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ADMINISTRATOR
AND
CONSUMER ADVOCATE

The State of South Carolina
Department of Consumer Affairs

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December 19, 1980

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Administrative Interpretation 3.503-8016

SUPERVISED LOAN MAY BE MADE AT OR FROM LICENSED OFFICE ALTHOUGH
CONSUMER COMPLETES APPLICATION OUT OF STATE.

You have asked for an administrative interpretation of the territorial application section of the Consumer Protection Code as it relates to restrictions on locations where licensees may make supervised loans.

The supervised lender in your fact situation is authorized to make supervised loans in South Carolina because it has obtained a license from the Consumer Finance Division of the Board of Financial Institutions in accordance with Consumer Protection Code Section 37-3-503 (Cum. Supp. 1979). CPC §37-3-502 (Cum. Supp. 1979). Subsection (7) of Section 37-3-503 provides that:

A licensee may conduct the business of making supervised loans only at or from any place of business for which he holds a license and not under any other name than that in the license. (Emphasis added)

Your question is whether it is permissible for a supervised lender to fund a loan from its licensed South Carolina office when the loan documents, using South Carolina forms, have been executed by South Carolina residents while across the state line in an adjoining state.

This question arises when a South Carolina consumer lives near the border of Georgia or North Carolina such as a consumer residing in and owning property in North Augusta, South Carolina who works in Augusta, Georgia. When he desires to obtain a consumer loan as defined in Consumer Protection Code Section 37-3-104 (Cum. Supp. 1979), it is more convenient to go to a loan office in Augusta, Georgia. That loan office has the same parent company as a loan office in Aiken, South Carolina which is the supervised lender in your question. When a South Carolina consumer wishes to obtain a loan secured by South Carolina real property, the Georgia loan office will not make the loan but will take an application from the consumer and send it, along with other documents, to the South Carolina loan office which will actually make the loan. It is not questioned that South Carolina law should apply to the transaction. See S.C. Code Ann. §29-3-60 (1976). The question is whether the South Carolina supervised lender may make the loan when the consumer has completed the documents at the Georgia loan office. In our opinion the answer is yes.

TELEPHONES (AREA CODE 803)

ADMINISTRATION
758-3017

CONSUMER COMPLAINTS
758-2040
WATS 1-800-922-1594

PUBLIC INFORMATION
758-7546

NOTIFICATION
758-8587

CONSUMER ADVOCACY
758-8996

Consumer Protection Code Section 37-1-201 (1976) provides in subsection (1):

[T]his title applies to consumer credit transactions made in this State. For purposes of this title, a consumer credit transaction is made in this State if

(a) A signed writing evidencing the obligation or offer of the consumer is received by the creditor in this State...

(Emphasis added).

The application and other documents, while signed by the consumer in the Georgia loan office, are sent to the South Carolina loan office where the decision is made whether or not to make the loan. If the loan is made, funds are disbursed from and payments are made to the South Carolina office.

Because the supervised lender receives the signed writing evidencing the obligation in South Carolina, in our opinion the consumer loan is "made in South Carolina" for purposes of the Consumer Protection Code. There is no general prohibition in the Consumer Protection Code against a supervised lender or any other lender handling transactions in this manner for the convenience of the consumer. The remaining question is whether there is a prohibition against making a supervised loan (a consumer loan in excess of 18% annual percentage rate) in this manner due to Section 37-3-503(7)'s requirement that licensed supervised lenders make supervised loans only at or from licensed locations. See CPC §37-3-501 (1) (Cum. Supp. 1979) as impliedly amended by §2 of Act No. 433 of 1980.

Consumer Protection Code Section 37-1-102(1) requires us to liberally construe the Consumer Protection Code and apply it to promote its underlying purposes and policies. Those purposes and policies include simplifying, clarifying and modernizing the law governing consumer credit; fostering competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost; and permitting and encouraging the development of fair and economically sound consumer credit practices. In our opinion these purposes and policies are furthered by interpreting the described procedure for making consumer loans as making loans at or from a licensed place of business under Consumer Protection Code Section 37-3-503(7). Further, when a loan is "made" in South Carolina for purposes of territorial application of the Consumer Protection Code, it follows that a loan is "made" at or from the licensed South Carolina office for purposes of restrictions on making supervised loans.

In summary, it is the opinion of this Department that a loan is made "at or from" a licensed South Carolina office when the signed evidence of

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the debt is received by the lender at that office, regardless of the fact that the loan application was taken at a related office in an adjoining state.

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KGS/shs