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February 23, 2026

The Honorable Kathleen Taylor (Chairwoman)
The Honorable Cedric Hayden (Vice Chair)
The Honorable Winsvey Campos
The Honorable Christine Drazan
The Honorable Deb Patterson
Oregon State Legislature
Senate Committee on Labor and Business
Capitol Building
900 Court Street NE
Salem, OR 97301

Re: Comments on House Bill 4116

Dear Senators:

My name is Catherine Brennan, and I am a partner at Hudson Cook LLP, a law firm. I am not based in Oregon, but I am a member of the Oregon Bar. Our firm focuses exclusively on compliance with financial services laws, representing fintechs as well as state and national banks that offer loan products on a nationwide basis.¹ My practice, in particular, focuses on bank partnership programs and the strong regulatory regime that surrounds them. Thank you for allowing me to comment on House Bill 4116.

This bill intends to exercise a right conferred on Oregon and other states by the federal Depository Institutions Deregulation and Monetary Control Act of 1980 (“DIDMCA”).² A main goal of DIDMCA was to place FDIC-insured, state-chartered banks on equal footing with national banks, which have long enjoyed rate exportation authority under the National Bank Act.³ To appease the states’ rights vote in Congress at the time DIDMCA was enacted, Congress granted states the ability to opt out of Section 521.⁴

¹ See <https://www.hudsoncook.com/index.cfm>.

² DIDMCA is also known as “DIDA.”

³ 12 U.S. Code § 85.

⁴ Section 525.

After Congress enacted DIDMCA, several states opted out of Section 521.⁵ However, most of the states subsequently repealed their opt-outs (meaning, they opted back in) because the states found that the opting out was bad public policy. Many states reversed course after realizing that their residents lost access to credit due to the opt-out. It is unfortunate that some consumer advocates have conflated subprime credit with what they like to call “predatory credit,” because if they got what they are asking for, the DIDMCA opt out will deprive Oregon residents of access to credit.

Oregon’s own data shows that roughly one-third of Oregonians cannot cover a \$400 emergency expense without borrowing.⁶ These households depend on access to small-dollar credit. HB 4116 would not eliminate the need for that credit — it would eliminate responsible, regulated sources of it. When lenders exit a market, borrowers do not simply stop borrowing; they turn to less regulated, harder-to-monitor alternatives, including unregulated online lenders, pawnshops, or loan sharks operating outside the reach of any state authority. Iowa is the cautionary tale that proponents of this bill prefer not to discuss fully. After Iowa opted out of DIDMCA, state-chartered banks lost the ability to compete with national institutions on loan pricing, and many Iowans, particularly in rural communities, lost access to credit.⁷ Oregon risks repeating that outcome on a larger scale.

The bill you are considering today would also create confusion for state-chartered banks which would likely lead to some of them ending their lending activities in Oregon. We note that H.B. 4116’s opt-out would apply only to loans “made in” Oregon. The law surrounding the term “made in” is unsettled and the question regarding where a loan is made is currently in dispute in connection with Colorado’s similar opt-out legislation adopted in 2023. Like the Colorado language, Oregon’s opt out would likely face costly litigation, which means the issue would likely end up in the United States Supreme Court.

Our nation has a strong dual banking system that benefits our financial structure and individual borrowers. This system is based on parity between state-chartered and federally-chartered banks. Opting out of DIDMCA will put Oregon’s state-chartered banks at a competitive disadvantage relative to federally-chartered banks, which would not be impacted by this legislation. As someone whose law practice revolves around financial services, I can attest that policies like the DIDMCA opt-out are creating real questions around the value of a state charter versus a federal charter, with a corresponding increase in attention and interest in federal charters. Although there are legal questions surrounding whether this legislation will ultimately impact out-of-state, state-chartered banks, there is no question that it will NOT impact federally-chartered banks.

For Oregon’s banks, it is also possible that they may lose the benefit of the valid-when-made doctrine since it is derived from DIDMCA Section 521. The “valid-when-made” doctrine provides that if a loan’s terms and conditions are legal and enforceable at the time the loan was originated, they remain valid even if the loan is sold or transferred to a different entity in a different state with more restrictive laws. If Oregon banks’ ability to sell or transfer loans is called into question, they may face greater difficulty in managing their balance sheets because purchasers will prefer the certainty of loans originated by national banks and

⁵ Colorado, Iowa, Maine, Massachusetts, Nebraska, North Carolina, Wisconsin, and Puerto Rico all opted out of DIDMCA.

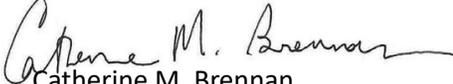
⁶ See <https://www.kptv.com/2025/10/21/one-third-oregonians-cant-afford-400-emergency/>.

⁷ See <https://www.domesticpolicycaucus.com/dpc-blog/creditaccess>.

state-chartered banks located in other states. Forced to operate at this disadvantage, it is likely that bank organizers would choose not to charter a bank in Oregon. Even if they wanted to locate their bank in Oregon, they would likely pursue a federal charter.

Given the negative downsides of this legislation for both the industry and individual borrowers, I respectfully request that you not approve this legislation.

Regards,



Catherine M. Brennan