New California Law Targets Long-Term Payday Loans; Will Payday Lenders Evade it?

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National Consumer Law Center contacts: Lauren Saunders (lsaunders@nclc.org) or Jan Kruse (jkruse@nclc.org)

Washington, D.C. – Advocates at the National Consumer Law Center applauded news that California Governor Gavin Newsom late yesterday signed into law AB 539, a bill to stop outrageous interest rates that payday lenders in California are charging on their larger, long-term payday loans, but warned that the payday lenders are already plotting to evade the new law.

“California’s brand-new law targets payday lenders that are charging 135% and higher on long-term payday loans that put people into an even deeper and longer debt trap than short-term payday loans,” said Lauren Saunders, associate director of the National Consumer Law Center. “Payday lenders will exploit any crack you give them, and in California they are making loans of $2,501 and above because the state’s interest rate limits have applied only to loans of $2,500 or less. Clear, loophole-free interest rate caps are the simplest and most effective protection against predatory lending, and we applaud Assembly member Monique Limon for sponsoring and Governor Newsom for signing this law.”

Under the new law, which will go into effect January 1, 2020, interest rate limits will apply to loans of up to $10,000.

At the same time, Saunders warned that California needs to be vigilant about enforcing its law and should push back against the payday lenders’ plans to evade the law through new rent-a-bank schemes. Banks are generally not subject to interest rate limits, and in rent-a-bank schemes, the payday lender passes the loan briefly through a bank that has little to do with the loan. In recent earnings calls, several of the largest, publicly traded payday lenders in California told investors that they were planning to use banks to help them continue making high-cost loans. Some courts have blocked these schemes, and litigation is pending in other states challenging these arrangements.

“It’s outrageous that predatory lenders in California, including Curo (Speedy Cash), Elevate (Rise and Elastic) and Enova (NetCredit) are blatantly announcing plans to use rent-a-bank schemes so they can continue their predatory ‘business-as-usual’ with loans of 135% or more that California has just outlawed with bipartisan support,” said Saunders. “The attorney general, the Department of Business Oversight, and private litigators need to let the payday lenders know that they will fight to stop this evasion and uphold the law that protects Californians from predatory lending.”

“I also call on the federal banking regulators—especially the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC)—not to let banks enable payday lenders’ predatory ways,” Saunders added. At least two FDIC-supervised banks are currently helping payday lenders avoid interest rate limits in other states, and in January, a coalition of 88 groups called on the FDIC to crack down on that practice. Currently, no national banks (which are supervised by the OCC) are engaged in rent-a-bank lending, but the payday lender Curo told investors that it was in talks with MetaBank, a national bank that has a history of working with payday lenders.
NCLC Related Materials


Fact Sheet: State Annual Percentage Rate (APR) Caps for $500, $2,000, and $10,000 Installment Loans, March 2019

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