

Congress Introduces Resolution to Rescind OCC's "Fake Lender" Rule, Which Protects Predatory Lenders' Evasions of State Interest Rate Limits

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325+ groups representing all 50 states and the District of Columbia called for Congress to support a resolution to overturn a rule that helps triple-digit interest rate loans evade state and voter-approved interest rate caps and spread across the country

WASHINGTON, D.C. – Advocates at the National Consumer Law Center today applauded Senator Chris Van Hollen (D-MD), Senator Sherrod Brown (D-OH), and Congressman Jesus "Chuy" García (D-IL-4) for their plans to introduce Congressional Review Act (CRA) resolutions to eliminate a Trump-era regulation that helps lenders charging 179% APR or more evade state- and voter-approved interest rate caps. The resolutions are expected to be introduced today in the Senate and tomorrow in the House of Representatives.

The rushed "fake lender" rule took effect in December and was issued by the Office of the Comptroller of the Currency (OCC). The rule protects "rent-a-bank" schemes whereby predatory lenders (the true lender) launder their loans through a few rogue banks (the fake lender), in order to claim that it is a "bank loan" exempt from state interest rate caps. The fake lender rule overrides 200 years worth of caselaw allowing courts to see through usury evasions to the truth, and replaces it with a pro-evasion rule that looks only at the fine print on the loan agreement.

Earlier this week, the National Consumer Law Center, on behalf of its low income clients, joined a broad coalition of more than 325 organizations representing all 50 states and the District of Columbia calling on Congress to overturn the "fake lender" rule, which threatens to "unleash predatory lending in all fifty states." According to national polling, two-thirds of voters (66%) are concerned about the ability of high-cost lenders to arrange loans through banks at rates higher than the state laws allowed.

"Banks have no business helping payday lenders and other predatory lenders evade state and voter approved rate caps, often on a bipartisan basis, like the one 83% of Nebraska voters approved in November 2020 to cap rates at 36%. We applaud Senator Van Hollen, Senator Brown and Representative Garcia for introducing resolutions to overturn the OCC's horrible fake lender rule," **said Lauren Saunders, associate director of the National Consumer Law Center.** "The OCC "fake lender" rule protects predatory lenders and guts the power that states have had since the time of the American Revolution to cap interest rates. It enables 179% loans that trap vulnerable consumers, especially low-income families and borrowers of color, into a devastating cycle of debt."

Predatory lenders charging 100% to 200% APR are *already starting to push* high-cost installment loans in states that do not allow those high rates. Other predatory lenders, including payday lenders, have pilot projects going with plans to expand to states that do not allow their high-cost loans. Currently, 45 states and the District of Columbia cap the interest rates on at least some loans,

depending on the size of the loan.

As was done more than a dozen times under President Trump, this Congress could use the Congressional Review Act (CRA) to rescind recently finalized regulations, including the OCC's "fake lender" rule, with just a majority vote in both chambers, limited debate, no filibuster, and the president's signature. But a CRA resolution must be enacted within a limited time, currently estimated between May 10 and May 21.

The coalition of signatories to the letter currently consists of 338 groups and growing, including civil rights, community, consumer, faith, housing, labor, legal services, senior rights, small business, student lending, and veterans organizations representing all 50 states and the District of Columbia.

A 2-pager explanation of the "fake lender" rule is [here](#), and a brief explaining how these predatory lenders target veterans is [here](#), and a "watch list" of predatory lenders evading state interest rate limits is [here](#).