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Re: Consumer Credit arranged by Home Improvement Contractors

[Redacted]

The New York City Department of Consumer Affairs (the “Department”) responds to your inquiry regarding whether a home improvement contractor (“HIC”) may refer its customers to a bank in order to obtain a bank-issued credit card which will be used to pay for the customer’s obligations under a home improvement contract.

An HIC may refer its customers to a bank for a credit card *if*: (1) the credit card is “open-end,” meaning that it may be used repeatedly up to a certain limit and can be paid back prior to payments coming due;¹ (2) the credit obtained is *not* secured by the customer’s residential property, *and* (3) the referral otherwise complies with New York City Administrative Code (“NYC Code”) §§ 20-393(4) and (17).

NYC Code § 20-393(17) precludes HICs and home improvement salespersons from advertising, promoting or arranging for the services of a lender to secure a home loan or a home improvement loan in connection with home improvement contracting work. A “home improvement loan” is “any loan obtained for the purpose of financing a home improvement” (New York Lien Law § 70), which New York City and State has defined as including open-end lines of credit that are secured by a home mortgage.²

¹ See Truth in Lending (Regulation Z), 12 CFR 226.2(20).

² See, e.g., NYC Code § 6-128; NY RP ACT & PRO § 1304 [McKinney].



Therefore, HICs may not refer a consumer to a lender for a loan or any other type of consumer credit that is secured by the consumer's residential property -- and this includes home equity lines of credit.

Additionally, any referral for a credit card must comply with the disclosure and written agreement requirements of section 771-a of the general business law,³ and all other applicable City, State and Federal laws.

For more information about New York City's laws and rules, please visit the Department's website at www.nyc.gov/consumers.



³ No home improvement contractor shall engage in any activity, transaction, or course of business or pay or receive any fee, payment, money, or other thing of value in connection with the financing of a home improvement contract without fully disclosing such activity, transaction, or course of business and any fees, payment, or other thing of value paid or to be paid in connection therewith, and without having obtained the agreement in writing from all parties to the transaction to such activity and the payment therefor.