

1979 WL 43065 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 13, 1979

*1 The Honorable W. Sterling Anderson
Representative
District No. 34
Spartanburg County
Box 4866
Spartanburg, South Carolina 29301

Dear Representative Anderson:

Your letter of June 1, 1979, to the Attorney General has been referred to me for an appropriate response. It is impossible for me to give you an exact answer to your question regarding the applicable interest rate for a mobile home dealer's floor plan arrangement without knowing the terms of the agreement. However, I shall attempt to offer you some guidance in this regard.

Section 34-31-30 of the South Carolina Code of Laws, 1976, which is often referred to as the 'general usury statute,' provides for maximum rates of interest on written contracts in the following amounts:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

However, Section 34-31-80 of the Code provides that a corporation having issued capital stock of Forty Thousand (\$40,000.00) Dollars or more par value cannot avail itself of the defense of the usury statute and, therefore, no maximum rates would be applicable to such corporations. I could not determine from your letter whether this provision might be applicable.

It is my understanding that most dealer floor plan arrangements provided for the re-payment of the loan either when the mobile home is sold or after some specified period of time, rather than re-payment on an installment basis. Therefore, Section 34-13-120 which permits a seven (7%) percent per annum add-on charge for installment loans would probably not be applicable to this transaction unless the floor plan arrangement required re-payment on an installment basis.

It should also be noted that although your letter specifies that the floor plan arrangement would not be a consumer loan, [Section 37-3-601 of the Code](#) permits the parties to the loan to agree in writing that the loan is subject to the provisions of the Consumer Protection Code (except the provision dealing with loan finance charges for supervised loans, Section 37-3-508 of the Code, and supervised loans pursuant to a lender credit card, Section 37-3-515). If the parties agreed to come under the CPC, the lender could receive a maximum loan finance charge of twelve (12%) percent per year on the unpaid balance for loans less than Fifty Thousand (\$50,000.00) Dollars (See, [Section 37-3-201 of the Code](#)). For loans in excess of Fifty Thousand (\$50,000.00) Dollars, the parties may contract for the payment by the debtor of any finance or other charge (Section 37-3-60k of the Code).

Again, without the specific transaction documents, I cannot state precisely which statute would apply. However, I hope this information will be of some assistance to you.

Very truly yours,

Richard B. Kale, Jr.
Senior Assistant Attorney General

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