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April 4, 1975

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 con-
cluding sentence of subsection 1 of Section 2.407 states that

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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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