



OFFICE OF CONSUMER CREDIT COMMISSIONER

2601 North Lamar Boulevard • Austin, Texas 78705-4207

(512) 479-1280

AL ENDSLEY, Commissioner

Writer's Direct Number

Interpretation Request No. 94-3

August 4, 1994

Mr. John P. Koons
907 North Dallas Bank Tower
12900 Preston Road at LBJ
Dallas, TX 75230-1397

Re: Request for an Official Interpretation on Charging an Origination Fee or Points on Certain Loans

Dear Mr. Koons:

You have requested an interpretation approved by the Finance Commission regarding the legality of charging an origination fee or points on certain loans.

Your request addresses the authority of a bank to charge an origination fee on a loan contemplated as follows:

"The single family residential lot is titled in the name of the future homeowner and the bank will hold a first Deed of Trust in the name of the future homeowner for a portion of the lot purchase.

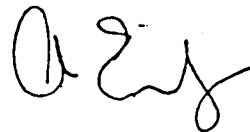
"A Mechanic's Lien Contract and Note is executed between the future homeowner and the builder.

"A non-liability note is executed by the builder to the bank for a portion of the construction costs secured by an assignment of the Mechanic's Lien Contract and Note, and the contractor's note is further supported by the guaranty of the future homeowner."

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The consumer credit commissioner may issue interpretations, approved by the Finance Commission of Title 79, Revised Civil Statutes, Article 5069-1.01 *et seq.*, Vernon's Texas Civil Statutes. I find that the requested interpretation is not within the scope of the statutory authority granted to the consumer credit commissioner. The answer to your request is not found in Title 79, but is provided in the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 USC §1735f-7) and the Texas Banking Code, Article 342-508, V.T.C.S., and 7 Texas Administrative Code §3.22. An advisory letter expressing my views as to the appropriate answers to your questions is being provided.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Endsley". The signature is fluid and cursive, with a large initial "A" and a long, sweeping tail.

Al Endsley

Approved by the Finance Commission of Texas August 19, 1994.