

1977 S.C. Op. Atty. Gen. 227 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-300, 1977 WL 24640

Office of the Attorney General

State of South Carolina

Opinion No. 77-300

September 23, 1977

\*1 TO: Harold Trask  
Executive Assistant to the Governor

### QUESTION

Is the Commission on Consumer Affairs a regulatory commission so as to come within the proscriptions of § 8-13-450 of the South Carolina Code (1976)?

### AUTHORITIES INVOLVED

§§ 8-13-450, 37-1-201, 37-6-502, 37-6-506, Code of Laws of South Carolina (1976).

H. C. Black, Black's Law Dictionary (Rev. 4th ed. 1968)

### DISCUSSION

You have asked whether the Commission on Consumer Affairs is a regulatory commission so as to come within the restrictions of § 8-13-450 of the South Carolina Code (1976). Section 8-13-450 of the Code provides:

Unless otherwise provided by law, no person shall serve as a member or employee of a governmental regulatory commission that regulates any business with which that person is associated.

This office is of the opinion that your question should be answered in the affirmative.

As defined at Black's Law Dictionary, at page 339, a 'Commission' is a 'board or committee officially appointed and empowered to perform certain acts or exercise certain jurisdiction of a public nature'. Black's further defines 'regulate' as meaning 'to fix, establish or control; to adjust by rule, method or established mode; to direct by rule or restriction; to subject to governing principles or laws' (page 1451). If it is assumed that a regulatory commission is a commission which regulates, then it is reasonable to define a regulatory commission as a board which is officially appointed and is empowered to subject certain activity or endeavors to governing principles or laws.

Title 37 of the South Carolina Code (1976) applies to and governs consumer credit transactions made in this State. § 37-1-201(1) South Carolina Code (1976). Enforcement of Title 37 is delegated to the Commission on Consumer Affairs in § 37-6-506 of the Code:

(1) The Commission shall be the policy-making and governing authority of the Department of Consumer Affairs and shall . . . be responsible for enforcement of this title (emphasis added).

Pursuant to § 37-6-502 of the Code, the Commission is composed of nine members, eight of whom 'shall be appointed by the Governor with the advice and consent of the Senate . . .'. The powers and duties of the Commission are specified in § 37-6-506(2) of the Code:

The Commission . . . shall see that the provisions of this title are faithfully administered and enforced and to that end it may adopt, amend and repeal rules and regulations, not inconsistent with law, to interpret and explain provisions of this title, carry out the purposes and policies of this title, to prevent circumvention or evasion thereof or to facilitate compliance therewith.

From the foregoing statutes, it becomes clear that the Commission on Consumer Affairs is a board, officially appointed by the Governor, which is empowered to subject consumer credit transactions to the provisions of Title 37 of the South Carolina Code (1976) and to such rules and regulations as the Commission may make.

#### CONCLUSION

**\*2** It is therefore the opinion of this office that the Commission on Consumer Affairs is a regulatory commission so as to come within the proscriptions of § 8-13-450 of the South Carolina Code (1976).

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