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ADMINISTRATOR

# The State of South Carolina

## Department of Consumer Affairs

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February 11, 1976

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.

Consumer Protection Code §1.108[S.C. Code Ann. §37-1-108(Cum. Supp. 1977)] provides in subsection (1):

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.)

Any lender who makes a consumer loan as that term is defined in Consumer Protection Code §3.104[S.C. Code Ann. §37-3-104(Cum. Supp. 1977)] or who brings a loan transaction under the Consumer Protection Code pursuant to §3.601[S.C. Code Ann. §37-3-601(Cum. Supp. 1977)] is subject exclusively to the maximum charge provisions of the Consumer Protection Code applicable to that transaction. No "origination fee" is authorized by the Consumer Protection Code and such a charge would be within the definition of loan finance charge in §3.109[S.C. Code Ann. §37-3-109(Cum. Supp. 1977)].

TELEPHONES [AREA CODE 803]

ADMINISTRATION	CONSUMER COMPLAINTS	CONSUMER EDUCATION	NOTIFICATION	ENFORCEMENT
758-3017	758-2040	758-7546	758-8587	758-5864
WATTS 1-800-922-1594				

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.

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\* 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.

KGS:aac