



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

AL ENDSLEY, Commissioner

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December 8, 1987 87-4

Karen M. Neeley
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P.O. Box 291
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Dear Ms. Neeley:

You have requested an interpretation of Article 5069-6A Section 7 Vernon's Texas Civil Statutes. Specifically you have asked whether this section authorizes a creditor to amend a manufactured housing credit transaction to change the interest rate on the transaction.

Subsection (2) of Section 7 provides:

"Alternatively, the creditor, on request by the consumer, may agree to amend the original credit transaction by renewal, restatement, or rescheduling of the unpaid portion of the total of payments. In such an event, the charge shall be computed in accordance with this subsection. If the original credit transaction is amended, the sum of the unpaid balance as of the date of amendment, the cost of any insurance incidental to the amendment, any additional necessary official fees, and any accrued delinquency and collection charges remaining after deducting the prepayment refund credit required by Section 6 of this chapter constitutes an unpaid balance on which the charge for the amended transaction may be computed for the term of the amended transaction at the applicable rate provided by Section 3 of this chapter. The provisions of this chapter relating to minimum charges and acquisition costs do not apply in calculating the unpaid balance for the amended transaction."

Clearly, the above language authorizes a creditor to amend a manufactured housing credit transaction on request by the consumer at the applicable rate provided by Section 3 of Chapter 6A. The question is whether the creditor may change the rate of finance charge in the amended contract? While Section 7(2) provides that the amendment may renew, restate, or reschedule the unpaid portion of the total of payments no specific authorization is granted to amend the rate of finance charge, although the

Ms. Karen M. Neeley
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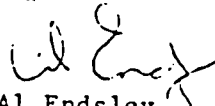
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language of the section strongly suggest that such was the intent of the section which details how the charge on the unpaid balance is to be calculated.

It is worthy of note that rather than providing for a charge on the unpaid balance at the contract rate the section specifies that the rate shall be that provided by Section 3. As you have indicated in your request, other sections of the chapter providing for a change in the contract resulting in additional interest provide that such additional interest shall be computed at the contract rate. Specifically Section 8 provides that if the consumer fails to obtain insurance, the creditor may do so and add the premium together with interest "at the contract rate of interest" to the unpaid balance. Likewise, in Section 10 it is provided that interest after maturity shall be at the contract rate and in H.B. 855, 70th Legislature, amending Art. 6A, Section 12 by adding Subsection (5) the legislature provided that if the consumer fails to pay any taxes on property secured under Chapter 6A, the creditor may pay such taxes and that amount together with interest at the contract rate may be added to the balance owed under the credit document.

I am of the opinion, therefore, that a consumer and a creditor may, on the request of the consumer, amend a manufactured housing credit transaction pursuant to the provisions of Section 7(2) to change the interest rate on the transaction.

Sincerely,


Al Endsley
Commissioner