

**COMPARISON OF THE OCC'S PREEMPTION RULES
WITH THE OTS'S AND NCUA'S CURRENT RULES
JANUARY 7, 2004**

Types of State Laws Generally Preempted	OCC Rules	OTS Current Rules	NCUA Current Rules
Abandoned and dormant accounts (deposit-taking)	✓	✓	✓
Aggregate amount of funds that may be lent on the security of real estate	✓*		
Checking/share accounts (deposit-taking)	✓	✓	✓
Covenants and restrictions necessary to qualify a leasehold as security property for a real estate loan	✓*		
Access to, and use of, credit reports	✓	✓	
Terms of credit	✓*	✓	✓
Creditor's ability to require or obtain insurance of collateral or other risk mitigants/credit enhancements	✓	✓	
Due-on-sale clauses	✓	✓	✓
Escrow, impound, and similar accounts	✓	✓	
Funds availability (deposit-taking)	✓	✓	
Interest rates	✓**	✓	✓
Fees	✓***	✓	✓
Licensing, registration, filings and reports	✓	✓	
Loan-to-value ratios	✓*	✓	✓
Mandated statements and disclosure requirements	✓	✓	✓
Mortgage origination, processing and servicing	✓	✓	
Disbursements and repayments	✓*	✓	✓
Savings account orders of withdrawal (deposit-taking)	✓	✓	
Security property, including leaseholds	✓	✓	✓
Special purpose saving services (deposit-taking)	✓	✓	

* Already preempted by the OCC's existing real estate lending regulation at 12 C.F.R. Part 34.

** National banks' authority to charge interest is established by 12 U.S.C. § 85, and the OCC's existing regulation at 12 C.F.R. § 7.4001.

*** National banks' authority to charge fees is already addressed by the OCC's existing regulations at 12 C.F.R. § 7.4002.

Types of State Laws Generally <u>NOT</u> Preempted	OCC Rules	OTS Current Rules	NCUA Current Rules
Contracts	✓	✓	
Commercial		✓	
Torts	✓	✓	
Criminal law	✓	✓	
Homestead laws specified by Federal statute	✓	✓	
Debt collection	✓		
Acquisition and transfer of real property	✓	✓	✓
Taxation	✓		
Zoning	✓		
Collections costs and attorneys' fees			✓
Plain language requirements			✓
Default conditions			✓
Insurance			✓
Incidental effect only	✓	✓	