



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

January 7, 1988

GC/TPM:wpm
3320

Office of General Counsel

John J. Bishar, Jr., Esq.
Cullen and Dykman
1010 Franklin Avenue
Garden City, NY 11530-0755

RE: Bethpage Federal Credit Union/Preemption of New
York State Banking Law Section 590 and Rules
Promulgated Thereunder (Your June 22, 1987, Letter)

Dear Mr. Bishar:

In light of Executive Order 12612 [52 Fed. Reg. 41685 (October 30, 1987)], we must decline to render the opinion you have asked for until a Federal credit union (FCU) has been refused relief under New York State law.

Sections 1 and 2 of Executive Order 12612 require NCUA to accommodate state interests to the maximum extent possible in its:

regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

NCUA's declaring Section 590 of the New York Banking Law and regulations promulgated thereunder preempted to the extent they purport to govern FCU's would, in our view, be an "action" having a "direct effect" on New York State.

Subdivision 6 of New York Banking Law Section 590 gives Federal credit unions a possible escape valve without requiring NCUA action:

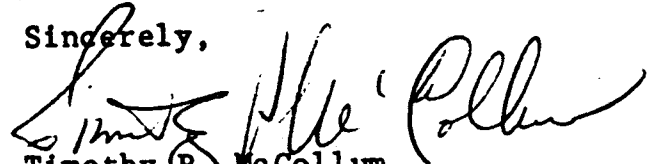
The [New York State] banking board is hereby authorized and empowered, consistent with the declaration of policy set forth in this article, to exempt by rule or regulation from any or all of the provisions of this article any or all exempt organizations [including Federal credit unions] with respect to credit

FOIA
Vol. II, Part K (1) State Laws affecting FCU's

line mortgages, installment loans and home
improvement loans.

We therefore abstain from rendering an opinion on the extent
Federal credit union law preempts Section 590 until an FCU has
been denied relief under subdivision 6 of that section.

Sincerely,



Timothy P. McCollum
Assistant General Counsel

TPM:wpm