

Witherspoon in *Law360* Says Challenge to Colorado Opt-Out May Impact Interest Rates State-Chartered Banks Offer

In the News
05.28.2024

Stinson LLP attorney [Tom Witherspoon](#) authored an article for *Law360*, "Colo. Lending Law Could Empower State-Chartered Banks."

Witherspoon explores a pending lawsuit in a Colorado district court challenging the state's new "opt-out" law that aims to prevent out-of-state banks from charging higher interest rates to Colorado consumers, pursuant to the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA).

Witherspoon says that state opt-outs under DIDMCA have important implications for loan programs using state banks to export interest rates. "If such interest is charged to a borrower in an opt-out state, the lender will be at risk of a lawsuit by borrowers or state enforcement agencies for charging interest in excess of that permitted by state law," he writes.

He says if the opt-out law goes into effect, it could impact the ability of state-chartered banks to offer competitive loan rates in the online lending market. If the new law is declared invalid, it would set a precedent that state-chartered banks have rate exportation power on par with national banks, potentially leveling the playing field between state and national banks in the online lending space.

"Any lending program relying on rate exportation by a state bank will need to pay close attention to the legislative activity in this area and the ongoing litigation over Colorado's opt-out," he writes.

Witherspoon's practice focuses on payments, consumer financial products, and other bank and financial regulatory matters, with an emphasis on compliance, financial transactional and litigation matters. He helps banks and other financial institutions navigate the complexities of federal and state law and

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regulation applicable to their operations, relationships, product development and compliance management.

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