CSBS Opposes "True Lender" Bill (H.R. 4439)

Submitted by mlongacre@csbs.org on Sat, 07/21/2018 - 14:45

The Honorable Trey Hollingsworth
United States House of Representatives
1641 Longworth House Office Building
Washington, DC 20515

Dear Representative Hollingsworth:

On behalf of the Conference of State Bank Supervisors (CSBS),[1] I am writing to express our members' serious concerns with and opposition to the Modernizing Credit Opportunities Act (H.R. 4439), which seeks to establish that a bank is the "true lender" in any loan assignment arrangement with a third-party service provider. State regulators have a unique window into bank and non-bank lending relationships by virtue of their work chartering banks, licensing non- bank lenders, and overseeing the conduct of both types of entities, including lending partnerships between the two. State regulators are also the "boots on the ground," policing their markets to protect consumers from harmful and exploitative financial products that run afoul of state laws.

State regulators are concerned that H.R. 4439 could result in "rent-a-charter" arrangements between banks and non-bank lenders that have been specifically designed to circumvent state usury and licensing laws. For example, some states have bans on payday loans or restrictions on interest rates and loan terms.[2] H.R. 4439 would open the door for lenders seeking to exploit federal preemption by partnering with a bank to offer usurious loans that would otherwise violate state law.

The ability to export interest rates across states lines – like the benefit of deposit insurance – is a privilege afforded only to banks, in part, because they must comply with a host of "cradle-to- grave" regulations, including stringent capital and liquidity requirements, community reinvestment requirements, merger and affiliation restrictions, and prior approval or notice requirements for a significant portion of their activities. Non-bank lenders do not have the same connection to the federal safety net, and the regulatory structures and requirements for these lenders reflects the decisions of the duly elected state legislatures about the credit needs of their communities.

State usury laws and non-bank licensing requirements are a critical component of consumer protection. Establishing loan rates and terms, as well as the standards one must meet to extend consumer credit as a non-bank entity, has always been within the purview of states' traditional police powers. Since H.R. 4439's approach to defining "true lender" would undermine the foundational authority of states to make decisions of such importance to the communities to which they are accountable, state regulators are compelled to oppose such an approach.

State regulators firmly oppose H.R. 4439, the Modernizing Credit Opportunities Act, as it would allow bad actors to exploit banks' federal preemption to issue harmful loans to consumers in contravention of state law.

Sincerely,

John W. Ryan
President and CEO

cc: The Hon. Alcee Hastings
The Hon. Patrick McHenry
The Hon. Blaine Luetkemeyer
The Hon. Henry Cuellar
The Hon. Collin Peterson
The Hon. Robert Pittenger
The Hon. Albio Sires
The Hon. Jeb Hensarling
The Hon. Maxine Waters

---

[1] *CSBS is the nationwide organization of state regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. State banking regulators charter and supervise nearly 4,400 institutions, representing almost 79 percent of the nation's banks. Additionally, most state banking departments regulate a variety of non-bank financial services providers, including those engaged in mortgage, money transmission, consumer finance, and other industries. For more than a century, CSBS has given state supervisors a national forum to coordinate supervision of their regulated entities and to develop regulatory policy.*

[2] *See "Legal Status of Payday Loans by State." PayDay Loan Consumer Information. http://paydayloaninfo.org/state-information*

Featured Policy
Off
Image

Top Category
[Statements & Comments]
Image

202.296.2840
newsroom@csbs.org
1129 20th Street, N.W., 9th Floor, Washington, DC 20036