



IRVIN D. PARKER
ADMINISTRATOR

The State of South Carolina
Department of Consumer Affairs

600 COLUMBIA BUILDING
P. O. BOX 11739
COLUMBIA, S. C. 29211
(803) 758-2040

GRADY L. PATTERSON, JR.
CHAIRMAN
JAMES F. HARRISON
GREENVILLE
ROBERT E. HUDSON
COLUMBIA
JACK LAWRENCE
GREENWOOD
FRANCES MORRIS
CHARLESTON
ELLEN H. SMITH
SPARTANBURG
BENNIE H. TAYLOR
GREENVILLE
STEPHEN W. TREWHELLA
COLUMBIA
EMIL W. WALD
ROCK HILL
COMMISSIONERS

June 13, 1977

Administrative Interpretation No. 2.207-7707

THE MAXIMUM RATE OF 18% PER ANNUM FOR REVOLVING CHARGE ACCOUNTS IN SECTION 2.207(6) IS THE CORRESPONDING ANNUAL PERCENTAGE RATE DETERMINED BY MULTIPLYING THE MONTHLY RATE OF 1 1/2% BY 12 (THE NUMBER OF PERIODS IN A YEAR) ON AN UNPAID BALANCE OF \$1000 OR LESS.

You have asked what effect subsection (6) of Section 2.207 concerning credit service charge for revolving charge accounts has on that section as a whole. Your client computes the credit service charge on its charge accounts on the balance of those accounts as of the last day of the billing cycle. This method of computation is in accordance with subsection (2) of Section 2.207 which provides that "a charge may be made in each billing cycle which is a percentage of an amount no greater than... (b) the unpaid balance of the account on the same day of the billing cycle..." (Emphasis added). Your client imposes a charge of one and one-half per cent (1 1/2%) of that part of the balance of the account on the last day of the billing cycle which is \$1000 or less and one per cent (1%) of that part of the balance on the last day of the billing cycle which is more than \$1000 as authorized by subsection (3) of Section 2.207. Your client is concerned about the impact of subsection (6) on this method of computation when a charge account customer makes a substantial purchase near the end of a billing cycle and then pays a major portion of the purchase price early in the next billing cycle, which he fears could result in a yield higher than eighteen per cent (18%) per annum.

Subsection (6) of Section 2.207 provides:

No rate charged pursuant to this section shall exceed eighteen percent per annum.

Section 2.207, subsections (1) through (4), of the South Carolina Consumer Protection Code is substantially the same as the official 1968 Text of the Uniform Consumer Credit Code Section 2.207, subsections (1) through (4). However,

subsection (6) of that section, quoted above, was added to the South Carolina version along with subsection (5) which prohibited a credit service charge from exceeding forty-two per cent (42%) of the amount of a scheduled minimum payment for any one billing cycle. Subsection (6) appears to have been added to make it clear that subsection (5) was referring to a percentage of a minimum payment rather than to change the maximum rates that had been set forth in subsection (3).

"18% per annum" in Section 2.207(6) apparently refers to that figure which would appropriately be disclosed as the annual percentage rate for open end credit. While the Uniform version of the Consumer Credit Code does not express the ceiling for revolving charge accounts in terms of a rate per year but instead as a rate per billing cycle (or period), it, like the Consumer Protection Code, requires that the rate per year be disclosed as the "corresponding nominal annual percentage rate" in its disclosure provisions. See 1968 UCCC §2.310(1)(d).

The Consumer Protection Code incorporates by reference the disclosure requirements of the Federal Truth in Lending Act in Section 2.301 for persons making consumer credit sales. The calculation of the annual percentage rate required to be disclosed by the Truth in Lending Act depends upon the type of credit extended. The corresponding nominal annual percentage rate for open end credit, including revolving charge accounts, is determined by multiplying periodic rates by the number of periods in a year. Regulation Z §§226.7(a)(4), 226.7(b)(1)(v) and 226.5(a)(1). This method of calculating the annual percentage rate for disclosures should logically be extended to determine the maximum rate of credit service charge under Section 2.207.

That this method of computing the maximum credit service charge allowable is what the General Assembly intended is supported by analogy to provisions in Article 3 on consumer loans. Sections 3.201(4)(a) and 3.515(1)(a) which establish maximum charges for certain revolving loans at twelve per cent (12%) and eighteen per cent (18%) per year respectively, provide:

The loan finance charge shall be deemed not to exceed twelve percent [or eighteen percent] per year if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is one percent [or one and one-half percent] of an amount no greater than... (ii) the unpaid balance of the debt on the same day of the billing cycle....
(Emphasis added)

The drafters of the Uniform Code and Regulation Z recognized that calculation of the annual percentage rate for open end credit requires special treatment, and the General Assembly must have taken that into account when adding Subsection (6) to Section 2.207. It is the opinion of this Department that the "18% per annum" ceiling provided in Subsection (6) of Section 2.207 refers to a rate calculated by multiplying the periodic rate of the amount determined in accordance with subsections (2) and (3) by the number of periods in a year.

By: *Kathleen Goodpasture Smith*
Kathleen Goodpasture Smith
Staff Attorney

Irvin D. Parker
Irvin D. Parker
Administrator

KGS:sac