



SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS
MOTOR VEHICLE CLOSING FEE CHANGES:
FREQUENTLY ASKED QUESTIONS (New law eff. 5/16/2023)

1. What is a closing fee under the new law (2023 Act 45)?

It is a fee for recovery of a motor vehicle dealer's actual costs for all administrative and financial work needed to transfer and deliver the motor vehicle to the consumer including, but not limited to, compliance with all state, federal, and lender requirements, preparation and retrieval of documents, protection of the private personal information of the consumer, records retention, and storage costs.

2. Who is required to file a closing fee?

Any motor vehicle dealer (defined in § 56-15-10) who wants to charge a closing fee in a motor vehicle sales or lease transaction must file the proposed maximum closing fee with the Department.

3. If a dealer already filed its maximum closing fee this year, does the dealer have to file again?

If the dealer filed recently and the certificate expiration date is 1/31/2024, the dealer can continue to charge the current closing fee until 1/31/2024. At any time prior to 1/31/2024, the dealer may file for a perpetual certificate based on the criteria established in the new law. For a perpetual certificate, the expiration date is 12/31/2099.

4. If a dealer already filed its maximum closing fee this year, how long can the dealer charge the current closing fee?

Closing fee notices filed between 11/1/2022, and 5/15/2023, will have an expiration date of 1/31/2024 once processed. The dealer can charge this fee until 1/31/2024. At any time prior to 1/31/2024, the dealer may file for a perpetual certificate based on the criteria established in the new law (expiration date will be 12/31/2099).

For closing fee notices filed on or after 5/16/2023, the perpetual certificate will have an expiration date of 12/31/2099 once processed. With a perpetual certificate, the dealer can charge a closing fee in any amount less than or equal to the maximum amount shown on the certificate indefinitely.

5. Under the new law, what items can be included in a closing fee?

The dealer's actual costs and expenses including, but not limited to, employee compensation, information processing, facilities costs, supplies, and materials associated with the following closing and delivery activities:

- (a) closing the motor vehicle sale or lease transaction, including any associated loan or lease and transferring title of the motor vehicle to the consumer;
- (b) delivering the motor vehicle to the consumer;
- (c) complying with all state, federal, and lender requirements;
- (d) preparing, storing, and retrieving transaction documents; and
- (e) protecting the private personal information of the consumer.

6. What is the timeframe for filing and processing a closing fee under the new law?

The new law requires the Department to notify the dealer within 15 days if it intends to do a formal review of the proposed closing fee. Therefore, within 15 days of receipt of a complete application, the Department will notify the dealer that the certificate has been issued or that the fee is being reviewed.

If the Department does review the proposed closing fee, the Department will notify the dealer of its decision within 30 days of receipt of a complete application. The Department will either issue the certificate or issue an Administrative Order denying the closing fee.

7. Is there a maximum closing fee amount that is automatically considered reasonable?

When the maximum amount the dealer proposes to charge is \$225 or less, the proposed maximum closing fee amount will automatically be considered reasonable and will not be subject to further review by DCA. Filings for \$225 or less are typically processed within one business day of receipt of a complete application (required documents and \$25 filing fee).

8. If a dealer is buying an existing dealership, can the dealer charge the same closing fee?

The new law requires the dealer to calculate costs using generally accepted cost accounting principles for the preceding twelve-month period. Thus, a dealer can charge the same closing fee only if:

- a) The selling dealership provides its actual costs for the preceding 12-month period;
- b) The buying dealership uses that data to calculate costs using generally accepted cost accounting principles;
- c) The buying dealership attests the costs will remain the same; and
- d) The buying dealership files the complete application with Department for processing.

9. If a dealer is opening a brand new dealership, what are the requirements to charge a closing fee? (if purchasing an existing dealership, see number 8 above)

The new law requires the dealer to calculate costs using generally accepted cost accounting principles for the preceding twelve-month period. Thus, a new dealership can file to charge up to \$225 for the first twelve months of operation and then use the dealer's actual costs to calculate a closing fee higher than \$225.

10. How can a dealer get the certificate as soon as possible?

The dealer will receive an email when the certificate is ready to download. Please add noreply@scconsumer.gov to your address book, contact list, or safe senders list to ensure the notice does not get blocked or sent to your spam folder.

11. Once the dealer has the certificate, what else is required?

The closing fee must be: (a) disclosed on the motor vehicle sale or lease contract; (b) displayed in a conspicuous location in the dealership; and (c) clearly and conspicuously disclosed in any advertisement of a specific motor vehicle for sale or lease.