

1979 WL 42805 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1979

**\*1 Re: Freedom of Information Act Board of Financial Institutions**

The Honorable Grady L. Patterson  
Treasurer of the State of South Carolina  
Wade Hampton Office Building  
Post Office Drawer 11778  
Columbia, South Carolina 29211

Dear Mr. Patterson:

You have recently requested the opinion of this Office concerning the right of the Board of Financial Institutions to go into executive session to discuss matters contained in documents specifically exempt from disclosure under the Freedom of Information Act, Act No. 593, 1978 Statutes at Large 1736. You have also asked whether the agenda of matters to be discussed in executive session must be posted.

Section 3(c) of the Act provides:

‘Nothing herein shall authorize or require the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of such institutions required to be made by law.’

Section 8 of the Act enumerates the circumstances under which a public body may go into executive session but includes no specific provision for the discussion of such matters. The South Carolina Supreme Court held, in [Cooper v. Bales, 268 S.C. 270, 233 S.E.2d 306 \(1977\)](#), that documents prepared in connection with valid executive sessions were exempt from disclosure although not specifically made exempt by the Act, reasoning that the executive session would be meaningless if such documents were required to be disclosed. It is the opinion of this Office that the reverse is also true. If documents exempt from disclosure were required to be discussed publicly, the exemption would be rendered meaningless. Therefore, it is our opinion that the Board of Financial Institutions may go into executive session in order to discuss ‘records pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of such institutions required to be made by law’ and any other documents when the Board, by public vote of three-fourths of the membership, concludes that the public interest is best served by not disclosing them. (Section 3(c).)

You have also asked whether the agenda of matters to be discussed in executive session must be posted pursuant to Section 9 of the Act. While an executive session, as such, should be included in the agenda, particular items to be discussed need not be revealed. Section 8(5) requires that the purpose of the executive session must be announced. It is the opinion of this Office that it is sufficient to describe the subject of the executive session in the terms used in the Act itself. The statement need not be specific. If your Board wishes to have a written agenda stating exactly what applications, for example, will be discussed in executive session, that agenda need not be posted, since it would contain more exact information than would be required to go into executive session. Also, the agenda for the executive session would, in our view, fall within the rule of [Cooper v. Bales](#), since it would be prepared in connection with the executive session.

**\*2** I hope this has been of some assistance to you. If you have any further questions, please do not hesitate to contact me.  
Very truly yours,

Katherine W. Hill  
Assistant Attorney General

1979 WL 42805 (S.C.A.G.)

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.