Administrative Interpretation No. 2.407-7505

A SECURITY INTEREST IN LAND OF A BUYER TO SECURE THE PURCHASE PRICE OF A MOBILE HOME IS PERMISSIBLE IF THE MOBILE HOME IS AFFIXED TO SUCH LAND.

Section 2.407, subsection 1 of the South Carolina Consumer Protection Code (Act 1241 of 1974) provides that:

With respect to a consumer credit sale, a seller may take a security interest in the property sold. In addition, a seller may take a security interest in goods upon which services are performed or in which goods sold are installed or to which they are annexed, or in land to which the goods are affixed or which is maintained, repaired or improved as a result of the sale of the goods or services, if in the case of a security interest in land the debt secured is one thousand dollars or more, . . .

Subsection 3 of Section 2.407 provides that a security interest taken in violation of this section is void.

The question has arisen as to whether, in connection with a consumer credit sale, a seller may take a security interest in land to secure the purchase price of a mobile home which will be placed upon the land in which the security interest is to be taken.

Unless the debt secured is less than $1,000.00 a security interest may be taken in land upon which the mobile home will be set up if the mobile home is to become affixed to such land. If the mobile home is not affixed to the land however, as that term is defined in the general laws of the State, a security interest in the land taken under the above stated circumstances would be void. Land will not be "maintained, repaired or improved" by the presence of a mobile home if it is not at least affixed to the land.

A collateral question arises as to whether it would make any difference if the land is not owned by the debtor. The concluding sentence of subsection 1 of Section 2.407 states that
except as provided with respect to cross-collateral a seller may not otherwise take a security interest in property of the buyer to secure the debt arising from a consumer credit sale. The section therefore does not void a security interest granted by a person other than the buyer to secure the purchase price of the goods sold to the buyer.

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