



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

December 20, 1976

Administrative Interpretation No. 1.301-7618

NON-FILING INSURANCE PREMIUM IS "OFFICIAL FEE" AND MAY NOT EXCEED THE AMOUNT WHICH WOULD BE ACTUALLY PAID TO PUBLIC OFFICIALS IF A SECURITY INTEREST WERE PERFECTED BY FILING.

The South Carolina Consumer Protection Code permits a creditor to charge, as an additional charge "premiums payable for insurance in lieu of perfecting a security interest ... if the premium does not exceed the fees and charges described in paragraph (a) [of Section 1.301(10)] which would otherwise be payable." See Sections 1.301(10)(b), 2.202(1)(a) and 3.202(1)(a).

The "fees and charges described in paragraph (a)" are "fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan ...." (Emphasis added)

The "fees and charges prescribed by law" are set forth in Part 4 of Article 9 of the Commercial Code (Sections 10.9-401, et seq., Code of Laws of South Carolina, as amended), South Carolina's version of the Uniform Commercial Code. In some instances alternate fees are provided: e.g. "The fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be three dollars unless on a form prescribed by the Secretary of State in which case the fee shall be two dollars" [§10.9-404(5)].

The question which this raises is which fee (the greater or the lesser) is to be reckoned with in determining the maximum charge a creditor may collect from a debtor as "official fee" when the creditor elects to buy "non-filing" insurance in lieu of perfecting a security interest.

If a creditor's filing requirements and procedures are such that he normally would "actually" pay three dollars and file the non-conforming forms it would seem proper for him to continue to charge that amount under the Code, provided that he actually pays that amount for non-filing insurance. If,

Administrative Interpretation No. 1,301-7618

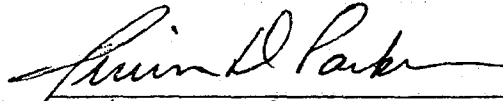
December 20, 1976

Page 2

however, the fee which the creditor would actually pay to perfect the interest is two dollars then it would seem that a two dollar ceiling would apply.

It should be emphasized that these provisions do not purport to regulate the amount of insurance premium an insurer may charge the creditor for such insurance. They merely state what portion of that cost may be classified and charged to the debtor as "official fees."

It is the opinion of this office that a charge to a debtor for "non-filing" insurance is a proper "additional charge" if it does not exceed the amount which the creditor would actually pay to public officials in connection with a security interest if he did not purchase the insurance.



---

Irvin D. Parker  
Administrator