

Press Releases

January 22, 2003

OTS 03-02 - OTS Says Georgia Law Doesn't Apply to Federal Thrifts

Office of Thrift Supervision

FOR RELEASE at 3:00 P.M. EDT

For further information

Wednesday, January 22, 2003

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OTS 03-02

202/906-6677

OTS Says Georgia Law Doesn't Apply to Federal Thrifts

WASHINGTON - The Office of Thrift Supervision (OTS) announced today that federal law preempts provisions of the Georgia Fair Lending Act (GFLA) from applying to federal savings associations and their operating subsidiaries. The GFLA imposes various restrictions on loans based upon the annual percentage rate and amount of points and fees charged.

In a response letter to an inquiry, OTS Chief Counsel Carolyn Buck said OTS concluded that "GFLA provisions purporting to regulate the terms of credit, loan-related fees, disclosures, or the ability of a creditor to originate or refinance a loan," are preempted.

"OTS is authorized by federal law to provide federal savings associations with a uniform national regulatory environment for their lending operations," said OTS Director James E. Gilleran. "This enables federal thrifts to provide low-cost credit safely and soundly. The Georgia law would require federal thrifts to treat customers in Georgia differently, imposing increased costs and an undue regulatory burden."

This preemption is based on the Home Owners' Loan Act and OTS regulations that comprehensively and exclusively regulate lending by federal savings associations. OTS has also determined that the Georgia statute conflicts with OTS regulations governing lending operations concerning terms of credit, loan-related fees, disclosure, and the origination or refinance of a loan. Unlike the federal fair lending laws, the Georgia law does not address lending discrimination.

The Supreme Court and other courts have long recognized OTS's ability to provide a federal regulatory scheme that governs all aspects of the operations of federal savings associations and preempts state laws in that area.

The OTS legal opinion is on the agency's website: www.ots.treas.gov.

Legal Opinion - <http://www.occ.gov/static/news-issuances/ots/press-releases/ots-pr-2003-02a.pdf>

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The Office of Thrift Supervision (OTS), a bureau of the U.S. Treasury, regulates and supervises the nation's thrift industry. OTS's mission is to ensure the safety and soundness of thrift institutions and to support their role as home mortgage lenders and providers of other community credit and financial services. For copies of news releases or other documents visit the OTS web page at www.ots.treas.gov.