



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

GC/HMU:cch

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11/4/85

Fotios M. Burtzos, Esquire
P.O. Box 1088
3885 Upham Street
Suite 100
Wheat Ridge, CO 80033

Dear Mr. Burtzos:

This is in response to your letter of September 13, 1985, concerning Federal credit union (FCU) participation in ~~vehicle service~~ contracts in the State of Florida.

As noted in your letter, the vehicle service contract business in Florida operates differently than it does in other states. We have briefly reviewed those provisions in the Florida Statute (Chapter 634, Part I, Sections 634.011-634.271) that address vehicle service contracts. The following capsulizes our findings:

- (1) Only licensed vehicle service contract companies ("licensed companies") may enter into service contracts with individuals.
- (2) Only licensed salespersons or agents may sell vehicle service contracts on behalf of the licensed companies.

As you know, we have previously reviewed National Warranty Corporation's program and have determined that FCU participation is not permissible. Our primary concern with the National Warranty Program was the FCU's contractual liability when it entered into vehicle service contracts. Inasmuch as FCU's do not have the express power or incidental power to agree to such liability, we opined that the program was an impermissible activity for FCU's. Under the program described in your letter that is available pursuant to the Florida statute, the FCU simply acts as salesperson or agent for the licensed company. An FCU can serve as the salesperson or agent for the licensed company under the Florida program if it is licensed pursuant to Florida statute. The vehicle service contract is between the licensed company and the FCU member. The FCU is not a party to the contract and under the terms of the contract would have no liability to the member.

Since the program would be offered under Part 721 of the NCUA Rules and Regulations (12 C.F.R. 721), an FCU is subject to the reimbursement restrictions of Section 721.2. Inasmuch as the vehicle service contract is not an insurance plan, the FCU would

FDIA file: Vol. II A 3. - Auto Warranty Contracts



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be limited to receive only reimbursement from the licensed company for its costs (See 12 C.F.R. §721(b)(3)).

In summary, an FCU can offer a vehicle service contract to its members under the Florida statute and pursuant to Part 721 of NCUA's Regulations. An FCU may not become a licensed company but it can act as the licensed company's salesperson or agent. The FCU is limited to the reimbursement restrictions found in Section 721.2(b)(3) of the NCUA Regulations since this plan is not insurance.

We hope that we have been of assistance. Please contact Hattie Ulan if you have further questions.

Sincerely,

(S)

STEVEN R. BISKER
Assistant General Counsel

cc: Bob Algieri
Florida Department of Insurance