

Congress Votes to Roll Back Consumer Bureau Effort to Thwart Auto Lending Discrimination

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Boston - The U.S. House of Representatives today voted to repeal guidance issued in 2013 by the Consumer Financial Protection Bureau to help auto finance companies avoid racial and ethnic discrimination by holding them accountable to fair lending laws. "It's outrageous that Congress voted to claw back this five-year old guidance intended to ensure our auto loan markets are free of racial discrimination," **said Stuart Rossman, director of litigation at the National Consumer Law Center.** The auto finance market unfortunately has a demonstrated history of charging people of color more for their loans than the prices paid by white people with the same creditworthiness."

The Consumer Bureau guidance was struck down using the fast-track Congressional Review Act (CRA), which allows a simple majority vote with limited debate to override public protections. While the CRA gives Congress a narrow window of 60 legislative days to veto new regulations, Congress used a loophole to target the years-old guidance. In April, 64 groups sent a letter to members of the Senate opposing the use of the CRA in this dangerous manner. The CRA resolution was introduced in the House of Representatives by Rep. Lee Zeldin (R-NY). The Senate passed an identical resolution in April. The resolution now moves to President Trump, who is expected to sign it.

The Equal Credit Opportunity Act (ECOA) prohibits creditors from discriminating in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age. Auto finance companies that make their loans available through auto dealers have been found to have violated the ECOA by allowing dealers to increase the loan rates of borrowers of color more than for white borrowers for reasons unrelated to creditworthiness.

In the 1990s, the National Consumer Law Center (NCLC), along with co-counsel, successfully attacked racial discrimination in lending cases through class-action lawsuits against major auto finance companies and banks. In every state, expert analysis - endorsed by courts - found that dealers charged African-Americans more for loans than those taken out by white borrowers of similar creditworthiness. Additionally, when the rates of African-American and comparable white borrowers were both marked up, the African-American borrowers paid significantly more. NCLC's experts also found statistically significant racial disparities in every state with sufficient data and in every region of the country, and also observed disparities for Hispanics on a national level, but Hispanic origin was not coded on enough loans to analyze state by state. The settlements expired in 2012.

Unfortunately, most of the lenders have returned to the same practices that led to NCLC's lawsuits. In recent years, the Consumer Bureau and U.S. Department of Justice both concluded that several auto financiers' policy of giving dealers discretion to mark up the interest rate of auto financing resulted in discrimination against borrowers of color. In enforcement actions against Ally Bank, American Honda Finance Co., Fifth Third Bank, and Toyota Motor Credit, the federal agencies found that borrowers of color paid higher interest rates than white borrowers with comparable credit ratings