

subsection (a) [enacting this section] shall take effect on the transfer date.”

[For definition of “transfer date” as used in section 605(b) of Pub. L. 111-203, set out above, see section 5301 of this title.]

§ 1831d. State-chartered insured depository institutions and insured branches of foreign banks

(a) Interest rates

In order to prevent discrimination against State-chartered insured depository institutions, including insured savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such State bank or such insured branch of a foreign bank is located or at the rate allowed by the laws of the State, territory, or district where the bank is located, whichever may be greater.

(b) Interest overcharge; forfeiture; interest payment recovery

If the rate prescribed in subsection (a) of this section exceeds the rate such State bank or such insured branch of a foreign bank would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a) of this section, the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) of this section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from such State bank or such insured branch of a foreign bank taking, receiving, reserving, or charging such interest.

(Sept. 21, 1950, ch. 967, §2[27], as added Pub. L. 96-221, title V, §521, Mar. 31, 1980, 94 Stat. 164; amended Pub. L. 100-86, title I, §101(g)(2), Aug. 10, 1987, 101 Stat. 563; Pub. L. 101-73, title II, §201(a), Aug. 9, 1989, 103 Stat. 187.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1831a of this title prior to its repeal by Pub. L. 96-221.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-73 substituted “insured depository institutions” for “insured banks”.

1987—Subsec. (a). Pub. L. 100-86 struck out “and insured mutual savings banks” after “insured savings banks”.

EFFECTIVE DATE

Section applicable only with respect to loans made in any State during the period beginning on April 1, 1980, and ending on the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want this section to apply with respect to loans made in such State, except that this section shall apply to a loan made on or after the date such law is adopted or such certification is made if such loan is made pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made, see section 525 of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 1785 of this title.

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96-221, section 1735f-7 of this title, or any other provisions of law, including section 85 of this title, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

DEFINITION OF “STATE”

For purposes of this section, the term “State” to include the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands, see section 527 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

§ 1831e. Activities of savings associations

(a) In general

On and after January 1, 1990, a savings association chartered under State law may not engage as principal in any type of activity, or in any activity in an amount, that is not permissible for a Federal savings association unless—

(1) the Corporation has determined that the activity would pose no significant risk to the Deposit Insurance Fund; and

(2) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 1464(t) of this title.

(b) Differences of magnitude between State and Federal powers

Notwithstanding subsection (a)(1) of this section, if an activity (other than an activity described in section 1464(c)(2)(B) of this title) is permissible for a Federal savings association, a savings association chartered under State law may engage as principal in that activity in an amount greater than the amount permissible for a Federal savings association if—

(1) the Corporation has not determined that engaging in that amount of the activity poses any significant risk to the Deposit Insurance Fund; and

(2) the savings association chartered under State law is and continues to be in compliance with the fully phased-in capital standards prescribed under section 1464(t) of this title.