



STATE OF TEXAS

# OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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February 3, 1982 No. 82-4

Mr. Michael F. McBride  
Corporate Counsel  
Safeco Credit Company, Inc.  
Safeco Plaza  
Seattle, Washington 98185

Dear Mr. McBride:

This is to acknowledge receipt of your letter dated January 8, 1982, wherein you pose a question concerning our construction of Art. 1.04(n)(1), Article 5069 V.T.C.S. That Article reads as follows:

"Any loan made under authority of this Article that is extended either primarily for personal, family, or household use but not for business, commercial, investment, agricultural, or other similar purposes, or primarily for the purchase of a motor vehicle, and that is payable in two or more installments, not secured by a lien on real estate, and that is entered by a person engaged in the business of making or negotiating those types of loans, is subject to Chapter 4 of this Title, and any person except a bank or savings and loan association engaged in that business shall obtain a license under Chapter 3 of this Title."

In our Letter Interpretation No. 81-6 dated June 23, 1981, we expressed our view that an installment loan to a corporation or other business entity for the purchase of a motor vehicle(s) for commercial purposes would be subject to Chapter 4, Article 5069, because of the language of Art. 1.04(n)(1) quoted above. That answer was based on the assumption that such loan would be made under the authority of Art. 1.04. In what can be described as an oversight on my part at the time Letter Interpretation No. 81-6 was written, I did not consider whether Art. 1.04(n)(1) would be applicable if the lender took the position that a particular transaction was made pursuant to Article 1302-2.09A, V.T.C.S., usually referred to as the corporate loan statute. That statute provides as follows:

"Notwithstanding the provisions of Article 2.09 of this Act, any corporation, domestic or foreign, including but not limited to any charitable or religious

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corporation, may agree to and stipulate for any rate of interest that does not exceed a rate authorized by Article 1.04, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.04, Vernon's Texas Civil Statutes)."

It is our opinion that it is possible to make a loan to a corporation pursuant to the provisions of Article 1302-2.09A for the purchase of a motor vehicle(s) and such loan would not be made under the authority of Art. 1.04. The loan under such circumstances would not be subject to the provisions of Art. 1.04(n)(1) and therefore would not have to meet the requirements of Chapter 4, Article 5069. Article 1302-2.09A authorizes that the alternative rates provided for in Art. 1.04 may be charged on such a loan made pursuant to the provisions of Article 1302-2.09A, and because the loan would not be made under the authority of Art. 1.04, Art. 1.04(n)(1) would not be applicable.

Our reasoning set out in Letter Interpretation No. 81-6 remains unchanged as to business or commercial loans for the purchase of motor vehicles if the loans are not made pursuant to Article 1302-2.09A.

Sincerely yours,

  
Sam Kelley  
Consumer Credit Commissioner