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Department of Justice

May 30, 1995

Dear

This is a follow-up to our phone conversation of April 28, 1995. It is my understanding that your question concerns whether a flat "documentation" fee, treated and disclosed as a prepaid finance charge would be subject to rebate under Iowa Code section 537.2510.

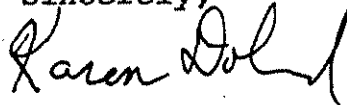
I will first of all assume that the "documentation" fee you referred to is disclosed in the finance charge since Iowa Code section 537.2501 does not permit this type of fee as a separate additional charge. Iowa Code section 537.1301(19)(1) includes any "interest or amount payable under a point, discount or other system of charges, however denominated" within the definition of "finance charge." Assuming that the fee is therefore properly disclosed, it is my understanding that your question hinges on the term "precomputed consumer transaction" in Iowa Code section 537.2510. That is, you state that the "documentation" fee is charged on a simple interest loan rather than a precomputed loan, and you therefore question whether Iowa Code section 537.2510 is applicable.

Iowa Code section 537.1301(34) defines a "precomputed consumer transaction" as one in which "the debt is a sum comprising the amount financed and the amount of the finance charge computed in advance." The transaction you describe appears to have characteristics of a precomputed transaction since a portion of the finance charge is paid in advance. As such, since the creditor has simply required that a portion of the finance charge be paid in advance, it appears that this amount would be subject to the rebate provisions of Iowa Code section 537.2510 upon prepayment in full. Supporting this conclusion is the fact that the rebate provision does not contain any language implying or stating that the type of prepaid charge

that you impose has been "earned at consummation" and therefore not subject to rebate. Instead, Iowa Code section 537.2510 broadly states that the creditor must rebate a finance charge as well as "any other unearned charges". Iowa Code section 537.2510 therefore appears to require that all "unearned charges" be rebated to the consumer upon prepayment in full. Providing additional support is the fact that Iowa Code section 537.2509 references the rebate provision in allowing Iowa consumers the right to prepay in full a consumer credit transaction. The failure to provide a proper rebate of all "unearned charges" upon prepayment could therefore be construed as a form of "prepayment penalty" in violation of Iowa Code section 537.2509.

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

Sincerely,



KAREN DOLAND
Assistant Attorney General

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