

1979 WL 43147 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 1, 1979

*1 Senator Thomas E. Smith, Jr.
P. O. Box 308
Pamplico, South Carolina 29583

Dear Senator Smith:

In your letter of October 16, 1979, you requested this office's opinion with regard to the meaning of the term 'for commercial agricultural purposes' as used in [Section 34-1-110, South Carolina Code](#) of Laws, 1976, as amended by Act 220 of 1979 (Ratification No. 67). It is my understanding that prior to this amendment, agricultural loans were generally governed by the first paragraph of the general usury statute, Section 34-31-30 of the Code (i.e., 8% on loans of \$50,000.00 or less) since agricultural loans were specifically excluded from the provisions of the Consumer Protection Code. (See, [Section 37-1-202 of the Code](#), as amended.) Thus, the Legislature in amending [Section 34-1-110](#) obviously intended to provide for a higher rate of interest for 'commercial' agricultural loans.

In researching the legislature history of Act 220, we discovered that the original bill (Printer's No. 136-S) provided merely 'for agricultural purposes', but that an amendment was introduced on March 28, 1979, to insert the word 'commercial' so that the final bill read 'for commercial agricultural purposes.' It is our opinion that the Legislature by this amendment intended to distinguish such loans from loans made primarily for personal, family or household agricultural purposes. This would mean, for example, that if an individual was engaged in farming as a business and needed a loan to purchase a tractor for use in his farming business, then the interest rate would be governed by [Section 34-1-110](#). However, if an individual wanted to buy a tractor to use for his own garden, or to clear the land for a house, or for any other purpose not connected with 'commercial' agriculture, then the loan would not be governed by [Section 34-1-110](#).

For your information, I did discuss this matter with Representative Jean Toal, who along with Representative Howard, proposed the above mentioned amendment to the original bill. Representative Toal's interpretation of this term 'for commercial agricultural purposes' was the same as ours. Thus, in conclusion, it is our opinion that the word 'commercial' refers to the agricultural purposes for which the loan will be used and not the type of lending institution making the loan.

If I can be of further assistance in this matter, please do not hesitate to contact me. With cordial best wishes, I am
Very truly yours,

Richard B. Kale, Jr.
Senior Assistant Attorney General

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