

1978 WL 34797 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 23, 1978

***1 RE: Maximum mortgage interest rate**

Dan M. David, Esquire
Attorney at Law
P. O. Box 32115
Charleston, South Carolina 29407

Dear Mr. David:

You have requested an opinion from this office on the following question:

Can a mortgage lender charge in addition to the highest percentage rate spelled out in South Carolina Code Section 34-31-30 an origination fee as provided for in Section 34-31-90?

I cannot give you a formal opinion of this office on this question in that you are not a public official. However, since the question you have posed is one of public interest, I will attempt to answer it on an informal basis.

South Carolina Code Section 34-31-90, subsection (1), provides in part:

Any mortgage lender may make an initial service or origination charge; . . . Such initial charge shall not be considered interest within the meaning of the laws of this State, which limit the rate of interest which may be charged on any transaction.

This language appears to be clear and unambiguous to the effect that the legislature intended that this initial service or origination charge be in addition to the interest rates which are spelled out in South Carolina Code Section 34-31-30.

I trust that this answers your inquiry.

Very truly yours,

Harry B. Burchstead, Jr.
Assistant Attorney General

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