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May 3, 1977

Administrative Interpretation No. 3.104-7705

SECOND MORTGAGE LOAN OF \$1000.00 OR MORE TO PURCHASE AN INTEREST IN BORROWER'S RESIDENCE, MADE BY A SUPERVISED LENDER NOT RELATED TO HOLDER OF FIRST LIEN, MAY BE MADE AT RATE PROVIDED FOR SUPERVISED LOANS.

Question: Whether a second mortgage loan to purchase an interest in the principal residence of the borrower, made by a supervised lender not related to the holder of the first mortgage, may be made at supervised loan rates pursuant to Section 3.508 of the South Carolina Consumer Protection Code.

Section 1.108(1) of the South Carolina Consumer Protection Code provides that the Code prescribes maximum charges for all creditors making consumer loans and displaces prior inconsistent maximum charge provisions.

Section 3.508 of the Code provides the maximum loan finance charge for "supervised loans".

A "supervised loan" is a consumer loan made at a rate exceeding 12% annual percentage rate. (See Section 3.501)

If the loan in question is a "consumer loan", therefore, the answer is yes.

A supervised lender is a person regularly engaged in the business of making loans; the debtor is a natural person; the loan is for a personal, family or household purpose; a finance charge will be made; the debt is secured by an interest in land; and since the holder of the first mortgage is not related to the second mortgage lender it would appear that the second mortgage loan is not secured either "primarily", secondarily or otherwise by the first mortgage. Accordingly the loan is a consumer loan.

It is the opinion of this Office that a second mortgage loan of more than \$1000.00* to purchase an interest in the principal residence of the borrower, made by a supervised lender not

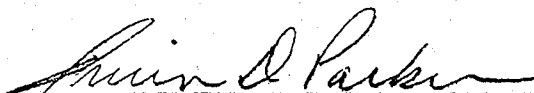
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related to the holder of the first mortgage, may be made at supervised loan rates as provided in Section 3.508 of the South Carolina Consumer Protection Code.

*Section 3.510 prohibits securing supervised loans of \$1000.00 or less with real estate.



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