



ADVISORY

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## Department of Justice

CONSUMER PROTECTION DIVISION

ADDRESS REPLY TO:  
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DES MOINES, IOWA 50319  
515/281-5826

September 23, 1986

RE: Insurance Premium Escrow Reserves Used by Your Client,  
; State of Iowa

Dear

Please excuse the delay in responding to your 1985 inquiry which posed the question of whether your client, , who holds retail installment contracts for mobile homes, may collect insurance premium escrow reserve payments from consumer debtors in order that may use these reserves, when necessary, to purchase insurance renewals which would prevent defaults for the consumer's failure to renew or maintain insurance on the mobile home.

As you correctly pointed out in your letter, the Iowa Consumer Credit Code restricts the additional charges which may be made by a creditor in connection with a consumer credit transaction. The ICCC restricts the additional charges to those specifically referred to in Iowa Code § 537.2501(1) which reads as follows:

1. In addition to the finance charge permitted by parts 2 and 4, a creditor may contract for and receive the following additional charges:
  - a. Official fees and taxes.
  - b. Charges for insurance as described in subsection 2.
  - c. Amounts actually paid or to be paid by the creditor for registration, certificate of title or license fees.

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d. Annual charges, payable in advance, for the privilege of using a credit card which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, under an arrangement pursuant to which the debts resulting from the purchases or leases are payable to the card issuer.

e. With respect to a debt secured by an interest in land, the following "closing costs," provided they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this chapter:

(1) Fees or premiums for title examination, abstract of title, title insurance, or similar purposes including surveys.

(2) Fees for preparation of a deed, settlement statement, or other documents, if not paid to the creditor or a person related to the creditor.

(3) Escrows for future payments of taxes, including assessments for improvements, insurance and water, sewer and land rents.

(4) Fees for notarizing deeds and other documents, if not paid to the creditor or a person related to the creditor.

f. Charges for other benefits, including insurance, conferred on the consumer, if the benefits are of value to the consumer and if the charges are reasonable in relation to the benefits, are of a type which is not for credit, and are authorized as permissible additional charges by rule adopted by the administrator.

If the transaction was one which was secured by an interest in land, then the type of escrow payment which you describe would probably be allowed by § 537.2501(1)(e)(3). In addition, the creditor, of course, may charge for property insurance as provided in § 537.2501(2)(a). Neither of these sections on their face seem to expressly permit the type of arrangement proposed by

If a charge is not a permissible additional charge in some instances, the creditor may make the charge as part of the finance charge. In fact, the ICCC specifically provides at § 537.1301(19)(a):

Finance charge means the sum of all charges payable directly or indirectly by the consumer and infused directly or indirectly by the creditor as an incident to or extension of the credit...

(3) premium or other charge for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss.

Since the purpose of the insurance escrow reserve payment is to prevent a default, it is possible that program could be structured to fit within the above-referenced provision. In addition, may also wish to consider § 537.2506 of the ICCA which provides that, if the agreement provides, a creditor may make advances to perform the duties of the consumer debtor related to covenants pertaining preserving or insuring collateral.

I hope this letter is responsive to your inquiry. Please advise your client that this letter is merely advice and is neither an opinion of the Iowa Attorney General nor a ruling by the Administrator of the ICCA.

Sincerely,

LINDA THOMAS LOWE  
Assistant Attorney General

cf

Enclosures: Letter  
Iowa Code § 537.2501  
§ 537.2506  
§ 537.1301(19)