

1975 WL 29783 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 5, 1975

***1 Re: Financial Aid to Individuals by Cities Receiving Funds Under the Housing and Community Development Act of 1974**

Mrs. James W. Fant
Assistant Director for Historical Programs
South Carolina Department of Archives and History
Post Office Box 11669
Columbia, South Carolina 29211

Dear Mrs. Fant:

Thank you for your gracious patience in awaiting a reply to your letter of April 10, 1975, regarding the type of financial aid a city, receiving funds through the Housing and Community Development Act of 1974, can in turn offer to private individuals in order to accomplish the purposes of the Act, namely, the development of viable urban communities.

Public Law 93-383, as passed by Congress on August 22, 1974, provides for the allocation and distribution of Federal funds in the form of block grants from the Secretary of Housing and Urban Development to states and units of general local government to help finance Community Development Programs approved under the terms and purposes of the Act.

The Act provides that units of local government may use the federal funds received for the specific objective, inter alia, of restoring and preserving properties of special value for historic, architectural or esthetic reasons. That objective in turn may be accomplished, inter alia, through an approved program of 'clearance, demolition, removal and rehabilitation of buildings and improvements (including interim assistance and financing rehabilitation of privately owned properties when incidental to other activities).'

Your inquiry concerns the ultimate distribution of funds received by approved municipalities in the implementation of their respective programs. The alternative methods which have been suggested for the distribution of funds by the municipalities are low-cost loans and grants which would be made by the cities to individual merchants for the renovation of storefronts. While it has been stated by this Office in the past that a local governmental unit may use federal funds to carry out programs approved within the confines of the particular act, there are, nevertheless, certain restrictions under state law which present problems regarding the methods for distribution of funds as suggested above.

The device of low-cost loans presents the most obvious conflict with state law, particularly Article 10, Section 6 of the South Carolina Constitution. That constitutional provision directs that '[t]he credit of the State shall not be pledged or loaned for the benefit of any individual, company, association or corporation . . .'. By offering low-cost loans municipalities would be, in my opinion, effectively pledging the credit of the state, although perhaps for a public rather than private benefit. In any event, the questions which surround the use of these funds in this manner could only be resolved by a determination by the South Carolina Supreme Court after consideration of the facts of each particular case. Because of the questionable validity of such a practice under South Carolina law, the use of low-cost loans suggested, should be discouraged.

***2** Direct grants, either 100% or a smaller percentage, however, probably would not run afoul of state law, provided, the federal funds received are kept identifiably separate and distinct from other municipal accounts. Any commingling

of federal and state funds would require compliance with very restrictive sections of our state law regarding such expenditures of public funds.

Therefore, in my opinion, federal funds received from HUD for approved community development programs may be used by municipalities to implement and accomplish the purposes of the federal act within the guidelines contained therein, provided the funds are not managed or distributed in such a manner as to invoke state limitations on expenditures of public funds or pledging the credit of the state. If any further explanation is required or if I can be of any assistance to you in the future, please do not hesitate to contact me.

Very truly yours,

Richard P. Wilson
Assistant Attorney General

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