

May 3, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Re: Support CRA challenge to OCC “fake lender” predatory lending rule

Dear Speaker Pelosi, Majority Leader Schumer, Minority Leader McCarthy and Minority Leader McConnell:

The undersigned small business advocacy organizations, representing tens of thousands of affiliated small businesses and the interests of the 30 million small businesses in the country, write to express our strong support for Senate Joint Resolution 15, the Congressional Review Act Resolution to repeal the Office of the Comptroller of the Currency’s True Lender Rule. The new rule would allow predatory lenders to use sham rent-a-bank arrangements to make loans to small businesses at 73 to 268% APR or higher in states where those rates are illegal. This rule would undermine the historic power of the states to protect small businesses from dangerous, usurious loans.

Since the American Revolution, states have limited interest rates to stop predatory lending. Some states only limit rates on consumer loans, but some have usury laws, including criminal usury laws, that protect small businesses. But this OCC True Lender Rule will allow predatory lenders to launder their loans through banks to evade state laws.

Copious research has shown that predatory high interest rate loans extract money from local economies, which in turn, hurt small businesses and communities. With all the resources allocated to help small businesses persevere through the COVID-19 pandemic; allowing small businesses to fall prey to these usurious rent-a-bank schemes will jeopardize all the progress small businesses have made during the recovery. Congress simply can not allow this to happen.

The OCC True Lender rule protects lenders that not only destroy small businesses, many of these loans are collateralized by the small business owner's home. Businesses in multiple states have been targeted by predatory rent-a-bank loans, one lender alone has nearly a third of its real-estate secured loans resulting in default, with more than 10% resulting in foreclosure. That lender, World Business Lenders, is using this OCC rule to defend a \$67,000 loan at 268% APR (with a huge pre-payment penalty) in court as we speak because their loan violates state usury laws.

Congress must protect small businesses where state governments have acted to protect them from lenders who seek to take advantage of desperate business owners by evading state interest rate caps. The OCC True Lender Rule allows predatory lenders to ignore state laws merely by putting a rogue, out-of state bank's name in the fine print. The rule overturns centuries of case law in virtually every state, allowing courts to look beyond the fine print to the truth in order to prevent usury evasions.

For all the reasons above, we urge you to support Senate Joint Resolution 15, and stop predatory lenders from preying on small businesses by evading state interest rate caps with sham rent-a-bank schemes, so small businesses can continue their recovery from the economic downturn caused by the COVID-19 pandemic.

Sincerely,

Americans for Financial Reform
American Sustainable Business Council
Better Markets
California Reinvestment Coalition
Center for Responsible Lending
Empire Justice Center
Genesee Co-op Federal Credit Union
Main Street Alliance
National Association for Latino Community Asset Builders
National Consumer Law Center
National Urban League
Opportunity Fund
Public Citizen
Small Business Majority
Woodstock Institute