



Short-Term Consumer Loans: History and Trends

Chris Coughlin, Policy Director
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Legislative History

Oregon's Consumer Loan Interest Rate Caps



Oregon Consumer Justice

HB 2871 (2007)

- For consumer loans under \$50,000
- Eliminated consumer finance licensing exemption for financial institutions, including out-of-state, state-chartered banks
- Created 36% interest rate cap
- Created exemption from ORS 82.010(s) thereby allowing more than 12 percent interest
- Carried in the House by then Speaker Merkley and in the Senate by Senator Prozanski



“intended to apply to businesses looking for loopholes to continue charging extraordinary interest rates on small loans”

Floor statement by Senator Prozanski 2007



Consumer Finance Interest Rate Limitations

ORS 725.340(1) limits to greater of 36% or 30 percentage points above the discount window primary credit rate.

ORS 82.010(3) prohibits more than 12%, or 5% above the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district where the person making the loan is located unless ORS 82.025 applies.

ORS 82.025(1) exempts national banks, out-of-state, state-chartered banks, and consumer finance licensees from the 12-percent cap contained in ORS 82.010(3).





SHORT-TERM CONSUMER LOANS: HISTORY AND TRENDS

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Center for Responsible Lending

September 23, 2024

HOW LENDERS EVADE OREGON RATE CAP

Small number of state banks have business model of issuing high APR loans across country

As a result of federal preemption and choice of certain states not to have rate caps, no interest rate limit applies to many state chartered banks

Banks partner with “fintech” online lenders to offer loans throughout country

These lenders offer loans at APRs FAR in excess of Oregon’s interest rate cap

RENT-A-BANK SCHEME

1 High-cost lender
advertises loan in its
own name to borrower.



2 High-cost lender takes
loan application from
borrower.



3 High-cost lender arranges
for bank to put their name
on the loan to avoid state
lending laws.



4 Money is sent
to borrower.



5 Consumer interacts
with and repays the
high-cost lender, and
the loan is serviced by
the high-cost lender.

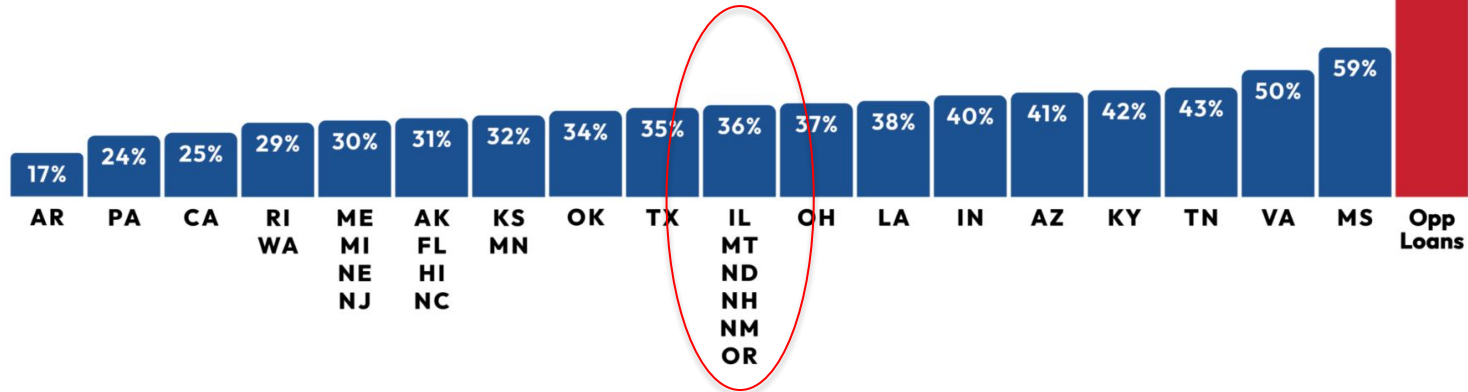


AN EXAMPLE

OppLoans (aka OppFi) uses FinWise Bank, Capital Community Bank, and First Electronic Bank, chartered in Utah, to make installment loans of \$500 to \$4,000 at **160% APR** in a number of states that do not allow that rate.

OppLoans Rent-a-Bank Loans = **160% APR**

OppLoans (aka OppFi) ignores state interest rate caps in 33 states
(State rate caps shown are for a \$2,000, 2-year loan)



EXAMPLE OPPFI LOAN

OppLoans Sample Loan Document

Loan terms for OppFi's product, OppLoans, can be found in the promissory note created at the initiation of a loan. Below are portions of the first and second pages of a sample promissory note from OppFi in 2022.¹

The original amount financed is \$1,700, with an Annual Percentage Rate (APR) of approximately 160%. The finance charge is about \$2,821, for a total repayment amount of \$4,521, assuming there are no late fees or additional charges.

OppFi partners with Finwise Bank, a bank chartered in Utah, to provide the loan. In many states with rate caps on personal loans, this partnership would allow OppFi to evade state interest rate limits.

Loan Effective Date 09/20/2022

Loan # [REDACTED]
Customer # [REDACTED]

LENDER: FinWise Bank		ADDRESS: C/O Opportunity Financial, LLC 130 E Randolph St, Suite 3400		CITY Chicago	STATE IL	ZIP CODE 60601	PHONE (800) 990-0130
BORROWER: [REDACTED]	MAIN PHONE: [REDACTED]		WORK PHONE		MOBILE PHONE: [REDACTED]		
ADDRESS: [REDACTED]			CITY: [REDACTED]	STATE: [REDACTED]	ZIP CODE: [REDACTED]		

FEDERAL TRUTH IN LENDING DISCLOSURE STATEMENT

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	AMOUNT FINANCED	TOTAL OF PAYMENTS
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.
159.56%	\$2,821.60	\$1,700.00	\$4,521.60

Source: CRL,

<https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-burned-borrowers-oppfi-7apr2023.pdf>

Impact on Consumers

How Short-Term Loans Impact Oregonians



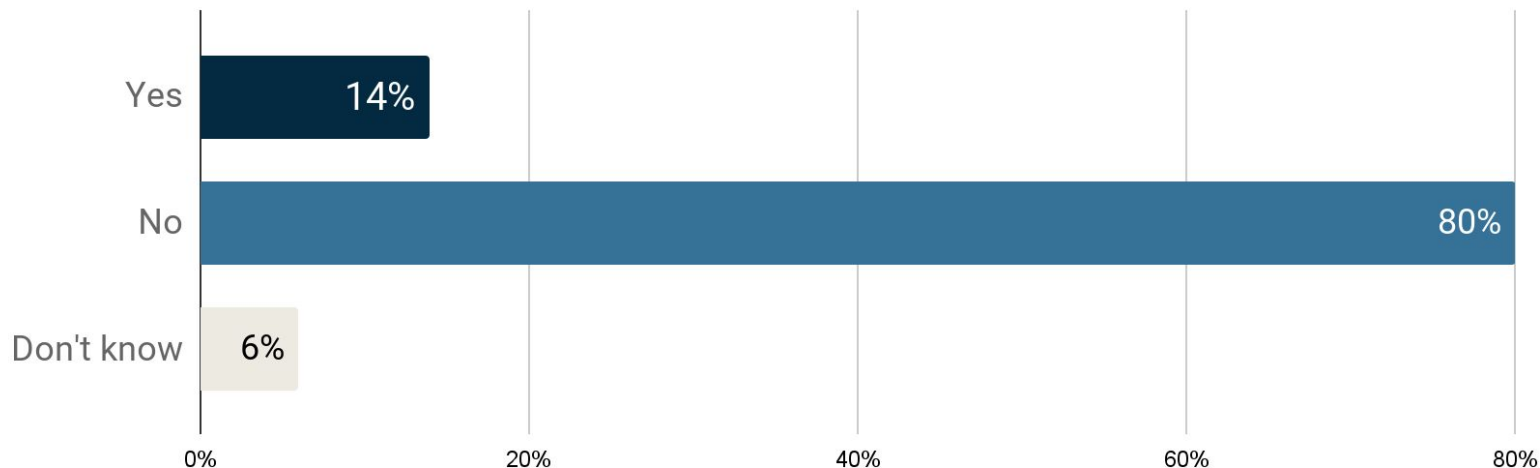
Oregon Consumer Justice

Rent-a-Bank in Oregon

- NCLC Rent-a-Bank Watch List
 - Check 'n Go: up to 225%
 - Loan Mart: 170%
 - OppLoans: 160%
 - Elevate's Rise: 99%–149%
 - Enova's NetCredit: 100%



While Living in Oregon, Have You Ever Used High-Interest Installment Loans or Lines of Credit?



Source: OVBC survey conducted April 29 – May 20, 2024, among Oregon adults (representative sample, $N = 1,589$) (Q24 March–May 2024)



CONSUMER HARM

Complaint Number	Date Submitted	State	Complaint Narrative
59935680	9/19/2022	NC	<i>I took out a loan XX/XX/XXXX for (\$2700.00). I did not realize the interest rate was 160 % interest. I have made a (\$230.00) every two weeks since XX/XX/XXXX (6 payments) which total (\$1100.00) and ONLY (\$160.00) of that (\$1100.00) has gone towards the principal amount of (\$2700.00). After 6 payments ((\$1100.00) total), I still have a pay off balance of (\$2500.00)! Please help me!! This is criminal according to the XXXX XXXX Laws with a 36 % max interest rate of personal contracted loans under (\$5000.00).</i>
6072744 ²	10/11/2022	MO	<i>I have disputed this debt with your company several times because you are charging me an interest rate of 158.82 % far exceeding the permissible interest allowed in Missouri.... Your negligence is ruining my credit rating and I request this be removed from my account since you violated your own arbitration agreement.</i>
5040230	12/25/2021	FL	<i>On XX/XX/2021, I entered into a contract with OppLoans for a (\$1700.00) loan. I was not aware of the 159.49 % APR until after I had received the paperwork and deposit. I didnt see it. See attached. I am happy to pay the (\$1700.00) that they sent me but I will not send that money in interest. They have scammed me and not told me everything up front.</i>
3575692	3/22/2020	AZ	<i>I applied for a loan with XXXX who denied me then referred me to XXXX who took all info my then OppLoan popped up saying congratulations with the most outrageous option for a XXXX loan ever. The option was XXXX a month for 3 years at 160 % interest which would result in me paying that company back XXXX for a XXXX loan! I am sending screen shots of this. I did not complete the app because that is extreme predatory lending!</i>

Individual enforcement actions, while welcome, are time consuming and costly

Congress expressly permits states to opt out of interest rate exportation by state banks

12 U.S.C. §1831(d) (note): states can opt out by “adopt[ing] a law . . . which states explicitly and by its terms that such State does not want this section to apply with respect to loans made in such State”

Iowa and Puerto Rico have long been opted out, Colorado opted out in 2023

Colorado opt out is tied up in litigation, but the FDIC agrees with Colorado



Thank you! Questions?

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