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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.


Irvin D. Parker
Administrator