

March 19, 2004

TO ALL LICENSEES UNDER THE MOTOR VEHICLE SALES FINANCE ACT:

This letter is intended to clarify the Department's position, and thereby eliminate confusion that has arisen within the motor vehicle sales finance industry, regarding the terms and conditions of "selective first payment due date" options and "deferred first payment" options that may be offered to buyers as part of installment sale contracts originated by licensees under the Motor Vehicle Sales Finance Act ("MVSFA").

The Department defines a "selective first payment due date" option as an option whereby a buyer's first payment under an installment sale contract is due up to one month and 15 days from the date of execution of the installment sale contract. A "deferred first payment" option is an option whereby a buyer's first payment under an installment sale contract is due more than one month and 15 days from the date of execution of the installment sale contract.

Section 13.F of the MVSFA provides, in part, that: "[e]very installment sale contract shall provide for payment of the time balance in substantially equal periods and in substantially equal amounts . . . [listing certain exceptions]." 69 P.S. § 613.F.

Selective First Payment Due Date Options

It is the Department's position that an installment sale contract may include a selective first payment due date option. Such selective first payment due date must be agreed to by the buyer, and may not occur more than one month and 15 days from the execution of the installment sale contract. The finance charge under the installment sale contract may be applied to the entire one-month-and-15-day period.

The Department views such a selective first payment due date option as consistent with the requirement under Section 13.F of the MVSFA that installment sale contracts provide for payments in "substantially equal periods and in substantially equal amounts."

Deferred First Payment Options

Additionally, it is the Department's position that installment sale contracts may provide buyers of motor vehicles an option to defer the first payment due date for any period of time in excess of one month and 15 days from the date of execution of the installment

sale contract pursuant to Section 13.F of the MVSFSA, provided that the conditions stated below are met:

1. the buyer must agree to defer the first payment due under the contract;
2. the finance charge under the contract shall not begin to accrue prior to one month before the date the first payment is due;
3. the finance charge accrual must not exceed the contract rate;
4. all payments due under the contract shall be in substantially equal amounts; and
5. the finance charge shall accrue only on the original principal amount.

An example of a deferred first payment option would be where the buyer's first payment is due three months from the date of execution of the installment sale contract. In this example, the finance charge would begin to accrue one month prior to the date that the first payment is due, or two months after the execution of the contract.

In summary, if a first payment due date is up to one month and 15 days from the execution date of the installment sale contract, the finance charge may accrue from the execution date of the contract to the date of the first payment. If the scheduled first payment due date is more than one month and 15 days from the execution date of the installment sale contract, the finance charge may begin to accrue one month prior to the scheduled first payment due date.

This letter shall supercede all prior interpretations by the Department of Section 13.F of the MVSFSA and its applicability to selective first payment due date options and deferred first payment options. This letter shall specifically rescind and replace the letter under my signature on the same subject dated July 25, 2003.

If you have any questions regarding this letter, please do not hesitate to contact the Non-Depository Division of the Bureau of Supervision and Enforcement at (717) 772-3889, or contact the Department via the Department's website at www.banking.state.pa.us.

Sincerely,



A. William Schenck III
Secretary of Banking