

1981 WL 157874 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 20, 1981

\*1 Theodore B. Guerard, Esquire  
Guerard and Applegate  
Post Office Box 1119  
Charleston, South Carolina 29402

Dear Mr. Guerard:

In response to your request for an opinion from this Office regarding whether or not the issuance of bond anticipation notes secured by bond proceeds is sufficient to comply with the requirement of Act No. 194 of 1979 [61 STAT. 446 (1979)] that 'not less than \$1,000,000 of parking facilities revenue bond proceeds secured pursuant to the authority granted in Act 77 of 1975 . . . [must] have been encumbered for the project,' my opinion is that such an issuance does comply.

Act No. 77 of 1975 [59 STAT. 79 (1975)] authorizes the State College Board of Trustees to provide for parking facilities at the College of Charleston through the issuance of revenue bonds. Although the 1975 legislation does not specifically authorize the issuance of bond anticipation notes, [Section 11-17-20, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, provides that bond anticipation notes may be issued by any borrower who is authorized to issue bonds; therefore, the State College Board of Trustees is authorized to issue bond anticipation notes in connection with financing parking facilities for the College of Charleston. [Section 11-17-100, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, requires that a sufficient amount of the bond proceeds in anticipation of which the notes are issued must be applied to the repayment of those notes. See also, [§§ 11-17-60 and 11-17-80, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. Accordingly, inasmuch as the issuance of bond anticipation notes itself pledges bond proceeds in an amount sufficient to repay the notes, my opinion is that bond proceeds 'have been encumbered' within the meaning of Act No. 194 of 1979 by the issuance of bond anticipation notes. Of course, the amount of bond proceeds specified in the 1979 enactment, *i.e.*, \$1,000,000, must be so encumbered by the issuance of bond anticipation notes.

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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