



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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July 23, 1982 No. 82-16

Mr. William H. Daniel
Attorney at Law
Fifth Floor, RepublicBank Bldg.
900 Congress Avenue
Austin, Texas 78701

Dear Mr. Daniel:

This is to acknowledge receipt of your letter dated July 7, 1982 concerning a proposed business procedure relative to accounts subject to the provisions of Chapter 6, Article 5069, V.T.C.S. I will quote a portion of your letter as follows:

"A retailer subject to Chapter 6 of Article 5069 owns an existing portfolio of 'closed-end' retail installment contracts covered by Article 5069-6.02. The retailer desires to offer to existing and future customers a retail charge agreement account covered by Article 5069-6.03. The retailer plans to discontinue offering credit under Article 6.02, although some new Article 6.02 transactions may occur. Customers who have executed (or in the future execute) retail installment contracts under Article 6.02 may continue to pay off these contracts according to their terms.

"The retailer would like to offer these customers the option to convert the balance owed on their retail installment contracts to their 'open-end' retail charge agreement account.

"If a customer exercises this option, the amount owed on the retail installment contract will be computed giving the customer the refund allowed under Article 6.02(10), and the balance so computed will be refinanced under the retail charge agreement. Thereafter that balance would be subject to the terms applicable to the retail charge agreement as to rate, minimum payment terms, etc.

"If the customer prefers, he may continue to pay for the 'old' purchase under the terms of the retail installment contract, and to carry in the retail charge account only new purchases originally made on the retail charge account."

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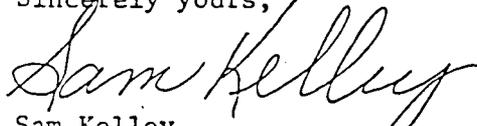
July 23, 1982

Chapter 6 does not contain language specifically authorizing the type of conversion of accounts discussed above nor is there any indication that such should be prohibited. The last sentence in Article 6.08 is as follows:

"Except as displaced by the particular provisions of this Chapter, the Uniform Commercial Code as adopted in Texas, other applicable statutes, and the principles of the common law shall remain applicable to transactions hereunder to the extent they are applicable."

It is stated in your letter that customers will be given the option of converting the balances owed on their retail installment contracts to their new "open-end" retail charge agreement account. If they do not choose to do so they may continue to pay off the old retail installment contract as originally agreed and charge only any new purchases on the new retail charge agreement. Based upon the fact that customers will have such options, it is the position of this Office that there is nothing in Chapter 6 which would prohibit such a program and that a retailer would not violate the provisions of Article 5069 by offering and implementing such a plan.

Sincerely yours,


Sam Kelley
Consumer Credit Commissioner