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October 22, 1975

Administrative Interpretation No. 3.403-7512

AN IRREVOCABLE AUTHORIZATION TO WITHHOLD PERSONAL
EARNINGS FOR PAYMENT OF A CONSUMER LOAN IS PROHIBITED.

You have requested an interpretation of South Carolina
Consumer Protection Code Section 3.403(1), S. C. Code Section
8-800.273.

Your question concerned the termination agreement signed by
the employee relating to unpaid wages. If this is an attempt
to create an irrevocable agreement allowing the Company to
withhold an employee's earnings, it would be an attempted
assignment of earnings subject to Consumer Protection Code
Section 3.403(1) [S. C. Code Section 8-800.273]. The effect
of the Code on assignments of earnings is to make them unen-
forceable by the assignee and revocable by the debtor.

The Consumer Protection Code makes it clear that whether or
not earnings will be withheld is left to the discretion of
the debtor. If he can revoke his authorization to deduct
from the employee's earnings, it is not an attempted assign-
ment and not prohibited by the Consumer Protection Code.

Your second question concerned whether or not a similar
termination agreement between the employee and a credit
union violates the Consumer Protection Code. Section 3.403(1)
of the Consumer Protection Code [S. C. Code Section 8-800.273]
makes no distinction between lenders who are also employers
and those who are not. All lenders who make consumer loans
are subject to the Consumer Protection Code and are prohibited
from taking an assignment of earnings. Again, if the authori-
zation to deduct from an employee's earnings is revocable by
the employee, it is not prohibited.

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