



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

GC/MM:sg
SSICC 3320
89-0523

Office of General Counsel

June 8, 1989

Amy F. Solomon, Esq.
Cullen and Dykman
1010 Franklin Avenue
Garden City, New York 11530-0155

Re: Preemption of Virginia State Law (Your May 15,
1989, Letter)

Dear Ms. Solomon:

You have asked whether Virginia Code Annotated §6.1-330.63(A)(3) is preempted by Section 701.21 of the National Credit Union Administration Rules and Regulations. Federal credit unions ("FCU's") are not subject to Virginia Code Annotated §6.1-330.63(A)(3), so we need not reach the preemption issue.

APPLICABLE LAW

Virginia Code Annotated §6.1-330.63(A)3 states:

3. In the event of the extension of credit by a bank or savings institution hereunder to be effected by the use of a credit card for the purchase of merchandise or services, no finance charge shall be imposed upon the cardholder or borrower on such extension of credit if payment in full of the unpaid balance owing for extensions of credit for merchandise or services is received at the place designated by the creditor prior to the next billing date (which shall be at least twenty-five days later than the prior billing date).

This statute prevents imposition of a finance charge if payment in full of the unpaid balance owed for credit extensions is received by the creditor prior to the next billing date. However, FCU's are not within the scope of the definition of a bank or a savings institution. The provision which specifically applies to credit unions is Section 6.1-330.64(B)(3). It states:

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3. In the event of the extension of credit by a credit union hereunder to be effected by the use of a credit card for the purchase of merchandise or services, no finance charge shall be imposed upon the member or cardholder on such extension of credit if payment in full of the unpaid balance owing for extensions of credit for merchandise or services is received at the place designated by the credit union prior to the next billing date, which shall be at least twenty-five days later than the prior billing date.

This statute also prevents a credit union from imposing a finance charge if payment in full of the unpaid balance owed for credit extensions is received by the credit union prior to the next billing date. However, in defining credit unions, Virginia Code Annotated 6.1-330.49 specifically excludes Federal credit unions from the definition.

ANALYSIS

The clear language of the statutes demonstrates that neither Virginia Code Annotated §6.1-330.63(A)(3) nor Virginia Code Annotated §6.1-330.64(B)(3) applies to FCU's. Therefore, there is no preemption issue.

Sincerely,



HATTIE M. ULAN
Assistant General Counsel

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