STATE OF MICHIGAN
RICK SNYDER
GOVERNOR
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
LANSING
PATRICK M. McPHARLIN
DIRECTOR

Date: August 23, 2017

To: All Motor Vehicle Sales Finance/Installment Seller Licensees

From: Mark W. Weigold, Director
Consumer Finance Section

Re: Legality of Return Check Fees on Installment Sale Contracts

This memo supersedes my letter dated July 19, 2012, issued under the Motor Vehicle Sales Finance Act (MVSFA), 1950 PA 27 MCL 492.101 *et seq*., and clarifies the position of the Department of Insurance and Financial Services (DIFS) concerning the practice of charging customers a fee for an insufficient funds (NSF) check received pursuant to a motor vehicle installment sale contract.

DIFS is statutorily charged with the responsibility and authority to implement and administer the MVSFA, which regulates both the business of an installment seller of motor vehicles under installment sale contracts and the business of a sales finance company within the state of Michigan. A licensee under the MVSFA is also bound by the provisions of the Credit Reform Act (CRA), 1995 PA 162 MCL 445.1851 *et seq*. The CRA specifically defines a licensee under the MVSFA as a "regulated lender."[1] The CRA also empowers DIFS with administrative authority.

The purpose of this letter is to clarify that the MVSFA does not expressly authorize a licensed installment seller or sales finance company to charge customers an NSF fee. However, as a regulated lender under the CRA, a licensed installment seller or sales finance company may charge NSF fees to customers.

While the CRA specifically allows a regulated lender to "charge a fee not to exceed $25.00 for a check or other payment instrument that is dishonored because of insufficient funds in the account on which the check or instrument is drawn,"[2] nothing in the CRA mandates that such a fee be charged. Installment seller and sales finance licensees choosing to engage in the collection of NSF fees are encouraged to disclose the NSF fee provision to customers. If an NSF fee is charged, the licensee must retain documentation of the date the NSF fee was charged by the licensee and paid by the customer with the customer's installment loan records.

If you have questions or concerns relating to this matter, please call the Department of Insurance and Financial Services, Consumer Finance Section toll free at 877-999-6442.

[1] MCL 445.1852(i).
[2] MCL 445.1856(2).