

Senate Finance Committee
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Testimony supporting H.B. 123

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Payday and car title lenders in our state are charging unconscionable interest rates, typically 591% APR on loans of \$300 for two weeks, reportedly the highest in the nation. These lenders do this by exploiting a loophole in Ohio law, taking out Credit Services Organization (CSO) licenses to “broker” these loans, in partnership with a single lender who bears no risk, and all the while holding themselves out in their storefronts and in their advertising as making the loans themselves.

Their practices are not just unethical and immoral, but also directly violate Ohio law, and yet the Ohio legislature has done nothing about them for the past ten years. The last time that this body attempted reform, the payday lenders’ lobbyists saw to it that their deceptive loan products and business practices would continue, despite the clear consensus of the citizens of Ohio that these loans should be regulated. Retired Ohio Supreme Court Justice Paul Pfeifer probably said it best in *Ohio Neighborhood Fin., Inc. v. Scott*:

I write separately because something about the case doesn't seem right. There was great angst in the air. Payday lending was a scourge. It had to be eliminated or at least controlled. So the General Assembly enacted a bill, the Short-Term Lender Act (“STLA”), R.C. 1321.35 to 1321.48, to regulate short-term, or payday, loans. And then a funny thing happened: nothing. It was as if the STLA did not exist. Not a single lender in Ohio is subject to the law. How is this possible? How can the General Assembly set out to regulate a controversial industry and achieve absolutely nothing? Were the lobbyists smarter than the legislators? Did the legislators realize that the bill was smoke and mirrors and would accomplish nothing?

Ohio Neighborhood Fin., Inc. v. Scott, 2014-Ohio-2440, ¶¶ 42-43, 139 Ohio St. 3d 536, 547–48, 13 N.E.3d 1115, 1126.

We know what some of the payday lobbyists were doing recently with former House Speaker Cliff Rosenberger, so I ask you: Is this really an industry that you want to be associated with? Is this really an industry whose “best practices” should be codified into Ohio law?

In accordance with the rest of Ohio’s consumer finance statutes, it is critical that all short-term loans be well-regulated. In the payday and auto title loan markets in particular, where borrowers in financial distress risk losing their checking accounts or cars, setting appropriate limits on rates and fees is a necessity. To address the churning of loans that is at the heart of these lenders’ deceptive business model, the legislature must ensure that all loans have affordable payments. Borrowers also need a reasonable amount of time to repay. H.B. 123 provides fair prices, affordable payments, and enough time to repay. It closes the CSO loophole and still provides lenders with a reasonable profit. Many of Ohio’s payday lenders are currently operating in Colorado under a similar fee structure, so their claims that H.B. 123 will put the industry out of business are false. H.B. 123 represents a reasonable compromise between the industry’s anti-consumer status quo, and an outright ban or severe restrictions on payday lending, as 15 states and the Department of Defense have already done.¹

Every week, I see clients in my office who are unable to pay back one of these loans and are suffering. They are the working poor, the elderly and the disabled, living paycheck to paycheck. They have taken out loans with the same lenders for months or even years. Offering

¹ It is noteworthy that The Department of Defense reported to Congress that “. . .predatory lending undermines military readiness, harms the morale of troops and their families, and adds to the cost of fielding an all-volunteer fighting force.” Department of Defense, Report On Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents, August 9, 2006, p. 9. www.defenselink.mil/pubs/pdfs/Report_to_Congress_final.pdf., and capped interest rates at 36% APR, prohibited securing loans with checks, electronic access to bank accounts, vehicle titles, or allotment of military pay.

or requiring consumer education will not fix this problem without addressing the products that are designed to trap consumers in debt. You don't give someone driver's education and then hand them a car with no brakes. The law must require that all of these products are designed to work in a reasonable and fair way. Giving an extended repayment plan once per year or developing a cumbersome database of loans is not going to make this product any less defective or flawed if the payments are unaffordable. Proposals from industry that neglect the CSO lending model and policies like "free no-cost extensions," "cooling off periods," have proven to be ineffective in other states where they were pushed by this industry.

This is an industry built on deceptive and unconscionable practices. Their proposed "fixes," which are apparently being advocated by Senator Huffman, have been proven to fail time and again. H.B. 123, on the other hand, will fix Ohio's laws and make the marketplace safe for Ohio's citizens and reasonably profitable for lenders. Does Ohio really need another bill that is smoke and mirrors and accomplishes nothing?