Letter to House Financial Services Committee: DIDMCA

COMMENT LETTER

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September 2, 2026
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The Honorable French Hill
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: American Lending Fairness Act of 2026

Dear Chairman Hill and Ranking Member Waters:

The Conference of State Bank Supervisors ("CSBS")1 appreciates the Committee's consideration of the bipartisan "American Lending Fairness Act of 2026."2Competitive equality between state-chartered banks and national banks is a cornerstone of the United States financial system. This legislation would provide needed clarity regarding the scope of the Depository Institutions Deregulation and Monetary Control Act of 1980 ("DIDMCA") "opt-out" provision and help preserve the interstate lending framework that Congress intended when it passed the law.

Congress enacted Section 521 of DIDMCA to place state-chartered banks on equal footing with national banks when engaging in interstate lending. The law respects state authority by preserving an individual state's ability to opt-out of the DIDMCA framework with respect to "loans made in such State."3

Recently, however, disagreements have emerged regarding the scope of the opt-out authority, which largely turn on the meaning of the phrase "loans made in such State"4 Stakeholders have adopted differing interpretations of that language, including contrary opinions among individual states. Some view a loan as "made" where the core lending functions are carried out, some view the loan as "made" in the home state of the lending bank, and others view a loan as made in an "opt-out" state if the borrower is located within that state. These divergent interpretations have resulted in ongoing litigation and created uncertainty regarding the ability of federally insured, state-chartered institutions to lend at their home state interest rate across state lines.

This uncertainty has serious practical consequences. If state-chartered banks become subject to varying restrictions based on borrower location while national banks continue to operate under a uniform federal framework,[5] state-chartered institutions could face a significant competitive disadvantage. Such an outcome would be inconsistent with Congress's longstanding commitment to maintaining the balance of a vibrant dual banking system in which institutions may choose either a state or a national charter without suffering a structural competitive disadvantage.

The choice of a state or a national bank charter should be driven by the relative strengths of competing supervisory frameworks, including the efficiency, expertise, and responsiveness that regulators bring to their oversight responsibilities. Differences in supervisory approaches encourage innovation and allow supervision to adapt to different business models. But those benefits are diminished when institutions are incentivized to select a charter primarily for legal or structural advantages rather than to obtain a supervisory framework that best meets their needs.

CSBS supports congressional efforts to clarify DIDMCA in a manner that preserves parity between state banks and national banks, respects each state's authority over its own charters, and reduces uncertainty for financial institutions, regulators, and consumers. The "American Lending Fairness Act of 2026" would specify that an individual state's opt-out applies only to institutions chartered by that state. In so doing, the bill would preserve each state's authority to establish the rules governing its own chartered institutions, restore certainty to the DIDMCA framework, and reinforce the interstate lending parity that Congress originally intended.

We urge the Committee to support this bipartisan effort and look forward to working with you as this bill advances through the legislative process.

Sincerely,

Brandon Milhorn

President and CEO

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  CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories. The views presented in this letter may not reflect the policy of individual states.

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  H.R. 7866, the "American Lending Fairness Act of 2026."

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  Section 525 of DIDMCA allows a state to "opt-out" of the interest rate exportation framework provided under sections 521-523 if the state "does not want [interest rate exportation] to apply with respect to loans made in such State." Pub. L. 96-221 (March 31, 1980). To date, Colorado, Iowa, Puerto Rico, and most recently, Oregon, have opted out of DIDMCA.

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  The central question currently being considered in the Tenth Circuit in *National Association of Industrial Bankers v. Weiser* is how to interpret where a loan is "made" under Section 525 when the state-chartered bank and borrower are in different states.Colorado argues the law applies to all loans made to borrowers located in Colorado. The challengers argue the law only applies to loans where the core lending functions (such as underwriting, approval, and funding) are taking place inside Colorado.

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  See 12 U.S.C. § 85.

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