

1974 WL 28092 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 25, 1974

*1 Mr. Robert C. Cleveland
Commissioner of Banking
State Board of Bank Control
Room 217
1021 Sumter Street
Columbia, South Carolina 29201

Dear Commissioner Cleveland:

You have requested that this Office advise you as to whether a cooperative credit union may issue Certificates of Indebtedness or Investment Certificates.

It is clear that cooperative credit unions are governed by those provisions as set forth in the 1962 Code of Laws of South Carolina, Section 8-651 et. seq. Section 8-656 sets forth the powers of the cooperative credit union, as being the following: A cooperative credit union may receive the savings of its members for payment for shares, may lend to its members at reasonable rates of interest, not to exceed 1% per month on unpaid loan balances, or may invest, as provided in this chapter, the funds so accumulated, and make loans of such funds to its members, may borrow from banks, savings and loan associations, building and loan associations, trust companies, or other credit unions, or persons, and loan such money to its members and may undertake such other activities relating to the purposes of the association as its bylaws may authorize.

The powers being specifically set forth by legislative enactment, can not be altered by the individual institution, Hodge v. Pollack, 223, S. C. 342, 75 S.E. 2d 752, and any unauthorized alteration of this power would be invalid. Heyward v. S. C. Tax Commission 240 S. Ct. 347, 126 S.E. 2d 15; Banks v. Batesburg Hauling Co. 202 S. C. 273, 24 S.E. 2d 496.

Based upon the foregoing, it is the opinion of this Office that the practice of issuing Investment Certificates or Certificates of Indebtedness by the credit union is not within those specific powers granted to such unions, and accordingly is not authorized.

I trust this has been sufficient in answering the question which you posed. If we can be of any further assistance please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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