



Legal Services Advocacy Project

February 26, 2024

The Honorable Matt. D. Klein
Chair, Commerce and Consumer Protection Committee
Minnesota Senate
2105 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Gary H. Dahms
Ranking Minority Leader, Commerce and Consumer Protection Committee
Minnesota House of Representatives
2219 Minnesota Senate Building
St. Paul, MN 55155

Re: SF 3932 – DIDMCA Opt-Out

Dear Chair Klein, Ranking Minority Member Dahms, and Members of the Commerce & Consumer Protection Committee:

Legal Aid respectfully writes in strong support of SF 3932, which would prevent predatory lending in Minnesota and create a level playing field for Minnesota's home-grown banks. Legal Aid provides civil legal services to low-income Minnesotans, Minnesotans with disabilities, and elder Minnesotans, statewide, to help them meet their basic needs.

In 1980, the Depository Institutions Deregulation and Monetary Control Act (DIDMCA) was enacted. Its passage was prompted by concerns expressed by state banks that they were at a competitive disadvantage to national banks, which, under the National Bank Act and federal preemption, could export their (potentially higher) interest rates on loans and credit cards to other states, superseding state rate caps. DIDMCA gave state banks parity to export their rates as well.

But, importantly, DIDMCA gave states the right to opt-out and require those lending to consumers in those states to follow the state's lending laws and the rates established by those state's legislatures. In Minnesota, lenders can lend at about 22% (or at a blended rate of 33% on amounts up to \$1,350, and 19% at the remainder).¹

In the modern era of FinTech lending, a predatory phenomenon known as the "Rent-a-Bank" scheme has emerged, where these online platforms partner with and use a state bank as a front to make loans to Minnesotans at outrageous rates, averaging, according to Exodus Lending, 150% and going as high as 300% (and even one at 700%). Online lending was NOT contemplated in the DIDMCA legislation 40 years ago, nor did Congress establish a scheme that was intended to allow lenders to exploit consumers by charging usurious rates.

¹ Minn. Stat. § 47.59, subd. 3.

This is not parity; it is predatory lending. Beyond the fact that these practices are harmful to Minnesota's consumers, none of Minnesota's state banks are engaged in these Rent-a-Bank schemes, and the fact that it has proliferated places our home-grown state banks at a competitive disadvantage. Iowa (many years ago) and Colorado (more recently) have opted out. Under this bill, Minnesota would exercise its right under federal law to opt out like those other states and restore fairness of rates for consumers and stop predatory lending by out-of-state FinTech companies.

To set the record straight, arguments posited by Rent-a-Bank lenders against the bill are either inaccurate or hyperbolic. First, nothing would stop any FinTech company from partnering with an out-of-state bank. They would simply have to follow Minnesota law, not an unreasonable requirement.

Second, it does not place these companies at any competitive disadvantage with national banks – in fact just the opposite. National banks follow Minnesota law; that is why they are not opposed to this bill. Federal regulators have rightfully frowned on these Rent-a-Bank schemes. Passage of this bill would in fact create a level playing field not just for state banks, but for national banks as well.

Finally, the argument that access to credit will suffer is not only exaggerated, it is misdirection. Minnesota's lending rates (as noted 22% or a blended 33%/19% rate) are already high. Rates offered by FinTech companies that range from nearly 40% to 150% or 300% or higher are predatory. These lenders claim to provide access to subprime credit for borrowers who are financially fragile. Time and again, these claims of altruism have been shown merely to be callous veils for exploitation and tainted profits extracted from those very desperate borrowers. Access to predatory credit is not beneficial to Minnesotans – it is an invitation to financial trouble and ruin.

This bill would do several things for the benefit of Minnesota consumers and Minnesota state bank lenders:

- It would require that out-of-state lenders comply with Minnesota lending laws;
- It would end the ability of out-of-state lenders to charge excessive interest rates to Minnesota consumers;
- It would end the flow of dollars from the pockets of Minnesotans into the coffers of out-of-state entities; and
- It would create a level playing field for Minnesota's own state banks.

Minnesota lenders operate legally and profitably under Minnesota law. Minnesota policymakers should not allow Rent-a-Bank lenders to thumb their noses at Minnesota law. Thank you for the opportunity to share our views on HF 3680. We strongly urge passage of this important consumer protection bill.

Sincerely,



Ron Elwood
Supervising Attorney

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