DEBT COLLECTION LAB

Debt Documentation Requirements in State Courts and Access to Credit

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Executive Summary

This working paper contains preliminary findings on the causal effect of state debt documentation requirements on access to credit.

Debt collection lawsuits dominate the dockets of state courts and debt collection is a large and growing industry.[1] In 2023, an estimated 6,431 debt collection agencies in the U.S. earned $20.9 billion in revenue.[2] A large proportion of debt collection lawsuits result in default judgments against defendants. Even when defendants file an answer, they are rarely represented by counsel. Judgments against defendants result in financial distress: wage garnishments, bank levies, property liens, and even forced home sales. A growing number of cases are brought by third-party debt buyers who purchase the debt from the original creditor.[3]

Scholars, advocates, and judges have raised the concern that plaintiff creditors—especially debt buyers—are often unable to demonstrate basic facts, such as who owes the debt, the amount of the debt, and whether the plaintiff has the right to enforce it.

In response, several states and courts have increased documentation requirements for plaintiffs in debt collection lawsuits, especially for debt buyers. The required documentation varies by state but generally includes: (1) a statement of the debt owed, including the amount due, principal, interest, and fees, (2) a copy of the original debt instrument or contract, and (3) documentation of the plaintiff's ownership of debt, including copies of all bills of sale.

In theory, debt documentation requirements could lower recovery rates–the amount of a defaulted debt that the lender can recover–and thereby lower the total return to creditors, leading to less consumer credit. Unsurprisingly, debt buyers typically argue that restrictive debt collection laws result in reduced access to credit and an increased cost of credit.[4] There are several studies of the impact of debt collection laws on the credit market.[5] These studies typically find that more debt collection laws lead to less consumer credit. However, regulation of debt collection takes many forms–e.g. licensing requirements, prohibited practices, sanctions for violations, and documentation requirements–and these studies do not distinguish between these different methods of regulation.

In this working paper, we estimate the effect of enhanced debt documentation requirements on credit access using a difference-in-differences approach. We designate states that passed documentation reforms as treated states and those that did not as controls. We then compare the difference in credit access between treated and control states before and after the documentation reforms.

We find no evidence that enhanced debt documentation requirements lead to lower credit access. In particular, we find no statistical evidence of a decline in the number of open credit cards, credit card access, or total credit card debt after the passage of enhanced documentation requirements.

Given the existing literature, our results suggest that the effects of debt collection regulation can vary substantially with the type of regulation. For example, licensing requirements and fines for violations may have a different effect on the credit market than documentation requirements. More research is required to understand the specific mechanisms through which debt collection regulation can affect access to credit.

Policymakers should understand that documentation requirements may not affect credit access to the same extent as other debt collection regulations, and that credit access is only one dimension along which to evaluate the effects of debt collection regulation. For in-depth looks at how documentation of debt requirements impacted court outcomes, see our case studies on California, Connecticut, and Harris County, Texas.[6]

Background

Creditors use debt collection to recover some or all of an outstanding debt. When collection practices outside of court fail, the plaintiff can file a case in court with the goal of working with the defendant to get on a payment plan or obtaining a judgment. With a judgment, a plaintiff has and getting access to enforcement mechanisms like wage garnishment, bank levies, and property liens to collect on the debt.

Once the plaintiff decides to file in court, there are five stages of a lawsuit: (1) initiation, in which the plaintiff files a complaint with the court; (2) notification, in which the defendant is served the complaint; (3) response, in which the defendant may file a written answer with the court, although this almost never happens in debt collection cases; (4) resolution, in which there may be a hearing, hallway negotiation, settlement conference, etc. and the court enters an outcome; and (5) enforcement, in which the plaintiff–now called a “judgment creditor”–pursues post-judgment remedies.

Documentation of debt is usually provided either in the initiation or resolution phase. At the initiation phase, the plaintiff must provide proof that they own the debt and are suing the right person. At the resolution phase, if the defendant does not file an answer to the complaint with the court, the plaintiff must provide proof to receive a default judgment. A default judgment is an automatic win for the plaintiff because the defendant did not file an answer, and the case is not decided based on the facts. Prior research has shown that most debt collection [7]

The Fair Debt Collection Practices Act, passed in 1978, is the main federal statute that regulates debt collection. To ensure that debts are legitimately sued upon, several states have adopted debt documentation requirements via court rules, court procedure, and statutes.

Access to Credit

Regulation of the debt collection process can shield consumers from abusive practices, but it can also reduce access to credit. A reduction in credit need not imply a decline in consumer wellbeing, but it is still an issue of concern to policymakers.

The existing studies of state debt collection reforms suggest that regulation can reduce access to credit, but that the effect of regulation on credit can vary considerably with the type of regulation. These studies consider several different regulations: (1) regulation of debt collection by a state board, (2) licensing requirements, (3) bonding requirements,

(4) prohibition of abusive practices, (5) private rights of action for consumers, and (5) criminal liability.

Each of these types of debt collection regulation could have different effects. However, most studies aggregate the effects of different regulatory changes without separately identifying the effect by type.[8] The study that does the most to examine relatively uniform regulatory changes is Romeo and Sandler (2021), who consider debt collection reforms in North Carolina, California, and New York.[9]

Fonseca (2023) and Fedaseyeu (2020) are two of the leading studies finding that state debt collection reforms lead to reduced credit access. Fonseca finds that restrictions on debt collection activities result in decreased access to credit for low-income borrowers.[10] These restrictions also lead to a reduction in credit scores and auto loan and credit card originations and balances, and an increase in delinquent credit card and non-traditional finance balances. Foneseca also finds that borrowers located in states that restrict debt collection practices experience a decline in access to mainstream credit and an increase in payday borrowing.

Fedaseyeu finds that more restrictions on debt collectors are associated with fewer debt collectors, lower recovery rates for credit unions, and fewer new revolving lines of credit.[11] However, neither Fonseca (2023) nor Fedaseyeu (2020) are able to identify which regulations are responsible for these effects. In contrast, Romeo and Sandler (2021) find that laws placing additional restrictions on debt collection in four states have only a small effect on access to credit card accounts and credit card interest rates.[12]

DATA AND METHODOLOGY

To isolate the credit market effects of a particular kind of regulation, we examined debt documentation reforms in 13 states and compared them to 25 states that did not enact such reforms.

We first identified all potentially relevant laws for all 50 states and the District of Columbia collected at the Law Atlas database managed by the Center for Public Health Law Research at Temple University's Beasley School of Law.[13] In some circumstances, we also consulted the National Consumer Law Center's Fair Debt Collection treatise for practitioners. For each state considered, we filtered the results on the Law Atlas database to isolate only those statutes and court rules in that jurisdiction that appeared to address documentation and disclosure requirements. Our review at this stage was intentionally over-inclusive to ensure we did not overlook any potentially relevant laws.

Next, we located the identified statutes and court rules on Westlaw's state specific statutory databases. For a few states where the court rules were not available on Westlaw, we accessed the rules on the state judiciary websites. To determine the relevancy of a particular law or rule to our analysis, we assessed whether or not it required the plaintiff original creditor or debt buyer to disclose information about the debt being collected on, and/or to attach particular documents about the debt in support of their filing (complaint, motion for default judgment, writ of execution, etc.). Specifically, we included laws requiring submission/attachment of certain affidavits/contracts (e.g., ownership of debt, chain of custody, proof that the defendant is who they are alleged to be and incurred the debt, amount of debt/charge-off amount, date default on the original debt, and itemization of expenses), and well as statutes of limitations to execute on default judgment or renew judgment. If so, and if the law was enacted during the study period (2010 to 2020), we included the statute or rule in our assessment. We also generally included the relevant statutes setting forth the baseline requirements to issue default judgment in all civil cases. We did not include laws dealing with jurisdictional thresholds; pre- and post-judgment interest rates; laws dealing with changes in statutes of limitations; proof of service and service of process; wage garnishment, and execution of real property. All relevant laws and rules were collected on separate state-specific documents and were then transferred to spreadsheets coded with the relevant variables. Once collected, the laws identified for each state were reviewed by at least two additional researchers.

The data used for our analysis comes from the University of California Consumer Credit Panel (UC-CCP) maintained by the California Policy Lab. The UC-CCP is an anonymized longitudinal panel of consumer credit information starting in 2004 and continuing quarterly through the present.[14] The UC-CCP contains a nationally representative 2% sample of U.S. adult consumers with credit records and all of California—approximately 40 million consumers.[15] It includes consumers' demographic and geographic information, credit scores, and individual credit account ("tradeline") information about each loan or collection item.[16]

Our sample consists of a person-level dataset created by California Policy Lab researchers that summarizes all tradelines for each individual in each quarter in the national sample. We performed our analysis on a 1% subsample of the 2% national sample, spanning 2004 to 2023. The final sample only includes consumers from the 38 states listed in Table 1 and one observation per person per year (December of each year), totaling 3,618,921 observations.

Table 1 - List of Control and Treatment States

Control States		Treated States		
		Year of Treatment	**States**	**Statute/Rule**
Alabama	North Dakota	2009	North Carolina	N.C. Gen. Stat. § 58-70-150
Florida	Ohio	2012	Arizona	A.R.S. § 44-7804
Georgia	Oklahoma	2013	Minnesota	Minn. Stat. § 548.101
Hawaii	Pennsylvania		Texas	Tex. R. Civ. P. 508.2
Idaho	Rhode Island	2014	California	Cal Civ Code § 1788.50 et seq
Iowa	South Carolina		New York	NY Uniform Civil Rules § 212.14(a)-(b)
Kansas	South Dakota	2016	Maryland	Md. Cts & Jud. Pro. § 5-1203, Md. R. Civ. P. 3-509
Kentucky	Utah	2017	New Mexico	N.M. R. Civ. P. Dist. Ct. 1-009
Louisiana	Virginia	2018	Illinois	Ill. S. Ct. R. 282
Michigan	West Virginia		Maine	32 M.R.S.A. § 11019
Missouri	Wisconsin		Oregon	Or. Rev. Stat. § 646.639
Montana	Wyoming	2019	Indiana	Ind. Code § 24-5-15.5-5
Nebraska		2020	Washington	Wash. Rev. Code § 19.16.260

We reviewed the laws of a selection of states from 2004 to the present and identified all states that have adopted laws requiring plaintiff creditors to provide additional documentation of their debt claims. We determined when an additional documentation requirement qualified as a “treatment.” We did not further categorize the treated states based on who the documentation requirement applied to or what that documentation requirement entailed. We verified our coding using the National Center for Access to Justice’s Consumer Debt Litigation Index and the coding in Temple University’s LawAtlas project.[17] We found that documentation requirements that affect debt

collection were implemented in 13 states since 2004. Over this same period, 25 states have not made any changes to their documentation requirements.

This variation in documentation reform adoption allows us to estimate their causal effect through a difference-in-differences (DiD) approach. We compare consumer outcomes in states that implemented a stricter documentation requirement (treatment group) to outcomes in states that did not change their documentation laws (control group), before and after each regulatory change. Table 1 lists the 25 control states and the 13 treated states that implemented stricter documentation requirements along with the year of implementation.

Because states implemented their reforms in different years, we utilize a staggered DiD approach (two-way fixed effects) in which the treatment dates vary over time. If a state adopts multiple requirements over time, we use the first one they implemented. For example, if a state passed a reform in 2009 and 2014, we use 2009 as the treatment year. To account for unobserved state-specific time-invariant factors that could bias our estimates, we include state fixed effects in all our analyses. To account for unobserved time-specific factors affecting all consumers that might bias our estimates, we include year fixed effects. We cluster the standard errors at the state level.

The DiD approach provides unbiased estimates under two key assumptions. First, conditional on the observable data, the treatments (documentation reforms) are randomly assigned. Second, without the treatment, the outcomes (e.g., credit card access) in treated states and control states would have evolved in parallel over time.

We test the plausibility of the second assumption with an event study design that estimates treatment effects for each period before and after a new debt documentation law went into effect and displays them graphically. If the estimates for years before the treatment year (year zero) are statistically different from zero, then we must reject the assumption of parallel trends prior to treatment. For example, if creditors anticipate the effect of the law and limit credit to consumers, causing a reduction in credit prior to the treatment year, this would violate the parallel trend assumption.

In a DiD study, it is advisable to use as long a period of study as possible, to permit the most rigorous test of the parallel trends assumption and to trace the dynamics of any treatment effect through time. To obtain as wide a symmetrical window as possible about the range of treatment years (2009 to 2022), we utilize a sample consisting of 8 years prior to and 8 years after the treatment year. For any wider treatment window, there are too few states at the ends of the window, and the standard errors are too large to permit reliable inference.

RESULTS

We present preliminary results for credit access, but we plan to study additional credit outcomes as well as outcomes related to financial distress. Table 2 shows the mean and standard deviation for each of our credit access outcomes across control and treated states.

Table 2 - Summary Statistics (2004-2023)

	Total	Control States	Treated States	Difference
Number Open Credit Cards	2.48	2.48	2.48	0.001
	(3.48)	(3.47)	(3.50)	(0.004)
Has a Credit Card	0.601	0.600	0.601	-0.001*
	(0.490)	(0.490)	(0.490)	(0.0005)
Revolving Credit Utilized ($)	4,827	4,798	4,850	-52*
	(9,654)	(9,157)	(10,034)	(13)
Any Revolving Credit Utilized	0.829	0.833	0.825	0.007*
	(0.377)	(0.373)	(0.380)	(0.001)
Revolving Credit Limit ($)	22,608	22,950	22,333	617*
	(26,905)	(26,792)	(26,993)	(38)
% Revolving Credit Utilized	25.2	25.1	25.4	-0.3*
	(29.8)	(29.7)	(29.8)	(0.04)

Note: Standard errors in parenthesis. * Indicates that the difference between Control States and Treated States is statistically significant at 95% confidence level.

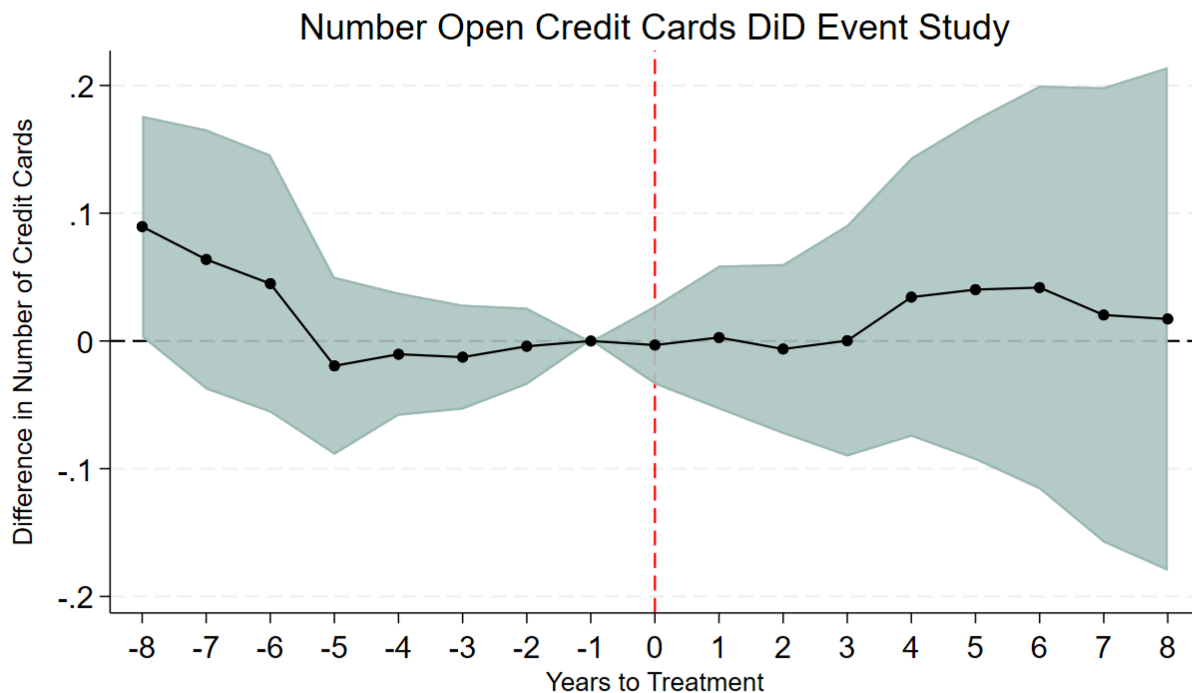
We find no evidence that debt documentation requirements reduced the number of open credit cards

Compared to other forms of consumer debt such as mortgages and student loans, credit card debt is more likely to be affected by documentation requirements because it is a form of unsecured, revolving debt and issuers often sell charged off credit card debt to collectors. In our sample, consumers hold an average of 2.48 credit cards, and there is no important difference in this average between treated and control states (Table 2).

Figure 1 depicts the mean difference between the number of open credit cards per consumer in treated and control states (y-axis) as a function of years since treatment (x-axis). Treatment is defined as a change to the state's debt documentation laws. The mean difference between treated and control states is set to 0 in the year prior to treatment (-1). If the parallel trend assumption is satisfied, then the mean difference between treated and control states should be 0, in a statistical sense, in all years prior

to treatment. In Figure 1, the parallel trend assumption is not violated for at least five years prior to the treatment year.

Figure 1 - Event Study of Number of Open Credit Cards



For open credit cards, there is no statistically significant change in the difference between treated and control states after the passage of a debt documentation law. This finding of no effect should be interpreted in terms of the power of our test against reasonable alternatives. There is some probability that we find no effect even though there is in fact a negative effect on open loans (Type II error).

For example, suppose the true effect of a documentation law is a reduction in open credit cards that is 6.5% of the mean of 2.5 open credit cards per consumer. We would then mistakenly find no effect 10% of the time (Type II error rate). Therefore, if a 10% Type II error rate is acceptable, our findings are credible evidence against a reduction in credit of this size (6.5% of the mean) or larger.

We find no evidence that debt documentation requirements reduced consumer access to credit cards

In our sample, 60.1% of consumers have at least one credit card, and there is no meaningful difference across treated and control states.

Figure 2 - Event Study of Credit Card Access

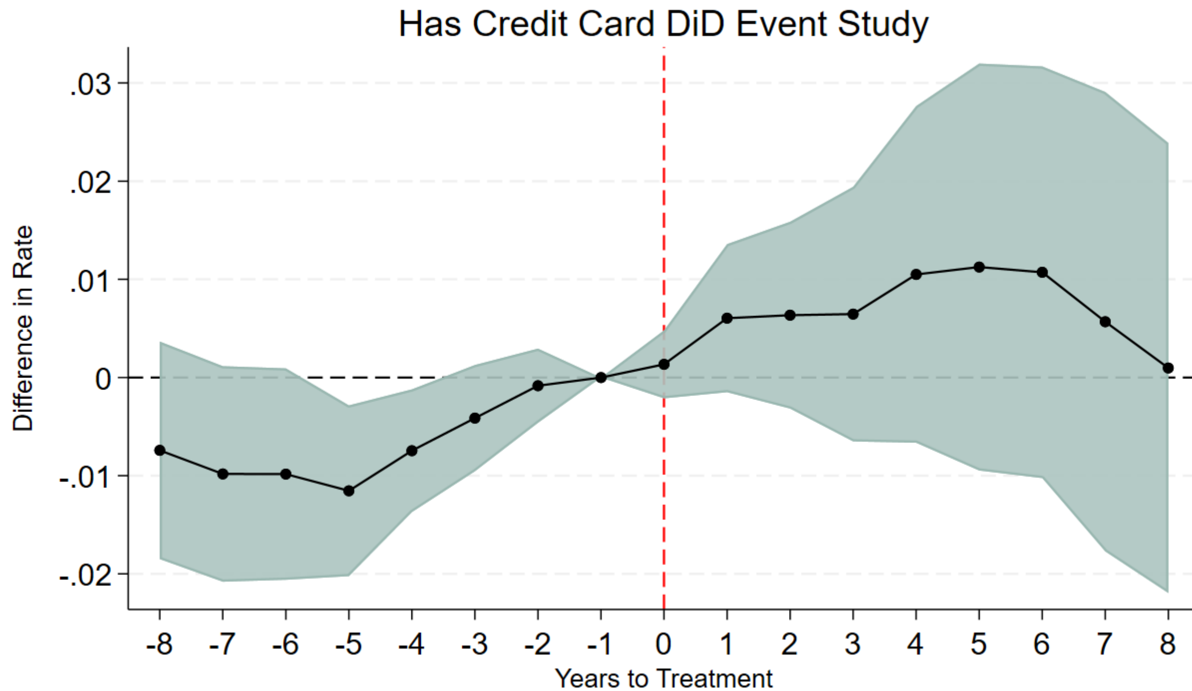


Figure 2 displays a preexisting upward trend in the difference in credit card access between treated and control states. Prior to the treatment year, the fraction of consumers with a credit card in treated states was increasing relative to the fraction in control states. This trend continued after the treatment year. As a result, the increase in credit card access in treated states in Figure 2 after the treatment year cannot be attributed to the documentation laws. For example, if we projected the pre-treatment trend after the treatment year, our estimates would show no increase in credit access.

Because the parallel trend assumption is violated, we do not conduct a formal statistical test of the effect of documentation reforms on credit card access. There are several approaches to conducting such a test, but each has drawbacks. One approach would be to explicitly model the pre-existing trend. However, the trend in Figure 2 is only plausible to model over a short time period–otherwise credit card access in treatment and control states would substantially diverge–and we don't know the appropriate length

of this time period. Another approach would be to find a second variable with a trend that is similar to credit card access–but is unaffected by the documentation reforms–and to take the difference of the two DiD's (a triple difference). Such triple difference estimates are difficult to interpret. We will explore these possibilities in future work.

In sum, Figure 2 provides no evidence that debt documentation laws lower consumer access to credit cards. The fraction of consumers with a credit card increased by up to one percentage point in treated states relative to control states, but this increase was neither statistically significant nor likely due to documentation requirements.

We find no evidence that debt documentation requirements reduced consumers' outstanding credit card debt

In our sample, 82.9% of consumers had a positive credit card balance, and there was a small difference between treated (82.5%) and control states (83.5%). By comparison, 60.1% of consumers had at least one open credit card. This discrepancy likely reflects the fact that many consumers continue to hold an outstanding balance after they close all their credit cards. The average outstanding credit card balance per consumer was $14,480, and there was again a small difference between treatment ($14,549) and control ($14,394) states that was statistically significant at the 5% level.

Figure 3 - Event Study of Revolving Credit Utilization

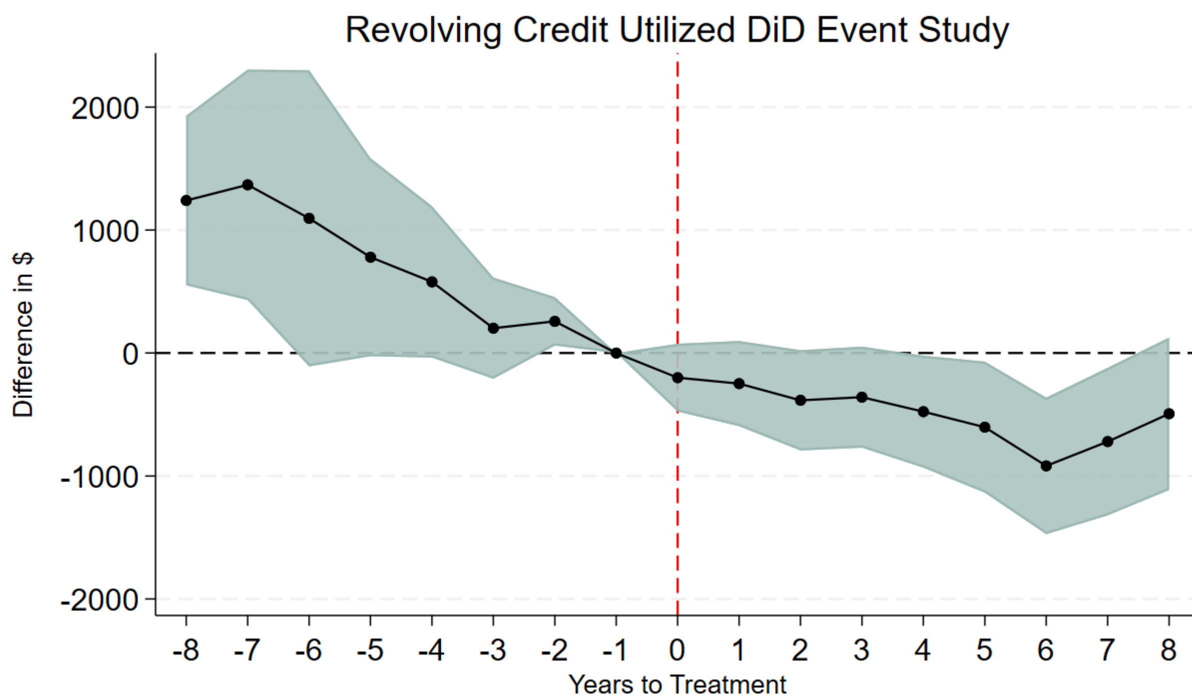


Figure 3 depicts a preexisting downward trend in the difference in total credit card utilization (total credit card debt) per consumer between treated and control states. Prior to the treatment year, total credit card utilization per consumer in treated states fell relative to control states. This trend continued after the treatment year. Therefore, the fall in credit card utilization in Figure 3 after the treatment year cannot be attributed to the documentation laws. If we projected the pre-treatment trend after the treatment year, our estimates would show no decrease in credit card utilization.

Because of this pre-existing trend we are again unable to conduct a statistical test of the effect of documentation reforms on total credit card utilization. We can say that the observed fall in utilization after the passage of the debt documentation laws (treatment year) overstates any true causal effect of these laws on credit card utilization.

Despite appearances, Figures 2 and 3 are consistent with one another. Figure 2 shows rising credit card access in treated states prior to the documentation reforms, while Figure 3 shows falling credit card utilization in these states. It is likely that new (marginal) cardholders held lower than average balances. Therefore, the relative expansion of cardholding (Figure 2) in treated states likely led to a fall in average balances (Figure 3).

DISCUSSION

We find no evidence that state laws imposing additional documentation requirements on debt collectors resulted in less credit for consumers, measured as open credit cards, credit card access, and total credit card balances.

These results should be treated with caution. Null effects should be interpreted in terms of their statistical power (open credit cards). Causal inference is not possible when there is a failure of the parallel trend assumption (credit card access and total credit card balances). We plan to further investigate these power issues and to explore different ways to model the trends in the data to permit causal inference.

We also plan to investigate the relationship between documentation requirements and credit access further by examining effects on low credit-score consumers and using other credit variables as outcomes. These variables include credit availability, credit utilization, and credit per account for different subcategories of credit, such as credit cards and auto loans.

Finally, we plan to study whether debt documentation requirements affect consumer financial distress. We propose to measure financial distress using outcomes such as delinquencies, collections, and bankruptcies.

The existing literature suggests that some restrictions on debt collection can lead to a reduction in consumer credit, but it does not specify which restrictions can have this effect.

Though preliminary, our results suggest that debt documentation requirements are unlikely to have a substantial effect on consumer access to credit.

The Debt Collection Lab

The Debt Collection Lab uses arts and different storytelling traditions to interrogate, transform, and spread new dignifying narratives for debt justice. The Debt Collection Lab is an interdisciplinary collaboration of researchers led by Frederick F. Wherry, the Townsend Martin, Class of 1917 Professor of Sociology at Princeton. The Debt Collection Lab conducts research on debt collection in state courts and collects and reports data on the Debt Collection Lawsuit Tracker to monitor regular updates to the number of debt cases being filed across the United States.

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