DIDMCA Opt-Out: A Threat to Minnesota Credit Consumers

Why, in 2024, would any lawmaker want to abandon vulnerable Minnesotans in a veritable credit desert? Everyone who cares about the economic well-being of low-income, minority, young, and other marginalized Minnesotans 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 Over time, however, all but Iowa and Puerto Rico rescinded their opt-out laws after seeing the benefits to consumers in states like Minnesota.

Yet this year, State Representatives Carlie Kotyza-Witthuhn of Eden Prairie, Zack Stephenson of Coon Rapids, and Leon Lillie of North St. Paul have filed a bill (H.F. 3680) which, if passed into law, would force Minnesota to opt out of DIDMCA and become an anomaly like Iowa.

H.F. 3680 would severely restrict access to credit for millions of underserved Minnesota consumers

- 32% of consumers have non-prime credit scores – that's 1.8M Minnesotans.
- Nearly 30% of Minnesotans have limited credit history or poor/fair credit. [1]
- 20% of Minnesotans had some or great difficulty paying for usual household expenses. [2]
- 17% of Minnesotans have outstanding credit card debt that exceeds 75% of their total credit limit.
- These are the consumers who would be most harmed by H.F. 3680—Minnesotans who can't get a loan from a bank and struggle to access credit they need.

We can look to the circumstances for our neighbors to the south 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 Minnesota consumers, it also would put Minnesota state-chartered banks at a disadvantage compared to national-chartered banks, which include, ironically, the Minnesota-based behemoth US Bank. It's these, the largest banks in the nation, that are charging the highest fees, and they'd be exempt from H.F. 3680.

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

Less well-to-do Minnesotans 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://scorecard.prosperitynow.org/data-by-location#state/mn
[2] https://scorecard.prosperitynow.org/data-by-location#state/mn