HB 4116 Outstanding Questions

1. *Can you provide more detail/ information explaining the numbers on the impact of these type of loans in Oregon?*

As noted in our testimony, we have specific evidence of over 31,000 loans made to Oregon borrowers with interest rates exceeding the cap, for a total of at least $61 million. This information is derived from our routine examinations of licensed consumer finance lenders in Oregon. Based on the timing of our schedule of routine exams, it is likely that the true totals are higher.

For the consumer finance lending market as a whole, including the vast majority of loans that comply with the cap, our most recent numbers are for 2024, when there were a total of 1,806,090 loans brokered or facilitated, for a total of $1,617,165,891.20. This marketwide information is available via our website.

2. *Do you have any information on the cost of these loans in Oregon with the 36% rate plus fees?*

Any fees charged for consumer finance loans are considered as applying toward the cap because it is calculated on an annual percentage rate (APR) basis. Some consumer finance loans may include origination fees, but the fees would need to be offset by reductions in the rate. In other words, if an origination fee was charged, the cap for that loan would be commensurately lower than 36%.

It is important to note that this is not true for payday or title loans, where caps on fees and interest rates are considered separately and the 36% interest rate cap is not expressed as an APR. Information about caps applicable to those products can be found on our website.

3. *Status of the litigation in Colorado?*

In November, a 3-judge panel of the 10th Circuit ruled in favor of Colorado. The industry litigants have requested that the full 10th Circuit hear the case *en banc*. Until the petition is decided, the trial court's injunction preventing enforcement of Colorado's opt-out statute remains in effect. The most recent development we're aware of is that on January 21, 2026, Colorado filed its response opposing a petition for rehearing *en banc*.

It is important to note that the 10th Circuit's decision is not binding precedent for Oregon regardless of the outcome, since Oregon sits in the 9th Circuit.

4. *Other products that are not impacted or are impacted by this measure?*

This measure applies solely to consumer finance loans made in excess of the state's 36% interest rate cap using DIDMCA's rate exportation authority for state-chartered banks. It will not have a significant impact on the vast majority of Oregon consumer

finance loans that are made in compliance with the cap, or on any other form of lending in the state, including but not limited to payday and title lending.

5. *How does this measure impact Oregon tribes?*

The measure does not affect Oregon tribes except inasmuch as tribal members may be protected from the consumer harms associated with high-interest lending practices. The measure does not affect tribal banks or tribal lending.

6. *Are the out of state banks that are providing high interest loans in Oregon operating legally?*

Whether is it legal under current law to issue high-interest loans via a rent-a-bank arrangement between a fintech licensee and an out-of-state state-chartered bank is a case-specific, fact-dependent determination. Fintech consumer finance licensees would clearly be violating the law if they issued these loans itself. However, the licensee typically argues that the true lender is the state-chartered bank, which is permitted to export its home state interest rates under DIDMCA. Determining the true lender in these instances requires an investigation. If the true lender is the fintech partner, any loans in excess of the cap are illegal. DCBS is able to take action on a "true lender" basis under existing law, as we did in our recent enforcement action and consent order against Wheels Financial (DBA Loan Mart).

Opting out of DIDMCA would create a bright-line rule to clarify that this activity is illegal regardless of the specific arrangement between the parties, which we believe would greatly reduce this activity and better enable DCBS to enforce Oregon's interest rate cap to protect consumers.

7. *How many high interest loans occur every year in Oregon? Does Oregon know the interest rate for all loans? How many are below 36%, at 36%, and above 36%? If above 36%, do they know the rate and how many people have those types of loans?*

DCBS collects information about Oregon consumer finance loan interest rates as part of our routine compliance examinations of licensees. As noted in our testimony, we have specific evidence of over 31,000 loans made to Oregon borrowers with interest rates exceeding the cap, for a total of at least $61 million. Based on the timing of our schedule of routine exams, it is likely that the true totals are higher.

For the consumer finance lending market as a whole, including loans that comply with the cap (the vast majority), our most recent numbers are for 2024, when there were a total of 1,806,090 loans brokered or facilitated, for a total of $1,617,165,891.20. This marketwide information is available via our website.

We do not collect information about specific borrowers to the extent that we would be able to determine how many people have taken out these loans at different interest rates.

8. *Did the DOJ review the bill and do they see any legal challenges?*

We have discussed the bill extensively with DOJ. While we cannot speak for them, we are aware that they have supported Colorado's position in that state's litigation with an amicus brief and have been supportive of efforts to rein in predatory lending.

9. *When DIDMCA was enacted, seven states initially opted out, but all except Iowa and Puerto Rico later rescinded their opt-outs.*
    a. *What specific economic, consumer-credit, or banking impacts led those states to reverse course?*
    b. *Has DCBS reviewed or analyzed this history, and if so, how does Oregon's situation materially differ from those states' experiences?*
10. *During the House hearing, DCBS witnesses were asked to investigate why nearly all states that opted out of DIDMCA later opted back in.*
    a. *What did DCBS learn from that inquiry, and why should Oregon proceed differently given that history?*

Our understanding is that, of the states that initially opted out, two (Nebraska and Massachusetts) opted back in during the 1980s, and four (Colorado, Maine, North Carolina and Wisconsin) opted back in during the 1990s. It is difficult to find definitive evidence of legislative intent from decisions made decades in the past. It is likely that these decisions were related to the rationale behind the original DIDMCA law, i.e., enabling state-chartered banks to export home state interest rates in the same way as national banks.

However, it is critical to note that during the period states were opting back in, the vast majority of lending was done in specific geographical locations by local banks subject to the interest rate laws of their states for consumer credit, and therefore the need to address internet lenders was not an issue.

With the advent of the internet-based lending, and especially the rise of fintech partnerships with state-chartered banks, the situation of every state with an interest rate cap is materially different than it was in decades past. For this reason, many states in recent years have enacted, proposed or debated DIDMCA opt-out or related legislation, including (to our knowledge) Colorado, District of Columbia, Illinois, Maine, Minnesota and Rhode Island.

11. *Has DCBS conducted any substantive analysis quantifying harm to Oregon consumers from loans made under federal interest rate authority that this legislation seeks to address?*
    a. *If yes, who conducted the analysis, what data was used, and where is it publicly available?*

b. *If no, why is DCBS advancing a policy solution without first measuring the scope or severity of the problem?*

As noted in our testimony, we have specific evidence of over 31,000 loans made to Oregon borrowers with interest rates exceeding the cap, for a total of at least $61 million. This information is derived from our routine examinations of licensed consumer finance lenders in Oregon.

12. *Many borrowers using higher-cost loans do so because they present higher credit risk and cannot access lower-rate alternatives.*
    a. *What analysis has DCBS conducted on what happens to these consumers if this source of credit is eliminated?*
    b. *Where, specifically, does DCBS believe these consumers will obtain emergency credit?*

As noted in our testimony, we are not aware of any evidence that consumers are turning to rent-a-bank lenders due to being denied credit by lenders complying with the cap. We have received information from multiple licensed consumer finance lenders complying with the 36% cap indicating that they do not require a minimum credit score. There are a wide variety of options for Oregon borrowers presenting high credit risk that are compliant with Oregon law, including a long list of consumer finance lenders that do not rely on DIDMCA to charge rates in excess of the state's cap.

13. *Has DCBS studied the overall impact of a DIDMCA opt-out on credit availability in Oregon, including potential reductions in loan volume, changes in underwriting, or displacement into less regulated or non-bank alternatives?*

We are not aware of any evidence that DIDMCA opt-out will substantially affect credit availability or lead to displacement into other markets, for the reasons noted above. It is possible that opting out will result in the small number of consumer finance lenders engaged in rent-a-bank activity choosing to cease doing business in the state, but there is nothing preventing them from adjusting their business models to comply with state law.

14. *DCBS testified that determining the "true lender" in certain lending arrangements is complex and resource-intensive, yet Oregon does not currently have a true lender statute or rule.*
    a. *Why is a broad DIDMCA opt-out preferable to targeted legislation addressing true lender issues directly?*
    b. *What policy problem does the opt-out solve that a narrowly tailored true lender framework would not?*

To clarify the context of this question, DIDMCA interest rate exportation of other states' interest rates into Oregon is only permissible when the loan is issued by an out-of-state state-chartered bank. In recent years, out-of-state state-chartered banks have entered into partnerships with fintech companies, often referred to as "rent-a-bank"

arrangements, where the fintech partner facilitates high-interest loans that would be clearly unlawful if the fintech consumer finance licensee were acting on its own. The "true lender" test refers to a determination of whether these loans are truly being issued by the bank or the fintech licensee.

In our analysis, existing Oregon law enables DCBS to move forward with regulatory action against a fintech licensee on the basis of a true lender determination, and additional legislation in this area would be unnecessary and run the risk of unintended consequences. One demonstration of our ability to apply a true lender test under existing law is our recent enforcement action and consent order against Wheels Financial (DBA Loan Mart), where we were able to win a significant settlement for Oregon borrowers on the basis of a determination that Wheels was the true lender, not the state-chartered bank.

Although this was an important success story, the Wheels action took three years and significant agency resources, in part because determining which entity in a partnership arrangement is the true lender is a fact-dependent case-by-case determination. Rent-a-bank arrangements can be structured in a variety of different ways, so it is likely that future actions against fintech licensees would be similarly time-consuming and resource-intensive.

By contrast, opting out of DIDMCA would create a clear bright line rule prohibiting this activity. We expect this would make our compliance work dramatically simpler, better enabling DCBS to prevent consumer harm in advance and take expeditious action when needed to enforce the law.

15. *DCBS regulates Oregon state-chartered banks.*
    a. *How many Oregon-chartered banks currently make consumer loans under federal interest rate authority within Oregon?*
    b. *How many do so outside Oregon?*

From our extensive conversations with Oregon state-chartered banks, our understanding is that none of them make consumer finance loans in excess of the state's 36% interest rate cap in Oregon. We have not conducted a data call regarding activities outside of Oregon because our focus and jurisdiction is to Oregon consumers and the Oregon market.

16. *Has DCBS analyzed how a DIDMCA opt-out would affect the ability of Oregon-chartered banks to make, sell, or participate in loans across state lines?*

From our analysis of the Oregon Bank Act and our extensive conversations with Oregon state-chartered banks, we are unaware of any reason DIDMCA opt-out would affect the current or planned operations of these banks in Oregon or other states.

17. *Has DCBS conducted a fiscal or competitiveness impact analysis on Oregon-chartered banks, including effects on revenue, lending activity, or market share?*

a. *If no such analysis exists, why is DCBS asking the Legislature to proceed without understanding the impact on Oregon-based financial institutions and jobs?*

As noted above, we are unaware of any reason DIDMCA opt-out would affect the current or planned operations of these banks in Oregon or other states. This also extends to the financial condition of our state-chartered institutions, which DCBS monitors very closely.

18. *This legislation applies to Oregon state-chartered banks but not federally chartered banks, correct?*
    a. *How does DCBS justify placing state-chartered banks at a competitive disadvantage relative to federally chartered banks operating in Oregon?*

Oregon is federally pre-empted from applying state interest rate caps to national banks. As noted above, we are unaware of any reason DIDMCA opt-out would affect the current or planned operations of these banks in Oregon or other states, so we do not believe there is any reason to expect the opt-out to place state-chartered institutions at a disadvantage.

19. *The legislation also does not apply to Oregon state-chartered credit unions, correct?*
    a. *Who made the decision to exclude credit unions from the opt-out, given that DIDMCA contains separate opt-out authority for them?*
    b. *Was any data or analysis used to support that decision, and if so, why is it not part of the record?*

DCBS is unaware of any loans in excess of the 36% cap that have been made by out-of-state state-chartered credit unions or fintech partners operating on behalf of such entities. It is likely that we would have heard of such activity if it were occurring via the same channels we were made aware of high-interest loans being made through rent-a-bank arrangements in the state, i.e., consumer complaints and regular exams of consumer finance licensees.

The legislation is intended to be narrowly tailored to address the problem of high-interest lending as it is occurring on the ground in Oregon.

20. *Does DCBS agree that exempting credit unions while restricting state-chartered banks creates a lending advantage for credit unions and further disadvantages Oregon banks?*
    a. *If consumer protection is the stated goal, why should materially similar lenders be treated differently?*

As noted above, we are unaware of any way in which this legislation would disadvantage the actual or planned operations of Oregon state-chartered banks. From our extensive conversations with Oregon state-chartered credit unions, our

understanding is that none of them make consumer finance loans in excess of the state's 36% interest rate cap in Oregon.

21. *Colorado's recent DIDMCA opt-out is currently tied up in litigation and may ultimately be reviewed by the U.S. Supreme Court.*
    a. *Why should Oregon proceed before that legal uncertainty is resolved?*

The Colorado litigation is currently stayed pending possible *en banc* review in the 10th Circuit. It is important to note that the 10th Circuit's decision is not binding precedent for Oregon regardless of the outcome. The state of Oregon via the Attorney General's office has weighed in to support Colorado's position in an amicus brief and we believe the state's position is sound and will prevail. The desired level of legal certainty to advance policy is a decision for the legislature to make. However, given the significant and growing volume of high-interest lending activity that DIDMCA opt-out would prevent, further delay is likely to result in significant and ongoing consumer harm.

22. *Has the Department of Justice provided DCBS or the Legislature with an estimate of potential litigation costs associated with defending Oregon's DIDMCA opt-out, including appeals?*
    a. *If so, what is that estimate?*
    b. *If not, why has the Legislature not been provided that information before being asked to enact this policy?*

We cannot speak for the Department of Justice in this regard. However, it is very challenging to estimate the cost associated with potential future litigation because it is impossible to know in advance whether any lawsuits will be filed or how lengthy they may prove to be.

23. *How many high interest loans occur every year in Oregon? Does Oregon know the interest rate for all loans? How many are below 36%, at 36%, and above 36%? If above 36%, do they know the rate and how many people have those types of loans?*

DCBS collects information about Oregon consumer finance loan interest rates as part of our routine compliance examinations of licensees. As noted in our testimony, we have specific evidence of over 31,000 loans made to Oregon borrowers with interest rates exceeding the cap, for a total of at least $61 million. Based on the timing of our schedule of routine exams, it is likely that the true totals are higher.

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We do not collect information about specific borrowers to the extent that we would be able to determine how many people have taken out these loans at different interest rates.

24. *Which national banks are currently charging interest rates above 36%?*

DCBS does not regulate or collect information from national banks. HB 4116 is intended to address high-interest lending involving out-of-state state-chartered banks, and does not affect national banks. We are not aware of any high-interest consumer finance loans issued by national banks in Oregon.

25. *What percentage of high-interest loan borrowers repay the loan on time and do not return?*

DCBS does not collect this information.

26. *What percentage default on their loan or refinances to keep from defaulting?*

DCBS does not collect this information. However, our understanding is that it is not uncommon to see a high percentage of consumer finance loans (regardless of the interest rate) being refinanced for the purpose of receiving more cash out or lowering the payment. A refinance does not necessarily result in a lower rate.

27. *Do these high-interest loan companies sell or charge off delinquent debt to debt buyers, or do they use debt collection agencies?*

We cannot speak for these companies. However, we are unaware of any prohibition on them doing so.

28. *In testimony, it was mentioned that these companies only report when a person pays their loan to credit bureaus. Do any companies report when a loan goes into default?*

We cannot speak for these companies. However, we are unaware of any prohibition on them doing so.

29. *What is the average APR, loan size, and total cost to borrowers in Oregon on these high-interest loans? - How many borrowers refinanced?*

We do not have this information readily available on a marketwide basis, but one company that recently reported on this activity – with over 9,000 loans in excess of the cap – informed us that the average APR was 127%, the average loan amount was $2,533, and the average term was 851 days. For the average lender with this company, total interest payments would therefore be around $5,441. For a similar size and

duration of loan with a compliant 36% interest rate, total interest payments would be around $3,777.

We do not collect information about borrower refinancing; see 26 above.

30. *What percentage refinanced or reborrowed?*

We do not collect this information; see 26 above.

31. *In testimony, it is noted that Iowa is a credit desert, yet it currently has more licensed lenders and state-chartered banks than in Oregon. Do we have reports from Iowa's division of banking to respond to this? Can you explain what a credit desert refers to in this instance?*

DCBS cannot speak to this testimony, which was put forward by others.

32. *Please explain the two federal bills that were mentioned in the hearing, the Empowering State' Rights to Protect Consumers Act and the American Lending Act of 2026 including the current Congressional sponsors and the goals of the legislation. As a follow-up, please ask LC to explain what would happen if HB 4116 passes and either of these bills were enacted.*

The Empowering States' Rights To Protect Consumers Act of 2026 would give states the ability to regulate interest rates for all "consumer credit transactions" (except residential mortgages). Here are two links to the bill text and a relevant press release:

Text - S.3721 - 119th Congress (2025-2026): Empowering States' Rights To Protect Consumers Act of 2026 | Congress.gov | Library of Congress

Whitehouse, Warren, Merkley, Reed Introduce Bill to Empower States to Protect Americans from High Credit Card Interest Rates - Senator Sheldon Whitehouse

The American Lending Fairness Act of 2026 would narrow the scope of DIDMCA pre-emption so that the effect of a state's opt-out would only apply to the interest rates charged by state-chartered banks or credit unions in that state. Here are two links to the bill text and a relevant press release:

https://www.moreno.senate.gov/wp-content/uploads/2026/02/SenMoreno_American-Lending-Fairness-Act-of-2026.pdf

AFC Letter in Support of the American Lending Fairness Act of 2026

We cannot speak for Legislative Counsel, but the Empowering States' Rights To Protect Consumers Act would appear to have no specific impact on implementation of HB 4116. The American Lending Fairness Act explicitly repeals the broader opt-out provisions HB 4116 is relying on, and includes retroactivity language, so it would likely prevent HB

4116 from having its intended effect to prohibit high-interest loans made through rent-a-bank arrangements with out-of-state, state-chartered banks.

33. *The Division of Financial Regulation testified that within Oregon's 190 licensed lenders, some are not examining credit scores and are not aware of any of these lenders turning away consumers because of their credit scores. What evidence is there that borrowers with low credit scores are currently unable to obtain credit under Oregon's existing framework?*

We are unaware of any such evidence.

34. *If loans above 36% APR are necessary to serve low-credit borrowers, can you point to evidence that borrowers who take these loans are better off six months later?*

We are unaware of any such evidence and we do not collect information that would enable us to determine whether borrowers are better or worse off.