

[Advocates Applaud U.S. House Vote to Restore Rule to Protect Borrowers from School Fraud and Closures](#)

FOR IMMEDIATE RELEASE: January 16, 2020

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Boston - Today, National Consumer Law Center advocates applauded the [U.S. House of Representatives' use of the Congressional Review Act](#) to overturn the 2019 Borrower Defense to Repayment rule issued by the U.S. Department of Education last September. "The House correctly recognized that Department of Education's attempt to prop up for-profit schools that cheat and harm students runs counter to the goals of the Higher Education Act and would hurt students and taxpayers," **said National Consumer Law Center attorney Abby Shafroth.** "If the Department was serious about deterring illegal school misconduct, it would put its efforts into implementing the original 2016 Student Borrower Defense rule and resolving the hundreds of thousands of outstanding applications for relief from students who were preyed upon by schools more interested in profits than education."

Last December, a broad coalition of 57 organizations [sent a letter](#) to original sponsors Representative Susie Lee and Senator Dick Durbin, supporting their use of the CRA to keep the new rule from becoming law, noting that if it goes into effect the rule would only provide relief to about 3% of student borrowers who were victims of fraud and other illegal school conduct, and that only 1% of schools that defrauded students would have to reimburse taxpayers. The rule would therefore green light school misconduct while making relief for defrauded borrowers all but impossible.

There are more than [200,000 pending applications](#) for relief with many borrowers held in limbo for years as the current administration has focused instead on finding ways to limit eligibility for relief. "Rather than protecting the multi-billion dollar for-profit education industry at the expense of students and taxpayers, the Department of Education should instead enforce the existing [2016 Student Borrower Defense rule](#) and provide full relief to borrowers who were scammed and left with heavy debt and worthless degrees—or no degrees at all—by predatory schools," **said Shafroth.**

The Congressional Review Act gives Congress the authority to overturn rules promulgated by federal agencies. A CRA resolution of disapproval must be passed by both the House and the Senate and signed by the President in order to overturn a rule.

[Statement Regarding Bank Regulators' Guidance on Alternative Data](#)

FOR IMMEDIATE RELEASE: December 4, 2019

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Boston - Yesterday, the Federal Reserve Board, Federal Deposit Insurance Corp., Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, and National Credit Union Administration released an Interagency Statement on the Use of Alternative Data in Credit Underwriting.

Chi Chi Wu, staff attorney at the National Consumer Law Center, issued the following statement about the banking regulators' guidance:

"I am pleased to see that the bank regulators have taken a measured approach to alternative data, encouraging the use of the more promising forms, such as cash flow data, while cautioning about data that could present "greater consumer protection risks." While the regulators do not identify what types of data could present these greater risks, in our opinion social media and Big Data are examples.

With alternative data, our mantra is the "devil is in the details" and the Interagency Statement appears to follow such an approach. For example, the Interagency Statement notes the benefits of using alternative data as part of a "Second Look" approach, i.e., only for applicants who cannot access credit, something we've supported as well because it does not affect consumers who are already considered creditworthy.

"The bank regulators' focus on consumer protection laws, such as the Fair Credit Reporting Act, unfair and deceptive acts and practices statutes, and fair lending laws, is important, and we think the applicability of these laws should be stated in the strongest and clearest terms possible. Yet it is also important to encourage lenders to be open to the more promising forms of alternative data, such as cash flow, given how slow some of them have been to adopt even newer credit scoring models based on traditional credit reports so a nudge may be useful here.

"One issue that does need greater guidance is consumer control over alternative data, especially bank account transactions. The Interagency Statement notes that consumers can "expressly permission access to their cash flow data, which enhances transparency and consumers' control over the data." However, protections are necessary to ensure that such permission is not abused, i.e., that permission granted for credit underwriting is not later used for a purpose the consumer never intended, such as targeted marketing or debt collection."

[Report: States Put Families at Risk to Feed an Insatiable Debt Collection Machine](#)

FOR IMMEDIATE RELEASE: NOVEMBER 12, 2019

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Download the full report, state maps and state-specific information:

<https://www.nclc.org/issues/report-still-no-fresh-start.html>

National Consumer Law Center's 50-State Review: 'Horse and Buggy' Laws Need Major Reform

Boston – Millions of families have still not recovered from the Great Recession of 2008, and the astronomic growth of the debt buyer industry makes them increasingly vulnerable to seizure of essential wages and property to pay their oldest debts. A new report from the National Consumer Law Center surveys the exemption laws of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands that protect wages, assets in a bank account, and property from seizure by creditors. *No Fresh Start in 2019: How States Still Let Debt Collectors Push Families into Poverty* finds that **not one** jurisdiction's laws meet basic standards so that debtors can continue to work productively to support themselves and their families.

Some state exemption laws are still parked in the horse and buggy days. For example, while Pennsylvania has strong protections for debtors' wages, that state protects almost none of a debtor's property: just clothing, a Bible, school books, sewing machines not held for resale, military uniforms and \$300 of other property—in total. Michigan protects five swine, two cows, and five roosters, but provides only \$3,500 in protection for the family home—just 2% of the median value of a home in the state. Delaware protects a seamstress's sewing machine, \$75 of work tools, and an additional \$500 of property unless the debtor files bankruptcy. "It's a travesty when outdated state laws protect sewing machines and roosters but not a living wage, a working car, and a bare bones checking account," **said Carolyn Carter, National Consumer Law Center deputy director and author of the report.**

"This report serves as a wake-up call for states to update their exempt property laws and stop putting millions of families at risk. Doing so will allow local courts to redirect their focus from the insatiable appetite of a debt machine that churns out millions of undocumented debt collection lawsuits each year," **said Carter.**

Despite the importance of state exempt property laws, this National Consumer Law Center report finds that **not one** state meets five basic standards:

- Preventing debt collectors from seizing so much of the debtor's wages that the debtor is pushed below a living wage,
- Allowing the debtor to keep a used car of at least average value;
- Preserving the family's home—at least a median-value home;
- Preserving at least \$3,000 in a bank account so that the debtor has minimal funds to pay such essential costs as rent, utilities, and commuting expenses, and
- Preventing seizure and sale of the debtor's necessary household goods.

Better states: High B grade states are Massachusetts and Nevada. Jurisdictions earning a solid B are Texas, Puerto Rico, and the District of Columbia. Low B ratings are: New York, Oklahoma, and South Carolina while Kansas, North Dakota, and Wisconsin each earned a high C.

The worst states allow debt collectors to seize nearly everything a debtor owns, even the minimal items necessary for the debtor to continue working and providing for a family. Earning an F grade are: Delaware, Georgia, Kentucky, Michigan, New Jersey, and Utah. Close on the failing heels with a low D grade are: Alabama, Arkansas, Indiana, Maryland, Missouri, Pennsylvania, and Wyoming

Key Recommendations

The NCLC report recommends that state exemption laws should be reformed to:

- **Preserve the debtor’s ability to work**, by protecting a working car, work tools and equipment, and money for commuting and other daily work expenses.
- **Protect the family’s housing, necessary household goods, and means of transportation.**
- **Protect a living wage for working debtors** that will meet basic needs and maintain a safe, decent standard of living within the community.
- **Protect a reasonable amount of money in a bank account** so that debtors can pay commuting costs as well as upcoming rent and utility bills.
- **Protect retirees from destitution** by restricting creditors’ ability to seize retirement funds.
- **Be automatically updated for inflation.**
- **Close loopholes that enable some lenders to evade exemption laws.** For example, states that allow payday lending enable these lenders to evade state laws that protect wages and exempt benefits from creditors. States that allow lenders to take household goods as collateral enable these lenders to avoid state household good exemptions.
- **Be self-enforcing to the extent possible**, so that the debtor does not have to file complicated papers or attend court hearings.

Model language for states to achieve these goals is provided in the National Consumer Law Center’s [Model Family Financial Protection Act](#). The model law also includes steps that states can take to reduce the pervasive abuse of the court system by debt buyers. Seizure of debtors’ wages and property would not be such a problem if debt buyers did not churn out such an endless stream of judgments on old, poorly documented debts—many of them not even owed.

By updating exemption laws, states can prevent over-aggressive debt collectors from reducing families to poverty. These protections also benefit the state by keeping workers in the workforce, helping families stay together, and reducing the demand on funds for unemployment compensation and social services. Both current creditors and debt collectors collecting on old bills are benefited by consumers having the financial resources to improve their earning power and meet their new and old obligations in an orderly manner.

The report includes stories of real people harmed by draconian and dubious debt collection judgments, each state’s overall rating, and ratings for the five primary asset-preservation standards as well as appendices with specific exemption information on all 53 jurisdictions. Also included: Recommendations for the minimal exemption amounts that will allow a debtor to continue to work to support a family. *For more information on NCLC’s body of work related to fair debt collection, visit: www.nclc.org/issues/debt-collection.html.*

Related NCLC materials

- [The Debt Machine: How the Collection Industry Hounds Consumers and Overwhelms the Courts](#) (July 2010):
 - [Model Family Financial Protection Act](#) (model state law)
 - [What States Can Do to Help Consumers Debt Collection](#), May 2019
 - [State Debt Collection Fact Sheets](#), 2018
 - [Fair Debt Collection](#) (legal treatise):
 - [Surviving Debt](#) (consumer book) and [Consumer Debt Advice](#) (free articles)
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[National Consumer Law Center Attorney Chi Chi Wu to Testify on July 25 before U.S. House on Use of Alternative Credit Data to Expand Access to Credit](#)

FOR IMMEDIATE RELEASE: July 24, 2019

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Full testimony of NCLC attorney Wu will be available before or by 10 a.m. EDT on July 25, 2019: <https://bit.ly/alt-credit-scoring>

Download new NCLC issue brief: "[Credit Invisibility and Alternative Data: Promises and Perils](#)"

Boston - On Thursday, July 25, at 10 a.m. ET, National Consumer Law Center attorney Chi Chi Wu will testify before the U.S. House Task Force on Financial Technology at the hearing "[Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit.](#)" During her testimony, Wu will discuss how alternative data has the potential to benefit, but also poses risks to millions of consumers who are either "credit invisible" or have impaired records with the "Big Three" credit bureaus: Equifax, Experian, and TransUnion.

"We have a chance with new data sources, and models to do better," says **National Consumer Law Center attorney Chi Chi Wu**. "The question is whether we will do so or whether we will contribute to the gaping inequality in our society."

Whether alternative data will benefit or hurt consumers depends on several key factors, including:

- What kind of alternative data is being used?
- How is the alternative data being used?
- What is the accuracy and predictiveness of the data?
- What level of disparate impact does the data have on protected groups, especially communities of color?

According to the [Consumer Financial Protection Bureau](#) (CFPB), 26 million Americans (or about 1 in 10) do not have a credit history, and another 18 million are unscorable. There are significant racial disparities with respect to credit invisibility. About 15% of African American and Latinx consumers have no credit history compared to 9% of Whites. Another 13% of African Americans and 12% of Latinx consumers are unscorable, compared to 7% of Whites.

If alternative data is used for credit decision-making, its use must be regulated by the Equal Credit Opportunity Act (ECOA). Unless the data represents direct experience between the lender and the consumer, it should also be regulated by the Fair Credit Reporting Act (FCRA). Compliance with both these laws will be critical for the purposes of accuracy, predictiveness, transparency, and minimizing disparate impact.

In conjunction with Wu's testimony, NCLC published a new issue brief "[Credit Invisibility and Alternative Data: Promises and Perils.](#)"

[Federal Government Strips Legal Rights of Older Consumers in Nursing Homes](#)

FOR IMMEDIATE RELEASE: July 17, 2019

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Washington - Late yesterday, the U.S. Center for Medicare & Medicaid Services (CMS) [released](#) its final nursing home arbitration rule, allowing nursing homes to force residents into arbitration and depriving them of access to the courts in case of a dispute. In 2017, National Consumer Law Center and dozens of other advocates [filed comments](#) with CMS condemning the proposed move to strip legal rights from residents in long-term care facilities.

The following statement is provided by National Consumer Law Center Associate Director Lauren Saunders.

“It is outrageous that the federal government has rolled back this key protection that gave nursing home residents and their families the right to hold nursing homes accountable for abuse, neglect, and failure to safeguard loved ones.

“Forcing disputes into a secretive system before a private arbitrator, often chosen by the nursing home, with no appeal if the arbitrator ignores the facts or gets the law wrong, is deplorable. The previous rule prohibiting forced arbitration in contracts was [adopted in 2016](#) after CMS examined years of data showing abuse and neglect in nursing homes and long-term care facilities. CMS also concluded that forced arbitration clauses contribute to a lack of accountability and shield wrongdoing from the public spotlight. CMS conducted a literature review and also reviewed court opinions involving arbitration in long-term care facilities. Many of the articles reviewed [provided evidence that pre-dispute arbitration agreements were detrimental to the health and safety of LTC facility residents.](#)

“Everyone should be outraged at this injustice which gives a “get out of jail” card to nursing homes that neglect or cause the death of some of our nation’s most vulnerable and fragile people.”

[Statement: Nearly 50 Organizations Oppose FCC Proposed Cap on Universal Service Fund](#)

FOR IMMEDIATE RELEASE: June 11, 2019

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Washington, D.C.- The parties listed below make the following joint statement regarding the Notice

of Proposed Rulemaking (NPRM) issued by the Federal Communications Commission proposing to place a cap on the federal Universal Service Fund (USF):

“When Congress codified the concept of universal service by enacting the Telecommunications Act of 1996, it called for the creation of different programs tailored to promote affordable communications services for those most in need, from students, library patrons and rural hospitals to low-income and rural communities. Grouped under a single umbrella of the Universal Service Fund, these programs are intended to work in concert to address the “digital divide” and ensure that all consumers have access to high-quality and affordable communications. Indeed, our nation’s economic well-being and the well-being of people and businesses in rural and low-income communities require universal access to affordable, quality, high-speed broadband.

“The parties listed below believe that placing an overall cap on the USF puts at risk the comprehensive mission of universal service as Congress intended and articulated it. An overall USF cap, even if sized to meet current overall demand or the sum of authorized levels plus inflation, could still end up pitting these essential programs against each other in the future and undermine efforts to solve the “digital divide.” By contrast, the 1996 Act specifically directs the FCC to ensure that the Universal Service Fund has “sufficient” funding, and the FCC must therefore evaluate and size each program to suit its unique and essential universal service mission. An overarching cap would thus undermine efforts to ensure that funding for each program is and will remain “sufficient” to satisfy Congress’ mandates for universal service for all.

“For these reasons, the organizations and associations listed here respectfully oppose the imposition of an overall cap on the Universal Service Fund.”

AASA, The School Superintendents Association

Access Humboldt

Advanced Data Services, Inc. (ADS)

Advocates for Basic Legal Equality (ABLE)

Alliance for Excellent Education

American Civil Liberties Union (ACLU)

American Library Association (ALA)

Appalshop

Asian Americans Advancing Justice | AAJC

Association of Educational Service Agencies

Benton Foundation

Center for Rural Strategies

Chief Officers of State Library Agencies (COSLA)

Citizens Coalition

Common Cause

Common Sense Media

Communications Workers of America

Conterra Networks

Consortium for School Networking (COSN)

Consumer Federation of America (CFA)

Free Library of Philadelphia

Georgia K-12 CTO Council

Greenlining

Illinois Educational Technology Leaders (IETL)

Infinity Communications & Consulting, Inc.

Institute for Local Self-Reliance

The Leadership Conference on Civil and Human Rights

Louisiana CTO Council

MediaJustice

Midland Council of Governments

Missouri Educational Technology Leaders (METL)

Mobile Beacon

NAACP

National Association of State Boards of Education

National Collaborative for Digital Equity (NCDE)

National Consumer Law Center, on behalf of its low-income clients (NCLC)

National Digital Inclusion Alliance (NDIA)

National Hispanic Media Coalition (NHMC)

National Rural Education Association

National Rural Education Advocacy Consortium

National Tribal Telecommunications Association

Native Public Media

Next Century Cities

North Central Ohio Computer Cooperative (NCOCC)
Northern Buckeye Education Council
NTCA - The Rural Broadband Association
New America's Open Technology Institute (OTI)
New York State Association for Computers and Technologies in Education (NYSCATE)
OCA - Asian Pacific American Advocates
Pennsylvania Association for Education Communications and Technology (PAECT)
Rural Wireless Association, Inc.
Schools, Health & Libraries Broadband (SHLB) Coalition
SouthWest Ohio Computer Association (SWOCA)
State Educational Technology Directors Association (SETDA)
Texas K-12 CTO Council
Tri-County Computer Services Association
Tribal Digital Village Network (TDVNet)
United Church of Christ, OC Inc. (UCC OC Inc.)
Urban Libraries Council (ULC)
Velocity Fiber
Virginia Society for Technology in Education (VSTE)
Voqal
WTA-Advocates for Rural Broadband
Yavapai County Education Service Agency

Consumer and Civil Rights Groups Send Letters to FDIC, OCC, and Fed Urging them to Prevent Bank Payday Loans

FOR IMMEDIATE RELEASE: June 11, 2019

National Consumer Law Center contact: Jan Kruse, jkruse@nclc.org or (617) 542-8010

Letters come after news that regulators pursuing joint small-dollar policy; Growing concern that several Administration appointees may be giving green light for predatory loans

WASHINGTON, D.C. - Today, the National Consumer Law Center (NCLC) joined a coalition of national civil rights and consumer groups in writing to top banking regulators on the importance of preventing banks from once again issuing payday loans that trap people in a cycle of debt. The groups pointed to a recent letter from more than 400 organizations to the Consumer Financial Protection Bureau (CFPB), which “prominently stressed the dangers of bank-issued payday loans in addition to those of non-bank payday lenders.”

These new letters were sent to the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and the Federal Reserve (Fed) by Americans for Financial Reform, the Center for Responsible Lending, Consumer Federation of America, The Leadership Conference on Civil and Human Rights, the NAACP, and the National Consumer Law Center (on behalf of its low-income clients).

The letters urged the regulators to “listen to the voices of Americans across the country who have spoken out so strongly in opposition to high-cost, balloon payment loans.”

The letters also pointed out: “When bank payday loans were on the market, two-thirds of fees came from people who on average borrowed 15 or more times a year, many of whom took out loans 10 or more months a year.”

A link to letter to the FDIC is [here](#).

A link to letter to the OCC is [here](#).

A link to letter to the Fed is [here](#).

The letters echo recent concerns over the [National Credit Union Administration’s proposal to loosen standards](#) in the Payday Alternative Loan (PAL) program.

[Racial Justice and Equal Economic Opportunity Archives](#)

Credit & Economic Opportunity

Policy Analysis

Policy Briefs, Reports & Press Releases

- Report: [Time to Stop Racing Cars: The Role of Race and Ethnicity in Buying and Using a Car](#), April 2019 ([2-Page Overview](#)) [Press Release](#)

- Policy Brief: [Past Imperfect: How Credit Scores and Other Analytics “Bake In” and Perpetuate Past Discrimination](#), May, 2016
- Policy Brief: [Racial Disparities in Auto Loan Markups: State-by-State Data](#), June 2015
- Press Releases: [Consumer Financial Protection Bureau Will Hold Auto Lenders Accountable For Discrimination in Auto Lending](#), March 2013
- Policy Brief: [The Consumer Financial Protection Bureau Should Update Regulation B to Protect Consumers from Credit Discrimination](#), April 2012
- Report: [Why Responsible Mortgage Lending Is a Fair Housing Issue](#), February 2012
- Issue Brief: [State-by-State Racial Disparities in Auto Lending by Auto Dealers](#), May 2010
- Report: [Credit Scoring and Insurance: Costing Consumers Billions and Perpetuating the Economic Racial Divide](#), July 2007

Comments, Letters, & Testimony

- [Letter](#) to the National Association of Forensic Economics (NAFE) expressing concern about the unfair consideration of race, ethnicity, and gender by forensic economists in future earnings modeling, April 29, 2019.
- [Coalition letter](#) urging Congress to prioritize civil rights in upcoming privacy legislation, Feb. 13, 2019
- [Consumer, Civil Rights, and Privacy Advocates comments to the Department of Homeland Security opposing Notice of Proposed Rulemaking on Public Charge Determinations](#), Dec. 10, 2018
- [Group letter to CFPB’s Acting Director Mulvaney seeking to remove Mr. Eric Blankenstein from having any involvement in the Bureau’s oversight and enforcement of antidiscrimination laws](#), Oct. 5, 2018
- [Comments in response to the Consumer Financial Protection Bureau’s \(CFPB\) RFI on the importance of maintaining Regulation B \(Reg B\) and the use of the long-established disparate impact doctrine in enforcement actions, examinations, and complaint investigations that have Equal Credit Opportunity Act \(ECOA\) implications](#), June 25, 2018

Litigation & Amicus Briefs

- [American Insurance Association v. U. S. Department of Housing and Urban Development](#), Case No. 1:13-cv-00966-RJL (D.D.C.) NCLC joined an amicus brief drafted by the NAACP Legal Defense and Educational Fund and the American Civil Liberties Union, also joined by the National Community Reinvestment Coalition, in support of the defendant’s motion to dismiss or, in the alternative, for summary judgment in this case challenging HUD’s Discriminatory Effects Rule under the Fair Housing Act. (2/20/2014)
- [Township of Mount Holly, New Jersey v. Mt. Holly Gardens Citizens in Action, Inc.](#), U.S. Supreme Court, No. 11-1507
NCLC and ACLU filed an amicus brief, joined by seven other advocacy groups, supporting the respondents’ position that the U.S. Court of Appeals for the Third Circuit decided correctly in ruling that the Fair Housing Act authorizes disparate impact civil rights claims as a means to combat housing discrimination.
- [Beverly Adkins et al. v Morgan Stanley](#): NCLC is co-counsel for African American plaintiffs in a landmark lawsuit brought against Morgan Stanley. The lawsuit claims that the Defendant violated federal civil rights laws, the Fair Housing Act and the Equal Credit Opportunity Act as well as state laws by adopting mortgage securitization policies that caused predatory lending and adversely impacted African Americans in the Detroit, Michigan area.
- [Subprime Mortgage Discrimination](#): National class action cases brought under the Fair Housing Act and the Equal Credit Opportunity Act against certain subprime mortgage lenders.
- [Auto Finance Discrimination](#): NCLC served as co-counsel in national class-action cases

brought under the Equal Credit Opportunity Act against certain auto finance companies and banks. The lawsuits, which exposed practices that had operated secretly for over 75 years and had resulted in higher-interest-rate car loans for African Americans and Hispanics, have transformed car financing practices across the industry.

- *Magner v. Gallaher*, U.S. Supreme Court No.1032
- NCLC has joined an amicus brief prepared by the Lawyers' Committee for Civil Rights Under Law with other national civil rights organizations arguing that the Fair Housing Act properly is interpreted to authorize disparate impact claims and that the Eight Circuit applied the correct burden-shifting approach to litigating disparate impact claims consistent with the way Title VII cases are litigated and HUD's proposed regulation governing this subject. [Brief](#). NCLC also consulted with the ACLU (which cites NCLC's [Credit Discrimination](#) manual and references NCLC's sub-prime mortgage discrimination disparate impact cases brought under the Fair Housing Act) and the Department of Justice with regards to the preparation of the amicus briefs they separately prepared and filed with the Supreme Court in the appeal. [Briefs](#).

Equal Access to Higher Education

Policy Briefs, Reports & Press Releases

- Report: [The Student Loan Default Trap: Why Borrowers Default and What Can Be Done](#), July 2012
- Report: [Paying the Price: The High Cost of Private Student Loans and the Dangers for Borrowers](#), March 2008

Letters

- Coalition letter to Education Secretary: [Civil Rights, Consumer, and Education Groups Call on DeVos to Protect Student Loan Borrowers of Color](#), Sept 19, 2017
- [Coalition letter to Education Secretary King on impact of student loans on borrowers of color](#), Aug. 17, 2016 || [Press Release](#)

Litigation

- [NCLC and ACLU File Lawsuit against U.S. Department of Education Over Failure to Disclose Debt Collection Practice Data](#), March 30, 2016
- Case against the United States Department of Education
The National Consumer Law Center is co-counsel in a Freedom of Information Act suit requesting public records of the U.S. Department of Education regarding race and debt collection practices of third-party debt collectors hired by the Department, March 30, 2016 [Complaint](#), [Exhibit 1](#) (FOIA request, May 7, 2015), [Exhibit 2](#), [Exhibit 3](#), and [Exhibit 4](#), and [press release](#)

Webinars

[Why is America's Racial Wealth Gap Growing?](#), sponsored by the Insight Center and PolicyLink, March 6, 2013. NCLC attorney Deanne Loonin addresses equal access to higher education.

Sustainable Homeownership

Policy Analysis

Policy Briefs, Reports and Press Releases

- [Press Release, Narratives, Summary and Policy brief: The CFPB and Other Federal Agencies Should Adopt Strong Language Access Protections for Homeowners and Other Consumers](#), May 2016
Press Release in [Arabic](#), [Chinese](#), [Creole](#), [Korean](#), [Spanish](#), [Tagalog](#), [Russian](#), [Vietnamese](#)
- Press Release: [NCLC Working to Improve Mortgage Lenders' Data to Promote Fair Housing](#), March 24, 2014
- Report: [Why Responsible Mortgage Lending Is a Fair Housing Issue](#), Feb. 2012

Comments

- [Comments on the Federal Housing Finance Agency's Request for Input on Improving Language Access in Mortgage Origination and Servicing Submitted by Americans for Financial Reform's Language Access Task Force](#), July 31, 2017
- [Comments to the Federal Housing Finance Agency re Improving Language Access in Mortgage Lending and Servicing](#), July 31, 2017
- [Comments to CFPB on the proposed rule amending Regulation C of the Home Mortgage Disclosure Act \(HMDA\)](#), Oct. 29, 2014
- Comments on [the proposed credit retention rule relating to home mortgages and its exceptions: the QRM](#), October 30, 2013
- Comments on [Qualified Mortgage Definition for HUD Insured and Guaranteed Single Family Mortgages](#), October 30, 2013
- Comments to the CFPB re [Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act \(Regulation X\) and the Truth in Lending Act \(Regulation Z\)](#), July 22, 2013
- Comments to CFPB on [Truth in Lending Act - Regulation Z: Ability to Repay Standards under the Truth-in-Lending Act](#), Feb. 25, 2013
- [Comments on collection of Home Mortgage Disclosure Act \(HMDA\) data](#), Nov. 26, 2012
- Comments to the Federal Reserve Board regarding its proposed [Truth in Lending \(TILA\) rules for closed end and open-end mortgage credit](#), December 24, 2009
- Comments on [Real Estate Settlement Procedures Act \(RESPA\) Proposed Rule to Simplify and Improve the Process of Obtaining Mortgages to Reduce Settlement Costs to Consumers](#), June 16, 2008
- Comments to the Board of Governors of the Federal Reserve System regarding the [Board's Authority under HOEPA to Prohibit Unfair Acts or Practices in Connection with Mortgage Lending](#), August 2007

Letters

- Coalition letters ([Congress](#), [HUD](#) and [FEMA](#)) for a Just and Complete Housing Recovery from Hurricanes Harvey, Irma and Maria, Sept. 28, 2017
- [Group follow-up letter to the Federal Housing Finance Agency \(FHFA\) re: adding preferred language data fields to redesigned Uniform Residential Loan Application](#), July 29, 2016
- [Group letter to the Federal Housing Finance Agency \(FHFA\) urging inclusion of preferred language data fields in the redesigned Uniform Residential Loan Application](#), June 23, 2016
- [Letter to the Senate Banking Committee on fair housing and GSE reform](#), February 26, 2014

Litigation & Amicus Briefs

- Action against discriminatory targeting of African-American consumers for abusive credit terms in home purchases.

Horne et al v. Harbour Portfolio et al. [Second Amended Complaint](#) (N.D. GA)

Horne et al v. Harbour Portfolio et al. [Third Amended Complaint](#) (N.D. GA)

[Opposition](#) to Defendant Harbour's Motion to Dismiss Second Amended Complaint

[Opposition](#) to Defendant NAA's Motion to Dismiss Second Amended Complaint

[Order](#) on Motion to Dismiss Second Amended Complaint (N.D. GA)

Horne v. Harbour Portfolio, United States District Court for the Northern District of Georgia: Suit was brought by the Atlanta Legal Aid Society on behalf of 22 African-American residents representing 16 households. The action asserted claims of discriminatory targeting for abusive credit terms in home purchase "contract for deed" transactions extended by Harbour Portfolio. The complaint alleged that Harbour Portfolio, through both intentional targeting of African-American consumers and practices that have a foreseeable disparate impact on African-American consumers, violated the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601, *et seq.*, the Equal Credit Opportunity Act, 15 U.S.C. § 1691, *et seq.*, and the Georgia Fair Housing Act, O.C.G.A. § 8-3-200 *et seq.* NCLC subsequently joined the case as plaintiffs' co-counsel. On March 20, 2018, the Court denied a motion to dismiss for all but one of the claims asserted (wrongful eviction). Thereafter, during on-going discovery, including subpoenas issued to Fannie Mae, requests for production of documents by the defendants and depositions of the defendant principal, the parties engaged in mediation before a U.S. Magistrate Judge. The case settled in December, 2018. The 12 households who were still living in their homes received a deed converting their contract for deed to a mortgage with title insurance, reduced interest rates, shorter repayment terms and, in some cases, principal reductions. They also received a lump sum cash payment. The four households who were evicted/no longer living in the home received separate lump sum cash payments. As part of the settlement, separate attorneys' fees were paid to plaintiffs' counsel of record. ([More information on land installment contracts including NCLC's 2016 report, Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color, here](#))

- *Connecticut Fair Housing Center, Inc. vs Liberty Bank Case No. 18-1654* || [Press Release](#) and [Complaint](#)

The National Consumer Law Center and the Connecticut Fair Housing Center filed a fair housing lawsuit in the United States District Court for the District of Connecticut against Liberty Bank, alleging that Liberty Bank violated the Fair Housing Act by: engaging in a pattern and practice of redlining communities where most of the residents are racial and ethnic minorities; discriminating against African-American and Latinx mortgage applicants and; discouraging African-American and Latinx mortgage applicants from applying for credit. [Press Release](#) and [Settlement Agreement](#).

- *National Fair Housing Alliance (NFHA) v. HUD*, [Amicus brief](#) || [Appendix A](#)
The case seeks to protect HUD's 2015 Affirmatively Furthering Fair Housing Rule.
- *Bank of America, et al v. City of Miami* (United States Supreme Court, 2016). The NCLC, along with the American Civil Liberties Union, the Impact Fund, the Lawyers' Committee for Civil Rights, the Leadership Conference on Civil and Human Rights, the National Fair Housing Alliance, and the Poverty & Race Research Action Council, filed an [amicus brief](#) supporting the standing of the City of Miami to assert discrimination claims against Bank of America and Wells Fargo under the Fair Housing Act (FHA). The brief argues that standing under the FHA extends to municipalities not directly targeted by discrimination. Noting that racially discriminatory lending practices are a major cause of this country's residential segregation, the brief asserts that the FHA was designed to address the systemic problems associated with such segregation and to permit cities to seek redress for injuries caused by discriminatory practices.
- *Property Casualty Insurers Assoc. of America v. Donovan* (N.D. Ill. 2014). The NCLC, along with 12 civil rights and grassroots organizations, filed [an amicus brief](#) in an action brought by the insurance industry challenging a rule formalized by HUD in 2013 that recognized disparate impact liability under the Fair Housing Act. The insurance industry sought to invalidate the rule's application to the homeowner's insurance industry. Examining the history and persistence of insurance redlining, the organizations argued that application of the rule is vital to ensuring fairness in the market for homeowner's insurance and is consistent with sound actuarial practices, and other business related practices.
Decision: [The U.S. District Court, Northern District of Illinois decision](#) dismissed the industry's claim under McCarran-Ferguson for lack of subject matter jurisdiction as that claim was not ripe for judicial review and also rejected the industry's challenge to HUD's adoption, in the rule, of a three-step burden-shifting approach. However, the court did determine that HUD did not adequately consider substantive comments submitted by the industry prior to adoption of the rule and remanded the case to HUD to provide further reasoned explanations of the rule's impact under McCarran-Ferguson, the filed-rate doctrine, and its general effects on the insurance industry.
American Insurance Assoc. v. U.S. Department of Housing and Urban Dev. (D.C. 2014). The NCLC joined the NAACP Legal Defense and Educational Fund, American Civil Liberties Union (ACLU), and the National Community Reinvestment Coalition in [an amicus brief](#) in support of HUD in an action brought by homeowner's insurance associations seeking to invalidate the agency's issuance of a rule which codified its long-standing interpretation that the Fair Housing Act prohibits disparate impact discrimination. Noting the history and persistence of insurance redlining, NCLC argued that this pre-enforcement challenge to the rule should be dismissed on jurisdictional grounds without reaching the merits.
- [Beverly Adkins et al. v Morgan Stanley](#): NCLC is co-counsel for African American plaintiffs in a landmark lawsuit brought against Morgan Stanley. The lawsuit claims that the Defendant violated federal civil rights laws, the Fair Housing Act and the Equal Credit Opportunity Act as well as state laws by adopting mortgage securitization policies that caused predatory lending and adversely impacted African Americans in the Detroit, Michigan area.
 - The [Adkins v. Morgan Stanley](#) lawsuit asserts that Morgan Stanley pursued mortgage securitization policies and practices that, through their funding of now-defunct mortgage lender New Century Mortgage Company, resulted in a significant discriminatory impact on African-American borrowers in the Detroit metropolitan area, flooding the already highly segregated community with toxic, combined-risk subprime loans in the lead-up to the collapse of the housing market in 2008. Read the expert reports submitted in support of the reverse red-lining allegations made in the case and NCLC's issue brief detailing key findings by the experts.
[NCLC Issue Brief](#)
[Ayers Expert Report](#)

[McCoy Expert Report](#)

[Oliver Expert Report](#)

[Segrue Expert Report](#)

- [Subprime Mortgage Discrimination](#): National class action cases brought under the Fair Housing Act and the Equal Credit Opportunity Act against certain subprime mortgage lenders
- *Magner v. Gallaher, U.S. Supreme Court No.1032*
NCLC has joined an amicus brief prepared by the Lawyers' Committee for Civil Rights Under Law with other national civil rights organizations arguing that the Fair Housing Act properly is interpreted to authorize disparate impact claims and that the Eight Circuit applied the correct burden-shifting approach to litigating disparate impact claims consistent with the way Title VII cases are litigated and HUD's proposed regulation governing this subject. [Brief](#). NCLC also consulted with the ACLU (which cites NCLC's [Credit Discrimination](#) manual and references NCLC's sub-prime mortgage discrimination disparate impact cases brought under the Fair Housing Act) and the Department of Justice with regards to the preparation of the amicus briefs they separately prepared and filed with the Supreme Court in the appeal. [Briefs](#).

Equitable Access to Broadband, Media, and Telecom Services

Policy Analysis

Comments, Letters, & Testimony

- [Leadership Council coalition letter to the FCC re: need for additional steps to ensure better media ownership diversity](#), Aug. 11, 2014
- [Group Comments to the Federal Communications Commission re: Protecting and Promoting the Open Internet Framework for Broadband Internet Service](#), July 18, 2014
- Comments of the Greenlining Institute, NCLC and the Utility Reform Network on the [Proposed Decision of Assigned Commissioner Sandoval](#), Nov. 2013
- Letter of the Leadership Conference to FCC regarding [Technology Transitions Policy Task Force Regarding Potential Trials and Policies to Respond to the Ongoing Technological Transition of Voice Networks](#), Oct. 2013
- Comments of the Leadership Conference to FCC on the [Commission's proposed modernization of E-Rate](#), Sept. 2013
- Comments of the Leadership Conference to FCC In the matter of [Technology Policy Task Force Regarding Critical Information Needs Studies and Diversification of Ownership in the Broadcasting Services](#), July 2013
- NCLC's Comments in response to the [AT&T Petition to Launch a Proceeding Concerning the TDM-TO-IP Transition](#), Jan. 2013

[No Fooling! New Prepaid, Payroll, and](#)

Government Benefit Card Protections Take Effect April 1

FOR IMMEDIATE RELEASE: March 28, 2019

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Download issue briefs summarizing protections for prepaid cards and accounts, payroll cards, and government benefit prepaid cards at <https://www.nclc.org/issues/prepaid-debit-cards.html>.

(WASHINGTON) A new rule issued by the Consumer Financial Protection Bureau (CFPB) goes into effect April 1 providing protections for prepaid cards, payroll cards, government benefit cards, and certain mobile and online person-to-person payment services.

“Consumers who shop for prepaid cards will finally have clear, easy to compare fee charts and peace of mind that their accounts, once registered, are protected from unauthorized charges. Employers will have to make clear that workers cannot be required to accept their pay on a payroll card and will have to disclose fees before workers make their choice,” **explained Lauren Saunders, associate director of the National Consumer Law Center.**

Before the prepaid accounts rule, many prepaid cards were not covered by the protections of the Electronic Fund Transfer Act; payroll and government benefit cards were covered, but did not always come with clear fee disclosures. The rule was initially finalized in 2016 under former CFPB Director Rich Cordray, but technical changes were subsequently made and implementation was delayed until this year.

In addition to fee disclosures and basic protections against loss or theft, the rule also restricts overdraft fees on prepaid accounts. “Prepaid cards are an important option for people who have been burned by bank overdraft fees or cannot get a bank account. Unfortunately a few prepaid cards have had overdraft fees. Hopefully, with the limits of the new rule, overdraft fees on prepaid cards will now be a thing of the past. But look out for cards like the NetSpend ‘[ACE Flare Account by MetaBank](#)’ and the ‘[NetSpend All-Access Account](#)’, which may try to evade the overdraft fee limits by claiming that they are checkless checking accounts and not prepaid cards,” **Saunders warned.** NetSpend typically sells its cards at payday loan stores.

The prepaid accounts rule covers accounts whether they are accessed through a physical card or through mobile or electronic devices. Thus, the rule protects funds held in accounts, such as PayPal and Venmo.

Prepaid Accounts Will Now Receive Several Key Protections

1. **Protection from unauthorized charges and errors.** However, protection only begins after a consumer registers the card in their name.
2. **Clear, [uniform fee charts](#).** A short chart of key fees will be on the outside of the package and provided online before purchase. More details will be on a longer chart inside the package and online at the URL provided on the package.
3. **A warning if funds are not FDIC insured.** But most prepaid accounts have FDIC insurance once they are registered.
4. **Basic account information for free,** including account balances by telephone and

transaction information online and by mail on request.

5. **Choice for employees and recipients of certain government benefits.** The rule clarifies existing rules that employers and government agencies cannot require consumers to receive wages or benefits in a particular account.
6. **Limits on overdraft fees and features.** Cards that offer overdraft features must disclose that fact on the package and wait 30 days before offering overdraft coverage. These hybrid prepaid-credit cards must comply with credit card and “fee harvester” rules, including a requirement to determine ability to repay, to limit total overdraft fees in the first year to no more than 25% of the credit line extended, and to give the consumer a choice of whether to permit automatic repayment.
7. **Public and consumer access to account agreements and fee schedules.** All prepaid account issuers, including issuers of payroll and government benefits accounts, must submit their account agreements annually to the CFPB. Companies that offer cards to the general public must post fee information online.

The prepaid accounts rule covers:

- Accounts labeled or marketed as “prepaid” and usable at unaffiliated merchants or at ATMs;
- Accounts, other than checking accounts, whose primary function is to conduct transactions with multiple unaffiliated merchants, at ATMs, or for person-to-person transfers;
- Payroll cards offered by employers; and
- Government benefits prepaid cards used by the federal government for Social Security, SSI, and other benefits, and also those used by state or local agencies to distribute non-needs tested benefits, such as unemployment insurance.

Related NCLC Resources

[New Protections for Prepaid Card Accounts](#), March 2019

[New Protections for Payroll Cards](#), March 2019

[New Protections for Government Benefit Prepaid Cards](#), March 2019

Report: [Payday Lender Prepaid Cards](#), July 2015

National Consumer Law Center’s [Consumer Banking and Payments Law 2018 6th ed.](#)

[Bankruptcy Date Calculator](#)

NCLC Bankruptcy Date Calculator

Amounts effective 4/1/2019

The Bankruptcy Code specifies several time periods relating to certain prepetition events that may control fundamental aspects of a bankruptcy case, such as the availability of the automatic stay, the ability to claim exemptions, and the right to a discharge. In some cases, these time periods may affect the debtor's decision when to file bankruptcy.

This Date Calculator can assist attorneys in approximating the application of these time periods based on a projected filing date. Enter a filing date and the Calculator automatically lists twenty-four key look-back dates, before or after which dates specified events must, or must not, have occurred.

To use the Calculator, click in the filing date field and enter a date or select a date from the pop-up calendar. Then click the Calculate button. The Date Calculator will accept most common date formats. [Javascript must be enabled](#) in your web browser.

Disclaimer: This program is not intended to be a substitute for an attorney's exercise of independent judgment and analysis in advising a client. Moreover, the method for counting how days are calculated for a particular look-back period may depend upon the precise wording of a statute and its construction by the courts. Thus, attorneys are advised to review the statutory language before independently determining the date in question.

Enter Projected Filing Date: Calculate

Prepetition Time Period	Code Provision	Date
60 days	Payment advices received from employer within 60 days before petition; § 521(a)(1)(B)(iv)	
60 days	Creditor unreasonably refused to negotiate alternative repayment schedule made at least 60 days before petition; § 502(k)	
70 days	Cash advances more than \$1000 within 70 days before petition presumed nondischargeable; § 523(a)(2)(C)(i)(II)	
90 days	Luxury goods debts more than \$725 incurred within 90 days before petition presumed nondischargeable; § 523(a)(2)(C)(i)(I)	
90 days	Avoidance of preferences made on or within 90 days before petition date; § 547	
180 days	Credit counseling briefing during 180-day period before petition; § 109(h)(1)	
6-month period preceding petition date	Period for determining "current monthly income" based on 6-month period ending on last day of calendar month preceding petition date; § 101(10A)	
1 year	Cramdown may be prohibited on purchase money loan secured by non-auto collateral incurred within 1 year before petition; § 1325(a)	
1 year	Automatic stay exceptions based on prior cases pending but dismissed within 1 year before petition; § 362(c)(3) and (c)(4)	
365 days	Funds placed in education IRA within 365 days before petition excluded from estate; § 541(b)(5)	

Prepetition Time Period	Code Provision	Date
720 days	Funds up to \$6,825 placed in education IRA between 720 and 365 days before petition excluded from estate; § 541(b)(5)(C)	
365 days	Funds used to purchase state tuition credit within 365 days before petition excluded from estate; § 541(b)(6)	
720 days	Funds up to \$6,825 used to purchase state tuition credit between 720 and 365 days before petition excluded from estate; § 541(b)(6)(C)	
2 years	Real property automatic stay exception applies within 2 years of entry of <i>in rem</i> order in prior case; § 362(b)(20) and (d)(4)	
2 years	No discharge in chapter 13 case if prior discharge entered in chapter 13 case filed within 2 years before order for relief; § 1328(f)(1)	
2 years	Avoidance of fraudulent transfers made within 2 years before petition date; § 548	
730 days	Location of debtor's domicile during 730-day period before petition used for determining exemptions; § 522(b)(3)(A)	
910 days (730 + 180)	Location of debtor's domicile during 180-day period (or greater portion of 180 days) preceding 730-day period used for determining exemptions if domicile not in single state for first 730 days; § 522(b)(3)(A)	
910 days	Cramdown may be prohibited on purchase money auto loan incurred within 910 days before petition; § 1325(a)	
1215 days	Homestead interest limited to \$170,350 exemption if interest acquired during 1215-day period before petition; § 522(p)(1)	
4 years	No discharge in chapter 13 case if prior discharge entered in chapter 7, 11, or 12 case filed within 4 years before order for relief; § 1328(f)(1)	
5 years	Homestead interest limited to \$170,350 exemption based on criminal act, intentional tort, willful or reckless misconduct that caused serious physical injury or death within 5 years before petition; § 522(q)(1)	
8 years	No discharge in chapter 7 case if prior chapter 7 discharge entered in case filed within 8 years before petition; § 727(a)(8)	
10 years	Homestead interest not exempt to extent attributable to non-exempt property disposed of with the intent to hinder, delay, or defraud a creditor within 10 years before petition; § 522(o)	