



# The State of South Carolina

## Department of Consumer Affairs

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September 8, 1981

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Administrative Interpretation No. 1.202-8108

PAWNBROKER LOANS ARE CONSUMER LOANS GOVERNED BY CONSUMER PROTECTION CODE WITH EXCEPTION OF RATES AND CHARGES AND THEIR DISCLOSURE ON LOANS OF \$50.00 AND LESS.

You have asked whether the Consumer Protection Code applies to pawnbroker loans and if so to what extent. You referred to the Attorney General's opinion (1977 Op. Att'y Gen. No. 77-326, p. 261) which concluded that pawnbroker loans of more than \$50.00 are subject to rate ceilings on loans made by non-supervised lenders and asked whether we so interpret the Consumer Protection Code in light of Section 37-1-202(4) (1976) which says:

[This title does not apply to]... [t]he rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.  
(Emphasis added)

We interpret this language to mean, as did the Attorney General, that only the rates and charges and disclosure of those rates and charges on certain pawnbroker loans are excluded from the Consumer Protection Code, not the loans themselves. Pawnbroker loans that meet the definition of consumer loan in Section 37-3-104 (1976 as amended) are subject to the Consumer Protection Code. Because pawnbrokers are regularly engaged in the business of making loans and most if not all of their loans are to individuals for personal, family or household purposes and involve a finance charge, pawnbroker loans will ordinarily be consumer loans. A limited exception from the Consumer Protection Code is made for rates and charges on such loans and their disclosure only when the pawnbroker is licensed and makes loans under a statute or ordinance governing pawnbrokers.

As you pointed out, South Carolina Code Section 40-39-100 (1976) provides:

Pawnbrokers may demand or receive on loans not in excess of \$50.00 a charge at the rate of \$1.00 per 30-day period for each \$10.00 loaned; provided, that a minimum charge of fifty cents may be collected for loans under \$10.00.

TELEPHONES (AREA CODE 803)

ADMINISTRATION  
758-3017

CONSUMER COMPLAINTS  
758-2040  
WATS 1-800-922-1504

PUBLIC INFORMATION  
758-7546

NOTIFICATION  
758-8587

CONSUMER ADVOCACY  
758-4926

The South Carolina pawnbroker statute which requires pawnbrokers to be licensed therefore limits its provision on charges to loans of \$50.00 or less. Further, Section 40-39-80 (1976) requires a pawnbroker to deliver a signed memorandum or note containing information on rates and charges to the person pawning or pledging any goods, articles or things. Beyond this, we are not aware of any statute or ordinance specifically governing pawnbroker loan rates and charges and their disclosure. Assuming there are no applicable ordinances, it is the opinion of this Department that pawnbroker loans in excess of \$50.00 which are also consumer loans are subject to provisions governing rates, charges and their disclosure in the Consumer Protection Code.

Unless a pawnbroker has a license to make supervised loans, he is subject to the 18% annual percentage rate ceiling for non-supervised loans in Section 37-3-201(1)(Cum. Supp. 1980) until July 1, 1982. The Attorney General's opinion referring to a 12% ceiling on such loans was written prior to the 1980 amendment to Section 37-3-201 which increased the maximum rate to 18% annual percentage rate from 12%. See A.I. No. 3.201-8103 of May 4, 1981.

Your next question was what disclosures are required on a pawnbroker ticket or other document in connection with a pawnbroker loan. Although Section 37-1-202(4) excludes disclosure of rates and charges on pawnbroker loans of \$50.00 or less from the Consumer Protection Code, the Federal Truth in Lending Act [15 U.S.C. §§1601 et seq., as amended] applies to qualifying pawnbroker loans as a matter of federal law. See 46 Fed. Reg. 20848, 20851 (1981), supplementary information to Federal Reserve Board Revised Regulation Z. Because Consumer Protection Code Section 37-3-301 simply provides that creditors subject to the Federal Truth in Lending Act must make disclosures as a matter of state as well as federal law, the disclosure exclusion for pawnbroker rates and charges has little practical effect. See A.I. No. 2.301-8107 of September 1, 1981. Section 40-39-80 referred to above should also be consulted in conjunction with the Truth in Lending Act to determine whether any additional disclosures are necessary.

Finally, you asked whether provisions of the Uniform Commercial Code governing the disposition of pledged property apply to pawnbrokers. Although this is a matter outside the Consumer Protection Code, Section 37-1-103 (1976) of the Consumer Protection Code says that the Uniform Commercial Code supplements its provisions unless displaced by particular provisions. While we make no attempt to interpret these non-Consumer Protection Code sections of law, we can only suggest that you consult Sections 36-9-203(2), 36-9-207, and 36-9-501(2) (1976) of the Uniform Commercial Code as well as Section 40-39-110 (1976) of the pawnbroker statute when making your own determination.

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In summary, in our opinion pawnbroker loans which are also consumer loans are subject to the Consumer Protection Code including, for all those loans over \$50.00, a maximum finance charge of 18% annual percentage rate, limitations on other charges, and disclosure requirements.

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Acting Administrator

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