



State of Michigan
John Engler, Governor

Department of Consumer & Industry Services
Kathleen M. Wilbur, Director

Financial Institutions Bureau
Gary K. Mielock, Acting Commissioner
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July 16, 1999

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Dear #####:

This is in response to your letter dated June 29, 1999, concerning the charging of discount points to facilitate the predictability of cash flows for the lender and borrower during the construction phase of financing.

Specifically, you ask whether a lender may charge a borrower discount points in sufficient number to buy down the interest rate on the construction loan to zero per cent. The discount points would be financed and the balance of the construction loan would be rolled into the permanent mortgage loan.

You state that your client is qualified to use the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA) preemption of the restrictions on points contained in Michigan law, MCL 438.31c(2)(b). If the lender is DIDMCA-qualified, then your legal analysis appears correct. Apart from the legal argument, a lender initiating such a loan program would be well-advised to consider the risk exposure associated with the absence of cash flow during the indefinite term of such interim financing.

If you have questions, call me at (517) 373-7279.

Sincerely,

/ ss /

Gary K. Mielock
Acting Commissioner