

1977 S.C. Op. Atty. Gen. 79 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-86, 1977 WL 24428

Office of the Attorney General

State of South Carolina

Opinion No. 77-86

March 25, 1977

*1 Mr. L. Steve Mayfield
Executive Director
State Housing Authority
1122 Lady Street
Columbia, South Carolina 29201

Dear Mr. Mayfield:

You have requested an opinion from this Office as to the constitutionality of proposed legislation (Calendar No. H.2284) authorizing the South Carolina State Housing Authority (Authority) to provide housing to persons of low to moderate income by specified methods, including the issuance of revenue bonds.

As you know, the South Carolina Supreme Court declared unconstitutional Act No. 1171 of 1974 [58 STAT. 2693 (1974)] which had authorized the Authority to provide dwelling accommodations to persons of low to moderate income primarily through the issuance of bonds. See, [Casey v. South Carolina State Housing Authority, et al., 264 S.C. 303, 215 S.E.2d 184 \(1975\)](#). The Supreme Court based its opinion on the Act's use of a guaranty fund and 'moral obligation' commitment which, the Court concluded, would pledge the credit of the State in violation of Article X, Section 6 of the South Carolina Constitution of 1895, as amended. Then, in 1976, the Supreme Court invalidated a 1975 version of the low to moderate income housing legislation which did not include a guaranty fund feature and, thus, did not effect a 'moral obligation' commitment of State funds but did contain a provision that the regulations of the Authority would not become effective unless approved by a concurrent resolution of the General Assembly. The Court held that that provision, which was held unconstitutional in an unappealed ruling of the lower court, was not severable from the remainder of the Act. See, [Reith v. South Carolina State Housing Authority, 267 S.C. 1, 225 S.E.2d 847 \(1976\)](#).

The legislation under consideration has deleted the features of the 1974 and 1975 acts which were held to be unconstitutional. There is no provision requiring that Authority regulations be approved by a concurrent resolution of the General Assembly and Section 10 of the legislation specifically provides:

The notes, bonds or other obligations of the Authority shall not be a debt or grant or loan of credit of the State or any political subdivision thereof and neither the State nor any political subdivision thereof shall be liable thereon, nor shall they be payable out of any funds other than those of the Authority and all notes, bonds and other obligations issued pursuant to this act shall contain on the face thereof a statement to such effect.

Therefore, in my opinion, the proposed legislation, if enacted, would be a valid enactment with regard to both the [Casey](#) and the [Reith](#) decisions.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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