



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

POST OFFICE BOX 2107 1011 SAN JACINTO BOULEVARD
AUSTIN, TEXAS 78768 512/475-2111

February 9, 1982 No. 82-6

Mr. John M. Moran
Burke, Griffin, Chomicz & Wienke
303 East Wacker Drive, Suite 1000
Chicago, Illinois 60601

Dear Mr. Moran:

This is to acknowledge receipt of your letter dated January 7, 1982 concerning credit sales of manufactured homes by individuals who are not in the business of manufactured home sales.

Chapter 6A, Article 5069, V.T.C.S., was first enacted by the Texas Legislature in 1979 and then rewritten extensively by the last Legislature in 1981, the most recent enactment becoming effective August 28, 1981. The earlier version of Chapter 6A, Sec. 2-C defined a creditor as "...a person who in the ordinary course of business regularly sells manufactured homes or extends or arranges for the extension of credit for the purchase of a manufactured home for the use by the customer...." This definition was changed somewhat by the Legislature in the new Chapter 6A, Sec. 2(2)(c)(i) & (ii), and the reference to "in the ordinary course of business regularly sells manufactured homes" was deleted. Instead, the definition of creditor now is two-part; the first including a person who extends or arranges for the extension of credit and the second including retailers and/or brokers as defined by the Texas Manufactured Housing Act. We view the new definition as being more inclusive than the earlier one and as evidence of legislative intent to include all credit transactions involving the purchase of manufactured homes as subject to the provisions of Chapter 6A.

We are of the opinion therefore that an individual who sells his/her manufactured home to a "consumer" as that term is defined in Sec. 2(2)(b) of Chapter 6A and finances the transaction must comply with the provisions of that Chapter. A seller of a manufactured home who is a "creditor" as defined in Chapter 6A does not have to be licensed under the provisions of Chapter 3, Article 5069. An individual who finances the sale of his/her manufactured home pursuant to Chapter 6A may assign the contract to a third party. A retailer or broker may of course also assign a Chapter 6A contract to a third party. I would also point out that the new Chapter 6A is applicable to direct loans made by a lender to a consumer for the purchase of a manufactured home, and there is no requirement that the lender in such a transaction have a Chapter 3 license. The provisions of Chapter 6A are applicable to purchase money loans as well as installment sales contracts.

Sincerely yours,

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

Sam Kelley
Consumer Credit Commissioner