

Stop High-Cost Lenders from Evading State Laws: An Overview of Rent-a-Bank Schemes & the Simple DIDMCA Opt-Out Solution



**THE
RENT-A-BANK
SCHEME**
#RENTABANK

HIGH-COST LENDERS
are making loans
that ignore
**STATE LENDING
LAWS**
about interest rates,
loan size, & loan terms

HOW?

By laundering loans
through an out-of-state
bank not subject
to the first state's
regulations

In the 1990s payday lenders partnered with banks to create a practice known as Rent-a-Bank. This practice exploits a provision of federal law that allows banks to export their interest rates across the country, ignoring state laws meant to protect borrowers from abusive high-rate lending that can lead to a debt trap. While predatory lenders originally used store-front payday locations when this evasion scheme began, today's high-cost lenders have moved their tactics online under the glossy facade of fintech innovation. These lenders are now trying to adapt their abusive high-cost lending playbook to larger, longer-term personal loans.

In 2023, the state of Colorado addressed the reemergence of this scheme by passing legislation to opt out of the provision of federal law being exploited by predatory lenders and banks, allowing the state to fully enforce its own lending laws for Colorado consumers.

Rent-a-Bank arrangements allow online lenders to exceed state limits on loans used to finance the purchase of everything from puppies to car repairs, including expensive debt consolidation loans made to people already struggling to meet their monthly obligations. While some of the loans are typical triple-digit payday products, others are very large loans with a 36% annual percentage rate (APR) or higher. A 36% interest rate is appropriate for small, short-term loans. It is not appropriate for large loans paid over a period of years.

How Banks Got into High-Cost Lending

Rent-a-Bank is facilitated by the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA). DIDMCA extended to state-chartered banks the right to export the interest rates of the location of their headquarters to other states. The Supreme Court first granted this right to national banks in 1978. Eventually, other lenders used DIDMCA to enter into arrangements with banks to exceed state interest rate limits. When predatory lenders originally used this evasion scheme in the 1990s to early 2000s, then-Comptroller of the Currency John Hawke said that "these arrangements constitute an abuse of the national charter," and federal banking regulators unanimously recognized this early iteration of Rent-a-Bank as abusive.

Real-life example

Someone paying a 15K LOAN at 36% APR over 5 years will pay \$17,519 in interest, for a total payment of \$32,519

THE RENT-A-BANK SCHEME consists of these 5 STEPS:

1 High-cost lender advertises loan in its own name to borrower.



High-Cost Lender



2 High-cost lender takes loan application from borrower.



Borrower



3 High-cost lender arranges for bank to put their name on the loan to avoid state lending laws.



High-Cost Lender



4 Money is sent to borrower.



Out-of-State Bank



5 Consumer interacts with and repays the high-cost lender, and the loan is serviced by the high-cost lender.



Borrower



Rent-A-Bank Lenders Defy the Will of Voters and Lawmakers and Prioritize Out-Of-State Lenders

Rent-a-Bank schemes allow unscrupulous banks and online lenders to flout the judgment of legislators and the people they serve.

Voters in recent years have passed rate caps by formidable margins in states like Nebraska, Colorado, and South Dakota, and lawmakers in New Mexico and Minnesota also have responded to their residents' concerns by passing legislation to cap rates on payday loans and protect their citizens from predatory lending. By exploiting DIDMCA rate export provisions, unscrupulous lenders continue their business inside these states despite the intentions of the people who work, live, and vote there.

Beyond ignoring the will of lawmakers and the public, exporting the higher rates allowed under DIDMCA favors out-of-state banks over hometown lenders who comply with the law.

Online lenders brazenly use state-chartered banks to evade state law. For example, when California passed a rate cap law in 2019, two public companies—Elevate and Enova—bragged to their investors that they already had a way to thwart the intentions of lawmakers who wanted predatory lenders out of their communities.

Thanks to Rent-a-Bank, online lenders are able to boast about maneuvering around legislation:

Elevate: “[W]e expect to be able to continue to serve California consumers via bank sponsors that are not subject to the same proposed state level rate limitations.” (*Elevate Credit Inc. earnings call, pages 5–6, 10; July 29, 2019, SeekingAlpha.com.*)

Real-life example

Elevate offers a **RENT-A-BANK** product called “Rise” with APRs from 99–149% on installment loans ranging from \$500–\$5,000.

DIDMCA Opt-Out: A Simple, Effective, Solution to Rent-a-Bank Lending

State attorneys general have fought this out-of-state abuse of local lending laws in the courts, but litigation is time-consuming and expensive—and the sheer volume of these evasions makes it impossible to shut them all down one-by-one.

Opting out of DIDMCA gives attorneys general and other regulators clear authority to act, prioritizes banks and lenders that follow the law, and honors the lending policies put in place by legislators and voters who want to protect their neighbors from financial abuse and wealth-stripping debt traps.

To learn more or to take action, visit ResponsibleLending.org/RentABank

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