DREHER TOMKIES LLP

ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

September 22, 2026

DIDMCA OPT-OUT CLARIFICATION BILL PROGRESSES IN HOUSE

The U.S. House Financial Services Committee has approved the American Lending Fairness Act of 2026 (H.R. 7866). The bill would clarify state opt-outs under Section 525 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA) for state-chartered banks and credit unions. A companion bill was introduced in the U.S. Senate.

With respect to state-chartered banks, the House bill would repeal Section 525 and amend Section 27 of the Federal Deposit Insurance Act (Section 521 of DIDMCA; 12 U.S.C. § 1831d) to add a new subsection (c) providing that:

> If a State adopts a law or certifies that the voters of the State have voted in favor of any provision, constitutional or otherwise, that states explicitly and by its terms that the State does not want [Section 27] to apply to loans *made by institutions chartered by that State*, then [Section 27] shall not apply to loans made by (or for which a commitment to make such loan was entered into by) such institutions after the date on which that law is adopted or such certification is made.

(Emphasis added.) The stated purpose of the bill is "[t]o *restore and clarify* the intent of the Federal interest rate exportation parity for State-chartered banks by allowing States to opt out of preemption only with respect to loans made by their own chartered institutions, and for other purposes." (Emphasis added.)

The legislation would address current litigation brought by financial services trade associations challenging Colorado's and Oregon's opt-outs. *See, e.g.,* our ALERT of August 14, 2026. The Colorado challenge is currently before the U.S. Court of Appeals for the 10th Circuit for *en banc* review.

We will continue to follow both this legislation and the litigation in Colorado and Oregon. ❑

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