

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington, D.C. 20552



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Re: Docket No. 2002-17
Late Fees on Federally-Related Residential Manufactured Housing Loans

I am writing to you today to commend the OTS for recognizing the existing outdated late fee rule and for its proposal to drop the \$5.00 late fee limit, while retaining the 5% limit, in its Federal Register notice issued April 25, 2002.

The Manufactured Housing Institute (MHI) along with its member lenders including us, Origen Financial L.L.C. has worked diligently in recent months to inform OTS officials of the limitations inherent in rule 12 CFR Part 590, which constrains the late charges that may be assessed on loans secured by first liens on residential manufactured homes to the lesser of \$5.00 or 5%. In effect, unless the installment on a manufactured home loan is less than \$100, OTS's rule permits a maximum \$5.00 fee for late payments on such loans. Since this rule was written into law as part of the Deregulation and Monetary Control Act of 1980, the average manufactured home loan amount has more than doubled, with no comparable increase in allowances for lenders' costs in collecting associated monthly installments.

As stated in previous correspondence with OTS officials, the effective percentage rate of the \$5 late fee on the average "home only" (personal property loans) loan amount has decreased from 2.1% in 1982 to a mere 1.3% in 2001 (adjusted for today's terms) and is well below the current incentive structure established by many states to get consumers to pay their loans on time. In fact, an MHI survey of state laws reveals 5% to be the prevailing state late fee for manufactured housing loans.

Consequently, it has been our experience and the industry's, that the \$5.00 amount is too small to deter late payments and has been a contributing factor to the run-up of delinquencies and repossessions of manufactured homes over the past several years. In turn, this has also served to increase our cost of funds, thereby pushing up interest rates for all new manufactured home loan borrowers.

The advantage to the constant percentage late fee is that it is self-adjusting and thus fairly reflects changes in the costs of administering the loan. Based on today's average loan amount, a 5% late fee would amount to about \$20. Origen and MHI believes this amount would at least partially compensate us and other lenders for our increased cost of doing business since the implementation of this regulation over twenty years ago and serve as significant deterrent to flippant lateness, without being excessive.

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As a leader in the Manufactured Housing finance industry and an active member of MHI, we ask that you respectively push forward into law the OTS proposal to drop the \$5.00 late fee limit.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Rand".

David M. Rand
Senior Vice President
Origen Financial L.L.C.