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ATTORNEY GENERAL

Department of Justice

CONSUMER PROTECTION DIVISION

ADDRESS REPLY TO:
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1300 EAST WALNUT
DES MOINES, IOWA 50319
515/281-5926

July 16, 1987

RE: Whether Out-Of-State Credit Union May Make Supervised Loans to Iowans Under Chapter 537, The Iowa Consumer Credit Code

Dear

You have requested that the administrator of the Iowa Consumer Credit Code provide advice on whether an Illinois state chartered credit union may make supervised loans to its Iowa members. The Illinois credit union is not licensed or authorized to do business in Iowa nor does it have an office in Iowa. Its business is conducted with its Iowa members by phone and mail. Such "loans by mail" activity is included under the jurisdiction of the Iowa Consumer Credit Code, Iowa Code § 532.1201(2) (1987).

A "supervised loan" is a consumer loan in which the rate of the finance charge exceeds the rate permitted by Iowa Code § 535.2(3)(a). (See: Iowa Code §§ 537.1301(14) and 537.1301(42) (1987), Iowa Consumer Credit Code, for definitions of "consumer loan" and "supervised loan.")

Only a person who is authorized to make supervised loans may charge the consumer loan rates provided in the Iowa Consumer Credit Code §§ 537.2401 and 537.2402. A credit union authorized to do business under Chapter 533 is a supervised financial organization (see: Iowa Code § 533.51(1) (1987) and therefore may make supervised loans. In addition:

The following persons are authorized to make supervised loans:

a. A person who is a supervised financial organization. (See: Iowa Code § 537.1301 (41) (1987).)

b. A person who has obtained a license pursuant to either chapter 536 or 536A.

c. A person who enters into less than ten supervised loans per year in this state and has neither an office physically located in this state nor engages in face-to-face solicitation in this state. (See: Iowa Code § 537.2301(3) (1987).)

Unless the Illinois credit union limits its supervised loan activity to the restrictions set out in § 537.2301(3)(c), it must qualify as a supervised financial organization before it makes supervised loans (see: Iowa Code § 537.1301(41) (1987)).

Foreign state credit unions may do business in Iowa under the reciprocity provisions of Iowa Code § 533.39 (1987). The Iowa Credit Union Division has defined the requirements for foreign credit unions to do business by administrative rules (see: Iowa Admin. Code ch. 189-15). The rules of the Credit Union Division clearly requires that a foreign credit union doing business under Iowa Code § 533.39 must have an actual branch office located in Iowa.

Under the facts presented by the Illinois credit union, the administrator must conclude that they may not make "supervised loans" to Iowans. Furthermore, they may not as they previously requested, be "treated as" a supervised financial organization.

Please advise the Illinois credit union that any consumer loans which have already been made to Iowans at the ICCC rate must be reviewed to determine how the excess finance charge shall be returned to the borrowers.

I will wait to hear further from you concerning this matter.

Sincerely,



LINDA THOMAS LOWE
Assistant Attorney General
Dep. Consumer Credit Code Admin.

cf
Enclosure