

1980 WL 120642 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 30, 1980

*1 Ms. Dorothy A. Manigault
Executive Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Manigault:

You have asked the opinion of this Office as to the legality of a 'Money Broker' or 'Financial Consultant' acting as an intermediary in bringing together borrowers and lenders in South Carolina.

While some states regulate Financial Consultants and Brokers, such are not licensed in this State. Lenders are, of course, regulated, which includes banks, savings and loan associations, credit unions, consumer finance companies and commercial money lenders of all types. See generally Title 34, Code of Laws of South Carolina, 1976, as amended. However, these statutes do not refer to Financial Consultants or other persons who are not in fact lenders or agents of lenders.

Therefore, it is the opinion of this Office that persons or business may operate as Financial Consultants without requirement for a license or permit as such. It is apparent, however, that in a given situation the Consultant or Broker might be determined an agent of the lender, and the laws and regulations applying to lenders would apply to the activities of the Broker.

As each such situation must be determined on its own facts, any business or person planning to engage in such activities in this State should consult with his own attorney to assure that he is in compliance with the laws affecting his particular activities. For example, such a person might find himself in violation of the Securities Acts, Title 35, 1976 Code, as amended, very easily by the manner of advertising or literature which he uses to engage persons to deal with him. No person should venture into this field without advice and guidance from competent legal counsel.

Sincerely,

Frank K. Sloan
Deputy Attorney General

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