

**For Delivery on April 28, 2021**  
**Hearing: “The Reemergence of Rent-a-Bank”**  
**Opening Statement**

Emerson teaches us that history is a battle between what he called “the innovators” and “the conservators.” The innovators work to find new ways to make government work for the people it serves, and deliver results for everyone.

But the conservators – the corporations, the special interests, the elite who’ve amassed wealth and power at the expense of workers and their families – the conservators never give up.

And so it is with predatory lending.

In the late 1990s, payday lenders were desperate to find a way to evade state laws that limited them from charging exorbitant interest rates that trap people in a cycle of debt they can’t get out of, no matter how hard they work.

They came up with what the OCC called “rent-a-charter” – what we now know as the “rent-a-bank” scheme.

Because banks are generally not subject to these state laws, payday lenders funneled their loans through a small number of willing banks. It looked like the banks were making the loans, when it was really the payday lenders.

Federal regulators, Republicans and Democrats, saw through this ruse.

Under President Bush, the OCC described these rent-a-bank schemes as “abusive,” and later warned about banks that “rent out their charters to third parties who want to evade state and local consumer protection laws.”

In the years that followed, the OCC and FDIC shut down a series of these schemes by payday lenders and banks.

States from across the country also stepped in to crack down.

The Georgia legislature, in 2004, passed a law to crack down on rent-a-bank schemes. Regulators in West Virginia, Ohio, Pennsylvania, New York, Maryland, and other states followed suit.

States also passed new laws to limit interest rates on payday loans.

Since 2010, Montana, South Dakota, Colorado, Illinois, Virginia, and just last year Nebraska, all passed laws to cap interest rates on payday loans at 36 percent – still a very high number that will make any company plenty of money.

Several other states, including California and my home state of Ohio, also passed laws to limit the interest that can be charged on consumer loans.

These new laws passed with overwhelming, bipartisan support.

More than 75 percent of voters in Nebraska and South Dakota supported the ballot initiatives to cap interest rates on payday loans.

In recent years, new fintechs have emerged that partner with banks to offer responsible small-dollar loans at affordable rates.

Of course the payday lobby didn't give up.

And now we have a separate group of online payday lenders resurrecting the same old rent-a-bank scheme. They aren't even attempting to hide it.

One online lender recently told its investors that it would get around California's new law by making loans through "bank sponsors that are not subject to the same proposed state level rate limitations."

Another one said "There's no reason why we wouldn't be able to replace our California business with a bank program."

Given the broad, bipartisan support for these laws, we all hoped that the Trump OCC would take action and crack down on these schemes – schemes that have been rejected by voters and legislatures in state after state.

The last Republican Administration under President Bush stood up for consumers on this point.

But last year, the OCC issued what's known as the True Lender Rule, overruling voters of both parties and giving a free pass to these abusive rent-a-bank schemes.

The rule was rushed through by the Acting Comptroller who cut his teeth helping banks ruthlessly foreclose on homeowners and a Deputy Comptroller with deep ties to the payday lobby – and whom Republicans have selected to be witnesses at today's hearing.

The OCC and Mr. Brooks have argued that the True Lender rule is necessary so that the agency has the necessary authority to oversee banks relationships with payday lenders.

But that's just not true – the OCC didn't lack any authority when it cracked down on rent-a-bank schemes in the early 2000s.

The OCC also attempted to justify its efforts by claiming that it promotes "innovation" and provides "certainty" to the markets.

The only certainty we need is the certainty that workers and their families will be protected from exorbitant, exploitive interest rates.

And the last thing we should be doing is encouraging payday lenders to, in their words, "innovate" – we know that just means new ways to get away with ripping people off.

That's why across the country, a broad, bipartisan coalition is asking Congress to overturn the OCC's harmful True Lender Rule.

That support includes:

- the National Association of Evangelicals,
- the Southern Baptist Convention,
- and other members of the Faith in Just Lending Coalition.

That coalition wrote to Congress, quote:

“Predatory payday and auto title lenders are notorious for exploiting loopholes in order to offer debt-trap loans to families struggling to make ends meet. The OCC’s ‘True Lender’ rule creates a loophole big enough to drive a truck through.”

I’d also like to submit the entire letter for the record, along with letters from a bipartisan group of state attorneys general, state bank regulators, and a coalition of 375 consumer, civil rights, labor, and small business organizations asking Congress to overturn the True Lender Rule.

Today we’ll hear from one of the members of that faith coalition, Dr. Frederick Haynes, senior pastor of Friendship-West Baptist Church in Dallas, Texas.

We’ll also hear today from North Carolina Attorney General Josh Stein.

General Stein represents a bipartisan coalition of state attorneys general, including the Republican attorneys general in Nebraska and South Dakota, who have called on Congress to overturn the OCC’s True Lender Rule.

Like so much we do, this comes back to one question: whose side are you on?

You can stand on the side of online payday lenders that brag about their creativity in avoiding the law and finding new ways to prey on workers and their families.

Or we can stand up for families and small businesses, and the state attorneys general and state legislatures who have said “enough” and are trying to protect themselves and their states from predatory lending schemes.

Some issues that come before this committee are complicated, they divide people, there are thorny nuances to consider. This isn’t one of them. It’s simple: Let’s stop predatory lenders instead of encouraging them.

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