



## **FAQs: Defend and Strengthen Interest Rate Limits and Transparency**

*General questions about predatory bank lending and evasions of state interest rate limits.*

### **Why are banks exempt from most state interest rate laws?**

- Federal law generally allows banks to charge any rate permitted in their home state and to ignore the interest rate laws of other states. As a result, banks have located their headquarters in states that do not have interest rate limits. Many states have exempted banks from rate caps in order to keep their banks.
- The federal laws are the National Bank Act, which governs national banks, and the Depository Institutions Deregulation and Monetary Control Act (DIDMCA), which governs state-chartered banks, though states can opt out of DIDMCA.

### **What does the term “rent-a-bank” mean, and how does it enable predatory lending?**

- Nonbank lenders are required to comply with state interest rate limits, but most banks are not.
- Predatory nonbank lenders launder their loans through a bank in a rent-a-bank scheme to try to disguise their loans as bank loans, even though the nonbank lender operates the loan program and reaps the vast majority of the profits.
- Rent-a-bank lenders then ignore state interest rate limits and charge rates of 100% to 200% APR or higher, even in states that prohibit those rates.

*For questions on defending states’ rights to require out-of-state, state-chartered banks to comply with their interest rate laws (**S3889 and HR7866 - oppose**) and ending all bank exemptions to state interest rate laws (**S3721 - support**)*

### **How are out-of-state, state-chartered banks enabling predatory lending, and what can states do about it?**

- Federal law allows out-of-state, state-chartered banks to charge any rate allowed in their home state and to ignore the laws of other states. But that law allows states to “opt out” and reassert their interest rate limits.
- States have begun to exercise that right because predatory lenders are laundering their loans through rogue banks in states like Utah that do not cap interest rates, so that they can charge 100% to 200% APR.

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- Sen. Moreno's and Rep. Davidon's bills would eliminate this opt-out right and deprive states of the ability to prevent predatory lending by opting out.

### **Are national banks involved in predatory lending?**

- For the past two decades, most national banks have not made loans over 36% and have not rented their charters to predatory lenders.
- But two predatory lenders, OppFi and Enova (CashNetUSA and NetCredit), have applied to become national banks. If granted, they would likely make 100% to 160% loans themselves and also appear poised to help nonbank predatory lenders evade state rate caps through rent-a-bank lending.

### **How would S. 3721 stop predatory bank lending and evasions by nonbank lenders?**

- The bill would require all banks, national and state-chartered, to comply with state interest rate laws in the consumer's state.
- The 45 states that have laws that cap interest rates for at least some types of loans could apply their laws and could stop nonbanks from evading the laws through rent-a-bank schemes.

### **Wouldn't it create a complicated system to require banks to comply with 50 states' interest rate laws?**

- In the absence of interest rate limits at the federal level, states have a critical role to play in protecting people from unaffordable and predatory interest rates.
- Many nonbank lenders make loans across the country following state laws, and banks can do so as well.
- Especially in this era of artificial intelligence and computers, banks can easily accommodate different limits in different states.
  - In addition, if banks keep their rates at reasonable levels, they will not have trouble complying with most states' laws.

*For questions about the Predatory Lending Elimination Act and 36 percent rate caps: (S3793 - support)*

### **Isn't 36% a high interest rate?**

- Yes, 36% is very expensive. Surveys have found that many people think 36% is too high, and prefer rate caps that are even lower.
- However, a 36% rate cap is high enough to permit very broad access to credit yet low enough to eliminate ultra-high-cost predatory lending. Payday and high-cost installment lenders consistently stop doing business in states that pass 36% rate caps.

### **Would it cut off access to responsible credit if interest rates are capped at 36%?**

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- No. 36% is the widely accepted dividing line between responsible credit and unaffordable credit that leads people into a debt trap.
- A 36% rate is a very high rate, and loans above that rate are highly likely to be predatory, unaffordable credit, with payments going mostly to interest, not constructive credit.

**How does the Predatory Lending Elimination Act follow on the success of the Military Lending Act?**

- The MLA was passed in 2007 to address payday lenders who were harming the financial health of servicemembers and their dependents. It capped interest rates at 36%, including fees.
- The MLA was successful in saving servicemembers and their families from debt trap payday loans and other forms of predatory lending, while still allowing them to access affordable forms of credit. The Predatory Lending Elimination Act would extend the MLA's 36% rate cap to veterans and all consumers.