



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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AUSTIN, TEXAS 78768

1011 SAN JACINTO BOULEVARD
512/475-2111

April 8, 1982 No. 82-10

Mr. Kent Smith
Small, Craig & Werkenthin
P. O. Box 2023
Austin, Texas 78768

Dear Mr. Smith:

This is to acknowledge receipt of your letter dated March 24, 1982. I will quote a portion of your letter as follows:

"On a Chapter 4 simple interest loan, where

"(a) the lender sets up the loan so as to amortize the total interest over the life of the loan based on the assumption that all payments will be paid on the scheduled due date, and

"(b) the lender does not accrue daily interest on the unpaid principal amount when an installment is not paid as scheduled,

"may the lender assess the additional interest for default authorized by §4.01(5) if the contract so provides?"

As you point out in your letter, in our Letter Interpretation No. 81-29, dated December 4, 1981 we expressed our views on your question as regards loans made pursuant to Chapter 5, Article 5069, V.T.C.S. On this point the views expressed in that Letter Interpretation would also apply to loans made pursuant to Chapter 4, Article 5069. If a Chapter 4 loan is structured so as to amortize the total interest over the life of the loan based on the assumption that all payments will be paid on the scheduled due date and that interest will be accrued based on this assumption, the lender will not earn additional daily interest on the unpaid principal balance in the event a scheduled payment is not timely made. It is our view that on this type transaction the additional interest for default authorized by Chapter 4 may be contracted and assessed in the event of late payment(s).

Sincerely yours,

A handwritten signature in cursive script that reads "Sam Kelley".
Sam Kelley
Consumer Credit Commissioner