

July 27, 2005

Support the “Preservation of Federalism in Banking Act”

Dear Representative,

We, the undersigned organizations, strongly urge you to co-sponsor H.R. 3426, the Preservation of Federalism in Banking Act, introduced by Representatives Luis Gutierrez (D-IL) and Barney Frank (D-MA). H.R. 3426 takes a balanced approach that restores the historical balance of state and federal jurisdiction, recognizing the authority of the federal regulators while reaffirming the longstanding applicability of state consumer protection and civil right laws to nationally chartered banks and thrifts and reaffirming the critical role of state Attorneys Generals in enforcing those laws.

Congress should pass this legislation to protect essential consumer and civil rights protections that have been severely undermined by federal bank and thrift regulators. In recent years the nation’s chief national bank regulator, the Office of the Comptroller of the Currency, and the nation’s chief thrift regulator, the Office of Thrift Supervision, have attempted to prevent states from exercising their historical responsibility to protect consumers and communities from unfair banking practices, including predatory mortgage lending, disparate treatment against protected classes, privacy invasions, deceptive credit card marketing and the growing use of payday loan-like bounce-protection schemes.

Most recently, last January the OCC issued two sweeping rules that go far beyond its authority and defy Congressional intent and Supreme Court rulings. The first rule attempts to preempt the enforcement of many state consumer protections against national banks and their non-bank state-licensed operating subsidiaries. The second rule, in defiance of over a century of jurisprudence, attempts to limit the right of state Attorney Generals to take action against wrongdoers regulated by the OCC.

The Preservation of Federalism in Banking Act would help restore our dual banking system by:

- **Ensuring that national banks and thrifts have to comply with state consumer protection laws (including laws banning unfair or deceptive acts or practices, consumer fraud statutes and anti-predatory mortgage lending laws.)**
- **Clarify that preemption does not extend to non-depository institution subsidiaries, agents or affiliates of a national bank (e.g., operating subsidiaries) or of a federal thrift.**
- **Prohibit “Cherry-Picking.” Prohibit national banks or federal thrifts from “cherry-picking” parts of state law and ignoring related consumer protections.**

We believe that states must retain the ability to crack down on abuses that harm American families and businesses. Now, more than ever, we need more forces fighting to defend American consumers, and states need the power to defend their citizens. Please join us in this effort by supporting the “Preservation of Federalism in Banking Act.”

Sincerely,

ACORN

Center For Responsible Lending

Consumer Federation of America

Consumers Union

National Association for the Advancement of Colored People

National Community Reinvestment Coalition

National Consumer Law Center

U.S. Public Interest Research Group