

1979 WL 43573 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
September 7, 1979

*1 Mr. Irvin D. Parker
Administrator
Department of Consumer Affairs
P. O. Box 5757
Columbia, SC 29250

Dear Mr. Parker:

Your letter to the Attorney General requesting the opinion of this Office as to the apparently inconsistent provisions of South Carolina Code of Laws, 1976, as amended, Sections 37-4-201 and 38-31-40(3), 38-35-940(3), has been forwarded to me for reply.

Title 37 of the South Carolina Code known as the Consumer Protection Code is designed to govern consumer credit. Chapter 4 of Title 37 governs consumer credit insurance. Section 37-4-103 defines consumer credit insurance as . . . insurance, other than insurance on property, by which satisfaction of debt, either in whole or in part is a benefit provided, but does not include

(a) Insurance provided in relation to a credit transaction in which a payment is scheduled more than ten years after the extension of credit;

(b) Insurance issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring debtors of the creditor or

(c) Insurance indemnifying the creditor against loss due to the debtor's default.

(emphasis added).

Consumer credit insurance, then, is a part of an agreement or plan for insuring debtors of the creditor in relation to a consumer credit sale, consumer lease or a consumer loan. Section 37-4-102. Such insurance provided by a creditor may be subject to the furnishing of evidence of insurability satisfactory to the insurer.

Section 37-4-201.

Subsequent to the effective date of these provisions, the General Assembly passed Sections 38-31-40 and 38-35-940 governing the terms of group life insurance and group accident and health insurance (which include credit life and credit accident and health insurance). The provisions of the two sections are the same and both state that For groups of twenty-five or more persons no evidence of individual insurability may be required at the time a persons first becomes eligible for insurance or within thirty-one days thereafter except for any insurance supplemental to the basic coverage for which evidence of individual insurability may be required.

Sections 38-31-40(3) and 38-34-940(3).

The section of the Consumer Credit Code governing consumer credit insurance is clearly intended to apply to group insurance, whether accident or health. Section 37-4-103(b). It is also intended to apply to the sale of insurance by an insurer, Section 37-1-202(2), and is a part of the overall regulatory scheme applicable to consumer credit transactions.

Sections 38-31-40(3) and 38-31-40(3), on the other hand, are a part of an overall regulatory scheme dealing with the sale of group insurance plans, including credit insurance.

It is a fundamental principle of statutory construction that statutes *in pari materia*, or dealing with the same subject matter must, insofar as possible, be construed together. Sutherland, *Statutory Construction*, § 51.01, *et seq.* This principle of construction is codified in the Consumer Protection Code, Section 37-1-104. The essential question presented by your inquiry is whether the Legislature intended that the acts governing group insurance policies (which include credit insurance) would prevail over the acts dealing with consumer credit insurance (which include group credit insurance) when group credit insurance policies as described in Section 37-4-103 are provided by a creditor in connection with a consumer credit sale, consumer lease or consumer loan.

*2 By enacting Title 37, the Consumer Protection Code, the General Assembly evidenced an intention that consumer credit transactions be treated separately from other forms of credit transactions. See generally, Section 37-1-102. On the other hand, Sections 38-31-40 and 38-35-940 govern the sale of group insurance policies (including credit insurance) generally. Neither section of the Insurance Code specifically refers to group consumer credit insurance policies, which are included in the ambit of Title 37; the Legislature evidenced no intention of merging consumer group credit insurance with the larger category of group credit insurance.

It is, therefore, the opinion of this Office that Sections 38-31-40(3) and 38-35-940(3) are not applicable to consumer credit insurance.

I hope that this has been of some assistance to you. If you have any further questions, please do not hesitate to contact me.
Very truly yours,

Katherine W. Hill
Assistant Attorney General

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