Opinion No. 67-11

January 23, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: W. J. Upton Commissioner of Banking Department of Banking 113 Washington Avenue Santa Fe, New Mexico

QUESTION

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1. It would appear that a year would consist of 360 days, 12 periods of 30 days, under the Loan Act, and the calendary year would be 365 days; thus, if the loan is made on January 1, and paid off on the following January 1st, you would have the loan outstanding for 12 months of 30 days, plus 5 additional days. May we compute interest on the 5 days in excess of the loan year as a fraction of a month?

2. If a loan is taken out on January 1, and the customer pays on February 1, is the amount of interest to be charged one month plus one day, i.e., 31 days?

CONCLUSIONS

1. Yes.

2. Yes.

OPINION

*{*15}* **ANALYSIS**

Section 48-17-43, N.M.S.A., 1953 Compilation sets forth the maximum interest rate and the method of computation for a small loan business. Under subsection A, the maximum interest rate is stated as a certain percent per month. Subsection B defines a month as any period of 30 consecutive days. If this were the only provision in Subsection B, computation on *{*16}* partial months might be improper. However, this subsection also provides that charges on a loan shall be computed on the actual number of days elapsed and the rate of charge for each day shall be one-thirtieth of the monthly rate.

Since a small loan business is entitled to collect a charge for every day its money is outstanding, the answer to both of your questions is yes. Under question one, the company would be entitled to five-thirtieths of the monthly rate in excess of the loan year and under question two, the company would be entitled to one-thirtieth of the monthly rate in excess of the loan month.

By: Roy G. Hill

Assistant Attorney General