



State of Michigan
John Engler, Governor

Department of Consumer & Industry Services
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Financial Institutions Bureau
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June 8, 1999

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Dear #####:

This is in response to your letter dated May 24, 1999, asking whether a lender licensed or registered under the Secondary Mortgage Loan Act (SMLAct) may charge a 5% processing fee on the full amount of the credit line under a home equity line of credit contract. You also asked if such a processing fee could be included in the principal balance of the loan at the execution of the agreement.

Section 22(1)(c) of the SMLAct authorizes the charging of one nonrefundable processing fee in connection with the making of a secondary mortgage loan, as follows:

“Other charges and fees shall not be made, directly or indirectly, in connection with the making of a secondary mortgage loan, except for any of the following, which may be included in the principal amount of the loan:

* * *

(c) A nonrefundable processing fee that is not more than 5% of the gross amount of the loan.”

MCL 493.72(1)(c); MSA 26.568(22)

Section 22(1)(c) does not distinguish between closed-end and line-of-credit second mortgage loans. A licensed or registered lender, therefore, may charge a processing fee up to 5% of the amount of a home equity line-of-credit under the SMLAct and may include the processing fee in the principal balance of the loan at the time of its execution.

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Further questions on this subject should be directed to Ann Gaultney, Director of the Examination Division at (517) 373-3470.

Sincerely,

/ ss /

Patrick M. McQueen
Commissioner

cc: Ann Gaultney