

The Return of Rent-a-Bank Lending is the Most Serious Threat in 20 Years to States' Ability to Protect Their Residents From Predatory Lending

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Arizonans Oppose OCC and FDIC Proposals that Would Bypass State Usury Laws to Allow High-Cost Predatory Loans

Tucson, AZ – The Center for Economic Integrity (CEI) and community groups filed a strong message to the Office of Comptroller of the Currency (OCC) opposing yet another proposed rule that would encourage rent-a-bank schemes that enable loans at triple-digit rates [1].

The OCC proposes to define the “true lender” for loans made by nonbank entities laundered through a few rogue banks on the shakiest of grounds [2]. As long as the bank’s name is on the loan agreement or the bank funds the loans, the OCC would deem the bank to be the “true lender” and free from state usury laws, regardless of which entity has the predominant economic interest in the loan. **Adopting this rule will throw the doors open to rent-a-bank lending in Arizona at interest rates that far exceed our Consumer Lender law usury cap.**

This proposed rule is the latest in a deregulatory deluge that threatens to nullify state usury laws. In January, CEI and Arizona PIRG joined comments to the OCC opposing a similar proposed rule [3]. And in February, CEI and community groups filed analogous comments on the FDIC’s “federal interest rate authority” proposal. [4] “*CEI strongly opposes any action by unelected federal bank regulators to nullify our state laws,*” says Kelly Griffith, the Executive Director of the Center for Economic Integrity.

Arizona voters rejected triple-digit rate payday lending when we voted no on Prop 200 in 2008 by a 60 to 40% margin, leading to the 2010 sunset of Arizona’s ten-year experiment with predatory payday lending. Payday lenders as well as lenders offering installment loans or lines of credit are all subject to the Consumer Lender law that caps rates for loans up to \$3,000 at 36% annual interest and for loans over \$3,000 to \$10,00 capped at 24% annual interest. Lenders can add a 5 percent administrative fee, making the usury cap in Arizona higher than the national average. While car title lenders are permitted to make vehicle-secured loans at rates higher than the Consumer Lender usury cap, Arizona law does provide an outside limit on the cost of these loans. We continue to advocate repeal of the title loan exemption for Arizona’s usury law.

Arizona is already bombarded with five rent-a-bank online lenders that extend credit here without obtaining a Consumer Lender license and at rates that far exceed our rate caps. For example, OppLoans.com uses FinWise Bank in Utah to make \$500 to \$4,000 loans for terms of 9 to 18 months at 160%APR [5]. Personify Financial uses First Electronic Bank, an industrial bank in Utah, to make installment loans at up to 179.99% APR. A \$2,500 36-month installment loan at 176.84% APR and a \$125 fee costs \$10,586.36 finance charge for a total payment of \$13,086.36, according to the loan website [6]. Verge Credit uses Stride Bank, NA in Utah to make loans of \$500 to \$5,000 for 6 to 60 months at 37% to 179% APR interest. None of these nonbank lenders are licensed as Consumer Lenders in Arizona.

The OCC's proposed "true lender" rule would throw open the doors to this type of rate-gouging predatory lending. Lenders would either rent a bank to launder their loans or go to the legislature to demand relief from our usury law and other credit protections to compete. Arizonans oppose exorbitant interest on consumer loans as well as tactics used to evade rate caps. A recent poll found that 70% of Arizona voters support a 36% interest cap on payday loans. Almost as many voters (65%) are concerned about rate cap evasion, such as rent-a-bank lending. [7]

Enabling predatory lending while Arizona families are especially hard hit by the Covid-19 pandemic, high unemployment, and family hardships is especially harmful.

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- [1] [CEI Comments on OCC Proposal](#) "National Banks and Federal Savings Associations as Lenders" and [Arizona coalition letter](#) on (same) OCC Proposal
- [2] [OCC Docket ID: OCC-2020-0026](#) "National Banks and Federal Savings Associations as Lenders"
- [3] [Comments on OCC Notice of Proposed Rulemaking, Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred, 12 CFR Part 7 and Part 160, Docket ID OCC-2019-0027, RIN 1557-AE73](#)
- [4] [Comments on FDIC Notice of Proposed Rulemaking, Federal Interest Rate Authority, 12 CFR Part 331, RIN-3064-AF21](#)
- [5] <https://www.opploans.com/rates-and-terms/#arizona> viewed 8/13/2020
- [6] <https://www.personifyfinancial.com/rates-terms-and-licensing-information> viewed 8/18/2020
- [7] ["ARIZONA VOTERS OVERWHELMINGLY SUPPORT 36% RATE CAP"](#), Center for Responsible Lending & Center for Economic Integrity, February, 2020