

1975 WL 28955 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 25, 1975

*1 Honorable James B. Edwards
Governor
State House
Columbia, South Carolina

Dear Governor Edwards:

You have requested an opinion from this office as to the constitutionality of an Act bearing Ratification Number R-401 which empowers the South Carolina State Housing Authority to provide housing to persons of low to moderate income by specified methods, including the issuance of revenue bonds.

Earlier this year, the South Carolina Supreme Court declared unconstitutional Act No. 1171 of 1974 [see, 58 STAT. Act No. 1171 at 2693 (1974)] which had authorized the State Housing Authority to provide dwelling accommodations to persons of low to moderate income primarily through the issuance of bonds. See, Casey v. South Carolina State Housing Authority, et al. (Opinion No. 20004, filed May 2, 1975). The Supreme Court based its decision on the Act's use of a Guaranty Fund and moral obligation commitment which, the Court concluded, pledged the credit of the State in violation of Article X, Section 6 of the South Carolina Constitution.

The Act under consideration has, in our opinion, deleted the unconstitutional features of the 1974 Act and, accordingly, no longer violates the provisions of Article X, Section 6. Section 7 of the Act specifically provides:

The notes, bonds, or other obligations of the authority shall not be a debt or grant or loan of credit to the State of South Carolina or any political subdivision thereof and neither the State of South Carolina nor any political subdivision thereof shall be liable thereon, nor shall they be payable out of any funds other than those of the authority and all notes, bonds and other obligations issued pursuant to this act shall contain on the face thereof a statement to such effect.

Our opinion is, therefore, that Act R-401 constitutes a valid enactment.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

1975 WL 28955 (S.C.A.G.)