Administrative Interpretation No. 1.202(7)-7602 (as amended 11-3-78)*

"ORIGINATION FEE" IN ADDITION TO MAXIMUM FINANCE CHARGE IS AN EXCESS CHARGE.

The question has arisen whether an "origination fee" may be charged by certain lenders in connection with a consumer loan in addition to the maximum finance charge permitted for that loan. Section 34-31-90 of the South Carolina Code (Cum. Supp. 1977) provides in part:

(1) Any mortgage lender may make an initial service or origination charge; provided, such initial charge shall not exceed one percent of the first twenty-five thousand dollars and one and one-half percent on any amounts above twenty-five thousand dollars. Such initial charge shall not be considered interest within the meaning of the laws of this State, which limit the rate of interest which may be charged on any transaction.


This act prescribes maximum charges for all creditors, except lessors and those excluded (Section 1.202), extending consumer credit including consumer loans (Section 3.104), and displaces existing limitations on the powers of those creditors based on maximum charges. (Emphasis added.)

It is the opinion of this Department that an "origination fee" charged in addition to the maximum finance charge permitted for a consumer loan would be an excess charge subject to the provisions on excess charges in the Consumer Protection Code.

By: Kathleen Goodpasture Smith
Counsel to the Administrator

Trvin D. Parker
Administrator

* The 11-3-78 amendment rewrote the Administrative Interpretation in accordance with the amendments to the Consumer Protection Code pertaining to rates and charges for loans contained in Act 686 of 1976 effective September 29, 1976.