OCC preemption regulations can also have an impact on whether state laws apply to state-chartered institutions. In the bank’s home state, the question requires analysis of the state’s parity law (a law that, in some areas, gives state-chartered banks parity with other banks).\footnote{250} If the bank is chartered in a different state, then federal law governing the out-of-state activities of state-chartered banks can extend preemption to those banks.\footnote{251} Courts have found that state laws prohibiting check cashing fees are preempted as to out-of-state branches of state-chartered banks.\footnote{252}

State laws should be applicable to non-bank entities that are not covered by bank preemption regulations,\footnote{253} such as convenience stores that own ATMs\footnote{254} or employers who pay with payroll cards.\footnote{255}

**Footnotes**


251 [239] *See* § 1.5.1\footnote{239}, *supra*.


254 [242] Non-bank ATM operators have to be sponsored into the debit card system by a financial institution, which could raise preemption questions. But even if an ATM operator were deemed to be an agent of a financial institution, agents are not generally entitled to preemption. *See* § 1.5.3\footnote{242}, *supra*. *See also* § 1.5.8\footnote{243}, *supra* (bank’s right to establish ATMs).

255 [243] *See* § 7.3.6\footnote{246}, *infra*.

**Source**: National Consumer Law Center, Consumer Banking and Payments Law [6th ed.], updated at www.nclc.org/library

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