

States Must Help Protect Vital Utility Service During the Ongoing COVID-19 Pandemic: Models from Three States

As the COVID-19 pandemic spread through the United States, with its accompanying economic shutdown, several states adopted a moratorium on terminations of utility service. However, in most states that adopted moratoriums, those termination prohibitions have already expired or will within the next few months. Legislators and utility regulators must act now to extend these moratoriums and require more flexible and generous bill payment practices to ensure continued access to essential utility service. Even before the hardships due to COVID-19, about one-third of the U.S. population was already facing serious difficulty in paying utility bills. The COVID pandemic has exacerbated the problem, with essential utility service today even more unaffordable for millions of utility customers.

The COVID-19 crisis has highlighted that access to utility service is essential to maintain public health and safety. Access to utility service should not be forfeited because of a person's inability to afford that service. Policymakers should seize on the current pandemic as an opportunity to create permanent consumer-oriented policies that ensure access to vital utility service for all.

Recently, utility commissions in California, Illinois, and Massachusetts took significant steps to help consumers stay connected to utility service. In each of these states, state regulators acted proactively, while utility shut-off moratoria were in place, to enact consumer protections with the goal of ensuring continued access to essential utility service for vulnerable populations. Each offers model provisions for regulators to enact in their states. This blog post summarizes the orders.

California

On June 11, 2020, the California Public Utility Commission (CPUC) adopted a Phase I decision (D.20-06-003) in CPUC Rulemaking 18-07-005, the so-called "disconnection docket." The Phase I decision provides a suite of pro-consumer credit and collection rules and practices for the four large electric and gas companies to reduce residential disconnection rates for nonpayment. The proceeding followed the passage of California Senate Bill 598 (SB 598), which requires the CPUC to reduce utility disconnection rates by January 1, 2024.

Previously, in April, the CPUC had extended the shut-off moratorium until April 16, 2021, through its approval of Resolution M-4842.

The Phase I Decision makes permanent, with some modifications, interim rules that were previously adopted in D. 18-12-013, and which

- Sets caps on the disconnection rate of the four large investor-owned utilities (IOUs) .
- Protects medical baseline (seriously ill) customers from disconnection for nonpayment as long as they agree to a 12-month payment plan.
- Protects low-income customers from disconnection for nonpayment until the utility offers to enroll eligible customers in all applicable benefit programs administered by the utility.
- Requires the utility to offer customers a 12-month payment plan before disconnecting for non-payment.
- Prohibits disconnections for non-payment during extreme weather (temperatures above 100

degrees or below 32 degrees).

In addition, the Phase I decision:

- Eliminates service deposits and reconnection fees.
- Creates arrearage management programs (AMPs) for the four IOUs.
- Creates Percentage of Income Payment Plan (PIPP) pilots for the 10 California zip codes with the highest disconnection rates.
- Establishes a CPUC Enforcement Branch citation program designed to ensure compliance with the rules outlined in the decision.

Illinois

On June 18, 2020, the Illinois Commerce Commission (ICC) approved a settlement reached among the state's investor-owned utilities, consumer advocates, and the Commission's Staff. The settlement in ICC Docket No. 20-0309 provides financially struggling customers with several protections designed to minimize disconnection of essential utility service and make bills more affordable.

The Order followed the ICC's issuance of an Emergency Interim Order on March 18, 2020 that required a moratorium on investor-owned utility shut offs, suspended late fees and penalties due to a customer's inability to pay, and further required the investor-owned utilities to file more flexible credit and collections procedures for the Commission's consideration and approval.

The agreement, as approved by the Commission, includes the following:

- Reconnection of customers previously disconnected customers, and waiver of the usual reconnection fees.
- Extension of the moratorium on disconnections through late summer of 2020.
- Debt forgiveness for LIHEAP-eligible customers totaling \$48 million. A typical forgiveness, for example, totals \$500 per utility for Chicago customers.
- Provision of 24-month deferred payment arrangements (DPAs), with no down payments, for customers claiming financial hardship, and DPAs of 18 months for residential customers who do not claim financial hardship.
- Self-certification of financial hardship, which then allows access to expanded customer protections.
- Reporting of disconnections, late fees, DPAs, deposits and other data by zip code, to ensure that regulators and consumer advocates can monitor disconnection and other credit and collection practices for disproportionate impacts in communities of color.
- Utility agreement to engage, with stakeholders, in a discussion on how to improve the affordability of utility service for low income customers.

Massachusetts

The Massachusetts Department of Public Utilities (DPU) opened an investigation in May, Docket No. 20-58, to solicit input from stakeholders about the need for post-moratorium policies to protect struggling consumers, as well as recommendations for utility cost recovery. The DPU invited the utility companies, the Attorney General, the Department of Energy Resources, NCLC, the Low-Income Energy Affordability Network, and others to participate. On July 31, 2020, the DPU issued an order which includes the following protections for residential customers:

- Extends the residential disconnection moratorium until November 15. On that date, the winter moratorium on shut-offs for low-income Massachusetts customers kicks in and continues through March 15, 2021.
- Extends the length of payment plans for twelve months, with the possibility of 18 months for “unique circumstances.”
- Expands the Arrearage Management Program (AMP), by allowing repeat enrollments, increasing the amount of arrearages that are forgiven, and allowing applicants to initially self-certify their income eligibility.

For additional details about the orders in these three states, see NCLC’s new issue brief.

Residential Electricity Sales: The Early COVID-19 Stay-at-Home Period

Part 1 of 2 on consumer protections needed during and after COVID-19.

By John Howat, Senior Energy Analyst, National Consumer Law Center

July 8, 2020

The U.S. Energy Information Administration’s most recent Electric Power Monthly, released on June 24, provides sales, price and revenue data by end-use sector and Census Division for April, 2020. Data from this report shows that in each of the 10 Census Divisions, April residential sector electricity sales increased over the 4-year average April sales from 2016 - 2019 (see table).

Census Division	April Residential Sales (kWh x 1,000,000)					Ratio of April 2020 Residential Sales to 2016 - 2019 (4-year Average)
	2020	2019	2018	2017	2016	
New England	3,509	3,197	3,418	3,417	3,327	1.05
Middle Atlantic	9,551	8,658	9,548	8,776	8,717	1.07
East North Central	12,867	11,833	13,194	11,591	12,022	1.06
West North Central	7,202	6,610	7,510	6,535	6,389	1.07
South Atlantic	25,210	23,231	24,001	23,247	22,139	1.09
East South Central	7,562	7,360	7,702	7,377	7,014	1.03
West South Central	14,256	12,866	13,208	13,287	12,534	1.10
Mountain	6,899	6,395	6,602	6,311	6,034	1.09
Pacific Contiguous	10,009	9,369	9,897	9,821	9,713	1.03
Pacific Noncontiguous	375	344	375	364	356	1.04

The table shows that April 2020 sales increased by a range of 3% to 10% in Census Divisions across the U.S. It is important to note that these monthly sales totals have not been weather-normalized, and are therefore not attributable solely to stay-at-home orders and increased unemployment.

However, they do provide a clear indication that economic and societal responses to Covid-19 have led to moderate increases in residential electricity usage and sales. (See charts illustrating April sales from 2016 - 2020 for each U.S. Census Division.) It is also important to note that April is considered a “shoulder” month when electricity usage, particularly in the residential sector, is lower than in mid-summer and mid-winter when more extreme temperatures drive higher usage and sales. Month-to-month comparisons may show greater COVID-19-related increases during the summer, particularly if unemployment and public health stay-at-home orders or recommendations persist.

Ramifications of Higher Residential Electricity Usage and Sales and the Need for Protective Programs and Policies

Higher usage and sales lead to higher bills and expenditures. Higher bills also lead to increased past due accounts, particularly in households that were already struggling financially prior to the onset of the coronavirus, but also in households more recently affected by unemployment, illness, or medical debt. As temporary Covid-19 utility disconnection moratoriums expire in many states, past due accounts pose the threat of loss of vital home electricity service just as the need for indoor cooling, warm water for sanitation, and reliable telecommunication services becomes greater than ever.

Here’s what states, utilities, and utility commissions can do now to keep the power on for struggling families who will be saddled with debt:

- Restore access to service for any utility customer whose service has been cut off without requiring a hefty down payment on overdue bills.
- Develop strong disconnection protections for vulnerable customers going forward.
- Waive punitive late payment fees and security deposits.
- Provide deferred payment plan options that are affordable based on a household’s actual income and expenses.
- For households with low incomes, implement debt forgiveness programs that avoid adding to current monthly bills.
- Expand bill payment programs that reduce monthly bills to an affordable level. These programs already exist in many states but need to serve the full scope of need. A common effective approach is to reduce total bills by a set percentage, or to cap total bills at a percentage of household income.
- Expand access to comprehensive whole-house energy efficiency and retrofit opportunities.
- Require more comprehensive utility tracking and reporting of data on residential customer overdue bills, disconnections, and repayment efforts.

Affordable Broadband Service is a Racial Equity and Public Health Priority During COVID-19

Cross-posted with the United Church of Christ, OC, Inc. and the Leadership Conference for Civil and Human Rights

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If you are reading this on your smartphone or laptop, you are fortunate to have access to internet service. More than 20 million households in the United States do not have internet service at home. The main barrier? Cost.

Racial disparities with broadband service: According to census data, about 10 percent each of Black and Hispanic Americans and 13 percent of American Indians and Alaska Natives have no internet subscription compared to 6 percent of White households. And not all broadband access is equal: a disproportionate number of Black and Latino households rely on a smartphone (small screen) for their broadband connectivity. It is clear during this pandemic that working and learning via a smartphone with limited data and throttling is second-class access compared with using a laptop via wi-fi and an unlimited wired broadband connection. However, with the public health risks of COVID-19, internet access strategies that may have worked in the past for students, adults, and elders (through schools, libraries, the workplace, community centers, and free wi-fi at fast food restaurants) are no longer safe.

COVID-19 exacerbates broadband service as a public health issue: COVID-19 has ravaged communities of color. Older adults and those with chronic health conditions of all races and ethnicities are particularly at risk from coronavirus and must self-isolate. Telemedicine minimizes the transmission of the virus, but patients must have broadband to take advantage of remote health care services. Broadband in the home enables families to stay at home.

COVID-19 exacerbates broadband as an economic issue: The risk of job loss during the pandemic also falls more heavily on workers of color. Access to work opportunities, services, and benefits for recently unemployed workers requires broadband. Physical distancing is still the safest way to limit the spread of COVID-19 and broadband is needed to access commerce and banking.

COVID-19 exacerbates broadband as an education issue: During surges of coronavirus infection, the bedroom has become the classroom for students of all ages. Students without broadband can't access classroom instruction. Even if COVID-19 infection rates continue to fall, in September many schools will likely blend at-home and in-class learning to maximize spacing among students. This means that broadband access will be important well into 2021 and beyond.

Opportunity to bring broadband to the home: The most economically distressed households must have access to affordable technology. Our health, our economy, and our educational competitiveness will not fully recover in the United States without it. Fortunately, Senators Wyden and Blumenthal have introduced the Emergency Broadband Connections Act of 2020, the Senate counterpart to Representative Veasey's bill (H.R. 6881), which passed the House as part of the HEROES Act (H.R. 6800) on May 15. The Emergency Broadband Connections Act guarantees a \$50 emergency broadband benefit — \$75 in tribal areas — to every eligible low-income household in the country that makes a request to their Internet Service Provider (ISP) and provides a one-time discount for ISP-provided devices. The bill also expands the existing Federal Communications Commission low-income Lifeline program to offer unlimited voice minutes and texting. This is the Senate's opportunity to address racial equity and, at the same time, enable telemedicine, distance learning, and online access to the workplace and marketplace from the home while also protecting public health.

Covid-19 State Foreclosure Moratoriums and Stays

State Covid-19 related housing actions, July 8, 2020

The following are summaries of actions certain states have taken in response to the Covid-19 crisis to limit home foreclosures. The list may not be complete, as state and local governments continue to adopt new emergency measures at a fast pace.

Consumers and their advocates should carefully review the scope of the measures adopted in their states. These executive declarations and court orders provide important relief in a crisis that will lead to severe health and financial consequences for many homeowners. However, some of these emergency proclamations have a very narrow scope. Press coverage may give the impression that an order prevents a wider range of actions than it actually does. For example, certain state emergency declarations bar post-foreclosure evictions. However, they do not halt the conduct of the foreclosure sale itself or reverse its consequences. In judicial foreclosures the orders may prevent the conduct of a foreclosure sale and eviction, but may not stop the running of deadlines to respond to motions or answer pleadings. In particular, the orders may not address the running of post-judgment redemption periods. In certain states, it may still be necessary to modify recorded orders setting the expiration of redemption periods. The expiration of a redemption period will have a direct impact on the scheduling of a foreclosure sale when the emergency order expires.

Finally, consumers and advocates should keep in mind that a federal regulation promulgated under the Real Estate Settlement Procedures Act prohibits most mortgage servicers from taking the first step to initiate a judicial or non-judicial foreclosure under any state law until at least 120 days have passed since the borrower became delinquent. 12 C.F.R. § 1024.41(f)(1). The purpose of this mandatory delay is to ensure that borrowers and servicers have time to communicate over alternatives to foreclosure. This federal rule applies to covered mortgage servicers active in all states, the District of Columbia, and Puerto Rico.

Alabama (non judicial foreclosure)

Governor's Tenth Supplemental State of Emergency Proclamation, May 21, 2020

- Protections against evictions in Section I of April 3, 2020 proclamation and Section III of May 8, 2020 proclamation expire at 12:00 a.m. on June 1, 2020.

Governor's Sixth Supplemental State of Emergency Proclamation, April 3, 2020

- Directs state, county, and local law enforcement officials to cease enforcement of any order that would evict an individual from a residence for nonpayment of rent or mortgage payments. To remain in effect for duration of public health emergency declaration or further order.

Alaska (non judicial foreclosure)

HB 312 and SB 242, Legislative term ended without action

- Bill would provide that during period of declared state of emergency borrowers may request

30-day moratorium on foreclosure if they submit sworn affidavit to servicer that they are experiencing a financial hardship.

California (non judicial foreclosure)

Emergency Rules of California Rules of Court, April 6, 2020

- Rule No. 2 suspends judicial foreclosures. Stays all judicial proceedings to foreclose on a mortgage or deed of trust, including an action for a deficiency. The periods for electing or exercising the right to redeem after foreclosure are tolled, as well as any period to petition a court regarding redemption rights. Statutes of limitations on foreclosure actions are tolled. The emergency rule remains in effect until 90 days after the pandemic state of emergency is lifted or the judicial authorities otherwise suspends the rule. Emergency Rule 1 pertains to unlawful detainer actions and with limited health and safety exceptions prohibits issues of summons and complaints, restricts entry of default judgments, and continues trials for 60 days.

Executive Order N-66-20, May 29, 2020

- Extends protections in Executive Order N-28-20 (Paragraphs 1 and 2 authorizing local regulation of post foreclosure evictions) through July 28, 2020.

Executive Order N-28-20 from Governor, March 16, 2020 effective to March 31, 2020

- Suspends state preemption of local government regulation of evictions, including post-foreclosure evictions. Localities may restrict evictions in cases where nonpayment was caused by income reduction or increased household expenses.

California Assembly Bill 2501, PENDING

- Bill would implement a 180-day stay of foreclosures beginning with the end of the Covid-19 emergency period. For borrowers experiencing a hardship during the covered period, servicers must grant a request for an initial forbearance period of 180 days as well as an extended forbearance of an additional 180 days upon the borrower's request. Servicers must automatically approve borrowers who are sixty days in arrears for forbearance. The Bill requires servicers to maintain escrow accounts during forbearance and allows borrowers specific options for repayment of escrow shortages at the end of forbearance. Servicers may not demand a lump sum payment of forborne arrears at the end of forbearance, but must review borrowers for affordable reinstatement and modification options instead. Servicers and loan owners who claim any sort of exemption from operation of the state law must timely disclose the claim of exemption and have it approved by a state agency. The law makes misrepresentations and non-disclosures of a servicer's forbearance and end-of-forbearance loss mitigation options a violation of the state's unfair and deceptive practices act.

AB 828, PENDING

- Bill would create a moratorium on recording notices of default and notices of sale for foreclosure of residential properties while state or local declaration of emergency in effect, and for fifteen days after it ceases. The moratorium applies to property tax sales as well as unlawful detainer proceedings and execution of writs of possession.

Colorado (non judicial foreclosure authorized by court)

Governor's Executive Order D 2020-51, April 30, 2020

- Extends and amends Executive Order D 2020-12, as amended by Executive Order D 2020-51, until 30 days from April 30, 2020, unless further extended by Executive Order. Adds provisions regarding landlord/tenant evictions.

Governor's Executive Order D 2020-31, April 6, 2020

- Extends Executive Order 2020-12 to April 30, 2020 or until further order. Adds provision authorizing County Treasurers to suspend or waive delinquent interest on property taxes due.

Governor's Executive Order 2020-12, March 20, 2020, effective for 30 days

- Extends for 30 days the deadlines to cure and to redeem under Colorado foreclosure statute.

Connecticut (judicial foreclosure)

Connecticut Judicial Branch Superior Court Order, May 15, 2020

- Orders immediate stay of service of all issued executions on evictions and ejectments through July 1, 2020.

Connecticut Judicial Branch Strict Foreclosure Order, May 15, 2020

- Opens all judgments of strict foreclosure entered in matters with law days (expiration of borrower's right of redemption) prior to July 7, 2020 for the purpose of extending the borrower's right of redemption in these matters to July 7, 2020.

Statement from Chief Court Administrator, March 18, 2020

- All foreclosure sales previously scheduled to occur in April or May 2020 rescheduled to June 6, 2020. The judgment in any foreclosure action in which the court set a redemption period to expire during April or May 2020 is amended to set the expiration date for June 2, 2020. The execution of ejectment judgments is stayed through March 27, 2020. Civil trials, trial management conferences, pretrial and status conferences, and mediations cancelled until further notice.

Delaware (judicial foreclosure)

Governor's Fourteenth Modified Declaration of State of Emergency, April 30, 2020

- Extends until further notice the March 24 Governor's Modified Declaration of State of Emergency.

Governor's Modified Declaration of State of Emergency, March 24, 2020

- Bars commencement of all residential foreclosures unless mortgagee is the seller. Provides that "no late fee or excess interest may be charged or accrue on the account for such residential mortgage during the state of emergency." For foreclosure actions pending as of initial March 12, 2020 emergency declaration all deadlines extended to date no sooner than the 31st day following the termination of the state of emergency. Similarly, if judgment

entered before emergency declaration, no sheriff's sale can take place and no eviction can occur until at least 31 days after termination of state of emergency.

District of Columbia (non judicial foreclosure)

D.C. Act 23-286, April 10, 2020

- Entitled "Covid-19 Response Supplemental Emergency Amendment Act of 2020." Sec. 202 mortgage relief provisions apply for period of Mayor's declaration of emergency plus 60 days. Loan servicers subject to regulatory authority of the D.C. Department of Insurance, Securities and Banking must develop a program that grants at least a 90-day deferment of payments. Servicers must develop application criteria and procedures, and these must be available online. Servicers must approve a deferment application if the borrower demonstrates a hardship directly or indirectly related to the emergency, even if the default arose before the pandemic. The borrower must agree in writing to pay the forbore payments "in a reasonable time." If the parties cannot agree upon a reasonable time, the repayment must occur within five years of the end of the deferment or at the end of the original loan term, whichever is earlier. Subject to investor guidelines, the servicer cannot demand lump sum payment from the borrower at the end of the deferment period. In addition, servicers must waive default fees during the period of emergency and refrain from negative credit reporting during the deferment. Borrowers whose requests for forbearance are denied may file a complaint with the Department.

D.C. Superior Court Order, May 14, 2020

- Stays all evictions and foreclosures "to the extent required by statute."

B735, enacted May 4, 2020, effective to August 2, 2020

- Requires servicers who approve 90-day deferrals under the D.C emergency Covid-19 Amendment to report data to the Department of Insurance, Securities, and Banking.

D.C. Superior Court Corona Virus Advisory, March 13, 2020

- The court "has suspended evictions of all tenants and foreclosed homeowners."

Florida (judicial foreclosure)

Governor's Executive Order No. 20.121, May 14, 2020

- Extends Executive Order No. 20-94 until June 2, 2020.

Governor's Executive Order No. 20-94, April 2, 2020

- Suspends and tolls operation of Florida foreclosure statutes for 45 days from the date of the Order, including any extensions.

In addition, the chief judge of each judicial district in Florida has authority to define the scope of the stay of foreclosure related proceedings due to the Covid-19 pandemic. Examples include:

- Administrative Order 12.510 - 04/2020.8 of the Circuit Court of the 15th Judicial Circuit for Palm Beach County, April 6, 2020
 - Suspends foreclosure proceedings as non-essential and cancels all scheduled foreclosure

sales up to and including May 29, 2020.

- Administrative Order 2020-01 19th Judicial Circuit, March 19, 2020
 - Stays foreclosure proceedings as non-essential and cancels all scheduled foreclosure sales until further Order of the Court.

Illinois (judicial foreclosure)

Executive Order No. 2020-33, Apr. 30, 2020

- Amends Executive Order 2020-30 to specifically reference mortgage payments, and extend eviction restriction through May 29, 2020.

Executive Order No. 2020-30, April 23, 2020

- Continues Executive Order No. 2020-10 and clarifies circumstances under which residential eviction action may be commenced: threat to other tenants, immediate and severe risk to property; violation of law.

Governor's Executive Order No. 2020-10, March 20, 2020

- Directs all state, county and local law enforcement officers cease enforcement of orders of eviction for residential premises for the duration of Gubernatorial Disaster Proclamation.

Indiana (judicial foreclosure)

Governor's Executive Order No. 20-25, May 1, 2020

- Sets June 5, 2020 expiration of prior executive orders staying foreclosures and evictions.

Governor's Executive Order, March 19, 2020

- No residential eviction proceedings or foreclosure actions to be initiated during the declared public health emergency.

Iowa (judicial foreclosure)

Governor's Proclamation, April 27, 2020

- Section Ninety-Nine of Part 2 of the Proclamation continues temporary suspension of provisions of the Iowa Code allowing for the commencement of proceedings, or the prosecution of ongoing foreclosure proceedings on residential, commercial and agricultural real property. The Governor notes that Iowans should not expect any further extension past May 27, 2020.

Executive Proclamation of Disaster Authority, April 2, 2020

- Sec. 65 of the Proclamation continues the temporary suspension of provisions of the Iowa Code allowing for the commencement of foreclosure proceedings, or the prosecution of ongoing foreclosure proceedings, on residential, commercial, and agricultural real property located in the state. The suspension applies for the duration of the emergency proclamation or any future extension of the suspension. The Proclamation also directs the state's Division of Banking and Division of Credit Unions to immediately engage with banks, credit unions, mortgage bankers, and mortgage services "to identify any tools, means, or methods that could

be used to relieve Iowans from the threat of foreclosure.”

Governor’s Proclamation, March 22, 2020

- Temporarily suspends the provisions of Iowa Code allowing for the commencement of foreclosure proceedings, or the prosecution of ongoing foreclosure proceedings, on residential, commercial, and agricultural real property. Suspension to remain in effect for duration of Governor’s proclamation of emergency.

Kansas (judicial foreclosure)

Governor’s Executive Order No. 2020-28, April 30, 2020

- Extends Executive Order No 20-10 through the earlier of May 31, 2020, or until State of Disaster Emergency proclaimed and reissued on April 30, 2020 expires.

Governor’s Executive Order No. 2020-10, March 23, 2020 effective to May 1, 2020 or further order

- A party attempting to initiate a judicial or non-judicial foreclosure or eviction will have the burden of pleading and proving that the foreclosure or eviction proceeding is not being initiated solely because of a default substantially caused by a financial hardship resulting from the Covid-19 pandemic. The requisite hardship is defined to be a significant loss of income, a significant increase in expenses for necessities, or the inability to work due directly or indirectly to the pandemic. In addition the household must not have resources available to make the mortgage payments and cover other necessities. The order does not prohibit the continuation of a foreclosure or eviction proceeding filed before the effective date of the order. A prior Executive Order of March 17, 2020 suspending “any mortgage foreclosure efforts or judicial proceedings” is superseded by this Order.

Kentucky (judicial foreclosure)

Governor’s Executive Order No. 2020-323, May 8, 2020

- Restates applicable language (paragraph 5) of Executive Order No. 2020-257 staying evictions.

Governor’s Executive Order 2020-257, March 25, 2020

- Directs that all state, county and local law enforcement officers cease enforcement of orders of eviction for residential premises for the duration of State of Emergency declared on March 6, 2020.

Maine (judicial foreclosure)

State of Maine Judicial Branch, COVID-19 Phased Management Plan, May 27, 2020

- No proceedings will be scheduled or heard for foreclosure and eviction cases through July 31, 2020.

State of Maine Judicial Branch Revised Emergency Order and Notice PMO-SJC-1, April 22, 2020

- No proceedings will be scheduled or heard for foreclosure and eviction cases effective through May 15, 2020.

Emergency Order and Notice Maine Supreme Court, March 18, 2020 effective to May 1, 2020

- No proceedings will be scheduled or heard for foreclosure and eviction cases.

Emergency Order Maine Superior and District Court, March 17, 2020

- Until further order of court 49 days added to unexpired deadline established by court order or court rule, but does not extend statutory deadlines or limitations

Maryland (judicial authorization for non judicial foreclosure)

Order of Chief Judge of Maryland Court of Appeals, May 22, 2020

- Rescinds Order of Chief Judge dated March 25, 2020, and lifts stays of foreclosures and evictions effective July 25, 2020.

Governor's Executive Order No. 20-04-03-01, April 3, 2020

- Directs the Commission of the State's Commissioner of Financial Regulation to suspend the operation of the state's electronic system that accepts Notices of Intent to Foreclosure - the initial step in foreclosure under state law. The Order remains in effect until the state of emergency is terminated and the health emergency rescinded. The order prohibits eviction of residential tenants who can demonstrate to a court that they have suffered a substantial loss of income due to the pandemic.

Order of Chief Judge of Maryland Court of Appeals, March 25, 2020

- Stays all pending proceedings related to residential foreclosures, foreclosure of the right of redemption after tax sales, and actions to recover possession of residential properties. The Order also bars initiation of new judicial proceedings in these categories. The Order is to be revised "as circumstances warrant."

Massachusetts (non judicial foreclosure)

Massachusetts House Bill 4647, April 20, 2020

- The enacted legislation mandates a moratorium on foreclosures and foreclosure-related evictions. It also requires that mortgagees grant forbearance with prescribed terms. The moratoria are effective to the earlier of 120 days from the law's effective date (to August 18, 2020) or 45 days from the termination of the State's declared state of emergency. These deadlines also apply to the borrower's submission of requests for forbearance.
- **Moratorium provisions of House Bill 4647:** For the duration of the covered period the law prohibits the publication of a notice of foreclosure sale and the conduct of a sale. Mortgagees shall not "initiate" a judicial or non-judicial foreclosure process, including the filing of a complaint to determine the borrower's SCRA status. Post-foreclosure sale eviction actions to recover possession are treated as "non-essential evictions" under the law. Mortgagees must not file post-foreclosure sale eviction complaints or request writs of possession. Eviction proceedings, including the tolling of time periods and requests for entry of judgment, are stayed.
- **Forbearance provisions of House Bill 4647:** The law's forbearance terms apply to a "mortgage loan" as defined under the Massachusetts statute regulating non-judicial foreclosure procedures. This statute defines a "mortgage loan" as "a loan to a natural person made primarily for personal, family or household purposes secured wholly or partially by a

mortgage on residential property.” Massachusetts General Laws Chapter 244 § 35B. House Bill 4647 requires that the mortgagee grant a forbearance to a mortgagor with a covered loan “if the mortgagor submits a request to the mortgagor’s servicer affirming that the mortgagor has experienced a financial impact from Covid-19.” The forbearance “shall be for not more than 180 days.” The mortgagee must not assess default-related fees and charges during a forbearance and must not report negative credit information during this time. Unless the parties agree otherwise, the law requires that forborne payments “be added to the end of the term of the loan.” The law does not restrict the mortgagor’s ability to collect on the mortgage debt as a personal liability of the mortgagor.

- Massachusetts Division of Banks FAQ on Ch. 65 of Acts of 2020 (Mass. House Bill 4647), May 1, 2020

Michigan (non judicial foreclosure)

Governor’s Executive Order 2020-85, effective to June 11, 2020

- Supersedes Executive Order 2020-54 (staying evictions) to make effective through June 11, 2020.

Governor’s Executive Order 2020-54, effective to May 15, 2020

- Rescinds and supersedes Executive Order 2020-19. Temporary stay of evictions through May 15, 2020.

Governor’s Executive Order 2020-19, March 20, 2020 effective to April 17, 2020

- Bars execution of eviction process against tenants, vendees under executory contracts (installment land sale contracts) and mobile home owners. Does not specifically reference post mortgage foreclosure evictions.

Governor’s Executive Order 2020-14, March 18, 2020

- Temporarily suspends tax sale redemption deadline from March 31, 2020 until the later of (a) May 29, 2020, or (b) 30 days after the termination of the state of emergency.

Minnesota (non judicial foreclosure)

Governor’s Executive Order 20-14, March 23, 2020

- Effective March 24, 2020 and until suspension of emergency declaration. Prohibits mortgage holders from filing eviction actions to recover possession of a property after termination of a redemption period. Financial institutions are “requested” to enter a moratorium on all pending and future foreclosures and evictions against borrowers impacted financially by virus and “strongly urged” not to assess late fees and penalties for nonpayment related to epidemic.

SF 4495, Session adjourned, Bill failed

- The Bill would prohibit commencement of non-judicial or judicial foreclosure during the state of emergency and for 60 days thereafter.

Montana (non judicial foreclosure)

Governor’s Directive, May 19, 2020

- March 30, 2020 and April 7, 2020 Directives limiting foreclosures, evictions, and service disconnections to be in effect until May 24, 2020, except for vulnerable population who have suffered significant financial hardship due to virus outbreak and who remain sheltered at home, in which case the protections expire upon sooner of 30 days after person ceases to shelter at home or the end of the emergency. In order to obtain benefit of continued stay affected parties must “make a basic showing” to bank that they meet the applicable standards.

Governor’s Directive, April 7, 2020

- Extended Governor’s Executive Order, March 30, 2020 through April 24, 2020.

Governor’s Executive Order, March 30, 2020 effective through April 10, 2020

- The Order bars foreclosure sales and sheriff sales of residential real property. It also bars delivery of a trustee’s deed, certificate of sale, or sheriff’s deed with respect to a foreclosure sale. All pending judicial proceedings related to foreclosure are stayed, including enforcement of a judgment or writ of possession. The Order does not relieve borrowers of payment obligations under a mortgage “except late fees or other charges.” For the duration of the Order no borrower may be reported to a credit bureau for non-payment.
- Applicable to borrower-occupied properties. Other provisions of Order bar eviction of residential tenants.

Nevada (non judicial foreclosure)

Governor’s Declaration of Emergency, Directive 008, March 29, 2020

- Prohibits initiation of foreclosure and evictions based upon default under a mortgage until emergency declaration dated March 12, 2020 terminates.

New Hampshire (non judicial foreclosure)

Governor’s Emergency Order No. 24, April 3, 2020

- Modifies and clarifies Governor’s Emergency Order No. 4, March 17, 2020. Foreclosure deed with respect to foreclosure sale occurring on or before March 16, 2020 may be recorded, but no eviction proceedings may be brought.

Governor’s Emergency Order No. 4 pursuant to Executive Order No. 4 Temporary Prohibition on Evictions and Foreclosures, March 17, 2020

- Prohibits all forms of foreclosure during emergency declaration. Initiation of foreclosure proceedings suspended for duration of declared emergency.

New Jersey (judicial foreclosure)

N.J. Dept. of Banking and Insurance announcement of Department’s agreement with approximately 45 servicers, including major bank servicers, to consider borrowers affected by Covid-19 for forbearance agreements, March 28, 2020

- Listed institutions “will offer mortgage payment forbearance for up to 90 days” to reduce or delay monthly payments. The participating servicers stated that they will implement a “a streamlined process for requesting forbearance.” The borrower’s request must be “supported with available documentation.” The servicer will confirm the approval and the terms of the

forbearance. The servicers have agreed to waive late fees during the 90 days and will not report late or missed payments with credit reporting agencies (but may report borrower in forbearance). Borrowers may request an extension of a forbearance agreement if they continue to experience hardship due to the virus. The institutions agree not to “start any foreclosure sales or evictions” for 60 days from the date of the agreement (March 28, 2020). The Department’s statement of the agreement terms does not refer to enforcement terms.

Governor’s Executive Order No. 106, March 19, 2020, effective to later of two months following end of Public Emergency, or State of Emergency established by Executive Order

- Order prohibits eviction of a residential homeowner following foreclosure. The order allows foreclosures to proceed in all respects other than eviction.

N.J. Assembly Bill 4034, PENDING

- Bill would create a system for mortgagors experiencing reduced income due to any declared emergency to apply to a state agency to receive a certification of eligibility for a three-month forbearance of mortgage payments. The forborne payments would be added to an extended loan repayment term. The Bill would also regulate credit reporting related to emergency forbearance periods.

AB 3948, PENDING

- The Bill would mandate a 90-day forbearance with a possible extension for an additional 90 days. The payments must be extended at the end of the loan term commensurate with the duration of forbearance. The total forbearance may not exceed 180 days. The borrower cannot be required to provide proof of economic hardship. Default-related fees cannot be assessed during forbearance. The New Jersey Commissioner of Public Affairs must notify borrowers of the forbearance programs and provide information about them. The covered period for the law would extend from the March 9, 2020 declaration of emergency to six months after its termination. A moratorium on initiation of foreclosure and eviction proceedings will be in effect during this period.

New York (judicial foreclosure)

SB 8428, Signed into law June 17, 2020

- Part C of the law establishes requirements for regulated financial institutions to grant forbearance and post-forbearance relief to borrowers who “demonstrate” a COVID-19 hardship. The law applies to banking institutions and mortgage servicers subject to regulation by the State of New York. The law does not affect federally-backed mortgage loans (loans owned, insured, guaranteed by a GSE, FHA, VA, USDA). The provisions are in effect retroactively to March 7, 2010 and continue until the cessation of all COVID-based state-imposed limits on commercial activities in the state. During this period covered entities must make applications for forbearance “widely available” to borrowers in arrears and to borrowers who apply for loss mitigation. A regulated institution must grant forbearance to the qualified mortgagor for up to 180 and extend the forbearance for an additional period of up to 180 days if the mortgagor demonstrates continuing hardship. Borrowers have four options at the end of forbearance: (1) extend the term of the loan for the length of the forbearance; (2) pay off the accumulated arrears on a monthly basis during the remaining term of the loan; (3) negotiate a modification; and (4) if the parties cannot reasonably agree to modification terms, the accrued arrears will be converted to a non-interest bearing lien (balloon payment) due at the end of the

loan term or at payoff. Regulated institutions that believe they lack the capital and liquidity resources to comply with the law may apply for relief to the state banking department. The applicant must demonstrate its inability to comply, and the department will rule on the request. Borrowers are entitled to notice of this proceeding. Compliance with the law is a condition precedent to commencement of a foreclosure action. A borrower may raise non-compliance as a defense to foreclosure.

Governor's Executive Order No. 202.28, May 7, 2020, effective beginning June 20, 2020

- Prohibits the initiation or enforcement of foreclosure of any residential or commercial mortgage for nonpayment of a mortgage where the property is owned by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic. Order is effective for a period of sixty days beginning on June 20, 2020.

New York State Department of Financial Services New Part 119 to 3 NYCRR Emergency Relief for New Yorkers who can Demonstrate Financial Hardship as a Result of Covid-19, March 24, 2020, effective to April 20, 2020 and any subsequent renewal period

- NYSDFS regulation implementing Executive Order 202.9, establishes "Covid-19 Relief Program." Under program regulated entities must make "widely available" to New York borrowers demonstrating financial hardship caused by Covid-19 a forbearance and "subject to safety and soundness requirements of the regulated institution" grant a forbearance of 90 days. Federally guaranteed and GSE loans are exempted. Within ten business days of rule's effective date regulated institutions must use email, mail mailing, website publication or similar communication method to publicize an application process for borrowers. Institutions must evaluate and respond to all applications within ten days of receipt of a complete application. The decision must be in writing. In its supervisory reviews the Department may treat the failure to approve forbearance as an unsafe and unsound business practice. The rule was promulgated as a temporary emergency measure with a **June 21, 2020 expiration date**.

Governor's Executive Order 202.9, March 21, 2020 effective to April 20, 2020

- Directs State's Superintendent of the Department of Financial Services to "ensure under reasonable and prudent circumstances that regulated entities provide to any consumer in the State an opportunity for a forbearance of payments for a mortgage for any person or entity facing a financial hardship due to the COVID-19 pandemic. The Superintendent shall promulgate emergency regulations to require that the application for such forbearance be made widely available for consumers, and such application shall be granted in all reasonable and prudent circumstances solely for the period of such emergency."

Governor's Executive Order No. 202.8, March 20, 2020

- "Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency." Tolls wide range of time limits until April 19, 2020, including "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to . . . the civil practice law and rules". Also tolls until April 19, 2020 all time limits set by "any other statute, local law, ordinance, order, rule, or regulation, or part thereof". The Order includes a provision stating: "There shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of ninety days."

New York Office of Court Administrator's Order No. 78, March 22, 2020

- Directs court clerks not to accept filings in non-essential cases "until further order." Foreclosure cases are deemed non-essential cases.

AB 10261, PENDING

- The Bill would suspend all residential mortgage payments for a period of 90 days from the law's enactment and prohibit negative credit reporting related to the nonpayment.

North Carolina (judicial foreclosure)

Order of Supreme Court, May 21, 2020

- All deadlines for filing documents and papers and for other acts that were due to be filed or done between March 16, 2020 and June 1, 2020 remain extended until the close of business on June 1, 2020.

Order of Supreme Court, March 19, 2020

- Extends from March 16, 2020 to April 17, 2020 deadlines for filing pleadings, motions, notices, other documents and performing required "acts" in civil proceedings, including "special proceedings" (foreclosure proceedings). Effect is to delay to April 17, 2020 the completion of foreclosure sales not finalized as of March 16, 2020.

N.C. Senate Bill 827, PENDING

- The Bill would create a state fund to which eligible mortgagors affected by Covid-19 crisis may apply for financial assistance to make mortgage payments. The Bill sets out repayment terms for no-interest loans to mortgagors of up to \$40,000.

Ohio (judicial foreclosure)

Ohio Senate Bill S 297, PENDING

- The Bill would mandate a stay of foreclosure filings and proceedings for duration of the Covid-19 emergency. After a declared end to the state of emergency, any foreclosure proceedings initiated due to default on a mortgage during the state of emergency and sixty days thereafter would be stayed and referred to mediation.

HB 576, PENDING

- The Bill would prohibit initiation of county tax sale proceedings against residential properties through September 9, 2020. The law would also further restrict state tax enforcement proceedings and collection against residential properties.

Oregon (non judicial foreclosure)

HB 4204, effective June 30, 2020

- The law applies to a broad range of transactions, including mortgages, deeds of trusts, and land installment contracts. The terms are effective from March 8, 2020 to September 30, 2020, but may be extended by executive order. During the covered period a lender cannot treat a borrower as in default if the borrower notifies the lender that he or she will not be able to

make a periodic payment. The borrower's notice must state that the failure to pay is due to loss of income related to the pandemic. The borrower need only give the notice once during the covered period. Once the notice is given, the lender must defer payments and allow the borrower to pay back the deferred payments at the end of the scheduled loan term. The lender cannot charge penalties or additional interest related to the deferment. Commencement and prosecution of foreclosures are stayed during the covered period, but the stay does not apply to notices of sale given before the covered period began. Borrowers who suffer an ascertainable loss of money or property due to a lender's noncompliance with the loss mitigation provisions of the law may bring an action for damages and recover attorney's fees if they prevail. Within 60 days of the effective date of the law each lender authorized to do business in the state must provide a written notice by mail to all the lender's borrowers in the state of the borrowers' rights to relief under this law.

Pennsylvania (judicial foreclosure)

Governor's Order, May 7, 2020

- Directs a moratorium on giving the notices that state law requires in order to bring foreclosure actions for most residential mortgages. The Order is effective from May 11, 2020 through July 10, 2020. The Order does not affect foreclosures actions already pending.

Supreme Court Emergency Order of Statewide Judicial Administration, April 28, 2020

- Previous Orders related to dispossession are extended until May 11, 2020, at which time statewide suspension of dispossession procedures shall cease (subject to CARES Act limitations).

Supreme Court Order of Statewide Judicial Emergency, March 19, 2020 effective to April 3, 2020

- Deadlines for filing legal papers due between March 19, 2020 to April 3, 2020. During this period no state official may effectuate an eviction, ejectment, or other displacement from a residence for nonpayment of rent or a loan. Allows filing requests for orders of possession.

South Carolina (judicial foreclosure)

Order No. 2020-4-30-02 of Supreme Court of South Carolina Re: Statewide Evictions and Foreclosures, April 30, 2020

- Orders that currently ordered and scheduled evictions resume on May 15, 2020, ("courts statewide shall resume foreclosure hearings, foreclosure sales, issuing writs of assistance and writs of ejectments, and proceed in any other manner regarding foreclosures beginning May 15, 2020"). Order is subject to CARES Act limitations on foreclosures.

Order of Supreme Court of South Carolina, Re: Statewide Evictions and Foreclosures, March 18, 2020

- Ordering statewide moratorium on foreclosure hearings, foreclosure sales, writs of ejectment, all matters relating to foreclosures until further order of Chief Justice.

Texas (non judicial foreclosure)

Texas Supreme Court Seventeenth Emergency Order No. 20-9071, May 26, 2020

- Extends to August 15, 2020 any deadline for the filing or service of any civil case that falls on a day between March 13, 2020, and July 1, 2020. (¶11)

Texas Supreme Court Twelfth Emergency Order No. 20-9059, April 27, 2020

- Modifies Ninth Emergency Order No. 20-9052. Provides that: no trial, hearing or other proceedings may be conducted, and deadlines tolled until after May 18, 2020; writ of possession may issue but execution may not occur until after May 25, 2020; and new filings may be accepted but issuance and service may not occur until May 25, 2020.

Texas Supreme Court Emergency Order No. 20-9052, April 6, 2020 effective to April 30, 2020

- Pertains to eviction proceedings, which under Chapter 24 of Texas Property Code include forcible detainer actions filed against occupant of property after foreclosure. Trials, hearings, and other proceedings in pending cases stayed and time limits tolled to April 30, 2020. A writ of possession may issue but cannot be executed until May 7, 2020. Filings of eviction actions may be accepted but service and other time limits stayed to April 30, 2020.

Vermont (judicial foreclosure)

VT Supreme Court Administrative Order No. 49, March 16, 2020, as amended through May 13, 2020

- Removes suspension of non-emergency proceedings with scheduling starting May 18, 2020 and hearings starting June 1, 2020.

SB 333, approved by Senate and House May 5, 2020

- The Bill would stop pending foreclosure proceedings to the end of the period of emergency. For new cases, the Bill bars service of foreclosure complaints, but not the filing. Courts are directed to stay proceedings, but the Bill does not specifically address the running of redemption periods.

Virginia (non judicial foreclosure)

HB 340, April 22, 2020

- The law would allow U.S. government employees or employees of government contractors to request and receive a 30-day stay of foreclosure if they face foreclosure and can document reduced earnings from government sources as the cause of their inability to pay.

Wisconsin (judicial foreclosure)

Governor's Emergency Order No. 15, March 22, 2020

- For duration of sixty 60 days prohibits mortgagees from commencing foreclosure actions and from requesting or scheduling a sheriff's sale of the mortgaged premises. Sheriffs may not act on any order of foreclosure or execute any writ of assistance related to foreclosure. Order does not affect obligation to make mortgage payments or any other obligation of borrower under mortgage.
-

High-Cost Rent-a-Bank Loan Watch List



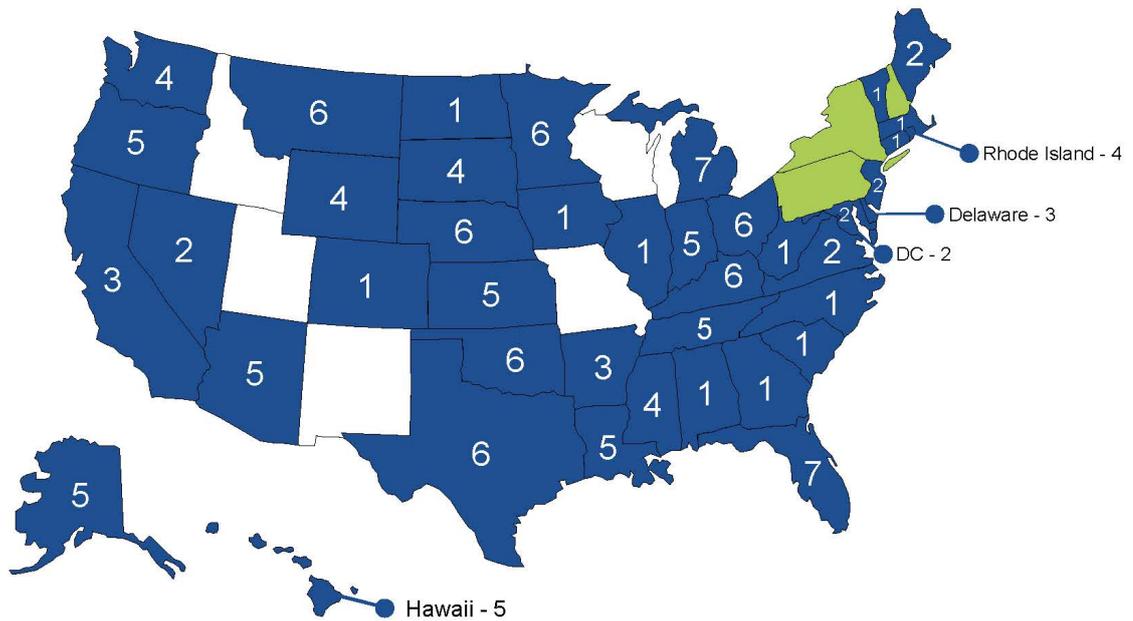
Interest rate limits are the simplest and **most effective** protection against predatory lending. Since the time of the **American Revolution**, states have limited interest rates to protect their residents. **American voters** strongly support interest rate caps. At least **45 states** and the District of Columbia (DC) cap rates on **at least some** installment loans.

But high-cost lenders are increasingly using **rent-a-bank schemes** with a small number of rogue banks, which are not subject to state interest rate limits, to evade state rate caps on installment loans and lines of credit. **Check out our Take Action page to see what you can do to help fight rent-a-bank lending!**

Rent-a-bank schemes are of **questionable legality**. Lenders pick and choose where they lend, generally avoiding states that vigorously enforce their laws. At least **eight consumer lenders** (**American First Finance, CURO, EasyPay, Elevate, Enova, LoanMart, OppLoans, PersonifyFinancial**) and using five FDIC-supervised banks (Community Capital Bank, FinWise Bank, First Electronic Bank, Republic Bank & Trust (Kentucky), TAB Bank) and one OCC-supervised bank (Stride Bank) to make high-cost rent-a-bank loans to consumers. Others, including World Business Lenders and OCC-supervised Axos Bank, are targeting **small businesses**.

See below to learn about the banks and lenders teaming up to issue triple-digit interest, debt-trap loans in states that do not allow high-cost loans — and which states they avoid. **Find your state on the maps below or in this spreadsheet to see how many “rent-a-bank” lenders are attempting to avoid rate caps in your state.**

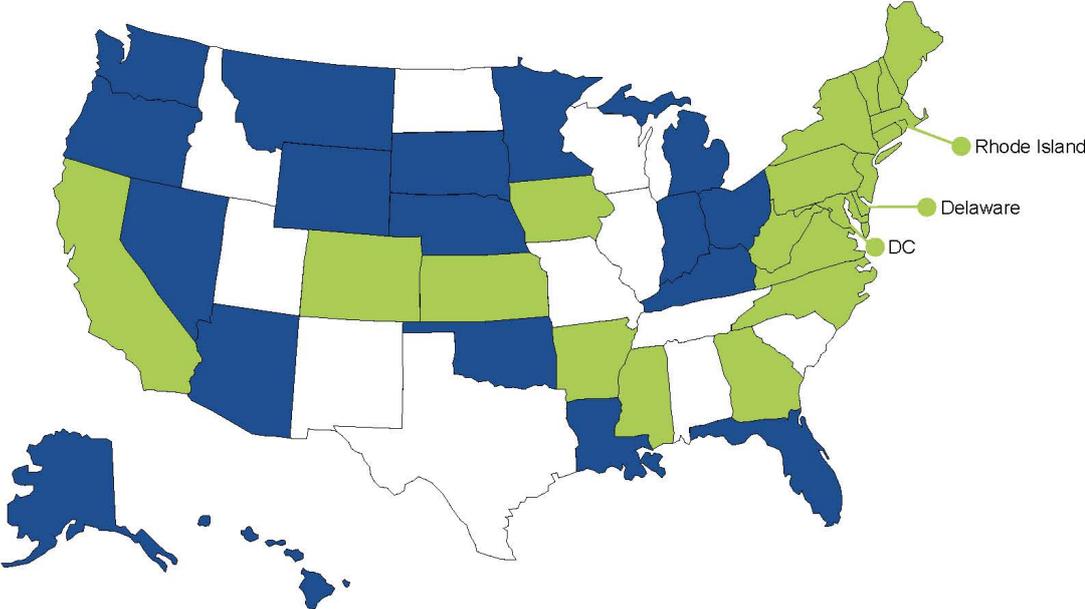
How Many Consumer Rent-a-Bank Lenders Operate in Your State?



- One or more lenders use a rent-a-bank scheme in the state.
- High-cost installment lenders lend directly in the state.
- No known consumer rent-a-bank lending.

Watch out for These High-Cost Lenders and Their Bank Partners

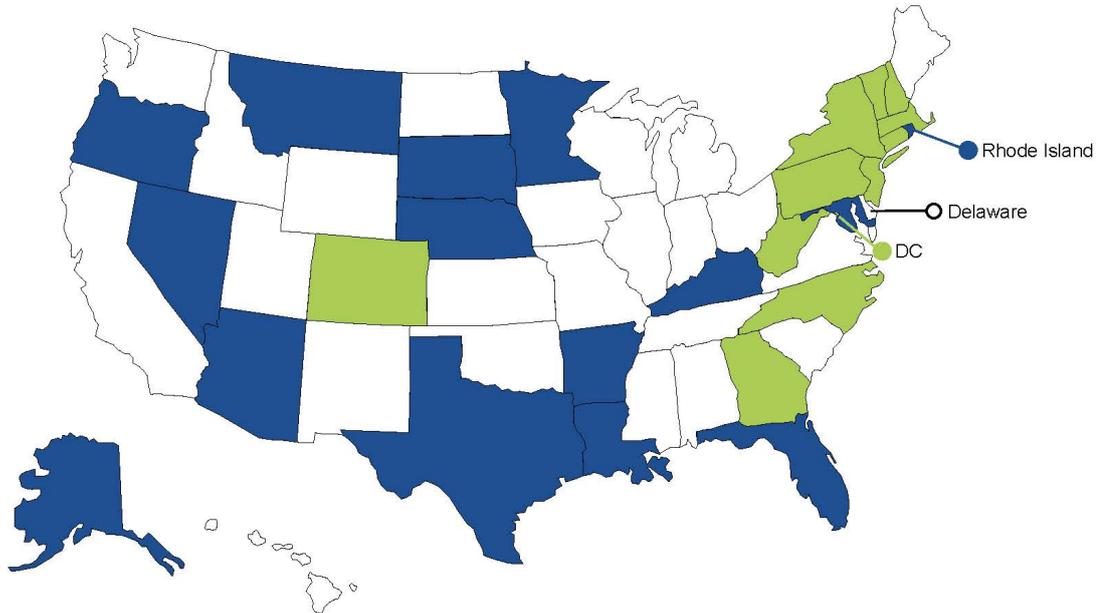
Rent-a-Bank Lending by Elevate's Rise



- Rise uses a rent-a-bank scheme to evade state rate caps
- Rise lends directly in the state.
- Rise does not lend in the state.

Elevate's Rise uses FDIC-supervised **FinWiseBank** (Utah) to make installment loans of \$500 to \$5,000 with **APRs of 99% to 149%** in **18 states** that do not allow those rates for some or all loans in that size range: Alaska, Arizona, Florida, Hawaii, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nebraska, Nevada, Ohio, Oklahoma, Oregon, South Dakota, Washington, and Wyoming. Rise also lends directly in 14 states.

Rent-a-Bank Lending by Elevate's Elastic

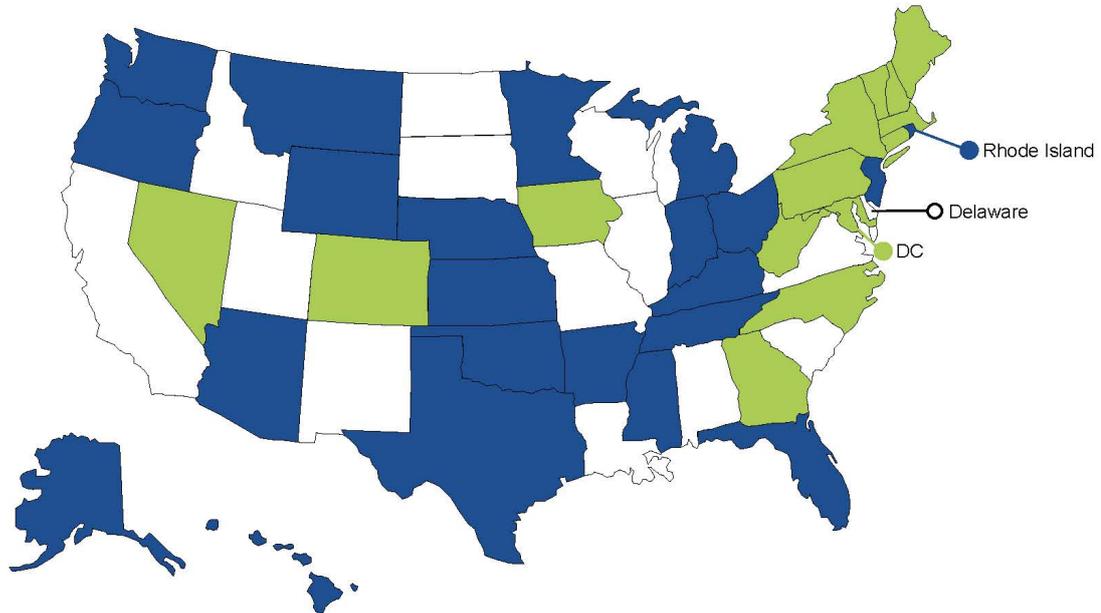


- Elastic uses a rent-a-bank scheme.*
- State permits high-cost lines of credit or has loopholes in rate caps.
- Elastic does not lend in the state.*

Elevate's Elastic line of credit uses FDIC-supervised **Republic Bank & Trust** (Kentucky) to offer lines of credit of \$500 to \$4,500 with an effective **APR of up to 109%**.

*Elastic's website no longer discloses where the line of credit is available, but Elastic is no longer available in the District of Columbia as a result of litigation, and its FAQs previously noted that it was not available in 11 states: Colorado, Connecticut, Georgia, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Vermont, and West Virginia. Elastic was, and probably still, is available in many states that may not permit effective APRs as high as 109% on some or all lines of credit.

Rent-a-Bank Lending by Enova's NetCredit

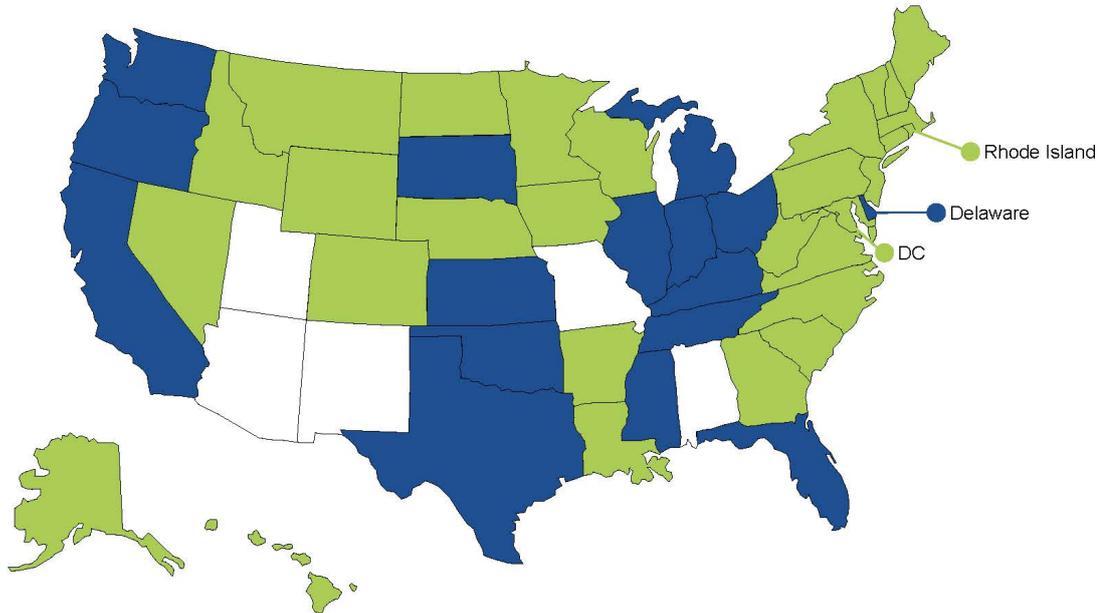


- NetCredit uses a rent-a-bank scheme to evade state rate caps.
- NetCredit lends directly in the state.
- NetCredit does not lend in the state.

Enova's NetCredit uses FDIC-supervised **Republic Bank & Trust** (Kentucky) to make installment loans of \$2,500 to \$10,000 with **APRs up to 99.99%** in **22 states** that do not allow those rates on some or all loans in that size range: Alaska, Arizona, Arkansas, Florida, Hawaii, Indiana, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Rhode Island, Texas, Tennessee, Washington, and Wyoming. Enova also lends directly in 15 states.

- **Sample NetCredit/Republic Bank & Trust loan:** NetCredit's website for Montana (where voters capped rates at 36%) gives an example of a \$4,500 loan at 65% APR repaid with 50 monthly payments of \$262.53 — for a total of \$13,126.50. This example shows how high-rate loans above what states allow can balloon even when the rate is not in the triple digits.

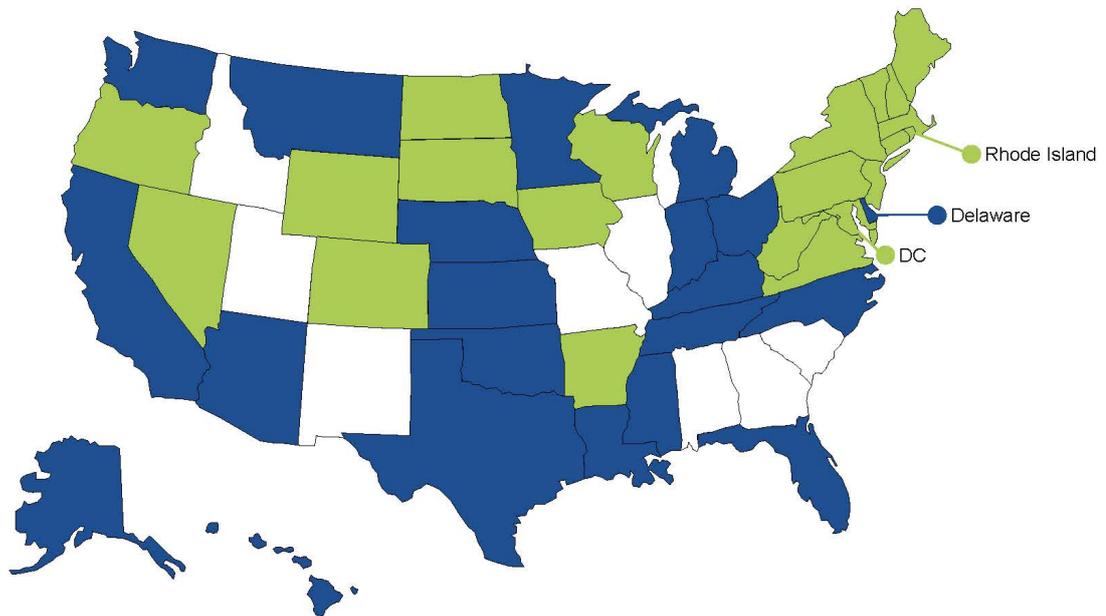
Rent-a-Bank Lending by LoanMart



- LoanMart uses a rent-a-bank scheme to evade state rate caps.
- LoanMart lends directly in the state.
- LoanMart does not lend in the state.

Wheels Financial Group, LLC dba **LoanMart** (under the ChoiceCash brand) uses FDIC-supervised **Community Capital Bank** (Utah) to make auto-title loans in **DC and 16 states**, most of which restrict or disallow high-cost auto title lending: California, Delaware, Florida, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Oklahoma, Ohio, Oregon, South Dakota, Tennessee, Texas, and Washington. A sample loan formerly on LoanMart's website was a 3-year, \$3,000 loan at **170% APR** with 36 monthly payments totaling \$15,431.04. LoanMart also makes auto-title loans directly in five states. LoanMart does not operate in other states.

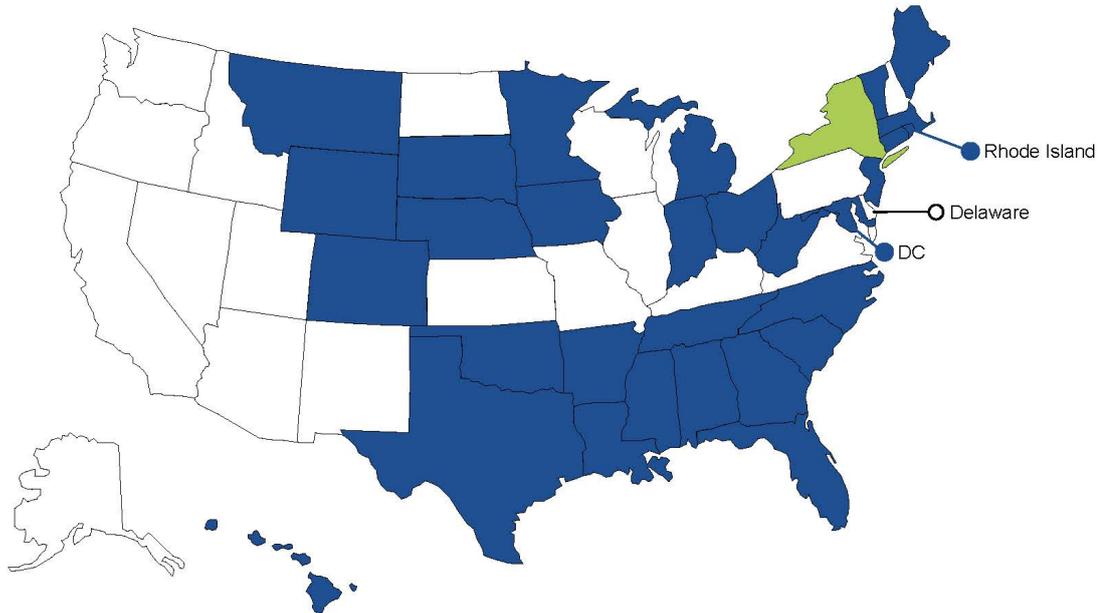
Rent-a-Bank Lending by Applied Data Finance's Personify



- Personify uses a rent-a-bank scheme to evade state rate caps.
- Personify lends directly in the state.
- Personify does not lend in the state.

Applied Data Finance, doing business as **Personify Financial** uses **First Electronic Bank**, an FDIC-supervised industrial bank chartered in Utah (and owned by Fry's Electronics), to enable installment loans of \$500 to \$10,000 with **APRs as high as 179.99%** in 22 states that do not allow that rate for some or all loans in that size range: Alaska, Arizona, California, Delaware, Florida, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, Texas, and Washington. Personify also lends directly in eight other states.

Rent-a-Bank Lending by EasyPay



- EasyPay uses a rent-a-bank scheme.
- EasyPay extends credit directly in the state.
- EasyPay does not extend credit in the state.

EasyPay Finance offers high-cost credit through **businesses across the country** that sell auto repairs, furniture, home appliances, pets, wheels, and tires, among other items. EasyPay’s website does not disclose its rates, but examples from consumers in some states include \$1,500 loans at **188.99% APR**. EasyPay extends credit through FDIC-supervised Transportation Alliance Bank dba **TAB Bank** (Utah) in **DC and 30 states** that may not allow that rate: Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Hawaii, Iowa, Indiana, Louisiana, Massachusetts, Maryland, Maine, Michigan, Minnesota, Mississippi, Montana, North Carolina, Nebraska, New Jersey, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, West Virginia, and Wyoming. EasyPay’s website states that it administers financing directly in other states, other than in New York, most likely under state lending or retail installment sales laws.

Note: The map at the top of this page on How Many Rent-a-Bank Lenders Operate in Your State does not include states where EasyPay operates directly.

Other Consumer Rent-a-Bank Lenders

CURO launched a pilot program in 2019 in Delaware and South Carolina through its **Avio Credit** brand testing a new lending program using Stride Bank, a national bank, to make loans at **rates up to 130% APR**. Curo has **told investors** that the Stride Bank program “will help us expand geographically, online and in some states where we — where we don’t operate right now.”

CURO’s Avio Credit has also launched **VergeCredit**, which makes installment loans up to 179% APR. Verge Credit is currently in 10 states and is expanding.

American First Finance offers secured and unsecured **installment loans through FinWise Bank** for purchases at retailers including furniture, appliances, home improvements, pets, veterinarian services auto and mobile home repair, jewelry, body art. A **sample loan** is a \$5,000 loan with 104 weekly payments of \$154.92, including 145% interest and a \$250 origination fee, which is about 161% APR. The website does not disclose in what states AFF lends, but lawsuits and complaints indicate loans in states including North Carolina and Rhode Island.

Small Business Rent-a-Bank Lending

World Business Lenders (WBL) uses a rent-a-bank scheme to make small business loans, often secured by the small business owner's home. WBL's website does not disclose where it lends directly and where it uses a rent-a-bank scheme. But **lawsuits** in Colorado, Connecticut, Florida, Georgia, Massachusetts, and New York have described rent-a-bank mortgages of \$20,000 to \$550,000, usually secured by the business owner's personal residence with **APRs of 75% to 139% or higher**. World Business Lenders currently uses OCC-supervised **Axos Bank** (previously known as Bank of Internet), a federal savings association and previously used FDIC-supervised **Bank of Lake Mills (Wisconsin)** to attempt to evade state rate caps. World Business Lenders has been profiled for its **predatory practices**.

BFS Capital also uses Axos Bank to fund its small business loans. A lawsuit in Texas claims that BFS charged 274% despite a legal rate in Texas of 18%.

Related Resources

These resources and much more can be found on our **Rent-a-Bank Loans** webpage, and check out our **Take Action** page for what you can do to help stop rent-a-bank lending!

- **Issue Brief: FDIC/OCC Proposal Would Encourage Rent-a-Bank Predatory Lending**
- Fact Sheet: **Stop Payday Lenders Rent-a-Bank Schemes**
- Report: **Why 36%? The History, Use, and Purpose of the 36% Interest Rate Cap**

Rent-a-Bank Loans

Predatory Rent-a-Bank Loan Watch List by State

Policy Briefs & Fact Sheets

- Brief: Payday Lenders Plan to Evade California's New Interest Rate Cap Law through Rent-A-Bank Partnership, October 2019
- Brief: FDIC/OCC Proposal Would Encourage Rent-a-Bank Predatory Lending, December 2019

- Fact Sheet: Stop Payday Lenders Rent-a-Bank Schemes, November 2019

Op-eds & Media Hits

- Op-Ed: Rent-a-bank schemes trample voters' and states' rights by Lauren Saunders, Feb. 8, 2018

Comments & Testimony

- Group long comments to the Office of the Comptroller of the Currency opposing predatory rent-a-bank proposal regarding the true lender: national banks and federal savings associations as lenders; short comments by 101 community, consumer and civil rights groups; press release, Sept. 3, 2020.
- Testimony of Lauren Saunders before the U.S. House Financial Services Committee on Rent-a-Bank Schemes and New Debt Traps, Feb. 5, 2020
- Comments by NCLC, Consumer and Civil Rights Groups to FDIC Strongly Opposing Rent-a-Bank Notice of Proposed Rulemaking Federal Interest Rate Authority 12 CFR Part 331 RIN 3064-AF21, Feb. 4, 2020 || Short comments.
- NCLC, consumer, and civil rights groups comments to the OCC strongly opposing its proposed rule re: "rent-a-banking" 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, Jan. 21, 2020; Short comments from more than 100 community, civil rights, and consumer groups; Consumer and Civil Rights Groups long comments; Press Release.

Letters

- NCLC letter to the Office of the Comptroller of the Currency opposing proposed changes that will weaken the Community Reinvestment Act, Jan. 28, 2020
- Letter from 61 consumer, civil rights and community groups to the OCC, FDIC, and the Federal Reserve Board re: the threat that national banks could help predatory lenders charging 135% to 199% APR to evade new California law (rent-a-bank schemes), Nov. 7, 2019 Press Release
- Coalition letter to OCC and FDIC opposing their support for predatory small business lender using rent-a-bank scheme, Oct. 24, 2019; Press Release
- Letter from Civil Rights and Consumer Groups to Federal Banking Regulators FDIC, OCC, Federal Reserve Bank and the CFPB) Urging them to Prevent the Return of Bank Payday Loans, June 7, 2019; Related Press Release

Litigation

- Amicus brief (Second District Court of Appeals) of the National Consumer Law Center, Center for Responsible Lending, and the National Community Reinvestment Corporation in *Lacewell v the Office of the Comptroller of the Currency* supporting the plaintiff New York State Department of Financial Services, July 30, 2020
- Amicus Brief of National Consumer Law Center and the Center for Responsible Lending supporting neither party in *David Petersen, et al v. Chase Card Funding, LLC, Chase Issuance Trust, and Wilmington Trust Company, as Trustee of Chase Issuance Trust* filed with the U.S. Western District Court of New York, Feb. 7, 2020
- Amicus Brief of National Consumer Law Center, Center for Responsible Lending and Colorado Public Interest Research in support of plaintiff in *Martha Fulford v Avant of Colorado LLC et al and Web Bank*, January 14, 2020

- Amicus Brief of National Consumer Law Center, Center for Responsible Lending and Colorado Public Interest Research in support of plaintiff in Martha Fulford v Marlette Funding, January 14, 2019

Press Releases

- Consumer & Civil Rights Advocates to OCC: Your Proposed “True Lender” Rule Would Help Fraudulent, Predatory Lenders Evade State Interest Rate Laws that Protect Families, September 3, 2020
- OCC Proposal Would Turn State Interest Rate Limits Into a “Dead Letter,” Causing Explosion of Rent-a-Bank Payday Lending that Will Devastate Struggling Families, July 20, 2020
Advocates Slam FDIC Proposed Rule for Industrial Loan Companies as Invitation for Predatory Lending, July 2, 2020
- Advocates Condemn FDIC Rule that Encourages Predatory High-Cost Loans; Call on Congress to Pass Federal 36% Interest Rate Cap Limit, June 24, 2020
- Advocates Praise Rent-a-Bank Colorado Court Ruling Upholding State Interest Rate Caps, June 10, 2020
- Advocates Praise D.C. Attorney General Suit Against Predatory High-Cost Rent-a-Bank Lender, June 5, 2020
- Advocates Condemn Rent-a-Bank Rule that Encourages Predatory High-Cost Loans; Call on Congress to Pass Federal 36% Interest Rate Cap Limit, May 29, 2020
- Consumer and Civil Rights Groups Strongly Urge Federal Banking Regulator (OCC) to Stop Rent-a-Bank Payday Loan Schemes, Jan 22, 2020
- Advocates Urge FDIC, OCC, and Federal Reserve to Stop Banks from Helping Payday Lenders to Evade State Interest Rate Limits, Nov. 7, 2019
- Groups: FDIC & OCC Are Wrong to Support Predatory Small Business Lender, Oct. 24, 2019
- New California Law Targets Long-Term Payday Loans; Will Payday Lenders Evade it?, Oct. 11, 2019

Fact Sheet: Are You a Reverse Mortgage Non-Borrowing Spouse? Tips to Help You Remain in Your Home

Principles for Laws Permitting Electronic Repossession of Vehicles

What States Can Do to Help Consumers: Energy Insecurity

Medical Debt



Fair Debt Collection

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Model Statutes

- What States Can Do to Help Consumers: Medical Debt, April 2019
- Model Medical Debt Protection Act, September 2019

Policy Analysis

Policy Briefs, Reports, Press Releases, & Fact Sheets

- Report: An Ounce of Prevention: A Review of Hospital Financial Assistance Policies in the States, and Press Release, January 2020
- Report: Don't Add Insult to Injury: Medical Debt & Credit Reports, November 2019
- Fact Sheet: Medical Debt Collection, 2019
- Press release: Tens of Millions of Consumers Will Benefit from New Rules for Medical Debt on Credit Reports, Sept. 7, 2017
- Press Release: CFPB Report and Hearing Show Urgent Need to Protect Consumers from Medical Debt Collection, December 11, 2014
- Report: Strong Medicine Needed: What the CFPB Should Do to Protect Consumers from Unfair Collection and Reporting of Medical Debt, Sept. 10, 2014

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- Justice Catalyst Law and NCLC Letter to IRS addressing concerns over hospital financial assistance under Internal Revenue Code 26 C.F.R. § 1.501(r) and Revenue Ruling 69-545, May 18, 2020
- Group Letter urging Congress to include S. 1581/HR 6470 the Medical Debt Relief Act of 2019 in the next Covid-19 relief package, May 11, 2020
- Testimony by Jenifer Bosco before the Oregon House Committee on Rules in support of House Bill 3076 (Medical Debt), April 29, 2019
- NCLC letter written in support of H.R. 5330 (Rep. Tlaib), the Consumer Protection for Medical Debt Collections Act, Dec. 9, 2019

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