



IRVIN D. PARKER
ADMINISTRATOR
AND
CONSUMER ADVOCATE

The State of South Carolina

Department of Consumer Affairs

2221 DEVINE STREET
P. O. BOX 5757
COLUMBIA, S. C. 29250

January 31, 1979

COMMISSIONERS
GRADY L. PATTERSON, JR.
CHAIRMAN
ROBERT E. HUDSON
COLUMBIA
EMIL W. WALD
ROCK HILL
ELLEN H. SMITH
SPARTANBURG
W. EARL DOUGLAS
MT. PLEASANT
LEHMAN A. MOSELEY, JR.
GREENVILLE
RALPH K. ANDERSON, JR.
FLORENCE

Administrative Interpretation No. 1.202-7901

LOAN PRIMARILY FOR AGRICULTURAL PURPOSE MAY NOT BE
MADE SUBJECT TO CONSUMER PROTECTION CODE BY AGREEMENT.

Section 37-1-202 of the S. C. Code of Laws provides, inter alia that

This act does not apply to . . .

(8) loans, sales or leases made primarily for agricultural purposes . . . (Emphasis added)

"Agricultural purpose" is defined in Consumer Protection Code §1.301(4) as follows:

"Agricultural purpose" means a purpose relating to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products.

The question posed is whether this provision excludes agricultural purpose loan transactions from the application of Sections 3.601 and 3.605 pertaining to loans "other than consumer loans."

Senate Bill S. 340 read the first time on April 11, 1973, as reported out of the Senate Committee of Banking and Insurance (S. Printers No. 21-S) did not contain the quoted exclusion. And, in that version of the Bill the definition of "consumer loan" included a loan for an "agricultural purpose."

On February 21, 1974, Mr. Lindsay proposed the following amendment which was adopted:

Amend item (1) (c) of Section 2.104 on page 13 by striking on line two all after the word "family" and inserting "or household purpose;".

Amend item (1) (b) of Section 3.104 on page 47 by striking all after the word "family" on line one and inserting "or household purpose;".

TELEPHONES [AREA CODE 803]

ADMINISTRATION
758-3017

CONSUMER COMPLAINTS
758-2040
WATS 1-800-922-1594

PUBLIC INFORMATION
758-7546

NOTIFICATION
758-8587

CONSUMER ADVOCACY
758-5864

January 31, 1979

Page Two

Amend Section 1.202 on page 6 by striking the word "or" at the end of item (6), by striking the period at the end of item (7) and inserting "; or" and by adding a new item as follows:

"(8) loans, sales or leases made primarily for agricultural purposes." [Journal of the Senate No. 27 at pages 15 and 16 (February 21, 1974)]

When the Senate adopted the first two amendments and thereby removed the reference to "agricultural purpose" from the definitions of consumer credit sale and consumer loan respectively, the effect was to classify loans for agricultural purposes as loans "other than consumer loans."

Had the legislature stopped there, agricultural purpose loans clearly could have been made subject to the Consumer Protection Code by agreement (Section 3.601) and agricultural purpose loans over \$50,000 would have been subject to no interest limitations (Section 3.605).

But the Legislature did not stop there. They added the third amendment which is the provision under consideration. The question, then, is what was the purpose and effect of excluding agricultural purpose loans from the "act" after previous amendments making such loans subject only to Sections 3.601 and 3.605.

If the exclusionary amendment did not have the purpose and effect of excluding agricultural purpose loans from the application of Sections 3.601 and 3.605, it apparently had no effect whatsoever, and the amendment would have been an exercise in futility.

After the first two amendments, agricultural purpose loans were subject only to Sections 3.601 and 3.605 of the Consumer Protection Code. It is the opinion of this office that the purpose and effect of the third amendment (the exclusionary subsection) was to exclude agricultural purpose loans from the application of those two Sections. Accordingly, it is our opinion that credit extended for an agricultural purpose as defined in Section 1.301(4) may not be made subject to the Code by agreement and is not removed from usury limitations by Section 3.605.



Irvin D. Parker
Administrator