



Thirty-six percent is widely seen as the dividing line between affordable small-dollar loans and unaffordable, potentially predatory ones. Several states have capped interest rates at 36%, and Congress is considering doing so to stop the devastating impact that high-cost loans have on struggling families. But the question arises: **Why 36%?**

The History of the 36% Rate Dates Back Over 100 Years

The 36% rate goes back to the early 20th century. Legal usury rates were about 6%, and an underground market of “salary lenders” made loans repayable on payday at rates over 1,000%. Reformers, especially the Russell Sage Foundation, promoted a Uniform Small Loan Law to give legitimate lenders the incentive to enter the market. From 1914 to 1943, 34 states adopted a version of the law, with rates from 3% to 3.5% per month (36% to 42% per year). The rate caps were a result of research, political compromise, and practical experience – hypotheses, bolstered by research studies and tested in real world arenas.

Reformers’ efforts transformed the landscape for small dollar lending, which became widely available. Eventually, credit cards largely supplanted the small dollar loan market. Though most credit cards are not subject to rate caps, rates are nearly always below 36%. Today, a top rate of 36% for small dollar loans continues to have broad acceptance.

State Law Supports a 36% Rate Cap

45 states and the District of Columbia (DC) cap rates for small-dollar installment loans by nonbank lenders, depending on the size of the law. The **median rate** is 38.5% for a \$500, 6-month loan, 32% for a \$2,000, 2-year loan, and 25% for a **\$10,000, 5-year loan**. For the \$2,000 loan, 32 states and DC limit the rate to 36% or less.

Median APR Cap in States that Cap Rates



Industry lobbying in the 1990s led many states to allow higher rates for short-term payday loans, but the deregulatory tide is turning as the evils of payday loans have become more apparent. As of 2021, **18 states plus DC** ban short-term payday loans or limit them to 36% or less.

Congress and Federal Agencies Have Endorsed a Rate Cap of 36% or Lower

Following a Defense Department report about the impact of predatory lending on troops, Congress capped loans to active duty military at 36% in 2006, and strengthened the law in 2016. In 2010, the National Credit Union Administration chose 28% as the rate for payday alternative loans. In 2017, the Consumer Financial Protection Bureau adopted rules to prevent overdraft and nonsufficient funds fees triggered by payments on longer-term loans over 36%.

The Public Strongly Supports Rate Caps of 36% or Lower

Voters across party lines overwhelmingly support a 36% rate cap. Ballot initiatives in [Nebraska](#) (2020), [Colorado](#) (2018), [South Dakota](#) (2016), [Montana](#) (2010), [Ohio](#) (2008) and [Arizona](#) (2008) all enacted or reaffirmed rates of 36% or less by more than two-to-one vote margins – and by 83% in Nebraska. A [January 2020 poll](#) found that 70% of voters, nearly equal among Republicans and Democrats, support a 36% rate cap, and most respondents who opposed the cap did so because they believe that 36% is too high.

A 36% Rate Cap Promotes Racial Justice

The Illinois Legislative Black Caucus's [anti-racism agenda](#) included a 36% rate cap, which the legislature passed by a near unanimous vote. The path to financial inclusion and racial justice is through affordable credit that builds wealth, not through exorbitantly-priced loans that [disproportionately target](#) and harm communities of color.

A 36% Rate Cap Discourages Debt-Trap Short-Term Loans

Balloon-payment payday loans look short-term but they are designed to be an unaffordable, long-term [debt trap](#). More than three-quarters of payday loan fees come from people stuck in [10 or more loans a year](#). A 36% rate cap encourages lenders to offer longer installment loans with more affordable payments and an honest term. A 90-day, \$300, 36% installment loan has biweekly payments nearly identical to a payday loan (\$48 v. \$45), but in three months, instead of still owing the full \$300, the consumer will have paid off the loan.

A 36% Cap Encourages Responsible Underwriting Instead of Debt Trap Long-Term Loans

Many payday and online lenders now offer installment loans and lines of credit at 100% or higher. With larger loans and more cumulative interest, the loans are an even bigger, deeper debt trap than payday loans, more difficult to escape with help from friends or family. High interest loans can be profitable despite high default rates, and lenders even [seek out borrowers](#) who will struggle. High defaults are a sign of predatory lending and bad underwriting, not a justification for higher rates. Lower interest rates encourage appropriate underwriting and align incentives so lenders and borrowers rise and fall together.

Responsible Lenders and Innovators Support 36%.

The American Fintech Council [supports](#) a national 36% rate cap. Several fintech companies [supported](#) the Illinois 36% rate cap. An interest rate cap is an innovation-friendly way to encourage responsible lending while permitting flexibility in how loans are underwritten.

A National 36% Rate Cap Will Help Prevent Evasions of State Laws

A 200% APR, \$2,000 installment loan is [illegal in 42 states and DC](#), but high-cost lenders are [evading the law](#) by laundering loans through banks, which are exempt from most state rate limits. A national 36% rate cap covering all lenders, including banks, would stop these high-cost “rent-a-bank” schemes.

The 36% Rate Cap is Simple to Understand and Enforce

Rate caps are clear bright lines, clear for consumers, lenders and regulators. Most lenders already keep rates below 36% to comply with the Military Lending Act and to ensure responsible lending.