



KENNETH P. ZEBROWSKI
Assemblyman 96th District
Rockland County

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Committee on Banks

COMMITTEES
Codes
Ethics and Guidance
Governmental Employees
Judiciary
Labor
Majority Steering

March 9, 2018

Senator Charles Schumer
U.S. Senate Minority Leader
322 Hart Senate Building
Washington, D.C. 20510

Senator Kirsten Gillibrand
478 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Schumer and Gillibrand:

We are writing to express our opposition to the “Protecting Consumers’ Access to Credit Act of 2017” (H.R. 3244/S.1642).

This act is an attempt to overturn a ruling by Second Circuit Court of Appeals in Madden v. Midland Funding LLC (2015). This ruling held that non-bank assignees of loans or debt were subject to the usury laws and standards of the consumer's home state. Prior to this ruling, non-bank assignees were attempting to use the interest rates of the funding bank's state. New York has one of the more restrictive usury laws in the country.

Madden v. Midland Funding LLC protects New Yorkers and conflicts with a growing trend in online lending. The online lending industry often utilizes a funding bank in a state with a high usury cap or one with no cap to originate a loan. The online lending company then purchases the loan back from the bank and manages the loan with the customer. The company then attempts to charge the high interest rate of the funding bank's state in order to circumvent New York's usury laws. This model where a “funding bank” is used is ideal for the financial technology companies as it allows these non-bank entities to circumvent state usury laws.

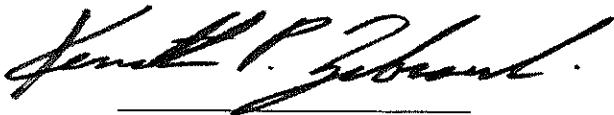
We have deep concerns over the “Protecting Consumers’ Access to Credit Act of 2017” which seeks to explicitly preempt state’s usury laws when debt is transferred to a non-bank third party. This will remove the ability of states to regulate this growing industry of short term, high interest rate loans. Not only will this allow loans with non-compliance interest rates to be “exported” into other states, including New York, but will also encourage other non-bank lending entities to adopt a similar model in order to maximize profits. Consumers who utilize these lending platforms often do not know who is actually originating the loan because they only have a relationship with the financial technology company. They are unaware of the transfer of ownership of their loan and whether the interest rate associated with the loan is in violation of their state of residence’s usury law.

In May 2017, the New York State Assembly and Senate Banking Committees held a hearing on the "Practices of the Online Lending Industry." The hearing examined the online lending industry, how states can protect residents from usurious lending, and the role of states in regulating this industry. The hearing resulted in significant information and legislation to study the industry further. The legislation was signed into law and a full report is expected by July 2018.

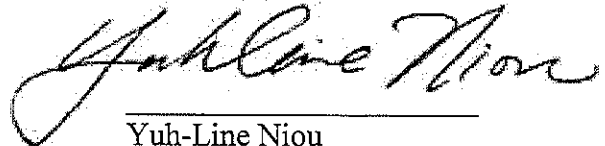
The "Protecting Consumers' Access to Credit Act of 2017" passed the House on February 14, 2018, and is currently in committee in the Senate. This bill would take away the ability of states to regulate online lending companies and effectively makes state usury laws null and void with respect to these types of loans. It would open the floodgates of high interest loans into states with strong usury laws like New York.

We appreciate your attention to this important issue and hope that this bill will not pass the Senate. Please let us know if you have any questions or need additional information.

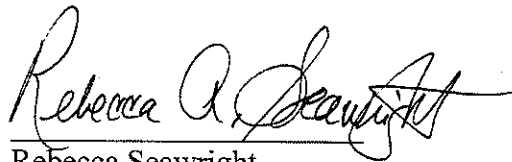
Sincerely,



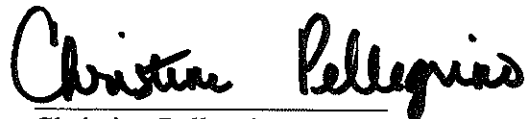
Kenneth P. Zebrowski
Member of Assembly



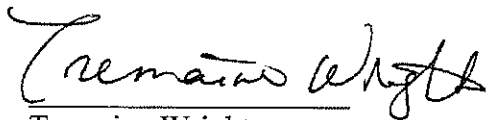
Yuh-Line Niou
Member of Assembly



Rebecca Seawright
Member of Assembly



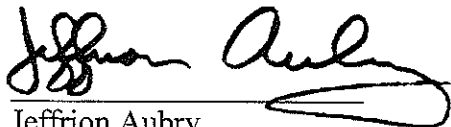
Christine Pellegrino
Member of Assembly



Tremaine Wright
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Brian Barnwell
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Jeffrion Aubry
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Michael Blake
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Didi Barrett
Member of Assembly



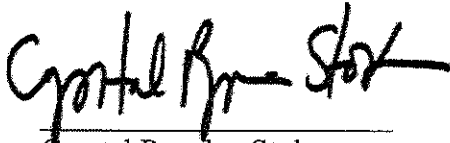
Michael DenDekker
Member of Assembly



Steve Englebright
Member of Assembly



Patricia Fahy
Member of Assembly



Crystal Peoples-Stokes
Member of Assembly



Monica Wallace
Member of Assembly

Cc: Superintendent Maria Vullo, Department of Financial Services