

1974 WL 28101 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
May 17, 1974

*1 Honorable Harry A. Chapman, Jr.
Senator
Greenville and Laurens County
P. O. Box 10167—Federal Station
Greenville, SC 29603

Dear Senator Chapman:

As I understand your subsequent question, you have asked whether or not a bank can purchase retail installment contracts under the Motor Vehicle Sales Finance Act without being in violation of other statutes, particularly Section 8-233.

Section 8-233 is the 'add-on' statute which allows banks to charge seven percent add-on on loans and advances of credit of not less than ten dollars, payable in at least three monthly installments for the purpose of financing purchases and other desirable purposes. See Section 8-233, 1962 Code of Laws of S. C. (1973 Supp.).

Since person by definition includes a banking organization (Section 46-150.32(d) 1962 Code of Laws of S. C.) it would appear that a bank which meets the other requirements of operating as a motor vehicle sales finance company, would be entitled to do so. Section 46-150.38(b) provides that the Motor Vehicle Sales Finance Act shall apply to Motor vehicle retail installment transactions, notwithstanding any other law applicable to loans and interest. Nor does Section 8-233 by its language appear to limit banks to one type of financing, i.e. direct installment loans and advances of credit at seven percent add-on.

A bank making an individual a direct loan for the purchaser of an automobile, whereby the bank retains a security interest in the vehicle and the borrower repays the monies in monthly installments, is lending under Section 8-233.

This transaction does not, however, preclude a bank from entering into an agreement with a dealer-seller of motor vehicles whereby the bank will purchase the dealer's retail installment sales contracts. Under this type of arrangement the seller extends credit to the purchaser, the seller retaining a security interest in the vehicle. The dealer-seller then discounts the note and security interest to the bank which becomes a holder under the Motor Vehicle Sales Finance Act. The bank has acquired the paper as a retail sales finance company, assuming, of course, the bank meets the other requirements of the Act.

If our office may be of further assistance do not hesitate to call upon us.

Very truly yours,

Patricia O. Brehmer
Assistant Attorney General

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