15th Annual High Cost Lending Summit
Lobby Day 2018

Protect Borrowers: Support a 36% Interest Rate Cap

36% Interest Rate Cap: The History

For thousands of years, the world's major religions and most civilizations relied upon prohibitions of usurious lending to protect the impoverished. In the late 19th and early 20th centuries, a black market for illegal usurious small loans, run by loan sharks, was thriving. The idea behind the 36% interest rate cap was to create an exception to the lower general usury statutes so that legitimate lenders would have the incentive to enter the small dollar loan market with loans that would be both profitable and repayable. From 1914 to 1943, 34 states adopted a version of the Uniform Small Loan Law which capped interest rate varied from 3% to 3.5% per month (36% to 42% per year). During the 1970s & 80s, a wave of deregulation removed virtually all state usury caps, opening the door to predatory payday lenders to spread across the country. Policymakers are reconsidering interest rate deregulation in light of the devastating impact that 300% APR or higher loans have had on struggling families and now 16 states and the District of Columbia have interest rate caps of 36% or less, many of them through state ballot initiatives. A super majority of Americans, both Democrats and Republicans, support traditional interest rate caps. For example, 76% of South Dakotans voted for a 36% APR cap ballot initiative in 2016, and 77% Coloradans similarly voted for a 36% APR cap in 2018.

36% Interest Rate Cap: The Basics

The 36% rate is not just an arbitrary number. It has gained wide acceptance because:

- The 36% rate has a long and well-recognized history in America dating back over a century.
- The 36% rate has been reaffirmed repeatedly at the state and federal level in recent years, including through the passage and strengthening of the Military Lending Act and research at the state level.
- The 36% rate for small loans results in payments that consumers have a decent chance of being able to repay while still meeting their other expenses.
- A 36% rate gives lenders an incentive to offer longer term loans with a more affordable structure and to avoid making loans that borrowers cannot afford to repay.

Beyond its history and wide acceptance, the 36% rate cap also works on a practical level for small loans. For a loan of the typical size and duration of a payday loan, a 36% rate results in payments that payday borrowers are more likely to be able to make while actually paying off the loan. A 36% rate also ensures lenders have the incentive to offer longer term loans with a more affordable structure and to more carefully consider ability to pay to avoid write offs.

<u>36% Interest Rate Cap: Why We Need It</u>

A recent CFPB study found that 80% of payday loans are simply refinancing a previous payday loan. Payday loans are not short term debts because borrowers become trapped and can only afford to make payments covering interest. On average, payday loan borrowers re borrow over eight times per year. Studies have shown that payday loans increase the risk of crime, sickness, and bank account closure.

As the evils of deregulation of unbridled interest rates have become more and more clear, the 36% rate has gained renewed currency. The challenge is to find an alternative rate for small loans that permits reasonably priced loans to be made to borrowers who can afford to repay them and to prohibit destructive loans to borrowers who cannot. Congress, three federal agencies, and seventeen states have adopted rates of 36% or less as the benchmark for affordable small loans. A super majority of Americans support traditional usury law because of its historical pedigree and because it results in payments for small loans that borrowers are more likely to be able to afford.

<u>How You Can Support a 36% Interest Rate Cap</u>

Co-Sponsor a 36% Rate Cap Bill. Sign onto a bill enacting a national 36% APR interest rate cap for small dollar loans as the strongest protection against predatory lending. In the 115th Congress, these bills were led by Sen. Durbin and Rep. Cohen.

Oppose Legislation to Undermine State Rate Caps. Vote against legislation that would offer a “Madden fix” or a “True Lender,” as these policies would allow predatory lenders to partner with banks to circumvent the dozens of states with interest rate caps. Listen to your state’s banking regulator, as they have joined bipartisan opposition to these bills.

Publicly Support an Interest Rate Cap. Floor speeches, Facebook Lives, and Op-Eds are all useful tools for bolstering public support for a national 36% APR interest rate cap for small dollar loans, all of which help advocacy groups amplify your message over social media and throughout our networks.