



STATE OF TEXAS

# OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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July 29, 1982 No. 82-17

Mr. Terence A. Willis  
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Attorneys at Law  
7410 Blanco Road  
First Floor  
San Antonio, Texas 78216

Dear Mr. Willis:

This is to acknowledge receipt of your letter dated June 10, 1982, wherein you ask whether federally chartered credit unions must comply with the provisions of Chapter 6A, Article 5069 V.T.C.S.

H.B. 1228 enacted by the 67th Texas Legislature contained the following provision which is now codified as Article 1.04(n)(6):

"(6) Any person subject to the Texas Credit Union Act, as amended (Article 2461-1.01 et seq., Vernon's Texas Civil Statutes), who contracts for, charges, or receives a rate authorized by this Article shall comply with all other duties, obligations, and prohibitions of that Act and the parties to the transaction have all other rights provided by that Act, except to the extent inconsistent with this Article. Notwithstanding this Article, credit unions are not subject to Chapter 15 or Subtitle 2 of this Title and are not required to obtain a license under this Title."

The first portion of this section refers only to state chartered credit unions and directs that those entities shall comply with the Texas Credit Union Act. This first sentence in Article 1.04(n)(6) makes no reference to federally chartered credit unions, but I believe this is because they conduct their business pursuant to the federal statute and are required by federal law to comply with that legislation.

Mr. Terence A. Willis  
Page 2

July 29, 1982

The second sentence of Article 1.04(n)(6) then exempts "credit unions" from the provisions of Chapter 15 and Subtitle 2 (which includes Chapter 6A) of Article 5069. As will be noted the use of the term "credit unions" in the last sentence is not limited to credit unions subject to the Texas Credit Union Act but is, in my opinion, more general in nature, and includes both state and federal credit unions. I might add that at the time of the enactment of H.B. 1228 it was my understanding that all credit unions would be exempt from the provisions of Subtitle Two and Chapter 15.

However, subsequent to passage of H.B. 1228, Senate Bill 382 was enacted and is now codified as Chapter 6A, Article 5069. During debate on this measure in the House a floor amendment to the bill was adopted which added Subsection (7) to Section 3 of the new Chapter 6A. That Subsection is as follows:

"(7) The provisions of this chapter shall apply to credit transactions as defined by Subsection 2(d) notwithstanding any provision of Article 1.04 of this title."

It is my understanding that there was some confusion with regard to this added provision but nonetheless it was enacted. Because S.B. 382 was passed later in the legislative session than H.B. 1228 it has been my informal view until recently that Section 3(7) of Chapter 6A required that both state and federal credit unions comply with Chapter 6A when making the type of transactions subject to that chapter.

However, the National Credit Union Administration has recently taken the position that the Federal Credit Union Act and its implementing rules and regulations preempt Chapter 6A. Attached hereto and made a part of this response is a letter dated June 17, 1982 from Mr. Todd A. Okum, Assistant General Counsel, National Credit Union Administration, to Mr. John B. Lederer, Assistant General Counsel, Texas Credit Union League, which letter sets out the position of the National Credit Union Administration concerning Chapter 6A.

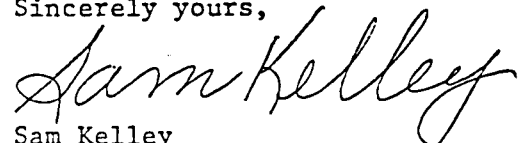
It will be the position of this office that we will adhere to the interpretation of the National Credit Union Administration on this question. In view of the fact that there is no Texas Court decision

Mr. Terence A. Willis  
Page 3

July 29, 1982

relating to the problem and because the National Credit Union Administration has primary responsibility over federal credit unions, it will be the position of this office that as long as that federal agency maintains its present position and unless a court decides otherwise, federal credit unions do not have to comply with Chapter 6A of Article 5069.

Sincerely yours,



Sam Kelley  
Consumer Credit Commissioner

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Enclosure