

PART D—PRESERVATION OF STATE LAW

§ 5551. Relation to State law**(a) In general****(1) Rule of construction**

This title,¹ other than sections 1044 through 1048,¹ may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title¹ from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title,¹ and then only to the extent of the inconsistency.

(2) Greater protection under State law

For purposes of this subsection, a statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title¹ if the protection that such statute, regulation, order, or interpretation affords to consumers is greater than the protection provided under this title.¹ A determination regarding whether a statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title¹ may be made by the Bureau on its own motion or in response to a nonfrivolous petition initiated by any interested person.

(b) Relation to other provisions of enumerated consumer laws that relate to State law

No provision of this title,¹ except as provided in section 1083,¹ shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law.

(c) Additional consumer protection regulations in response to State action**(1) Notice of proposed rule required**

The Bureau shall issue a notice of proposed rulemaking whenever a majority of the States has enacted a resolution in support of the establishment or modification of a consumer protection regulation by the Bureau.

(2) Bureau considerations required for issuance of final regulation

Before prescribing a final regulation based upon a notice issued pursuant to paragraph (1), the Bureau shall take into account whether—

(A) the proposed regulation would afford greater protection to consumers than any existing regulation;

(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and

(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.

(3) Explanation of considerations

The Bureau—

(A) shall include a discussion of the considerations required in paragraph (2) in the Federal Register notice of a final regulation prescribed pursuant to this subsection; and

(B) whenever the Bureau determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(4) Reservation of authority

No provision of this subsection shall be construed as limiting or restricting the authority of the Bureau to enhance consumer protection standards established pursuant to this title¹ in response to its own motion or in response to a request by any other interested person.

(5) Rule of construction

No provision of this subsection shall be construed as exempting the Bureau from complying with subchapter II of chapter 5 of title 5.

(6) Definition

For purposes of this subsection, the term “consumer protection regulation” means a regulation that the Bureau is authorized to prescribe under the Federal consumer financial laws.

(Pub. L. 111–203, title X, § 1041, July 21, 2010, 124 Stat. 2011.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in subsecs. (a), (b), and (c)(4), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

Sections 1044 through 1048, referred to in subsec. (a)(1), are sections 1044 to 1048 of Pub. L. 111–203, which enacted and amended sections 25b and 1465 of this title and enacted provisions set out as a note below.

Section 1083, referred to in subsec. (b), is section 1083 of Pub. L. 111–203, which amended sections 3802 and 3803 of this title and enacted provisions set out as notes under section 3802 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111–203, title X, § 1048, July 21, 2010, 124 Stat. 2018, provided that: “This subtitle [subtitle D (§§ 1041–1048) of title X of Pub. L. 111–203, enacting this part and enacting and amending sections 25b and 1465 of this title] shall become effective on the designated transfer date.”

[The term “designated transfer date” is defined in section 5481(9) of this title as the date established under section 5582 of this title.]

¹ See References in Text note below.

§ 5552. Preservation of enforcement powers of States

(a) In general

(1) Action by State

Except as provided in paragraph (2), the attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State in any district court of the United States in that State or in State court that is located in that State and that has jurisdiction over the defendant, to enforce provisions of this title¹ or regulations issued under this title,¹ and to secure remedies under provisions of this title¹ or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title¹ or regulations issued under this title¹ with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law (except as provided in paragraph (2)), and to secure remedies under provisions of this title¹ or remedies otherwise provided under other provisions of law with respect to such an entity.

(2) Action by State against national bank or Federal savings association to enforce rules

(A) In general

Except as permitted under subparagraph (B), the attorney general (or equivalent thereof) of any State may not bring a civil action in the name of such State against a national bank or Federal savings association to enforce a provision of this title.¹

(B) Enforcement of rules permitted

The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State against a national bank or Federal savings association in any district court of the United States in the State or in State court that is located in that State and that has jurisdiction over the defendant to enforce a regulation prescribed by the Bureau under a provision of this title¹ and to secure remedies under provisions of this title¹ or remedies otherwise provided under other law.

(3) Rule of construction

No provision of this title¹ shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.

(b) Consultation required

(1) Notice

(A) In general

Before initiating any action in a court or other administrative or regulatory proceeding against any covered person as authorized by subsection (a) to enforce any provision of this title,¹ including any regulation prescribed by the Bureau under this

title,¹ a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau and the prudential regulator, if any, or the designee thereof.

(B) Emergency action

If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Bureau and the prudential regulator, if any, immediately upon instituting the action or proceeding.

(C) Contents of notice

The notification required under this paragraph shall, at a minimum, describe—

- (i) the identity of the parties;
- (ii) the alleged facts underlying the proceeding; and
- (iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency.

(2) Bureau response

In any action described in paragraph (1), the Bureau may—

- (A) intervene in the action as a party;
- (B) upon intervening—
 - (i) remove the action to the appropriate United States district court, if the action was not originally brought there; and
 - (ii) be heard on all matters arising in the action; and
- (C) appeal any order or judgment, to the same extent as any other party in the proceeding may.

(c) Regulations

The Bureau shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.

(d) Preservation of State authority

(1) State claims

No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.

(2) State securities regulators

No provision of this title¹ shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority.

(3) State insurance regulators

No provision of this title¹ shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State

¹ See References in Text note below.