

1979 WL 43474 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
July 19, 1979

*1 L. Steve Mayfield
Executive Director
South Carolina State Housing Authority
Suite 540
2221 Devine Street
Columbia, South Carolina 29205

Dear Mr. Mayfield:

You have requested an opinion from this Office as to whether or not municipalities, counties and local or regional housing authorities may issue revenue bonds for the purpose of providing mortgage funds to persons within their jurisdiction.

The political subdivisions of this state may issue bonds only for such purposes as the General Assembly may provide by general law. Article X, Section 14, subsection (2), CONSTITUTION OF SOUTH CAROLINA, 1895. Section 31-3-440 grants to local housing authorities:

‘all powers necessary to carry out and effectuate the purposes and provisions of this Chapter and Chapter 11, including full power and authority to . . . borrow money upon [their] lands and to secure repayment thereof . . .’ [Emphasis added].

The purpose of the housing authorities created by Title 31 is to provide public housing for persons of low income at rentals they can afford. See, Sec. 31-3-30, 31-3-320. Thus, local housing authorities may, upon a finding of need, issue bonds to provide public housing for low-income persons.

None of the statutes dealing with local housing authorities, however, delegate the power to issue bonds for any other type of housing needs. The power given to the State Housing Authority in Section 31-13-160 et seq. (Act No. 76 of 1977) to provide assistance to low and moderate income families (and which would allow individual ownership) appears to be given exclusively to the Authority and is cumulative to its other powers. No corresponding powers are delegated to local entities.

Similarly, there is no provision of law which authorizes cities or counties in this State to issue bonds for the aforementioned purposes. The powers of these entities are set forth in the Home Rule legislation of 1975 (Act No. 283 of 1975); this legislation makes no specific reference to grants of such power to cities and counties, and it is unlikely that such was intended in the absence of specific language, especially when the Housing Authority Act of 1975 (Act No. 288 of 1975), approved almost simultaneously, made very specific provision for such powers to be vested in the State Housing Authority.

For the foregoing reasons, it is the opinion of this Office that cities, counties and local or regional housing authorities may not issue bonds for the purpose of providing mortgage funds to individuals.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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