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December 16, 1974

Administrative Interpretation No. 4.108-7401 (as amended 11-3-78)*

PROVISIONS PERTAINING TO REFUND OF UNEARNED INSURANCE
PREMIUM ARE APPLICABLE TO CONSUMER LOANS EXCEPT RESTRICTED
LOANS.

Section 4.108(1) of the Consumer Protection Code[S.C. Code Ann.
§37-4-108(1976)] provides that:

Upon prepayment in full of a consumer credit sale or
consumer loan by the proceeds of consumer credit
insurance, the debtor or his estate is entitled to
a refund of any portion of a separate charge for
insurance which by reason of prepayment is retained
by the creditor or returned to him by the insurer unless
the charge was computed from time to time on the basis
of the balances of the debtor's account.

The question has arisen whether the General Assembly intended §4.108
to apply to consumer loans. Consumer Protection Code §4.102[S.C. Code
Ann. §37-4-102(Cum. Supp. 1977)] provides:

- (1) Except as provided in subsection (2), this Article
applies to insurance provided or to be provided
in relation to a consumer credit sale (§2.104), a
consumer lease (§2.106) or a consumer loan (§3.104).
- (2) The provision on cancellation by a creditor (§4.304)
applies to loans the primary purpose of which is
the financing of insurance. No other provision of
this Article applies to insurance so financed or to
restricted loans. (Emphasis added.)

"Restricted loan" is defined in §3.501(3) [S.C. Code Ann. §37-3-501
(Cum. Supp. 1977)] as "a supervised loan made by a restricted lender
pursuant to and in compliance with Act 988 of 1966 (The South Carolina
Consumer Finance Act)." Subsection (4) of that section defines
"restricted lender" as "a person licensed pursuant to Act 988 of 1966
to make loans under that Act (The South Carolina Consumer Finance Act)."

TELEPHONES (AREA CODE 803)

ADMINISTRATION	CONSUMER COMPLAINTS	CONSUMER EDUCATION	NOTIFICATION	ENFORCEMENT
758-3017	758-2040	758-7546	758-8587	758-5864

WATTS 1-800-922-1594

It is the opinion of this Department that §4.108 of the Consumer Protection Code pertaining to refund of unearned insurance premium applies to consumer loans as defined in the Consumer Protection Code except restricted loans.

By: Kathleen Goodpasture Smith
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* The 11-3-78 amendment to the Administrative Interpretation reworded both the headnote and the interpretation. It is intended to clarify that §4.108 of the Consumer Protection Code now applies to consumer loans other than restricted loans due to the amendment of §4.102(1) and (2) by Act 686 of 1976 effective September 29, 1976. Prior to that date, §4.108 applied only to consumer credit sales notwithstanding the reference to consumer loans in that section.

KGS:aac

It is the opinion of this Department that §4.108 of the Consumer Protection Code pertaining to refund of unearned insurance premium applies to consumer loans as defined in the Consumer Protection Code except restricted loans.

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