



State of Michigan

Financial Institutions Bureau
Patrick M. McQueen, Commissioner

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September 21, 1998

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Dear #####:

This is in response to your letter dated July 6, 1998, requesting that the Financial Institutions Bureau (Bureau) confirm the authority of #####, a licensee under the Regulatory Loan Act of 1963 (RL Act), to sell a home appliance warranty known as #####.

I should note at the outset that the Bureau does not grant approvals to its regulated lenders to sell warranties but will provide information to assist institutions having questions.

I understand that ##### has been advised by the Michigan Insurance Bureau that ##### is not insurance as defined under the Insurance Code, MCL 500.100 et seq. The applicable law, therefore, would appear to be the RL Act, specifically, MCL 493.13, which reads, in pertinent part, as follows:

“(1) A licensee may lend money and may contract for, compute, and receive interest charges on the loan at a rate that does not exceed the rate permitted by the credit reform act, Act No. 162 of the Public Acts of 1995, being sections 445.1851 to 445.1864 of the Michigan Compiled Laws.

(4) In addition to the interest and charges provided for in this act, a loan processing fee not to exceed 2% of the principal, up to \$40.00, may be charged for each closed-end loan made, and may be included in the principal of the loan.

. . . *No other amount shall be directly or indirectly charged, contracted for, or received, except the lawful fees, if any, actually and necessarily paid by the licensee to a governmental entity for the filing, recording, or releasing of either of the following:*

(a) A financing statement or an instrument securing the loan, or both.

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(b) A record noting or releasing a lien or transferring a certificate of title under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.1 to 257.923 of the Michigan Compiled Laws.” (emphasis added)

This language clearly provides that a licensee is barred from, directly or indirectly, charging, contracting for, or receiving, other than expressly authorized fees, any other amount. Of particular relevance in this regard is MCL 493.13(8) which states as follows:

“(8) If an amount other than the charges permitted by this act is charged, contracted for, or received for any reason other than by a bona fide clerical error, the loan contract shall be void and the licensee shall not collect or receive any principal, charges, or recompense whatsoever.”

This subsection provides that a licensee would forfeit its right to charge or receive all principal, interest, and fees in connection with a loan on which the licensee charged an amount that is not expressly permitted by the RL Act.

I hope that this response helps. If you have further questions, please feel free to contact me.

Sincerely,

/ ss /

A. Ann Gaultney
Director of the Examination Division

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