



216-452-1026
Direct Telephone

Marc E. Dann
MDann@DannLaw.com
Email

216-373-0536
Fax

**TESTIMONY OF FORMER ATTORNEY GENERAL MARC DANN REGARDING
HOUSE BILL 133**

HOUSE FINANCIAL INSTITUTIONS COMMITTEE

MARCH 9, 2021

Good Morning Chairman Jordan, Vice Chair Ferguson and Ranking Member Crossman. I am the managing partner of DannLaw, a consumer protection law firm with offices in Cleveland, Columbus and Cincinnati and the Founding Partner of Advocate Attorneys LP a Washington DC based law firm focused on training and mobilizing consumer protection lawyers throughout the country.

As both Ohio Attorney General and a lawyer in private practice I have been representing victims of predatory lending and deceptive business practices for more than 30 years. Many of my clients have been poor and working-class people who were sucked into a devastating cycle of repeat borrowing by unscrupulous lenders. Once snared in the debt trap sprung by these legally-sanctioned loan sharks, they are forced to pay astronomical interest rates on small loans for months and years. As a result, far too many borrowers lose their cars, their homes, their jobs, and their hope of ever achieving the American Dream.

The practices payday lenders routinely used in their ruthless pursuit of profits were so blatantly immoral, deceitful, devious, and dishonest that the people of Ohio and the General Assembly repeatedly took decisive action to regulate the industry and curb its abusive and devastating behavior.

Most recently, the members of the legislature, including many of you, stepped up and passed the Fairness in Lending Act (FLA). The bipartisan legislation, hailed by many as the best payday lending law in the nation when it passed in 2018, has been upheld and enforced by courts and is saving Ohioans an estimated \$75 million per year that is being reinvested in our communities and strengthening local economies across the state.



Passage of the FLA clearly demonstrated that the members of this body are more than capable of placing the interests of everyday Ohioans above those of moneyed special interests. It was truly one of the finest hours in the history of the General Assembly.

In some ways HB 133, particularly the provision that ensures property taxes are not artificially inflated during the pandemic, is cut from the same cloth as the FLA. If the legislation did nothing more than that, I would be testifying as a proponent. Unfortunately, that is not the case. The bill goes much further and contains language that puts Ohio homeowners and consumers at risk.

I am most concerned about the provision that would undermine reforms enacted in 2018 to protect Ohio homeowners from unscrupulous mortgage loan servicers and subordinate lien holders. That legislation required lien holders to give borrowers more than 30 days written notice of all of their legal rights including their ability to file bankruptcy to strip subordinate liens from their property in certain circumstances and to mount other defenses against collection actions.

HB 133 weakens those protections by changing the definition and the responsibilities of holders of second position mortgages and judgment liens. As a result, judgement lien holders will no longer be required to notify borrowers of their legal options when they demand payment or threaten foreclosure. Essentially these lenders, who will not recover a dime if a foreclosure is completed, will now be able to use fear and intimidation to extract payments from homeowners who will not know that they have the legal right to fight back.

This ill-conceived and dangerous revision is being proposed as a time when rising property values are fueling a significant increase in the number of second mortgage lenders and lien holders are seeking to foreclose on properties—including many owned by borrowers who are current on their first mortgage. Now is clearly not the time to expose Ohioans struggling to recover from the pandemic to the threat of losing their homes.

In addition, predatory lenders who never let a good crisis go to waste, will also benefit from HB 133 which will, in a number of ways, enable them to profit from the misery of tens of thousands of hard working Ohioans who live paycheck to paycheck and are a car repair, emergency room visit, or COVID quarantine away from financial devastation. Policy Matters Ohio has provided testimony directly on these issues.



I and other consumer advocates are especially troubled by two provisions that we believe should be removed from the bill:

The first increases the types of financial firms eligible to become state chartered banks. This opens a door that will allow payday and other predatory lenders to avoid state usury laws and exempt them from Ohio's strong Consumer Sales Practices Act and other consumer protection laws. It will also put state banking regulators unfamiliar with payday lenders at a severe disadvantage as they attempt to oversee the industry. This subject requires much more discussion than it has received in this committee.

The second puts consumers at risk by permitting Credit Services Organizations (CSO) to spread their contracts out over a longer period of time. These organizations, which do little that borrowers cannot do for themselves, often advise unsophisticated Ohioans to stop paying their bills and ignore court proceedings that can result in judgments, garnishments and liens on their homes. HB 133 will make it much more difficult for Ohioans to cut ties with CSOs that engage in deceptive and unethical conduct with lenders, credit reporting agencies and borrowers. This committee should be looking to tighten rules for these companies.

In addition, I would urge members to study the testimony offered by Kalitha Williams of Policy Matters Ohio who provides important detail about a number of other troubling aspects of the legislation.

Chairman Jordan, members of the Committee, it is early in this session of the General Assembly which means there is ample time to carefully consider the impact several provisions of the bill will have on Ohioans and Ohio's economy as we begin to emerge from the pandemic. Removal of this alarming and unnecessary language from HB 133 will serve the best interests of your constituents.

Thank you for giving me the opportunity to appear before you today and I am eager to answer any questions you may have.