

July 18, 2011

Maine Bureau of Financial Institutions
Maine Bureau of Consumer Credit Protection
Joint Advisory Ruling #107
Repossession Fees in Connection with Consumer Lease Transactions

Dear :

You have requested an Advisory Ruling with respect to whether repossession fees may be charged in connection with consumer lease transactions.

Section 2-507 of the Consumer Credit Code provides that "with respect to a consumer credit sale or lease, or a supervised loan, the agreement may not provide for the payment by the consumer of attorney's fees or any other collection costs." 9-A Me. Rev. Stat. Ann. § 2-507(1). However, section 3-402 of the Maine Consumer Credit Code provides that, notwithstanding the provisions of 9-A Me. Rev. Stat. Ann. § 2-507, the agreement in a consumer credit transaction may provide for "reasonable charges [other than attorney's fees] included in realizing on a security interest in personal property securing a consumer loan or consumer credit sale." 9-A Me. Rev. Stat. Ann. § 3-402(1)(B).

Since the ability to assess costs incurred in the realization of a security interest under 9-A Me. Rev. Stat. Ann. § 3-402(1)(B) is clearly limited to consumer loans and consumer credit sales, it is the opinion of the Administrators that costs of repossession cannot be assessed in a consumer lease transaction. The administrators recognize that there is an inconsistency present in allowing such fees to be charged in connection with consumer credit loans and consumer credit sales, but not consumer leases. However, absent a statutory change, the law does not permit such fees in consumer lease transactions.

Should you have any questions concerning this Advisory Ruling, please do not hesitate to contact either William N. Lund, Director of the Office of Consumer Credit Regulation, or Kristine M. Ossenfort, Staff Attorney for the Bureau of Banking.

Sincerely,

/s/ Lloyd P. LaFountain III
Superintendent

Bureau of Financial Institutions

Sincerely,

/s/ William N. Lund
Superintendent

Bureau of Consumer Credit
Protection