

1972 WL 25172 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 11, 1972

\*1 Mr. Claude M. Lynn  
Director  
Board of Bank Control  
Suite 500  
The Columbia Building  
Columbia, South Carolina 29211

Dear Mr. Lynn:

You asked if the Board might properly require by regulation that licensees accept a competitor's check as prepayment in full of an account with such licensee.

A check is not legal tender and may ordinarily be refused as a medium of payment of a debt.

Consumer Finance Companies are quasi-public entities and are allowed to operate under controlled monopolistic conditions for the convenience and advantage of the borrowing community. Borrowers have been given a statutory right to fully prepay any loan. If they choose to exercise this right by borrowing the money from a competitor, they have that right and it may well be to the debtor's convenience and advantage to do so. When this occurs the most convenient and advantageous way to do it is for one licensee to pay the other licensee by check as is the custom in our check society. Refusal to accept such checks solely as a means of harrassing the debtor or competitor is an unwarranted impediment on the statutory right of the debtor to prepay.

It is the opinion of this office that the Board may by appropriate regulation control this abuse by licensed Consumer Finance Companies.

As requested by you, we have drafted and enclosed a proposed which, if adopted, would in our opinion, constitute a valid and workable regulation.

Very truly yours,

Irvin D. Parker  
Assistant Attorney General

#### ATTACHMENT

**Propose regulation to require competing licensees to give due recognition to each others' checks.**

Unless a licensee has reason to believe a check of a competing licensee will not be honored when presented for payment, the licensee must accept and in due course present such check for payment when it is tendered to the licensee as prepayment in full of an account with the licensee. Such licensee, however, shall not be required to release any security or in any manner treat the debt as paid until such time as such check is actually honored and paid by the bank on which such check is drawn.

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