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The State of South Carolina

Department of Consumer Affairs

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Administrative Interpretation No. 1.301-7902

LOAN MADE TO PURCHASE, REPAIR OR OPERATE A SHRIMP
BOAT OR COMMERCIAL FISHING VESSEL IS NOT A LOAN
PRIMARILY FOR AGRICULTURAL PURPOSES.

You have asked whether a loan made by a supervised financial organization [defined by Consumer Protection Code §1.301(17), S.C. Code Ann. §37-1-301(17)(1976)] the purpose of which is to purchase, repair or operate a shrimp boat or commercial fishing vessel is a loan primarily for agricultural purposes. The question is important in light of Administrative Interpretation No. 1.202-7901 issued January 31, 1979 that a loan primarily for agricultural purposes is excluded from the operation of Consumer Protection Code §3.601 [S.C. Code Ann. §37-3-601(Cum. Supp. 1977)] allowing certain non-consumer loans to be made subject to the Code by agreement and §3.605 [S.C. Code Ann. §37-3-605(Cum. Supp. 1977)] which provides that certain loans for \$50,000 or more have no applicable ceiling for finance or other charges.

As noted in the earlier administrative interpretation, agricultural purpose transactions which are excluded from the Consumer Protection Code are those transactions for an "agricultural purpose" as that term is defined in Consumer Protection Code §1.301(4) [S.C. Code Ann. §37-1-301(4)(1976)] which reads 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.

"Agricultural products" includes agricultural, horticultural, viticultural and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof. (Emphasis added)

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

Administrative Interpretation No. 1.301-7902

Administrative Interpretation No. 1.301-7604 issued March 4, 1976, stated that the definition is the exact language of the Official Text of the Uniform Consumer Credit Code. The language is also identical to Federal Reserve Board Regulation Z §226.2(e) [12 C.F.R. §226] defining the term "agricultural purpose" for purposes of the federal Truth in Lending Act [15 U.S.C. §§1601 et seq.], a fact pointed out in Official Comment (4) relating to the definition in the Official 1974 Text of the Uniform Consumer Credit Code.

By using the same definition of "agricultural purpose," the South Carolina General Assembly apparently intended to exclude the same "agricultural purpose" transactions from the Consumer Protection Code that the federal Truth in Lending Act and both Official 1968 and 1974 Texts of the Uniform Consumer Credit Code intended to include in the scope of consumer credit.


An "agricultural purpose" within the exclusion relates only to a natural person and not an organization, a term defined in Consumer Protection Code §1.301(11) [S.C. Code Ann. §37-1-301 (11)(1976)] as follows:

"Organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

Further, an "agricultural purpose" within the exclusion relates only to a natural person who also cultivates, plants, propagates, or nurtures the agricultural products such as fish and shellfish. Thus a natural person who obtained a loan related to the harvest of fish or shellfish who did not also cultivate, plant, propagate or nurture those fish or shellfish, would not be borrowing money for an agricultural purpose as that term is defined in the Consumer Protection Code. This conclusion is consistent with that of the Federal Reserve Board as expressed in public information letters of June 4, 1969 concerning harvesting of forests (not numbered); July 8, 1969 concerning operation of a sawmill (No. 33); and July 15, 1969 concerning a livestock hauler (No. 41). 1969-1974 Transfer Binder CCH Consumer Credit Guide ¶¶30,039; 30,105; 30,119. Those letters provide examples of transactions which were not for an agricultural purpose within the meaning of the Truth in Lending Act and Federal Reserve Board Regulation Z §226.2(e) because the person did not also cultivate, plant, propagate or nurture the agricultural products involved.

Administrative Interpretation No. 1.301-7902

Based on the foregoing, it is the opinion of this Department that a loan made by a supervised financial organization to a natural person to purchase, repair or operate a shrimp boat or commercial fishing vessel is not a loan primarily for an agricultural purpose as defined in the Consumer Protection Code unless that natural person also cultivates, plants, propagates or nurtures the fish or shellfish. Additionally, a loan made by a supervised financial organization to an organization for purchase, repair or operation of a shrimp boat or commercial fishing vessel is not a loan primarily for an agricultural purpose under any circumstances. Thus it is the further opinion of this Department that a loan made to purchase, repair or operate a shrimp boat or commercial fishing vessel, whether to an organization or to a natural person (with the one exception above), may be made subject to the Consumer Protection Code under §3.601 and if for \$50,000 or more has no applicable ceiling on finance or other charges by virtue of §3.605.



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