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ATTORNEY GENERAL



CONSUMER PROTECTION DIVISION
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Department of Justice

September 6, 1994

Dear

I am in receipt of your letter dated July 5, 1994. In the letter, you requested advice regarding the legality of imposing post-default interest on consumer accounts. You state that you represent a creditor that imposes finance charges on the outstanding balance on open end credit accounts from month to month until the charge privileges are terminated by the creditor due to the account holder's failure to pay the outstanding balance. You state that your client would like to recover part of the costs that are attributable to an account holder's default by imposing default interest at the rate authorized by the state's applicable law. You have asked whether this proposed charge would be permissible under applicable Iowa law.

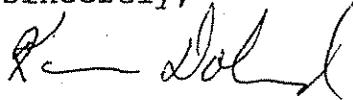
You have noted that a number of other states have laws that expressly authorize the recovery of post-judgment and post-default interest. In reviewing Iowa law, it appears that Iowa Code § 535.3 does allow for post-judgment interest. That section states however that "interest shall accrue from the date of the commencement of the action." I have been unable to find an Iowa law that explicitly allows post-default interest of the type your client is contemplating.

Iowa Code § 537.3402 states that an "agreement with respect to a consumer credit transaction...may not provide for any charges as a result of the default by the consumer other than those authorized by this chapter." It appears therefore, that a charge of this nature would not be permissible under the Iowa Consumer Credit Code. I believe that Larry Kingery, of the Iowa Division of Banking, has already pointed out to you the language of Iowa Code § 537.7103(5)(d) that requires charges not only to be "expressly authorized by the agreement creating the obligation" but also "legally chargeable" to the debtor. Iowa Code § 537.7103(5)(c) similarly prohibits the attempt to collect a fee

unless the collector is "legally entitled to collect the fee from the debtor". Because there does not appear to be an express authorization for this fee, it appears that an attempt to collect this fee from a debtor would also be a violation of the Iowa Debt Collection Practices Act.

I hope this letter is responsive to your inquiry. Please note that this letter is an informal advisory letter. It is not a formal opinion of either the Administrator or the Attorney General.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Doland".

KAREN DOLAND
Assistant Attorney General

/vsm