Senate Finance Committee – June 19, 2018

Sponsor Testimony for House Bill 123

Representative Kyle Koehler

Chairman Oelslager, Vice Chair Manning, Ranking Member Skindell and members of the Senate Finance Committee: thank you for allowing me to offer sponsor testimony on House Bill 123.

Over the past two years, much thought and work has gone into how this bill works, its simplicity, and its fairness to both the borrowers and lenders involved in what is known in Ohio as "payday lending".

While I have visited many of your districts on business or family trips, I want to describe to you my House District. My district of 119,000 is equally divided between rural and urban areas. The urban area is represented by the city of Springfield with approximately 60,000 residents.

In the city of Springfield, we have 16 payday lenders. Half of those are located on a one mile stretch of road leading into Springfield. When you pass the "Welcome to Springfield" sign on East Main Street, there is immediately a payday lender on the right-hand side of the road. Over the next 5,280 feet – exactly one mile on my car's odometer –you will pass nine storefronts with signs promoting payday loans.

Just like the other 650 payday lenders in Ohio, **none** of these is licensed under the Short-Term Loan Act passed in 2008. Each offers payday loans, but not one is licensed to do so in the state of Ohio - even after Ohio voters upheld a referendum in 2008 supporting the legislature's action.

Business leaders (including the President of the Greater Springfield Chamber of Commerce) came to me in the summer of 2016 to speak with me and other community leaders about the growing problem in our area with payday lenders who were trapping people in predatory loans.

At first, I met with just a few people. In the past two years, that group has grown to more than one hundred faith leaders, business organizations, a number of chambers of commerce, and county commission boards across the state of Ohio. They represent Ohioans who want to see payday lenders operate within guidelines that protect consumers.

In the state of Ohio if you are wealthy, well-informed and have a good credit score, you can walk into any **bank** and apply for a loan knowing that the Ohio Revised Code has pages and pages of laws that protect you from making a foolish mistake. If you are poor, uniformed, have a bad credit score, and walk into a **payday lending store**, nothing in the Ohio Revised Code protects you from making a foolish mistake.

The legislature attempted to reform Ohio's payday lending law in 2008, capping annual percentage rates for loans at 28% APR under Ohio's Short-Term Loan Act. Lenders tried to overturn the legislation, bringing it up for referendum on the ballot that year, but voters overwhelmingly sided with the legislature. Despite overwhelmingly demonstrated support for mandated caps on APR, lenders found a loophole to continue offering high interest loans. As a result, though there are now more than 650 payday loan stores in Ohio, there are **zero** licensees under the Short-Term Loan Act.

House Bill 123 is a compromise. It is a compromise between either allowing unlicensed lenders to charge out-of-control APR rates of 500%+ or shutting the industry down all together. It is a compromise which reflects the approach we know to be effective via the experience of legislators and borrowers in the state of Colorado.

I will gladly admit that the law Ohio legislators passed in 2008 was too strict and would dry up sub-prime credit in Ohio. That is why we looked at laws passed in other states while we crafted HB 123. This bill is a compromise between simply closing the loophole and shutting down the industry completely or living with what we have now – a market in which subprime borrowers have none of the protections that other borrowers enjoy at local banks.

We know that 1 in 10 Ohioans take out a payday loan which allows them to borrow against future paychecks. As a Representative of the 79th District, I understand that some residents of my district need access to this type of credit.

These folks with a bad credit history – but who have jobs and a checking account – are hardworking individuals. They find themselves in need of extra cash to pay a bill before their next paycheck, or to address unexpected emergencies like fixing a car so they can get to work.

House Bill 123 has been written after looking closely at Colorado's successful reform passed in 2010. By looking at six years of data from this Colorado's reform, we have crafted legislation that actually **improves on what we have seen in Colorado**. House Bill 123 matches Colorado's law in terms of average APR, payment size, and maximum loan size, but it is simpler.

Unlike Colorado's law, HB 123 eliminates back-loading of fees so that revenue for the lenders is more predictable; that helps the lenders. It also removes limits on loan sizes that are tied to a borrower's Gross Monthly Income (GMI).

National data shows these loan borrowers have loans out for five months of the year. In Ohio, **borrowing $300 for five months results in *interest and fees alone* of $680**.

In Colorado, the same loan, over the same period, only costs $172 in fees and interest. That is $500 less than in Ohio. Yet these same companies operate in both states successfully.

House Bill 123 does three basic things.

- **First and foremost, it closes the loophole that allows payday lenders to operate under statutes not intended for them.** The bill does this by better defining the Mortgage Loan Act, the Small Loan Act and the Credit Services Organization Act, to ensure the statutes are being followed according to legislative intent of those acts. These changes are vital as the CSO statute, intended for lenders offering debt consolidation for individuals owing more than $10,000, does not have restrictions on fees that may be charged.

  Lenders offering payday loans should not be governed by this statute that was intended for loans greater than $10k.

- **Second, House Bill 123 retains the 28% interest rate limit enacted by the legislature in 2008** and overwhelmingly affirmed by voters, and allows a monthly fee of 5% of the loan amount. That means monthly fees on a loan of $200 or $300 would be $10 and $15 respectively. A monthly fee on a loan $400 or $500 would be the maximum amount of $20 per month.

- **Third, the required monthly payment on a loan would be limited to 5% of the borrower's Gross Monthly Income (GMI).** This is perhaps the most important part of House Bill 123, as it will eliminate the full payment requirement on the typical payday loan that causes what people call "churning".

  Churning occurs when the borrower either has enough money to pay off the loan but immediately takes out a new loan before leaving to have money for the following week or doesn't have enough money to pay off the loan, so they pay a fee that can be $50 or even $100 to "rollover" the loan for another period. These are the fees that create the astronomical APRs we talk about.

The stakeholders on the lending side of this issue will tell you that they will leave Ohio.

While I admit that the “fishing” might not be as lucrative as it once was when it comes to offering payday loans, the results we see in Colorado tell us otherwise: prior to 2010, 93% of Colorado’s population lived within 20 miles of a store. Today, 91% of residents live within 20 miles of a store. While some storefronts did close, the stores that are operating today serve twice as many customers than before the reform was enacted.

Finally, borrowers spend 42% less on the same products in Colorado, saving more than $40 million each year.

In Ohio, we conservatively anticipate the savings would be more than $75 million per year – savings that would no doubt be reinvested into the local economy by the individuals who need the money the most.

I am sure representatives of the Ohio Consumer Lenders Association (OCLA), which represents payday lenders in Ohio, have come to you and told you that House Bill 123 will eliminate access to subprime credit in Ohio. This is simply not what we see in other states by some of the same stores that operate in Ohio.

Chairman Oelslager, we have talked with several lenders who operate in other states (but not Ohio). They have told us they do not want to come to Ohio because the Short-Term Loan Act passed in 2008 would indeed make them unprofitable. It is also true, that to open a store in Ohio - it would require interested lenders to misrepresent what kind business they are, forcing them to climb through a loophole and license themselves as something they are not. Something they have refused to do.

This restricts free-market forces from driving down the cost of borrowing in Ohio!

In the end, we don't expect the payday lenders, the OCLA or the lobbyists for payday lenders in Ohio to support this bill. With zero of them actually licensed as a payday lenders - I don't know why they would.

I was not sent here to represent businesses that are mostly owned by out-of-state entities that use a loophole to charge Ohioans considerably more than they charge consumers in other states. I was sent here to represent the citizens of Ohio, who overwhelmingly support common-sense guidelines that protect the consumers in Ohio who are working hard to make ends meet.

The time for reform is now. Ohioans forego $200,000 in savings each day that passes without action on this bill. House Bill 123 will bring reform to the Short-Term Loan Act in Ohio – a law that, at present, governs no one, serves no one, and protects no one. House Bill 123 is common sense reform that allows payday lenders to finally be licensed as what they are and allows consumers much-needed protection while making sure they have access to subprime loan options.

Inclosing let me repeat: In Ohio, if you are wealthy, well-informed, and have a good credit score, you can walk into any bank apply for a loan and know that the Ohio Revised code has pages and pages of laws that protect you from making a foolish mistake. However, if you are poor, un-informed and have a bad credit score, when you walk into a payday lending store, **no lines of the Ohio Revised Code protect you** from making a foolish mistake.

Chairman Oelslager and members of the Senate Finance Committee, I thank you for allowing me and my joint-sponsor to testify today. We will be more than happy to answer any questions that you may have.

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