STATE REPRESENTATIVE
GORDON HINTZ

WISCONSIN STATE ASSEMBLY 54th DISTRICT

March 18, 2010
Veterans and Military Affairs, Biotechnology, and Financial Institutions
Representative Gordon Hintz

For years, we have heard horror stories from families being taken advantage by our unregulated payday loan industry in Wisconsin. These are people who find themselves in need of some financial assistance and unscrupulous lenders take advantage by giving them multiple loans without consideration of their income or ability to repay. This is how people end up in what is called the "debt trap" where they just can't dig themselves out because they have no reasonable repayment opportunity. The impact of how payday lenders operate in our state goes far beyond the victims, as families, taxpayers, and social services have to foot the bill while communities lose hundreds of millions of dollars that could have been spent locally instead of on high cost credit to out-of-state companies.

Wisconsin has looked at this issue before. In 2004 AB 665 passed the Republican led Assembly and Senate and Governor Doyle rightly vetoed it as being too weak. It did not include adequate consumer protection. In his veto message, Doyle said *"In 2003, Wisconsin's payday consumers paid nearly $85 million in payday lending fees and more than 90 percent of those fees went directly to out-of-state companies. This industry has a huge economic impact on our communities and we need to seriously address this issue.....I encourage the Legislature to work with my administration and other concerned groups to draft legislation that will make real changes in the regulation of payday lending and that will ensure the protection of Wisconsin consumers."*

Six years later, Wisconsinites continue to wait for its leaders do something. Finally, after a year of highly publicized debate in the media and forums across the state, the Wisconsin State Assembly passed AB 447, the Responsible Lending Act (RLA). The RLA is strong reform that addresses these problems by including both an income test and loan limit to stop lenders from lending people more than they can reasonably pay back.

Income Test
When an individual applies for a business loan or a home loan, lenders generally consider a borrowers ability to pay, likely disposable income after fixed costs are accounted for. For payday loans, no such consideration is made. Many people receiving loans are unable to pay them back quickly and must face either unaffordable repayment terms or "roll over" situations where the original loan is repaid by an additional loan. Multiple roll-over loans create what is called the debt trap. A two-week loan of $200 rolled over four times costs an additional $200 for a ten week period. Data from the industry often attempts to minimize report of the number of rollovers by having you believe that each loan is an independent transaction. Even if a high cost loan is paid off, it is usually at the expense of fixed or competing needs – food, rent, medical bills, heat, or transit. Allowing loan amounts that cannot reasonably be paid back is designed to extract money from people, to benefit an industry at the expense of the consumer.

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Under RLA short term loans will be limited to a maximum of $600 or 35% of the applicant's gross bi-weekly income, including principle and interest, whichever is less. I have attached a spreadsheet that demonstrates the limits.

Rollovers

Our unregulated system currently allows unlimited rollovers which occur when the customer at the end of the typical 2-week loan, pays just the interest, and extends the original loan and interest for another two weeks. Rollovers account for around 90% of all payday lending profits.

Patricia Nelson, a retired nursing home aid from Waukesha– took out loan to pay for moving expenses to live closer to her family. She initially took out 3 loans from 2 lenders (initial fees were $123.50 for the $550 borrowed) using her future disability check as income. She couldn't pay the money back on time and rolled the loans over 18 times. As of last October, she had paid $2,223 in interest and not a cent toward the principal balance.

A rollover is a non-transparent gimmick that provides no service to the borrower, but major profit to the lender. For example, let's say someone borrows $400, and owes $500 in two weeks. If they cannot pay off the loan, they pay just the $100 in interest, and still owe $500 in two more weeks. So just one rollover has now cost someone $200 on a $400 loan.

The RLA bans rollovers. The interest charged at the transaction is the cost of that loan. The RLA also includes the interest amount within the income test, so the interest does not extend someone beyond their means.

While the RLA does not regulate interest, it does make the transaction and understanding of the loan significantly clearer. Along with the income test, banning rollovers makes sure that the interest included at the time of the loan is the charge in the future for money today. Maintaining rollovers simply protects a profitable industry practice.

Reasonable Repayment Terms

If a payday loan is truly a short term service, it should be expected to be paid off on time. However, we know that under the current system, more than 50% of the loans are rolled over despite someone's intentions. The stories of endless debt destroying lives must end. Under AB 447, if a person is unable to pay back their loan at the end of the timeframe, then they are given the opportunity to make 4 equal payments to pay it off with no fees. What this means is that a person can no longer get in completely over their head with no chance to find their way out. Should the unexpected happen then there are safeguards to ensure their fees do not spiral and the lender is required to work with them.

Banning Auto Title Loans

RLA bans auto title loans. The biggest problem, aside from the massive direct monetary costs of car title loans, is the ripple effects that such loans can have on borrowers' lives. For a person of limited means, losing a car can make it impossible to keep a job, attend school, or obtain health care. Lack of transportation is widely recognized as one of the most significant barriers to obtaining and maintaining employment, and for many title loan borrowers, public transportation is simply not available or not an acceptable substitute for a private vehicle. In 2001, only about half of all

Americans reported that they had public transportation service. Moreover, as Congress has recognized, "two-thirds of all new jobs are in the suburbs, whereas three-quarters of welfare recipients live in rural areas or central cities," and "even in metropolitan areas with excellent public transit systems, less than half of the jobs are accessible by transit." Study after study has confirmed what is intuitively obvious: having a car can be essential to maintaining employment and obtaining access to critical life services.

Auto Title Loans are not subject to the same regulations as normal lenders, therefore it is common to see APR's that are in the triple digits.

- The loan that is given is typically worth less than half of the cars worth
- The balloon payments lead to a debt cycle that eventually leads to the repossession of the car.
- This repossession of the car affects the lives of the borrower in terms of getting a job, getting children to schools, going to hospitals, etc.

In studies measuring the impact of auto title loans, the results are devastating. In Tennessee, one in 7 auto title loans results in the borrower losing their car.

In Illinois in 2005: 18% of the automobile title loans in default resulted in the repossession or loss of the borrower's automobile

Why you should care:
Whether the victims ought to protect themselves is irrelevant. The fact is that they do not. Most consumers of high-cost credit have no idea what they're getting themselves into. Over the past year, I have met with industry representatives, credit counselors, mediators, collections agents, fair housing advocates, community advocates and county social service representatives. The debt trap erodes worker earnings and for many imposes a devastating high-cost debt burden. Bankruptcy, evictions, and taxpayer assistance are not uncommon results. This crushing debt exacerbates income inequality and undermines long-term economic prosperity.

With so many stores, you can see how the business model of borrowing money from one store to pay to pay off the interest at another store profits all of the payday lenders. In Oshkosh, there are 7 stores located within 1 ½ blocks of each other.

The $40 billion payday industry asserts that **payday lending is a necessary service**. However, a necessary service doesn't set people up to fail or earn disproportionate profits from those in tough financial circumstances. The industry recognizes its potential customers, as revealed by an internal Check 'N Go memo obtained by CBS News in 2008 instructing employees to look for "single parent-households with multiple children" and those who are "financially stretched". Making money on consumer indebtedness should not be a business model for any ethical industry.

The industry is quick to highlight that loans can only be made to individuals who are employed and receiving a paycheck, except when of course, they are unemployed and targeted for their unemployment income (see picture).
I often hear predatory payday loan industry representatives talk about how they provide a necessary product and how there are a "few people" who do not use their product correctly. If it were only that

simple. Look up Payday Loan Store in CCAP the past 4 years and you will see more than 1800 small claim judgments in Milwaukee County alone.

Another argument made by the payday industry is that **regulation will cost payday lender jobs**. But let's consider the real impact. For every payday lending staff position, mostly a low-paying, high turnover job, approximately 179 Americans are caught in the cycle of high-cost payday debt, paying at least $250 in interest for the average $300 loan.

Perhaps greater than public costs and additional strains on social services is the **loss of purchasing power in the rest of the economy**. Lower income wage earners likely to spend most of their income on basic goods and services (food, shelter, medicine, etc.) are now spending a substantial part of it on expensive credit, 80% of which leaves the state. I will remind you that this is an industry that has spent more that $660,000 dollars lobbying against reform efforts and tens of thousands more in campaign contributions.

In 2001, the average APR for a payday loan was 542.2%. In 2005, Wisconsin consumers paid an estimated $124 million in fees.

That is why President Obama supports the 36% rate cap for all Americans as part of his plan to *Strengthen the Economy for Working Families*.

Last fall the Assembly held a 9 hour public hearing and elicited testimony from organizations and individuals across the state on this issue. It was an eye-opener that there was great division amongst those testifying on whether a cap was the best route to go. While a rate cap provides the stiffest protection against abusive practices, it also severely restricts access to credit to those who may have few options during a difficult economic time.

The Responsible Lending Act is a comprehensive bill that reins in the most abusive and harmful practices, ends the debt cycle, while preserving access to credit for those who need it.

Despite the differing opinions people have about what the best way to address the problem, the main point is that we *cannot* afford to walk away from this issue. *We* have an *obligation* to the people of this state, to pass legislation this session that will protect Wisconsin's consumers. And today I testify in support of AB 447, the Responsible Lending Act, which will protect consumers from falling into the debt trap while preserving access to credit

People from all sides of the political spectrum recognize the economic and moral concern of allowing an industry to prey upon those in need. Yet the largest obstacle remains the 30 registered lobbyists who have spent countless hours working to stop payday reform. I'm proud the State Assembly ignored these forces and did the right thing for the people by passing the RLA. The State Senate now has the chance to do the same thing. But any legitimate bill must include an income test, ban rollovers and auto title loans. If these provisions are not included then we will know that the payday industry won. It is time to get it done.

With the Responsible Lending Act we eliminate the most abusive lending practices utilized by unscrupulous lenders.

Eligible Loan Amount at 35% or $600, Whichever is Less

Annual Income

Term (days)	$ 10,000	$ 15,000	$ 20,000	$ 25,000	$ 30,000	$ 35,000	$40,000	$ 45,000
1	$ 10	$ 14	$ 19	$ 24	$ 29	$ 34	$ 38	$ 43
2	19	29	38	48	58	67	77	86
3	29	43	58	72	86	101	115	129
4	38	58	77	96	115	134	153	173
5	48	72	96	120	144	168	192	216
6	58	86	115	144	173	201	230	259
7	67	101	134	168	201	235	268	302
8	77	115	153	192	230	268	307	345
9	86	129	173	216	259	302	345	388
10	96	144	192	240	288	336	384	432
11	105	158	211	264	316	369	422	475
12	115	173	230	288	345	403	460	518
13	125	187	249	312	374	436	499	561
14	**$ 134**	**$ 201**	**$ 268**	**$ 336**	**$ 403**	**$ 470**	**$ 537**	**$ 600**
28	$ 268	$ 403	$ 537	$ 600	$ 600	$ 600	$ 600	$ 600

Biweekly Loan Amount	$105	$157	$209	$262	$314	$367	$419	$468
Interest*	$29	$44	$59	$74	$89	$103	$118	$132
Total	**$134**	**$201**	**$268**	**$336**	**$403**	**$470**	**$537**	**$600**

Monthly Loan Amount (28 days)	$209	$314	$419	$468	$468	$468	$468	$468
Interest*	$59	$89	$118	$132	$132	$132	$132	$132
Total	**$268**	**$403**	**$537**	**$600**	**$600**	**$600**	**$600**	**$600**

*calculated on a $22 per hundred charge

The number in bold represents the maximum amount someone with the income at the top of the column would be eligible for in two weeks or one month under Assembly Bill 447 and the substitute amendment.

The figure assumes a charge of $22 per $100 lent.

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TO: Senate Committee on Veterans and Military Affairs, Biotechnology, and Financial Institutions

FROM: Bob Andersen
Stacia Conneely

Bob Andersen

RE: SB 530 & Assembly Substitute Amendment 1 to AB 447, regulating payday loans and auto title loans

DATE: March 18, 2010

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. Consumer law is one of the priorities of the organization.

We are in favor of the proposals that are contained in SB 530 that would regulate this industry. Wisconsin is the only state in the country that does not regulate payday loans. We are also in favor of the provisions contained in Assembly Substitute Amendment 1 to Assembly Bill 447 and Assembly Amendment 2 that was adopted to that substitute.

Specifically, we favor the following provisions of SB 530 and in some instances we recommend that the committee consider adopting provisions that are contained in AB 447, as amendments to that bill:

- Consumers are limited to one rollover of a debt, meaning that the consumer may not take out more than one subsequent consumer small loan to pay for an outstanding loan. National organizations have estimated that 80-90% of the income of payday loan companies comes from rollovers. Rollovers are a large part of the reason why consumers end up with astronomical interest rates on payday loans. Consumers can end up paying interest rates s high as 1000% on a debt. AB 447 goes further to prohibit any rollovers from occurring. The committee may want to consider this approach.

- Payday lenders would not be able to locate closer than 1500 feet of each other or within 150 feet of certain residential zoning districts. Zoning requirements can be even more stringent. The current practice is that payday lenders are located next to each other. While you would think that this promotes an unwanted competition among lenders, the sad truth

is that lenders like this arrangement, because consumers can go next door to take out another payday loan to pay off the first one. This also creates a blight for the cities, villages, towns or residential neighborhoods.

- Interest after the due date on a loan is limited to 2.75% per month. While there is no limit on the interest rate that can be charged before the due date, this at least imposes some limitation on interest after maturity of the debt by creating a rate that is much smaller than the current market rate. AB 447 limits interest after the maturity date to 0%.

- "Aggregate liability" is limited to $900. There is some question as to whether this covers principal and interest only. The liability should include principal, interest, any application fee, or other fees charged before the loan is entered into. AB 447 limits liability for principal and interest to $600 or 35% of the consumer's gross biweekly income, whichever is less. It would be good if SB 530 included such an income limitation.

- Procedures are created for lenders to follow if the database is down. This is an important protection.

- A private right of action is created for consumers to enforce the requirements of the law, allowing consumers to recover $250 in damages or the amount of the consumer loan, whichever is greater, as well as costs including reasonable attorney fees. AB 447 creates a private right of action, which entitles a consumer to twice the interest charged or actual damages, whichever is greater, plus costs, including reasonable attorney fees.

- DFI is allowed to revoke/suspend licenses and assess forfeitures. The potential revocation or suspension of license is a good additional penalty. Violations are subject to a fine of not more than $500 or imprisonment for not more than 6 months. Under AB 447 the fine is not less than $500 or more than $1000 and imprisonment for not more than 6 months.

- Small loans are voided for a lender who has no valid license. The bill should also allow recovery of attorney fees and costs, as is the case for violation by licenced lenders.

- AB 447 prohibits motor vehicle title auto loans by anyone licensed under s. 138.09 (which excludes banks, savings and loan, or credit unions). This is an important provision, because auto title loans become the next device used by these companies after payday loans have been unpaid. Auto title loans become the device to be used when borrowers lose their jobs.

- AB 447 establishes a data base, as does SB 530, but it tracks consumers by giving them unique numbers based on their names, addresses and dates of birth. Social security numbers may not be used. SB 530 requires tracking by social security numbers, which creates a potential for serious harm for consumers.

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THOMAS G. CANNON
Executive Director

To: Members of the Senate Committee on Veterans and Military Affairs, Biotechnology and Financial Institutions
From: Andrew Gehl and Pete Koneazny, Legal Aid Society of Milwaukee, Inc.
Date: March 18, 2009
Re: Testimony Opposing SB 530 and AB 447 – Bills Regulating Payday Loans

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Thank you for the opportunity to testify on SB 530 and for considering the issue of payday lending in Wisconsin. Unfortunately, we do not believe SB 530 or AB 447 go nearly far enough to solve the problem of payday or auto title lending in this state. Our testimony will address the problem of payday lending in Wisconsin, the reasons why SB 530 and AB 447 are insufficient solutions, and offer suggestions for real reform.

Summary of Testimony:

Problems with SB 530: (The following points are addressed in more detail below)

- It does not ban or regulate Auto Title Loans
- It will not stop the cycle of debt that payday loans create
  - 24-hour cooling off periods are not sufficient to stop back-to-back borrowing
  - The 2.75% interest cap after default will never be used because lenders will get borrowers to simply take out new loans and never allow default
  - There is no limit to the number of loans a borrower may take out in a year or at one time
- The $900 aggregate loan limit will have little impact on the problem
  - The limit is not inclusive of interest and fees and is a very high amount
  - It will do nothing to aid borrowers with low incomes – A cap at 35% of a borrower's income is much more effective
- It does not require affordable repayment terms or analysis of the borrower's ability to repay
- It codifies unsafe banking practices of holding an unfunded check or EFT authorization
- Certain provisions will make the bill very difficult for consumers and DFI to enforce
- It leaves Affiliates of Banking Institutions un-regulated even though they are regulated under current law

Problems with AB 447:
In many ways AB 447 is a stronger bill than SB 530 but it also falls short of meaningful reform. It also will not stop the cycle of debt, does not require an analysis of the borrower's ability to repay, codifies unsafe banking practices, and fails to require affordable repayment terms.

Suggestions for Real Reform:

- Institute a 36% rate cap
  - The cleanest and most effective way to create real reform is to enact a 36% rate cap for all small consumer loans. A cap will make payday and title loans affordable for consumers and it will prevent the industry from morphing products to evade the law. 15 other states and the District of Columbia have instituted rate caps

- Close Loopholes and Address Other Problems
  - Any reform short of a rate cap will be open to countless loopholes. However, if the problems we have outlined are addressed many of the loopholes in these bills can be closed. Below, we outline a number of suggestions that should be considered if either bill is have any impact on the problem of payday and auto title lending.

The Problem With Payday and Auto Title Lending:

Our interest in a comprehensive solution to the payday lending problem stems from our work on behalf of the poor. The Legal Aid Society of Milwaukee was founded in 1916 "to do all things necessary for the prevention of injustice." We are one of the nation's oldest, continuously operating, public interest law firms. Each year the Society provides free legal services to 8,000 of Milwaukee's most vulnerable residents: abused and neglected children, developmentally disabled adults, persons living with HIV/AIDS, battered women, immigrants, elderly, prisoners, mentally ill, physically impaired, unemployed, and homeless – all of whom are too poor to afford legal counsel. In our practice, we see how payday loans can drive struggling families into financial ruin.

The real problem with payday and auto title loans is the cycle of debt in which they trap most low-income borrowers. Many low income borrowers are unable to payback their loans in the typical two-week time period and are forced to continually role over their loans, racking up hundreds of dollars in interest each pay period. This back-to-back borrowing or rolling over of loans at triple digit interest rates often leaves borrowers paying many times their principal amount in interest before ever paying back the original loan. Payday and Auto title loans create a debt trap that is very difficult for our clients to climb out of. Regulation is sorely needed in order to protect these consumers.

Problems with SB 530

SB 530 Does Not Bar Auto Title Loans

One of the only truly effective provisions of AB 447 is its ban on auto title lending. SB 530 does not extend its regulations to title lending, a practice which is just as predatory and harmful to Wisconsin Consumers as payday lending. In many cases title lending can be even more harmful to consumers because they risk losing their car and will be more likely to stay in the cycle of debt rather than default on their loan in an effort to save their vehicle.

SB 530 Will Not Stop The Cycle of Debt
The average payday loan borrower takes out 9 loans per year. This legislation does not address limits on the annual number of loans per individual or the elimination of rollovers. SB 530 attempts to deal with the debt trap by limiting borrowers to one renewal/roll-over and a 24 hour cooling off period for all additional renewals. It also limits interest to 2.75% for all loans past the maturity date. However, these regulations will do nothing to stop the back-to-back borrowing that leads to the debt trap. Consumers will not able to take advantage of the 2.75% interest rate because lenders will threaten to bounce their checks if they do not pay in full after the first renewal. On payday, consumers will rush to the payday loan store to "buy back" the check used to get the loan to keep it from bouncing and will take out a new loan days later. Both SB 530 and AB 447 will allow borrowers to have over 20 loans per year at triple digit interest rates. Other states have tried the 24-hour cooling off period and it has had little affect on back-to-back borrowing.[1] These provisions are both examples of areas where payday lenders can easily manipulate their business practices to evade the intended purpose of the regulation.

A $900 Loam Limit Will Have Little Impact
The $900 limit is extremely high and does not appear to include interest and fees. A borrower who takes out a $900 loan at the typical rate of $22 per $100 will owe a finance charge of almost $200. A borrower would have to make at least $28,600 in take home pay per year and use his or her entire 2-week paycheck in order to pay back such a loan on time.

SB 530 Does Not Require Affordable Repayment Terms or Analysis of Borrower's Ability to Repay. SB 530 does not place any limits on loan amounts based on the borrower's income or place any requirements on determining the borrower's ability to repay the loan. While AB 447 also lacks a determination of ability to repay requirement, its limit on the loan amount to $600 or 35% of the borrower's bi-weekly income at least places some limit on the amount of debt in which the borrower may become trapped. Furthermore, neither SB 530 nor AB 447 sets a minimum loan term or requirements that small loans be repaid through affordable installment payments. Thus, under either regulation lenders will still be permitted to offer consumers loans that they cannot afford under terms which will likely lead them into a crippling cycle of debt.

SB 530 Codifies Unsafe Banking Practices by permitting extension of single payment loans based on holding a borrower's unfunded check or checks that cause greater harm for consumers by triggering NSF fees with the banks and the payday lender. It also permits payday lenders to secure payday loans through electronic access to consumers' bank accounts. The federal Electronic Fund Transfer Act prohibits conditioning the extension of credit on a requirement to make periodic payments electronically. While EFTA does not apply to single payment loans paid electronically, state law authorizing compulsory debit payment of a single payment loan is contrary to public policy. Both SB 530 and AB 447 codify these practices which are at worst already against the law and at best coercive banking practices.

SB 530 makes enforcement of the bill difficult by putting the burden to show that a lender intended to make an excessive charge on the borrower. Under Section 13, if a lender violates the

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[1] Information we have received from Consumer Federation of America, a national organization that studies payday lending reform, indicates that Florida attempted a 24-hour cooling period and saw a minimal drop in repeat borrowing.

statute by making an excessive charge, the burden is placed on the consumer to show that the lender intended to charge more than allowed. Since it is often very difficult to prove intent and more realistic for lenders to show that a mistake was unintentional, the burden should be placed on the lender to show that it made a bona fide error.

SB 530 includes weak reporting requirements. Unlike other states that have enacted similar legislation, SB 530 does not permit third parties to review information collected by the database, does not include penalties for inaccurate reporting of information by lenders and allows lenders to avoid liability for use of inaccurate information included in the database. Furthermore, the procedures to be used when the database is not functional provide no incentive keep the database operational. To be effective, there must be strict reporting requirements and transparency and loans should not be permitted when the database is down.

SB 530 appears to leave affiliates of financial institutions unregulated, even though many of them appear to be subject to sec.138.09 Wis. Stats. under current law. Section 12 of the bill would exclude banks, savings banks, savings and loan associations, trust companies, credit unions, or *any of their affiliates* from the consumer small loan licensing requirements. Section 6 of the bill would exempt these entities from the reach of sec. 138.09. At present, sec. 138.09(1m)(a) excludes banks, savings banks, savings and loan associations, and credit unions, but says nothing about their affiliates. The bill thus appears to create immunity from sec. 138.09 for various affiliates of financial institutions, without subjecting them to any of the new licensing requirements.

Problems with AB 447

While AB 447 is a stronger bill than SB 530 it also has many problems. AB 447 will not stop the cycle of debt because it includes the same 24-hour cooling off period loophole as SB 530. AB 447 also has a lower loan limit of $600 or 35% of gross income. This provision is better than SB 530 but it is still a very high amount and, according to information we have received from national experts on this issue, will be the highest loan limit of its kind in the country. AB 447 codifies the same unsafe banking practices as SB 530 and does not require any analysis of a borrower's ability to repay the loan. AB 447 includes provisions like bans on rollovers and interest after maturity but each of these provisions are meaningless with only a 24-hour cooling off period.

In addition, the one-time installment repayment plan will be ineffective for borrowers who average 9 payday loans per year and will likely never be used because of how it will be presented by the lenders. And finally, AB 447 runs the risk of evasion by lenders who simply offer 91 day loans to get out of the regulation. While the bill requires equal installment payments for loans over 90 days, such loans would not have to follow any of the other provisions of the bill.

Solutions for Real Reform

Institute a 36% rate cap

The cleanest and most effective way to create real reform is to enact a 36% rate cap for all small consumer loans. A rate cap would bring the cost of the loan down thereby making it more affordable to consumers and it would prevent the industry from morphing products to evade the

law. By doing so, Wisconsin would join the other fifteen states and the District of Columbia in enacting a cap and in extending meaningful protections to its residents. 15 Senators and 43 Assembly Representatives co-sponsored a rate cap bill in August of 2009 and that support came from both Republicans and Democrats.

Addressing Problems in SB 530 and AB 447

It would be a mistake to pass either of these bills as is. We understand the desire for compromise on this issue but it is important that you realize the implications of passing a bill that only looks like reform. We believe that a rate cap is the only way to truly solve the problem. However, a bill like AB 447 could have some impact on the problem if certain changes to it are made. These changes include:

1. **End Rollovers and Back-to-back borrowing** by:
   - **Extend the current 24-hour cooling off period to at least 2-weeks.** Such a provision would keep payday loans available for emergency purposes but minimize the cycle of debt that traps most borrowers. A 2-week cooling off period will lead borrowers to manage their budgets in a way that does not rely on payday loans. Those that cannot pay the loan back will actually be able to take advantage of the limits on interest after maturity and the installment provision.
   - **Limit the total number of loans per year per borrower.** By limiting the number of loans a consumer can obtain in a given year to under six or four, emergency lending would not be affected while eliminating the potential for the perpetual debt trap of back-to-back borrowing.
2. **Use a definition for consumer small loan that does not permit lenders to evade the regulation or to continue dangerous banking practices.**
   - **Do not include a loan term or small dollar amount in the definition of consumer loan.** Lenders will redefine their loan based on the definition presented in legislation. A 90-day loan definition will prompt the industry to offer 91-day loans.
   - **Define consumer small loans as all loans under $5000 that cost greater than 36% APR.** Such a definition will ensure that all payday lenders are covered regardless of how they structure their loan product and whether they require an unfunded check or EFT authorization. This will encourage lenders to charge reasonable interest rates to avoid being regulated and will have no affect on financial institutions that offer small loans at reasonable rates.
3. **Require affordable repayment terms and analysis of the borrower's ability to repay**
   - **Require a minimum repayment period of ninety days.** Consumers who typically get paid every two weeks would have six pay periods to repay debt. It would make payments smaller per pay period and therefore more affordable within the consumer's weekly budget.
   - **Change the loan limit to $300 or 35% of take-home pay**
   - **Require Lenders to do an analysis of the borrower's ability to repay**
4. **Ban Auto Title Loans.** Title loans are as bad, if not worse for consumers than payday loans. Title loans must be banned or at least addressed in any regulation that passes.
5. **Address the Reporting, Enforcement and Exemption of Affiliates issues discussed above.**

To conclude, we think it is essential that the Legislature act forcefully to combat the practices of payday and auto title lending in Wisconsin. However, it is very important that you do not pass "reform in name only." We are not the first state to address this issue. In fact, we are the only state without any regulation of this industry. The benefit of being a laggard is that we can learn from other states' mistakes. Passing SB 530 or AB 447 as they stand would be such a mistake.

Andrew T. Gehl
Pete Koneazny
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Your first step to **financial freedom.**

Consumer Credit Counseling Service
of Greater Milwaukee

March 18, 2010

Senate Committee on Veterans & Military Affairs, Biotechnology, and Financial Institutions
Senator Jim Sullivan, Chair
P.O. Box 7882
Madison, WI 53707

Dear Chairman Sullivan,

My name is Kathryn Crumpton and I am the manager of Consumer Credit Counseling Service (CCCS) of Greater Milwaukee. CCCS is a not for profit credit counseling agency that works with consumers from all walks of life with their financial issues. I am here today to testify about access to credit with the individuals I counsel, and the need to maintain choice in the financial marketplace.

As a credit counselor, one of the biggest issues for our clients is credit. Many of our clients have limited access to credit. This may be due to limited credit experience or poor handling of credit they have had in the past. Sometimes, the choices are not ideal, but at least there are choices for consumers. I do have some concerns with SB 530 that I wish to address with my testimony.

As a credit counselor, I cannot stress enough the importance of flexibility for consumers in their financial choices. SB 530 would limit the amount of refinances to one, thereby disallowing flexibility in working with the individual in repayment of their loan. What often happens when this occurs is that the consumer is forced into much more expensive and financially damaging situations; most notably, the collection process. Once the consumer enters the collection process, I, as a counselor, have no way of working with the consumer and the lender to help negotiate repayment options. I strongly recommend that SB 530 include a higher amount of refinancing ability and repayment plan options, thereby allowing the consumer greater flexibility in working on issues with their loan. A possible alternative would be for the lender to refer their customer to a non profit credit counseling agency for counseling and a repayment plan after the third refinance. We all witnessed what happened in the mortgage industry when individuals didn't have the ability to refinance their mortgage; the increase in foreclosures skyrocketed. We need to avoid this same situation within the short term lending marketplace and allow for greater accommodation to the borrowers who need it.

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I also wanted to address the aggregate limit of $900 within SB 530. I often counsel individuals who, although they may even qualify for a loan, are often forced into worse financial and more expensive alternatives because they aren't granted the ability to take out the amount they need for the loan. On the reverse side, I have seen individuals given more credit than they can possibly repay. By creating an arbitrary limit on a person's short-term loan amount, you are not taking into account the potential needs of the borrower. Most financial institutions base the amount they lend on a percentage of a

consumer's monthly income amount. I find this to be a much fairer assessment of borrower's need while still providing necessary consumer protections for the borrowers.

One last thought as it relates to the short term lending industry, and financial industry in general; the more a person is educated in knowing and understanding all of their financial choices and options, the better the consumer is served. If you really want to get at the heart of what will benefit consumers the most in their financial decision-making, please consider mandating financial literacy in all Wisconsin schools. I cannot emphasize enough the importance of learning budgeting skills and promoting savings. It is one of the core services we provide to our clients as they go through the counseling process with us. Unfortunately, it happens much too late for many individuals. Handling personal finances is a skill and like any skill it must be learned and practiced. I implore you to consider adding a financial literacy component to SB 530 and help consumers help themselves.

Respectfully submitted,

Kathryn Crumpton

Comments of Tim Elverman
Regarding SB 530
before the
Senate Committee on Veterans and Military Affairs,
Biotechnology, and Financial Institutions
March 18, 2010

Good afternoon Sen. Sullivan and other members of the Committee. I am Tim Elverman, from Broydrick & Associates, appearing this afternoon on behalf of our client, Pawn America Inc.

Pawn America, as it's name implies, is primarily a purchaser and reseller of consumer goods. Our stores offer other services for the convenience of our customers, including payday loans and check cashing services. However, the majority of our business is retail: buying and reselling merchandise. Pawn America started its business in Minnesota, but currently has three if its twenty stores in Wisconsin; in Appleton, Onalaska, and Wausau. They look forward to opening additional retail outlets in Wisconsin.

Pawn America is fully supportive of Sen. Sullivan's and the other sponsors of SB 530's intention to finally regulate the payday loan industry in Wisconsin. Pawn America believes that sound regulation will be good for not only the consumers who use payday loan services in Wisconsin, but also for the reputable members of the payday lending industry.

With that in mind, Pawn America would like to make the following suggestions for changes to SB 530:

Zoning Restrictions Because Wisconsin has lacked any real regulation of the payday lending industry, local communities (which lack the authority to approve the type of legislation which we are discussing today) have attempted to "rein in" the payday lending industry through zoning regulations. That is understandable. The zoning restrictions simply limited the *number and location* of payday lending institutions in the community, but didn't (and couldn't) put in place any real *restrictions on the practices* taking place in those institutions.

SB 530 will finally regulate the *practices* that take place in those payday lending offices. If those practices are regulated, and the local community is no longer trying to "fence in" or "fence out" payday lenders, the zoning restrictions that are included in SB 530, beginning on page 5, line 20, could actually do more harm than good. That unintended consequence could occur because the payday lending institutions that you now have in your communities (both good and bad) today will have their locations protected from competition from other reputable payday lenders. We know that was not the intention of the authors of this bill, but it is the practical result.

I have worked in the financial services industry for more than 25 years. One of the first issues I worked on in the late 1980's was doing away with similar geographic restrictions which existed in Wisconsin (and other states) relating to the location of bank branches. Such geographic restrictions simply protected the bank branch (or in this situation, the payday lender) from having any competition. I don't think that is the intention of the authors of this legislation....but it will be the practical effect.

Pawn America is not advocating the elimination of the provisions which allow local communities to enact zoning restrictions. We are simply advocating that the legislation should leave those decisions up to the local community, and should not dictate those decisions in state statutes.

Fees for Non-Payment of Loans We appreciate the fact that Sen. Sullivan and the other authors have not dictated a uniform fee for making a consumer small loan. Instead, the authors have put in place other protections which will limit the liability of a borrower. However, if the borrower does *not* live up to the terms of his loan agreement and *does not pay* for his loan by its maturity date, the legislation limits the interest rate which the payday lender can charge the consumer, on a monthly basis, to a rate not exceeding 2.75 percent per month (Page 16, lines 6 to 16). This limitation on the fee which a payday lender can charge a defaulting customer could actually *incent* customers to not repay their loans. At a minimum, we would ask the authors to entertain the idea of allowing the lender to at least recover "reasonable costs" associated with the collection of such defaulted loans.

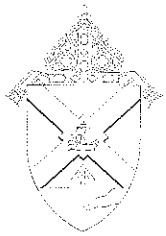
$900.00 Limit on Loans In talking with the authors of this legislation, we understand that the $900 limit on payday loan size (Page 17, lines 15 to 17) is an attempt to limit how deeply people in need get into debt. That is a justifiable goal. How much money is needed in an emergency? How much does a consumer need to pay their rent, or repair their car? That is difficult to calculate...and to dictate in state statutes. Understanding the goal of the authors to limit the debt of consumers (which we share), we would suggest that the limitation on loan size be calculated on an individual basis. In other words, we would suggest that an individual seeking a loan be limited to borrowing a maximum of 40% of their gross income. An example would be a person making $500 per week, taking out a 30 day loan, would be limited to 40% of their gross income for that 30 day period. That would calculate to $800. (40% of $2000.) As you can see, we are not advocating an increase, per se, in the dollar figure in this legislation. We are advocating that the payday lenders be limited to lending a person more than a reasonable percentage of their gross income. In some cases, that might be more than $900; while in others it would be less. We agree with the premise of the authors that you do not want to be lending a person in financial difficulty more than they could possibly repay by the end of the term of that loan.

Pawnbrokers/Pawn Stores Allowed As Payday Lenders As I mentioned in my opening comments, Pawn America operates primarily as a reseller of merchandise.

Payday lending is an ancillary service offered at our stores. It appears that we would be allowed to operate our primary business and also provide payday lending services under this legislation (Page 12, lines 15 to 24), however, we would appreciate verification from Legislative Counsel today that we are reading the legislation correctly. In lines 22 to 24 of the legislation, is it stating that we would need to go the Department each time we opened a store to seek written authorization to conduct our pawn business in addition to providing payday lending services? To avoid the need to do that, we would appreciate pawnbrokers being added to the list of businesses specified in lines 18 to 21 on page 12.

Conclusion Thank you for the opportunity to testify today. Pawn America is pleased to see that Wisconsin will soon join the ranks of states in the country that regulate the payday lending industry in a manner which protects consumers while allowing ethical, well-managed payday lenders to provide a needed service. We look forward to working with Sen. Sullivan and the other authors of this legislation as it is refined in the days ahead. I hope that my testimony today has been helpful, and I will be happy to answer any questions.

Diocese of Green Bay



TO: Members of the Wisconsin Senate Committee on Veterans and Military Affairs, Biotechnology, and Financial Institutions

FROM: Br. Steve Herro, O. Praem.; Social Concerns Director, Diocese of Green Bay/Chair of St. Norbert Abbey Justice and Peace Committee

RE: Testimony on SB 530 and AB 447

DATE: March 18, 2010

My name is Steve Herro, I reside at 1016 N. Broadway, De Pere, and serve as the Social Concerns Director for the Catholic Diocese of Green Bay and Chair of the St. Norbert Abbey Justice and Peace Committee. Thank you for hosting this hearing today and inviting me to respond to SB 530 and AB 447.

I was first sensitized to the problems associated with the payday lending industry in Wisconsin when a Catholic deacon from the Antigo area phoned me about five years ago and said, "Steve, I have noticed that as soon as an immigrant group settles in our area, a payday lending business pops up. Can we not do something to control these businesses that prey on vulnerable people?" Since then, I have worked aside the Wisconsin Catholic Conference in two legislative sessions as it has attempted to pass reform of the payday lending industry in our state.

I am quite familiar with the work of budget counselors from the Catholic Charities Department in the Diocese of Green Bay. Last May, I joined staff from our Catholic Charities office and other local supporters in a press conference in front of the Brown County Courthouse in support of AB 392. Last October, I joined one of our budget counselors and several constituents of Assemblyman Kaufert in order to express our hope to his Financial Institutions Committee for passage of AB 392. I will never forget the comment by our budget counsellor Dar Sengkhamme: Every client that I meet who has used a payday lender regrets the decision.

Unfortunately, neither of today's bills under consideration includes a rate cap. I remain convinced that this is the surest protection of a payday lending borrower. However, there are some elements in each of the bills that I hope make it to the floor of both houses this spring:

1. AB 447 includes a ban on car title loans. In a state with as limited public transit as ours, in which a car is a necessity to work for many people, I support a ban on these loans. These loans threaten a necessary tool for our workers to get to work. Unfortunately, SB 530 does not ban car title loans.
2. AB 447 bans rollovers on payday loans. This ban would limit the continuing cycling of increased payment due on a single loan. The bill also wisely limits the number of outstanding loans to one

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per customer. Both of these are good measures. Unfortunately, SB 530 allows up to one rollover.

3. AB 447 limits the amount that a person may borrow to $600 or 35% of one's bi-weekly income. If a payday loan is meant to be a bridge between paychecks, this is a wise limit on an amount to be loaned. The $900 limit in SB 530 is less desirable.
4. I am glad that each bill includes the establishment of a database to track payday loans. Such information, while protecting the identity of the borrower, must be made available for the future when our legislators consider additional regulations on the industry. Real time reporting is also necessary to insure limits on the desire to secure simultaneous loans.

Our legislature has the opportunity to pass payday lending reform this year that will help protect some of the most vulnerable men and women in our state. Payday lending reform is a small positive move toward insuring that all people in our state may more successfully avoid the shackles of poverty. Please vote this spring to begin to level the borrowing playing field for everyone in Wisconsin.

Thank you for your consideration.

WISCONSIN FINANCIAL SERVICES ASSOCIATION

MEMORANDUM

TO: Committee on Veterans and Military Affairs, Biotechnology, and Financial Institutions

SUBJECT: Statement of Wisconsin Financial Services Association regarding SB 530

DATE: March 18, 2010

The Wisconsin Financial Services Association ("WFSA") submits this statement for informational purposes. The members of the WFSA are "traditional" licensed lenders who make smaller and mid-sized consumer loans, almost exclusively on an installment loan basis. WFSA members are all licensed by the Department of Financial Institutions under Wis. Stat. § 138.09, Wisconsin's licensed lending statutes. As such, they are examined regularly by the DFI and are subject to its supervision. All licensed lenders must comply with the Wisconsin Consumer Act.

Licensed lenders have operated in Wisconsin since the 1930s, and have a long and positive track record of providing consumer loans to Wisconsin borrowers for household, family and consumer purposes. WFSA members use underwriting standards to determine creditworthiness, and to determine a customer's ability to repay the amounts borrowed. WFSA members are often the lender of first resort for young people seeking to establish credit. WFSA members, although licensed under § 138.09, do not offer what has become known as "payday loans."

Request for Change in Definition of "Consumer Small Loan"

Although the legislative analysis attached to SB 530 states that the bill is intended to apply only to what is traditionally considered a "payday lender", as currently worded, the definition of a "consumer small loan" goes far beyond payday lenders and would capture all unsecured loans made by any type of lender except those that are specifically excluded (such as banks and credit unions).

Senate Bill 530, as currently drafted, defines a "consumer small loan" as follows:

> "Consumer small loan" means an unsecured consumer loan and includes an indebtedness evidenced by a promissory note or an agreement to defer presenting a check or debiting a customer's bank account for a fee." [Emphasis added].

As worded, this definition would govern all unsecured extensions of credit in Wisconsin regardless of the interest rate (§ 138.09 only requires licensing if the annual percentage rate exceeds 18%), and could include, for example, extensions of credit by credit card loans made by non-exempt institutions, such as gasoline companies and department stores; utility companies extending credit for payment of services, etc.; mom and pop grocery stores; loans offered to employees by employers; and from the standpoint of WFSA, any unsecured loan made by an installment lender currently licensed under § 138.09. As worded, the definition would result in limiting every Wisconsin resident to a maximum of $900.00 of unsecured indebtedness from any non-exempt lender.

In order to ensure that the bill only cover traditional "payday lenders" as intended, the WFSA urges that the definition of a "consumer small loan" be revised to include a reference to the payday's traditional method of operation, namely a short-term single payment loan in which a check or authorized bank withdrawal is required to repay the entire loan balance (principal and interest) if it is not paid by other means at or prior to the loan's maturity date.

Based on the definitions found in previous proposed state legislation and in federal legislation, the WFSA suggest that the following definition, or something substantially similar, would narrow the scope of the law to the typical payday lender without bringing within its reach all other non-secured loans:

> "Consumer Small Loan" means a consumer loan, other than a loan repayable in substantially equal payments at substantially equal intervals between payments, in which the creditor, at or before consummation of the loan, regularly accepts a check or agrees to use another method of access to a deposit, savings or other financial account maintained by the borrower as security for payment of the full amount of the loan, and agrees to defer negotiation of the check or accessing the borrower's account to pay the loan until the loan becomes fully due and payable.

The above definition will have the intended affect of applying SB 530 to payday lenders, but <u>not</u> to consumer installment lenders, such as licensed lenders under Wis. Stat. § 138.09. The key words in the definition are compatible with the Wisconsin Consumer Act.

<u>Exemption for Licenses under Other Statutes</u>

Because the bill contemplates a separate licensing scheme, whatever definition is used, the WFSA recommends that the section (3) exemptions [page 9, lines 19-20] be revised as follows:

> (3) Exemptions. This section does not apply to banks, savings banks, savings and loan associations, trust companies, credit unions, or any of their affiliates, <u>or licensees under § 138.09, (Licensed Lenders) § 138.10 (pawn brokers) or § 138.12 (insurance premium finance companies).</u>"

Other Possible Revisions

Although, with the change in definition, the bill would not apply to WFSA members or other installment lenders, in reviewing the bill's language, there are two other items that the Committee might want to address:

Territorial Application. First, proposed § 138.14(2) states that a license is required for "all consumer small loans made to a Wisconsin resident, regardless of whether the loan is made by face to face contact, mail, telephone, internet or any other means." [Pg. 9, lines 2-18]. This application is much broader than the Wisconsin Consumer Act which, under § 421.201 applies to such loans "directed to the particular customer in this state." The recent Seventh Circuit decision of *Midwest Title Loans v. Mills, Director of Indiana Department of Financial Institutions* (decided January 28, 2010) basically invalidated a similar provision in Indiana's Uniform Consumer Credit Code as prohibited by the commerce clause in the U.S. Constitution. The court found that "to allow Indiana to apply its laws against title loans when its residents transact in a different state that has a different law would be arbitrarily to exalt the public policy of one state over that of another." The Committee may want to conform this provision to the Wisconsin Consumer Act provision in § 421.201(1)(b) regarding out of state lenders.

Disclosures. Second, § 138.14(13)(b) appears unclear in that it requires a statement in both "English and Spanish" including disclosures required by the Federal Consumer Credit Protection Act (Truth-in-Lending Act). Requiring all loans to be produced in both languages goes far beyond the requirements of federal law. The same section states that the "percentage per year of interest" shall be stated "clearly and conspicuously." This could be confusing because the federal Truth-in-Lending Act requires disclosure of the Annual Percentage Rate and it is unclear whether the proposed law is simply repeating what is required by Truth-in-Lending, or is requiring something more. Current Wis. Stat. § 138.09(8)(a) contains similar disclosure requirements, but contains the statement that "Disclosures made in accordance with the federal Consumer Protection Act and Regulation Z shall be deemed to comply with such disclosures." The Committee might want to consider a similar provision in this statute.

Respectfully submitted,

Edward J. Heiser, Jr.
Whyte Hirschboeck Dudek S.C.
555 E. Wells Street, Suite 1900
Milwaukee, Wisconsin 53202

The Wisconsin Credit Union League
One League, One Focus - Your Success!

March 18, 2010

To: Honorable Members of the Senate Committee on Veterans and Military Affairs, Biotechnology, and Financial Institutions
From: Tom Liebe, Vice President of Government Affairs
Re: Senate Bill 530

The Wisconsin Credit Union League (The League) is registering in support of Senate Bill 530 and encourages your support and adoption of legislation which would bring a measure of appropriate oversight and consumer protection to an area of financial services that currently has little to none.

Credit unions, banks and thrifts are highly regulated financial institutions which have massive compliance burdens and strong oversight from regulators. These regulations have been established, in part, to protect Wisconsin's consumers in financial transitions. We believe it would be appropriate and fair to have those businesses currently making small, short-term loans to also have meaningful regulatory oversight.

Please note that we have also registered our support of Assembly Bill 447. While the tactics and scope of SB 530 and AB 447 do not align on all of the policy issues and mechanisms for compliance, we feel they both have merit and the same essential goals. It's our hope to see a version of these bills adopted this session.

As you know, credit unions are doing their part to provide members small dollar amount loans at reasonable rates of interest, but also with features that help get borrowers on a more solid financial footing. For example, credit union loans may include education, counseling or require a savings component, allow more than two weeks for repayment and don't penalize borrowers for early payoff. In addition to granting modest loans of $500 or even $100 to help members, nearly all of Wisconsin's 238 credit unions offer small loans at rates below 36% APR – just a small fraction of what some lenders charge for short-term credit.

Credit unions offer services short-term payday lenders don't offer like referrals to local resources for food, clothing, health services and so on – needs that, if met, might preclude the need for a loan. Some credit unions that offer a League-endorsed loan product called StretchPay pool borrowers' modest fees to spread the risk of those loans across credit unions from several states.

Credit unions' payday loan solutions are part of their ongoing REAL Solutions® initiative, which strives to help Wisconsin families improve their financial position over time by encouraging saving and investing, improved creditworthiness and long-term wealth building. The effort was honored with a Governor's Financial Literacy Award in 2006. Wisconsin credit unions return almost $200 million to their 2.2 million members annually through more competitive rates on loans and savings and lower and fewer fees.

Thank you for your consideration of our views.

N25 W23131 Paul Road Pewaukee, Wisconsin 53072-5779
Phone: (262) 549-0200 or (800) 242-0833 Fax: (262) 549-7722 Web: www.theleague.coop
Member Credit Union National Association

Testimonial from a Racine Resident

I write this testimonial in support of a 36% cap on payday loans.

I am a resident of City of Racine, and like so many others in Racine County I am starting over. I attend Gateway Technical College's Racine and Kenosha Campus's. I also work two part time jobs one in Racine and the other in Kenosha. I was blessed with the donation of an automobile, and it truly is a blessing.

Because I had a car, I signed up for classes on the Kenosha campus. When my car developed problems, which needed $700 worth of work, I had to make a choice. Because there are no busses running between Racine and Kenosha, I would have to drop my classes or find the money to fix the car. I had tapped out my relatives and friends just to get back on my feet, so my only alternative was to get a payday loan.

To make a long story short, I borrowed the $700 from a payday loan company, **paid $170 per month for two years** until a friend loaned me the $700 interest-free (which actually when I paid it off was $806). You do the math! I could never have gotten out of that predicament without help.

After paying the loan off, I looked around the office and saw huge signs encouraging people to use payday loans to buy Christmas presents. I left the place shuddering at the thought.

I believe we need businesses which will make short term loans but with reasonable rates for paying them back. Just like other loans, part of any money paid should go toward paying down the loan. Right now there are at least 20 payday loan businesses in listed in the phonebook. ***They need to be regulated.***

MICAH CUSH JOB RIC SOPHIA ESTHER JOSHUA JONAH AMOS NAOMI

Phone: (414) 831-2070, Email: wisdomwi@sbcglobal.net
Address: 3767 E. Underwood Ave, Cudahy

WISDOM

The Gamaliel Foundation in Wisconsin.

March 18, 2010

To the Members of the Wisconsin State Senate:

On behalf of WISDOM, I want to ask you to step up today to put some real reform to the predatory practices of payday and title loans.

We appreciate that much work has gone toward curbing the abuses of the payday loan industry. Many across the state recognize the need for and have been actively working towards strong legislation to regulate small consumer loans and to offer protections to Wisconsin consumers in need of responsible loan products. While some effort has been put into developing measures to regulate this industry through Senate Bill 530, we do not believe it can ultimately be effective without an ***interest rate cap on every loan offered.***

Senate Bill 530 does not have any provisions to ensure that a consumer has the ability to repay the loan, it does not limit the number of loans an individual is allowed at one time or annually, it does not ban or regulate auto title loans, and the $900 loan limit is far above the current average payday loan in the state leaving this measure ineffective.

Specifically, we ask you and your fellow Senate members to:

- Enact a 36% rate cap for all small consumer loans. By doing so, Wisconsin would join the other fifteen states and the District of Columbia in enacting a usury cap and in extending meaningful protections to its residents.
- While a 36% rate would be best, WISDOM believes that even a 99% cap would be a significant improvement.
- Limit the total number of loans to four per year and end rollovers. This would require enforcement by maintaining a robust and transparent database by the regulator and would begin to eliminate the debt trap many find themselves in.
- Require a minimum repayment period for all small consumer loans of 90 days. Consumers that seek out emergency funding need small loans, not loans requiring payment by their next pay period.

The process of developing this legislation began as a bi-partisan effort and those living in Wisconsin expect that it be dealt with as such. We encourage both Democrats and Republicans to step beyond their temptation to let yet another issue become a partisan battleground. Let us have an honest debate and a straightforward vote about whether or not to include interest rate caps and other measures that can protect some of the most vulnerable people in our state.

Sincerely,

Nancy Holmlund
WISDOM President

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Opinion

Mark Lewis, publisher
Steven T. Lovejoy, editor
Mike Moore, [illegible]
David Steinkraus, [illegible]
Shari Karasek, [illegible]

WEDNESDAY, FEBRUARY 17, 2010 THE JOURNAL TIMES PAGE 7A

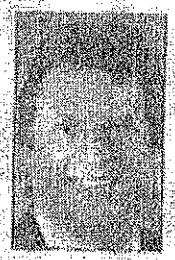
Time is now to end predatory payday lending practices

KEN HALL
County supervisor

COMMENTARY

Predatory lending profits on desperation and tends to create bigger financial problems than the crises it claims to solve. This true story shows how it works.

Kathy emerged from a family crisis with tapped-out friends and family and a low credit score. But she found a safe apartment, held a steady job and regularly attended school in Kenosha. Facing a $700 car repair bill, she turned to Wisconsin Auto Title Loans. For two years she paid them $177 a month. When a faith community friend stepped in, Kathy had been fleeced for $4,248 of interest (and still owed the $700)! It might have been worse. Had she missed a payment or been late, she'd have lost the car, too.



Hall

Research by the Center for Responsible Lending indicates that "lenders collect 90 percent of their revenue from borrowers who cannot pay off their loans when due, rather than from one-time users dealing with short-term financial emergencies." The business model does not teach financial responsibility, it depends on luring people into a financial trap. Auto title loans like Kathy's typically charge 300 percent interest. A loan not secured by a car costs more than 300 percent interest. Borrowers typically pay $800 to borrow $300.

Predatory lenders came to Wisconsin in 1995 when laws barring interest rates higher than 18 percent were lifted. Today, there's a payday lender in every mall. According to the Wisconsin Department of Financial Institution, payday lenders made $732 million of loans in 2008.

Predatory lenders will leave Wisconsin when an interest rate cap is restored. That's what President George W. Bush and the U.S. Congress did in their bipartisan effort to protect our military from predatory lending practices in the 2007 National Defense Authorization Act. They capped interest rates at 36 percent to drive away the loan sharks.

Last year, state Rep. Gordon Hintz, D-Oshkosh introduced a bill (AB-392) to give all Wisconsin citizens the same protection. This strong legislation was co-sponsored by Sens. John Lehman, D-Racine, and Bob Wirch, D-Pleasant Prairie; and Reps. Corey Mason, D-Racine, and Robert Turner, D-Racine. It attracted support from both parties including 15 Senate and 43 Assembly co-sponsors, nearly enough to pass. Oddly, this bill died without a vote in the Assembly Financial Institutions Committee.

It is profitable to lend money at 300 percent to 500 percent interest. The Wisconsin Democracy Campaign tracked how much payday lenders paid back to political campaigns. Numbers for last year are still being compiled, but 2008 was a record year with more than $140,000 in campaign contributions. Here's some good news, $46,000 of this went to losing candidates. As for the rest: $17,000 went to party political committees, mostly Democrats; another $25,000 went to individual Democrats; and $51,000 went to individual Republicans. Gov. Jim Doyle got $2,000. Members of the Assembly Financial Institutions Committee that killed the Hintz bill got $10,000. Racine County Reps. Robin Vos, R-Racine, and Scott Gunderson, R-Waterford, each got $1,000, as did Democratic Speaker Mike Sheridan.

You may have heard about Sheridan and his dates with a payday lending lobbyist. Sheridan dated one of the hordes of lobbyists who payday lenders sent to Madison to another reform. Shortly after the relationship was exposed, a new draft bill emerged on a fast track (AB-447). The Assembly Financial Institutions Committee approved it last week.

Jennifer Johnson, senior legal counsel for the Center for Responsible Lending, analyzed the new bill, as did the Consumer Federation of America. Neither was impressed. Both critiques lamented the lack of an interest rate limit and predicted the industry and its lawyers would find ways around the new rules, as they have done in other states. Johnson summarized the bill as a "capitulation" to the industry and its lobbyists. Sen. Jim Sullivan, D-Wauwatosa, issued an alternative bill a few days ago; it too fails to cap interest rates.

Some in Madison claim the votes are not there to cap interest rates. If so, then that just shows how deep a divide there is between Main Street and Madison. Both the Racine County Board (unanimous) and the Burlington City Council supported a 36 percent rate cap. We insist that Kathy, and everybody else in Wisconsin deserve the same protection that military families get from predatory lenders.

Right now, 15 states keep predatory lenders out with interest rate caps, just as Wisconsin used to do.

Getting the loan sharks out of our malls would be a real local economic stimulus, one that won't cost a dime in taxes. It is time.

Racine County Supervisor Ken Hall spoke on predatory lending to the Racine Interfaith Coalition at the Love and Justice Breakfast on Saturday.

EDITORIAL

To submit an editorial for publication, please email it to the Milwaukee Courier at editor@milwaukeecourieronline.com. Deadline for editorials are due on Tuesdays at 12:00 p.m.

EXCEPT WHERE INDICATED, THE OPINIONS EXPRESSED ON THIS PAGE ARE NOT NECESSARILY THOSE OF THE MILWAUKEE COURIER

Payday loan crackdown eliminates an option for many

If you've ever been in a situation (as most of us have) of being caught short in a financial crisis, then you'll know just what a bonus a short-term payday loan can be. I know that many of us have found ourselves in mid-month with no cash and a family to feed; others have been faced with a personal crisis such as a death in the family and sudden funeral costs to face, a sudden car repair that you didn't plan for, a shut off notice on a utility that is due before your next paycheck comes. Whatever the cash crisis or problem, a payday loan has been the answer to a prayer for many.

Now, a group of legislators in Madison have decided that these type of loans are traps and dangerous for people, and they are really looking to close them up, not just crackdown on them. They want to ban auto title loans, limit payday loans to $600 and prevent borrowers from taking out more than one loan at a time. They even proposed an interest rate cap, that would have eliminated the payday loan business and an option for consumers. Fortunately that amendment failed on the Wisconsin State Assembly Floor on Feb. 16. We sincerely appreciate Representatives Fields and Young's votes in defeating the Cap Legislation.

Where these intentions may seem admirable at first glance, what about the people and not just "poor" people who need a financial option that just takes them to their next check. Why do we need legislators to dictate consumer decisions by eliminating their choices? This is also about consumers having options and choices to make our own decisions. The payday loan procedures are quite clear when the loan is being taken.

What exactly is a Payday Loan?

Some people may not be quite sure what a payday loan is, or what it involves. In short, a payday loan is an unsecured, short-term cash advance against your next paycheck. Your job and your next paycheck are your collateral against the loan.

Typically, the amount you may lend varies from $300 to $1500 (the amount granted by the lender will depend on your income and various other factors). The payback period for these cash advance loans is short – usually the loan is paid back on your next pay day, although some lenders are more flexible and offer slightly longer payback periods. Flat fees are charged for the initial loan amount, and that amount varies by each payday loan institution. Now, like any loan, when it is not paid back by the next paycheck, then more interest fees come into the picture, and this can be where the debt becomes less manageable, same as credit card debt when you only pay the minimum payment each month or you are late, same as when you write a check that may cause overdraft fees, ranging from $20.00 to $38.00 per overdraft. Which brings up another issue, where is the proposed legislation for the banking and credit card industry that also become financial traps for people?

It does appear that the payday loan industry is being singled out for some reason, but for those who have a need for this business or even those who haven't had the need but who would like to have the option, now is the time to speak up about it.

Are people going to be forced to go to street lenders for their emergencies? Because a regulation crackdown that eliminates these businesses will not eliminate the financial need that still exists. Are legislators saying that people who may need some financial assistance are not intelligent enough to make their own financial decisions? These businesses do not prey on people they are simply available, in fact they don't even need to advertise their product. Instead of eliminating options, legislators should find a way to open up the door for more options. If the banks are threatened by this, then begin offering something better. Businesses don't last unless there is a demand. Look at the need for the demand, don't attack the option.

Residents will have an opportunity to voice their opinion on the payday lending industry, and whether yo are for this business option or against it speak out and give testimony at SDC's pub hearing on the Payday Loan Industry on Tuesday, March at the Washington Park Sen Center at 4420 W. Vliet Stre

For more information on this event, contact David Celata at SDC 414-906-2718. Written opinions on th subject are also encourage for residents to write into: Th Milwaukee Courier Newspa per or call Lynda Jones, ed at 414-449-4860. You can also comment on the Couri website, **www.milwaukee courieronline.com**.