

Oppose HB 2191 – Keep Predatory Lenders Out of Pennsylvania

To: Honorable Members of the House Committee on Consumer Affairs

Dear Representatives:

We write to urge you to oppose HB 2191 and keep predatory payday loans out of Pennsylvania.

HB 2191 explicitly authorizes predatory payday loans, at rates well above Pennsylvania’s long-standing usury laws. Payday loans are an abusive form of lending that traps financially vulnerable borrowers into a long-term cycle of debt. These loans are short-term cash advances with extraordinarily high fees and interest. An average payday loan is about \$300 and carries a fee of \$46 which represents a **419% annual percentage rate (APR)** for a two-week loan, as would be allowed under HB 2191.

HB 2191 codifies the abusive terms of the product which perpetuate a long-term cycle of debt. While payday lenders market these loans as “short-term” or “emergency” loans, lending patterns demonstrate that these loans actually create a long-term debt trap. In fact, the loan product itself is structured to create repetitive borrowing. Payday loans typically require a single balloon payment of principal and interest over a very short period of time, and require access to a borrower’s bank account as a condition of the loan. As result, most borrowers are unable to pay it back and still have enough money to pay for their other regular expenses. Borrowers then have to take out another payday loan shortly after just to make ends meet. This begins the debt trap cycle, and HB 2191 will make it legal, leaving no recourse to stop it.

According to a comprehensive report on payday lending conducted by the U.S. Department of Defense, "***The debt trap is the rule not the exception.***"¹ In the words of the CEO of Cash America International, one of the out-of-state companies pushing HB 2191, the debt trap is the core of the business model: "***The theory in the business is you've got to get that customer in, work to turn him into a repetitive customer, long-term customer, because that's really where the profitability is.***"²

Payday lending at triple-digit interest rates has long been illegal under Pennsylvania law, regardless if those loans are made on-line or at a storefront. Unlicensed, small-loan lenders are limited to charging only

Signees Updated 04.29.12

Organizations Opposing HB 2191

AARP Pennsylvania
Pennsylvania Council of Churches
Pennsylvania AFL-CIO
United Methodist Advocacy in Pennsylvania
Housing Alliance of Pennsylvania
Lutheran Advocacy Ministry in Pennsylvania
Pennsylvania Interfaith Impact Network (PIIN)
Pennsylvania Utility Law Project
Pennsylvania PIRG
Pennsylvania chapter of Nat'l Assoc. of Consumer Attorneys
The Reinvestment Fund
Advantage Credit Counseling Services
CLARIFI Credit Counseling
Community Housing Services
Esperanza
Just Harvest
Community Legal Services
Hill District Consensus Group
Community Justice Project
Homeownership Counseling Assoc. of Delaware Valley
Public Citizens for Children and Youth
Tabor Community Services
United Way of Southeastern Pennsylvania
Veterans Leadership Program of Western Pennsylvania

...and many more

6% interest annually and lenders licensed by the Banking Department may charge higher rates of about 24% APR. HB 2191 eviscerates this level playing field and allows payday lenders to charge up to 419% APR for a two-week loan of \$300.

The Pennsylvania Supreme Court has upheld enforcement actions taken by the Banking Department to shut down illegal payday lending operations run out of store-fronts in the Commonwealth as well as those made over the Internet.³ In its 2010 opinion against Cash America International's illegal online payday loans to Pennsylvania borrowers, the Court noted that "*[i]t is well established that public policy in this Commonwealth prohibits usurious lending, and this prohibition has been recognized for over 100 years.*"⁴

Bill supporters say this is a necessary step to protect Pennsylvanians from predatory lenders, when in fact it is the exact opposite. HB 2191 does nothing more than open the door to unscrupulous practices that Pennsylvania has successfully fought to keep out of its borders. Bill supporters also claim it provides "consumer protections," such as renewal limits, a database, a cooling off period, etc. However, these are meaningless provisions which do not stop the debt trap. Data from other states with provisions and interest rates similar to HB 2191 reveal that payday borrowers are stuck in 9 transactions a year, typically taken out back-to-back, and 60% of payday revenues are due to borrowers with 12 or more loans a year.

We urge you to make every effort to stop this bill from passing. Recent academic research verifies the harm created by the exploitative design of the payday loan. Payday loans are a stepping stone to delinquency on other bills⁵, bank account closures⁶, and even bankruptcy⁷. In fact, payday loans caused so much harm to the finances of service members that Congress banned them because they threatened military readiness. Pennsylvanians are currently protected from these harms with our long-standing small loan laws.

HB 2191 would roll back our state's existing consumer protections which have been successfully enforced for years against the same companies which now lobby for this bill.

If we can provide you with any additional information, please contact Kerry Smith from Community Legal Services at 215-981-3724 or 215-680-0838 (cell), or any of the organizations listed below.

Signees

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¹ U.S. Department of Defense, "Report On Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents." Aug. 9, 2006, http://www.defense.gov/pubs/pdfs/report_to_congress_final.pdf

² Dan Feehan, CEO of Cash America, remarks made at the Jeffries Financial Services Conference, 6-20-07.

³ See e.g., *Pa. Dept. of Banking v. NCAS of DE, d/b/a Advance America Cash Advance Centers*, 596 Pa. 638, 948 A.2d 752 (2008) (holding that the fees and interest Advance America charged on payday loans made in its Pennsylvania stores violated Pennsylvania's usury laws); and Consent Agreement and Order, *Pa. Dept. of Banking v. East Side Lenders LLC*, Docket 11-20020, available at http://www.portal.state.pa.us/portal/server.pt/document/1226744/east_side_lenders%2C_llc22112_pdf (ordering an Internet payday lender to pay a \$150,000 fine to the Commonwealth, to issue refunds to borrowers and to cease making illegal payday loans to Pennsylvania residents).

⁴ *Cash America Net of Nevada, LLC v. Pa. Dept. of Banking*, 607 Pa. 432, 449, 8 A.3d 282, 292 (2010) (holding that payday loans made over the Internet to Pennsylvania residents by Cash America were illegal under state law).

⁵ A researcher from the University of Chicago, Brian T. Meltzer, found that access to payday loans increases the chances that a household will encounter hardship, have difficulty paying bills, or have to delay medical care or

prescription purchases. Brian T. Melzer, *The Real Costs of Credit Access: Evidence from the Payday Lending Market* (Jan. 3, 2009), available at http://www.kellogg.northwestern.edu/faculty/melzer/realcosts_melzer_01_03_09.pdf.

⁶ Payday lending also increases the odds that households will repeatedly overdraft and ultimately lose their checking accounts. Researchers from Harvard Business School analyzed involuntary bank account closures, which usually result from an account holder bouncing checks or overdrawing an account too many times. Using national data, the study found that payday loans are associated with an increase in closed bank accounts due to multiple overdrafts. Dennis Campbell, et al., *Bouncing Out of the Banking System: An Empirical Analysis of Involuntary Bank Account Closures* (Dec. 3, 2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1335873

⁷ In a recent study, economists Professor Paige Marta Skiba of Vanderbilt University and Professor Jeremy Tobacman of the University of Pennsylvania found that payday borrowers are significantly more likely to file for bankruptcy than similarly-situated people who do not use payday loans. Paige Marta Skiba & Jeremy Tobacman, *Do Payday Loans Cause Bankruptcy?* (Oct. 10, 2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1266215