



NATIONAL CREDIT UNION ADMINISTRATION

Washington, D.C. 20456

November 12, 1986

Office of General Counsel

GC/HMU:sg  
3320

Harold M. Carter, Jr., Esq.  
Beach, Wilcox, Rubin and Levey  
The Granite Building  
130 East Main Street  
Rochester, NY 14604

Dear Mr. Carter:

This is in response to your letter of August 1, 1986, concerning Federal preemption of a New York State law concerning retail installment credit agreements. You question whether New York Personal Property Law Section 413(3)(c)(ii), which allows for a one month free ride period (when no interest can be charged), is preempted.

As you know, a Federal credit union (FCU) may make loans and extend lines of credit to its members pursuant to Section 107(5) of the FCU Act (12 U.S.C. §1757(5)) and Section 701.21 of the NCUA Rules and Regulations (12 C.F.R. §701.21). Section 701.21(b)(1) of the Regulations sets forth a nonexclusive list of lending issues covered by state laws that are preempted by the FCU Act and Regulations. Terms of repayment, including "the amount, uniformity, and frequency of payments" are included among those lending issues. See §701.21(b)(1)(ii). It is our opinion that Section 413(3)(c)(ii) of New York Personal Property Law is preempted pursuant to Section 701.21(b)(ii). To the extent that any of the provisions of the Retail Instalment Sales Act would otherwise apply to Federal credit unions, and those provisions would regulate or interfere with the lending functions noted in Section 701.21(b)(1), those provisions would be preempted.

I hope that we have been of assistance. Please contact Hattie Ulan of this Office if further questions arise.

Sincerely,

A handwritten signature in cursive script, appearing to read "James J. Engel".

James J. Engel  
Deputy General Counsel

HMU:sg

FOIA file. Vol IV, H - Preemption