Payday Mayday: Federal APR Cap

By Kathryn Sumner

***Resolved: The United States Federal Government should substantially reform its banking, finance, and/or monetary policy.***

APR is the interest rate charged on loans. To protect the consumers, some states have put caps on ARP. But some states don’t even have a cap, and high interest rate lenders (think “Payday Loan” outfits, car title lenders, pawn shops, and even some banks) have ways to circumvent the caps in states that do have them. Payday lenders manage to charge rates like 100% or even 400% or higher on short-term loans, which leave the poor trapped in a cycle of debt, poverty, and bankruptcy. We need a national cap that sets the maximum interest rates for all loans, and experts agree 36% APR is the optimal maximum rate that allows lenders to profit from prudent loans and borrowers to be able to pay them back. This plan passes a bill currently pending in Congress to set a national 36% interest rate cap on all loans.

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Payday Mayday: The Case for a Federal APR Cap

The poor are drowning financially, and a helpful bystander throws them a brick. High “Annual Percentage Rate,” or APR, lending is wrecking lives and families, and it’s past time we affirmed that: The United States Federal Government should substantially reform its banking, finance, and/or monetary policy.

OBSERVATION 1. We offer the following DEFINITIONS.

**Reform**: “to put or change into an improved form or condition” (*Merriam Webster, 2019* [*https://www.merriam-webster.com/dictionary/reform*](https://www.merriam-webster.com/dictionary/reform))

Finance Policy. Regulations to prevent abusive lending practices are part of finance policy.

Cheryl R. Cooper 2019 (Analyst in Financial Economics with Congressional Research Service, the non-partisan policy research agency of Congress) 12 July 2019 “An Overview of Consumer Finance and Policy Issues” <https://www.everycrsreport.com/reports/R45813.html>

In consumer finance, three types of policy interventions are common: (1) standardized consumer disclosures; (2) regulation to prevent deceptive, unfair, or abusive financial institution practices; and (3) regulation to prevent discrimination in consumer-lending markets. Yet, policymakers need to be aware of unintended consequences of proposed policies, and often find it challenging to determine whether a policy intervention will help or harm a particular market's efficiency.

**END QUOTE. She goes on to say later in the same context QUOTE**:

The major consumer financial markets include mortgage lending, student loans, automobile loans, credit cards and payments, payday loans and other credit alternative financial products, and checking accounts and substitutes.

OBSERVATION 2. INHERENCY, the structure of the Status Quo. We offer 3 key facts:

FACT 1. State APR rate caps are high or non-existent

Only 16 states have APR rate caps at 36% or less

Center for Responsible Lending 2019 (a nonprofit, non-partisan research organization) 29 April 2019 “Center for Responsible Lending Supports Senator Durbin’s New Bill to Cap Interest Rates Nationwide at No Higher than 36% APR” <https://www.responsiblelending.org/media/center-responsible-lending-supports-senator-durbins-new-bill-cap-interest-rates-nationwide-no>

CRL has calculated that every year consumers lose approximately $8 billion in fees to payday and car title lenders. These businesses also target low-income consumers and communities of color with their debt trap products. Today, there are rate caps, of no higher than 36% APR, in place for military servicemembers and residents of 16 states and the District of Columbia, leaving these consumers better off.

FACT 2. Banks can bypass

Since 1978, banks bypass state limits by finding the most permissive state and using their law to operate nationwide

Jacob Passy 2019 (personal-finance reporter for MarketWatch) “Bernie Sanders and Alexandria Ocasio-Cortez’s interest-rate cap could be the death knell for credit-card rewards programs” 13 May 2019 <https://www.marketwatch.com/story/how-bernie-sanders-and-alexandria-ocasio-cortezs-proposal-to-cap-credit-card-interest-rates-at-15-could-hurt-consumers-2019-05-10>

Until the 1970s and 1980s, most states had usury caps for consumer loans, and some still do for payday loans, [according to the National Consumer Law Center](https://www.nclc.org/images/pdf/pr-reports/why36pct.pdf). But [a 1978 Supreme Court decision](https://www.creditcards.com/credit-card-news/marquette-interest-rate-usury-laws-credit-cards-1282.php) allowed banks to charge their home state’s interest rate to customers at the national level, which prompted some states including South Dakota and Delaware to abandon their limits in order to attract banks to set up shop there.

FACT 3. Payday lender loopholes

Even in states that have APR caps, payday lenders get around them with loopholes

WASHINGTON POST 2015. (journalist Jeff Guo) 9 Feb 2015 “Many states have cracked down on payday loans. Here’s how lenders still get away with it.” <https://www.washingtonpost.com/blogs/govbeat/wp/2015/02/09/many-states-have-cracked-down-on-payday-loans-heres-how-lenders-still-get-away-with-it/>

Payday lenders are a slippery bunch. In recent years, several states have passed laws curtailing these kinds of loans, which often charge triple-digit interest rates and tend to be a last resort for the poor. Some states have banned them outright, while others have tightened their rules to protect borrowers from what legislators say are abusive terms. But the business of lending to the low-income is too lucrative for companies to give up without a fight. Even as state lawmakers have tried to rein in payday lending (and its cousin, the pink slip loan), lenders find loopholes at every turn. They play with definitions, get creative with licensing, or even partner with Indian tribes. In one of his trademark [policy rants](https://www.youtube.com/watch?v=PDylgzybWAw), comedian John Oliver called the situation “legislative whack-a-mole.”  
**END QUOTE. He goes on later in the same context to say QUOTE:**  
Furthermore, most payday lending laws only apply to loans with a fixed term. Virginia strictly regulates payday loans, so lenders have begun to offer lines of credit, which fall outside of the law because they have no fixed repayment date. Customers pay a minimum fee each month, but otherwise the debt keeps on rolling over, often subject to interest rates in excess of 300 percent because it’s not subject to the payday lending law.

OBSERVATION 3. The HARM. It’s simple: Lives are ruined.

A. Quantification: High-interest lending affects 28% of the US population and costs $9 billion

Dorianne Perrucci 2018 (personal finance journalist and editor for the Donald W. Reynolds National Center for Business Journalism; previously contributed to Jane Bryant Quinn’s Washington Post and Newsweek columns on personal finance and economic policy) 18 Apr 2018 “Predatory Lending: An Overlooked Business Story Hurting U.S. Consumers” <https://businessjournalism.org/2018/04/predatory-lending-overlooked-business-story-hurts-one-every-four-u-s-consumers/>

In October 2017, the Consumer Financial Protection Bureau issued rules limiting the reach of payday lenders who make short-term, high-interest loans with annual percentage rates that can skyrocket to 400%. President Trump responded by firing Richard Cordray and appointing Mick Mulvaney, who put a freeze on the agency’s enforcement policies. This story touches 28% of the U.S. population — more than one in every four U.S. consumers. Make a case to your editor for developing a series, or special investigative report, after looking into payday lending practices in your coverage area. Shortly after President Trump appointed Mick Mulvaney, the House of Representatives, by a vote of 225-16, passed legislation overturning the government watchdog agency’s rule. H.R. 3299 allows payday lenders to transfer loans to a third party, such as a bank, regardless of state law. In 2016,borrowers who took out payday loans spent $9 billion in fees, according to the Pew Charitable Trusts.

B. Credit and financial future ruined

Monique Limón and Tim Grayson 2019 (both are Representatives in the California State Assembly) 15 May 2019 “Predatory loans hurt California families. Here’s a way to protect people” SACRAMENTO BEE <https://www.sacbee.com/opinion/article230401694.html>

Many people are surprised to learn that despite its reputation as a pro-consumer state, California law allows lenders to charge whatever interest rate they want, with rates often exceeding 200 percent. Such high interest rates can quickly turn a family’s tight financial situation into a full-blown catastrophe. To pay back a $2,500 loan with a 200 percent interest rate, a borrower would repay nearly $10,000 over two years, and some borrowers are not even that lucky. Unfortunately, more than 100,000 Californians each year - or one in three people who take out these loans - cannot afford the payments and end up with their credit ruined, their bank accounts closed and little hope to build a healthy financial future.

C. Families and society harmed

Ron Elwood 2014 (supervising attorney, Legal Services Advocacy Project, Mid-Minnesota Legal Aid) July-Aug 2014 “The Verdict is In – Payday Lending is Guilty As Charged” <https://www.povertylaw.org/clearinghouse/articles/payday>

Payday lending does not relieve financial stress; it exacerbates financial problems. Payday borrowers are more likely to end up in bankruptcy. Borrowers also often find themselves buried under a cascade of defaults regarding other expenses, such as mortgage, rent, utility bills, medical bills, and credit card bills. Payday lending has been linked to the destruction of military families. Such lending is associated with negative effects on societal externalities that have an adverse impact on state and local economies.

OBSERVATION 4. We offer the following PLAN implemented by Congress and the President

1. Congress passes S.1230, the “Protecting Consumers from Unreasonable Credit Rates Act of 2019,” setting a maximum 36% APR limit nationwide.

2. Funding and enforcement through normal means.  
3. Timeline: Plan takes effect one month after an affirmative ballot  
4. And all Affirmative speeches may clarify

OBSERVATION 5. SOLVENCY. We see how the Plan solves in 3 sub-points

A. National APR maximum of 36% on all loans including payday lending

Andrew Carobus, May 6, 2019 (attorney in the Ballard Spahr LLP’s Litigation Department who focuses his practice on matters pertaining to consumer financial services) “Sen. Durbin Reintroduces Bill to Cap Consumer Loans at 36 Percent,” <https://www.natlawreview.com/article/sen-durbin-reintroduces-bill-to-cap-consumer-loans-36-percent>

Last week, Senator Dick Durbin, D-Ill., reintroduced a bill, the “Protecting Consumers From Unreasonable Credit Rates Act of 2019,” that would create a national interest-rate cap of 36% on consumer loans. The legislation would make all open-end and closed-end consumer credit transactions, including mortgages, car loans, and payday loans, subject to a 36% APR limit. The limit would match the current interest rate limit under the Military Loan Act and would not preempt lower state interest rate caps. Supporters of the legislation include the NAACP, AFSCME, and National Consumer Law Center.

B. Consumers protected. Our Plan protects consumers from high-cost lenders

Center for Responsible Lending, April 29, 2019 (a nonprofit, non-partisan research organization) “Center for Responsible Lending Supports Senator Durbin’s New Bill to Cap Interest Rates Nationwide at No Higher than 36% APR” <https://www.responsiblelending.org/media/center-responsible-lending-supports-senator-durbins-new-bill-cap-interest-rates-nationwide-no>

“Senator Durbin’s legislation is the best way for our country to keep the loan sharks at bay,” said Center for Responsible Lending (CRL) Senior Policy Counsel Rebecca Borné. “This bill would free people from the crushing consequences of debt trap loans and usury, which can include losing a bank account, having your car seized, and falling into bankruptcy.”

C. Harms Solved. 36% rate cap solves the harms

Lauren K. Saunders 2013 (Master’s degree in public policy from Harvard; Managing Attorney of the National Consumer Law Center) Apr 2013 “Why 36%? The History, Use, and Purpose of the 36% Interest Rate Cap” <https://www.nclc.org/images/pdf/pr-reports/why36pct.pdf>

The 36% rate is not just an arbitrary number. It has gained wide acceptance because:   
• The 36% rate has a long and well-recognized history in America dating back 100 years.   
• The 36% rate has been reaffirmed repeatedly at the state and federal level in recent years. Congress and three federal agencies have endorsed the rate. More and more states and their voters are capping small loans at 36% or less – currently 15 states and the District of Columbia.   
• The 36% rate for small loans results in payments that consumers have a decent chance of being able to pay.  
 • A 36% rate gives lenders an incentive to offer longer term loans with a more affordable structure and to avoid making loans that borrowers cannot afford to repay.

2A Evidence: Federal APR Cap

BACKGROUND / DEFINITIONS

APR definition

Investopedia, updated July 15, 2019 (reviewed by Adam Hayes) “Annual Percentage Rate — APR” <https://www.investopedia.com/terms/a/apr.asp>

An annual percentage rate (APR) is the annual rate charged for borrowing or earned through an investment. APR is expressed as a percentage that represents the actual yearly cost of funds over the term of a loan. This includes any fees or additional costs associated with the transaction but does not take compounding into account.

INHERENCY

States with a 36% or smaller APR cap

Carolyn Carter, Lauren Saunders, and Margot Saunders, October 2018 (Carter – deputy director at National Consumer Law Center (NCLC) and has specialized in consumer law issues for more than 30 years; graduate of Yale Law School. L. Saunders – associate director of NCLC, JD from Harvard Law School. Masters in Public Policy from Harvard. M. Saunders – senior counsel to NCLC. She has testified before Congress on many occasions regarding a wide range of consumer law matters. JD from Univ. of N.C. School of Law.) “A Larger and Longer Debt Trap? Analysis of States’ APR Caps for a $10,000 Five-Year Installment Loan” <https://www.nclc.org/images/pdf/pr-reports/installment-loans/installment-loans-report-2018.pdf>

Twenty jurisdictions—Alaska, Arkansas, Colorado, Connecticut, the District of Columbia, Florida, Hawaii, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New York, Oklahoma, Rhode Island, Vermont, and Wyoming—limit the maximum APR for a $10,000 five-year loan to 25% or less. Arkansas, Maine, and Vermont are particularly protective of consumers, with APR limits of 17%, 18%, and 18%, respectively. Eleven states (Arizona, Louisiana, Michigan, Mississippi, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, Washington, and West Virginia) have an APR limit between 26% and 30%. Most of these states—seven of them—are at the low end of this range, capping APRs at 26% or 27%. One state, Iowa, permits a 32% APR, and five states (Illinois, Montana, New Hampshire, Oregon, and South Dakota) allow 36%.

States with a cap of 40% or higher

Carolyn Carter, Lauren Saunders, and Margot Saunders, October 2018 (Carter – deputy director at National Consumer Law Center (NCLC); graduate of Yale Law School. L. Saunders – associate director of NCLC, JD from Harvard Law School. Masters in Public Policy from Harvard. M. Saunders – senior counsel to NCLC. She has testified before Congress on many occasions regarding a wide range of consumer law matters. JD from Univ. of N.C. School of Law.) “A Larger and Longer Debt Trap? Analysis of States’ APR Caps for a $10,000 Five-Year Installment Loan” <https://www.nclc.org/images/pdf/pr-reports/installment-loans/installment-loans-report-2018.pdf>

Only two states have APR limits above 36%: Nevada allows APRs as high as 40%, and Georgia allows a 60% APR. Twelve states impose no numerical rate cap. Alabama, California, Idaho, New Mexico, South Carolina, Utah, and Wisconsin impose no limit other than a prohibition of rates that shock the conscience. The lending laws in Delaware, Missouri, North Dakota, Ohio, and Virginia impose no limit at all for a $10,000 five-year loan.

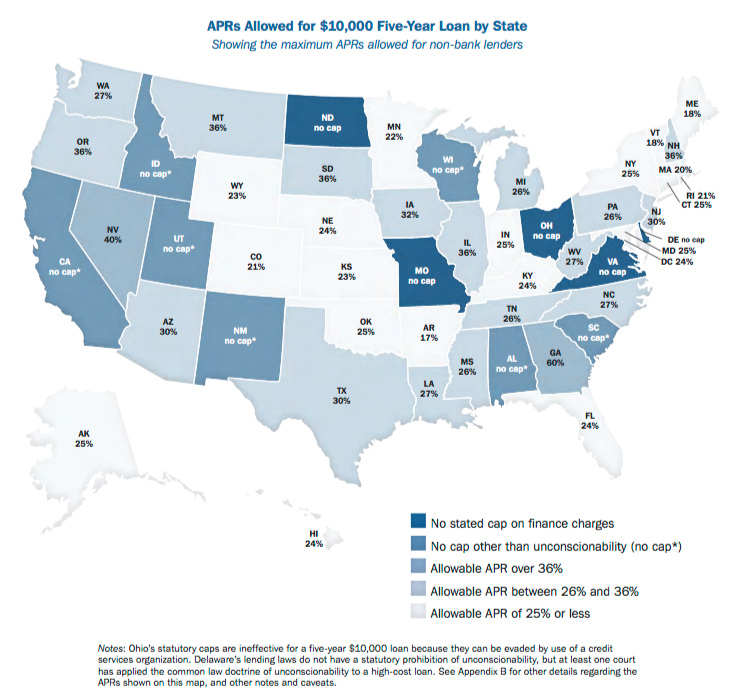
Payday lenders get loopholes in state laws to allow APR rates that can go over 100%

Carolyn Carter, Lauren Saunders, and Margot Saunders, October 2018 (Carter – deputy director at National Consumer Law Center (NCLC); graduate of Yale Law School. L. Saunders – associate director of NCLC, JD from Harvard Law School. Masters in Public Policy from Harvard. M. Saunders – senior counsel to NCLC. JD from Univ. of N.C. School of Law.) “A Larger and Longer Debt Trap? Analysis of States’ APR Caps for a $10,000 Five-Year Installment Loan” <https://www.nclc.org/images/pdf/pr-reports/installment-loans/installment-loans-report-2018.pdf>

For several years, payday lenders have been moving into installment lending, both as a way to evade state payday loan restrictions and in anticipation of a Consumer Financial Protection Bureau (CFPB) rule that would restrict short-term payday loans. To facilitate the expansion of long-term payday loans, these predatory lenders continue to pressure states to raise allowable interest and fees on installment loans. It is not uncommon for these lenders to charge APRs up to 100% or more—such as the 116% APR charged for the California loan described above—and some of them make loans for as much as $10,000.

Exact APR percentage rate by state

Carolyn Carter, Lauren Saunders, and Margot Saunders, October 2018 (Carter – deputy director at National Consumer Law Center (NCLC) and has specialized in consumer law issues for more than 30 years; graduate of Yale Law School. L. Saunders – associate director of NCLC, JD from Harvard Law School. Masters in Public Policy from Harvard. M. Saunders – senior counsel to NCLC. She has testified before Congress on many occasions regarding a wide range of consumer law matters. JD from Univ. of N.C. School of Law.) “A Larger and Longer Debt Trap? Analysis of States’ APR Caps for a $10,000 Five-Year Installment Loan” <https://www.nclc.org/images/pdf/pr-reports/installment-loans/installment-loans-report-2018.pdf>



In the SQ, many people are not protected from high-cost lenders

Carolyn Carter, Lauren Saunders, and Margot Saunders, October 2018 (Carter – deputy director at National Consumer Law Center (NCLC) and has specialized in consumer law issues for more than 30 years; graduate of Yale Law School. L. Saunders – associate director of NCLC, JD from Harvard Law School. Masters in Public Policy from Harvard. M. Saunders – senior counsel to NCLC. She has testified before Congress on many occasions regarding a wide range of consumer law matters. JD from Univ. of N.C. School of Law.) “A Larger and Longer Debt Trap? Analysis of States’ APR Caps for a $10,000 Five-Year Installment Loan” <https://www.nclc.org/images/pdf/pr-reports/installment-loans/installment-loans-report-2018.pdf>

This report finds that, for a $10,000 five-year loan, 39 states have APR limits in place, at a median rate of 25%, protecting 236 million people. However, some of those caps are excessively high. And twelve states place no numerical cap on the APR, leaving 90 million people unprotected.

HARMS / SIGNIFICANCE

The Status Quo hurts those who can least afford it

Office of Sen. Dick Durbin, 2019 (US Senator from Illinois) “Durbin Introduces Bill To Crack Down On Predatory Lending Practices” 29 Apr 2019 <https://www.durbin.senate.gov/newsroom/press-releases/durbin-introduces-bill-to-crack-down-on-predatory-lending-practices>

“For some Americans, payday lenders offer a quick way to make ends meet, but their outrageous interest rates and hidden fees can have crippling effects on the people who can least afford it. Despite this, President Trump and his Administration have opted to roll back the progress we have made on reforming predatory lending by quietly dismantling the rules that regulate these lenders. No matter how you cut it, this hurts Americans,” said Durbin. “We need to take action -- now more than ever -- to protect working families from predatory lending practices by capping interest rates and fees.”

Payday loans are especially hard for those struggling financially

Megan Leonhardt, 2018 (senior money writer with CNBC Make It. Before joining CNBC, she was a writer for Money magazine) “This map shows the states where payday loans charge nearly 700 percent interest” 3 Aug 2018 <https://www.cnbc.com/2018/08/03/states-with-the-highest-payday-loan-rates.html>

“Payday loans are dangerous and unaffordable for everyone, but borrowers who are just starting out or who are struggling financially — they’re the most vulnerable,” Lisa Stifler, the deputy director of state policy for the Center for Responsible Lending, tells CNBC Make It.

Quantification: 12 million Americans/year spending $8 billion in fees, with interest rates exceeding 300%

Office of Sen. Dick Durbin, 2019 (US Senator from Illinois) “Durbin Introduces Bill To Crack Down On Predatory Lending Practices” 29 Apr 2019 <https://www.durbin.senate.gov/newsroom/press-releases/durbin-introduces-bill-to-crack-down-on-predatory-lending-practices>

Nearly 12 million Americans use payday loans each year, incurring more than $8 billion in fees. While some loans can provide a needed resource to families facing unexpected expenses, with interest rates exceeding 300 percent, payday loans often leave consumers with the difficult decision of having to choose between defaulting and repeated borrowing.

Borrowers typically take out >10 payday loans/year. They pay more in fees than the amount borrowed!

Office of Sen. Dick Durbin, 2019 (US Senator from Illinois) “Durbin Introduces Bill To Crack Down On Predatory Lending Practices” 29 Apr 2019 <https://www.durbin.senate.gov/newsroom/press-releases/durbin-introduces-bill-to-crack-down-on-predatory-lending-practices>

As a result, 80 percent of all fees collected by the payday loan industry are generated from borrowers that take out more than 10 payday loans per year, and the vast majority of payday loans are renewed so many times that borrowers end up paying more in fees than the amount they originally borrowed. At a time when 40 percent of U.S. adults report struggling to meet basic needs like food, housing, and healthcare, the payday lending business model is exacerbating the financial hardships already facing millions of American families.

High interest rates of 300-400% costing consumers $9 billion/year

Megan Leonhardt, 2018 (senior money writer with CNBC Make It. Before joining CNBC, she was a writer for Money magazine) 3 Aug 2018 “This map shows the states where payday loans charge nearly 700 percent interest” <https://www.cnbc.com/2018/08/03/states-with-the-highest-payday-loan-rates.html>

In the U.S. today, these loans are a $9 billion business. In the past two years, 11 percent of U.S. adults say they’ve taken out a payday loan, according to a recent survey of approximately 3,700 Americans that CNBC Make It performed in conjunction with Morning Consult. But while payday loans provide quick cash, the national average annual percentage rate is almost 400 percent. In contrast, the average credit card APR in July was 16.96 percent, according to CreditCards.com. That can add up fast. For example, if you take out a $500 payday loan with an APR of 391 percent, you’ll owe about $575 two weeks later. The loan cycle rarely stops there, though. Many payday loan borrowers “roll over” the loan multiple times. Do that for just three months and the amount due is over $1,000.

The high interest rates turn into a downward spiral into debt

Megan Leonhardt, 2018 (senior money writer with CNBC Make It. Before joining CNBC, she was a writer for Money magazine) 3 Aug 2018 “This map shows the states where payday loans charge nearly 700 percent interest” <https://www.cnbc.com/2018/08/03/states-with-the-highest-payday-loan-rates.html>

For those who do fall behind on payday loans, the costs can be substantial and long-lasting. Some payday lenders will aggressively attempt recover their money, like by taking it directly from borrowers’ checking accounts, since borrowers grant access as a condition of the loan. These unexpected withdrawals by the lender can leave borrowers subject to pricey overdraft fees and damage their credit scores. Plus, it can be hard for borrowers to save while paying off such high-cost loans.

SOLVENCY / ADVOCACY

Text of the bill is here

<https://www.congress.gov/bill/116th-congress/senate-bill/1230>

Print out and bring with you to the debate round.

Brief summary of the bill (and advocacy by CRL)

Center for Responsible Lending, April 29, 2019 (a nonprofit, non-partisan research organization) “Center for Responsible Lending Supports Senator Durbin’s New Bill to Cap Interest Rates Nationwide at No Higher than 36% APR” <https://www.responsiblelending.org/media/center-responsible-lending-supports-senator-durbins-new-bill-cap-interest-rates-nationwide-no>

The Center for Responsible Lending (CRL) has announced support for legislation introduced today by Senator Dick Durbin (D-Ill.), the Protecting Consumers from Unreasonable Credit Rates Act of 2019. The bill would forbid lenders nationwide from charging any higher than 36% annual percentage rate (APR). The legislation makes clear that it would not interfere with state rate caps that are lower than 36% APR.

Specifics of the bill. 36% maximum APR on all types of loans, and states can set it lower if they want

Office of Sen. Dick Durbin, 2019 (US Senator from Illinois) “Durbin Introduces Bill To Crack Down On Predatory Lending Practices” 29 Apr 2019 <https://www.durbin.senate.gov/newsroom/press-releases/durbin-introduces-bill-to-crack-down-on-predatory-lending-practices>

Specifically, the *Protecting Consumers from Unreasonable Credit Rates Act* would:

* Establish a maximum APR equal to 36 percent and apply this cap to all open-end and closed-end consumer credit transactions, including mortgages, car loans, overdraft loans, car title loans, and payday loans.
* Encourage the creation of responsible alternatives to small dollar lending, by allowing initial application fees and for ongoing lender costs such as insufficient funds fees and late fees.
* Ensure that this federal law does not preempt stricter state laws.
* Create specific penalties for violations of the new cap and supports enforcement in civil courts and by State Attorneys General.

36% APR is the workable limit for small loans

Lauren K. Saunders 2013 (Master’s degree in public policy from Harvard; Managing Attorney of the National Consumer Law Center) Apr 2013 “Why 36%? The History, Use, and Purpose of the 36% Interest Rate Cap” <https://www.nclc.org/images/pdf/pr-reports/why36pct.pdf>

Beyond its history and wide acceptance, the 36% rate cap also works on a practical level for small loans. For a loan of the typical size and duration of a payday loan, a 36% rate results in payments that payday borrowers are more likely to be able to make while actually paying off the loan. A 36% rate also forces lenders to offer longer term loans with a more affordable structure and to more carefully consider ability to pay to avoid write offs.

Long list of advocates for the Plan

Office of Sen. Dick Durbin, 2019 (US Senator from Illinois) “Durbin Introduces Bill To Crack Down On Predatory Lending Practices” 29 Apr 2019 <https://www.durbin.senate.gov/newsroom/press-releases/durbin-introduces-bill-to-crack-down-on-predatory-lending-practices>

The legislationis endorsed by Americans for Financial Reform, NAACP, Woodstock Institute, Center for Responsible Lending (CRL), Public Citizen, AFSCME, Leadership Conference on Civil and Human Rights, National Consumer Law Center (on behalf of its low-income clients), National Community Reinvestment Coalition, AIDS Foundation of Chicago, Allied Progress, Communications Workers of America (CWA), Consumer Action, Consumer Federation of America, Consumers Union, Arkansans Against Abusive Payday Lending, Billings First Congregational Church—UCC, Casa of Oregon, Empire Justice Center, Georgia Watch Heartland Alliance for Human Needs & Human Rights, Hel's Kitchen Catering, Holston Habitat for Humanity Illinois, Asset Building Group, Illinois People's Action, Indiana Institute for Working Families, Kentucky Equal Justice Center, Knoxville-Oak Ridge Area Central Labor Councils, Montana Organizing Project, National Association of Consumer Advocates, National CAPACD, New Jersey Citizen Action, People's Action, PICO National Network, Prosperity Indiana, Strong Economy for All Coalition Student Action Tennessee Citizen Action, UnidosUS (formerly NCLR), and Virginia Organizing VOICE—Oklahoma City.

National APR law is needed to block circumvention by high-cost lenders picking their favorite state

Carolyn Carter, Lauren Saunders, and Margot Saunders, October 2018 (Carter – deputy director at National Consumer Law Center (NCLC) and has specialized in consumer law issues for more than 30 years; graduate of Yale Law School. L. Saunders – associate director of NCLC, JD from Harvard Law School. Masters in Public Policy from Harvard. M. Saunders – senior counsel to NCLC. JD from Univ. of N.C. School of Law.) “A Larger and Longer Debt Trap? Analysis of States’ APR Caps for a $10,000 Five-Year Installment Loan” <https://www.nclc.org/images/pdf/pr-reports/installment-loans/installment-loans-report-2018.pdf>

Given the lack of APR caps at the federal level, state APR limits are the primary protection against predatory lending by nonbank lenders. Congress and federal regulators should not allow high-cost lenders to evade state protections through a national bank charter for nonbank lenders, arrangements such as rent-a-bank partnerships, or any other steps to preempt state APR limits. Congress should adopt an APR cap that will apply nationwide, to banks and all other types of lenders, so that consumers in all states are protected.

RESPONSES

A/T ‘Efforts have failed in the past’ - This bill is different because it applies to all credit transactions

Office of Sen. Dick Durbin, 2019 (US Senator from Illinois) “Durbin Introduces Bill To Crack Down On Predatory Lending Practices” 29 Apr 2019 <https://www.durbin.senate.gov/newsroom/press-releases/durbin-introduces-bill-to-crack-down-on-predatory-lending-practices>

Efforts to address the exorbitant interest rates charged on many payday loans have often failed because of the difficulty in defining predatory lending. By establishing a 36 percent interest rate as the cap and applying that cap to all credit transactions, the Protecting Consumers from Unreasonable Credit Rates Act overcomes that problem and puts all consumer transactions on the same, sustainable, path. In doing so, consumers are protected, exorbitant interest rates for small-dollar loans will be curtailed, and consumers will be able to use credit more wisely.

A/T “Risk justifies the rates” – They don’t measure risk by customer and they’re not actually high risk

Ron Elwood 2014 (supervising attorney, Legal Services Advocacy Project, Mid-Minnesota Legal Aid) July-Aug 2014 “The Verdict is In – Payday Lending is Guilty As Charged” <https://www.povertylaw.org/clearinghouse/articles/payday>

No, in fact the risk does not justify the rates. The Consumer Financial Protection Bureau defines risk-based pricing as offering “different consumers different interest rates or other loan terms, based on the estimated risk that the consumers will fail to pay back their loans.” First, payday lenders do not differentiate among consumers because they do not alter rates based on a borrower’s ability to pay. Second, payday loans, though high-cost, are not high-risk. Even as some industry defenders continue to claim that the risk justifies the rate, other industry supporters concede that most payday loans do not end in default because repayment is virtually guaranteed through automatic debit agreements. Default rates on payday loans are low. In sum, there is simply no quantifiable, risk-based justification for the excessively high rates payday lenders charge.

A/T “Payday loans help poor through short-term emergencies” – Not how it really works, it’s a long-term debt trap

Ron Elwood 2014 (supervising attorney, Legal Services Advocacy Project, Mid-Minnesota Legal Aid) July-Aug 2014 “The Verdict is In – Payday Lending is Guilty As Charged” <https://www.povertylaw.org/clearinghouse/articles/payday>

For the vast majority of borrowers, a payday loan is a lure into a debt trap. The industry contends that payday loans serve as “financial taxis,” which are meant to handle emergencies and to get borrowers from one payday to another. The facts, however, do not bear out these assertions and, in fact, show the opposite is true. Borrowers often find themselves worse off after getting involved with payday lenders. Most payday borrowers do not use payday loans as they are advertised (i.e., for unexpected, temporary financial emergencies).

A/T “Payday loans help the unbanked” – Unbanked can’t get them, they just raise costs for banking customers

Ron Elwood 2014 (supervising attorney, Legal Services Advocacy Project, Mid-Minnesota Legal Aid) July-Aug 2014 “The Verdict is In – Payday Lending is Guilty As Charged” <https://www.povertylaw.org/clearinghouse/articles/payday>

In actuality the unbanked are typically ineligible for a payday loan. A bank account and an automatic debit authorization are prerequisites to obtaining payday loan credit. The payday lender, with such authorization, is often the first in line to drain the account when the employer directly deposits the paycheck. Payday lenders suggest that taking payday loans is a cheaper alternative to bouncing checks. However, evidence strongly suggests that payday loans cause borrowers to bounce checks and to incur overdraft and other bank fees. Payday loans do not serve the unbanked but are likely to cause banked borrowers to incur additional costs.

A/T “Voluntary transaction, consumers know what they’re doing” – Consumers don’t understand them

Ron Elwood 2014 (supervising attorney, Legal Services Advocacy Project, Mid-Minnesota Legal Aid) July-Aug 2014 “The Verdict is In – Payday Lending is Guilty As Charged” (brackets in original) <https://www.povertylaw.org/clearinghouse/articles/payday>

The mechanical simplicity of the payday transaction masks its hidden complexities, while its casual nature belies its dangers. There is significant informational asymmetry between payday lenders and payday borrowers. This asymmetry results in the inability of consumers to predict accurately the length of indebtedness they will experience or assess the financial jeopardy into which they are placed by using payday loans. Sociologists, economists, and financial analysts have all identified the “difficulty [consumers have] in accurately estimating the costs” of a payday loan.”

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