STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

2601 NORTH LAMAR
AUSTIN, TEXAS 78705-4207

(512)479-1280
(214)263-2016
(713)461-4074

November 27, 1985 85-14

Mr. Will Ehrle
Texas Manufactured
Housing Association
P. O. Box 14428
Austin, Texas 78761

Dear Mr. Ehrle:

This is to acknowledge receipt of your letter dated November 12, 1985 wherein you request a statement of the position of this office on two questions concerning the provisions of Article 5069 - Chapter 6A, V.T.C.S. which relates to the financing of purchases of manufactured housing.

The first question you pose is as follows:

> "Can a creditor require the payment of one-twelfth of the estimated annual property taxes on the manufactured home, beginning with the first payment, even though the initial annual property tax payment will not actually be made by the creditor until some time following the twelfth payment?
>
> "Example: The home is sold and credit transaction is dated July 1, 1985 with the first installment payment due August 1, 1985. The first property tax assessment on the home will be as of January 1, 1986 and the initial annual property tax payment will not be delinquent until January 31, 1987. Is the creditor in compliance with Section 6A.12 if the home purchaser is required to pay one-twelfth of the estimated annual property tax beginning with the first installment on August 1, 1985?"

Article 5069 - 6A, Section 12(1) is as follows:

> "The creditor may require the consumer to pay ad valorem taxes on the manufactured home through the creditor and include these taxes as reasonably estimated for the first year in the credit transaction or pay the tax estimate for the first year to the

creditor and, on the date each installment is due, pay a sum equal to one-twelfth of the annual ad valorem taxes as reasonably estimated. The creditor may require premiums for insurance, required in accordance with Article 5069-6A.08(1), for coverage in the second and subsequent years to be paid by the consumer to the creditor by paying, on the date each installment is due, a sum equal to one-twelfth of the yearly premium for the insurance as reasonably estimated."

As can be seen, the above quoted Section 12 would allow the creditor to require the debtor to both pay (or finance) the first year's estimated ad valorem taxes and with each installment pay an amount equal to one-twelfth of the estimated annual ad valorem taxes. In the example given in your letter, no initial payment of a year's estimated taxes would be required but only a monthly payment of one-twelfth of the annual estimated taxes. It is the opinion of this office that such a plan would be in keeping with the intent and purpose of Section 12 and would be acceptable even though the initial annual property tax payment is not made by the creditor until some time following the twelfth payment.

Your second question is as follows:

"Can a creditor finance a three-year casualty insurance policy on the home as a part of the credit transaction and then require insurance escrow payments at one-twelfth of the annual premium beginning at the end of the second year's installment payments (i.e., twelve months before the initial three-year policy expires)?"

The second sentence of the above quoted Section 12 allows the creditor to require premiums for insurance coverage for the second and subsequent years to be paid with each installment in an amount equal to one-twelfth of the yearly premium. Although the section does not specifically preclude the initial financing of three years of insurance premiums it is our view that the legislature contemplated the financing of only one year's premium and then allowing the creditor to require escrow payments of one-twelfth on a year's premium with each monthly installment for the second and subsequent years. These excrow payments may be required with the first and each succeeding monthly payment on the contract. The first year's premium may be financed in the contract but only that first year's premium and not a two or three years' premium.

Sincerely,

Sam Kelley

Sam Kelley
Consumer Credit Commissioner