

## § 590.100

Creditor's rights: If you do not correct your default in the time allowed, we may exercise our rights against you under the law by (describe action creditor intends to take).

If you have any questions, write (the creditor) at the above address or call (creditor's designated employee) at (telephone number) between the hours of and on (state days of week).

If this default was caused by your failure to make a payment or payments, and you want to pay by mail, please send a check or money order; do not send cash.

[54 FR 49715, Nov. 30, 1989, as amended at 61 FR 50984, Sept. 30, 1996; 67 FR 60554, Sept. 26, 2002]

### § 590.100 Status of Interpretations issued under Public Law 96-161.

The Office continues to adhere to the views expressed in the formal Interpretations issued under the authority of section 105(c) of Pub. L. 96-161, 93 Stat. 1233 (1979). These interpretations, which relate to the temporary preemption of state interest ceilings contained in Pub. L. 96-161, may be found at 45 FR 2840 (Jan. 15, 1980); 45 FR 6165 (Jan. 25, 1980); 45 FR 8000 (Feb. 6, 1980); 45 FR 15921 (Mar. 12, 1980).

### § 590.101 State criminal usury statutes.

(a) Section 501 provides that "the provisions of the constitution or laws of any state expressly limiting the rate or amount of interest, discount points, finance charges, or other charges shall not apply to any" federally-related loan secured by a first lien on residential real property, a residential manufactured home, or all the stock allocated to a dwelling unit in a residential housing cooperative. 12 U.S.C. 1735f-7 note (Supp. IV 1980). The question has arisen as to whether the federal statute preempts a state law which deems it a criminal offense to charge interest at a rate in excess of that specified in the state law.

(b) In the Office's view, section 501 preempts all state laws which expressly limit the rate or amount of interest chargeable on a federally-related residential first mortgage. It does not matter whether the statute in question imposes criminal or civil sanctions; section 501, by its terms, preempts "any" state law which imposes a ceiling on interest rates. The wording of the federal statute clearly expresses an intent

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to displace all direct state law restraints on interest. Any state law that conflicts with this Congressional purpose must yield.

### PART 591—PREEMPTION OF STATE DUE-ON-SALE LAWS

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AUTHORITY: 12 U.S.C. 1464 and 1701j-3.

SOURCE: 54 FR 49718, Nov. 30, 1989, unless otherwise noted.

#### § 591.1 Authority, purpose, and scope.

(a) *Authority.* This part contains regulations issued under section 5 of the Home Owners' Loan Act of 1933, as amended, and under section 341 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469, 1505-1507.

(b) *Purpose and scope.* The purpose of this permanent preemption of state prohibitions on the exercise of due-on-sale clauses by all lenders, whether federally- or state-chartered, is to reaffirm the authority of Federal savings associations to enforce due-on-sale clauses, and to confer on other lenders generally comparable authority with respect to the exercise of such clauses. This part applies to all real property loans, and all lenders making such loans, as those terms are defined in § 591.2 of this part.

#### § 591.2 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Assumed* includes transfers of real property subject to a real property loan by assumptions, installment land sales contracts, wraparound loans, contracts for deed, transfers subject to the mortgage or similar lien, and other like transfers. "Completed credit application" has the same meaning as completed application for credit as provided in § 202.2(f) of this title.