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. 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 to see how many “rent-a-bank” lenders are attempting to avoid rate caps in your state.
How Many Rent-a-Bank Lenders Operate in Your State?

Watch out for These High-Cost Lenders and Their Bank Partners
Elevate’s Rise uses FDIC-supervised FinWiseBank (Utah) to make installment loans of $500 to $5,000 with APRs of 99% to 149% in DC and 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.
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 its FAQs previously noted that it was not available in 11 states. Elastic was, and probably still, is available in DC and 14 states that do not permit effective APRs as high as 109% on some or all lines of credit: Alaska, Arizona, Arkansas, Florida, Kentucky, Louisiana, Maryland, Minnesota, Montana, Nebraska, Nevada, Oregon, South Dakota, and Texas.
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 DC and 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.
**OppLoans** uses FDIC-supervised **FinWise Bank** (Utah) to make installment loans of $400 to $4,000 at **160% APR** in **DC and 24 states** that do not allow that rate for some or all loans in that size range: Alaska, Arizona, California, Florida, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Virginia, Washington, and Wyoming. OppLoans also lends directly in 13 states.

- **Sample OppLoans/FinWise Bank loan**: A $3,000 loan at 160% APR for 12 Months. 12 Payments of $514.60 each for a total of **$6,175.20**
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 is 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.
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.
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.

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, 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.
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](#)

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**Rent-a-Bank Loans**

- [Predatory Rent-a-Bank Loan Watch List by State](#)

**Policy Briefs & Fact Sheets**

- **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**

- [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 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 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

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

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**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: 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


**Comments, Testimony and Letters**

- **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

**Articles**

[Dealing with Medical Debt](#) by NCLC attorney Jenifer Bosco, May 17, 2018

[Guide to Reducing Medical Debt for Low-Income Patients](#) by NCLC attorney Andrea Bopp Stark, Feb. 11, 2020

**Webinars**

- **Medical Debt Strategies for Older Adults** by Jenifer Bosco (NCLC), October 18, 2017
- **Helping Older Americans Cope with Medical Debt** by Chi Chi Wu (NCLC), Cheryl Fish-Parcham (Families USA), March 14, 2012

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**What States Can Do to Protect Consumers:**

**Student Loans**

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**Coalition Letter re: The Stop EITC and CTC Seizures Act (H.R. 5114)**
Mistakes on criminal background check reports continue to cause many thousands of people to be denied jobs and housing and skirt federal law (Fair Credit Reporting Act). Federal and state government and the courts each have a role in improving the accuracy of background checks.
Background

NCLC’s ground-breaking 2012 report on criminal background checks detailed an industry-wide lack of accountability and incentives to cut corners that meant consumers paid for these third-party errors with their jobs while employers waste money and miss out on hiring qualified employees. Since then, advocates have litigated many class action and individual lawsuits against background screening companies for violations of the Fair Credit Reporting Act (FCRA). Both the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau (CFPB) have brought actions resulting in settlements requiring background screening companies to reform their procedures and practices and pay millions of dollars in civil penalties and in relief to harmed consumers.

Despite these efforts to improve background check reporting, companies continue to generate inaccurate reports that have grave consequences for consumers seeking jobs and housing. This report investigates common poor practices and mistakes and offers best practice suggestions for background screening companies and recommendations for policymakers, including Congress, federal agencies, and state governments. Federal and state actors must take action to stop inaccurate and incomplete reports and to hold background screening companies accountable. It is essential that deficient screening practices be stopped so consumers are not guilty until proven innocent.

A significant number of adults living in the United States are affected.

- About 94% of employers and about 90% of landlords use criminal background checks to evaluate prospective employees and tenants.
- About 1 in 3 adults (between 70 million and 100 million people) in the U.S. have a criminal record.
- Many additional people without a criminal record are wrongly tagged as having a record.

The problems are industry-wide.

There are no licensing requirements for criminal background screening companies. Anyone with a computer and access to records can start a business; an industry analysis estimated there were 1,954 background screening companies in 2019.

There is no central system for registration for background screening companies. A consumer can’t regularly order their own report to review for errors as there is no central source to find and request a copy.

Many companies attempt to skirt the federal Fair Credit Reporting Act (FCRA), including by subcontracting work to vendors or disclaiming responsibility.

Employers often fail to comply with the FCRA. This makes it difficult to know whether consumers were denied employment due to a background check report.

Many screening products are now designed to automate and outsource decision making to the background screening company. Employers and landlords may no longer individually assess or make judgment calls about applicants. And applicants who otherwise would have been accepted are excluded, and employers and landlords miss out on qualified employees and tenants.
NCLC’s research reveals that criminal background screening companies continue to generate reports that:

- **Mismatch the subject of the report with another person** (e.g., listing criminal records belonging to someone else, often harming consumers with common names in particular);
- **Include sealed or expunged records** (e.g., listing a conviction that was legally removed from the public record);
- **Omit information about how the case was resolved** (e.g., failing to report that charges were dismissed);
- **Contain misleading information** (e.g., listing a single charge multiple times); and/or
- **Misclassify the offense reported** (e.g., reporting a misdemeanor as a felony).

Many errors are due to common poor practices by background screening companies, such as:

- Using over-inclusive or unsophisticated matching criteria;
- Failing to verify information obtained through vendors or other faulty sources;
- Using incomplete data (e.g., missing personal identifiers or disposition information);
- Retrieving data in bulk and then failing to routinely update the database;
- Failing to utilize all available information to prevent a false positive match;
- Misunderstanding state-specific criminal justice procedures and laws.

**Recommendations**

The National Consumer Law Center report recommends that Congress, federal regulatory agencies, and states use their authority to rein in industry-wide problems (see pages 32-40 of full report for complete recommendations).

1. **Congress** should amend the Fair Credit Reporting Act, or FCRA (enacted in 1970 by Congress to protect the privacy of consumers) to increase protections for prospective tenants and give the Federal Trade Commission specific supervisory authority over background screening companies.

2. **The Consumer Financial Protection Bureau (CFPB)** should issue regulations under the FCRA to ensure greater accuracy of background checks. The CFPB should also require consumer reporting agencies to register so consumers can more easily correct inaccurate and misleading information.

3. The **CFPB and the Federal Trade Commission** should continue to use their enforcement powers to investigate major background screening companies for FCRA violations. These federal agencies should also investigate nationwide employers for compliance with the FCRA requirements for users of consumer reports for employment purposes.

4. **States** should pass legislation requiring users of background check reports to review the underlying report produced by the background screener before making an employment or housing decision. **States should also** require companies that receive bulk data from court databases to promptly delete sealed and expunged criminal records and routinely update their records. States should revoke a company’s ability to receive data if an audit reveals that the company is not in compliance.

5. **State attorneys general should investigate** background screening companies, and any remedies should require background screening companies to implement specific reforms.
Related Publications: