

1977 S.C. Op. Atty. Gen. 319 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-387, 1977 WL 24724

Office of the Attorney General

State of South Carolina

Opinion No. 77-387

December 8, 1977

\*1 Honorable Carroll A. Campbell, Jr.

State Senator

206 E. Coffee Street

Greenville, South Carolina 29601

Dear Senator Campbell:

You have inquired as to whether Mr. Bennie H. Taylor is eligible to be a member of the Commission on Consumer Affairs in light of Section 8–13–450 of the Code of Laws of 1976, which 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.’

Mr. Taylor is the President of World Acceptance Corporation, which is a consumer finance company, and has been for a number of years. It is, therefore, licensed by the Board of Financial Institutions, through its Consumer Finance Division, which supervises consumer finance companies pursuant to the provisions of Sections 34–29–10, et seq., Code of Laws, 1976.

World Acceptance Corporation is a ‘restricted lender’ as defined in the 1976 amendments to the Consumer Protection Code [Section 3.501(4)], Act No. 686, approved 30 June 1976. ‘Restricted lenders’ are also ‘supervised lenders’ under the South Carolina Consumer Protection Code [Section 3.501(3)] and are subject to the regulatory and enforcement authority of the Department of Consumer Affairs. The Department of Consumer Affairs is responsible for enforcing the provisions of the South Carolina Consumer Protection Code. Those provisions include, but are not limited to, monitoring compliance of the maximum credit charges allowed on loans and credit sales, reviewing compliance with the disclosure provisions of the Federal Truth in Lending Act, and enforcing the limitations on agreements and practices under the Code. In addition, the Department is authorized to commence civil actions to compel compliance with the Code.

The Consumer Affairs Commission is designated as ‘the policymaking and governing authority of the Department of Consumer Affairs’ and is directed, through the Administrator elected by it, to enforce the provisions of the Consumer Protection Code, with power to adopt rules and regulations in implementation of that Code. The rules and regulations of the Commission have a direct impact upon regulated industries because acts done in conformity with such rules and regulations or in conformity with opinions, orders, statements or the Administrator preclude the imposition of penalties.

It appears clear that the Consumer Affairs Commission is a regulatory commission as that term is used in Section 8–13–450, set forth above. In this light, it is apparent that Mr. Taylor, who is a long-time and dedicated public servant, is nevertheless precluded from serving as a member of the Consumer Affairs Commission for the reason that the Commission of which he is a member regulates a business with which he is associated.

Section 8–13–450 has been considered by this Office heretofore in other contexts and it is clear that its application can create results which were unforeseen by the General Assembly in its enactment. Representative Harris of Anderson County is Chairman of the Legislative Committee having cognizance of this matter, is familiar with the problems presented by this statute, and can more thoroughly familiarize you with its facets.

\*2 With best wishes,  
Very truly yours,

Daniel R. McLeod  
Attorney General

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