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DEPARTMENT OF BUSINESS REGULATION
BUREAU OF CONSUMER PROTECTION
STATE HOUSE STATION 35
AUGUSTA, MAINE 04333

ADVISORY RULING #54
MAY 4, 1981

May 4, 1981

Dear

You have asked whether your client, a licensed supervised lender, may close purchase money real estate loans at a location other than the licensed location. You ask whether 9-A M.R.S.A. §2-302, subsection 5 prohibits a loan closing at an attorney's office.

Specifically, your client would like to close loans at the office of an attorney retained by your client for this purpose. Although it is contemplated that loan proceeds would be disbursed at closing and necessary loan documents (including Truth in Lending disclosures) signed and delivered at closing, "[i]t is not contemplated that applications would be received nor commitments issued from the attorney's office..."

9-A M.R.S.A. §2-302(5) states:

"5. A licensee may conduct the business of making supervised loans only at or from any place of business for which he holds a license and not under any other name than that in the license. Loans made pursuant to a lender credit card do not violate this subsection.

This provision of the Code is identical in all important respects to Section 2-302(6) of the Uniform Consumer Credit Code (Final, 1974). The issue is whether "making" a loan necessarily includes "closing" a loan. Comments to the UCCC do not clarify the issue. However, another state that has adopted the Code, South Carolina, has ruled that a supervised loan which is secured by an

interest in land may be closed at an attorney's office. One basis for this interpretation is that the lender may charge certain closing costs, i.e., charges for specific services rendered by attorneys in connection with closing a real estate loan. See Section 2-501(1)(D). It is unreasonable to assume that an attorney must perform these services only at the licensed loan office or that such services must be performed only by staff personnel.

I will adopt the South Carolina interpretation of Section 2-302(5). With respect to supervised loans secured by an interest in land, a supervised lender may arrange for a loan closing at an attorney's office other than the licensed location.

This is issued as an Advisory Ruling and limited to the facts as presented in the request.

Sincerely,

/s/ Barbara R. Alexander

Barbara R. Alexander
Superintendent

BA:as