

ADVISORY RULING #28
FEBRUARY 9, 1976

(Formerly Administrative
Interpretation #31)

February 9, 1976

Dear

You have asked whether or not a creditor can rewrite a single payment note of 12 $\frac{1}{4}$ % or less into an installment note over 12 $\frac{1}{4}$ %, thus raising the interest rate by more than $\frac{1}{4}$ of 1%. You point out that the amendment to Section 2.504 seems to exclude any transactions involving single payment notes of 12 $\frac{1}{4}$ % or less.

The amendment was added in deference to Federal Law; namely, the requirement that a lender must maintain at least a 2% spread between what he charges in interest and what he pays in interest on the pass-books securing his loans. The amendment was to eliminate the conflict that would arise if the pass-book rate increased by more than $\frac{1}{4}$ of 1%, and the 2% spread could only be maintained by raising the loan rate by more than $\frac{1}{4}$ of 1%.

Loans caught up in this conflict would usually have been accommodation time and demand notes with Annual Percentage Rates of 12 $\frac{1}{4}$ % or less. It was the intention of this amendment to provide relief for such customary accommodation notes only so long as they remain at 12 $\frac{1}{4}$ % or below. It is our opinion that it would be a violation of Section 2.504 to raise the interest upon refinancing by more than $\frac{1}{4}$ of 1% when the resulting transaction calls for an APR greater than 12 $\frac{1}{4}$ %, irrespective of the original loan's rate.

You have also asked about the applicability of Section 2.308, subsection 1 to "more than a single payment note" resulting from refinancing a "single payment note". If, for example, a \$500.00, 90-day note is refinanced into an installment loan, can the installment loan be scheduled for 37 months or just 34 (37 minus 90 days)? It should be kept in mind that 2.308, subsection 1 merely concerns the "scheduling" of payments at the time a supervised loan of \$1,000 or less is written. Nothing in this subsection prevents a chain of loans from running longer than 37 or 25 months; it only requires each "link" of the chain to call for payments based on no more than 37 or 25 months.

Very truly yours,

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RJC/jh