Proponent Testimony on House Bill 123
House Government Accountability and Oversight Committee

Dr. Carl Ruby
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Founder, Ohio Faith Leaders for Payday Loan Reform
January 17, 2018

Chairman Blessing, Vice-Chair Reineke, Ranking Member Clyde and members of the committee, thank you for the opportunity to provide proponent testimony on House Bill 123 today.

I am one of hundreds of Pastors across the state who feel a moral responsibility to stand for the working-class people in our communities who are being ripped off and trapped by a corrupt industry of mostly out-of-state and often out of country corporations who profit off of the hardships of our neighbors. We are not opposed to profit, but we are opposed to usury…...our scriptures and our consciences condemn it.

We are faith leaders and organizations from big cities like Cleveland, Columbus, Cincinnati, Dayton and Toledo.

And from places like Springfield, Wilmington, Canton, and Youngstown.

I am the pastor of a non-denominational evangelical church, but I stand with Catholic Priests, Jewish Rabbis, Southern Baptists, and people of no particular faith at all, but who are people of compassion and conscience. What unites us is concern for families in our communities- our congregants and even ourselves- who are struggling to make ends meet who get trapped into loans with interest and fees that can exceed 700%.

According to their own materials, which I have provided in a handout, you will see lenders are offering loans with APRs of 728%, 220%, 683%. Need $500 to fix your brakes? One $500 loan from Speedy Cash will result in fees of $2,175. That person could have paid for another car from a local salesman with that money, but instead, it is in the payday lender's pocket in another state.

This is not a "here or there" problem…..there are more Payday Loan stores in Ohio now than there are McDonalds….in my town, Springfield, there are about 6 places to get a Big Mac and over 15 places to take out one of these high-interest loans.

And while I'm on Big Macs…...the very same companies that sell these loans in Ohio sell the same financial product for a quarter of the price in states like Colorado. Imagine buying a Big Mac Meal for $5.99 at the airport in Denver only to find out that the same company is charging almost $24 when you get off the plane here at Columbus International. That's what these businesses are doing because Ohio's laws are riddled with loopholes…..some will say, "Well, that's free enterprise at work." I would say that's free enterprise not working, or rather, working very well for the people in this room who are making $8-15 million a year at the expense of single moms and working-class dads.

I want to tell you about a scare tactic lenders are using to trick people into opposing this bill. They will argue that this bill will hurt people by closing down all of their stores and removing access to emergency credit for working-class people. That's, as they say these days, a "false fact" …. from our pulpits, we call it "a bald-faced lie."

I want to introduce three pieces of evidence that prove that payday loan companies can and will stay in business and continue serve those in need of short-term loans under HB 123.

First, I introduce a letter written by the President of the *Colorado Financial Service Centers Association*….this is the organization representing Payday lenders in Colorado, the State that serves as a model for HB 123….he refers to Colorado's law as a model for other states to follow…..he says, "The new lending law is clearly saving Colorado consumers more money, while still ensuring that they have a viable short-term lending option from a regulated lender." He states that the Colorado law saved Coloradans $42 million. That's a state half our size…..here in Ohio the reform's projected savings is $75 million a year.

The letter lauds the 5% "Payment to Income" cap that is a part of HB 123 as a workable number for payday lenders.

Second, I reference a map that shows how Colorado's law affected the geographic availability of payday loans….. only 7 *very* remote locations in the entire state lost access to nearby payday loan stores. The map showing the density of payday loan centers here in Ohio shows that even if half of the businesses here in Ohio closed no one would be very far from a pay day loan.

Before the law change, 93% of the population lived within 20 miles of a payday lender before the law change, compared with 91% afterward.

The **third** piece of evidence that I submit is not very sophisticated...I have a friend named Jeff Cook who works at a church in one of Denver's poorest neighborhoods. I asked him if payday loan centers were still operating in his neighborhood…..instead of directly answering my question he quickly texted me pictures of four payday loan centers in his neighborhood, later saying that loan centers like these are all over the city.

There are things I like about HB 123. I want to close by talking about one thing I don't like….while HB 123 claims an interest rate of 28%, with fees, the actual APR allowed is roughly 124%. In 2006, a bipartisan bill was passed to protect members of our military from these predatory lenders…..they capped the all-in APR and fees at no more than 36%.....

….my question to those considering HB 123 is *if a United States Marine needs to be protected from this industry why don't we afford at least the same protections to a single mom or a veteran.*

I accept HB 123 as compromise…. … I and many faith leaders would prefer a straight 28% cap, or even a 36% cap. If there were a bill or ballot initiative with that option, I, and I think most of us, would quickly get behind it. We would just close the loophole in the 2008.

Members of the Ohio Legislature, I and I think most Americans, are fed up with the way politics works, or rather doesn't work in Washington, D.C. We can do better in Ohio. Ohio is a place where Democrats and Republicans can work together to make life better for Ohioans. We ask you to do that in the case of HB 123, quickly passing it as it is so that Ohio can join Colorado as the model of effective legislation that works for both borrowers and lenders.

Thank you for the opportunity to testify today. I'm happy to answer any questions you may have.

Colorado Financial Service Centers Association
P.O. Box 11584
Denver, CO 80211

October 7, 2016

Richard Cordray
Director
Consumer Financial Protection Bureau
1275 First Street, NE
Washington, DC 20001

Re: Comment Letter Concerning Proposed Rules for Payday, Vehicle Title, and Certain High-Cost Installment Loans

Dear Director Cordray,

On behalf of the supervised licensed lenders of the State of Colorado that are members of the Colorado Financial Service Centers Association (COFiSCA), we would like to express our concerns regarding the proposed rules governing Payday, Vehicle Title, and Certain High-Cost Installment loans that were released by the Consumer Financial Protection Bureau in June 2016. This burdensome 1300+ page document if enacted will certainly have a negative impact on the small dollar lending market in Colorado and will limit our resident's ability to access this much needed form of credit.

The State of Colorado has been at the forefront of responsible regulation for the payday/installment lending industry since 2010. Colorado has been successful in establishing a balance between consumer protection and maintaining access to short-term credit. The 6 month installment lending law enacted in 2010, was developed with significant input from the lending industry and various consumer groups. Colorado's innovative installment loan product has been viewed and touted by independent third party research groups such as the PEW Charitable Trust as a model that should be instituted by other states and the federal government.

Since the law took effect, Colorado has seen a significant decrease in the number of lenders. In addition to the decrease in lenders, there has also been a drastic reduction in both the number of loans and amount financed in Colorado. As per the PEW Charitable Trust report, this reduction has resulted in Coloradoans saving $41.9 million per year in fees. The new lending law is clearly saving Colorado consumers more money, while still ensuring that they have a viable short-term lending option from a regulated lender. COFiSCA and its members are concerned that if these new proposed rules are enacted by the Consumer Financial Protection Bureau without modification, it will surely result in the closing of the remaining locally owned stores and limit our residents ability to secure a short-term loan from a licensed lender.

Our concern is not only for our members, but also for our customers and the loan options they will be relegated to if they no longer have the ability to walk into a supervised licensed lender's storefront location. These less than desirable alternatives will most likely involve internet lenders that typically operate outside of any state or federal lending guidelines. While there are some reputable internet lenders that are licensed by the State of Colorado, the vast majority don't abide by Colorado lending laws. Even worse is that some of these internet sites are merely a scam to obtain a borrower's personal information such as social security numbers or bank account information. The demand for short-term credit will not end if licensed lenders exit the market.

Burdensome Underwriting Rules and Non-Viable Alternatives

The overall complexity of the proposed underwriting rules that are put forth by the Consumer Financial Protection Bureau for a $500 loan will place an enormous burden on small lenders. The "Ability to Repay" requirement will require a lender to verify income, obtain borrowing history from a registered information system, request a credit report as verification of payments under major financial obligations, verify basic living expenses for both the borrower and other members of the household that are dependent on the consumer, and account for volatility in net income and basic living expenses during the term of the loan. After subtracting all of these variables from the borrower's income source, it will then be determined whether the individual has enough residual income to afford a loan. However, even after following all of the above listed rules for underwriting, the consumer cannot reinitiate a new loan for 30 days after payment in full because there is a "presumption of unaffordability" absent an increase in residual income or a substantial decrease in the size of the payments on the loan. The fundamental problem with the proposed regulations is that it will force a cost of lending structure on a $500 loan that in many instances is equivalent to what is required of a $250,000 mortgage loan. These costs of underwriting cannot be part of a successful business model for making small consumer loans.

There are two alternatives that the CFPB in proposing in which a lender would not have to satisfy the Ability to Repay requirement.

The first alternative is entitled the National Credit Union Administration's Payday Alternative Loan (PAL) Program. This loan product has a term of 46 days to 6 months, maximum principal amount of $1,000 and an interest rate that is capped by the Federal Credit Unions, plus an application fee of no more than $20. The PAL program will not work for a non-depository institution, since credit unions have a significant tax and funding advantage over a typical licensed payday/installment lender. Factoring overhead costs and the acquisition costs to make the loan, it would far exceed any revenue generated from a loan under the PAL program.

The second proposed alternative lending program has a Conditional Refund Requirement. Under this lending model that the Consumer Financial Protection Bureau is proposing a loan would have a term of 46 days to 24 months, fully amortizing payments, a maximum 36% interest rate and up to a $50 origination fee that is reasonably proportionate to the lender's cost of underwriting. However, if the default rate on the portfolio of loans exceeds 5%, the lender would have to refund all of the origination fees paid by all borrowers during the year. This lending model is structured in a way that the risk far outweighs the reward. If a lender is forced to refund all origination fees for a year, then it would surely wipeout any profit that would have been recognized and more than likely will result in a net loss. The alternative lending program is not a workable business model.

5 Percent Payment-to-Income Alternative

We urge the CFPB reconsider a viable alternative to the burdensome "Ability to Repay" requirements. This alternative option was initially proposed by the CFPB on March 26, 2015 to the Small Business Advisory Review Panel for Potential Rulemakings for Payday, Vehicle Title, and Similar Loans as an Outline of Proposals Under Consideration and Alternatives Considered. On page 27 of the outline, there was a section entitled "Loans with periodic payments below a specified payment-to-income ratio". In this section it states, "The Bureau is considering whether loans with payment-to-income ratios below 5 percent provide sufficient protections without the full ability-to-repay determination…" It is COFiSCA's position that a 5 percent monthly payment-to-income rate does in fact provide sufficient protections to our consumers, and has been viewed as a successful lending model in the State of Colorado for the past 6 years.

The 5 percent payment-to-income ratio was deemed to be affordable by the PEW Charitable Trusts, in a detailed report that was conducted in the State of Colorado after the change in law that was enacted in 2010. The PEW report was entitled, Payday Lending in America: Policy Solutions and was released in October 2013. In the report, there is a section on page 29 called, "The 5 percent affordability threshold" in which it is stated that the median borrower can afford a 5 percent payment-to-income ratio on a monthly basis. The report goes into further detail concerning the Colorado lending model by stating, "The average actual loan size of $389 requires a monthly payment of about $105, or 4 percent of a borrower's monthly income on average." This data was based on the demographic and statistical information obtained from the Administrator of the Colorado Uniform Consumer Credit Code in which the average borrower income was $2477 per month. In an article published by the Denver Post on March 27,2015, entitled Colorado was Out in Front of Payday Lending Reform, Nick Bourke who is the director of the small-dollar loans project at the Pew Charitable Trust is quoted as saying, "Colorado has achieved a much better outcome," (referring to the new installment loan law enacted in 2010). Mr. Bourke further states, "Policymakers there had a few goals – to make the market safer and fair and to keep access to credit available – and they nailed it." As an independent and respected third party research institution, the PEW Charitable Trust has clearly stated that a 5 percent payment-to-income ratio provides an affordable monthly payment, which the average consumer can afford.

By instituting a 5 percent payment-to-income ratio, it would also increase the minimum income requirement within the State of Colorado, resulting in greater consumer protections. Currently, per Colorado law, a lender is allowed to loan up to 25% of an individual's monthly gross income with a maximum loan amount of $500. For example, in order for a borrower to qualify for a $500 loan, their gross income must exceed $2,000 per month. If a 5 percent payment-to-income were instituted, it would raise the minimum income requirement on a $500 loan to $2,664.80, based on a monthly payment amount of $133.24 for a six month installment loan. Below is a chart of the new minimum income requirements that would take effect, based on a monthly payment with a loan term of 190 days:

Loan Amount	Payment	Current Income Requirement	5 Percent Payment-to-Income
$500	$133.24	$2,000 per month	$2,664.80 per month
$400	$112.84	$1,600 per month	$2,256.80 per month
$300	$86.19	$1,200 per month	$1,723.80 per month

COFiSCA maintains that there are inherent problems with the way the original alternative requirements were presented for loans with periodic payments below a specific payment-to-income ratio as outlined in the Proposals Under Consideration and Alternative Considered, which was addressed to the Small Business Advisory Review Panel. COFiSCA's concerns were stated in a letter, dated May 7, 2015, by our former president that was addressed to a member of the panel and was recorded in the submitted documents. Specifically, in the previous letter it was stated that under Colorado law the minimum loan term is 6 months. However, under the proposed alternative option it is stated that "the loan has a maximum duration of no more than six months". By setting a loan term with a minimum and maximum of 6 months, it will cause lenders to setup loan payments due on arbitrary due dates that may not coincide with the borrower's paydays. This will potentially cause a greater default rate, resulting in increased insufficient funds charges from both the consumer's bank and the lender. We would propose that the Consumer Financial Protection Bureau consider revising the maximum loan term to a length of time greater than 6 months in order for the lender and borrower to negotiate a term that is agreeable for both parties while still adhering to the 5 percent payment-to-income ratio.

Furthermore, it is COFiSCA's position that limiting the number of loans that a consumer can initiate under the 5 percent payment-to-income lending model would potentially cause undue harm to the borrower. Under Colorado law, all fees and interest are earned on a pro-rata method. Therefore, it is in the customer's best interest to pay the loan off before it reaches full term, because they will pay considerably less in interest and fees than if they allowed the loan to reach maturity. By limiting the number of loans an individual can initiate in a year, it may encourage consumers to keep their loans out for a longer period of time due to the fact that they would become aware that they could only use the service for a predetermined number of loans. The Colorado law was designed for consumers to make their own financial decisions on when to pay off their loans and conversely to give them greater flexibility on when to initiate a new loan. The PEW Charitable Trust report reinforces the principle of not instituting a limit on the number of loans a borrower can initiate as long as the 5 percent affordability threshold is obtained. On page 44 the PEW report it states, "Normal supervision can assess compliance, so this recommendation does not necessitate a database. Borrowers will remain responsible for deciding how many loans to take and how often to use them."

As was previously stated, COFiSCA and its members are concerned that if these proposed rules are enacted without a viable alternative, it will cause the remaining licensed small business lenders to close their stores within the State of Colorado. We have worked hard over the past 6 years to formulate a lending model that has been beneficial to both lenders and consumers. Colorado borrowers are currently paying dramatically less in fees and interest while still having the ability to walk into a reputable licensed lender's store. This was a direct result of the compromise that was struck in 2010 at the state capitol between the lending industry, legislators and consumer advocacy groups. We urge you to consider that same type of compromise by reinstating the 5 percent payment-to-income alternative.

We appreciate you taking the time to carefully review our comments for future rule-making policies concerning our industry.

Thank you,

Josh Fritts, President

COFiSCA

ACE CASH EXPRESS®

Loan Amount	Lender Interest	Lender Credit Investigation Fee	CSO Fee	Total Finance Charge	Total Amount Due			APR (Assumes 14-day term)
					To CSO	To Lender	Total	
$500	$4.79	$10	$125	$139.79	$125	$514.79	$639.79	728.90%

Advance America

−	$537.63	+
Loan Amount:		$537.63
Finance Charge:		$45.53
APR:		220.78%
Total Amount Due:		$583.16

Assumes a 14 day term. Loans subject to approval. Examples provided are typical loans offered to qualified applicants. Other loan amounts and terms may be available. Checks issued instead of cash. Loans offered by Advance America Small Loans of Ohio, Inc. OH Lic. #SM501671. Check cashing offered by Advance America, Cash Advance Centers of Ohio, Inc. OH Lic. #CC700078

Check n Go

Loan Summary

Your Borrow:	$500.00
APR	676.76%
Finance Charge	$129.79

You Pay Back: $629.79

* Based on a 14 day loan term.

CHECK INTO CASH

Amount Financed	Finance Charge	Total of Payments	Annual Percentage Rate (APR)*
$ 500.00	$ 130.99	$ 630.99	683.02%

ACE CASH EXPRESS

Loan Amount	Components of the Finance Charge			Total Finance Charge	Payment 1	Payments 2 - 7	Payment 8	Total of Payments	APR (assumes a 112 day term)*
	Credit Investigation Fee	CSO Fee paid to loan broker	Interest paid to lender (25% per annum)						
$200.00	$10.00	$192.00	$8.38	$210.38	$60.91	$50.91	$44.01	$410.38	529.42%
$500.00	$10.00	$480.00	$21.02	$511.02	$137.29	$127.29	$109.99	$1,011.02	507.01%
$1,000.00	$10.00	$960.00	$42.08	$1,012.08	$264.58	$254.58	$220.02	$2,012.08	499.65%

Advance America

–	$500.00	+

Loan Amount:	$500.00
Finance Charge:	$520.12
Number of Payments:	13
Approximate Installment Payment Amount:	$78.47
APR:	316.31%
Total Amount Due:	$1,020.12

Assumes an approximately six month term with bi-weekly payments. Examples provided are typical of loans arranged for qualified applicants. Fees include third-party lender interest and Advance America's CSO fee. Other loan terms are available and may vary from Advance America locations.

SPEEDY CASH

Advance Amount: (amount financed)	$500
Third—Party Lender Interest:	$105.09
CSO Fee:	$2,070.00
Finance Charge: (cost of loan) *Assuming all payments are made as scheduled	$2,175.09
Number of Payments:	18
Payment Amount:	17 monthly payments of $148.61, final payment of $148.72
Total Repayment Amount:	$2,675.09
Loan Term:	18 months
APR**	353.24%

CashNetUSA

Money's on the way®

Loan Amount	Recurring Payment	Number of Payments	APR	CSO Fee	Lender Interest	Total Amount Due
$600.00	$135.22	10	479.0%	$683.76	$68.04	$1,351.80

Ohio Payday Loan Stores (2016)

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Consumer Protection Section
Consumer Credit Unit

2015 DEFERRED DEPOSIT/PAYDAY LENDERS ANNUAL REPORT

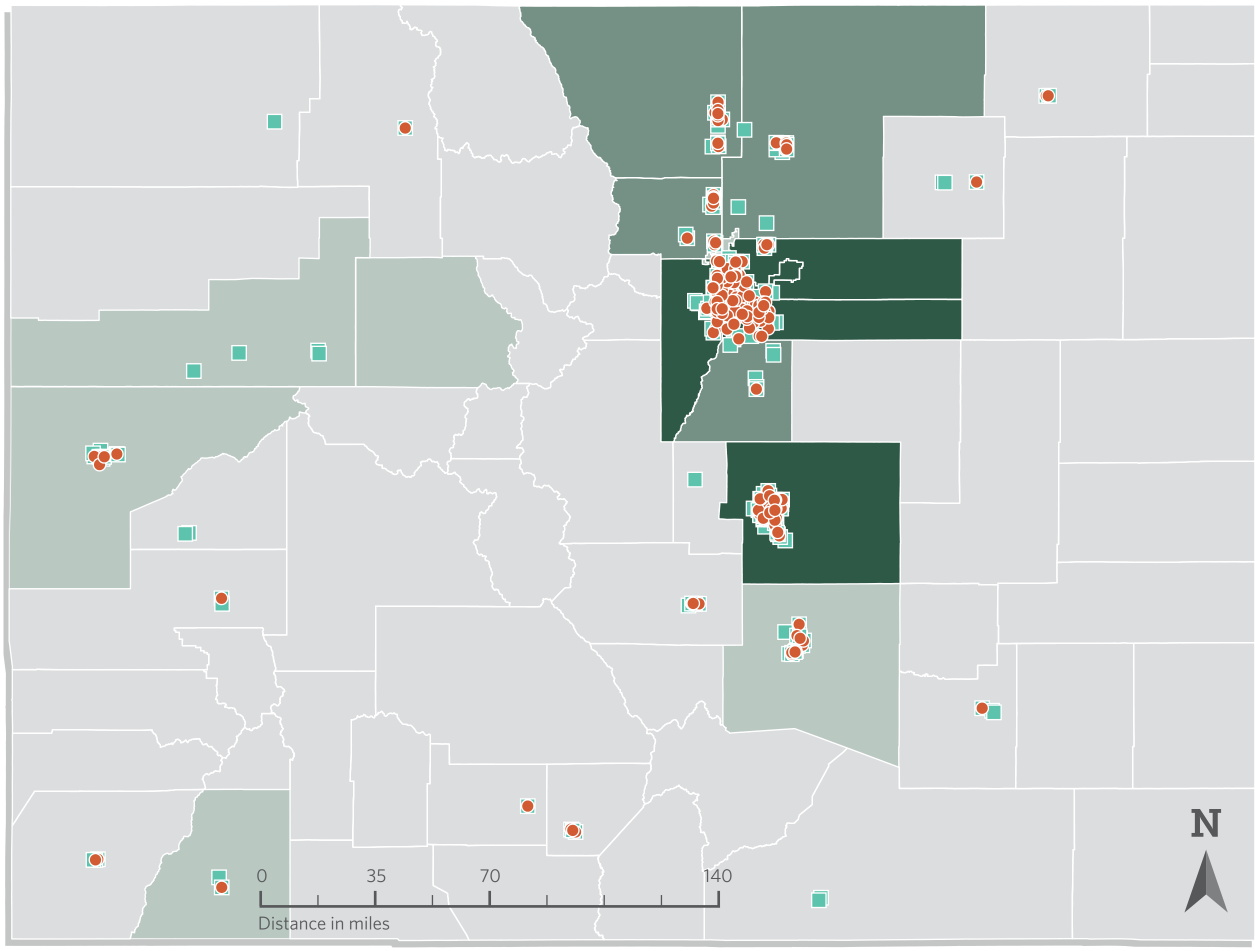
This is a composite of all reports submitted to the Administrator of the Uniform Consumer Credit Code pursuant to §§ 5-2-304(2) and 5-3.1-115, C.R.S., from licensed deferred deposit/payday lenders. This information has not been independently verified.

Number of licensed locations reporting data for 2015[1]		242
	NUMBER	AMOUNT FINANCED
1. Deferred deposit/payday loans made, arranged, or taken by assignment in 2015	No. 448,792	$ 178,574,512

	FINANCE CHARGE	AMOUNT FINANCED
7. Contracted deferred deposit/payday loan data[4]		
a. Average contracted finance charge (all fees) and amount financed	$ 246.66	$ 396.69
i. Average contracted origination/acquisition fee	$ 64.27	
ii. Average contracted 45% interest	$ 55.08	
iii. Average contracted monthly maintenance fee	$ 127.31	
b. Average contracted loan term		189.89 days
c. Average contracted annual percentage rate		186.700 APR

	FINANCE CHARGE	AMOUNT FINANCED
8. Actual deferred deposit loan fees & terms upon payoff[4]		
a. Average actual finance charges (all fees) and amount financed upon payoff	$ 111.64	$ 394.77
i. Average actual origination/acquisition fee	$ 35.82	
ii. Average actual 45% interest	$ 30.43	
iii. Average actual monthly maintenance fee	$ 45.39	
b. Average actual loan term		90.84 days
c. Average actual annual percentage rate		117.443 APR

Colorado Payday Loan Stores Still Widely Available After Law Change



● Location open after law change (Aug. 1, 2013)

■ Location open before law change (April 1, 2010)

Percent of total population by county

< 1 | 1-4 | 4-8 | 8-12

Note:

Before the law change, 82% of the population lived within five miles of a payday lender, compared with 77% afterward. Similarly, 93% of the population lived within 20 miles of a payday lender before the law change, compared with 91% afterward.

Sources: Colorado Office of the Attorney General, 2013. U.S. Census Bureau, 2011. Yahoo, Inc., 2013.