DAN RAYFIELD
ATTORNEY GENERAL

BENJAMIN GUTMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

November 9, 2026

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Johnson and Minority Leader Jeffries:

We, the undersigned state attorneys general, write to oppose H.R. 7866. This bill would strip states of their ability to opt out of the interest-rate preemption found in the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA). It would thus directly threaten states' longstanding power to protect borrowers by setting usury caps and enforcing them against out-of-state online lenders that may seek to evade them. It would upend a nearly fifty-year-old compromise that has balanced state prerogatives to protect vulnerable consumers with state banks' interest in nationally exporting their home states' interest rates. And it would exact this damage at an especially precarious time when nonbank companies are more and more seeking to evade usury limits through questionable partnerships with state-chartered banks. Because H.R. 7866 does not respect states' interest in exercising their police powers and limits states' ability to protect their citizens from high-cost lending, the House should reject it.

Banking and consumer protection are core areas of state governments' historic police powers. This is because "sound financial institutions and honest financial practices are essential to the health of any State's economy and to the wellbeing of its people[,]"[1] and it is foundational to the centuries-old dual banking system. State usury laws, which have existed since the Founding Era, "protect borrowers from the demands of unscrupulous lenders[],"[2] and nearly every state in

[1] *Lewis v. BT Inv. Managers, Inc.*, 447 U.S. 27, 38 (2009).
[2] *Massie v. Rubin*, 270 F.2d 60, 63 (10th Cir. 1959).

the union uses them to protect their residents from high-interest lending. Today, forty-five states and D.C. have usury laws that cap interest rates for small to mid-size consumer installment loans.

In a nod to this historic and important sovereign right, Congress explicitly granted state legislatures the right to avoid preemption of state usury limits when it passed DIDMCA, which otherwise allowed state-chartered banks to "export" their home-state usury rates when making loans in other states.[3] As one scholar explained after the law was passed, Congress recognized "the states' historical role in regulating usury ceilings and their concerns about the consumer protection function of ceilings" by allowing states to opt-out of this provision.[4] States could thus protect their residents from out-of-state banks' attempts to make loans with interest rates that exceeded their caps by passing legislation that opted out of DIDMCA preemption.[5]

This compromise was a purposeful legislative decision. As the Senate Committee on Banking, Housing, and Urban Affairs explained at the time, DIDMCA gave "[t]he various State legislatures . . . the ability to curtail the operations of this legislation with respect to their own particular States and situations,"[6] so states could continue to protect their residents from usurious loans.

Since 1980, states and territories have exercised this prerogative sparingly.[7] But in the last decade, new, nonbank companies have increasingly exploited DIDMCA's exportation provision by marketing high-interest loans online while "partnering" with state-chartered banks that can evade state usury limits that would otherwise apply to other lenders in the state.[8] For example, in 2023 the Colorado Attorney General found that one "rent-a-bank" operator was making thousands of loans in the state with annual interest rates in excess of 100%, resulting in significant default rates that harm consumers' credit scores and access to future, more affordable credit.[9]

A quarter-century ago, the Office of the Comptroller of the Currency stopped nonbank lenders from engaging in a similar gambit with national banks, calling the scheme an "abuse of the national bank charter."[10] And just earlier this year, a nonbank lender that routinely makes triple-digit-APR loans to consumers withdrew its attempt to acquire a national bank, under pressure from consumer protection and community groups.[11] But banks chartered in states that lack rate ceilings

---

[3] *Greenwood Tr. Co. v. Massachusetts*, 971 F.2d 818, 827 (1st Cir. 1992).
[4] Donna C. Vandenbrink, *Usury Ceilings & DIDMCA*, Federal Reserve Bank of Chicago (1985).
[5] *See* 94 Stat. 161, § 525.
[6] *Usury Lending Limits: Hearing on S. 1988 Before the Comm. On Banking, Hous., & Urb. Affs.*, 96th Cong., 1st Sess. (1979), at 5, *available* at govinfo.gov/content/pkg/CHRG-96shrg56265O/pdf/CHRG-96shrg56265O.pdf.
[7] Both Iowa and Puerto Rico have maintained a long-standing opt-out since Congress passed DIDMCA. *See* 1980 Iowa Acts, ch. 1156, sec. 32 (Iowa); 10 L.P.R.A. § 9981 (Puerto Rico).
[8] *See* Adam J. Levitin, *Rent-A-Bank: Bank Partnerships and the Evasion of Usury Laws*, 71 Duke L.J. 329, 370-390 (2021) (discussing the rent-a-bank model).
[9] *See* Stipulation and Final Agency Order, *In re Duvera Billing Services, LLC, DBA EasyPay Finance*, *available at* https://coag.gov/app/uploads/2023/04/23.04.20-Final-EasyPay-Settlement-Agreement-fully-executed.pdf.
[10] Office of the Comptroller of the Currency, Bulletin No. 2001-47, *Third-Party Relationships: Risk Management Principles* (Nov. 1, 2001), *available at* https://www.occ.gov/static/rescinded-bulletins/bulletin-2001-47.pdf; *see also* OCC Advisory Letter No. AL 2000-10 (Nov. 27, 2000), *available at* https://www.occ.gov/news-issuances/advisory-letters/advisory-letter-2000-10.pdf.
[11] *See* Nat'l Community Reinvestment Coalition, *NCRC, Woodstock Institute Are Pleased with Enova's Bank Application Withdrawal* (Sep. 15, 2026), *available at* https://ncrc.org/ncrc-woodstock-institute-celebrate-enovas-bank-application-withdraw/.

are not subject to OCC oversight and continue to partner with nonbanks like Opportunity Finance to offer loans with triple-digit APRs. Loans like these exceed usury limits in 45 states and D.C.

One principal tool states have today to address this practice is exercising the DIDMCA opt-out that Congress included for this exact purpose. Thus, Iowa and Puerto Rico have long retained their opt-out of DIDMCA preemption—with Iowa enforcing its laws to prevent predatory fintech lending in recent years.[12] Colorado and Oregon have opted out of DIDMCA preemption through recent legislation.[13] And other states and the District of Columbia have recently considered whether to follow suit.[14]

H.R. 7866 would rob state legislatures of this important prerogative at a time when it is needed most. And, in an era in which lenders are trying to evade usury limits at a scale that we've never seen before, H.R. 7866 would help them perfect that tactic. Congress should not accede to this. States must retain the right to consider potential harm to their consumers caused by rent-a-bank schemes and other relevant policies, and then address it through legislation.

We urge you to reject this proposed federal takeover of the dual banking system, continue respecting the states' historic police power, and keep the compromise from DIDMCA that has held for almost half a century. Please vote NO on H.R. 7866.

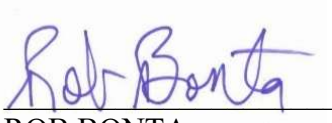
Sincerely,



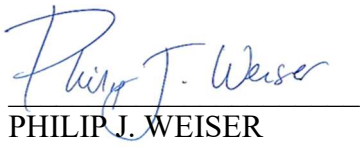
DAN RAYFIELD
Oregon Attorney General



KRIS MAYES
Arizona Attorney General



ROB BONTA
California Attorney General



PHILIP J. WEISER
Colorado Attorney General



WILLIAM M. TONG
Connecticut Attorney General

[12] *See, e.g., In re Transp. Alliance Bank, Inc. d/b/a TAB Bank*, Assurance of Discontinuance (Iowa Att'y Gen. & Iowa Div. of Banking Dec. 12, 2022).
[13] *See* H.B. 23-1229 (amending Colo. Rev. Stat. § 5-2-214) (Colorado); H.B. 4116 (2026) (Oregon).
[14] *See, e.g.*, H.F. 3680, 93rd Leg. (Minn. 2023-24); S.B. 2275, Reg. Sess. (R.I. 2024); B25-0609, 25th Council (D.C. 2023-24).

BRIAN L. SCHWALB
District of Columbia Attorney General

ANNE E. LOPEZ
Hawaii Attorney General

KWAME RAOUL
Illinois Attorney General

AARON FREY
Maine Attorney General

ANTHONY G. BROWN
Maryland Attorney General

ANDREA JOY CAMPBELL
Massachusetts Attorney General

DANA NESSEL
Michigan Attorney General

KEITH ELLISON
Minnesota Attorney General

AARON D. FORD
Nevada Attorney General

JENNIFER DAVENPORT
New Jersey Attorney General

LETITIA A. JAMES
New York Attorney General

JAY JONES
Virginia Attorney General

NICHOLAS W. BROWN
Washington Attorney General