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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133-AF86

Statutory Lien

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: On February 25, 2026, NCUA (or 'agency') published a proposed rule to solicit comments on the removal of a provision of NCUA regulations regarding federal credit unions' (FCUs) statutory lien authority. Upon further consideration, and based on the comments received, the Board is issuing this final rule, as proposed, to remove the term, "except as otherwise provided by law or except as otherwise provided by federal law." This language does not provide any assistance to FCUs in determining whether such statutory or case law exists, therefore it has no material value.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Gira Bose, Senior Staff Attorney, *Office of General Counsel*, at (703) 518-6562 or *gbose@ncua.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Section 701.39 of the NCUA's regulations implements the statutory lien authority granted to FCUs under the Federal Credit Union Act (FCU Act).[1] The regulation, which converted a prior policy statement into a regulation in 1999, states that an FCU has the

[1] 12 U.S.C. 1757(11).

power to impress and enforce a lien against a member's shares and dividends to satisfy any outstanding financial obligation owed to the credit union.[2]

The proposed rule, issued on February 25, 2026, put forward an amendment to the regulation by removing the definition of the term "[e]xcept as otherwise provided by law or except as otherwise provided by federal law."[3] The Board determined that this definition is not helpful. The fact that an FCU must determine which laws apply to its operations and must be aware that some legal requirements supersede others, is a universal consideration and not one that is specific to this regulation. Thus, the Board proposed to repeal paragraph 701.39(a)(1).

B. Legal Authority

The Board is issuing this final rule pursuant to its authority under the FCU Act. Under the FCU Act, NCUA is the chartering and supervisory authority for FCUs and the federal supervisory authority for federally insured credit unions (FICUs).[4] The FCU Act grants NCUA a broad mandate to issue regulations governing both FCUs and all FICUs. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.[5] Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.[6] Section 209 of the FCU Act is a plenary grant of regulatory authority to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.[7] Accordingly, the FCU Act grants the Board broad

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[2] 64 FR 56956 (Oct. 22, 1999).
[3] 12 CFR 701.39(a)(1).
[4] 12 U.S.C. 1752–1775.
[5] 12 U.S.C. 1766(a).
[6] 12 U.S.C. 1787.
[7] 12 U.S.C. 1789.

rulemaking authority to ensure that the federally insured credit union industry and the National Credit Union Share Insurance Fund remain safe and sound.

II. Final Rule

A. Overview

This final rule follows publication of the proposed rule and takes into consideration the comments received on the proposal. By the close of the public comment period on April 27, 2026, the Board had received 11 comments. Commenters were two credit unions, five state and regional credit union leagues or associations, three national credit union trade associations, and one individual member of the public who did not disclose a group affiliation. After careful consideration of the issues raised by the commenters, the Board has decided to adopt the proposal without change.

B. Discussion of Public Comments

This section of the preamble discusses the significant issues raised by the commenters, and the Board's responses to the comments. Nine of the eleven commenters expressed support for the proposal generally stating that:

- the provision identified for removal is redundant and does not provide substantive guidance to credit unions;
- the proposal would remove potentially confusing language from NCUA's regulation and have no effect on lien authority or obligations; and
- from an operational perspective, FCUs must already maintain processes to identify and apply applicable statutory and case law when exercising their authorities, including statutory lien rights. The presence or absence of this definitional language does not alter that responsibility.

Two commenters opposed the rule. One stated that preserving the current statutory lien framework best balances member transparency, operational certainty, and

safety and soundness. The other commenter did not speak specifically to this proposal, but voiced opposition to deregulation in general. This commenter stated that the suggestion that certain requirements are overly burdensome warrants careful scrutiny. A regulation requiring staff time or administrative effort does not necessarily indicate that the requirement lacks value. Oversight, documentation, and verification processes inevitably require time and resources, but those efforts are part of maintaining responsible governance and protecting member assets.

The Board agrees that deregulatory proposals must be carefully considered and appropriately balanced with the need to maintain the safety and soundness of the credit union system. The Board also believes that this amendment will not jeopardize that balance. As a number of commenters noted, the term "except as otherwise provided by law or except as otherwise provided by federal law" does not provide any assistance to FCUs in determining whether such statutory or case law exists. And its removal does not diminish an FCU's obligation to determine, as in all cases, if there are other laws that apply to its activities. Thus, this rule is being finalized as proposed.

III. Regulatory Procedures

A. Executive Orders 12866, 13563, and 14192

Pursuant to Executive Order 12866 ("Regulatory Planning and Review"), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget (OMB), in accordance with the requirements of the Executive Order. Executive Order 13563 ("Improving Regulation and Regulatory Review") supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866. This final rule was drafted and reviewed in accordance with Executive Order 12866 and Executive

Order 13563. OIRA has determined that this final rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866.

Executive Order 14192 ("Unleashing Prosperity Through Deregulation") requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. This final rule is considered an E.O. 14192 deregulatory action.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[8] If the agency makes such a certification, it shall publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.[9] For purposes of this analysis, the NCUA considers small credit unions to be those having under $100 million in assets.[10] The Board fully considered the potential economic impacts of the regulatory amendment on small credit unions.

The proposed rule eliminates a nonsubstantive reference in § 701.39 regarding statutory liens. Accordingly, the NCUA certifies the final rule will not have a significant economic impact on a substantial number of small credit unions.

C. The Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) generally provides that an agency may not conduct or sponsor and, not withstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The PRA applies to rulemaking in which an agency creates a new

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[8] 5 U.S.C. 601 *et seq*.

[9] 5 U.S.C. 605(b).

[10] 80 FR 57512 (Sept. 24, 2015).

or amends existing information collection requirements. For purposes of the PRA, an information-collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. NCUA has reviewed this final rule and determined that it does not create any new or revise any existing collections of information. Accordingly, no PRA submissions to OMB will be made with respect to this rule.

D. Analysis on Executive Order 13132 on Federalism

Executive Order 13132 encourages certain regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This proposed rule is intended to eliminate an unnecessary reference without making any substantive change. The regulation applies only to FCUs. Thus, it is not intended to affect the division of responsibilities between the NCUA and state regulatory authorities with oversight of federally insured, state-chartered credit unions.

E. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999. The final rule amends the regulation regarding an FCU's authority to impose a statutory lien on a member but makes no substantive change; thus, this proposed rule is not expected to have any effect on family well-being.

F. Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (CRA), generally provides for congressional review of agency rules.[11] NCUA must submit a report to Congress and the

[11] 5 U.S.C. 801-808.

Comptroller General when it issues a final rule, as defined in the CRA.[12] An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a "major rule." OIRA has determined that this rule is not a "major rule" within the meaning of the relevant sections of the CRA. NCUA will also file appropriate reports with Congress and the Comptroller General so this rule may be reviewed.

List of Subjects in 12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

By the National Credit Union Administration Board, this 2nd day of November 2026.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons stated in the preamble, the Board amends 12 CFR part 701 as follows:

PART 701 – ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601-3610. Section 701.35 is also authorized by 12 U.S.C. 4311-4312.

[12] 5 U.S.C. 804(3).

§ 701.39 [Amended]

2. Amend § 701.39 by removing paragraph (a)(1) and redesignating paragraphs (a)(2) through (5) as paragraphs (a)(1) through (4).

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