



THOMAS J. MILLER
ATTORNEY GENERAL

ADDRESS REPLY TO:
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Department of Justice

CONSUMER PROTECTION DIVISION

January 17, 1989

Dear

In December you contacted our office to inquire about Section 537.2502 of the Iowa Consumer Credit Code. Your client, a bank, intends to establish a medical finance program providing installment loans to patients to assist them in financing their hospital bills.

Your question is whether Section 537.2502(1)(a) permits a bank in a precomputed consumer credit transaction to charge a delinquency charge of one and one-half percent (1-1/2%) of the unpaid installment up to a maximum of five dollars (\$5), or if a delinquency charge in excess of five dollars is permitted if that amount equals one and one-half percent of the unpaid installment.

Section 537.2502(1)(a) (1987) provides:

1. With respect to a precomputed consumer credit transaction, the parties may contract for a delinquency charge on any installment not paid in full within ten days after its due date, as originally scheduled or as deferred, in an amount not exceeding the greater of either of the following:
 - a. One and one-half percent of the unpaid amount of the installment, or a maximum of five dollars. . . .(emphasis added)

The statutory language in 537.2502(1)(a) allows a creditor to contract for a late or delinquent charge of 1-1/2% of the unpaid installment due up to a maximum of \$5. Your client, therefore, may charge a delinquency charge of 1-1/2% on the installment, but may not charge in excess of \$5 even if 1-1/2% of

the installment is greater than \$5. In no circumstances may a delinquency charge in a precomputed credit transaction exceed five dollars.

You are also correct in stating that Section 537.2502(1)(a) only permits the creditor to charge the lesser of \$5 or 1-1/2%; therefore if 1-1/2% of the unpaid installment totals less than \$5, the bank would be restricted to charging 1-1/2% of the unpaid installment rather than the \$5. Please also note that Section 537.2502 prohibits the imposition of a delinquency charge on installments paid within ten days of the due date. "Pyramiding", or compounding of delinquency charges is forbidden as well (see 16 C.F.R. 444.4(a)).

The type of medical finance program you have described appears to be a consumer credit transaction new to Iowa. We would greatly appreciate it if you or your client would send us copies of the contracts you would use with patients in Iowa, and more information on how this program is presented to consumers and how it would be structured. Our office routinely receives inquiries from consumers concerning various financial services, and we would be in a better position to provide accurate information to them if we had more knowledge of your program.

I hope this letter has been responsive to your inquiries. Please note that this letter is neither a ruling of the Iowa Consumer Credit Code Administrator, nor an opinion of the Attorney General.

I am looking forward to learning more about this program. If you have any additional questions please do not hesitate to contact our office.

Sincerely,

Richard L. Cleland
Administrator
Iowa Consumer Credit Code