stock or membership certificate allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property.

(m) *Residential manufactured home* has the same meaning as provided in § 590.2(g) of this chapter.

(n) *Reverse mortgage* means an instrument providing periodic payments to homeowners based on accumulated equity, whether the payments are made directly by the lender, through purchase of an annuity through an insurance company or in any other manner. The loan may be due either upon a specific date or when a specified event occurs, such as the sale of the property or death of the borrower.

(o) *State* means the several states, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(p)(1) A *window-period loan* means a real property loan, not originated by a Federal savings association, which was made or assumed during a window-period created by state law and subject to that law, which loan was recorded, at the time of origination or assumption, before October 15, 1982, or within 60 days thereafter (December 14, 1982).

(2) The window-period begins on: (i) The date a state adopted a law (by means of a constitutional provision or statute) prohibiting the unrestricted exercise of due-on-sale clauses upon outright transfers of property securing loans subject to the state law creating the window-period, or the effective date of a constitutional or statutory provision so adopted, whichever is later; or

(ii) The date on which the highest court of the state rendered a decision prohibiting such unrestricted exercise (or if the highest court has not so decided, the date on which the next highest appellate court rendered a decision resulting in a final judgment which applies statewide), and ends on the earlier of the date such state law prohibition terminated under state law or October 15, 1982.

(3) Categories of state law which create window-periods by prohibiting the unrestricted exercise of due-on-sale clauses upon outright transfers of property securing loans subject to such state law restrictions include laws or judicial decisions which permit the lender to exercise its option under a due-on-sale clause only where:

(i) The lender's security interest or the likelihood of repayment is impaired; or

(ii) The lender is required to accept an assumption of the existing loan without an interest-rate change or with an interest-rate change below the market interest rate currently being offered by the lender on similar loans secured by similar property at the time of the transfer.

§ 591.3 Loans originated by Federal savings associations.

(a) With regard to any real property loan originated or to be originated by a Federal savings association, as a matter of contract between it and the borrower, a Federal savings association continues to have the power to include a due-on-sale clause in its loan instrument.

(b) Except as otherwise provided in § 591.5 of this part with respect to any such loan made on the security of a home occupied or to be occupied by the borrower, exercise by any lender of a due-on-sale clause in a loan originated by a Federal savings association shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and borrower shall at all times be fixed and governed by that contract.

§ 591.4 Loans originated by lenders other than Federal savings associations.

(a) With regard to any real property loan originated by a lender other than a Federal savings association, as a matter of contract between it and the borrower, the lender has the power to include a due on sale clause in its loan instrument.

(b) Except as otherwise provided in paragraph (c) of this section and § 591.5 of this part, the exercise of due-on-sale clauses in loans originated by lenders other than Federal savings associations shall be governed exclusively by the terms of the loan contract, and all rights and remedies of the lender and

the borrower shall be fixed and governed by that contract.

(c)(1) In the case of a window-period loan, the provisions of paragraph (b) of this section shall apply only in the case of a sale or transfer of the property subject to the real property loan and only if such sale or transfer occurs on or after October 15, 1985: *Provided,* That:

(i) With respect to real property loans originated in a state by lenders other than national banks, Federal savings associations, and Federal credit unions, a state may otherwise regulate such contracts by state law enacted prior to October 16, 1985, in which case paragraph (b) of this section shall apply only if such state law so provides; and

(ii) With respect to real property loans originated by national banks and Federal credit unions, the Comptroller of the Currency or the National Credit Union Administration Board, respectively, may otherwise regulate such contracts by regulations promulgated prior to October 16, 1985, in which case paragraph (b) of this section shall apply only if such regulation so provides.

(2) A lender may not exercise its options pursuant to a due-on-sale clause contained in a window-period loan in the case of a sale or transfer of property securing such loan where the sale or transfer occurred prior to October 15, 1982.

(d)(1) Prior to the sale or transfer of property securing a window-period loan subject to the provisions of paragraph (c) of this section.

(i) Any lender in the business of making real property loans may require any successor or transferee of the borrower to supply credit information customarily required by the lender in connection with credit applications, to complete its customary credit application, and to meet customary credit standards applied by such lender, at the date of sale or transfer, to the lender's similar loans secured by similar property.

(ii) Any lender not in the business of making loans may require any successor or transferee of the borrower to meet credit standards customarily applied by other similarly situated lenders or sellers in the geographic market within which the transaction occurs, for similar loans secured by similar property, prior to the lender's consent to the transfer.

(2) The lender may exercise a due-on-sale clause in a window-period loan if:

(i) The successor or transferee of the borrower fails to meet the lender's credit standards as set forth in paragraphs (b)(1)(i) and (b)(1)(ii) of this section; or

(ii) Upon transfer of the security property and not later than fifteen days after written request by the lender, the successor or transferee of the borrower fails to provide information requested by the lender pursuant to paragraph (d)(1)(i) or (d)(1)(ii) of this section, to determine whether such successor or transferee of the borrower meets the lender's customary credit standards.

(3) The lender shall, within thirty days of receipt of a completed credit application and any other related information provided by the successor or transferee of the borrower, determine whether such successor or transferee meets the customary credit standards of the lender and provide written notice to the successor or transferee of its decision, and the reasons in the event of a disapproval. Failure of the lender to provide such notice shall preclude the lender from exercise of its due-on-sale clause upon the sale or transfer of the property securing the loan.

(4) The lender's right to exercise a due-on-sale clause pursuant to this paragraph (d)(4) is in addition to any other rights afforded the lender by state law regulating window-period loans with regard to the exercise of due-on-sale clauses and loan assumptions.

§ 591.5 Limitation on exercise of due-on-sale clauses.

(a) *General.* Except as provided in § 591.4 (c) and (d)(4) of this part, due-on-sale practices of Federal savings associations and other lenders shall be governed exclusively by the Office's regulations, in preemption of and without regard to any limitations imposed by state law on either their inclusion or exercise including, without limitation,