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OPINION	:	No. 81-123
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The Honorable Linda Tsao Yang, Savings and Loan Commissioner, Department of Savings and Loan, has requested an opinion on a question that we have rephrased in order to reflect subsequent developments as follows:

Does section 5500.5 of the Financial Code authorize the Savings and Loan Commissioner to adopt a regulation extending to state-licensed savings and loan associations the power to make loans with an interest rate that increases over the life of the loan in excess of the increases authorized by Civil Code section 1916.5 *et seq.* since federally chartered savings and loan associations have now been granted that power.

CONCLUSION

Section 5500.5 of the Financial Code does not authorize the Savings and Loan Commissioner to adopt a regulation extending to state-licensed savings and loan associations the power to make loans with an interest rate that increases over the life of the loan in excess of the increases authorized by Civil Code section 1916.5 *et seq*. even though

federally-chartered savings and loan associations have now been granted that power.

ANALYSIS

Section 5500.5 of the Financial Code,[1] provides that whenever a right, power, privilege or duty is extended to federal institutions doing business in this state whose accounts are insured by the Federal Savings and Loan Insurance Corporation (hereinafter "FSLIC institutions") that is not authorized "[t]herein" for domestic associations, the Savings and Loan Commissioner (the chief officer of the Department of Savings and Loan (§ 5200)) may by regulation extend them to domestic associations.[2] (Stats. 1970, ch. 1363, P. 2530, § 1.) By its present terms, any such regulation adopted by the commissioner expires on January 1 of the second succeeding year following the end of the calendar year in which the regulation was promulgated. (§ 5500.5; Stats. 1975, ch. 541, p. 1109, § 1.) The section was undoubtedly designed to permit "a savings and loan association incorporated under California law to make loans and accept security therefor within this state on equal terms with similar institutions doing business in California but which are federally insured and incorporated under the Home Owners' Loan Act of 1933 or the laws of other states." (Informal Opn. No. I.L. 69–25 (Feb. 7, 1969), p. 5.) We have previously concluded that proposed similar legislation would not constitute an unlawful delegation of rulemaking power to the commissioner. (*Id*., at pp. 4–6; *cf. Kugler v. Yocum* (1968) 69 Cal. 2d 371, 377–384; 43 Ops. Cal. Atty. Gen. 275, 277–282 (1964); 43 Ops. Cal. Atty. Gen. 1, 3–4 (1964):)

Pursuant to the authority granted by section 5500.5 (and the general rulemaking authority in § 5200) the commissioner has adopted "parity" regulations extending to domestic associations certain rights and privileges which have been extended federally to FSLIC institutions. (Tit. 10, Cal. Admin. Code, ch. 2, subch. 17, §§ 235–235.41.) They deal in the main with modifying the limitations on loans made by domestic associations that are found in article 1 of part 1 of division 2 of the Financial Code (i.e., its

[1] All unidentified statutory references are to the Financial Code.

[2] A domestic association is a savings and loan association incorporated under California law. (§ 5055.)

Two classes of organization, are issued by the Federal Savings and loan Insurance Corporation. Pursuant to title 12, United States Code, section 2726, subdivision (a), the corporation is *required* to insure the accounts of all associations chartered under the Federal Home Owner's Loan Act of 1933 (48 Stats. 128; 12 U S.C. A. § 1461 *et seq*.) and also *may* insure the accounts of certain designated types of organizations chartered pursuant to the laws of the various states. The Act authorizes the Home Loan Bank Board to make rules and regulations for the organization, regulation and operation of federal savings and loan associations. (*Id*., 1464(a)(1).) The board has adopted comprehensive regulations to carry out the statute. (See 12 C.F.R. § 541.1 *et seq.*)

§§ 7150–7185 dealing with types of loans and their amortizations, security, amount and terms) which statutory limitations we understand antedate the adoption of section 5500.5.

Section 1916.5 of the Civil Code prohibits any increase in interest in a variable rate interest loan secured by a one to four unit residence unless the loan conforms to the requirements set forth therein. Among those requirements is that "[t]he change in the interest rate shall not exceed one-fourth of 1 percent in any semiannual period, and shall not result in a rate more than 2.5 percentage points greater than the rate for the first loan payment due after the closing of the loan." (*Id*., 51916.5, subd. (a)(3); Stats. 1970, ch. 1584, p. 3300, 5 1 as amended in germane part to include the underscored by Stats. 1975, ch. 338, p. 787, §1.)

Subsequent additions to the Civil Code have authorized variations on the standard variable interest rate loan dealt within its section 1916.5. (See Civ. Code, § 1916.6; Stats. 1977, ch. 575, p. 821, § 1 dealing with five-year variable rate loans and §§ 1916.8 and 1916.9; Stats. 1980, ch. 1139, pp. 3682, 3685, § 2, 3 dealing with renegotiable rate mortgage loans (RRM's).)[3]

[3] Section 19166 provides that variable rate loans can provide for a five-year hiatus between changes. In their interest rates but still the overall variation may not result in an interest rate greater than 2.5 percentage points greater than that in the initial payment. (See fn. 6, *post*.) Sections 19168 and 19169 deal with renegotiable rate mortgages. As is explained in section 19168:

> "The RRM differs from the fixed-rate mortgage. . . . In the fixed-rate mortgage the length of the loan and the length of the underlying mortgage are the same, but in the RRM the loan is short-term (3–5 years) and is automatically renewable for a period equal to the mortgage (up to 30 years). Therefore, instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease at each renewal of the short-term loan. This means that the amount of [the] monthly payment may also increase or decrease.' (*Id*., § 1916.8, subd. (d).)

Section 1916.8 permits any lender to make, offer or participate in a RRM loan but only under certain conditions, one of which is that the maximum rate increase or decrease [of interest permitted) shall be of 1 percentage point per year multiplied by the number of years in the loan term, with a maximum increase or decrease of 5 percentage points over the life of the mortgage or deed of trust." (*Id*., subd. (b)(2).) Section 1916.9 provides that in certain cases lenders who offer a RRM pursuant to section 1916.8 must also offer the borrower a fixed rate mortgage loan in the same amount with a term of at least 29 years, but the terms of that alternative loan, including its rate of interest, need not be the same as the terms of a fixed payment adjustable rate loan or a RRM. (*Id*., § 1916.9, subd. (b).)

Under a recently adopted federal regulation effective April 30, 1981, federally chartered savings and loan associations (FSLIC institutions) are now permitted to offer adjustable mortgage loans (AML'S) under instruments in which the interest rate is tied to an index and able to vary (i.e., to be raised or lowered) without limitation. (12 C.F.R., pt. 545, §§ 545.6–4, 545.6–4a, 545.6–2(a)(4)(iii); 46 Fed. Reg. 24148–24153 (April 30, 1981).) Needless to say such variations could exceed those permitted by the aforementioned Civil Code sections. Accordingly, we are asked whether, in light of the federal regulation being adopted, the commissioner may now in turn adopt a regulation under section 5500.5 enabling domestic associations to make similar loans. We conclude that the commissioner may not adopt such a regulation.

We turn first to the statutes involved. Section 5250 charges the commissioner with:

> ". . . the administration and enforcement of [division 2 of the Fin. Code, §§ 5000–11999, i.e., the Savings and Loan Association Law (*Id*., § 5000)) *and of all other laws relating to or affecting* the incorporation, organization, business, operation, merger, consolidation, dissolution, or liquidation *of associations subject to the provisions of [that law]*. The commissioner has and may exercise all of the powers necessary or convenient for such purposes. (Emphasis added.)

Her general rulemaking authority is found at section 5255 which provides:

> "The commissioner may promulgate, amend, supplement, and revoke in whole or in part, rules and regulations *not inconsistent with the provisions of* [the Savings and Loan Association Law] *or other laws of this State*, governing procedure before the commissioner and *the exercise by the commissioner of the powers, discretions, rights, and privileges vested in him under* this division." (Stats. 1951, ch. 364, p. 982, § 5255, operative Sept. 9. 1953.) (Emphases added.)

Section 5500.5, the kernel of this opinion, grants the commissioner power to adopt the "parity" regulations to which we alluded prefatorily. It reads as follows:

> "Whenever by statute or regulation there is extended to federal institutions doing business in this state whose accounts are insured by the Federal Savings and Loan Insurance Corporation or its successor any right, power, privilege, or duty not authorized *herein* to domestic associations, the commissioner may by regulation extend to domestic association such right, power, privilege, or duty. Any such regulation shall expire on January 1 of

the second succeeding year following the end of the calendar year in which such regulation was promulgated."

As has been noted, while the commissioner has adopted 'parity" regulations pursuant to the authority granted in section 5500.5 (and § 5200), they have been directed at removing limitations on domestic associations preventing that parity (a) that were contained in the Financial Code's Savings and Loan Association Law itself and (b) that we understand antedated the vesting authority in the commissioner to adopt "parity regulations" by section 5500.5. The situation with which we are faced, however, has a different scenario: not only is the limitation preventing parity found in another code, but its creation by the Legislature took place at a later time than their adoption of section 5500.5. We believe these differences are significantly determinative.

The Savings and Loan Association Law (div. 2, pt. 1, § 5000 *et seq*.) derived from various prior laws, was passed by the Legislature in 1951 and became effective on September 9, 1953. (Stats. 1951, ch. 364, p. 977, § 5024.) When originally enacted it established the office of the commissioner (§ 5200) with the powers of its administration and enforcement as quoted above. (See § 5250, *supra*.) As originally enacted it also contained limitations on the rights, powers and privileges of savings and loan associations including their loan-making abilities, which have been revised from time to time.

In 1970 section 5500.5 was enacted (Stats. 1970, ch. 1363, p. 2530, § 1) and was amended to its present form quoted above in 1975. (Stats. 1975, ch. 541, p. 1109, § 1.) The legislative mechanism established by that section permits the commissioner to adopt regulations *on a temporary basis* to extend to domestic associations rights, privileges, and powers which are extended to FSLIC institutions but are not extended to them "[t]herein." The practice has been for the Legislature to review any such regulations within what is now a two year limitation on their viability. In the case of some regulations the Legislature may have adopted them as statutes, with or without modification. (E.g., compare the 1980 revisions to § 7184 (Stats. 1980, ch. 660, p. 1840, § 7) apparently derived verbatim from 10 Cal. Admin. Code, § 235.24, filed Nov. 20, 1979, Reg. No. 79–47 with the 1980 amendment to § 7153.3 (Stats. 1980, ch. 729, p. 2177, § 1) modifying the section as previously amended (Stats. 1978, ch. 400, p. 1266, § 4) following 10 Cal. Admin. Code. § 235.22, filed March 20, 1978, in Reg. No. 78–12.) In either ease under the scenario created by section 5500.5, the Legislature has the last word on whether, or to what extent, parity should be extended.

Unlike prior situations, the obstacle to parity in our case is found in a code other than the Financial Code.[4] As alluded to above, it is the Civil Code sections limiting

[4] Limitations on the length (term) of a loan secured by improved real property found in section

the maximum variation in interest rate that will not permit the unlimited (or "no ceiling") percentage point variation contemplated for the federal ALM. Thus, section 1916.5 of the Civil Code provides in pertinent part as follows:

> "(a) *No increase in interest provided for in any provision for a variable interest race contained in a security document, or evidence of debt issued in connection therewith, shall be valid unless* such provision is set forth in such security document, and in any evidence of debt issued in connection therewith, and such document or documents contain the following provisions:
>
> "(1) A requirement that when an increase in the interest rate is required or permitted by a movement in a particular direction of a prescribed standard an identical decrease is required in the interest rate by a movement in the opposite direction of the prescribed standard.
>
> "(2) The rate of interest shall change not more often than once during any semiannual period, and at least six months shall elapse between any two such changes.
>
> "(3) *The change in the interest rate shall not exceed one-fourth of 1 percent in any semiannual period, and shall not result in a rate more than 2.5 percentage points greater than the rate for the first loan payment due after the closing of the loan.*
>
> "(4) The rate of interest shall not change during the first semiannual period.
>
> "(5) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge within 90 days of notification of any increase in the rate of interest.
>
> "(6) A statement attached to the security document and to any evidence of debt issued in connection therewith printed or written in a size equal to at least 10 point bold type, consisting of the following language:

7150 of the Financial Code was perceived as an obstacle to having a variable interest rate loan for residential real property, because of the amortization problem This was removed by the Legislature in 1978 when it amended the section to its present form. (Stats. 1978. ch. 731, p. 2286, § 1; see also 10 Cal. Admin. Code. § 240.3.)

"NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE:

"(b)(1) The provisions of this section shall be applicable only to a mortgage contract, deed of trust, real estate sales contract, or any note or negotiable instrument issued in connection therewith, when its purpose is to finance the purchase or construction of real property containing four or fewer residential units or on which four or fewer residential units are to be constructed.

"(2) This section shall not apply to unamortized construction loans with an original term of two years or less if the borrower does not intend to occupy one of the units as his residence.

"(c) *Regulations setting forth the prescribed standard upon which variations in the interest rate shall be based may be adopted by the Savings and Loan Commissioner with respect to savings and loan associations*, the Superintendent of Banks with respect to banks, and the Insurance Commissioner with respect to insurers.

"(d) As used in this section:

"(1) 'Bank' includes, but is not limited to, a national banking association.

"(2) 'Savings and loan association' includes, but is not limited to, a federal savings and loan association, as defined by Section 11000 of the Financial Code.[5]

". . . . . ." (Emphases added.)

The section was originally adopted in 1970 (Stats. 1970, ch. 1584, p. 3300, § 1); the 2.5 percentage point limitation however was added when the statute was amended in 1975. (Stats. 1975, ch. 338, p. 787, § 1.) Section 1916.6, adopted in 1977 (Stats. 1977, ch. 575, p. 1821, § 1) provides that loan documents may provide for five year hiatus between changes in their variable interest rates, and sets limitations on the variation,[6] thus:

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[5] We need not reach the issue of whether the state can permissibly apply the limitations set forth in section 1916.5 to federally chartered FSLIC institutions.

[6] Strictly speaking section 1916.6 does not contain a limitation on the maximum variation of interests *per se*. Section 1916.5 sets the maximum permissible variation at one-fourth of one

> "A security document, or evidence of debt issued in connection therewith, executed pursuant to Section 1916.5 may provide that the rate of interest shall not change until five years after execution of such document or documents, and not more frequently than every five years thereafter. In every security document, or evidence of debt issued in connection therewith, executed pursuant to this section all the provisions of Section 1916.5 shall be applicable, *except those provisions specifying the frequency of interest rate changes and limiting rate changes to one-fourth of 1 percent in any semiannual period*. For the purposes of this section 'five years' means each of the successive periods of five years commencing with the first day of the calendar month in which the instrument creating the obligation is dated."

As contemplated by Civil Code section 1915.5, subdivision (c), the commissioner has adopted regulations setting forth the *standards* upon which the variations in interest rates permitted by sections 1915.5 and 1915.6 may be *based*. (10 Cal. Admin. Code, ch. 2, subch. 18, §§ 240–240.6.) At present they also limit any overall variation to the 2.5 percentage point limitation set forth in those Civil Code sections. (*Id*., § 240.2, subd. (b)(1); *cf*. *id*., § 240.4.) In this refined vein the question becomes whether the commissioner may change these regulations or adopt new ones to permit a greater variation such as that contemplated for federal institutions' AML's, an undertaking which would, for the first time, have her venture outside the provisions of the Savings and Loan Association Law to modify those of another code impeding parity.[7]

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percent in any semiannual period not to result in a rate more than 2.5 percentage points greater than the rate for the first loan payment and section 1916.6 makes all the provisions of section 1915.5 applicable to five year hiatus' loans made under section 1916 6 except those provisions specifying the frequency of interest rate changes and limiting rate changes to one-fourth of I percent in any semiannual period." The 2 5 percentage point overall limitation on variation is not excepted from loans made under section 1916 6 and it therefore would apply to them. (*City* of *National City v. Fritz* (1949) 33 Cal. 2d 635, 636, *Mount Vernon Memorial Park v. Board of Funeral Directors and Embalmers* (1978) 79 Cal. App. 3d 874, 885, *Pacific Motor Transport Co. v. State Board of Equalization* (1972) 28 Cal. App. 3d 230, 235; 61 Ops. Cal. Atty. Gen. 335, 339 (1978); *Parkee Construction Co. v. California Coastal Com.* (1979) 95 Cal. App. 3d 471, 478; *Goins v. Board of Pension Commissioners* (1979) 96 Cal. App. 3d 1005, 1009.) The commissioner's regulations follow this construction. (10 C.A.C., § 2402. subd. (b)(1), *cf*. *id*, § 2404.)

[7] We note that at present the commissioner's regulations do not cover the statutory live percentage point limitation on changes in interest on renegotiations of RRM's found in Civil Code section 1916.8. (See fn. 3, *ante*) Our conclusion would also apply however to the question of whether the commissioner could adopt a regulation under section 5500.5 to permit domestic institutions to vary their RRM's by more than that live percentage point amount.

It cannot be gainsaid that any regulation adopted by the commissioner must come within the parameters of and be consistent with the terms of the enabling statute. (Gov. Code, § 11342.1; *Wildlife Alive v. Chickering* (1976) 18 Cal. 3d 190, 205; *Bonn v. California State University, Chico* (1979) 88 Cal. App. 3d 985, 990; *Addison v. Department of Motor Vehicles* (1977) 69 Cal. App. 3d 486, 493–494; *Verdugo Hills Hospital, Inc. v. Department of Health* (1979) 88 Cal. App. 3d 957, 962–963, 963, fn. 7.) As an administrative officer, she "'may not make a rule or regulation that alters or enlarges the terms of a legislative enactment,' (*Whitcomb Hotel, Inc. v. Cal. Emp. Com.* (1944) 24 Cal. 2d 753, 757; see also *Agricultural Labor Relations Bd. v. Superior Court* (1976) 16 Cal. 3d 392, 419–429; *Cooper v. Swoap* (1974) 11 Cal. 3d 856, 864.)" (63 Ops. Cal. Atty. Gen. 143, 145 (1980).)

The enabling statutes with which we are concerned appear to be in some conflict. On the one hand, section 5250 charges the commissioner "with the administration and enforcement of the Savings and Loan Association Law and *of all other laws relating to or affecting the . . . business [and] operation of [domestic] associations,"* and section 5255 provides that the rules and regulations governing the exercise by her of the powers, discretions, rights and privileges vested in her by the Savings and Loan Association Law be "*not inconsistent with the provisions of [that law] or other laws* of this state." (Compare § 215 vesting the Superintendent of Banks, the chief officer of the State Banking Department (§ 210) with the power to "issue such rules and regulations consistent with law as he may deem necessary . . . in executing the power, duties and responsibilities of the department.") This would seem to mean that not only would the commissioner be charged with the enforcement of the limitations found in Civil Code sections 1916.5–1916.9 and "other laws of this state" under section 5250, but also that any regulation adopted by her could not be inconsistent with them under section 5250.

On the other hand, section 5500.5 contemplates, and in practice has seen, the commissioner adopting regulations that are inconsistent with other provisions in the Savings and Loan Association Law, to wit, those which prove to be obstacles to domestic associations enjoying the rights, powers, privileges or duties extended to FSLIC institutions. Indeed, not only has the Legislature acquiesced in this practice (*cf. Coca-Cola Co. v. State Bd. of Equalization* (1945) 25 Cal. 2d 918, 922–923; *El Dorado Oil Works v. McColgan* (1950) 34 Cal. 2d 731, 739; *Horn v. Swoap* (1974) 41 Cal. App. 3d 375, 382), but it has also accorded the commissioner's adoption of regulations pursuant to section 5500.5 a special status by exempting it from many of the requirements contained in the Government Code for the adoption of regulations by administrative bodies. (Gov. Code, § 11346.1, subd. (a).) Again, however, we are told that those statutory obstacles antedate the grant to the commissioner of such authority by section 5500.5, and again, they appear in the Savings and Loan Association Law itself. These factors and a more careful analysis of section 5300.5 resolve any conflict that might first appear.

It is well settled that statutes are to be construed in context and harmonized wherever possible (*Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal. 3d 222, 230; *Select Base Materials v. Board of Equal.* (1959) 51 Cal. 2d 640, 645) whether they appear in the same code (*Ritter v. Technicolor Corp.* (1972) 27 Cal. App. 3d 152, 154) or different ones. (*Pesce v. Dept. Alcoholic Bev. Control* (1958) 51 Cal. 2d 310, 312; *Tripp v. Swoap* (1976) 17 Cal. 3d 671, 679; *Pacific Motor Transport Co. v. State Bd. of Equalization* (1972) 28 Cal. App. 3d 230, 235.) If possible then, we must construe out various statutory provisions so that they will harmonize rather than conflict. (*People v. Kuhn* (1963) 216 Cal. App. 2d 695, 698; *cf. California Mfrs. Ann. v. Public Utilities Com*. (1979) 24 Cal. 3d 836, 846; *Moyer v. Workmen's Comp. Appeals Bd*., *supra*.) A closer examination of section 5500.5 enables us to do so.

That section once again authorizes the commissioner to extend to domestic associations any right, power, privilege or duty not authorized herein to [them)" that has been extended to FSLIC institutions. The section itself thus contains a limitation on the commissioner's authority, since the right, power or privilege extended to domestic associations under it must be one that is "not authorized herein." Examining that phrase of limitation, we note preliminarily that the word 'herein" as used in legal phraseology is a locative adverb, the meaning of which is determined by the context of the statute in which it appears. (*In re Pearsons* (1893) 98 Cal. 603, 608; *Owen v. Off* (1951) 36 Cal. 2d 751, 754.) So used it may refer to the section, the chapter, or the entire enactment in which it is found. (*Owen v. Off, supra*, as pp. 754–755 (entire act); *cf. In re Pearsons*, *supra*, (entire document); see also *San Gabriel Co. W. Dist. v. Richardson* (1924) 68 Cal. App. 297, 299–301 (entire act) and other cases therein cited.) We are satisfied that in our case it refers to the entire enactment, i.e., to the entire Savings and Loan Association Law or division 2 of the Financial Code. Patently it cannot apply solely to section 5500.5 itself, for if ~r did "the language would be meaningless since no [restrictions on the powers of domestic associations] appear in that section." (*Owen v. Off supra*, at p. 754; *cf. San Gabriel Co. W. Dist. v. Richardson*, *supra*, at p. 301.) Given the context in which it is found, and given the noncontemporaneous enactment of section 5500.5 with the basic law itself, we believe the word "herein" was used as a substitute for the phrase "in this division" which appears elsewhere in the law. (E.g., §§ 5250, *supra*, 5255, *supra*, and 5500 ("Domestic associations may be incorporated with shares or stock or both and with all the rights, powers and privileges and subject to all the restrictions and liabilities set forth in this division").) (*Cf. Owen v. Off, supra*, 36 Cal. 2d at p. 754 (Corp. Code).) We therefore conclude that the intended application of the work "herein" in section 5500.5 was likewise to the entire *Savings and Loan Association Law*, i.e., to division 2 of the Financial Code. (*Cf. Owen v. Off*, *supra*; *San Gabriel Co. W. Dist. v. Richardson*, *supra*.)

Looking at section 5500.5 through this glass, its meaning becomes somewhat more clear. We view it to authorize the commissioner to extend rights to domestic

association which have been extended to FSLIC institutions, but which either have not been extended to them by the Savings and Loan Association Law or which the terms of *that law* prevent them from exercising. We do not perceive it as authorizing the commissioner to adopt regulations to remove obstacles which the provisions of *other laws* of this state that she is also charged with enforcing vis-a-vis domestic associations specifically and affirmatively place in the path of the enjoyment of parity. In this vein we observe again that the commissioner has never embarked on such an undertaking.

In the case before us, it is not the Savings and Loan Association Law which prevents domestic associations from making variable interest loans without a limitation on the maximum percentage point variation in their overall rate. Indeed that law permits variable rate loans to be made by domestic corporations. (§ 7150; *cf*. § 5500 in conjunction with Corp. Code, § 207(g) (corporate power to loan money)), but it is the Civil Code which limits the maximum overall variation in rate they may provide." (Civ. Code, §§ 1916.5, 1916.6.) We conclude that the limitations contained therein are beyond the commissioner's power to remove under section 5500.5.

Confirming our conclusion, we cannot but take note of the fact that the 2.5 percentage point limitation contained in the Civil Code sections was enacted at a time after the Legislature granted the commissioner authority to enact "parity regulations" and that we are told that the commissioner's efforts pursuant to that section 5500.5 authority hithertofore have always been directed at removing obstacles that preexisted that grant. While we will not extrapolate from such reticence at venturing further a contemporaneous administrative interpretation of the statute entitled to great weight (*Richfield Oil Corp. v. Crawford* (1952) 39 Cal. 2d 729, 736; *County of Los Angeles v. Frisbie* (1942) 19 Cal. 2d 634m, 643–644; *Yosemite Park & Curry Co. v. Dept. of Motor Vehicles* (1960) 177 Cal. App. 2d 448, 454) to bind the commissioner for all time, and while we will not slavishly follow the rule of statutory construction that states where two statutes conflict the later enacted one prevails especially where it is on a more specific subject as it is here (*Coker v. Superior Court* (1945) 70 Cal. App. 2d 199, 201; *cf. Davis v. Whidden* (1897) 117 Cal. 618, 622; *City of Petaluma v. Pac. Tel. & Tel. Co.* (1955)44 Cal. 2d 284, 288), still we cannot ignore the fact that under the statutory mechanism with which we deal it is the Legislature who is to have the last word on a matter and that on the matter of the maximum permissible variation for an overall interest rate in a variable rate loan, the Legislature has spoken. (*Cf*. the provenance of § 7155.3, *supra*, and see *Tripp v. Swoap* (1976) 17 Cal. 3d 671, 679; *Fuentes v. Workers' Comp. Appeals Bd.* (1976) 16 Cal. 3d 1, 7; *Lara v. Board of Supervisor*s (1976) 59 Cal. App. 3d 399, 408–409; *People v. Ashley* (1971) 17 Cal. App. 3d 1122, 1126.) It has specifically provided in Civil Code sections 1916.5 and 1916.6 that the maximum overall percentage point variation in such a loan shall be 2.5 percent. We do not believe that the Legislature intended for the commissioner to gainsay that determination. In this vein we observe that while the commissioner is given authority in

section 1916.5 to "set forth the standard upon which variations in the interest rate shall be based" (*id*., subd. (c)) that section does not grant her authority to prescribe a different maximum from that set forth therein. We also note that the Legislature's setting 2.5 percentage points as the maximum variation occurred five years after section 1916.5 was originally adopted.

Accordingly, we conclude that section 5500.5 does not authorize the Savings and Loan Commissioner to adopt a regulation extending to state-licensed savings and loan associations the power to make loans with an interest rate that increases over the life of the loan in excess of the increases authorized by Civil Code section 1916.5 *et seq*. even though federally-chartered savings and loan associations now have been granted that power.

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