Some Very Bad Credit Legislation is Floating Around Washington DC

October 9, 2012 - Interstate banking used to be illegal in the United States. Banks were both chartered and regulated at the state level. Then came deregulation and federal bank charters. Since then, the federal government has repeatedly stepped into state regulatory disputes, telling the states that they have no authority to regulate federally chartered banks. And because of the way that Congress wrote the law, the courts have had little choice but to agree. Now, there is an utterly boneheaded effort in Washington to push through a law allowing federal charters for non-bank financial companies. Translated, that means a federal charter for pay-day loan companies. It is a credit disaster in the making.

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The proposed bill is called the Consumer Credit Access, Innovation, and Modernization Act. Whenever a bill is proposed in Congress, there is a "findings" section that talks about the findings of Congress and why the bill is needed. In this case, Congress isn't even trying to hide the fact that the primary intent of the law is to usurp stronger state regulations with regard to pay-day lending. The findings specifically state that the sponsors of this bill think that state regulations are too strict.

It needs to be understood however that states are not just arbitrarily regulating pay-day lenders. Loans offered by these companies can have interest rates and additional charges that can exceed 300%. It is no wonder that states have stepped in to regulate this industry and, in some cases, have set interest rate caps that have effectively driven these lenders out of their markets.

While some may think that this is overregulation, the issues caused by pay-day lending practices certainly warrant more scrutiny that the federal government has provided. These lenders frequently allow borrowers to refinance their debt, over and over again, each time incurring more and more interest and fees. This cycle becomes one that leaves borrowers with no way to get out of debt other than by declaring bankruptcy.

Ironically, the federal government knows that this is a real problem. In the 2007 fiscal year military budget, Congress made it illegal to offer pay-day loans to active duty military personnel. They didn't do this without a reason. Members of the armed forces that have credit problems can lose their security clearances; ending their careers. They can also become ineligible to be deployed overseas. The reason for these rules is simple. Someone who is having money trouble can become an easy target for foreign intelligence agencies.

While the proposed law wouldn't apparently affect the ban on military loans, it would impact all other regulatory areas. The way the law is written, pay-day lenders wouldn't even need to have a physical presence in a state. They could offer

their services through the internet. Additionally, the law specifically prevents the states from imposing any form of interest or fee caps on the loans being offered.

This week, the Attorneys General of 39 states and the District of Columbia sent a letter to Congress opposing the proposed law. The letter is well worth reading for anyone who interested in why state regulations are the way they are. As for ACCESS, we have to agree with those signing the letter. In our opinion, passage of this law would be nothing short of a disaster for consumers.

byJim Malmberg
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