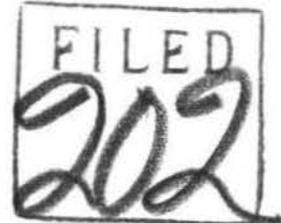


July 29, 1963



Honorable R. B. Mackey  
Commissioner of Finance  
Jefferson Building  
Jefferson City, Missouri

Dear Sir:

This letter of advice in lieu of a formal opinion is in answer to your recent inquiry reading as follows:

"In view of Section 375.910, RSMo., 1959, particularly applicable to reciprocal and inter-insurance exchanges, are such insurance writers subject to 'Regulation C' amended September, 1961, adopted by the Commissioner of Finance pursuant to authority found in Missouri's Consumer Credit Loan laws found at Sections 367.100 to 367.200 RSMo 1959?"

"Regulation C" referred to in the above question amended September, 1961, provides:

"Fire, wind and or extended coverage insurance may be sold, requisitioned, required, or accepted by any lender in connection with any consumer credit loan secured by a lien on personal property, other than motor vehicle, in an amount that does not exceed the amount of the loan adjusted up to the next \$100.00. The full coverage annual rate shall not exceed the highest rate for substandard risks approved by the Missouri Division of Insurance subject to a minimum premium of \$10.00. PROVIDED, that on consumer credit loans of \$200.00 or less secured by a lien on household goods, no fire, wind and or extended coverage insurance

Honorable R. B. Mackey- 2

may be sold, requisitioned or required by any lender. (Section 367.170, Laws of Missouri, 1951.) (Amended September 1961)."

Senate Bill 78, passed by the Sixty-Sixth General Assembly of Missouri (Laws of Missouri, 1951, p. 262) carried the following title:

"AN ACT" providing for the supervision and regulation of the business of making consumer credit loans, as defined, of money, credit, goods, or things in action, and providing penalties for violation; containing an emergency clause."

The 1951 Act referred to above is now found, unchanged, at Sections 367.100 to 367.200 RSMo 1959. "Regulation C" treated in this opinion stems from authority given to the Commissioner of Finance by Section 367.170 RSMo 1959, which provides:

"The commissioner is authorized and empowered to make such general regulations as may be necessary for the enforcement of sections 367.100 to 367.200 and shall issue regulations providing and governing the types and limits of insurance and the issuance of policies which may be sold in connection with consumer credit loans. The cost of any insurance shall not exceed the standard rates and the insurance shall be obtained from an insurance company duly authorized to conduct business in this state and the registrant, or any of its employees, may be licensed as an insurance agent. Insurance premiums shall not be considered as interest, service charges or fees in connection with any loan. Each such regulation shall be consistent with sections 367.100 to 367.200 and shall be referenced to the specific provisions of sections 367.100 to 367.200 which is to be enforced by it. Nothing in this section shall alter or amend the statutes of this state relating to insurance or affect the powers of the superintendent of insurance under such statutes."

Section 375.910 RSMo 1959, referred to in the question to be answered in this opinion, provides:

"Except as herein provided no law of this state relating to insurance shall apply to the exchange of such indemnity contracts; provided, however, that the provisions of the retaliatory law shall apply."

Section 375.910 RSMo., 1959, quoted above is grouped with Sections 375.790 to 375.920 RSMo., 1959, a portion of Missouri's Insurance Code under which inter-insurance exchanges are organized and exist. The language of Section 375.910 RSMo., 1959 has not changed since its enactment in 1915 (L-1915, p.324).

Special notice is taken of the following language from Section 367.170 RSMo., 1959:

"\* \* \*Nothing in this section shall alter or amend the statutes of this state relating to insurance or affect the powers of the superintendent of insurance under such statutes."

In examining "Regulation C," quoted supra, we fail to find any language in the regulation which would in any way alter or amend the statutes of this state relating to insurance or affect the powers of the superintendent of insurance under such statutes. The regulation is directed solely to consumer credit lenders licensed under Sections 367.100 to 367.200 RSMo., 1959. It was promulgated for the purpose of complying with the mandate found in Section 367.170 RSMo., 1959, directed to the Commissioner of Finance in the following language:

"The commissioner \* \* \*shall issue regulations providing and governing the types and limits of insurance and the issuance of policies which may be sold in connection with consumer credit loans. The cost of insurance shall not exceed the standard rates \* \* \*."

"Regulation C" on its face appears to be a reasonable and proper compliance with the directive contained in Section 367.170 RSMo., 1959. The regulation is not directed to insurance companies but solely to consumer credit lenders. The language of "Regulation C" does not appear in any way to effect an alteration

Honorable R. B. Mackey - 4

or amendment of the statutes of this state relating to insurance or affect the powers of the superintendent of insurance under the insurance code. You are advised that continued enforcement of "Regulation C" as to consumer credit lenders is warranted under the law.

Yours very truly,

---

THOMAS F. EAGLETON  
Attorney General

JLO:df