



STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA

December 21, 2007



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

This letter clarifies the position of this Office regarding LSA-R.S. 9:3578.6(A)(5) that states, "A licensee shall not: ... Threaten any customer with prosecution or refer for prosecution any check accepted as payment of a deferred presentment transaction and returned by the lender's depository institution for reason of insufficient funds."

As you are aware, this Office received two complaints from customers of your client, [REDACTED]. The complainants argued that [REDACTED] improperly referred their checks to the local District Attorney when the bank closed their accounts and returned the checks marked "Account Closed".

A strict reading of the above mentioned statute indicates that your client did not violate the Deferred Presentment and Small Loan Act since the returned checks were not marked "NSF" or "Insufficient Funds".

This Office will not cite a lender in violation of the above Section for referring returned checks to the District Attorney for criminal prosecution when said checks are returned for reasons other than insufficient funds.

Contact this Office if you have need for further information on this issue.

Sincerely,

Susan P. Jandle
Chief Examiner

SPJ:jb

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA



September 10, 2004

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: Interpretation of R.S. 9:3578.6A.(5)

Dear [REDACTED]

I am responding to your August 31, 2004 correspondence regarding the above referenced matter. In your letter you indicate you are seeking confirmation from this office on an interpretation of the above subsection of the Louisiana Deferred and Small Presentment Loan Act, ("LDSPLA"). The applicable section of the LDSPLA provides as follows:

A. A licensee shall not:

* * *

(5) threaten any customer with prosecution or refer for prosecution any check accepted as payment for a deferred presentment transaction and returned by the lender's depository institution for reason of insufficient funds.

I note that in the year 2000, this office rendered an opinion which was signed by Doris B. Gunn, Deputy Commissioner, which set out the position of this office on closed bank accounts and stop payments with respect to pay day loans.

I have had Gary Newport review the above referenced subsection from an historical perspective, and he has determined that this particular subsection has not been amended since the date of the original opinion letter of September 1, 2000.

As a result, I hereby reaffirm the September 1, 2000 interpretive letter as still being valid.

Sincerely,

John Ducrest, CPA
Commissioner of Financial Institutions

JD:GLN:lab



STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA



September 1, 2000

[REDACTED]

COPY

Dear [REDACTED]

This is in response to your question regarding our position on closed bank accounts and stop payments.

When a pay-day loan borrower issues a check that is returned to the lender-payee with the notation "NSF," "account closed," or "stop payment order," what is a lender permitted to do without violating the Louisiana Deferred Presentment and Small Loan Act (LDP&SLA), R.S. 9:3577.1 et seq. ?

Four different potential scenarios are stated as follows:

- (1) a borrower stops payment on a check to avoid repayment of a deferred presentment check. Sufficient funds are in the account when the check was issued. (stop payment)
- (2) a borrower closes a bank account to avoid repayment of a deferred presentment check. Sufficient funds are in the account when the check was issued. (account closed)
- (3) a borrower writes a check on an account which he knows was closed when the check was issued and his purpose was to avoid repayment of a deferred presentment check. (account closed)
- (4) a borrower writes a check on an account and the check is returned to the lender with the notation, "insufficient funds." (NSF)

Under each scenario the question is whether OFI would cite the lender for a violation of the LDP&SLA if the lender refers the matter to the District Attorney for criminal prosecution. The answer is no in the first three scenarios and yes in the fourth scenario.

[REDACTED]

If you have any additional questions, please feel free to contact our office at (225) 925-4660.

Sincerely,

Doris B. Gunn
Deputy Commissioner

