

ADVISORY RULING #65

February 8, 1982

Dear

You have asked whether a change in dollar amounts applicable to Section 5-103 of the Consumer Credit Code (Title 9-A, M.R.S.A.) has any effect on outstanding contracts in determining whether a creditor is restricted on deficiency judgements.

In the Bureau's opinion, the limitation on the creditor's ability to seek a deficiency judgment in Section 5-103 must rely on the "amount financed" of the contract with reference to the dollar amount rules in effect at the time of consummation or refinancing of the contract. For instance, a loan of \$1,200 dated 1975 was not subject to Section 5-103 because the dollar amount was \$1,000 at that time. This result does not change if there is a default in 1981 when the dollar amount has increased to \$1,800 pursuant to Section 5-103(6). Absent legislative intent, otherwise, it would be unfair to change the rules of the game affecting the creditor's rights and remedies upon default after the contract is consummated. This advise is similar to that given in Advisory Ruling #46 concerning late fees allowable on pre-computed contracts (Section 2-503) and which also are subject to change in dollar amount.

Because of several previous requests for this ruling, as well as the need to correct previous oral advise that may have conflicted with the view in this letter, this interpretation is being issued as an Advisor Ruling

Sincerely,

/s/ Barbara R. Alexander

Barbara R. Alexander
Superintendent

BA:as