

1975 S.C. Op. Atty. Gen. 15 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3933, 1975 WL 22231

Office of the Attorney General

State of South Carolina

Opinion No. 3933

January 14, 1975

***1 RE: Interest Rate Charges Allowable under P.O. 93501**

Herbert L. Novit
Attorney at Law
1105 Bay Street
Beaufort, SC 29902

Dear Mr. Novit:

P.L. 93-501 which amends the National Banking Act, [12 U.S.C. 65](#), the Federal Depositors Insurance Corporation Act, [12 U.S.C. 1811-31, § 202, § 24](#) and Title IV, § 203 of the National Housing Act, [12 U.S.C. 1724-1730\(d\)](#) states specifically in [§ 202\(a\)](#):

The Federal Deposit Insurance Act ([12 U.S.C. 1811-31](#)) is amended by adding at the end thereof the following:

[Sec. 24.](#) (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of \$25,000 or more, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill or exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

Section 203 of P.L. 93-501 amends Title IV of the National Housing Act ([12 U.S.C. 1724-1730\(d\)](#)) by adding language similar to that quoted above, expressly allowing the receiving of this higher rate of interest.

Without expressing an opinion as to the constitutional validity of P.L. 93-501 in as much as it apparently preempts the State usury laws, I must answer in the affirmative that under 93-501 such rates are applicable to State chartered banks lending under [12 U.S.C. 1811-31](#), the Federal Deposit Insurance Act, and [12 U.S.C. 1724-1730\(d\)](#), the National Housing Act, as amended.

Very truly yours,

Patricia O. Brehmer
Assistant Attorney General

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