



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

December 31, 1979

FILE NO. S-1478

FINANCIAL INSTITUTIONS:  
Consumer Finance Act

Edgar F. Callahan, Director  
Department of Financial Institutions  
Room 500  
160 North LaSalle Street  
Chicago, Illinois 60601

Dear Mr. Callahan:

I have your letter wherein you ask my opinion on the proper construction of the Consumer Finance Act (Ill. Rev. Stat. 1977, ch. 74, par. 19 et seq.), as amended by Public Act 81-442. Public Act 81-442 amended sections 1 and 13 of the Act to increase the ceiling on the consumer loan limit from \$1500 to \$3,000. You state in your letter that, because several sections of the Consumer Finance Act which refer to the \$1500 loan limit were left unamended, the Act, as it literally reads, is somewhat inconsistent.

Section 1 of the Consumer Finance Act (Ill. Rev. Stat. 1977, ch. 74, par. 19, as amended by P.A. 81-442) now requires basically that anyone who lends money in the amount

Edgar F. Callahan, Director - 2.

of \$3,000 or less and charges interest in accordance with the Act must be licensed. Section 13 of the Act (Ill. Rev. Stat. 1977, ch. 74, par. 31, as amended by P.A. 81-442) permits anyone licensed under the Act to lend sums not exceeding \$3,000 and to charge interest thereon at rates specified in the Act.

Public Act 81-442 failed to amend sections 12, 15, 16 and 18 (Ill. Rev. Stat. 1977, ch. 74, pars. 30, 33, 34, 36) which also make references to \$1500. Section 12, as it literally reads, prohibits false, misleading or deceptive advertising in connection with loans of \$1500 or less. Section 16 includes within the Act as a loan the payment of \$1500 or less as consideration for any sale or assignment of wages, salary, commission, or other compensation for services. Section 18 prohibits anyone from charging a greater rate of interest on loans of \$1500 or less than allowed by law, to non-licensees, except in accordance with the Consumer Finance Act. This section also makes such loans unenforceable.

The failure to amend these sections presents a problem of statutory construction and the courts have set forth several rules of construction which are applicable here. "The question in any case of statutory construction is one of soundly seeking and tolerantly effectuating convincing legislative intention." (People v. Anderson (1947), 398 Ill. 480, 485.) Statutes should be construed so as to

Edgar F. Callahan, Director - 3.

avoid absurd or ridiculous consequences. (Gage v. City of Chicago (1903), 201 Ill. 93, 95.) Words in a statute will be altered or modified by a court where the failure to do so would create inconsistency or negate the legislative intent. (People v. Anderson (1947), 398 Ill. 480, 486.) This is particularly true where the amendments which create the inconsistency are of a purely mechanical nature. Community Consolidated School Dist. No. 210 v. Mini (1973), 55 Ill. 2d 382.

The Consumer Finance Act is a comprehensive plan to regulate the small loan business. Public Act 81-442 makes no changes in the substantive requirements of the Act; it merely raises the amount of a loan which may be made. However, the clear intent of Public Act 81-442 is to allow licensees under the Consumer Finance Act to make loans up to \$3,000. Sections 1 and 13 are clearly the controlling sections in this regard. Sections 12, 15, 16 and 18 are concerned more with dependent issues such as advertising, types of transactions included in the Act and prohibition of the charging of greater rates of interest than allowed by the Act.

Thus, in view of the rules of statutory construction and the clear intent of Public Act 81-442, I am of the opinion that the Consumer Finance Act permits licensees

Edgar F. Callahan, Director - 4.

under the Act to make loans not exceeding \$3,000 in amount and, to the extent necessary to carry out the intent of the legislature, sections which now read \$1500 may now be altered, where necessary, to read \$3,000.

Very truly yours,

A T T O R N E Y   G E N E R A L