

1978 WL 34791 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 22, 1978

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Dear Mr. Corley:

A question has arisen as to whether or not an automobile dealership which sells automobiles and parts thereof to retail customers qualifies as a project within the contemplation of [Sections 4-29-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, the 'Industrial Revenue Bond Act' (Act). In the opinion of this Office, it does not.

The Act was passed in 1967 to empower the governing bodies of the several counties of the State:

. . . to acquire, own, lease and dispose of properties, through which the industrial development of the State will be promoted and trade developed by inducing manufacturing, and commercial enterprises to locate in and remain in the State, and thus utilize and employ the manpower, agricultural products and natural resources of the State . . . 55 STAT. 120 at 121 (1967). [Emphasis added.]

The General Assembly clearly intended the Act to be used as a means of attracting new industry and expanding industry already existing. Its findings recite it is 'imperative that new industries be encouraged to locate in South Carolina and those now located herein to expand their investments.' *Id.* The South Carolina Supreme Court found that the Act subserves a public purpose, to wit:

We conclude that the Act here was for a public purpose and represents merely an expansion of the established legislative policy of improving the industrial climate of South Carolina in order to provide for the welfare and prosperity of its inhabitants . . . [Elliott v. McNair](#), 250 S.C. 75 at 89, 156 S.E.2d 421 (1967). [Emphasis added.]

The objective of the Act as written and as construed, then, is to stimulate the industrial and, especially, the manufacturing growth throughout the State. Nowhere in the legislative findings, in the Supreme Court's interpretation nor in the provisions of the Act itself is the matter of retail sales treated. The language in [Section 4-29-10\(3\) of the 1976 Code](#) which includes within the definition of permissible projects 'any land and any buildings and other improvements thereon . . . which shall be deemed necessary, suitable or useful by . . . (b) any commercial enterprise engaged in storing, warehousing, distributing or selling products of . . . industry' [emphasis added] must be construed to mean non-retail selling since the other prescribed activities in pari materia are non-retail in nature.

With kind regards,

Karen LeCraft Henderson
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