

**OPPOSE CARPER #3949 -- GUTS CONSUMER PROTECTION AGAINST NATIONAL BANKS UNDER FEDERAL AND STATE LAW**

**Takes Attorneys General Off Predatory Lending Beat**

May 12, 2010

Dear Senator:

I write on behalf of the National Fair Housing Alliance, a consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States committed to providing equal access to apartments, houses, mortgage loans and insurance policies for all residents of the nation. We urge you to oppose Senator Carper's amendment, which would strip states of their ability to enforce federal laws and their own laws. The amendment would provide banks with complete immunity from certain state laws and the comfort of knowing that they can get away with ignoring fair rules to protect consumers.

Senator Carper's Amendment #3949 is a stealth attempt to undermine consumer protection, taken directly from the bank lobbyists' playbook. **Anyone who believes that protecting consumers from bank abuses is more important than protecting banks that violate the law must oppose this amendment.**

**Attorney General Enforcement: The amendment guts the already compromised enforcement of new federal rules by taking attorneys general, our on-the-ground state cops, off the predatory lending beat. Without these important partners, only the bank regulators who habitually failed us in the past would be able to enforce new federal rules for 98% of banks.** The amendment would prevent state AGs from enforcing CFPB rules against national banks and federal thrifts and could weaken the ability to enforce other laws. Anybody who violates the law must be held accountable: we cannot give banks that violate rules a free pass.

- Individuals won't have a right to enforce the CFPB rules themselves, so they will need law enforcement, including their state Attorneys General, to enforce the rules.
- Under another provision of the bill, the CFPB will have *no enforcement authority against 98% of banks*, making it that much more critical that AGs be able to enforce the federal rules on behalf of the state's residents. This amendment would leave enforcement for most banks entirely up to bank regulators, whose lax enforcement led to this crisis.
- The CFPB will not have the resources to address problems in all 50 states. Consumers should be protected everywhere. Consumers are more likely to complain to and get a response from state officials and should not have to rely solely on Washington.
- Many existing federal laws permit enforcement by state AGs, with no ill effects.



- The bill requires AGs to enforce laws consistently. Before bringing an enforcement action, AGs already must consult with the CFPB and bank regulators, and the CFPB may intervene or clarify its rules, ensuring fair and consistent enforcement standards.
- More law enforcement helps everyone. Honest competitors who follow the rules have nothing to fear. Indeed, without state enforcement, they might well lose business to others who break the rules.

**State Law Preemption: By removing a critical provision requiring the Office of the Comptroller of the Currency to consider whether a state law addresses problems not covered by federal law before preempting it, the amendment gives national banks a free pass to ignore state laws that address new and emerging bank abuses – the state laws we need the most. This would prevent states from stopping those abuses before they spread nationally.**

- The Senate compromise provision in the bill *already* gives the OCC, an agency with a history of open hostility to consumer protection, far *too much power* to wipe out state consumer protection laws. The provision should not be weakened further.
- States are first responders who can act first and stop local abuses from spreading to become a national problem. Their laws are *most important* when there is a gap in federal law.
- States that adopted tough anti-predatory lending laws before the OCC preempted those laws had lower foreclosure rates than states without those laws.
- National banks made riskier loans after the OCC issued a broad preemption rule. In 2006, from 32% to 50% of toxic loans, depending on the type, were made by banks and subsidiaries that states could not touch, and that share was growing.

Banks – which have opposed stronger consumer protections all along -- have identified attorney general enforcement and preemption of state laws as their key weakening amendments. The banks want to be able to ignore both state and federal law with impunity. **A vote for Carper #3949 is a vote against consumer protection.**

Please contact Ben Clark from my office with any questions. He can be reached at [bclark@nationalfairhousing.org](mailto:bclark@nationalfairhousing.org) or (202)898-1661.

Sincerely,



Shanna L. Smith  
President & CEO