§ 190.100  Status of Interpretations issued under Public Law 96–161.

The OCC continues to adhere to the views expressed in the formal Interpretations issued under the authority of section 195(c) of Public Law 96–161, 93 Stat. 1233 (1979). These Interpretations, which relate to the temporary preemp-
tion of state interest ceilings contained in Public Law 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).

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

PART 191—PREEMPTION OF STATE DUE-ON-SALE LAWS

Sec.
191.1 Authority, purpose, and scope.
191.2 Definitions.
191.3 Loans originated by Federal savings associations.
191.4 Loans originated by lenders other than Federal savings associations.
191.5 Limitation on exercise of due-on-sale clauses.
191.6 Interpretations.


SOURCE: 76 FR 49154’, Aug. 9, 2011, unless otherwise noted.