



[Home](#) > [News & Events](#) > [Newsroom](#)

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OCC Issues Two Proposals on Preemption of State Interest-on-Escrow Laws

WASHINGTON—The Office of the Comptroller of the Currency (OCC) today requested comment on two proposals on national banks’ and federal savings associations’ real estate lending powers related to the payment of interest on funds held in escrow accounts.

The OCC’s actions emphasize federal preemption as a critical tool for reducing unnecessary burden, enabling local and national prosperity, and unleashing economic growth.

The OCC is proposing to codify longstanding powers of national banks and federal savings associations to establish or maintain real estate lending escrow accounts and to exercise flexibility in making business judgment as to the terms and conditions of such accounts, including whether and to what extent to offer any compensation paid to customers or to assess any related fees. Codifying this longstanding power will provide clarity and reduce uncertainty with regards to bank escrow practices and may thereby incentivize increased bank real estate lending.

Second, the OCC is proposing to issue a preemption determination concluding that federal law preempts state laws that eliminate national banks' and federal savings associations' flexibility to decide whether and to what extent to (1) pay interest or other compensation on funds placed in real estate escrow accounts; or (2) assess fees in connection with such accounts. Specifically, the proposed preemption determination would conclude that federal law preempts a New York interest-on-escrow law; 11 other states have laws with substantively equivalent terms; and these substantively equivalent state laws are also preempted.

Comments on both proposals are due 30 days after publication in the *Federal Register*.

Related Links

- [Notice of Proposed Rulemaking: Real Estate Lending Escrow Accounts](#) (PDF)
- [Notice of Proposed Rulemaking: Preemption Determination: State Interest-on-Escrow Laws](#) (PDF)

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