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Ms. Kris Mayes, Attorney General  
Office of Attorney General  
2005 N. Central Avenue  
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Mr. Charles Bassett, Director  
Dept. of Insurance and Financial Institutions  
100 North 15<sup>th</sup> Ave., #261  
Phoenix, AZ 85007-2630

*Delivered Electronically*

**Re: Enforcing Arizona Usury Law to Stop Rent-a-Bank Lending**

Dear Attorney General Mayes and Director Bassett:

The Center for Economic Integrity (CEI) recently issued its agenda for making consumer credit more affordable for Arizona families. We call for action to stop the return of payday lending disguised as “Earned Wage Advance”, to make consumer installment loans more affordable, and to stop evasions of Arizona’s usury law.<sup>1</sup>

We hope that you will join us in working for more affordable credit.

Via this letter, we request action from your offices to stop the evasion of the Consumer Lender law usury limit by online out-of-state non-bank lenders claiming to be exempt from our laws by partnering with out-of-state banks to make loans. In these transactions, the non-bank lender is the true lender, while the bank merely lends its name to the transaction, quickly selling the majority of the loan receivables back to the non-bank. This tactic is called “rent-a-bank” (RAB) lending.

The Center has been advocating for action by your agencies to put a stop to this tactic since 2020 and provided your offices with our survey of RAB lenders operating in Arizona in 2023. We have updated this survey of RAB lenders operating in Arizona.<sup>2</sup>

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<sup>1</sup> Please see the attached Agenda.

<sup>2</sup> Attached



CEI has identified eight lenders operating here in violation of usury caps only two have licenses as Consumer Lenders despite the DIFI alert updated in 2016 instructing former payday lenders to get Consumer Lender licenses to offer loans in this state.

We again urgently request that your offices take action to protect Arizona borrowers from predatory online lending that violates Arizona’s Consumer Law and operates despite voter rejection of the payday loan industry’s Prop 200 that led to the sunset of triple-digit rate loans.

### **How Rent-A-Bank Lenders Evade Arizona Law**

While federal law permits banks to export their home interest rates to other states, their non-bank partners are subject to state rate caps where they make their loans. To evade these laws, some lenders try to use banks to front for making loans and lines of credit, claiming that the bank is the lender when in fact the “true lender” is the non-bank online operation that markets, services, collects, and has the main economic stake in loans.

These high-cost loans are harmful to borrowers, as documented by a new report on Opportunity Finance (OppFi) from the Center for Responsible Lending<sup>3</sup>, including high default rates, frequent refinancing, and clear signs that this business model does not include determining borrowers’ ability to repay. The astronomical interest rates charged for loans puts a financial burden on borrowers that is similar to the impact of payday lending, but with even larger loan sizes.

### **Eight out-of-State Online Lenders Are Charging Arizona Borrowers Triple-Digit Rates for Consumer Lender Loans**

The 2026 update to the Center for Economic Integrity’s survey of rent-a-bank lenders operating in Arizona identified eight online operations offering high-cost installment loans and lines of credit at rates that far exceed the Consumer Lender law caps. For example, Opp Loans charges 160% APR for installment loans of \$500 to \$5,000 with terms of 9 to 18 months. Elevate Credit’s Rise Loans are \$500 to \$5,000 with terms of 7 to 36 months at an APR of 99% to 199%.

Some lenders do not disclose loan costs on their websites. The National Consumer Law Center reports that Xact charges up to 225% for its loans. This company is part of CNG

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<sup>3</sup> Attached



Holdings, which is the parent company of Check ‘n Go, a payday lender that left Arizona following sunset of the payday loan law in 2010.<sup>4</sup>

Only two of the eight hold Consumer Lender licenses.<sup>5 6</sup> Simple Fast Loans holds a Sales Finance license<sup>7</sup> but apparently does not offer the only cash loan authorized for that license (a secondary motor vehicle finance transaction loan or car title loan). Two Rent-A-Bank lenders hold Arizona Collection Agency licenses - OppFi /Opportunity Financial, LLC,<sup>8</sup> and NetCredit Loan Services, LLC.<sup>9</sup> Both of these companies perform collections for their bank partners, further demonstrating that they, not their bank-partners, are the true lender.

Five small state-chartered banks are involved, including Capital Community Bank, FinWise Bank, TAB Bank, and First Electronic Bank in Utah as well as Republic Bank and Trust in Kentucky.

**Arizona must require these entities to obtain Arizona Consumer Lender licenses and comply with rate caps and the consumer protections in our Consumer Lender law.**

The lenders operating in Arizona offer cash installment loans or lines of credit under \$10,000 that meet the definition of a Consumer Lender loan.

Arizona law defines a Consumer Lender subject to our law at 6-601.5 “means a person that **advertises to make or procure, solicits or holds itself out to make or procure, or makes or procures consumer lenders loans to consumers in this state.**’ (emphasis added).

Even if the online non-bank lender were not the true lender, these entities meet the definition of a consumer lender and are subject to Arizona licensing, supervision and rate caps and loan term protections.

**Arizona must Investigate each of these operations to determine that the non-bank entity is the true lender and take action to stop this rate-gouging.**

We believe that investigation into these eight lenders’ operations will demonstrate that they are the true lenders, not the banks that nominally put their names on these loans. The non-bank entities market loans, handle applications, provide customer service, collect the loans, and buy back a large percentage of the receivables these loans generate, often within days of the loan being made. In some cases, non-bank lenders pay banks to

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<sup>4</sup> For more information on the companies in the rent-a-bank business, please visit NCLC/s High-Cost Rent-a-Bank Watch List at [High-Cost Rent-a-Bank Loan Watch List - NCLC](#)

<sup>5</sup> Sun Up Financial LLC License # CL-1011822

<sup>6</sup> Applied Data Finance License # CL-1000273

<sup>7</sup> License # SF-1001084

<sup>8</sup> License # CA-0945745

<sup>9</sup> License # CA-0937430

participate in these programs and even maintain escrow accounts with the partner banks to guarantee the purchase of the receivables.

In our view, the banks involved merely “rent” their right to export home-state rates to borrowers in states like Arizona that strive to protect borrowers from usury with loan rate caps and protections.

Other states have successfully enforced their usury laws with these lenders. The Attorney General for the District of Columbia brought enforcement actions against OppLoans, Easy Pay (does not operate in Arizona), and Elevate. California is in litigation with OppLoans. Oregon is currently investigating the arrangements of RAB lenders in their state, while Colorado and Iowa have led successful enforcement actions.<sup>10</sup> When a state challenges the RAB scheme, it tends to discourage other companies from operating in that state.

### **Pass True Lender legislation codifying the common law**

In the last several years, five states<sup>11</sup> have passed statutory language laying out the test for true lender. This test takes into account the substance of the arrangements created by these non-bank lenders – not just whose name is on the loan.

The language in each state is substantially similar and recognizes the true lender as the entity that holds, acquires or maintains, directly or indirectly, the predominant economic interest in the loan. The law then defines “predominant economic interest” as the person marketing, brokering, arranging or facilitating the loan and holds the right, requirement or first right of refusal to purchase the loan or a receivable or interest in the loan.

True lender statutes also address attempts by RAB non-bank lenders to evade these requirements, creating a test for examining the “totality of the circumstances,” of a bank partnership arrangement. Circumstances that weigh in favor of an entity being a lender include, without limitation, when the person indemnifies, insures or protects an exempt entity for any costs or risks related to the loan; predominantly designs, controls or operates the loan program; or purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

Arizona’s passage of a “true lender” bill would provide a clear hook for the Attorney General and Arizona regulators to enforce Arizona’s usury laws against RAB lenders, and a clear rubric for bank partnerships hoping to export out-of-state interest rate laws into Arizona.

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<sup>10</sup> The NCLC Watchlist provides links to enforcement actions by RAB lender at [High-Cost Rent-a-Bank Loan Watch List - NCLC](#)

<sup>11</sup> Illinois, Maine, Minnesota, New Mexico, and Washington



## **Support Arizona opt out of rate exportation by state-chartered banks**

Arizona can combat these schemes by taking advantage of the right to opt out of rate exportation by state-chartered banks. Only a handful of state-chartered, FDIC-supervised banks are engaged in rent-a-bank lending.

States have the authority under the federal Depository Institutions Deregulation and Monetary Control Act (DIDMCA) to opt out. Iowa and Puerto Rico did this years ago and in 2023 Colorado enacted an opt-out law. Late last year, the 10<sup>th</sup> Circuit Court of Appeals upheld Colorado's right to uniformly enforce its state rate caps by preventing the exportation of rates from out of state. Additional states are now seeking to opt-out, including Oregon.

To effectively opt-out of DIDMCA, Arizona's Consumer Lender law would also need to be amended to apply rate caps to the state banks that partner with non-bank lenders to offer RAB loans. This narrow change to the exclusions section of the Consumer Lender law would empower Arizona to protect its citizens from rate gouging.

**We request your support for Arizona legislation to give our state the same authority to stop rate gouging by online lenders.** <sup>1213</sup>

**You can make credit more affordable for Arizona consumers by enforcing the Consumer Lender law to stop the end-run around usury caps by out-of-state online lenders and their bank partners.**

Please let us know what further information we can provide.

Kelly Griffith, Executive Director

Jean Ann Fox, Advisor

Attachments

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<sup>12</sup> For more information on this tactic, please see the National Consumer Law Center's press release on the 10<sup>th</sup> Circuit decision and the legal analysis from NCLC's Lauren Saunders, attached.

<sup>13</sup> See also the brief from the Center for Responsible Lending attached.



CEI 2026 Arizona Consumer Affordability Policy Agenda, January 2026 [2026 Arizona Consumer Affordability Policy Agenda](#)

Center for Economic Integrity, “Stop Rent-A-Bank Lenders from Operating in Arizona,” January, 2026 at [2026 AZ Factsheet Rent-A-Bank lenders](#)

Center for Responsible Lending, “Lost Opportunities: How Opp Fi Traps Borrowers In Unaffordable Debt,” January 27, 2026 at [crl-lost-opportunities-jan2026.pdf](#)

Center for Responsible Lending, Data Point: “Stop High-Cost Lenders from Evading State Laws: An Overview of Rent-A-Bank Schemes & the Simple DIDMCA Opt-Out Solution,” November, 2023 at [crl-didmca-factsheet-nov2023.pdf](#)

National Consumer Law Center, Press Release, “Appellate Court Upholds Colorado’s Power to Block Predatory Out-of-State Bank Loans,” November 10, 2025 at [Appellate Court Upholds Colorado’s Power to Block Predatory Out-of-State Bank Loans - NCLC](#)

Lauren Saunders, National Consumer Law Center, “Tenth Circuit Limits Rent-a-Bank Schemes,” December 11, 2025 at [Tenth Circuit Limits Rent-a-Bank Schemes | NCLC Digital Library](#)

Saved as 2026 CEI RAB letter to AG DIFI