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Department of Consumer Affairs
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AND
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Administrative Interpretation No. 3.210-7919

UPON PREPAYMENT IN FULL OF AN INTEREST-BEARING CONSUMER CREDIT TRANSACTION BY THE PROCEEDS OF CONSUMER CREDIT INSURANCE, FINANCE CHARGES MAY ACCRUE UNTIL DATE PROCEEDS ARE PAID TO CREDITOR BUT NO LATER THAN 20 BUSINESS DAYS AFTER SATISFACTORY PROOF OF LOSS IS FURNISHED TO CREDITOR

You have asked what the cut-off date is for accrual of the finance charge in interest-bearing transactions in the event of death of the consumer when the transaction is covered by credit life insurance.

Unlike a precomputed consumer loan or consumer credit sale [Consumer Protection Code §§3.107(2), 2.105(7); S. C. Code Ann. §§37-3-107, 37-2-105 (1976)], an interest-bearing transaction is one in which the finance charge is computed on the outstanding unpaid balance of the debt from time to time. In the case of a supervised lender, Consumer Protection Code Section 3.508 [S. C. Code Ann. §37-3-508 (Cum. Supp. 1979)] governs maximum loan finance charges for both precomputed and interest-bearing consumer loans. That section provides in subsection (2) in part:

> The loan finance charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:
>
> (a) The total of
>
> (i) Thirty-six percent per year on that part of the <u>unpaid balances of the principal</u> which is three hundred dollars or less;
>
> (ii) Twenty-one percent per year on that part of the <u>unpaid balances of the principal</u> which is more than three hundred dollars but does not exceed one thousand dollars; and

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(iii) Fifteen percent per year on that part of the unpaid balances of the principal which is more than one thousand dollars; or

(b) Eighteen percent per year on the unpaid balances of the principal. (Emphasis added)

In the type of transaction you describe, the finance charge is calculated daily on the unpaid balance. When the transaction is prepaid in full either by the proceeds of credit life insurance, a type of consumer credit insurance [Consumer Protection Code §4.103, S. C. Code Ann. §37-4-103 (1976)], or otherwise, the finance charge ceases to accrue upon payment of the balance. That is, the payment date is the cut-off date for accrual of the finance charge because no unpaid balance remains on which to compute the finance charge.

A question arises when although the transaction is covered by credit life insurance and the insured event (death) has occurred, the proceeds have not yet been paid to the creditor. There is no specific provision in the Consumer Protection Code stating at what point the finance charge ceases to accrue on an interest-bearing transaction in such a situation. However, as you noted, subsection (8) of Consumer Protection Code Sections 2.210 and 3.210 [S. C. Code Ann. §§37-2-210, 37-3-210 (Cum. Supp. 1979)] provides:

> Upon prepayment in full of a precomputed consumer [credit transaction] by the proceeds of consumer credit insurance (§37-4-103), the [consumer] or his estate is entitled to the same rebate as though the consumer had prepaid the agreement on the date the proceeds of insurance are paid to the creditor, but no later than twenty business days after satisfactory proof of loss is furnished to the creditor. (Emphasis added)

Although that section concerns rebate of unearned finance charge in connection with prepayment in full of a precomputed consumer credit transaction, in our opinion the same standard is intended to be applied to interest-bearing consumer credit transactions for accrual of the finance charge. In an interest-bearing transaction there is no "unearned" finance charge required to be rebated to the consumer because only earned finance charges accrue and are paid. The same reasoning requiring rebate of the unearned finance charge in precomputed transactions no later than twenty business days after satisfactory proof of loss is furnished to the creditor applies to accrual of the finance charge in interest-bearing transactions as well. While prepayment in full of a consumer credit transaction is required before either the unearned finance charge must be rebated or the finance charge in an interest-bearing transaction ceases to accrue, after the insured event has occurred and the creditor has been notified with proof of loss, the General Assembly has determined that twenty business days is a reasonable time in which a creditor may act in his own behalf to assure payment of the proceeds.

In summary, it is the opinion of this Department that in an interest-bearing transaction covered by credit life insurance, the finance charge may accrue until the date the proceeds of insurance are paid to the creditor but no later than twenty business days after satisfactory proof of loss is furnished to the creditor. A creditor is free, of course, to choose an earlier date to stop imposing a finance charge, such as the date of the consumer's death.

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