

1975 S.C. Op. Atty. Gen. 256 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4212, 1975 WL 22509

Office of the Attorney General

State of South Carolina

Opinion No. 4212

December 9, 1975

*1 The S. C. Real Estate Commission could create a committee to offer assistance in evaluating real estate courses submitted for Commission approval. Such committee could be reimbursed on a per diem basis for the days on which it met and performed its duties.

To: R. H. Baer, Jr.
Real Estate Commissioner

QUESTION PRESENTED:

Can the S. C. Real Estate Commission appoint a board to review and evaluate those real estate courses which must receive Commission approval before they can satisfy the educational prerequisites for real estate licensing?

Can the Commissioner authorize this board to receive \$25.00 per diem and travel expenses for time spent on such review and evaluation?

STATUTES, CASES, ETC:

Code of Laws of South Carolina, 1962, as amended, Section 56-1545, et seq.,

Act No. 237, 1975 Acts and Joint Resolutions, Section 105.

DISCUSSION OF ISSUES:

Code Section 56.1545.4, supra, places in the Real Estate Commission of South Carolina authority to establish the policy, issue general rules and regulations, and advise the Real Estate Commissioner in carrying out the provisions of the Code Chapter.

Section 56-1545.6 allows the Commission to retain any fees and funds which may come into its possession to carry out the provisions of the Code Chapter.

Section 56-1545.7 vests the Real Estate Commissioner with authority to administer the provisions of the Code Chapter, and to employ such additional assistants at such salaries as may be authorized by the Commission. These assistants are to have such duties as prescribed by the Commissioner.

Section 56-1545.9 gives the Commission power to approve courses of instruction and institutions offering such instruction, for eligibility to satisfy the requisite course work necessary for real estate licensing.

Such powers and responsibilities, when construed together, indicate that it would be proper for the Real Estate Commissioner to delegate to his assistants the duty to preliminarily screen and evaluate all real estate courses submitted

for Commission Approval. The question is whether such assistance must be rendered by a permanent, salaried assistant, or whether it can be performed by a board of experts, meeting periodically, and reimbursed on a per diem basis.

Section 56-1545.7 allows the Commissioner to employ 'such additional assistants at such salaries as may be authorized by the Commission.' This language does not define or create a specific permanent position of 'assistant,' but broadly authorizes such additional assistance as the Commissioner may require. Therefore, within the terms of the statute itself logically interpreted, there is no reason why the committee arrangement authorized by the Commissioner would be invalid.

The 1975 Appropriations Bill, Act No. 237, Section 105, provides that the per diem allowance of all boards, commissions and committees shall be at the rate of \$25.00 per day. Therefore the Commission's fund expenditure on the instant committee is in line with the general limits of the Appropriations Act.

*2 The State Personnel Division advises there is no state employment regulation or procedure which would prohibit the establishment of such part-time committee.

CONCLUSION:

The S. C. Real Estate Commission could create a committee to offer assistance in evaluating real estate courses submitted for Commission approval. Such committee could be reimbursed on a per diem basis for the days on which it met and performed its duties.

George C. Beighley
Assistant Attorney General

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