

Oregon Legislature Votes to Opt Out of Federal Preemption

March 6, 2026

On March 5, 2026, the Oregon legislature passed House Bill 4116 (“HB 4116”) providing for an opt-out of federal law applicable to state banks allowing them to export the interest rates and fees of their home state to other states for loans “made” in Oregon. The action follows the recent Tenth Circuit decision related to the Colorado legislature’s opt-out legislation.¹ The law does not affect national banks. Where a loan is made remains uncertain in light of the Tenth Circuit decision.

History

Prior to the 1970s, lending in the United States was predominantly local. The emergence of credit cards fundamentally transformed the industry, expanding lending to a national scale and enabling national banks to impose uniform interest rates and fees on customers regardless of their state of residence. Legal challenges to this practice were unsuccessful, and the Supreme Court definitively ruled that national banks may “export” the rates permitted in their home state nationwide, thereby preempting more restrictive state laws. This ruling, however, was limited to national banks; state banks were not afforded the same statutory authority.

During periods of rising inflation and interest rates, state banks were placed at a significant competitive disadvantage. Congress responded by enacting the Depository Institutions Deregulation and Monetary Control Act of 1980² (“DIDMCA”), which established parity between state and national banks.³ DIDMCA granted state banks the ability to export financial terms nationwide, but also provided states with the right to “opt out” of federal preemption for loans made “in the state” that exercised this option. Notably, the opt-out right was never expressly codified in federal law or regulation and appeared only as a footnote in 12 USC 1730g, part of the National Housing Act. As we discussed further [here](#), in 1989, enactment of another federal law repealed 12 USC 1730g, thereby eliminating the only statutory reference to the opt-out provision.

At the time DIDMCA was enacted, a handful of states opted out, and many of those opted back into federal preemption. Iowa and Puerto Rico exercised the right to opt out of federal preemption, and more recently, Colorado enacted an opt out in June 2023. That legislation was subject to litigation with the federal district court enjoining the law. On appeal, in November 2025, the Tenth Circuit reversed the district court. A petition for re-hearing is currently pending, and the injunction remains in effect. See our latest update on the Tenth Circuit decision for Colorado’s opt-out legislation [here](#).

Oregon’s Opt Out

On March 5, 2026, the Oregon Senate passed a House-passed bill that would allow Oregon to become the fourth US jurisdiction to opt out of the federal preemption available to state-chartered, FDIC-insured institutions for certain consumer loans.⁴ This action has the potential to prompt additional states to pursue similar measures and may result in litigation, setting the stage for further debate over federal preemption versus states’ rights and leaving Oregon borrowers in a state of uncertainty. Similar legislation is pending in Rhode Island.

HB 4116 amends the Oregon Consumer Finance Act⁵ (the “CFA”), and through these amendments, Oregon formally opts out of federal interest-rate preemption for state-chartered banks. The amended Section 725.015 of the CFA expressly states that Oregon does not permit any of the amendments under DIDMCA to apply to consumer finance loans made in Oregon. Under the CFA, a “consumer finance loan” is defined broadly to include any loan or line of credit up to \$50,000, whether unsecured or secured by personal or real property, with periodic payments and terms longer than 60 days.⁶ On its face, the opt-out would apply to all such loans meeting the definition of a “consumer finance loan” mentioned in the CFA licensing provisions and the other amendments to Section 725.015.⁷

HB 4116 further expands the CFA's application to any lender, agent, broker, or facilitator making consumer finance loans of \$50,000 or less to a consumer who resides in or maintains a domicile in Oregon and either:

- is physically located in the state when negotiating, agreeing to terms, or executing a consumer finance loan of \$50,000 or less via mail, telephone, or internet; or
- makes a payment on such a loan by debiting an account at a financial institution or trust company in the state, or by using a negotiable instrument drawn on a financial institution or trust company.⁸

Unless the legislation is vetoed by the Governor, the DIDMCA opt-out for consumer finance loans is set to become effective on June 7, 2026.⁹

A copy of HB 4116 can be obtained [here](#).

While the state hopes that the effect of this law would be to prohibit out-of-state banks from making loans to Oregon residents above the state's usury limit, that position remains subject to litigation and is not settled.

There is also legislation pending in Congress that would prohibit future DIDMCA opt outs.¹⁰

For More Information

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1 *Nat'l. Assn. of Industrial Bankers v. Weiser*, 1559 F.4th 694 (10th Cir. 2025) (Petition for Rehearing En Banc pending).

2 Pub. L. No. 96-221, 94 Stat. 132, 164-65 (1980), codified at 12 USC 1831d.

3 Section 521 of DIDMCA preempts state usury laws permitting federally insured state-chartered banks to charge "interest" (as defined by federal law) at the greater of (1) one percent above the Federal Reserve rate in effect or (2) "at the rate allowed by the laws of the State, territory, or district where the bank is located".

4 Iowa, Puerto Rico and Colorado are the current jurisdictions that have opted out of DIDMCA. The Colorado opt-out is not yet effective as it is currently stayed due to litigation.

5 Or. Rev. Stat. Ann. § 725.010 *et seq.*

6 Or. Rev. Stat. Ann. § 725.010(2).

7 Or. Rev. Stat. Ann. §§ 725.015(3); 725.045.

8 Or. Rev. Stat. Ann. §§ 725.015(3).

9 House Bill 4116 takes effect on the 91st day following adjournment of the 2026 Oregon regular legislative session, which is slated to conclude on March 8, 2026.

10 American Lending Fairness Act of 2026 (S. 3889).

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