

National Consumer Law Center Advocates Praise U.S. House Vote to Repeal National Banking Regulator's Predatory Lending Rule

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OCC Rule Protects High-Cost Lenders that use Rent-a-Bank Schemes to Evade State Interest Rate Laws

Washington, D.C. – Advocates at the National Consumer Law Center applaud the U.S. House vote to overturn the OCC's "fake lender" rule, which allows predatory lenders to evade state interest rate laws by putting a federally-chartered bank's name on the paperwork. The House vote was 218-208 with one Republican, Rep. Grothman (R-WI), joining all Democrats to overturn the rule. H.J. Res. 35, a resolution under the Congressional Review Act (CRA), was introduced by Rep. "Chuy" García (D-IL). The U.S. Senate passed a parallel resolution, S.J. Res. 15, on May 11. The resolution now needs only President Biden's signature, which is expected.

Advocates applauded the vote to repeal the fake lender rule, which protects predatory rent-a-bank schemes that harm small businesses, veterans, and consumers across the nation and undermines the power of states to enforce their interest rate laws and to stop predatory lending. Currently, 45 states have interest rate caps on installment loans, depending on the size of the loan. For a \$2,000, two-year loan, 42 states and the District of Columbia limit rates, at a median APR rate of 32%. However, banks are largely exempt from state rate caps, and predatory lenders have been laundering their loans through a few rogue banks in order to evade state law.

"Congress's vote to repeal the OCC fake lender rule is critical because predatory rent-a-bank schemes are destroying small businesses, homes, and lives," **said National Consumer Law Center Associate Director Lauren Saunders.** "We urge President Biden to swiftly sign the resolution."

But **Saunders warned** that more action was needed to stop predatory rent-a-bank lenders from evading state interest rate laws. "The OCC and especially the FDIC must crack down on the banks that are helping predatory lenders evade state laws so that they can charge rates up to 200% APR. Congress also must pass a national 36% interest rate limit that covers all lenders, including banks, so that rent-a-bank schemes cannot be used by high-cost lenders to evade state laws."

Predatory small business lenders are currently using the fake lender rule to defend a 268% APR rate on loans totaling \$67,000 to a restaurant owner in New York, where the criminal usury rate is 25%, secured by property in New Jersey, where the legal limit is 30%. OppLoans (aka OppFi), an online lender offering 160% APR loans in 26 states that prohibit triple-digit rate loans, cited the OCC's fake lender rule in defense of its loan to a disabled veteran in California, where the legal rate on the loan is 24%. OppLoans is evading state rate cap laws supported by broad majorities of voters in Arizona, Montana, Nebraska, and South Dakota; and also laws approved by legislatures in Maine, Ohio, and other states.

A broad, bipartisan cross-section of experts, officials, and community groups across the nation called on Congress to repeal the fake lender rule. They included more than 400 community organizations

from all 50 states, including faith, civil rights, consumer, small business, and disability rights groups; and a bipartisan group of 25 state attorneys general concerned about rent-a-bank lenders that are evading their state usury laws. The Conference of State Bank Supervisors, National Association of Consumer Credit Administrators, National Association of Federally Insured Credit Unions, and many other groups also supported Congress overturning the fake rule.

Resource: Predatory Rent-a-Bank Watch List with maps showing the states in which predatory lenders are evading state interest rate caps.