High interest consumer loans and “rent-a-bank” schemes

Division of Financial Regulation

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Interest rate background

- Since 2007, small dollar consumer finance loans in Oregon have been limited to a 36 percent interest rate (ORS 725.340)
- This limit is intended to protect Oregonians from predatory lending practices
- The 2007 Legislature intended that this cap apply to all businesses making consumer finance loans in Oregon

The problem: Rent-a-bank schemes

- Some Oregon licensed brokers and facilitators advertise, offer, provide, and service loans in partnership with out-of-state, state-chartered banks to avoid compliance with the 36 percent cap.
- The borrower applies for a consumer finance loan through the Oregon licensed entity, and the out-of-state, state-chartered bank puts it name on the loan documents.
- Under the terms of an agreement with the licensee, the out-of-state, state-chartered bank either sells the loans back to the licensee or assigns them to the licensee for “servicing and collection.”

Interest rate harm to consumers

- Total amount of interest due under a three-year contract for $3,000:
  - For a compliant loan: $1,946.81
  - With an APR of 100.73%: $6,486.61
  - Difference: $4,539.80
- DFR has 190 licensed consumer finance companies and is aware of five licensees that charge more than the 36 percent cap.
- Since 2020, the division has evidence of nearly 22,000 loans that exceed the cap.
- In a recent enforcement action, DFR required a licensee to pay restitution of $900,000 for charging interest that exceeded the cap.

The DIDMCA opt-out solution

- DIDMCA is the Depository Institutions Deregulation and Monetary Control Act of 1980
- DIDMCA opt-out ensures that Oregon's 36 percent interest rate cap applies to out-of-state, state-chartered banks partnering with fintech licensees
- Ensures that the cap is applied uniformly to all licensees and prevents the consumer harms associated with this form of predatory lending
- Prevents licensees from avoiding obligations imposed by statute
- Eliminates the veneer of legitimacy that the loans are made by an out-of-state, state-chartered bank when, in fact, the loan is being made by a fintech licensee

The Colorado litigation

- On Nov. 10, 2025, a three-judge panel for the Tenth Circuit reversed a district court's decision that prevented the enforcement of Colorado's opt-out statute
- Colorado is entitled to apply its interest rate laws to loans originated by out-of-state, state-chartered banks, regardless of whether the out-of-state, state-chartered bank has a physical presence in the state
- Under the Tenth Circuit's ruling, the phrase "loans made in such State" in DIDMCA's opt-out provision encompasses loans in which either the lender or the borrower is in the state

Questions?

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