

1978 S.C. Op. Atty. Gen. 169 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-133, 1978 WL 22601

Office of the Attorney General

State of South Carolina

Opinion No. 78-133

JULY 11, 1978

***1 SUBJECT: Appropriations**

Inclusion in the General Appropriation Bill of a provision to increase interest rates on loans secured by real estate violates [Article III, Section 17 of the S. C. Constitution](#).

TO: Irene K. Rudnik
Post Office Box 544
Aiken, South Carolina 29801

QUESTION PRESENTED:

Whether the General Assembly can include in the State Appropriations Bill a provision to increase interest rates on loans secured by real estate?

CITATION OF AUTHORITIES:

[Article III, Section 17, S. C. Constitution](#);

H. 3881, General Appropriation Bill, 1978–79;

[Caldwell v. McMillan](#), 224 S.C. 150, 77 S.E.2d 798 (1953);

[Colonial Life & A. Ins. Co. v. S. C. Tax Comm.](#), 233 S.C. 129, 103 S.E.2d 908 (1958);

[Crouch v. Benet](#), 198 S.C. 185, 17 S.E.2d 320 (1941);

[LeLoach v. Scheper](#), 188 S.C. 21, 198 S.E. 409 (1938);

[State ex rel. Roddey v. Byrnes](#), 219 S.C. 485, 66 S.E.2d 33 (1951).

DISCUSSION:

The General Assembly proposes to include in the General Appropriation Bill of 1978–79, a provision (Section 38) increasing the interest rates on loans secured by first mortgages on real estate, which provision shall become a permanent law of the State. A question has been raised as to the legality of including this provision in the General Appropriations Bill.

[Article III, Section 17 of the South Carolina Constitution](#) provides:

Every Act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.

Three reasons have, been given to justify this requirement:

- (1) to apprise members of the General Assembly of the contents of the Act;
- (2) to prevent legislative 'log-rolling'; and
- (3) to apprise the people of the state of the matters with which the General Assembly concerns itself.

See, [DeLoach v. Scheper](#), 188 S.C. 21, 198 S.E. 409 (1938). Article III, Section 17 imposes two requirements:

- (1) that the act relate to but one subject; and
- (2) that the subject be expressed in the title.

A review of the title of the General Appropriation Bill, House No. 3881, as passed by the Senate, reveals no reference to a provision increasing the interest rate on real estate loans. While it is true that the title to an act need not be a complete index of its contents, if reference is not made in the title to the particular provision, that provision must be inherently germane to the general subject referred to in the title. [Colonel Life & A. Ins. Co. v. South Carolina Tax Comm.](#), 233 S.C. 129, 103 S.E.2d 908 (1958); [Caldwell v. McMillan](#), 224 S.C. 150, 77 S.E.2d 798 (1953). The courts have generally held that the subject of the General Appropriations Act is 'state finance.' [Colonial Life & A. Ins. Co. v. South Carolina Tax Comm.](#), *supra.*; [State ex rel. Roddey v. Byrnes](#), 219 S.C. 485, 66 S.E.2d 33 (1951); [Crouch v. Benet](#), 198 S.C. 185, 17 S.E.2d 320 (1941). In [Colonial Life & A. Ins. Co. v. South Carolina Tax Comm.](#), *supra.*, the South Carolina Supreme Court held that an act imposing a license tax on investment income of insurance companies was not so inherently a part of the ordinary fiscal affairs of the state as to justify, within the meaning of Article III, Section 17, its inclusion without reference to it in the title of that act. Likewise, in the instant case, an act increasing the interest rates on real estate loans is not so inherently a part of the ordinary fiscal affairs of the state as to justify its inclusion in the General Appropriation Bill without reference to it in the title of the Bill.

*2 Moreover, Article III, Section 17 provides that an act shall relate to but one subject. The South Carolina Supreme Court has indicated that while an act may have various and numerous objects or provisions, all such objects of an Act must relate to but one cognate subject. [DeLoach v. Scheper](#), *supra.* Again, in the instant case, the provision dealing with interest rates on real estate loans has no relation to the subject of the Act, i.e. state finances. Therefore, while the matter is not free from doubt, it would appear that Section 38 could not be constitutionally included within a General Appropriation Act even if referred to in the title of the Act.

CONCLUSION:

The inclusion of the provision increasing interest rates on real estate loans (Section 38, Part II, H. 3881, General Appropriation Bill) violates Article III, Section 17 of the South Carolina Constitution.

Richard B. Kale, Jr.
Assistant Attorney General

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