



NATIONAL
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Civil Rights & Consumer Groups File Amicus Brief in Support of States' Challenge to OCC Rule That Enables Predatory Lending

Advocates support lawsuit by state attorneys general over an OCC rule that facilitates usurious loans with interest rates higher than what state laws allow

(SAN ANTONIO, TX) - Several civil rights and consumer groups filed an *amicus* brief last week in the support of the attorneys general of California, Illinois, and New York in their case against a rule from the Office of the Comptroller of the Currency (OCC) that encourages predatory lending through "rent-a-bank" schemes. The OCC rule facilitates non-bank lenders' efforts to form superficial partnerships with banks in order to issue loans with interest rates that are higher than what state laws allow non-banks to charge. [A link to the full *amicus* brief is here.](#)

The amicus brief, in part, states:

"[T]he primary impact of this rule will be to protect-high-cost, non-bank lenders that are increasingly and brazenly evading state usury laws....

"The Rule improperly regulates the interest charged by non-bank lenders, and thus it is outside the OCC's authority over bank interest rates....

"Today, the rent-a-bank scheme is making a comeback. Primarily through installment loans, lenders are charging up to 274% APR in states that do not permit those rates....

"High-cost lending is a debt trap by design, exploiting the financially distressed, and leaving them unable to pay other bills and facing high checking account fees, closed bank accounts, and bankruptcy. These toxic products inflict turmoil pervading every aspect of a person's life."

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Additional Background

Banks are generally exempt from state rate caps that govern non-bank payday, car-title, installment, and other online lenders. For many years, high-cost lenders have attempted to evade state law by crafting rent-a-bank schemes by which they launder their loans through banks and then purchase back the loans or receivables and continue to charge high rates that would be illegal for the non-bank lenders to charge on loans they originate. In the early 2000s, federal bank regulators shut down rent-a-bank arrangements with storefront payday lenders. But in the last few years, high-cost online installment lenders have begun using rent-a-bank schemes..

The OCC rule encourages and attempts to protect these schemes. The rule states that when a bank sells, assigns, or otherwise transfers a loan to a non-bank, interest permissible prior to the transfer continues to be permissible following the transfer.

The OCC followed up this rule with another separate, "true lender" rule that also facilitates rent-a-bank schemes. The OCC said that the true lender rule "operates together" with the non-bank interest rate rule. This second rule guts the long-standing "true lender" doctrine that states and courts apply to shut down rent-a-bank schemes and says the bank is always the true lender so long as its name is on the paperwork.

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About [NALCAB](#):

NALCAB - National Association for Latino Community Asset Builders - is the hub of a national network of more than 120 mission-driven organizations in 40 states, DC and Puerto Rico that serve ethnically diverse Latino communities across the US. Members of the NALCAB Network invest in their communities by building affordable housing, addressing gentrification, supporting small business growth, and providing financial counseling on issues such as credit building and home ownership. Our mission is to strengthen the economy by advancing economic mobility in Latino communities. The NALCAB Network serves hundreds of thousands of low and moderate-income people, the vast majority of whom are immigrants or the children of immigrants