

## Legislative Update

### **PREEMPTION OF NEW JERSEY HOMEOWNERSHIP SECURITY ACT OF 2002**

Attached is a copy of correspondence dated January 28, 2004 which I recently received from Sheila A. Albin, Associate General Counsel of the National Credit Union Administration indicating that it is the opinion of the General Counsel's Office that the New Jersey Homeownership Security Act of 2002 is preempted by the Federal Credit Union Act. Please note that this opinion only applies to federally chartered credit unions and does not apply to state chartered credit unions.

The letter indicates that NCUA's opinion is that the law is preempted because it purports to limit or affect the rates, terms of repayment and other conditions of loans and lines of credit that federally chartered credit unions may offer to their members. The National Credit Union Administration's lending regulation preempts any state law that regulates the rates, terms of repayment and other conditions of federal credit union loans and lines of credit to members. NCUA has also preempted a similar Georgia law.

Preemption of the New Jersey Law by the National Credit Union Administration is good news for federally chartered credit unions since this complicated law had very severe penalties which applied even for an inadvertent violation of the law. Unfortunately, the law is still applicable to state chartered credit unions.

If you have any questions in reference to this letter, or its impact on the Credit Union's lending policies, please feel free to contact me.

PETER J. LISKA, LLC  
February 5, 2004