

April 14, 1997

Gretchen L. Jones, General Counsel
Vice President, Governmental and Regulatory Affairs
Maine Credit Union League
P.O. Box 1236
Portland, ME 04104

Re: NCUA Preemption of State Law Affecting Finance Charge
(Your February 6, 1997, Letter)

Dear Ms. Jones:

You have asked whether Section 701.21 of NCUA's Rule and Regulations, 12 C.F.R. §701.21, preempts a provision of the Maine Consumer Credit Code which limits the amount of finance charges a federal credit union (FCU) may contract for and receive. NCUA's regulation preempts the Maine statute.

The statute provides that creditors are prohibited from receiving a finance charge for loans on open-end credit which exceeds a percentage of "[t]he average daily balance" or "the unpaid balance at the beginning of the first day of the billing cycle" whichever is greater. ME. REV. STAT. ANN., tit. 9-A §2-402(2)(A) and (B) (West 1997). You advise that Maine regulators take the position that these two methods of computation are the only permissible methods under Maine law for calculating a finance charge on open-ended credit.

Section 701.21(b)(1) of NCUA's Regulations states that "the Board's authority preempts any state law purporting to limit or affect: (i)(A) rates of interest and amounts of finance charges". A statute prohibiting the amount of finance charge an FCU may contract for and receive falls within the area of lending the NCUA Board has determined is preempted by federal law and is, therefore, not enforceable against FCUs.

I hope that we have been of assistance.

Sincerely,

Sheila A. Albin
Acting Associate General Counsel

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