Attorney General Raoul Condemns Proposal That Would Allow Predatory Lenders To Exploit Consumers

February 6 2020 9:30 AM

Chicago – Attorney General Kwame Raoul, along with California Attorney General Xavier Becerra and New York Attorney General Letitia James, led a coalition of 24 states in submitting a comment letter opposing a proposal by the Federal Deposit Insurance Corporation (FDIC) to preempt state usury laws that regulate payday and another high-cost lending.

Usury laws prevent predatory lenders from taking advantage of consumers by charging high-interest rates on loans. The FDIC's proposed regulations would enable predatory lenders to circumvent state usury laws through "rent-a-bank" schemes, in which banks act as lenders in name only, passing along their state law exemptions to non-bank payday lenders.

"Payday lenders make money by preying upon low-income residents, locking them into unaffordable high-cost loans and the resulting cycle of debt that is extremely difficult to escape," Raoul said. "States like Illinois have strengthened regulations over payday lenders, and the FDIC's proposal to allow those same lenders to hide behind banks will interfere with the work that has and continues to be done to protect our residents."

Payday loans are high-interest, short-term loans that must be paid in full when the borrower receives their next paycheck. Payday lending can trap lower-income people who do not otherwise have access to consumer credit in endless cycles of debt. According to the Pew Charitable Trusts, the average payday loan borrower earns about $30,000 per year, and about 58 percent have trouble meeting their monthly expenses. The average payday borrower is in debt for nearly half the year because they borrow again to help repay the original loan. The average payday borrower spends $520 per year in fees to repeatedly borrow $375.

States, including Illinois, historically have played a critical role in protecting consumers from predatory lending using rate caps, mandatory cooling-off periods and payment plans to prevent an endless cycle of debt. While federal law provides a carve-out from state laws for federally regulated banks, state laws continue to protect residents from predatory lending by non-banks such as payday, auto title, and installment lenders. The new regulations proposed by the FDIC would extend the Federal Deposit Insurance Act exemption for federally regulated banks to these non-bank debt buyers, a sharp reversal in policy that deliberately evades state laws targeting predatory lending.

In the comment letter, Raoul and the multistate coalition argues that the FDIC's attempt to extend preemption to non-banks conflicts with the Federal Deposit Insurance Act exceeds the FDIC's statutory authority and violates the Administrative Procedure Act.

Illinois is a national leader in investigating and enforcing consumer protection violations against predatory lenders. The office has sued unlicensed payday lenders that were giving loans to Illinois consumers and reached a settlement with All Credit Lenders for selling products with hidden interest rates ranging from 350 to 500 percent. Last year, Attorney General Raoul submitted comments to the FDIC urging it to ensure that small-dollar loans comply with state laws that regulate high-interest, small-dollar loans and other abusive lending practices. Raoul also opposed the Consumer Financial Protection Bureau's proposed repeal of rules adopted in 2017 to protect consumers from excessive interest rates and other predatory practices.

Joining Raoul in filing the comment letter are the attorneys general of California, Colorado, Connecticut, the District of Columbia, Hawaii, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Vermont, Virginia, Washington and Wisconsin and the Hawaii Office of Consumer Protection.