



State of Washington

**DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKS**

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May 17, 2004

ISGC – 2004 – 005 – DOB

DOB Interpretive Letter [REDACTED]

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

Re: Reciprocity Determination Request

Dear [REDACTED]

You have requested that the Division of Banks of the Washington State Department of Financial Institutions (hereinafter, "Division of Banks") confirm that the banking laws of the State of Washington, as set forth in Title 30 and 32 of the Revised Code of Washington (RCW 30 and RCW 32), do not restrict an out-of-state bank from purchasing home improvement retail installment contracts from contractors in Washington State, or engaging in any other lending activity in the State of Washington.

1.0 BANK COUNSEL REPRESENTATIONS

You have made this request on behalf of your client, a Washington State chartered bank (hereinafter, "Bank"), which, according to you, purchases home improvement retail installment contracts from contractors in a variety of states and desires to expand its business operations to the state of Rhode Island.

Rhode Island counsel for the Bank has, according to you, advised that the Rhode Island Department of Business Regulation will issue an exemption to an out of state bank (including the Bank) under applicable Rhode Island law, if the Division of Banks, as Bank's regulator in its home state, will certify that the laws of Washington State (the home state) are not more restrictive than those of Rhode Island (the host state).

2.0 PURPOSE OF INTERPRETIVE LETTER

The purpose of this letter is to interpret Washington State law and thereby confirm unto the Bank and the Rhode Island Department of Business Regulation that, with respect to the Bank's stated activity in Rhode Island of purchasing home improvement retail installment contracts from contractors, the laws of Washington State are, indeed, no more restrictive than those represented by the Bank's Rhode Island counsel to be the governing law of Rhode Island.

3.0 LAW OF BANK'S HOST STATE – RHODE ISLAND

According to the Bank's counsel, Rhode Island has a lender and loan broker licensing law,¹ which requires lenders who engage in the activities of lending or loan brokering to be licensed. The Rhode Island Department of Business Regulation considers the purchase or acquisition of retail installment contracts to fall within the scope of the licensing requirement.

According to the Bank's counsel, in July 2003, the Rhode Island licensing law was amended² to exempt from licensure, subject to a written notice proscribed by the DBR director, a bank duly organized under the laws of any other state, if the law of the state in which the bank is organized would authorize a Rhode Island financial institution or credit union, under conditions not substantially more restrictive than those imposed by the laws of Rhode Island, to conduct the respective type of business in the other state.

In essence, the Division of Banks interprets this Rhode Island licensing law, as articulated by Rhode Island counsel for the Bank, as providing reciprocity to the laws of the State of Washington with respect to matters involving exemption from any licensing requirement for engaging in the purchase or acquisition of retail installment contracts.

4.0 LAW OF BANK'S HOME STATE – WASHINGTON

4.1 No Sales Finance Company Licensing Statute. The Division of Banks confirms that Washington State does not have a sales finance company licensing statute.

4.2 No Lending Restrictions on Out-of-State Banks. RCW § 30.04.020 restricts a foreign corporation, whose name contains the words "Bank," "Banker," "Banking" or "Trust," or whose articles of incorporation empower it to engage in banking or to engage in a trust business, from engaging in such business without specific authorization under state law, federal law, or from the Washington State Department of Financial Institutions.

However, as set forth in subsection (2) of RCW § 30.04.020(2):

"If an activity would not constitute 'transacting business' within the meaning of RCW 23B.15.010(1) or chapter 23B.18 RCW, then the activity shall not constitute banking or engaging in a trust business."

The Washington Business Corporations Act, at RCW § 23B.15.010, provides, in pertinent part, as follows:

"(1) Unless it is otherwise authorized to transact business pursuant to a state or federal statute, a foreign corporation may not transact business in this state until it obtains a certificate of authority from the secretary of state.

¹ Rhode Island General Laws § 19.14.1(6).

² In relevant part under Rhode Island General Laws § 19.14.1-10(a)(4).

. . . .
(2) The following activities, among others, do not constitute transacting business within the meaning of subsection (1) of this section:

. . . .
(g) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real or personal property, or recording same . . .
”

Therefore, the Division of Banks further confirms that Washington State does not impose any restrictions under RCW Titles 23B, 30 or 32 on the lending activities of an out-of-state bank.

5.0 OFFICIAL INTERPRETATION

Based on Washington State law, there would, in effect, be no restriction on a Rhode Island bank making loans to Washington State borrowers or purchasing home improvement retail installment contracts with Washington State customers, other than laws of general applicability to all lenders.

Accordingly, as represented by Rhode Island counsel for the Bank, there is, by way of reciprocity between Washington State and Rhode Island, an exemption from the licensing requirement in Rhode Island for purchasing home improvement retail installment contracts from contractors or engaging in any other lending activity.

6.0 CONCLUDING REMARKS

Please be advised that in issuing this interpretive letter, the Division of Banks has relied upon the interpretation of Rhode Island law (cited above) made by Rhode Island counsel for the Bank and as communicated to us by you, acting as home state counsel for the Bank. The laws of the State of Washington are uniformly applicable for any Washington State chartered bank, similarly situated. However, institutions other than your client, the Bank, are advised that the relevant facts and circumstances of each Washington State chartered bank may be different; and such relevant facts, as applied to the governing law of a state other than Rhode Island, may result in the Division of Banks reaching a conclusion different than the one accorded the Bank in this case.

Should you have any questions, please do not hesitate to call upon me at either (360) 902-8747 or (206) 956-3229.

Yours very truly,

David G. Kroeger
Director, Division of Banks