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NCLC White Paper: Restoring the Role of States in Protecting Consumers is Vital to Financial Regulatory Reform

\$700 billion worth of loans in 2006 were made by banks or bank subsidiaries that could ignore state law.

WASHINGTON – The National Consumer Law Center released a [white paper](#) today describing the historic role state consumer protection laws have played in the banking world and how the federal banking agencies’ actions to preempt state law in the last several years were a major factor in the mortgage crisis and other credit abuses.

“Banks like to blame the mortgage crisis on nonbank lenders, but in the peak year of 2006, 32% of subprime loans, 40% of alt-A loans, and 51% of the toxic payment-option and option ARM loans were made by national banks, federal thrifts, or their subsidiaries who were immune from state laws,” said Lauren Saunders, the paper’s author and the Managing Attorney of NCLC’s Washington, DC office. “Overall, \$700 billion of the riskiest loans in 2006 were made by banks who could ignore state law. Federal law also prevented states from addressing the most dangerous terms of mortgages offered by nonbank lenders. Credit card and overdraft fee abuses can also be traced to preemption.”

President Obama’s plan to establish a new Consumer Financial Protection agency calls for leveling the playing field so that all lenders will have to comply with the same rules. The plan has run into heavy opposition from bank lobbyists working to expand the immunity of banks from state law. The NCLC paper, “[Preemption and Regulatory Reform: Restore The States’ Traditional Role As ‘First Responder,’](#)” rebuts claims that allowing states to protect consumers will lead to an untenable regulatory burden.

“In 2005, it was estimated that the cost of complying with state predatory lending laws was only \$1/mortgage,” Saunders said. “Banks offer numerous niche products for many segments of consumers and are certainly capable of accommodating variations in state laws. The costs to consumers, the financial industry, and the economy would have been far less if states had not been hindered in protecting consumers.”

The National Consumer Law Center, Inc. is a non-profit corporation specializing in low-income consumer issues, with an emphasis on consumer credit. NCLC publishes a series of treatises on consumer laws and provides assistance and training to legal services, government, and private attorneys representing low-income consumers across the country.