

The State of South Carolina

Department of Consumer Affairs

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Administrative Interpretation No. 3.203-7611

A CHARGE ON UNPAID BALANCE AFTER MATURITY OF A PRECOMPUTED LOAN CONTRACT IS A "DELINQUENCY CHARGE" PROVIDED FOR IN SECTION 3.203.

You have requested an administrative interpretation of the following question:

Upon maturity of a precomputed supervised loan contract, where an unpaid balance still remains, may daily interest be collected on the remaining balance, and if so, at what rate?

The finance charge in a precomputed transaction is computed on the assumption that each instalment will be paid when due. An instalment which is not made as scheduled, therefore, amounts to a "forced loan", interest free, unless some provision is made for the creditor to assess a further charge for the "forced loan" of the delinquent payment(s). The Code provides several options for the creditor in this regard:

1) He may charge a single delinquency charge of 5% of the delinquent instalment, not to exceed \$5. This would adequately compensate the creditor where instalments are made late but in or near the computational period.

2) If the instalment is not merely late but is not made at all, the 5% or \$5 single charge would be inadequate. For these situations an alternative delinquency charge [§3.203(1)(b)] is provided. This allows the creditor to charge what he would charge if he deferred but without having to grant a deferral.

3) If two or more instalments are delinquent for ten (10) days or more (whether simply late or missed altogether) the lender may elect to "convert the loan from a precomputed loan to one in which the loan finance charge is based on unpaid balances." [3.203(4)]

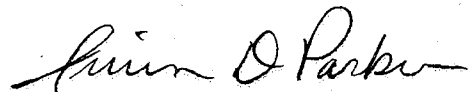
4) If the parties so agree in writing at the time of a transaction, the creditor may unilaterally grant a deferral of any instalment not paid within ten (10) days after its due date.

Any of the options in (2), (3) or (4) above will compensate the lender at approximately the contract rate with respect to instalments not made when due and, thus, with respect to balances remaining after maturity of the contract as originally scheduled.

Collection of daily interest at the contract rate on balances after maturity would amount to a conversion of a precomputed loan to one in which the loan finance charge is based on unpaid balances, as provided in option 3 above. Such a conversion requires rebates as set forth in Section 3.203(4).

It is the opinion of this office that the Code provides three options by which a lender may receive compensation for instalments remaining unpaid after maturity of a supervised loan contract. They are:

- 1) To assess a delinquency charge as provided in Section 3.203(1);
  - 2) To convert to an "interest bearing" loan as provided in Section 3.203(4); or
  - 3) To defer instalments as provided in Section 3.204.
- Accordingly, it is our further opinion that the Code does not permit a daily interest application after maturity, which does not give effect to rebate requirements set forth in Section 3.203(4).



Irvin D. Parker  
Administrator

\* Opinion originally issued October 19, 1976