

JOHN E. QUINN
SUPERINTENDENT



DEPARTMENT OF BUSINESS REGULATION
BUREAU OF CONSUMER PROTECTION
~~STATE HOUSE ANNEX~~ 51 Chapel Street
AUGUSTA, MAINE 04330
(207)289-3731

ADVISORY RULING #24

(Formerly Bulletin to All
Financial Institutions)

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To All Supervised Financial Organizations:

It has come to our attention that several supervised financial organizations in this state are operating an installment loan program that follows, to a significant degree, the typical real estate loan transaction. In industry circles, it is frequently referred to as a "mini-mortgage loan program".

To further identify this type of loan:

A. The amount of the loan as indicated in the note is for the amount financed, exclusive of interest, with language stating that interest will be charged at a specified rate.

B. Exactly 30 days' or 1 months interest is allocated for each payment and is absorbed as earnings when the payments are actually made, disregarding the fact that most payments are made before or after their scheduled due dates.

C. In instances where a loan of this type is paid in full or refinanced before its scheduled maturity, consideration is given to the actual number of days that have elapsed from the date of the last scheduled payment to the date the loan is actually paid, and interest for that time period is computed accordingly.

D. Late charges are not assessed.

With respect to the Maine Consumer Credit Code, such transactions cannot be deemed to be precomputed, as they do not fall within the definition of precomputed set forth in the Code. The Code defines precomputed as follows: "A finance charge or consumer credit transaction other than a consumer lease is 'precomputed' if the debt is expressed as a sum comprising the amount financed and the amount of the finance charge computed in advance." For this reason, late charges cannot be assessed on this type of loan as the Code authorizes late charges only on precomputed transactions. Neither is this type of loan a "simple interest" loan, as interest is not computed by the actuarial method, which takes into account the actual number of days that have elapsed between payments in determining the interval between payments. Early payments are not afforded the benefit of reduced interest costs.

In view of the foregoing, for obvious reasons, institutions making this type of loan should not advertise or communicate in any fashion to consumers that they are offering "simple interest" loans. It is the position of the Bureau that continued advertising of this nature will be considered deceptive advertising.

It is expected that institutions making loans of this type will scrutinize its note forms to ascertain that it does not contain language to the effect that installments paid shall be first applied to payment of interest to date thereof upon the unpaid balance and any remainder of the installment applied towards the payment of the unpaid principal balance. Language of this nature is traditionally contained in simple interest notes, but does not apply to the transactions referred to in this letter.

Respectfully,

/s/ John E. Quinn

John E. Quinn
Superintendent

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