

The State of South Carolina

Department of Consumer Affairs

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December 2, 1976

Administrative Interpretation No. 2.303-7614

"CO-SIGNERS AND SIMILAR PARTIES" ARE THE SAME AS AN "ACCOMMODATION PARTY" AS DEFINED IN THE SOUTH CAROLINA CODE.

Subsection (1) of Consumer Protection Code Sections 2.303 (consumer credit sales) and 3.303 (consumer loans) entitled "Notice to Co-signers and Similar Parties" states:


A natural person, other than the spouse of the consumer [or debtor], is not obligated as a co-signer, co-maker, guarantor, indorser, surety, or similar party with respect to a consumer credit sale [or consumer loan], unless before or contemporaneously with signing any separate agreement of obligation or any writing setting forth the terms of the debtor's agreement, the person receives a separate written notice that contains a completed identification of debt he may have to pay and reasonably informs him of his obligation with respect to it. (Emphasis added)

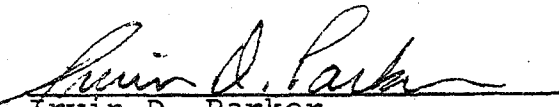
You have asked whether a co-signer or similar party is a person (other than the spouse of the consumer) who lends his signature to enable a consumer to receive goods, services, or money on credit rather than any person who signs a credit agreement jointly with a consumer.

Sections 2.303 and 3.303 of the Consumer Protection Code are substantially the same as Section 3.208 of the 1974 revised draft of the Uniform Consumer Credit Code. The official comment to that Section of the 1974 UCCC indicates that the purpose of the Section is to inform persons who assist consumers to obtain credit by lending their signatures as sureties or otherwise of the consequences of their act. To achieve the desired result, the Section requires that such a person be given a separate notice informing him of his potential liability as a consequence of his being bound on the agreement.

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There is no definition of "co-signer, co-maker, guarantor, indorser, surety or similar party" in the Consumer Protection Code. It is the opinion of this Department that those terms are analogous to "accommodation party" in Section 10.3-415(1) of the 1962 South Carolina Code [Uniform Commercial Code Section 3-415(1) which modifies South Carolina Code Section 8-846] even though a negotiable instrument may not be involved in the transaction. That is, a co-signer or similar party is one who signs an instrument (negotiable or non-negotiable) in any capacity for the purpose of lending his name to another party to it.

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