

1977 S.C. Op. Atty. Gen. 278 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-352, 1977 WL 24691

Office of the Attorney General

State of South Carolina

Opinion No. 77-352

November 4, 1977

*1 The Honorable S. Hunter Howard, Jr.

Member

House of Representatives

Greenville County

301 North Main Street

Fountain Inn, South Carolina 29644

Dear Mr. Howard:

You have inquired whether or not Act No. 306 of 1975, which authorizes the Commissioner of Insurance to act as chairman of the board of directors of the joint Underwriting Association and authorizes his casting of a vote in case of a tie, presents a conflict of interest insofar as the Commissioner is concerned.

It is my opinion that no violation of the State Ethics law or the dual officeholding provision of the State Constitution is presented by these circumstances but that the provision that the Commissioner sit as a member and chairman of the Joint Underwriting Association is prohibited by Article 1, Section 22, of the Constitution of this State. This provision of the Constitution provides that no person shall be subject to the same person for both prosecution and adjudication.

The decisions of the board of directors, of which the Insurance Commissioner is chairman, may be appealed to the Insurance Commissioner and, in my opinion, this procedure is prohibited by the Constitution of this State.

A thorough research by George C. Beighley, Assistant Attorney General, demonstrates the basis on which this conclusion is reached and his memorandum setting forth the purpose and intent of the constitutional provision is forwarded to you for your information.

With best wishes,

Very truly yours,

Daniel R. McLeod

Attorney General

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