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April 11, 1978

Administrative Interpretation No. 2.211-7801

CREDIT SERVICE CHARGE RATES SET FORTH IN SECTION 2.201 CAN BE CHARGED IN A CONSUMER CREDIT SALE OF A MOTOR VEHICLE, AS WELL AS THE RATES SET FORTH IN SECTION 2.211.

You have asked whether the credit service charge rates set forth in Section 2.201 can be charged in a consumer credit sale of a motor vehicle. You noted that Section 2.211 provides for maximum credit charges for consumer credit sales of motor vehicles, and that neither section contains any exclusionary or limiting language.

When the South Carolina Consumer Protection Code was first enacted by the General Assembly, Section 2.201(2) contained a subsection (c) that stated:

Notwithstanding paragraphs (a) and (b) of this subsection, a seller of a motor vehicle may contract for and receive a credit service charge not in excess of the ceilings provided in Section 2.211 of this part.

When the Code was amended by Act 686, effective September 29, 1976, the above section was omitted. As a result, there appears to be some question as to whether Section 2.211 is the exclusive section for determining credit service charges in the sale of motor vehicles.

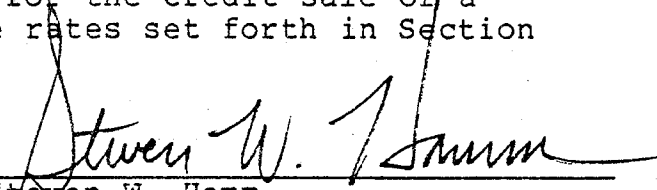
Since the original version of the South Carolina Consumer Protection Code contained a section that made Section 2.211 the only section applicable to credit service charges in the sale of motor vehicles, it is clear that the Legislature intended to make motor vehicle rates different from other sales finance rates. When the Legislature amended the Code, effective September 29, 1976, it is reasonable to conclude that the Legislature intended to allow Section 2.201 rates to apply to consumer credit sales of motor vehicles, since it removed the specific subsection making only Section 2.211 applicable to the sale of motor vehicles. This conclusion

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is consistent with Section 1.102, which stated that the Code shall be liberally construed to promote the purpose and policy of simplifying, clarifying and modernizing the law governing consumer credit generally.

Considering the above factors, it is the opinion of this office that the credit service charge rates set forth in Section 2.201 can be charged for the credit sale of a motor vehicle, as well as the rates set forth in Section 2.211.

By:



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