Administrative Interpretation No. 4.108-7401

SECTION 4.108 PERTAINING TO REFUND OF UNEARNED INSURANCE PREMIUM IS NOT APPLICABLE TO LOANS.

Section 4.108(1) of the South Carolina Consumer Protection Code (Act 1241 of 1974) provides that:

Upon prepayment in full of a consumer credit sale or consumer loan by the proceeds of consumer credit insurance, the debtor or his estate is entitled to a refund of any portion of a separate charge for insurance which by reason of prepayment is retained by the creditor or returned to him by the insurer unless the charge was computed from time to time on the basis of the balances of the debtor's account.

The question has arisen as to whether the Legislature intended Section 4.108 to apply to consumer loans since Section 4.108(1) is in direct conflict with Section 4.102(1) which provides that the Article on Insurance (Article 4) applies only to consumer sales and consumer leases.

The language in Section 4.108(1) is the original language drafted by the National Conference of Commissioners on Uniform State Laws as it appears in Section 4.108(1) of the Uniform Consumer Credit Code, 1968 Official Text.

The language of Section 4.102(1) was amended by the South Carolina General Assembly by deleting from the subsection the words "consumer loans" so that the Section when amended provided that the Article applies only to sales and leases. Additionally the General Assembly deleted from various other sections of the Article references to "consumer loans."

To give effect to Section 4.102(1) which was specifically amended to exclude consumer loans, it is necessary to conclude that the General Assembly intended to make Section 4.108(1) inapplicable to loans.

Based upon the foregoing it is the opinion of this office that by virtue of Section 4.102(1) Section 4.108 does not apply to consumer loans.

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Administrator