

DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Sections 40-39-10 et seq.,
Particularly Sections 40-39-20 and 40-39-120

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to amend Regulation 28-200, Pawnbroker Certificate of Authority. Interested parties are invited to present their views in writing to Kelly Rainsford, Deputy of Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250. To be considered, comments must be received no later than 5:00 p.m. September 24, 2018, the close of the drafting comment period.

Synopsis:

The Department intends to amend Regulation 28-200. The purpose of the proposed amendments is to revise and edit regulatory language to conform with current statutory requirements and to delete obsolete provisions.

This regulation will require legislative review.

DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Sections 37-6-506 and 39-61-160

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to promulgate Regulation 28-45 addressing the offer of motor club memberships by certain lenders. Interested parties are invited to present their views in writing to Kelly Rainsford, Deputy of Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250. To be considered, comments must be received no later than 5:00 p.m. September 24, 2018, the close of the drafting comment period.

Synopsis:

Section 37-3-202 (last amended 2004) authorizes the Administrator to approve permissible additional charges a lender may contract for in connection with a consumer loan. The Legislature also authorized the South Carolina Department of Consumer Affairs to administer the Motor Club Services Act (“Act”) in 1988. The Act sets forth requirements for those persons offering motor club memberships in this State. The Department proposes to provide a framework within which motor club memberships may be offered by certain lenders within South Carolina.

This regulation will require legislative review.

SALE OF MOTOR CLUB IN SUPERVISED LOAN OFFICES

A. Purpose: The purpose of this regulation is to provide a framework within which motor club memberships may be offered by certain lenders within this state.

B. Definitions: Definitions shall be those contained in S.C. Code Ann. S. 37-1-100 et seq. (1976 as amended), S.C. Code Ann. S. 39-61-10 et seq. (1976 as amended) and the following:

(1) “Free-look period” means the period of time from the effective date of the motor club services until the date the consumer may cancel the contract without penalty, fees, or costs to the consumer. This period of time must be at least thirty days.

(2) “Person” means an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

C. Offer of Motor Club Services: Motor club services offered by a lender and purchased by a consumer will be considered a permissible additional charge pursuant to 37-3-302 and otherwise in compliance with Title 37 if:

(1) the principal loan amount advanced by the lender to the consumer is greater than one thousand dollars;

(2) the lender offered the consumer the opportunity to purchase a motor club service after the lender fully approved the loan to the consumer;

(3) the lender is offering motor club services in compliance with S.C. Code Ann. S. 39-61-10 et seq. (1976 as amended);

(4) the sale and/or financing of motor club services is strictly voluntary;

(5) a lender reasonably believes that the consumer will be eligible for a benefit under the motor club services contract. A lender may not sell a consumer motor club services if:

(a) the consumer does not have a valid driver’s license; or

(b) the consumer already has a motor club services contract.

(6) the motor club service contract duration does not exceed the term of the loan or thirty-six months, whichever is lesser;

(7) the cost of the motor club services is reasonable to the benefit provided. Motor club services exceeding \$8 per month for an individual, or \$10 per month for a family shall be deemed unreasonable.

(8) the purchase of the motor club services is authorized in writing, a completed copy of which is given to the consumer, and:

(a) is a document separate from any credit contract or agreement;

(b) the agreement bears the consumer's signature and date of signature;

(c) Contains the following terms in clear, easily understandable language:

(i) The name and address of the lender and the consumer;

(ii) the purchase price of the motor club services, date of the transaction, the amount of money paid, method of payment (ie: loan proceeds), and, if the debt is to be paid in installments, the amount and date of payment of each installment;

(iii) the terms of the motor club services, including, without limitation, the instructions for accessing the motor club benefits, filing a claim, as well as conditions and exclusions associated therewith and the length of the free-look period and the procedure by which a consumer may exercise the consumer's rights during that period;

(iv) a statement that the motor club services offered and purchased are not insurance and does not take the place of collision, comprehensive, or any other form of insurance on the motor vehicle;

(v) the internet address and telephone number for the Department of Consumer Affairs;

(vi) the following statements in all caps, bold-face type, in a font larger than any other language on the contract and in immediate proximity to the space reserved for the consumer's signature on the agreement that reads as follows:

(A) 'THIS CONTRACT FOR MOTOR CLUB SERVICES IS NOT REQUIRED TO GET CREDIT OR TO GET CERTAIN TERMS OF CREDIT.'

(B) 'YOU ARE NOT REQUIRED TO PAY FOR THE MOTOR CLUB SERVICES WITH LOAN PROCEEDS. YOU MAY PAY BY CASH, CHECK OR MONEY ORDER.'

(C) 'YOU MAY CANCEL THIS CONTRACT FREE OF CHARGE, FOR ANY REASON AND AT ANYTIME DURING THE FREE-LOOK PERIOD.'

(9) the lender provides a membership packet disclosing proof of coverage and benefits information, including the appropriate amount of membership cards clearly stating the full term of

membership, including the start and end dates. A sufficient number of packets and cards shall be provided for all persons intended to be covered by the benefit.

(10) motor club membership applications are maintained in the consumer's file; and

(11) in the event the consumer pays with the motor club services with loan proceeds, the amount paid therefor is clearly stated in the disbursement section of the credit contract.

D. Prohibitions: (1) A lender shall not:

(a) Attempt to sell or sell more than one motor club services policy to a consumer;

(b) Fail to comply with the provisions of this regulation;

(c) Require the purchase of motor club services to obtain credit or certain terms of credit;

(d) Attempt to assess or assess a fee to a consumer related to the cancellation of motor club services; or

(e) Require a consumer purchase the motor club services with loan proceeds.

(2) Violations shall result in the consumer receiving a full refund of the purchase price of the motor club services in addition to penalties available under applicable state or federal laws.

E. Refunds. If the motor club services contract is cancelled within the free-look period, the lender shall provide a refund directly to the consumer. The refund shall consist of the full amount paid by the consumer for the motor club services less a deduction for any claims paid prior to cancellation. In the event of death of a consumer, the motor club service premium shall be refunded pro rata from the date of death and made to the estate.

F. Lenders offering motor club services to consumers shall submit a report annually to the Department on or before April 15th on a form prescribed by the Department and containing, at a minimum:

(1) total number of loans made to SC consumers during the prior calendar year;

(2) Total number of loans where motor club services were sold to SC consumers during the prior calendar year;

(3) Total number of consumers who paid for motor club services through loan proceeds;

(4) Average monthly cost for motor club services sold to SC consumers during the prior calendar year; and

(5) Average number of motor club services months purchased by SC consumers during the prior calendar year.