



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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August 6, 1982 82-18

Ms. Claudia B. Wilkinson
Fulbright & Jaworski
Bank of the Southwest Building
Houston, Texas 77002

Dear Ms. Wilkinson:

This is to acknowledge receipt of your letter dated June 28, 1982 wherein you pose several questions and request our views concerning them. All statutory references in this response are to various provisions of Article 5069 V.T.C.S.

You first point out that various provisions of Chapter 4 state that they apply to loans on which interest is charged in accordance with the provisions of Article 4.01(1), the old "add-on" interest section, and make no reference to loans made pursuant to Article 4.01(8), the new alternative rate section. It is our opinion that those provisions which mention only Article 4.01(1) are applicable to loans made pursuant to Article 4.01(8) as well as those utilizing the rates authorized by Article 4.01(1). I agree with you that it seems reasonable to conclude that the Legislature intended that all provisions of the chapter apply equally to all loans made pursuant to the chapter whether of the 4.01(1) or the 4.01(8) type. Also, I would point out that Article 1.04(n)(1) provides that loans made under the authority of Article 1.04 and which fit the criteria of Chapter 4 are "...subject to Chapter 4 of this Title..." In view of the foregoing our response to your first question is "Yes."

The comments made in our Letter Interpretation No. 81-19 pertaining to interest after maturity are applicable to Chapter 4 transactions.

Article 4.01(6)(b) does not preclude interest after maturity on a non-precomputed loan. Our view of that section is that it allows the lender to charge the contracted for rate during the term of the loan until date of payment in full or until the lender makes a demand for payment in full. After demand and acceleration the general rules of interest after maturity would be applicable. The intent of the phrase "...until...demand for payment in full" in 4.01(6)(b)(last paragraph) was to permit the contracted for rate to continue to be charged on past due principal until the lender made demand for payment and accelerated the note. At such time, if the parties had so contracted, interest after maturity could be charged in the manner discussed in Letter Interpretation No. 81-19.


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If a Chapter 4 loan is made utilizing the add-on interest charge authorized by Article 4.01(1) we feel that the parties may contract for interest after maturity in a specified amount not in excess of that authorized by Article 1.04.

Our response to your question number 3 is "Yes". A lender may receive and retain an experience refund as described in your letter in connection with a group credit insurance policy without violating Articles 4.01(7) or 4.02(6). If the debtor is charged a premium rate in accordance with the master policy we do not consider any compensation or refund paid to the creditor to be subject to the restrictive provisions of Chapter 4.

Sincerely yours,


Sam Kelley
Consumer Credit Commissioner

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