

1976 WL 30915 (S.C.A.G.)  
Office of the Attorney General  
State of South Carolina  
December 29, 1976

\*1 Ms. Charlotte B. Fielder  
Administrative Assistant  
State Development Board  
Post Office Box 927  
Columbia, SC 29202

Dear Ms. Fielder:

You have requested an opinion with respect to the present status of Regional Housing Authority No. 2, which apparently was organized in 1941 but never actually activated, presumably because of wartime conditions.

In order to answer this question, a brief background statement is necessary. In 1940, Sections 36-201, et seq., South Carolina Code of Laws, were enacted. This legislation authorized the creation of regional housing authorities by resolution of the legislative delegations of two or more contiguous counties, provided that the delegation first made a number of specified findings of fact. Also required was the consent of the creditors of the county housing authorities in the affected counties as well as the consent of the county housing authorities themselves. Upon receipt of such consent, the regional authority would assume all functions, properties, and obligations of the county authorities.

As previously noted, Regional Housing Authority No. 2 was apparently created in 1941. The resolution of the delegations is not found in the 1941 Statutes at Large, but this is not unusual in light of Section 36-204, which calls for proof in court of such a resolution (if necessary) by certificate. At present, the only known proof of what happened in 1941 is a 1969 letter from a HUD official to the mayor of Lake City. Clearly, if the authority were to be reactivated, more positive proof of its creation than this would be needed.

You have asked whether any provision of law prevents the reactivation of the Authority upon appointment of a new set of commissioners. The simple answer to this is that there is no provision for the dissolution of this Authority once it has been duly created, and thus, absent other circumstances, it should be treated as a valid, existing subdivision of the State. However, many potential difficulties lie on the horizon, especially if county housing authorities have been created since 1941. It is quite possible that such counties might be considered to have 'opted out' of the regional authority. Questions such as this would need to be resolved before the regional authority was reactivated. As a result, it is impossible to render a conclusive opinion at this time. If additional information can be gathered concerning the counties involved and the creation of the authority, please let me know; I will be glad to help in any way possible at that time.

Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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