

1981 WL 157893 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 4, 1981

***1 Re: Family Services Center, Charleston, South Carolina**

The Honorable S. Hunter Howard
Chairman
Banking and Consumer Affairs Subcommittee
P. O. Box 11867
Columbia, South Carolina 29211

Dear Representative Howard:

You have requested an opinion from this office as to whether the Family Services Center would be in violation of [Section 40-5-370 of the South Carolina Code](#) of Laws (1976) by offering advice and assistance to consumers who have become financially overextended. It is my understanding that the Center normally obtains a list of all creditors of the debtor and attempts to arrange a satisfactory repayment schedule. A small administrative charge is assessed to cover administrative expenses.

[Section 40-5-370](#) provides as follows:

The furnishing of advice or services for compensation to a debtor in connection with a debt pooling plan pursuant to which the debtor deposits funds for the purpose of distributing them among his creditors shall be deemed to be the practice of law. Any person, other than one licensed to practice law in this State, who shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of five hundred dollars

It seems clear that the Center is offering 'debt pooling advice', and such service would come within the restriction of [Section 40-5-370](#) if the Center is 'compensated' for their service. Although your letter was not specific as to amount of the administrative charge or the extent such charge covers the cost of services rendered, I surmise from your letter that the charge only covers a small fraction of out-of-pocket administrative expenses made in each case; it would not cover, for example, personal costs in rendering such services or provide the Center with any profit the service. If this is true, then I am of the opinion that the Center would not be offering debt pooling advice or service 'for compensation' and, therefore, would not be practicing law within the meaning of [Section 40-5-370](#).

If I can of further assistance to you in this matter, please do not hesitate to contact me.

Very truly yours,

Richard B. Kale, Jr.
Senior Assistant Attorney General

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