

1981 WL 158068 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 9, 1981

***1 RE: Installment purchase Program Regulations**

Mr. Tony R. Ellis
Materials Management Officer
Central State Purchasing
800 Dutch Plaza
Columbia, South Carolina 29210

Dear Mr. Ellis:

You have recently asked the opinion of this office concerning whether or not the Installment Purchase Program Regulations as provided for under Section 19 of Part II, Permanent Provisions of Act 178 of 1981 (General Appropriations Act), comes under the State Register and Administrative procedures Act as provided in [§ 1-23-40 of the 1976 Code of Laws of South Carolina](#), as amended.

Subsection E of Section 19, supra., is set forth as follows:

‘The Budget and Control Board shall promulgate such regulations as necessary to administer this program.’

Section A of Section 19 sets forth as follows:

‘The Division of General Services is authorized to purchase office equipment, telecommunications equipment and data processing equipment for the purpose of renting, leasing, or resale to boards, commissions, institutions, and agencies of state government. When this equipment is sold on an installment basis to the boards, commissions, institutions and agencies of state government it shall be sold at an interest rate not less than twelve percent per annum nor greater than fifteen percent per annum.

It appears that the Installment Purchase Program involves only boards, commissions, institutions and agencies of state government. It further appears that the Regulations and Subsection E would not fit the definition of the term ‘regulations’ as defined by the State Register and the Administrative Procedures Act. That term is defined as an agency statement of general public applicability and does not include descriptions of agency procedures applicable only to agency personnel (boards, commissions, institutions and agencies of state government). For this reason, the Regulations anticipated by Subsection E would be more in the form of policy.

I have reviewed Attorney General Opinion #77-330 which has a similar factual situation.

Therefore, based on the Statutes and Attorney General’s Opinion it is the opinion of this Office that the Installment Purchase Program Regulations are not regulations under the State Register and Administrative Procedures Act since the Regulations apply only to State personnel (boards, commissions, institutions, and agencies of state government) and would not be subject to the Act.

In view of the provisions in the Appropriations Act of 1981-82 requiring that the Board publish its regulations, if the Board determines that the policy guidelines as mentioned herein should be promulgated as regulations then it is our opinion that the proposed Regulations are satisfactory for this purpose.

Malcolm E. Rentz
Assistant Attorney General

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