

# MAINE STATE LEGISLATURE

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Philip R. Gingrow, Director,  
Division of Personal & Consumer Finance  
Harry N. Starbranch, Assistant

Banks and Banking  
Attorney General

Interpretation of 9 M.R.S.A. § 3402, paragraph 2.

FACTS:

Title 9 M.R.S.A. § 3402, paragraph 2 provides as follows:

"2. Documentary fees.

"'Documentary fees' mean the fees for filing, recording or investigating, perfecting and releasing or satisfying a security interest created by a retail installment contract, and shall not exceed \$10 in the case of consumer goods as defined in Title 11, § 9-109."

QUESTION:

Is the term "fees" as used in the paragraph set out above limited to charges for services actually rendered to the seller or may it also allow a flat fee for services rendered to the seller or a recompense to the seller for some performance on his part?

ANSWER:

"Fees" are limited to charges for services actually rendered.

REASON:

The paragraph in question was first enacted in Chapter 386 of the Public Laws of 1957 and read as follows:

"'Documentary fees' mean the fees for filing, recording or investigating, perfecting and releasing or satisfying a retained title or a lien created by a retail installment contract and shall not exceed \$4."

Upon the enactment of the Uniform Commercial Code in Chapter 362 of the Public Laws of 1963, the paragraph in question was rewritten presumably to accommodate the language of the Uniform Commercial Code and the fees prescribed by the Uniform Commercial Code. This was accomplished by section 15 of the aforementioned Chapter 362. As set forth in the aforementioned section, the paragraph appears as follows:

"'Documentary fees' means the fees for filing, recording or investigating, perfecting and releasing or satisfying a retained title or a lien security interest created by a retail installment contract, and shall not exceed \$4 \$10 in the case of consumer goods as defined in chapter 190, section 9-109."

In light of the above, where it appears that the paragraph in question was modified to conform with the wording of the Uniform Commercial Code and the official fees authorized by the Uniform Commercial Code, it is the opinion of this Department that the word "fees" should be construed to mean a charge for services actually rendered to the seller. A seller, therefore, may not include a flat fee for services rendered to him or include a charge for his own services as a "Documentary Fee" in a motor vehicle retail installment contract.

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Harry N. Starbranch  
Assistant Attorney General

HNS/eh