

1974 S.C. Op. Atty. Gen. 306 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3878, 1974 WL 22444

Office of the Attorney General

State of South Carolina

Opinion No. 3878

October 31, 1974

***1** An out-of-state national bank doing business in South Carolina may lend monies under Section 8–233.

Attorney at Law
Charleston, S.C.

You have asked for this office's opinion as to whether or not national banks located outside of South Carolina are included within the language of § 8–233 “banks, banking institutions and other leading agencies doing business in this State,” so as to allow such banks to make such charges and receive interest as allowed by Section 8–233, 1962 Code of Laws of South Carolina (1974 Supp.).

Out-of-state national banks are expressly excluded from various provisions of Title 8, Banking, Commercial Paper and Finance. Section 8–102 expressly lists a number of code sections which are not applicable to national banks. Section 8–233 is not amongst the sections declared to be inapplicable to national banks.

Section 8–233 provides a rate of add-on interest that may be charged by “banks, banking institutions and other lending agencies doing business in this State ...” It therefore appears that a national bank “doing business” in South Carolina could lend monies under the provision of Section 8–233. This, of course, raises the question as to what constitutes “doing business.” Without attempting to define the activities of an out-of-state national bank necessary to support a finding that such bank is doing business in South Carolina, it is the opinion of this office that an out-of-state national bank doing business in South Carolina may lend monies under Section 8–233.

Please excuse the delay in our response to your inquiry. If our office may provide further assistance in this matter, do not hesitate to call upon us.

Patricia O. Brehmer
Assistant Attorney General

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