



Testimony of Lauren Saunders, Associate Director  
National Consumer Law Center  
In Support of HF 3680 /SF 3932 ((Kotzya-Witthuhn, Stephenson, Lillie)  
regarding consumer loan interest rates  
Commerce and Consumer Protection Committee  
Minnesota State Senate

February 27, 2024

Dear Chair Klein and Members of the Committee:

I am the Associate Director of the National Consumer Law Center, a non-profit working for economic justice for vulnerable consumers. We publish a treatise, *Consumer Credit Regulation*, which discusses state lending laws and attempts to evade them, and an annual report, [Predatory Installment Lending in the States](#), which surveys all 50 states' interest rate caps on certain installment loans.

We are pleased to support SF 3932, which opts Minnesota out of a federal law that predatory lenders use to circumvent state interest rate limits. The bill would stop predatory lenders from charging up to 225% interest in violation of Minnesota law.

Our [High-Cost Rent-a-Bank Loan Watch List](#) shows that Minnesota has more predatory rent-a-bank lenders evading the state's laws than nearly any other state. For example, these nonbank lenders are currently offering triple-digit APR loans in Minnesota by falsely claiming that the loans are bank loans exempt from Minnesota law:

- Elevate Credit, which makes Rise installment loans at 99% to 149% APR%.
- Enova, which makes NetCredit-branded installment loans up to 99.99% APR.
- LoanMart, which makes auto title loans (under the ChoiceCash brand) at rates up to 170% APR.
- OppFi (Opportunity Financial), which makes installment loans at rates up to 160% APR.
- Applied Data Finance, dba Personify Financial, which makes installment loans up to 179.99% APR.
- CNG, the parent company of the payday lender Check 'n Go, which makes installment loans under the Xact brand at APRs of 145% to 225%.

- Duvera Billing Services dba EasyPay Finance, which charges up to 188.99% APR for loans offered through businesses across the country that sell auto repairs, furniture, home appliances, pets, wheels, and tires, among other items.
- American First Finance, which makes installment loans for purchases at retailers including furniture, appliances, home improvements, pets, auto and mobile home repair, jewelry, and body art at rates up to about 161% APR.

All of these nonbank lenders claim to be able to ignore Minnesota law because the loans are originated by a bank and the bank's name is on the paperwork. Under the federal Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA or DIDA), state-chartered banks are allowed to charge, across the country, any interest rate allowed in their home states. These nonbank lenders rely on obscure, out-of-state banks, mostly in Utah, which has no interest rate limits, to act as fronts for their high-cost loans. The bank's role is minimal, as the loan programs are designed and run by the nonbank lender, which generally bears nearly all the risk and earns nearly all the profits.

SF 3932 would put an immediate end to these schemes by exercising Minnesota's right under federal law to opt out of DIDA and to restore its ability to enforce its interest rate laws for loans by out-of-state, state-chartered banks. While rent-a-bank schemes can also be challenged by applying anti-evasion doctrine to assess whether the bank is the true lender, true lender challenges require case-by-case enforcement actions and can have an uncertain outcome. Exercising the DIDA opt-out right creates a clear, simple rule.

Notably, Iowa, the only state that currently is opted out of DIDA, has none of the predatory lenders listed above. Predatory lenders have also exited Colorado, which adopted legislation to opt out of DIDA effective this July.

SF 3932 will give Minnesota a powerful tool to kick predatory rent-a-bank lenders out of the state. The bill will not have any impact on Minnesota banks. Minnesota does not need 225% APR loans. I urge you to support SF 3932 to ensure that Minnesota's strong anti-predatory lending laws cannot be evaded by rent-a-bank schemes.

Thank you for considering this testimony. If you have any questions, please contact me at [lsaunders@nclc.org](mailto:lsaunders@nclc.org).