



April 28, 2017

The Honorable Jonathan Dever
77 South High Street
Columbus, OH 43215

RE: Opposition of House Bill 67

Dear Chairman:

I have reviewed the changes that Representative Young proposed in the most recent version. It is important to realize that cognovit language within any credit instrument within the state of Ohio solely relates to commercial lending products. The cognovits provisions are not permitted within residential or consumer lending contracts.

Commercial borrowers are experienced, educated business people. And the banking industry relies upon that education and experience when making credit decisions. These credit decisions permit businesses to grow and prosper; which positively impacts the entire economics of the state, and country.

Commercial lending is a much riskier market than consumer lending. Collateral can be limited or difficult to identify. However, collateral is only a single form of debt repayment, and is typically the least desired form of debt repayment. Every banker prefers commercial debt to be repaid from business operations, seeking debt repayment by liquidating collateral or pursuing repayment from personal obligors is the least desired method.

These proposed changes limit a bank's ability to collect debt. In commercial lending, collateral can take many forms, and is not limited to hard assets that are easily liquidated such as real estate in mortgage lending, or an automobile in consumer lending. Collateral can be in the form of Accounts Receivables or Inventory. These items of collateral are more mobile, and limiting any bank's ability to recover these items during liquidation will increase costs to the bank, and even potential costs to our federal regulators (OCC, FDIC, or Federal Reserve) and federal insurers (FDIC). Representative Young has not asked for responses or even brought these proposed changes to our federal regulators/insurers whom would be impacted by this proposed bill.



3721 Oberlin Avenue
Lorain, Ohio 44053-2795
440-282-6188
Fax: 440-282-8395

2233 East 42nd Street
Lorain, Ohio 44055-3598
Fax: 440-277-5717
440-277-5809

Lorain Offices

1180 Park Avenue
Amberst, Ohio 44001-2439
440-984-4009
Fax: 440-984-4080

36690 Detroit Road
Avon, Ohio 44011-1507
440-934-3340
Fax: 440-934-3336

Member
FDIC

Erie Islands Division Offices

207 W. Washington Row
Sandusky, Ohio 44870-2620
419-626-5576
Fax: 419-626-5139

427 Main Street
Huron, Ohio 44839-1652
419-433-2437
Fax: 419-433-6328

1840 East Perry Street
Port Clinton, Ohio 43452-1458
419-734-5568
Fax: 419-734-6335



It is imperative that one must realize that when a bank seeks repayment, and especially community banks, we are seeking the return of our depositors' funds. We as a community bank do not borrower funds to lend out, we use our depositors' funds to lend. Our depositors expect to get their funds back, and those funds are insured by the FDIC.

Limiting the ability of a bank to obtain a confession of judgment will increase losses for banks. That will in turn increase our lending costs. Banks will react by increasing pricing and limiting credit. Both of those instances will have negative effects upon the economy. Removing or postponing a bank's ability to obtain a judgment and seek the prompt liquidation of assets that can be moved or hidden will negatively impact collection efforts. Cash deposits, accounts receivables, inventory, work in process all become flight risks. These assets are pledged as collateral in commercial loans, altering a bank's ability at accessing these assets swiftly will turn secured loans into unsecured loans. Promptness is the key issues with respect to collections of defaulted commercial loans.

Debtors already have the ability to appeal a judgment lien. This bill, increases the ability of a debtor to walk away from obligations, and to hide assets. Every debtor has the ability to file for bankruptcy protection. Cognovit provisions within credit instruments permit banks to expeditiously pursue the repayment of their depositor funds.

From another viewpoint, take a look at any typical commercial real estate credit obligation. A bank will require that a borrower provide a 25% equity injection into the purchase or refinance of a commercial property. In a one million dollar transaction, the property owner has invested \$250,000.00, while the bank has invested \$750,000.00. The bank has injected three times the investment of the borrower/property owner. Banks are relying on a limited income stream for the use of their depositors' funds, the property owner's profit has no limits. Should not the limited, and larger investor have a more direct (meaning less limited) form of repayment tools than what is proposed in HB 67?

Respectfully,

Michael R. Simpson, AVP, Credit Analyst Manager
First Federal Savings of Lorain
3721 Oberlin Avenue
Lorain, OH 44053-2761
440-282-6219 - phone



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Lorain, Ohio 44053-2795
440-282-6188
Fax: 440-282-8395

2233 East 42nd Street
Lorain, Ohio 44055-3598
Fax: 440-277-5717
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Amherst, Ohio 44001-2439
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