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December 30, 1974

Administrative Interpretation No. 2.405-7403

A BALLOON PAYMENT SALES CONTRACT IN THE HANDS
OF AN ASSIGNEE-LENDER MUST BE REFINANCED AT SALE
CREDIT RATES NOT TO EXCEED THE ORIGINAL CONTRACT
RATE.

Section 2.405 of the South Carolina Consumer Protection
Code (Act 1241 of 1974) provides that:

With respect to a consumer credit sale, other than
one primarily for an agricultural purpose or one
pursuant to a revolving charge account, if any
scheduled payment is more than twice as large as
the average of earlier scheduled payments, the
buyer has the right to refinance the amount of that
payment at the time it is due without penalty.
The terms of the refinancing shall be no less favorable
to the buyer than the terms of the original sale. These
provisions do not apply to the extent that the payment
schedule is adjusted to the seasonal or irregular
income of the buyer.

The question has arisen as to whether a credit sale contract
balloon payment when it must be refinanced by an assignee-
lender, is to be refinanced at loan rates or sale rates.

Section 2.205 provides that upon refinancing a consumer credit
sale a "seller" may contract for and receive a credit service
charge pursuant to Section 2.201.

Section 2.207 provides that the term "seller" includes an
assignee of the seller's right to payment.

Section 2.405 further limits the credit service charge upon
refinancing to the credit service charge originally agreed to.

It should be noted that Section 2.205 applies only to
refinancing the unpaid balance of a sale. Any new cash
advanced is a "loan" (Section 3.106) and not a "refinancing."
As such, an additional cash advance may be made only at rates
provided for consumer loans.

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Page Two

Based upon the foregoing, it is the opinion of this office that balloon payments in consumer credit sale contracts may be refinanced by a lender-assignee at credit sale rates not in excess of the rates originally agreed to by the buyer.



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