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ADMINISTRATOR
AND
CONSUMER ADVOCATE

The State of South Carolina

Department of Consumer Affairs

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May 10, 1979

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Administrative Interpretation No. 3.104-7908

FIRST MORTGAGE LOAN MADE TO ENABLE CONSUMER TO PURCHASE A CONDOMINIUM FALLS WITHIN DEFINITION OF CONSUMER LOAN.

You have asked whether certain loans made by a company are consumer loans as the term "consumer loan" is defined by Consumer Protection Code §3.104, S.C. Code Ann. §37-3-104 (Cum. Supp. 1978), as amended by Section 6 of Act No. 7 of 1979. You provided documents that, when completed, evidence a loan to a person to enable that person to purchase a condominium at a South Carolina beach. For purposes of this Interpretation, it is assumed that a condominium constitutes an interest in land. You indicated that such a loan is generally from \$60,000.00 to \$65,000.00 and is secured by a first mortgage on the condominium.

Effective February 8, 1979, Consumer Protection Code §3.104 was amended by suspending Subsection (2) and the reference to it in Subsection (1) until June 30, 1981. The resulting Section 3.104 reads as follows until June 30, 1981:

"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 household purpose;
- (c) either the debt is payable in installments 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 company is regularly engaged in the business of making these first mortgage condominium loans, the debt is payable in installments, a loan finance charge is made, and the debt, although exceeding \$25,000.00, is secured by an interest in land. When such a loan is made to an individual primarily for a personal, family or household purpose that loan is a consumer loan as defined by amended Section 3.104. However, if this type loan is made to an individual primarily for a business purpose or made to an organization as defined

TELEPHONES [AREA CODE 803]

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in Consumer Protection Code §1.301(11), S.C. Code Ann. §37-1-301 (1976), it is not a consumer loan.

It is the opinion of this Department that a first mortgage loan made to enable an individual to purchase a condominium primarily for a personal, family or household purpose by a lender regularly engaged in the business of making such loans, falls within the amended definition of consumer loan. This Interpretation does not reach the further question of which first mortgage loans made to enable consumers to build or purchase a residence, although meeting the definition of consumer loan, are excluded from the Consumer Protection Code.

Irvin D. Parker
Administrator

Kathleen Goodpasture Smith
By _____

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Counsel to the Administrator

KGS:mc