

1975 WL 28953 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 25, 1975

*1 Honorable I. S. Leevy Johnson
Member
House of Representatives
State House
Columbia, South Carolina

Dear Representative Johnson:

You have sought our opinion regarding Act No. 1176 of 1974. Specifically, you request us to advise you as to whether a purchaser of a home has the right to select his own attorney when all of the closing costs are deducted from the amount of the loan commitment. Section 1 of the aforementioned Act states that when a lending institution makes a loan to a borrower in the amount of \$5,000 or more that is secured by a real estate mortgage, the lender shall ascertain from the borrower his preference as to the legal counsel that shall be employed to represent the borrower in all matters relating to the transaction. According to Section 2A of the Act, the Act shall apply only to loans regarding which the borrower pays closing and insurance costs.

The deduction from the amount of the loan commitment of all closing costs does not determine the applicability of the Act; therefore, insofar as the Act is concerned, it is immaterial that closing costs are deducted from the loan commitment amount. If the borrower pays closing and insurance costs and the loan amount is \$5,000 or more and is secured by a real estate mortgage, the lender must inquire of the borrower as to the borrower's preference as to legal counsel to represent the borrower in all matters of the transaction.

Kind regards,

C. Tolbert Goolsby, Jr.

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