



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

Office of General Counsel

GC/JT:sg
SSIC 3600
90-0129

March 7, 1990

Carmen I. Sanchez, Esq.
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Plaza Scotiabank
Sixth Floor
273 Ponce De Leon Avenue
Hato Rey, Puerto Rico 00917

Re: Title 26, Section 2713(1) of the Laws of Puerto Rico (Your January 23, 1990, Letter)

Dear Ms. Sanchez:

You have asked whether Title 26, Section 2713(1) of the laws of Puerto Rico (T.26 L.P.R.A. Section 2713) is preempted by the Federal Credit Union Act and NCUA's Rules and Regulations. It is not. Federal credit unions ("FCU's") operating in Puerto Rico must comply with the statute.

BACKGROUND

T.26 L.P.R.A. Section 2713(1) provides:

No person¹ may require as a condition for, or in connection with, a loan or the purchase or deposit of property under contract or in connection thereof, that any insurance to be provided or whose premium is to be paid directly or indirectly by or on behalf of the assignee, depository or borrower or on his behalf, [SIC] on account of such loan, purchase or deposit

¹The term "person" is not defined in Title 26, Chapter 27. You should determine whether the Puerto Rico legislature intended to include FCU's.

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which secures said loan or is the subject of such a contract be provided in any manner through any particular person, agent, broker or solicitor or any specific insurer.

You suggested that the Puerto Rico statute may be preempted by Section 701.21(b)(1)(iii)(C) of the NCUA Rules and Regulations (12 C.F.R. 701.21(b)(1)(iii)(C)). This section preempts any state law purporting to limit or affect "the type or amount of security and the relation of the value of the security to the amount of the loan or line of credit." You stated that the insurance is similar to loan collateral in that it would protect the creditor in the event of default.

While insurance may operate in a manner similar to loan collateral, Section 701.21(b)(2)(i) of NCUA's Regulations (12 C.F.R. 701.21(b)(2)(i)) states that:

. . . [i]t is not the Board's intent to preempt state laws that do not affect rates, terms of repayment and other conditions described above concerning loans and lines of credit, for example:

(i) insurance laws.

We see no basis for determining that the Puerto Rico statute would be preempted in light of Section 701.21(b)(2)(i).

Sincerely,

Hattie M. Ulan

HATTIE M. ULAN
Associate General Counsel