



Testimony on House Bill 38
Ohio Senate Insurance and Financial Institutions Committee
Nate Coffman, Ohio CDC Association
November 18, 2020

Chairman Hackett, Vice Chairman Hottinger, Ranking Member Craig, and members of the committee, my name is Nate Coffman, executive director of the Ohio CDC Association, a statewide membership association of community development organizations that work to revitalize struggling rural and urban communities. I am also an active member of Ohioans for Payday Loan Reform, a statewide coalition of faith, business, local government, and nonprofit organizations that championed the Ohio Fairness in Lending Act of 2018. I'm testifying today regarding amendment g_133_0602 (lines 177 – 184) to House Bill 38. Given the passage in 2018 of the Ohio Fairness in Lending Act (HB 123), we're concerned that this amendment could have unintended consequences and potentially create a loophole that could threaten the effectiveness of the Ohio Fairness in Lending Act (OFLA).

First, I'd like to share a quick update on the successful implementation of payday lending reform. Thanks to bipartisan legislation affordable loans are widely available, they cost approximately four times less than before, and it has effectively stopped the debt trap. Consumers are saving more than \$75 million dollars a year and benefit from widespread access to affordable credit.

Ohio Department of Commerce data shows there are numerous locations open in the state offering small loans in cities, suburbs, and more rural areas. Consumer-facing nonprofits and legal aid attorneys in our coalition have seen a sharp decline in clients who report problems with loans since HB 123 took effect. According to Ohio Attorney General data, complaints about payday lending are down. And the concern that payday lenders expressed that more consumers would use illegal lenders has not materialized.

In fact, the new law is working well for responsible lenders, too. A prominent company that strongly opposed reform, now advertises that their customers have more time to pay back the loans, and that the new loans cost much less and may be prepaid without penalty. A vendor serving the payday lending industry found that Ohio had the 7th-highest loan volume of any state in 2019. Thanks to the level playing field set by HB 123, lower-cost lenders have opened too and report that the law is working well for them and consumers alike. Ohio's comprehensive reforms are working exactly as intended, without loopholes, to create a safe and robust market for affordable credit.

The proposed amendment to the Consumer Installment Loan Act (CILA) could allow lenders to add a variety of fees, without limit, in addition to what CILA currently allows, including

application fees, annual or monthly participation fees, or penalty fees. The fact that such fees are neither enumerated nor limited in any way would undo the interest rate and fee limitations established in the CILA law as it currently exists. That change could be badly abused by high-cost lenders, reopening the floodgates to harmful lending that we saw before CILA was passed in 2017 and before the legislature took sensible action to rein in payday lending in 2018.

In addition, the way the amendment is written makes the existing legal requirement (“provided the transactions are not a condition of the loan”) effectively meaningless, since it could be read to carve out any additional charge that is not considered a finance charge under existing statute even if the charge is mandatory (i.e., “a condition of the loan”), which could include application fees and/or mandatory annual or monthly participation fees.

Though the amendment does not amend the OFLA, it could seriously undermine the policy behind that statute since it could be read to allow installment lenders operating under CILA to add virtually unlimited periodic account maintenance fees or other charges in amounts that far surpass amounts allowable under the OFLA, even though we understand those are not the practices of current CILA licensees. But the overly broad changes in this amendment could inadvertently lead to an influx of predatory companies into the CILA statute.

We are concerned that the vagueness of the amendment could create a loophole that allows unlimited fees and unintentionally return Ohio’s market to a dangerous wild west for predatory lenders.

Thank you for allowing me the time to testify on HB 38. I’d be pleased to answer any questions from the committee.

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