

## Summary of Selected Opinion 99-111

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### Permissibility Of Financing Extended Warranties In Connection With The Indirect Financing Of Motor Vehicles - Q4 1999

#### By the Division of Banks

A retail installment contract is defined under General Laws chapter 255B, section 1 to include "...an agreement, signed by the buyer in this state, pursuant to which the title to, the property in or a lien upon a motor vehicle, which is the subject matter of a retail installment sale, is retained or taken by a retail seller from a retail buyer as security, in whole or in part, for the buyer's obligation." Said section 1 also defines motor vehicle to include a self-propelled, motored device in, upon or by which any person is, or may be transported or drawn upon the highway and is used for personal, family or household purposes.

Massachusetts General Laws chapter 255B, section 10 explicitly recognizes that certain insurance charges may be part of a chapter 255B contract. Such insurance charges are for life, accident and health, or involuntary unemployment. Thus, certain ancillary charges may clearly be part of a chapter 255B contract. The Division believes that an extended warranty is a charge that is so closely related to the motor vehicle that it may be properly financed as part of the 255B contract as opposed to its being separately financed as a chapter 255D contract.

Regarding the rebate procedure for an extended warranty in the event that the retail installment contract is prepaid, it should be noted that the extended warranty is a separate contract. The customer when purchasing it can either pay by cash or have the cost financed. If financed, the Division believes that it is still owned by the consumer at the same time as if purchased by cash. If the consumer prepays the retail installment contract, the consumer will simply not be required to pay any more finance charge. The consumers rights under the extended warranty including features such as the duration, coverage, ability to assign are all issues that may only be determined by the terms of the extended warranty and not the terms of the retail installment contract.