

1979 WL 43452 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 9, 1979

***1 RE: Requested Attorney General's Opinion Concerning Sufficiency of Real Estate Courses Taught in the South Carolina Technical Education System**

Mr. G. William Dudley, Jr.
Executive Director
State Board for Technical and Comprehensive Education
1429 Senate Street
Columbia, South Carolina 29201

Dear Mr. Dudley:

You have requested an Opinion of this Office concerning courses of education in real estate presently taught in the various institutions comprising the South Carolina Technical Education System. Specifically, you are concerned with certain proposed regulations of the South Carolina Real Estate Commission, which ostensibly regulate real estate courses taught in State Technical Education schools. At present, I have no knowledge whether the regulations in question have been published in the State Register; however, the conclusions drawn in this Opinion render unnecessary any consideration of the questioned regulations.

The Real Estate Commission of South Carolina, as well as the real estate profession generally, are governed by [Section 40-57-10, et seq., Code of Laws of South Carolina, 1976](#), as amended. The real question involved here is whether students of South Carolina's Technical Educational Institutions, upon successful passage of courses in real estate, are entitled to stand the Commission's examination for either a salesman's or broker's license. The specific provisions of the statute in question here, § 40-57-100, are as follows:

Prerequisites for taking an examination for broker's license are as follows:

(3) Successful completion of at least sixty hours of instruction, including time spent on examination, in the basic principles of real estate conducted by:

(a) A university or duly accredited college wherever situated; or

(b) A bona fide business school situated in the State approved by the Commission; or

(c) The South Carolina Association of Realtors Education Foundation; or

(d) An institution or organization approved by the Commission;

(e) Correspondence where such course of instruction is part of an extension department of an accredited college or university;

Beginning January 1, 1976, as a prerequisite for taking the examination, every applicant for a real estate salesman's license shall furnish evidence satisfactory to the Commission of completion of thirty classroom hours in the South Carolina Realtor's Institute or such courses of education in real estate subjects at a school accredited in the State, a correspondence school or other school approved by the Commission; or shall furnish satisfactory evidence of experience in real estate transactions which the Commission shall find equivalent; or such applicant shall furnish to the Commission evidence that he has successfully completed at least three credit hours in real estate or real estate related subjects at an accredited university or college prior to taking the real estate examination.

*2 Section 40-57-100 enumerates with specificity certain requirements before any person may stand the examination for real estate salesman or broker, and the statute gives the Real Estate Commission authority to approve business schools which may offer courses in real estate as a prerequisite to stand the examinations. Thus, the question is whether the courses in real estate offered by institutions in the South Carolina Technical Education System fall within Section 40-57-100(3)(a) and the final paragraph of such Code section, thereby allowing students successfully passing the courses in the Technical Education System to automatically stand for the examinations.

The South Carolina Technical Education System is administered on a state-wide basis by the State Board for Technical and Comprehensive Education. See [Sections 59-53-10 through 59-53-70, Code of Laws of South Carolina, 1976](#), as amended. Evidence of the character of the individual institutions comprising the State Technical Education System can be found within the aforementioned authority. In Sections 59-53-20 and 59-53-40, the State Board is required to coordinate and obtain approval of the State Commission on Higher Education ‘. . . for all existing and proposed college parallel courses or associate degree programs’ The State Commission on Higher Education, of course, regulates certain aspects of higher education involving the State's colleges and universities, including Comprehensive and Technical Education. See [Section 59-103-5, et seq., Code of Laws of South Carolina, 1976](#), as amended. Section 59-53-50, further defines the powers and duties of the State Board for Technical and Comprehensive Education, which include the operation of ‘. . . post-high school vocational, technical and occupational diploma and associate degree courses and programs’ In the same statute, the State Board is authorized to award certificates, diplomas and associate degrees to students for successful completion of courses or programs in technical education institutions. Section 59-53-52, gives area technical education commissions authority to supervise and maintain facilities to promote post-secondary vocational, technical and comprehensive education, as well as authority to award certificates, diplomas and associate degrees.

Further evidence that South Carolina's Technical Education Institutions are colleges is found in Article 2 of Chapter 53 of Title 59 of the 1976 Code of Laws, as amended. Specifically, Section 59-53-151 contains the following definition, “college' shall mean each of the technical education colleges or centers.’ Article 2 is directed only at institutions within the South Carolina Technical Education System, and the term ‘college’ is used repeatedly throughout the article.

There is no doubt that the various institutions comprising the State Technical Education System hold themselves out to the public generally as colleges. To name a few, the State System is comprised of schools such as Midlands Technical College, Trident Technical College, Piedmont Technical College, and Greenville Technical College. While the mere name of a particular institution is not dispositive of the question herein, reference should be made to the accreditation of the individual institutions. I am informed by the staff of the State Board for Technical and Comprehensive Education that all of the institutions comprising the State System, with the exception of one, are currently accredited by the Commission on Colleges, Southern Association of Colleges and Schools. The Southern Association is the very well known regional accrediting association for colleges and universities, as well as primary and secondary schools, in the Southeastern United States. I am further informed that the one technical educational institution not presently accredited is currently in ‘candidate status’ for accreditation and expects final accreditation shortly.

*3 Based upon the foregoing discussion and citation of authorities, the Opinion of this Office is that the institutions comprising the South Carolina Technical Education System are accredited colleges within the meaning of Section 40-57-100. Therefore, the State Real Estate Commission is without authority to regulate courses in real estate offered by institutions of the State Technical Education System, and successful students are entitled to take the real estate commissions salesmen's and broker's examinations upon successful completion of such courses. With the exception of Section 40-57-100(3)(b), and correspondence or other schools as specified in the final paragraph of such section, the State Real Estate Commission is without authority to approve courses of study in an accredited college. You are referred to the previous opinion of this office, authored by Assistant Attorney General Frank H. DuRant, dated July 12, 1978, on this point, a copy of which is enclosed for your convenience.

With kind regards,
Sincerely,

Paul S. League
Assistant Attorney General

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