

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 20 SAVINGS AND LOAN ASSOCIATIONS
PART 71 APPLICABILITY OF HOME LOAN PROTECTION ACT

12.20.71.1 ISSUING AGENCY: Financial Institutions Division of the Regulation and Licensing Department.
[12.20.71.1 NMAC - N, 03/03/2004]

12.20.71.2 SCOPE: All state chartered savings and loan associations otherwise subject to the Home Loan Protection Act, Sections 58-21A-1 to -14 NMSA 1978 (2003) (“Act”).
[12.20.71.2 NMAC - N, 03/03/2004]

12.20.71.3 STATUTORY AUTHORITY: Sections 58-10-50 and 58-10-72 NMSA 1978.
[12.20.71.3 NMAC - N, 03/03/2004]

12.20.71.4 DURATION: Permanent.
[12.20.71.4 NMAC - N, 03/03/2004]

12.20.71.5 EFFECTIVE DATE: March 3, 2004, unless a later date is cited at the end of a section.
[12.20.71.5 NMAC - N, 03/03/2004]

12.20.71.6 OBJECTIVE: The objective of this part is to grant state chartered savings and loan associations the same powers and authority that federally chartered savings associations are authorized, empowered, permitted or otherwise allowed to exercise.
[12.20.71.6 NMAC - N, 03/03/2004]

12.20.71.7 DEFINITIONS: [RESERVED]
[12.20.71.7 NMAC - N, 03/03/2004]

12.20.71.8 FINDINGS:

A. Section 58-10-50 NMSA 1978, authorizes the director to grant by regulation the rights, powers, privileges, immunities and exceptions possessed by federally chartered savings associations.

B. The office of thrift supervision, department of the treasury, the “OTS,” is authorized by federal legislation to regulate and supervise federally chartered savings associations throughout the United States.

C. On September 2, 2003 the OTS issued a letter ruling (the “OTS preemption”) clarifying the fact that the following sections and subsections of the act (the “preempted sections of the act”) are pre-empted by federal law from applying to federally chartered savings associations operating in New Mexico:

(1) Section 58-21A-4.A. and B. (Prohibited practices and provisions regarding home loans);

(2) Section 58-21A-5.A., B., C., D., E., G., H., I., J., K., L., M., N., O., and P (Limitations and prohibited practices for high-cost home loans);

(3) Section 58-21A-6.A., B., C., D., and E. (default; notice; right to cure);

(4) Section 58-21A-9.A., B., and C. (civil action);

(5) Section 58-21A-11.B. and C. (actions based on home loans);

(6) Section 58-21A-12. (application of Unfair Practices Act); and

(7) Section 58-21A-13. (attorney general; enforcement of rules).

[12. 20.71.8 NMAC - N, 03/03/2004]

12.20.71.9 AUTHORITY: State chartered savings and loan associations are provided the same powers and authority granted to federally chartered savings associations as a result of the OTS preemption.
[12.20.71.9 NMAC - N, 03/03/2004]

HISTORY OF 12.20.71 NMAC: [RESERVED]