

February 1, 1999

Mr. Art Corey
Connecticut Credit Union League
110 South Turnpike Road
P.O. Box 5001
Wallingford, Connecticut 06492-7501

Re: State Law Limiting Finance Charges on Retail Installment Sales of Cars.

Dear Mr. Corey:

You have asked whether a Connecticut state law limiting finance charges on the retail installment sales of cars is enforceable against a federal credit union (FCU) that is the indirect lender in an indirect dealer financing program. No, the FCU is not subject to the state law in question.

In the indirect dealer financing program, a car dealer submits the retail installment sales loan application of a buyer (an FCU member) to the FCU. After the FCU approves the loan, the dealer enters into a retail installment sales contract with the buyer and then, usually on the same day, assigns the contract to the FCU.

An FCU may enter into indirect dealer financing programs under the authority to purchase eligible obligations, 12 U.S.C. §1757(13), 12 C.F.R. §701.23, or under the authority to make loans to members, 12 U.S.C. §1757(5), 12 C.F.R. §701.21. NCUA regulations limit the amount of interest rates and finance charges the FCU may charge to the member regardless of whether the lending program is direct or indirect. An FCU "may extend credit to its members at rates not to exceed 18 percent per year on the unpaid balance inclusive of all finance charges."

12 C.F.R. §701.21(c)(7)(ii)(B).

FCUs must comply with a state law unless the FCU Act or NCUA regulations preempt the state law. Pursuant to the FCU Act, the NCUA Board has promulgated NCUA regulations that specifically preempt state laws "purporting to limit or affect" interest rates and amounts of finance charges on loans to FCU members. 12 C.F.R. §701.21(b)(1)(i)(A). Therefore, the FCU may set its interest rates and finance charges on loans to members regardless of the Connecticut law limiting the rates. We offer no opinion on the legality of the car dealer's role in the program under the Connecticut law.

Sincerely,

Sheila A. Albin
Associate General Counsel

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