

## Press Releases

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January 30, 2003

### OTS 03-04 - OTS Says New York Law Doesn't Apply To Federal Thrifts

#### Office of Thrift Supervision

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For further information

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Contact: Chris Smith

OTS 03-04

202/906-6677

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### OTS Says New York Law Doesn't Apply To Federal Thrifts

WASHINGTON - The Office of Thrift Supervision (OTS) announced today that federal law preempts provisions of the New York predatory lending law from applying to federal savings associations and their operating subsidiaries. The New York law 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 provisions of the New York statute "purporting to regulate the terms of credit, loan-related fees, disclosures and advertising, and mortgage origination, refinancing, and servicing" are preempted.

"Federal law authorizes OTS to provide federal savings associations with a uniform national regulatory environment for their lending operations," said OTS Director James E. Gilleran. "This enables and encourages federal thrifts to provide low-cost credit safely and soundly on a nationwide basis. By requiring federal thrifts to treat customers in New York differently, the New York law would impose 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 New York statute conflicts with OTS regulations governing lending operations concerning terms of credit, loan-related fees, disclosures, advertising, and the origination, refinancing, or servicing of a loan. Earlier this month, OTS found that federal law preempted a similar Georgia statute on the same grounds.

The Supreme Court and other courts have long recognized OTS's ability to provide a federal regulatory scheme that governs all aspects of the lending 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](http://www.ots.treas.gov).

Legal Opinion - <http://www.occ.gov/static/news-issuances/ots/press-releases/ots-pr-2003-04a.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](http://www.ots.treas.gov).