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ADMINISTRATOR

# The State of South Carolina

## Department of Consumer Affairs

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March 26, 1975

Administrative Interpretation 3.104-7504

TRANSACTIONS BY INSURANCE PREMIUM SERVICE COMPANIES  
ARE "CONSUMER LOANS" WITHIN THE PURVIEW OF THE SOUTH  
CAROLINA CONSUMER PROTECTION CODE.

Section 3.104 of the South Carolina Consumer Protection Code  
(Act 1241 of 1974) provides that:

Except with respect to a loan primarily secured by  
an interest in land (Section 3.105), "consumer loan"  
is a loan made by a person regularly engaged in the  
business of making loans in which: (a) the debtor is  
a person other than an organization; (b) the debt is  
incurred primarily for a personal, family or house-  
hold purpose; (c) either the debt is payable in instal-  
ments or a loan finance charge is made; and (d) either  
the principal does not exceed twenty-five thousand dollars  
or the debt is secured by an interest in land.

The question has arisen as to whether transactions by insurance  
premium service companies are "consumer loans" within the purview  
of the South Carolina Consumer Protection Code (Act 1241 of 1974,  
hereinafter called the "Code").

An "insurance premium service company" is a person engaged in  
the business of entering into insurance "premium service  
agreements." A premium service agreement is a transaction  
wherein a person agrees to advance to an insurer on behalf  
of a prospective insured, an insurance premium and the insured  
agrees to pay to the premium service company the amount advanced  
on his behalf together with a service charge. [Section 37-1302,  
South Carolina Code of Laws (1962) (1974 Cumulative Supplement)].

The term "loan" includes a transaction wherein a person agrees  
to pay money "to a third party for the account of the debtor,"  
(Section 3.106 of the Code.)

Where such loan is made to an individual primarily for a personal  
or family purpose, it is a "consumer loan" if either the debt is  
payable in instalments or a loan finance charge is made.  
(Section 3.104 of the Code.)

March 26, 1975

Page Two

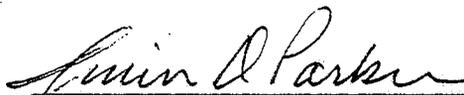
"Loan finance charge" includes "all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit."  
(Section 3.109 of the Code.)

The Act applies to every consumer loan by any "person" whatsoever (Section 1.201) except as excluded in Section 1.202.

Section 1.202 excludes "the sale of insurance by an insurer" but not the advancing of insurance premiums by a premium service company. It excludes "rates and charges" for advancing insurance premiums, but it does not exclude such transactions or companies from the Code. Had the legislature intended to exclude these "transactions" clearly, they would have done so by use of that term as they did for "transactions" under public utility tariffs.

A premium service company is a "person" within the purview of the Code. [Section 1.301(13)].

Based upon the foregoing, it is the opinion of this office that the transactions of insurance premium service companies, wherein such persons advance insurance premiums to insurers on behalf of prospective insureds are "consumer loans" within the purview of the South Carolina Consumer Protection Code where such advances are made on behalf of an individual for personal (as opposed to business or commercial) purposes.



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Administrator