within the definition set forth in Act No. 147. In [§ 40-39-10](#), a pawnbroker is defined as any person who loans money on pledge of personal property or other valuable thing, other than securities or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling it back again at a stipulated price. Title to the property vests in the pawnbroker following the failure of the borrower or pledger to make appropriate and timely redemption. See [§ 40-39-110 CODE](#).

In a broad definition which could be applicable to various types of business enterprises, Act No. 147 states that a dealer in precious metals is one:

[W]ho buys precious metal from the general public whether in bulk or in manufactured form, with an intent to obtain a monetary profit for himself or a principal. [§ 40-54-10\(1\) CODE](#).

For a pawnbroker to be considered a ‘dealer’ and subject to provisions of Act No. 147, which regulates dealers in precious metals, he must fall within this statutory definition.

In the statutory definition of ‘dealer’ in Act No. 147, as set forth above, ‘buys’ is used in a manner synonymous with ‘purchase.’ While there is no definition of ‘buys’ in the Act, ‘purchase’ is defined as:

[T]he acquisition of precious metals for a consideration of cash, goods, or other precious metals. [§ 40-54-10\(b\) CODE](#).

Thus, when the pawnbroker acquires possession of precious metals for consideration as specified above, he has made a purchase within the meaning of Act No. 147 even though title will not vest, if at all, until a subsequent date. Accordingly, the pawnbroker making such a purchase is a ‘dealer’ in precious metals. As such, he is subject to the licensing and record keeping provisions of Act No. 147.

The application of Act No. 147 to pawnbrokers is limited to those who acquire precious metals for consideration. Any pawnbroker who does not acquire precious metals in the course of conducting his business would not be subject to Act No. 147. Further, the record keeping requirements of said Act would be limited to those articles acquired by the pawnbroker which are made in whole or in part of gold, silver or platinum.

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