



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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December 23, 1981 No. 81-32

Ms. Ann Kelley
Attorney at Law
P. O. Box 4272
Houston, Texas 77210

Dear Ms. Kelley:

This is to acknowledge receipt of your letter dated November 18, 1981 concerning loans secured by a first lien on manufactured homes. The questions you pose are as follows:

- "1. Is it necessary for a lender to obtain a license under Chapter 3 in order to make loans secured by a purchase money lien on a manufactured home as defined in Chapter 6A?
- "2. Can a lender which elects to treat the manufactured home as if it were residential real estate charge an interest rate authorized by Article 1.04 and not be subject to the provisions of Chapter 6A (except Section 2) as stated in Section 11(3)?
- "3. Does Article 1.04(n)(4) impose the entire Chapter 6A obligations on a lender which has elected to treat the manufactured home as residential real estate?"

It is the opinion of this Office that it is not necessary for a lender to obtain a license under Chapter 3, Article 5069, V.T.C.S in order to make purchase money loans for "manufactured homes" as that term is defined in Chapter 6A, Article 5069.

Section 11(3), Chapter 6A provides as follows:

"In a land and home credit transaction permitted in this section, the creditor may elect to treat the manufactured home as if it were residential real estate for all purposes in connection with the credit transaction. The election must be conspicuously disclosed to the consumer. On such an election the provisions of this chapter, except the definitions in Section 2, are not applicable to the credit transaction, and the credit transaction is considered to be a residential real estate loan for all purposes."

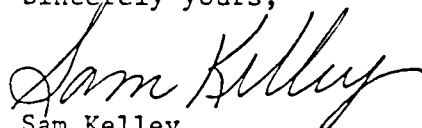
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It is our position that if a lender elects to treat a land and manufactured home transaction as residential real estate, the provisions of Chapter 6A (except for Section 2) are not applicable to the transactions. This election is of course available only if the sale involves both land and manufactured home.

It is our opinion that the provisions of Article 1.04(n)(4) are not applicable to a sale of land and a manufactured home in which the lender has elected to treat the sale as if it were one of residential real estate. It is our opinion that once the lender elects to treat the sale as one of residential real estate, it is no longer "subject to Chapter ... 6A ..." as that phrase is used in Article 1.04(n)(4), and thus that section does not apply so as to put the transaction back into a position where 6A would apply.

Sincerely yours,



Sam Kelley
Consumer Credit Commissioner