

1977 S.C. Op. Atty. Gen. 175 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-235, 1977 WL 24577

Office of the Attorney General

State of South Carolina

Opinion No. 77-235

July 26, 1977

\*1 Honorable Harold E. Taylor  
Member  
House of Representatives  
Richland County  
1324 Bonner Street  
Columbia, South Carolina 29204

Dear Mr. Taylor:

Thank you for your letter of June 14, 1977, inquiring if a valid procedure was followed in the election of a member of the South Carolina Real Estate Commission.

Election of the member was accomplished by a letter signed by a majority of the Senators and House Members residing in the Congressional District without a physical meeting of those legislative members.

The statute provides that ‘the legislative delegations, including the senators, of the counties comprising each congressional district shall select the person experienced in real estate transactions to serve on the Real Estate Commission—.’ It is not required that the delegations meet as a group and make such a selection, whereas in similar elections, such as to the State Highway Commission, the statute provides that the delegations representing the counties of each highway district meet upon the written call of a majority of the members of the delegations at a time and place designated in such call for the purpose of electing a Highway Commissioner. The contrast between the two statutes indicates to me that where the Legislature intended that the delegations meet for the purpose of making an election to a Commission or to undertake other action, specific directions to so meet are specified in the statute, and this requirement is, of course, lacking in the real estate law.

It is my opinion that the election is not nullified for this reason. The best procedure is, in my opinion, also that a meeting be held for the purpose of electing officials in such circumstances.

You also inquire as to the validity of a vote by proxy in the election of a Real Estate Commissioner.

It is my opinion that proxy votes are not permitted. Unless a statute authorizes proxy voting, they are not, in my opinion, proper. This conclusion is rendered somewhat clear also by comparison with the procedure for electing a Highway Commissioner, which specifically permits proxy voting, whereas no such permission is granted in the real estate law.

With best wishes,  
Cordially,

Daniel R. McLeod  
Attorney General

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