



## ***Department of Banking and Finance***

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*David G. Sorrell  
Commissioner*

## **Declaratory Ruling**

**TO:** All State Chartered Banks and their Subsidiaries

**FROM:** David G. Sorrell, Commissioner

**DATE:** August 5, 2003

**SUBJECT:** Effect of Preemption of Georgia Fair Lending Act by the OCC on July 30, 2003

Many of you are aware that on July 30, 2003, the OCC issued a Preemption Determination and Order (“Order”) that states “...the Georgia Fair Lending Act does not apply to National City or any other national bank or national bank operating subsidiary that engages in real estate lending activities in Georgia.”<sup>a</sup>

The Department has reviewed this document and has consulted with its counsel, the office of the State Attorney General, on its effect.

We conclude that federal law has been determined by the authorized federal agency to preempt the applicability of the Georgia Fair Lending Act (“GAFLA”) for national banks and their operating subsidiaries. Therefore, pursuant to O.C.G.A. §7-6A-12 of the Georgia Fair Lending Act, which was effective March 7, 2003, the Georgia Fair Lending Act shall not apply to state chartered banks and their subsidiaries.

Banks are cautioned, however, that should any part of this Order from the OCC be overturned, clarified, or revised, then state banks will be subject to those provisions to which national banks are subject.

Information from the OCC indicates the effective date of the Order to be October 1, 2002. Since Georgia’s parity provision was effective March 7, 2003, the effective date of the preemption for state chartered banks and their subsidiaries shall be March 7, 2003.

The Department continues to be concerned about abusive or predatory lending practices and we will be communicating further with you regarding safety and soundness issues and fair business practices in this area.

Questions about this preemption should be directed to George A. Reynolds, Senior Deputy Commissioner (770-986-1629) or Leslie A. Bechtel, Deputy Commissioner of Legal and Consumer Affairs (770-986-1650).

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<sup>a</sup>OCC Preemption Determination and Order, Docket NO. 03-17, page 63.