

## **Restore States' Rights Against Usurious Interstate Lending** *Put National Banks Back on the Same Playing Field as Local Lenders*

For the first 202 years of our Republic, each state had the ability to enforce usury laws against any lender doing business with its citizens. Our economy grew and flourished during these two centuries, and lenders profited while complying with the laws in effect where they operated. A single Supreme Court case – little noticed at the time it was decided – would radically change that lending landscape.

In the 1978 case of *Marquette National Bank of Minneapolis v. First of Omaha Service Corp.*, the Supreme Court interpreted the word “located” in the National Bank Act of 1863 as meaning the location of the business and not the location of the customer. A short few years went by before the big banks realized they could avoid interest rate restrictions by reorganizing as “national banks” and moving to states with comparatively weak consumer protections. A race to the bottom ensued as a small handful of states eliminated interest rate caps in order to attract lucrative credit card business and related tax revenue. Today, the credit card divisions of major banks are based in just a few states, consumers nationwide lack protection from outrageous interest rates and fees, and local banks are subjected to unfair out-of-state competition.

The Whitehouse Amendment, cosponsored by Senators Merkley, Durbin, Sanders, Levin, Burris, Franken, Sherrod Brown, and Menendez would restore the pre-*Marquette* powers of each state to protect its citizens with interest rate limits on lending done within the state. The bill is not a usury statute and does not prescribe or recommend any interest rate caps or other lending limitations. It would merely restore to each state the ability to protect its citizens from lenders based in other states.

### **The Whitehouse Interstate Lending Amendment would:**

- **Restore to the states the ability to enforce interest rate caps against out-of-state lenders.**
- **By Amending the Truth in Lending Act, cover all consumer lenders, no matter what their legal form, minimizing the opportunity for gaming by changing charter type.**
- **Become effective twelve months after enactment – giving state legislatures time to evaluate and update usury statutes.**
- **Level the playing field so that intrastate lenders like community banks, local retailers, and credit unions are no longer bound by stricter lending limits than national credit card companies.**