



Federal Threats and Opportunities for Economic Prosperity In the Deep South

Webinar: THURSDAY | AUGUST 27TH | 1:00 PM CST

Deep South Homeownership Gap

	Alabama		Arkansas		Louisiana		Mississippi		Tennessee	
	Black	White	Black	White	Black	White	Black	White	Black	White
2007	54%	78%	46%	73%	51%	77%	59%	79%	49%	75%
2017	51%	76%	43%	71%	48%	74%	54%	76%	44%	71%

- In each of the five states, the homeownership gap between black and white households in 2017 exceeded 20 percentage points.
- Of even more concern, the gap widened in all five states between 2007 and 2017

See Hope Policy Institute, "[HOPE submits Fair Housing Comments](#)," Oct. 18, 2019

Disparities Exist at Every Stage

Denials: In Mississippi, over a 10 year period, denial rate for Black residents earning over \$150,000 is **higher** than the denial rate of whites earning between \$30,000 and \$50,000.

Pricing: In 2015, in rural Alabama, less than 17% of loans to white borrowers were high-cost, but **more than 25%** of loans to Black borrowers were high-cost.

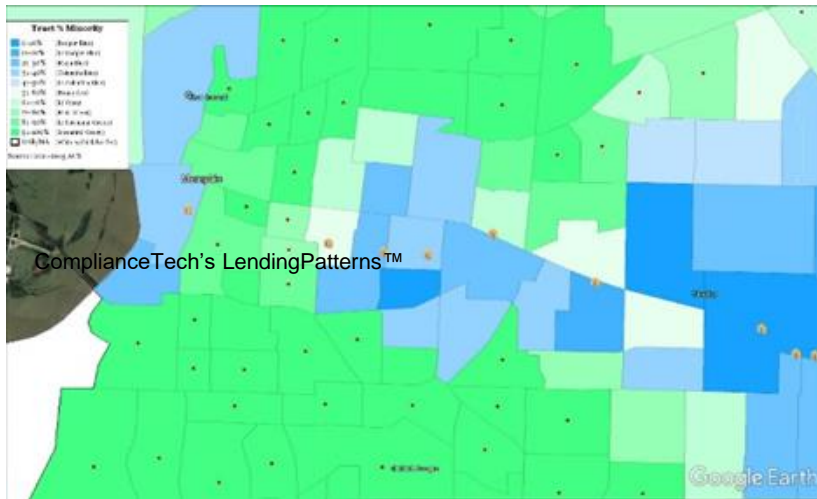
Foreclosures: In Louisiana, for the loans originated between 2004 and 2008, by 2012, **20% of these loans** to Black households had completed foreclosure or were at imminent risk, compared with 9% for white households.

Wealth Drain: Deep South communities of color **lost \$4.6 billion** of wealth due to the 2008 foreclosure crisis.

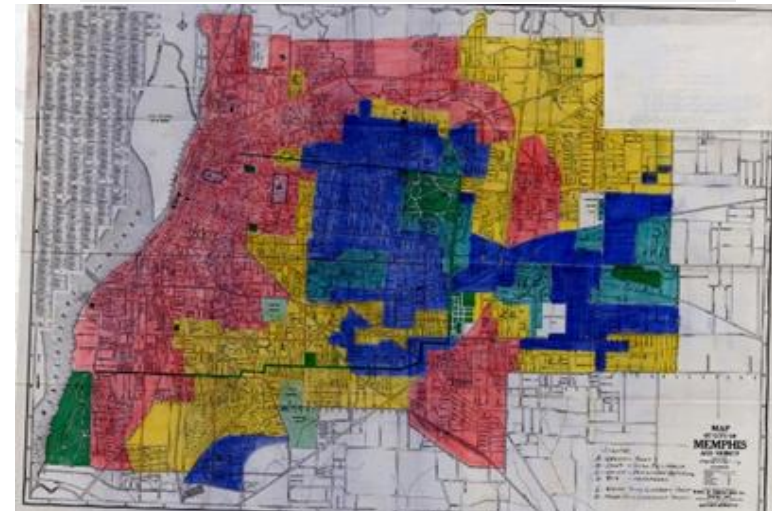
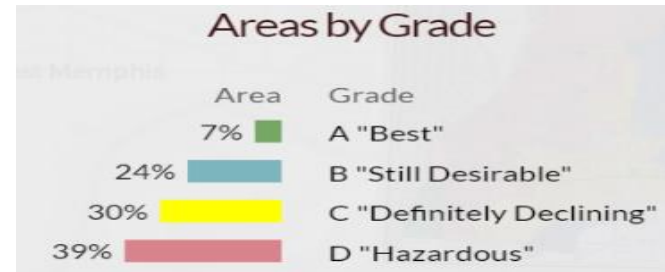
“Everything Old is New Again” - Memphis

2017 Memphis

Lenders (9) with deficient loan approvals in communities of color – tracts with no loan approvals and no branches,



1940 Memphis



Source: Morgan Williams, National Fair Housing Alliance

Brighter Futures Begin with HOPE. Alabama Arkansas Louisiana Mississippi Tennessee

Hope
policy institute

Payday and car title lenders drain \$1.6 billion every year from the Deep South

State	APR	Fees Drained Annually
Alabama	462% APR	\$481,791,005
Mississippi	512% APR	\$526,697,353
Louisiana	391% APR	\$241,461,615
Tennessee	468% APR	\$402,887,783
Total		\$1,652,837,756

Arkansas saves over \$136 million every year due to its 17% rate cap.

Source: Center for Responsible Lending

Brighter Futures Begin with HOPE. Alabama Arkansas Louisiana Mississippi Tennessee



At the outset of the COVID-19 crisis (March 11 to May 1)
HOPE members paid **\$108, 443** in
payday loan payments

The vast majority of these members had been in stuck in
payday loans since the beginning of the year

Rent-a-Bank Lenders Charge Up to 188% APR in Deep South States

State	High-Cost Lender	Rent-a-Bank Partner	Advertised APR
Mississippi	Netcredit	Republic Bank & Trust	Up to 99.99% APR 170% APR
	LoanMart	Capital Community Bank	
	EasyPay	Trust Alliance Bank	Up to 179.99% APR
	Personify	First Electronic Bank	
Tennessee	OppLoans	Finwise	160% APR
	Netcredit	Republic Bank & Trust	Up to 99.99% APR
	LoanMart	Capital Community Bank	170% APR
	EasyPay	Trust Alliance Bank	188.99% APR
Louisiana	Personify	First Electronic Bank	Up to 179.99% APR
	EasyPay	Trust Alliance Bank	188.99% APR
	Rise	Republic Bank & Trust	Up to 149% APR
	Elastic	Republic Bank & Trust	109% APR
Arkansas	EasyPay	Trust Alliance Bank	188.99% APR
	NetCredit	Republic Bank & Trust	Up to 99.99% APR
	Elastic	Republic Bank & Trust	109% APR
Alabama	EasyPay	Trust Alliance Bank	188.99% APR

Brighter Futures Begin with HOPE.

Alabama Arkansas Louisiana Mississippi Tennessee



Tell the OCC: Say no to rent-a-bank lending #StopTheDebtTrap

Submit your own comment to the OCC:

<https://www.regulations.gov/comment?D=OCC-2020-0026-0001>

The deadline to submit your own comment is
September 3.

Thank You!

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THREATS TO FAIR HOUSING: REGULATORY ACTION

ABOUT THE NATIONAL FAIR HOUSING ALLIANCE

Founded in 1988 and headquartered in Washington DC, the National Fair Housing Alliance (NFHA) is the only national organization dedicated solely to ending discrimination in housing. NFHA works to eliminate housing discrimination and to ensure equal housing opportunity for all people through leadership, education and outreach, membership services, public policy initiatives, community development, advocacy and enforcement.

Today NFHA is a consortium of more than 200 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. NFHA recognizes the importance of “home” as a component to the American Dream and hopes to aid in the creation of diverse, barrier free communities across the nation.

ANTI-FAIR HOUSING ADMINISTRATIVE ACTIONS

- Dismantling of the Disparate Impact Rule
- Rescission/replacement of the Affirmatively Furthering Fair Housing Rule
- Rewriting of Equal Access Rule concerning transgender access to shelters
- Revised “Equal Participation of Faith-Based Organizations” rules across federal agencies

ELIMINATION OF THE DISPARATE IMPACT STANDARD

WHEN THERE IS NO SMOKING GUN...

the disparate impact standard can be used to challenge discriminatory policies that may appear neutral on their face.

- The widely-accepted doctrine is a critical legal tool used to challenge seemingly neutral policies or practices that have a discriminatory effect on protected classes.
- The fair housing movement advocated with HUD, and final rule released in 2013.
- The use of the doctrine under the Fair Housing Act survived a challenge at the Supreme Court in *Texas Dep't of Haus. & Community Affairs v. Inclusive Communities Project* ("*Inclusive Communities*"). 135 S. Ct. 2507 (2015).
- Since then, the lending and insurance industry trade associations have falsely claimed it to be in conflict with the *Inclusive Communities* decision.

POST-KATRINA: ROAD HOME CASE

Rebuilding Assistance to Homeowners

Policy – individual grants based on the lower of:

- Cost of rebuilding (e.g. amt. per sq. ft.) or
- Pre-storm value



TRUMP ADMINISTRATION GUTS DISPARATE IMPACT RULE

- October 2017, the Department of the Treasury issued a report in which it recommended HUD amend its Disparate Impact rule, especially as it pertained to its application to the insurance industry.
- Summer of 2018, HUD issued an Advanced Notice of Proposed Rulemaking on possible changes to the 2013 Disparate Impact Rule.
- August 2019, HUD issued a Notice of Proposed Rulemaking in which it proposed an unprecedented set of pleading requirements and defenses for industry.

CHANGES THAT PUT BUSINESSES BEFORE PEOPLE

- Creates overwhelming obstacles for victims to prove discrimination before they can even reach the discovery phase of a case.
- Allows profit to be a justification for maintaining discriminatory policies.
- Create a safe harbor for practices that rely on the use of artificial intelligence/algorithms.

THE PRACTICAL EFFECTS WOULD BE DEVASTATING...

and will undermine our ability to challenge structural racism and other systems of oppression.

- A landlord could evict victims of domestic violence because many common leases holds all tenants, even victims, responsible for crimes in their homes. This would have a disproportionate impact on women who are the primary victims of domestic abuse, placing them and their children at risk of homelessness and further violence.
- A bank could charge women, people of color, or people with disabilities, who seek home loans more than others. Given these barriers, these consumers would be forced to take on risky or costly loans.
- An apartment building could set a limit of one person per bedroom. Families are already facing rising rental costs, and disparate impact liability is critical to ensuring artificial barriers like these unreasonable occupancy restrictions don't exacerbate the housing affordability crisis.

**DISPARATE
IMPACT RULE
PUBLIC
COMMENT
PERIOD**

45K

Public Comments Submitted

OVERWHELMING OPPOSITION TO PROPOSED RULE NOW COMING FROM ALL SIDES

The New York Times

Big Banks' 'Revolutionary' Request: Please Don't Weaken This Rule

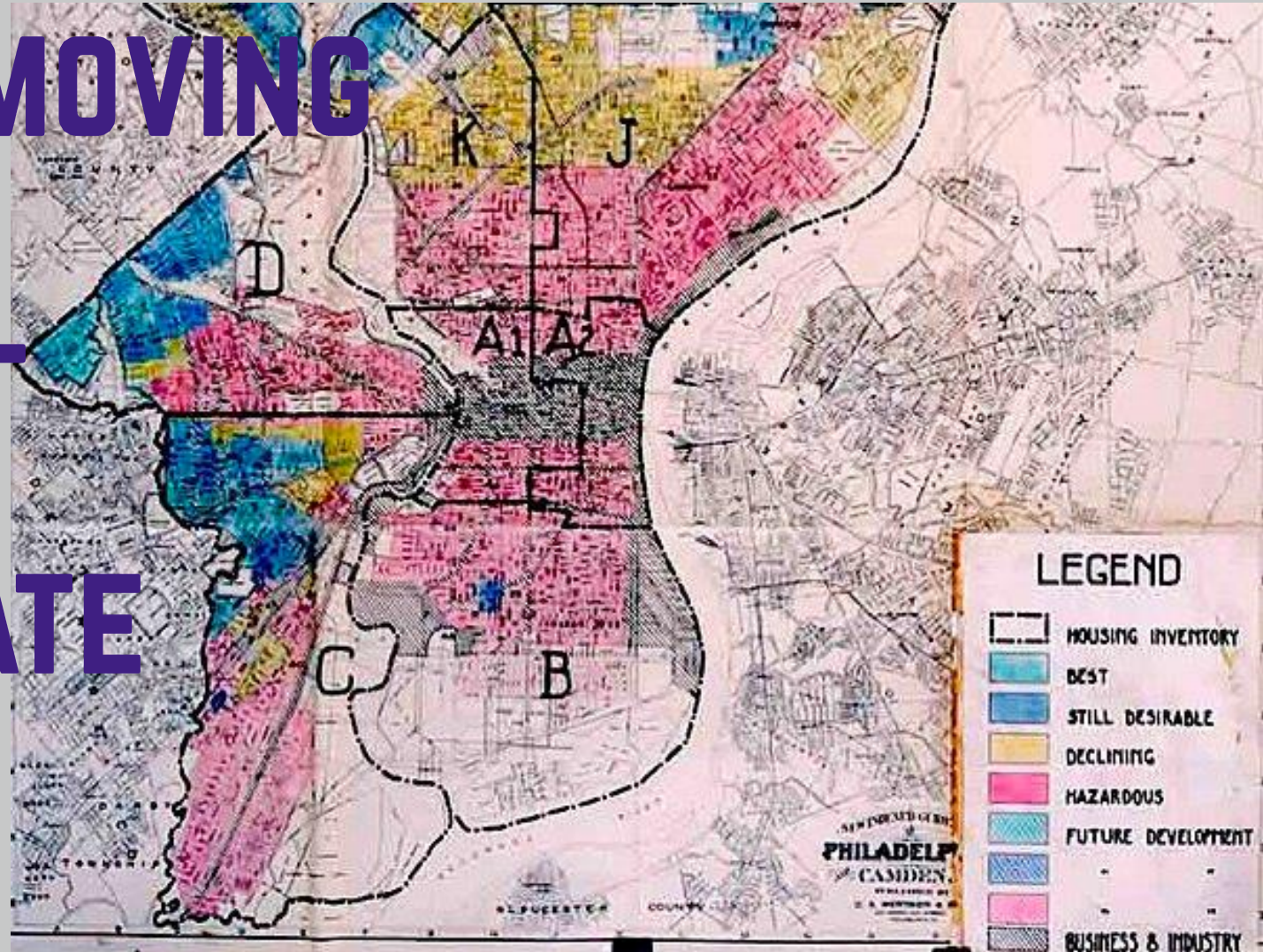
The Department of Housing and Urban Development is on the verge of defanging an antidiscrimination rule. Four big banks are asking it not to.



ELIMINATION OF THE AFFIRMATIVELY FURTHERING FAIR HOUSING (“AFFH”) RULE

**“OUR NATION IS MOVING
TOWARDS
TWO SOCIETIES –
ONE WHITE, ONE
BLACK – SEPARATE
AND UNEQUAL”**

Kerner Commission Report, 1968



AFFH PROVISION OF THE FAIR HOUSING ACT

- In 1968, when it passed the Fair Housing Act, Congress made a promise that it would end discrimination in housing based on race, national origin and certain other characteristics, and that it would eliminate racial segregation — which government itself had done so much to create and sustain — and undo the lasting harms it caused.
- Congress gave HUD the job of carrying out this promise. It made HUD responsible for protecting the rights of individuals seeking homes.
- It also told HUD to make sure that the cities, counties and states it funds do not discriminate and that they take active steps to tackle segregation.
- This important protection is known as Affirmatively Furthering Fair Housing (AFFH).
- HUD put out a rule in 1995 that lacked any accountability for failure to address residential segregation or discriminatory neighborhood patterns, but it adopted the first ever meaningful process for ensuring compliance with the AFFH provision of the Fair Housing Act in 2015.

2015 RULE KEPT THE PROMISE OF THE FAIR HOUSING ACT

- It required jurisdictions that receive HUD funds to take a clear, cold look at segregation, discrimination and inequality within their communities and gave them the tools to do so.
- It also required them to engage with their communities to identify top priorities for problems to address and strategies to overcome them.
- It required them to establish goals for carrying out these strategies, with associated metrics and timelines.
- Most importantly, the rule conditioned continued receipt of HUD funding on jurisdictions making progress toward accomplishing their fair housing goals.
- This promising regulation went into effect in 2016, and 39 jurisdictions completed the process of developing their fair housing plans and having them approved by HUD.

TRUMP ADMINISTRATION BEGINS TO GUT AFFH RULE

- In 2018, it called a halt to implementation of the 2015 rule and reinstated the ineffective 1995 regulation.
- In January 2020, HUD proposed a new AFFH regulation, one that was almost entirely divorced from the meaning and intent of the AFFH provision of the Fair Housing Act.
- The proposed rule discarded the equity and opportunity lenses that were key features of the 2015 regulation and are central to addressing the problems the country confronts today.
- Contained virtually no reference to segregation, discrimination, or the protected classes under the Fair Housing Act.
- The proposed rule confused and conflated affordable housing and fair housing – two separate, if overlapping, issues.
- The proposal eliminated the requirement for jurisdictions to perform any kind of analysis to fair housing barriers and identify ways to overcome them, or to seek input from community residents.

ENTER THE DOG WHISTLE POLITICS

The Trump Administration has cast the AFFH rule as an attempt to eliminate .



Donald J. Trump 
@realDonaldTrump



At the request of many great Americans who live in the Suburbs, and others, I am studying the AFFH housing regulation that is having a devastating impact on these once thriving Suburban areas. Corrupt Joe Biden wants to make them MUCH WORSE. Not fair to homeowners, I may END!

9:20 PM · Jun 30, 2020



86.5K



40.5K people are Tweeting about this

**ON JULY 23,
2020, TRUMP
ELIMINATES
AFFH RULE BY
EXECUTIVE FIAT**

20K

**PUBLIC COMMENTS
IGNORED**

NEW AFFH RULE DECREED WITH NO PUBLIC INPUT

- HUD new rule looks nothing like what the public commented on in January 2020.
- It is not a fair housing rule.
- The rule amounts to a rubber-stamping exercise where jurisdictions are certified compliant with the Fair Housing Act for doing no fair housing analysis.
- HUD side-stepped the public comment process through a rarely used waiver authority.
- The rule will take effect in September 2020

RESOURCES & WAYS TO TAKE ACTION

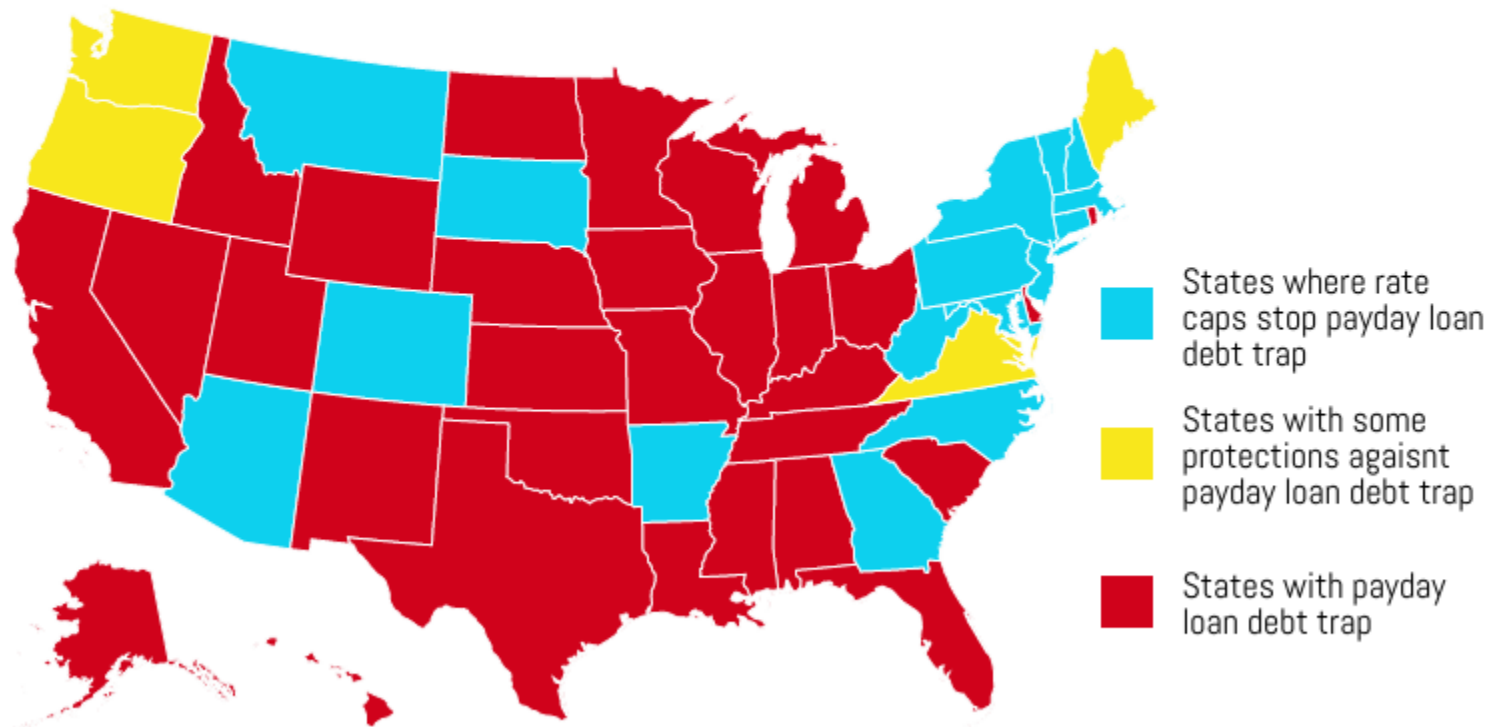
Proposed Disparate Impact Rule:
<https://www.defendcivilrights.org/>

AFFH Rule: <https://nationalfairhousing.org/affh/>

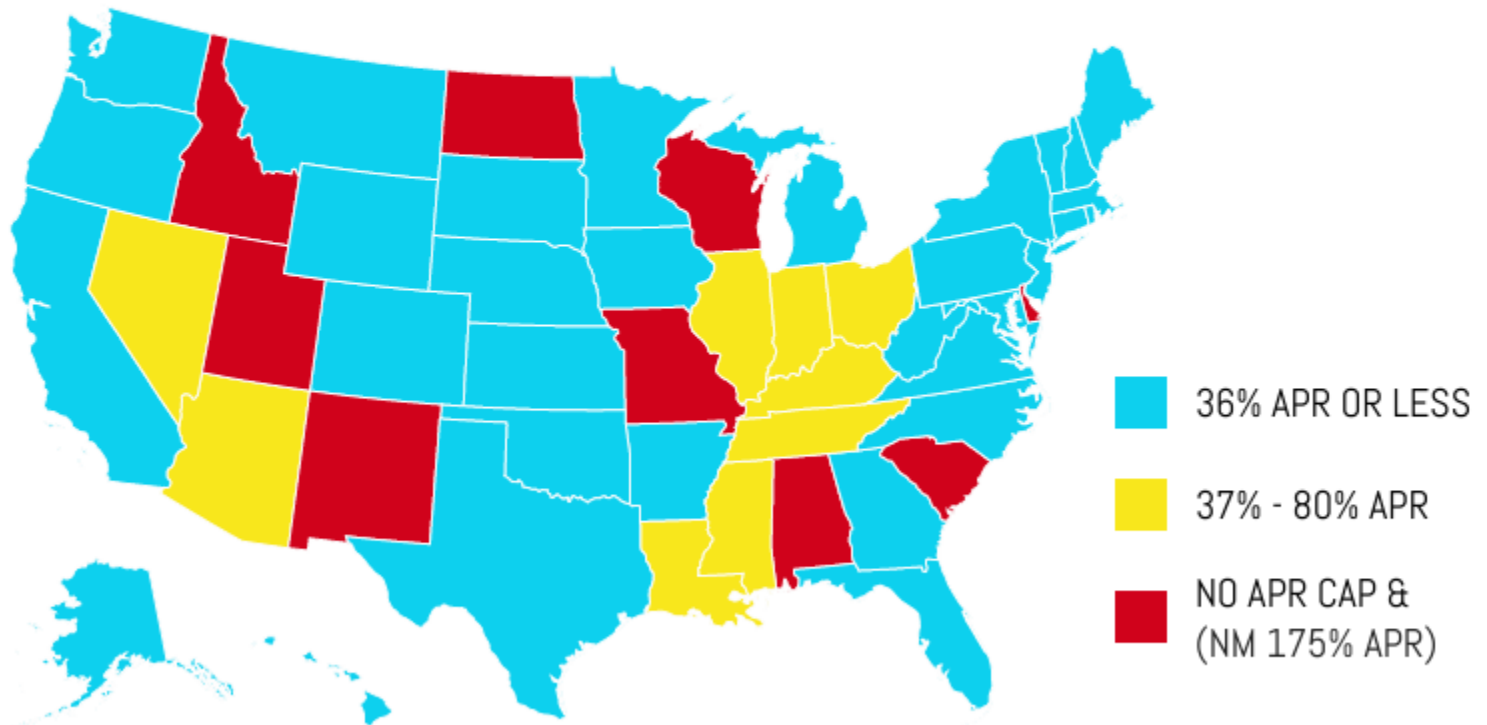


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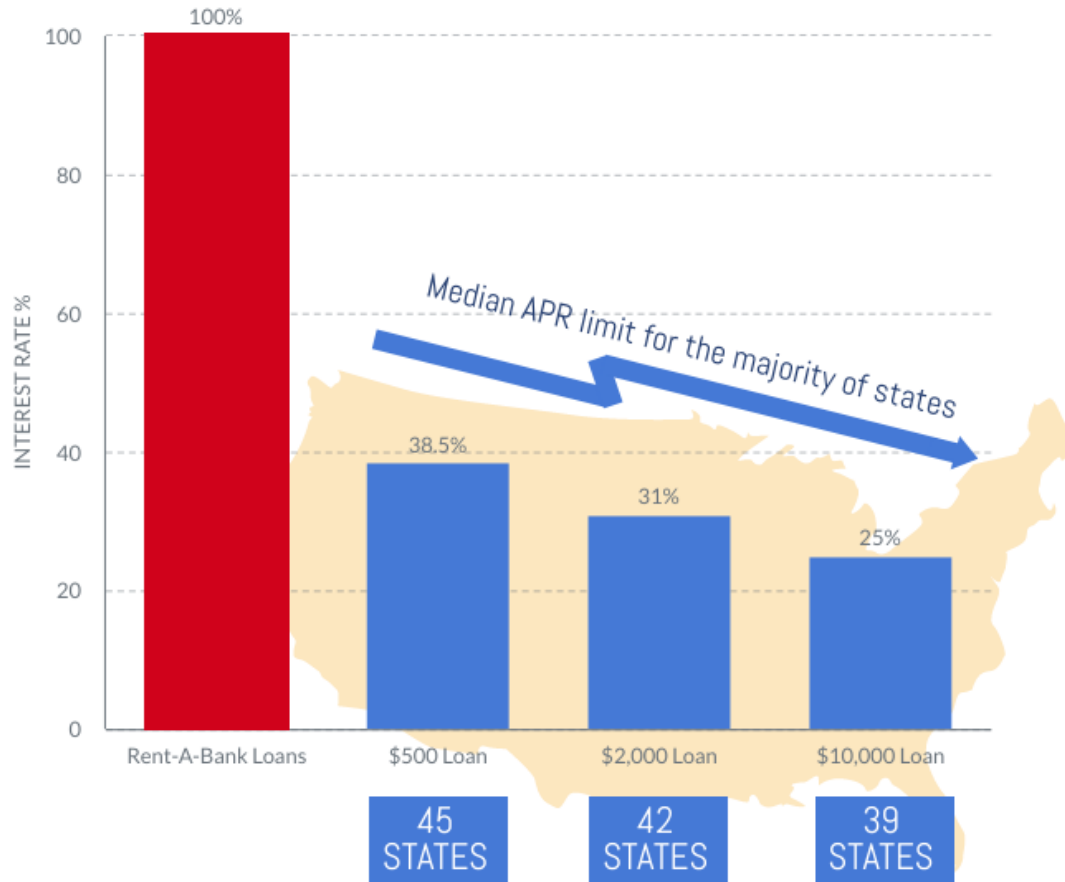
State interest rate limits for payday loans



State interest rate limits for \$2000, 2-year loan

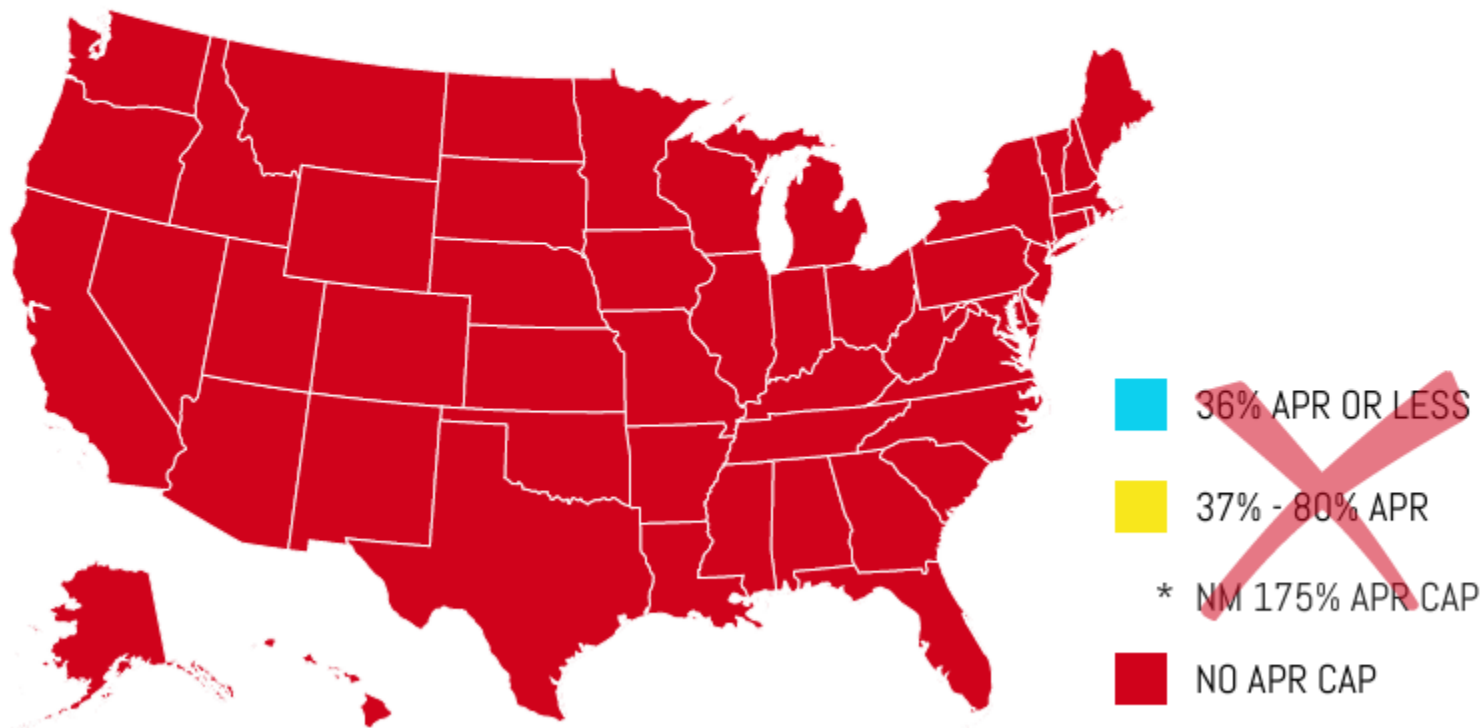


Median APR limit for Installment loans



Source: National Consumer Law Center

Predatory lenders will be able to evade ALL state interest rate limits through the rent-a-bank scheme





THE

RENT-A-BANK

SCHEME

#RENTABANK

RENT-A-BANK FACTS



Predatory lenders are making loans of **100%** APR or more in states with caps of 36% or less



HOW? By laundering loans through an out-of-state bank that is not subject to state interest rate caps



PREDATORY LENDER



BANK



BORROWER



THE
RENT-A-BANK
SCHEME

CONSISTS OF 5 STEPS



The predatory lender takes the loan application.



The predatory lender processes and sends the application to the bank.

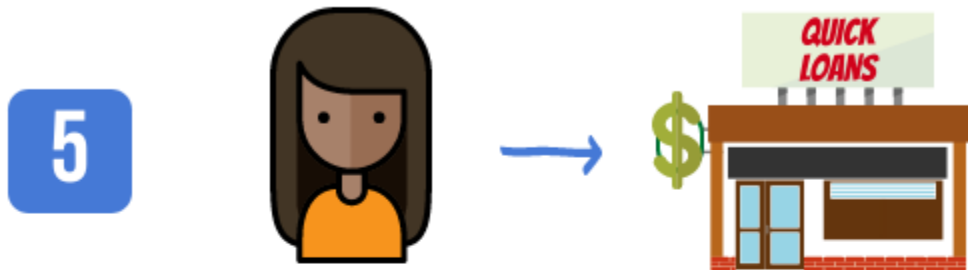


The bank sends the money to the consumer.

4



The bank sells the loan back to the predatory lender and gets a cut of the profit.



* The consumer repays the predatory lender.



* REAL LIFE EXAMPLE

A consumer borrowed \$2,500 from a predatory lender at 185% APR.

After four years, she paid \$16,000 in interest.



THE RENT-A-BANK SCHEME

#RENTABANK



PREDATORY LENDERS
DISPROPORTIONATELY TARGET
BLACK & LATINO PEOPLE FOR
LOANS OF MORE THAN

100% APR



Recent Rent-a-Bank Schemes

Installment loans:

- **OppLoans** + FinWise Bank = **160% APR**
- **Rise** (Elevate) + FinWise Bank = **99%-149% APR**
- **NetCredit** (Enova)+Republic B&T = **99.99% APR**
- **Avio Credit** (CURO) + Stride Bank = **130% APR**
- **Verge Credit** (CURO) + Stride Bank = **179% APR**
- **Personify** + First Electronic Bank = **179.99% APR**

Lines of Credit:

- **Elastic** (Elevate)+Republic Bank & Trust=**109% APR**

Recent Rent-a-Bank Schemes continued

Auto Title Loans:

- **LoanMart + Community Cap. Bank = 170% APR**

Retail Finance and Auto Repair Loans:

- **EasyPay + TAB Bank = 188.99% APR**
- **American First Finance + FinWise Bank = 161% APR**

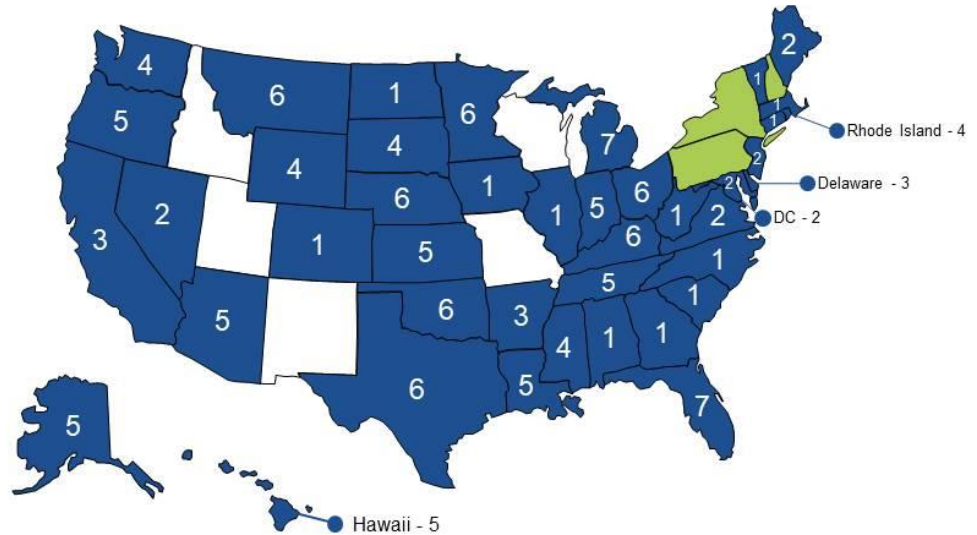
Small Business Loans

- **World Business Lenders + Axos Bank = 75% to 139% APR**
mortgages secured by small biz. owner's home
- **BFS Capital + Axos Bank = 274% APR**
- **Enova buying OnDeck (so more bad loans coming)**



National
Consumer Law
Center
*Fighting Together
for Economic Justice*

How Many Rent-a-Bank Lenders Operate in Your State?



- One or more lenders use a rent-a-bank scheme in the state.
- High-cost installment lenders lend directly in the state.
- No known consumer rent-a-bank lending.



<https://bit.ly/rentabank-watch-list>

OCC's Outrageous Proposal to Gut "True Lender" Doctrine

The OCC proposal says the bank is the true lender, so long as either:

- (1) The bank's is named as the lender on the loan document (all about the fine print!),
or
- (2) The bank funds the loan.

What Can I Do???

Take Action

- Submit a public comment to the OCC by **September 3, 2020**
- Media (social media, op-ed, editorial board memo)
- Collect & share borrower stories
- Contact local representatives (state legislators, AG, bank regulator, Congressional members)

Resources

- **Center for Responsible Lending**
responsiblelending.org/rentabank
- **National Consumer Law Center**
nclc.org/issues/high-cost-small-loans/rent-a-bank.html
- **Stop The Debt Trap**
StopTheDebtTrap.org/about/rent-a-bank-schemes

