



Testimony in Support of H-6055

Relating to Commercial Law – General Regulatory Provisions – Interest and Usury

House Committee on Corporations

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The Economic Progress Institute strongly supports Representative Potter's H-6055, which would **protect Rhode Island consumers from predatory lenders** engaged in the Rent-a-Bank Scheme. These fintech companies employ tactics to get around Rhode Island's interest rate caps of between 21% and 36% APR and **charge Rhode Islanders interest rates between 100% and 200% APR.**

Here is an image from the website of one of these lenders, which offers Rhode Islanders loans of \$500 to \$4,000 over 9 to 18 months:

Loan amount	APR**	Duration	Payments
\$2,000	160%	9 Months	9 Payments of \$394.58
\$3,000	160%	12 Months	12 Payments of \$514.60
\$4,000	160%	18 Months	18 Payments of \$595.14

All three of these loan options have an APR cap of 24% for Rhode Island lenders. Let us compare the cost of these loans from a Rhode Island lender and this Rent-a-Bank lender:

Loan Amount	Loan Term		RI Lender	Rent-a-Bank
\$2,000	9 months	APR	24%	160%
		Monthly Payment	\$245.03	\$394.58
		Total Interest Payments	\$205.28	\$1,551.22
\$3,000	12 months	APR	24%	160%
		Monthly Payment	\$283.68	\$514.60
		Total Interest Payments	\$404.15	\$3,175.17
\$4,000	18 months	APR	24%	160%
		Monthly Payment	\$266.81	\$595.96
		Total Interest Payments	\$802.55	\$6,727.34

Neither Rhode Island consumers nor business owners have any need for credit offered at such exorbitant rates. As will be explained below, Representative Potter's legislation would block this scheme in two ways.



How the Rent-a-Bank Scheme works

In the Rent-a-Bank Scheme, a lender (usually a fintech company without its own national or state charter) arranges loans – soliciting and processing the applications and managing almost every part of the lending process, including servicing and collection – yet at a critical juncture of the process pays one of these banks chartered out-of-state to sign off on the loan at triple-digit interest rates and then buys the loan. In essence, **the lender is renting the bank for this one step in the process that allows the avoidance of state interest rate limits on small loans**. This is why the rent-a-bank schemers have been accused of violating true lender rules. In the rent-a-bank scheme, the lender, which would otherwise be subject to state interest limits, tries to claim they are merely an intermediary arranging the loan, but for all practical purposes is the true lender, and not the bank chartered out-of-state.¹

The Rent-a-Bank scheme operates in Rhode Island

According to the National Consumer Law Center (NCLC), the following five rent-a-bank lenders currently operate in Rhode Island: OppFi/OppLoans, EasyPay, Enova's NetCredit, LoanMart, and Check 'n Go's Xact.² Check 'n Go used to operate payday lending stores in Rhode Island yet closed them down a few years ago. The loan amounts are typically larger than for storefront payday loans, take many months to repay, and are given at triple-digit rates, four to eight times or more the limit on other small loan lenders in the state.

Two ways to end the rent-a-bank scheme in Rhode Island

H-6055 provides two complementary ways legislative solutions to Rhode Island policymakers: **the DIDMCA opt-out** and **"true lender" anti-evasion rules**.

Ordinarily, banks and other financial institutions are regulated and bound by the laws of the states in which they do business. However, in 1980, Congress enacted the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA), allowing state-chartered banks to follow the interest rate limits of their home states instead of the lower interest rate limits of other states in which they do business. Although in 1978 Congress permitted nationally-chartered banks, including the largest and best well-known ones, to do so, this is simply not common practice, to charge triple-digit interest rates for any of their products, including credit cards.

The 1980 federal DIDMCA legislation includes a provision for states to opt out of the federal act, to require banks chartered in other states to play by the same rules and interest rate limits as banks chartered in a state. At this time, only Iowa remains an opt-out state, joined by



Puerto Rico. However, in 2023, Colorado became the second state to opt out, and while this was intended to go into effect in July 2024, it is now in the district courts. A similar effort is underway in Washington, D.C. Rhode Island policymakers could enact legislation to add Rhode Island to this list and prevent the predatory rent-a-bank scheme from continuing to operate in the Ocean State. For those who claim it will block credit options for Rhode Islanders, we simply have no need for credit options with triple-digit interest rates. In terms of the rent-a-bank scheme, these out-of-state banks are not actually seeking out Rhode Islander customers as they market their loan products. The products are not theirs but are products designed by the fintech companies which are only using the out-of-state banks to sign on the dotted line.

Lenders should be regulated as lenders. The lending process involves many stages, from the design of the product to the marketing to potential borrowers to the loan decisions to the signing of the loan to the servicing of the loan and collection of payments. It is critical to note that the signing of the loan is not the only critical stage, and to understand who the true lender is, one must consider the process as a whole. Of particular importance is the matter of who has the “predominant economic interest” in the loan. What we see from the rent-a-bank scheme is that the out-of-state bank has no involvement except for signing the loan documents for a small fee. Every other stage is managed by the fintech companies, which maintain accounts at the out-of-state banks to buy the loans; this is built into the process. They are using the out-of-state banks primarily to avoid Rhode Island’s interest rate limit, not to help Rhode Islanders. The “true lender” anti-evasion part of this legislation would clarify what a true lender is and subject true lenders to rules designed to protect Rhode Island consumers and small business owners. This approach has worked in Washington State and elsewhere to discourage these rent-a-bank schemers from shopping their triple-digit rate products in the local market.

Representative Potter’s H-6055 employs both approaches. Using the language provided by the federal legislation, it opts Rhode Island out of this federal provision that allows lenders in other states to charge higher interest than Rhode Island’s own banks and credit union are legally allowed to charge. Opting out **would level the playing field by requiring most lenders to follow the same rules and prevent these predatory lenders from charging triple-digit interest rates to Rhode Islanders.** The new and strong anti-evasion rules would also thwart the rent-a-bank schemers by making clear that they are indeed the true lenders and not simply arranging loans to connect Rhode Islanders with other lenders.

¹ November 2023 Fact Sheet from the Center for Responsible Lending (CRL): <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-didmca-factsheet-nov2023.pdf>.

² For additional information and a link to spreadsheet with state-level tracking, see <https://www.nclc.org/resources/high-cost-rent-a-bank-loan-watch-list/>.