



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON  
ATTORNEY GENERAL

August 11, 1998

Carmen M. Tevis, Staff Counsel  
Labor, Commerce and Industry Committee  
South Carolina House of Representatives  
Post Office Box 11867  
Columbia, South Carolina 29211

RE: Informal Opinion

Dear Ms. Tevis:

Attorney General Condon has forwarded your recent opinion request to me for reply. You have been asked by Representative Margaret Gamble to request an opinion on Act No. 433 of 1998. This Act regulates the Deferred Presentment and Check Cashing Industries in South Carolina. You have raised several questions regarding the proper interpretation of certain provisions of the Act.

The cardinal rule of statutory interpretation is to ascertain and give effect to the legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Most often, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988).

After reviewing the language of the Act in detail, one thing is abundantly clear: the Act is riddled with ambiguity. Since the Act is not subject to a clear and unambiguous interpretation, an effort must be made to determine the intent of the General Assembly. Any attempt to determine the legislative intent of a particular provision begins with a review of the language of the Act. Op. Atty. Gen. dated April 22, 1987. Unfortunately,

Ms. Tevis  
Page 2  
August 11, 1998

in this case, an intrinsic review of the Act does not remove the ambiguity relative to the questions asked in your opinion request. Because the Act is so ambiguous, a reasonable interpretation of the Act in response to your specific questions could lead to more than one valid conclusion. The fact that there is such widespread disagreement concerning the intent of the General Assembly with respect to this legislation verifies this ambiguity. Either a court will need to resolve these questions definitively or the Legislature will need to rewrite the law.

Obviously, this Office cannot rewrite a statute or add or take away phrases from a statute. Op. Atty. Gen. dated March 12, 1984. That may only be done by the General Assembly. Therefore, in our judgment, the most prudent course of action would be for the General Assembly to rework the Act when it returns in January.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General