

MAINE STATE LEGISLATURE

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20
November 17, 1961

Carlton L. Bradbury, Commissioner

Banks and Banking

George C. West, Deputy

Attorney General

Charges other than Interest by Small Loan Licensess

Reference is made to your memo of November 3, 1961 relative to the provision in the small loan company note which says: "Also the undersigned agrees, if in default of payment of note, he will pay all collection fees in collecting the unpaid balance." You ask if this provision is valid in view of section 218, chapter 59.

Under certain circumstances this provision would be valid. If the collection fees are to be collected by someone other than the small loan company issuing the loan, such a provision is valid.

If, however, the small loan company issuing the loan charges a collection fee after default of payment, then such action by the company is prohibited.

A reading of section 218 would indicate that the small loan company has no authority to charge, contract for, or receive any amount except legal interest on the loan. Although the words "contracted for" are used, it is my opinion that the intent of this section is that the small loan company itself shall not benefit by any amount beyond the legal interest on the loan.

George C. West
Deputy Attorney General

GCW:R