



STATE OF TEXAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

SAM KELLEY, Commissioner

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February 27, 1985 85-2

Mr. Frank A. St. Claire
St. Claire & Case
5944 Luther Lane, Suite 601
Dallas, Texas 75225

Dear Mr. St. Claire:

This is to acknowledge receipt of your letter of February 26, 1985, concerning the interpretation of the term "residential real property" for purposes of determining the applicable state usury ceiling for first lien loans secured by residential real property.

As you are aware, I previously stated in Letter Opinion 81-3 that "the United States Congress has preempted state usury statutes that formerly applied to first mortgage loans and/or credit sales of residential property. There is no interest limitation on such loans or credit sales...."

It is our position that for purposes of determining the applicable state law ceilings the term "residential real property" includes not only single family residences but also multi-family residential projects such as condominiums and apartments. Therefore, in our opinion, state usury statutes establishing interest rate ceilings on first mortgage loans and/or credit sales of multi-family residential projects such as apartment buildings and condominiums which otherwise comply with federal requirements are preempted by federal law and thus, such loans would have no interest limitation.

I hope this reply is satisfactory for your purposes.

Sincerely,

Sam Kelley
Consumer Credit Commissioner

