Congress may preempt state regulation without itself prescribing a federal standard; it may deregulate a field and thus occupy it by opting for market regulation and precluding state or local regulation.[57]

Conflict Preemption. Several possible situations will lead to a holding that a state law is preempted as in conflict with federal law. First, it may be that the two laws, federal and state, will actually conflict. Thus, in *Rose v. Arkansas State Police*,[58] federal law provided for death benefits for state law enforcement officers "in addition to" any other compensation, while the state law required a reduction in state benefits by the amount received from other sources. The Court, in a brief, *per curiam* opinion, had no difficulty finding the state provision preempted.[59]

Second, conflict preemption may occur when it is practically impossible to comply with the terms of both laws. Thus, where a federal agency had authorized federal savings and loan associations to include "due-on-sale" clauses in their loan instruments and where the state had largely prevented inclusion of such clauses, while it was literally possible for lenders to comply with both rules, the federal rule being permissive, the state regulation prevented the exercise of the flexibility the federal agency had conferred and was preempted.[60]

More problematic are circumstances in which a party has an administrative avenue for seeking removal of impediments to dual

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[57] Transcontinental Gas Pipe Line Corp. v. Mississippi Oil & Gas Board, 474 U.S. 409 (1986); Puerto Rico Dept. of Consumer Affairs v. Isla Petroleum Corp., 485 U.S. 495 (1988).

[58] 479 U.S. 1 (1986).

[59] *See also* Lawrence County v. Lead-Deadwood School Dist., 469 U.S. 256 (1985) (state law requiring local governments to distribute federal payments in lieu of taxes in same manner as general state-tax revenues conflicts with federal law authorizing local governments to use the payments for any governmental purpose); Southland Corp. v. Keating, 465 U.S. 1 (1984) (state franchise law requiring judicial resolution of claims preempted by federal arbitration law precluding adjudication in state or federal courts of claims parties had contracted to submit to arbitration); Perry v. Thomas, 482 U.S. 483 (1987) (federal arbitration law preempts state law providing that court actions for collection of wages may be maintained without regard to agreements to arbitrate); Allied-Bruce Terminix Cos. v. Dobson, 513 U.S. 265 (1995) (federal arbitration law preempts state law invalidating predispute arbitration agreements that were not entered into in contemplation of substantial interstate activity); Doctor's Associates, Inc. v. Casarotto, 517 U.S. 681 (1996) (federal arbitration law preempts state statute that conditioned enforceability of arbitration clause on compliance with special notice requirement). *See also* Free v. Brand, 369 U.S. 663 (1962).

[60] Fidelity Fed. Savings & Loan Assn. v. de la Cuesta, 458 U.S. 141 (1982). *See also* Wos v. E.M.A., 568 U.S. ___, No. 12–98, slip op. (2013) (North Carolina statute allowing the state, in certain circumstances, to collect one-third of the amount of a tort settlement as reimbursement for state-paid medical expenses under Medicaid held to effectively conflict with anti-lien provisions of the federal Medicaid statute where settlement designated a lesser amount as medical expenses award).