

PRINCIPLES FOR RESPONSIBLE CONSUMER AND SMALL BUSINESS LOANS TO PREVENT PREDATORY LENDING ABUSES

The undersigned 175 consumer, civil rights, community, housing, labor, faith, military and veterans, human rights, older American, legal services, small business, and other organizations and academics representing more than 40 states and the District of Columbia agree that all loans should be safe and affordable. High-cost, unaffordable forms of credit or disguised credit are marketed as lifelines to consumers and small businesses, but predatory products do not provide access to affordable credit. Instead, they lead to financial ruin by trapping borrowers in high-cost loans and devastating cycles of debt that leave them worse off.

Some communities have been particularly affected or targeted by predatory forms of credit:

- **Communities of color, namely Black, Latinx, Native American, Asian American and Pacific Islander communities**, have been denied opportunities to build wealth or access to sustainable credit and have been disproportionately shut out of opportunities to build assets through centuries of systemic discrimination. These communities have been targeted with high-cost, destructive products in the name of “access to credit.”
- **Workers** making low wages have been offered high-cost or unaffordable loans, sometimes disguised as early payment of wages.
- **Small businesses** have been subjected to predatory lending through high-rate loans disguised as merchant cash advances, high-cost loans secured by the business owner’s home, and other dangerous high-cost products that exploit the lack of legal protections for small businesses.

Predatory lenders use many different tactics that harm borrowers, including exorbitant interest rates and fees, add-on products, unaffordable balloon payments, collateral-based lending with minimal underwriting, and other abusive terms. High-cost credit products can take various forms, including short-term and long-term loans; lines of credit; and disguised forms of credit; fintech products and apps; access to or assignments of wages, business revenue or other income or assets; and other forms of disguised credit.

High-cost lenders have also used several strategies to evade interest rate caps and credit laws. Predatory lenders have laundered their loans through banks, which are largely exempt from state rate caps. Lenders have falsely claimed that they are tribal entities and are exempt from state laws. Lenders have also claimed they are not covered by credit laws or have taken advantage of loopholes in interest rate limits.

Predatory lenders often use forced arbitration clauses and class action bans to prevent accountability when they violate the law and engage in unfair, deceptive or abusive practices. These tactics take away borrowers’ constitutional right to access the courts.

In order to protect borrowers, especially low-income consumers, borrowers of color, and small businesses, we support the following principles to stop predatory lending:

1. **Adopt effective interest rate caps of 36% or less for all consumer and small business lenders at the federal and state level, with lower rates for larger loans.** Interest rate limits are the simplest and most effective protection against predatory lending, aligning the interests of the lender and borrower to promote responsible lending.
 - CONGRESS should pass an interest rate cap no higher than 36% that covers all lenders, including banks, and continue to allow states to set lower rate limits.
 - CONGRESS, STATES, VOTERS, and REGULATORS should pass and enforce loophole-free interest rate limits no higher than 36%, inclusive of fees and ancillary products, for small dollar loans, and lower limits for larger loans.
2. **Prevent evasions of interest rate limits adopted by states and voters.** American states have had interest rate limits since the American Revolution, and American voters, on a bipartisan basis, strongly support interest rate limits of 36% or less. But the lack of federal interest rate limits and creative evasions of predatory lenders have exposed far too many people to debt trap loans.
 - CONGRESS should support and not preempt the right of voters and states to protect people from predatory lending and should pass a national interest rate limit that covers all lenders, which would greatly reduce lenders' ability to evade state caps.
 - STATE ATTORNEYS GENERAL and STATE CREDIT REGULATORS should challenge predatory lenders that attempt to evade state interest rate limits.
 - FEDERAL AND STATE BANK REGULATORS should stop banks from helping predatory lenders launder their loans to evade state interest rate limits.
3. **Apply credit laws to disguised forms of credit.** All forms of credit should be covered by basic credit laws, including rate limits, disclosures, ability-to-repay requirements, and other protections.
 - The FEDERAL GOVERNMENT and STATES should enforce credit laws against all forms of disguised credit and should not carve exemptions in credit laws for any form of credit.
4. **Require assessment of the borrower's ability to repay:** The ability-to-repay standard is a foundation of responsible lending. Every lender should take steps to reasonably ensure that the borrower can repay the loan as it comes due, based on the borrower's income and expenses or obligations, while continuing to meet existing obligations, in affordable payments.
 - The CFPB should enact and enforce strong ability-to-repay rules to protect consumers from debt trap loans including payday loans, title loans, installment loans, lines of credit, and disguised credit.
 - FEDERAL AND STATE BANK AND CREDIT REGULATORS AND ENFORCEMENT AGENCIES should enact and enforce ability-to-repay rules, should view lending without regard to ability to repay as an unfair, deceptive or abusive practice, and should stop their regulated entities from engaging in harmful collateral-based lending.

5. **Ensure access to the courts when laws are violated.** Borrowers should always be allowed their day in court when the law has been violated. No attempt by a predatory lender to bypass the legal system should be allowed.
 - CONGRESS should restore and protect access to the courts for borrowers harmed by predatory lending, including consumers, workers, and small businesses.
 - STATES should ensure that borrowers have remedies against lenders through laws against unfair, deceptive and abusive practices.
6. **Ensure that lenders treat borrowers fairly and with respect, and that they work with struggling borrowers.** Lenders and their debt collectors must not engage in harassment or intimidation, in or out of court. Lenders should offer reasonable options to help borrowers get back on track and should only use lawsuits as a last resort.
 - CONGRESS, STATES, and REGULATORS should adopt and enforce rules to protect borrowers from the unfair, deceptive or abusive debt collection practices of lenders, including using debt collection in lieu of responsible underwriting for ability to repay.

Predatory, unsafe credit shouldn't be thought of as credit at all. Predatory lenders specifically target communities of color, low-income workers, and small businesses, stripping these communities of hard-earned wealth – usually with the purported justification that they are providing “access to credit.” Consumers need and deserve access to affordable, safe credit, but credit with high interest rates that traps consumers in devastating cycles of debt only leaves them worse off. We support the common-sense policy recommendations outlined above.

Sincerely,

20/20 Vision DC
Accountable.US
American Family Voices
American Sustainable Business Network
Americans for Financial Reform
Appleseed Foundation
Association for Financial Counseling and Planning Education (AFCPE)
CAARMA Consumer Advocates Against Reverse Mortgage Abuse
Capital Good Fund
Center for Economic Justice
Center for LGBTQ Economic Advancement & Research (CLEAR)
Center for Responsible Lending
Coalition on Human Needs
Color Of Change
Consumer Action
Consumer Federation of America
Consumer Reports
Consumers for Auto Reliability and Safety
Credit Builders Alliance

The Leadership Conference on Civil and Human Rights
Local Initiatives Support Corporation (LISC)
Main Street Alliance
Minority Veterans of America
National Association for Latino Community Asset Builders
National Association of Consumer Advocates
National Community Reinvestment Coalition (NCRC)
National Consumer Law Center (on behalf of its low income clients)
National Consumers League
National Fair Housing Alliance
National Foundation for Credit Counseling
National Housing Resource Center
National Rural Social Work Caucus
Public Citizen
Public Good Law Center
Revolving Door Project
Strategic Organizing Center
U.S. PIRG
United Church of Christ, Justice and Local Church Ministries
Woodstock Institute

Alabama

Alabama Appleseed Center for Law & Justice
Alabama Arise
Community Foundation of Greater Birmingham
The Worship Center Christian Church

Alaska

Alaska PIRG

Arizona

Arizona Council of Human Service Providers
Arizona PIRG
Center for Economic Integrity
Hope of Glory Center, Inc.
Primavera Foundation
Southwest Fair Housing Council
Tucson Collaborative for Neighborhood Transformation
Tucson Diocesan Council, The Society of St. Vincent de Paul
William E. Morris Institute for Justice

Arkansas

Arkansans Against Abusive Payday Lending

California

Building Skills Partnership
California Reinvestment Coalition (CRC)
CALPIRG
CAMEO- California Association for Micro Enterprise Opportunity
Community Health Councils
Consumer Federation of California
Public Counsel
Public Law Center
United Parents and Students

Colorado

Bell Policy Center
CoPIRG
LaMedichi

Connecticut

Connecticut Legal Services, Inc.
ConnPIRG

Delaware

Delaware Community Reinvestment Action Council, Inc.

District of Columbia

RESULTS DC/MD
Tzedek DC

Gary Peller, Georgetown University Law Center
Arthur E. Wilmarth, Jr., Professor Emeritus of Law, George Washington University Law School

Florida

Feeding Northeast Florida
Florida Consumer Action Network
Florida PIRG
Florida Silver Haired Legislature Inc
Legal Aid Society of Palm Beach County

Georgia

Georgia Advancing Communities Together, Inc.
Georgia PIRG
Georgia Watch
The New Georgia Project Action Fund

Illinois

Chicago Consumer Coalition
Financial Inclusion for All Illinois
Housing Action Illinois
Illinois Conference of Churches
Illinois PIRG
Legal Action Chicago

Colonel Paul E. Kantwill, USA (Ret.), Founding Executive Director, The Rule of Law Institute,
Loyola University Chicago School of Law

Indiana

Citizens Action Coalition of IN
HomesteadCS
Indiana Catholic Conference
Indiana Community Action Poverty Institute
Indiana PIRG
MCCOY (Marion County Commission on Youth, Inc.)
Prosperity Indiana

Iowa

Iowa PIRG

Christopher K. Odinet, University of Iowa College of Law

Kansas

Andrea J. Boyack, Washburn University School of Law

Louisiana

Louisiana Budget Project

Maine

Maine Center for Economic Policy
Maine Equal Justice

Maryland

Maryland Consumer Rights Coalition
Maryland PIRG
Public Justice Center

Massachusetts

MASSPIRG
The Consumer Assistance Council, Inc.

Kathleen Engel, Suffolk University Law School

Michigan

Community Economic Development Association of Michigan (CEDAM)
PIRG in Michigan (PIRGIM)

Minnesota

Exodus Lending

Mississippi

Hope Policy Institute

Missouri

MoPIRG

Montana

MontPIRG

Nebraska

CUES Fund
Lending Link

Nevada

Legal Aid Center of Southern Nevada

New Hampshire

NHPIRG

New Jersey

New Jersey Appleseed Public Interest Law Center
New Jersey Citizen Action
NJPIRG

New Mexico

Independent Order of Odd Fellows, Santa Fe Lodge #2
New Mexico Center on Law & Poverty
New Mexico Fair Lending Coalition
Prosperity Works
NMPIRG

New York

Empire Justice Center
Housing and Family Services of Greater New York
Rural Law Center of New York, Inc.

Susan Block-Lieb, Fordham Law School
Peter Fraser, Cornell University
Dora Galacatos, Fordham Law School Feerick Center for Social Justice

North Carolina

NC Coalition for Responsible Lending
NCPIRG
North Carolina Council of Churches
North Carolina Justice Center
Reinvestment Partners
The Collaborative

Ohio

Ohio PIRG
Ohio Poverty Law Center

Creola Johnson, Moritz College of Law, The Ohio State University
Cathy Lesser Mansfield, Case Western Reserve University School of Law

Oklahoma

VOICE (Voices Organized in Civic Engagement) OKC

Oregon

Oregon PIRG (OSPIRG)
Our Children Oregon

Pennsylvania

Neighborhood Allies
PennPIRG
Pennsylvania Utility Law Project (on behalf of its low income clients)
Pennsylvania War Veterans Council
The One Less Foundation (Pennsylvania and Colorado)

James J. Pierson, Business Chair, MBA Program Director & Assistant Professor, Chatham
University

Rhode Island

Economic Progress Institute
RIPIRG

South Carolina

Columbia Consumer Education Council
CommunityWorks
South Carolina Appleseed Legal Justice Center
South Carolina Association for Community Economic Development (SCACED)

Texas

RAISE Texas
Texas Appleseed
United Way of Central Texas
United Way of Metropolitan Dallas
TexPIRG

Vermont

Vermont Public Interest Research Group

Virginia

Restoring Hope Roanoke
Virginia Citizens Consumer Council
Virginia Organizing

Irene E. Leech, Virginia Tech

Washington

WASHPIRG

West Virginia

Mountain State Justice

National Association of Social Workers - West Virginia Chapter

Rise Up WV

West Virginia Council of Churches

Wisconsin

CR-Social Development Commission

WISPIRG

Wyoming

Wyoming Trial Lawyers Association