Testimony before House Commerce and Consumer Protection Committee, January 28, 2025

Thank you, Mr. Chairman, for allowing me to testify in opposition to House Bill 2561.

I'm Dr. Kent Kaiser, secretary/treasurer of the Domestic Policy Caucus.

It is a unanimous 1978 US Supreme Court decision governing federally chartered banks and the 1980 law signed by President Carter called DIDMCA, governing state-chartered banks, that established the banks' right to compete across state lines.

The result has been vibrant competition among all banks to provide more and more attractive terms on credit and to provide more credit options as well as to provide credit to more and more people.

According to the Oregon State Treasury:

- Nearly 17% of Oregonians have non-prime credit scores.
- 45% of Oregonians have difficulty paying ordinary household expenses.
- 30% of Oregonians could not afford an unexpected $2,000 expense.

These are among the consumers who would be harmed by House Bill 2561.

At first, several states exercised DIDMCA's opt-out provision. Over time, however, all but Iowa and Puerto Rico rescinded their opt-out laws after realizing the harm to consumers.

Iowa is practically a credit desert: A recent study shows that only 0.16 percent of Iowans have obtained small dollar loans, while in neighboring, consumer-friendly Missouri, the number is more than 30 times greater.

Understand this: The need for credit doesn't disappear when credit options are taken away.

You wouldn't send someone to the Alvord Desert without a water bottle. You shouldn't banish poor Oregonians to a veritable credit desert with no way to survive, either.

It's important to note that the largest, federally chartered banks in the nation are charging the highest fees, and they'd be exempt from Oregon House Bill 2561 because they would continue to be governed by the Supreme Court's 1978 ruling.

At the same time, House Bill 2561 would harm the smaller, state-chartered banks that offer individualized credit options that we should want to be the solution for Oregonians in need.

Please oppose House Bill 2561.

Thank you.

DIDMCA Opt-Out: A Threat to Oregon Credit Consumers

Why, in 2025, would any lawmaker want to abandon vulnerable Oregonians in a veritable credit desert? Everyone who cares about the economic well-being of low-income, minority, young, and other marginalized Oregonians should oppose the proposed DIDMCA opt-out.

In the late 1970s, the American economy was transformed; unprecedented competition among banks put the convenience of credit cards into the hands of millions of people who previously were ineligible for them and had to rely on more expensive and risky credit options.

Why? Thanks to a unanimous 1978 decision by the U.S. Supreme Court in *Marquette Nat'l Bank of Minneapolis v. First of Omaha Serv. Corp.*, authored by liberal icon Justice William Brennan, banks holding a "national charter" were to be governed by the interest rate caps of the states in which they were based instead of the state in which the consumers lived. Therefore, the nationally chartered banks started offering very attractive terms across state lines.

Moreover, in response to the Supreme Court's decision, the U.S. Congress passed a bill, signed into law by President Jimmy Carter, called the Depository Institutions and Monetary Control Act of 1980 (known as DIDMCA or DIDA), which allowed banks chartered under state law to have the same right to "export" their home-state interest rates as the national banks had. This enabled state-chartered banks to compete on an equal playing field with massive, nationally chartered banks like Wells Fargo, Citibank, and Capital One.

Unfortunately, in passing DIDMCA, Congress included a provision that would allow state legislatures to opt out of the law. At first, Colorado, Iowa, Maine, Massachusetts, Nebraska, North Carolina, Puerto Rico, and Wisconsin all opted out. Over time, however, all but Iowa and Puerto Rico rescinded their opt-out laws after seeing the benefits to consumers in states like Oregon.

Yet this year, the state legislature, at the request of Governor Tina Kotek for the Department of Consumer and Business Services, is considering a bill (H.B. 2561) which, if passed into law, would force Oregon to opt out of DIDMCA and become an anomaly like Iowa.

House Bill 2561 would severely restrict access to credit for millions of underserved Oregon consumers.

- 16.6% of Oregonians have subprime (<660) credit scores.[1]
- 31.8% of Oregon consumers have limited or poor/fair credit history.[2]
- 44.9% of Oregon households had a very difficult or somewhat difficult time covering their usual household expenses and paying all the bills.[3]
- 30.5% of Oregonians say they could not cover a $2,000 unexpected expense.[4]
- 19.3% of Oregonians have outstanding credit card debt that exceeds 75% of their total credit limit,[5] and 6.1% are delinquent on their payments.[6]
- 18% of Oregonians used nonbank credit services in the past 5 years.[7]
- These are the consumers who would be most harmed by H.B. 2561—Oregonians who can't get a loan from a bank and struggle to access the credit they need.

We can examine to the circumstances for Iowans to see the negative implications of their state being outliers in the national financial services landscape.

Iowa operates in a pre-1980s market, which puts Iowa consumers at a disadvantage as they are limited to obtaining credit products offered by only national-chartered banks and Iowa-chartered banks. Iowa's aloof stance on DIDMCA has the effect of putting Iowa state banks at a disadvantage compared to nationally chartered banks.

Hence, in addition to the threat that a DIDMCA opt-out would pose for Oregon consumers, it also would put Oregon state-chartered banks at a disadvantage compared to national-chartered banks. It's these, the largest banks in the nation, that are charging the highest fees, and they'd be exempt from House Bill 2561.

Of course, the impact of an opt-out would be negligible to Oregon's more financially well-off consumers. Where the impact would be felt most acutely would be among Oregon's marginalized citizens—people who are not highly regarded or well served by much of the financial services industry.

Less well-to-do Oregonians should have a myriad of credit options just like well-off Americans do to help them weather financial storms and build a better future for their families.

[1] https://www.oregon.gov/treasury/financial-empowerment/Documents/FEAT-Meeting%20Materials/2024/240205-FINAL-2024-Financial-Empowerment-scorecard.pdf

[2] https://scorecard.prosperitynow.org/reports#report-state-profile/41

[3] https://www.oregon.gov/treasury/financial-empowerment/Documents/FEAT-Meeting%20Materials/2024/240205-FINAL-2024-Financial-Empowerment-scorecard.pdf

[4] https://www.oregon.gov/treasury/financial-empowerment/Documents/FEAT-Meetig%20Materials/2024/240205-FINAL-2024-Financial-Empowerment-scorecard.pdf

[5] https://scorecard.prosperitynow.org/reports#report-state-profile/41

[6] https://www.oregon.gov/treasury/financial-empowerment/Documents/FEAT-Meeting%20Materials/2024/240205-FINAL-2024-Financial-Empowerment-scorecard.pdf

[7] https://www.oregon.gov/treasury/financial-empowerment/Documents/FEAT-Meeting%20Materials/2024/240205-FINAL-2024-Financial-Empowerment-scorecard.pdf