COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

CONSUMER AFFAIRS COMMITTEE HEARING

STATE CAPITOL
HARRISBURG, PA

MAIN CAPITOL BUILDING
ROOM 140

THURSDAY, MAY 3, 2012
9:00 A.M.

PRESENTATION ON HB 2191
REGULATING SHORT-TERM LOANS

BEFORE:
HONORABLE ROBERT W. GODSHALL, MAJORITY CHAIRMAN
HONORABLE SHERYL M. DELOZIER
HONORABLE BRIAN L. ELLIS
HONORABLE JOHN R. EVANS
HONORABLE JULIE HARHART
HONORABLE WARREN KAMPF
HONORABLE CARL WALKER METZGAR
HONORABLE JOHN D. PAYNE
HONORABLE SCOTT PERRY
HONORABLE TINA PICKETT
HONORABLE JOSEPH PRESTON, JR., DEMOCRATIC CHAIRMAN
HONORABLE BRYAN BARBIN
HONORABLE FRANK BURNS
HONORABLE NICK KOTIK
HONORABLE CHERELLE L. PARKER

ALSO IN ATTENDANCE:
HONORABLE CHRIS ROSS

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I N D E X

TESTIFIERS

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SUBMITTED WRITTEN TESTIMONY

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P R O C E E D I N G S

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MAJORITY CHAIRMAN GODSHALL: Good morning. The hour of 9 o'clock having arrived, I call the meeting to order.

The meeting is being recorded. For the information of all those in attendance, this hearing is being videotaped by the Broadcasting Office of the House Bipartisan Management Committee.

This is a hearing on HB 2191, which amends Titles 7 and 18 to establish a regulatory structure within the Department of Banking for short-term loans. Today we will hear from both sides of the issue, and Members will have a chance to ask questions. Let's get started.

What I really want to do at this point, I guess to avoid any discussion of what might happen or not happen with the Department of Banking, I am going to take a couple of minutes and read the letter which we have from the Pennsylvania Department of Banking on this issue:

"Dear Chairman Godshall, Democratic Chairman Preston and Members of the House Consumer Affairs Committee:

"Thank you for the opportunity to comment on the important licensure, regulatory and enforcement provisions contained in the proposed <u>amended</u> version of HB-2191. We believe these to be among the strongest provisions in the various state laws which regulate the short term lending business. Should the amended version of HB-2191 become law, we are committed to regulating the short term loan business in a fair and equitable manner, especially with regard to 'borrower protection' provisions of the legislation.

"Most importantly, under the provisions of the amended version of HB-2191, no person may market, service, arrange, make, hold, originate, extend, contract or negotiate (electronically or by other means) a short term loan without being licensed by the Department of Banking.

"Any person that carries out any short term loan transaction without being licensed commits a felony of the third degree and loans transacted by any unlicensed person are uncollectable and unenforceable.

"Applicants for licensure are required to meet rigorous licensing standards including having a sound financial structure with at least $250,000 in tangible net worth. Additionally, licensees are required to secure and maintain a $100,000 penal bond which is to be available to compensate consumers injured through violations of the act. These requirements should discourage 'fly by night' companies from entering the business in our Commonwealth.

Applicants must also pass state and federal criminal history background checks and be investigated by the Department to determine that officers, directors and principals of the company are of good character and ethical reputation.

Licensees would be required to participate in the NMLS (a national licensing data base) under which the status of non-depository licensees is monitored on a nationwide basis.

"Additionally, licensees would be examined for compliance with the statute at the Department's discretion and assessed licensing and examination fees to assist in paying for the Department's licensing-regulatory program.

"Under the provisions of the amended version of HB-2191, licensees are required to participate in an industry-wide 'real time' electronic compliance system, administered by a third party contractor, that insures that short term loan borrowers are limited to borrowing the lesser of $1,000 or 25% of their gross monthly income at any one time.

"The legislation, as amended, further prohibits rollover or refinanced loans and other anti-consumer practices associated with short term loans in other states. Violations of these provisions can result in license suspension or revocation and fines up to $10,000 per offense as well as making the loan unenforceable and" again "uncollectable.

"Also, any person that engages in unfair or deceptive acts, practices or advertising in connection with a short term loan violates the Unfair Trade Practices and Consumer Protection Law and faces enforcement by the Attorney General and the stiff penalties contained in the act.

"The amended version of HB-2191 contains strong licensing and enforcement provisions that provide the Department with the tools necessary to sufficiently regulate the short term loan business operating in Pennsylvania. We have" further "worked diligently to have these strong regulatory protections included in the bill. Further we believe that our citizens, who may find a need to use this specialized financial product, will be adequately protected against unscrupulous practices and operators through the enforcement of these provisions.

"Thank you for the work of your Committee on this matter and for requesting our comments on the licensing, regulatory and enforcement provisions of the <u>amended</u> version of HB-2191.

"Sincerely, Glenn E. Moyer."

So I wanted to get that out of the way as far as the Department of Banking in Pennsylvania goes and what the rules and regulations would be when and if this becomes law.

So with that, I would like to turn the meeting over to---

MINORITY CHAIRMAN PRESTON: Mr. Chairman? Mr. Chairman? Do we have a copy of the amendment?

REPRESENTATIVE ROSS: It's my understanding that the engrossed version with the amendment included was sent to all the Committee Members as if it had been adopted. It should have come to your office, I believe on Monday, and the copy of the amendment, I'm not sure whether staff has a separate version.

MINORITY CHAIRMAN PRESTON: Before we get started, could we get a copy, because my staff doesn't have a copy and none of my Members have a copy.

REPRESENTATIVE ROSS: I thought they were delivered to all Members of the committee on Monday. That's what I was told. The engrossed version, it may be confusing because the version that I saw actually had -- this was delivered to your office -- had the actual language inserted as if the amendment was adopted.

MAJORITY CHAIRMAN GODSHALL: While we're going through that, I would ask the Members maybe to identify themselves.

Can we start over here with Carl Metzgar.

REPRESENTATIVE METZGAR: Carl Metzgar, Somerset County.

REPRESENTATIVE ELLIS: Brian Ellis, Butler County.

REPRESENTATIVE KOTIK: Nick Kotik, Allegheny County.

REPRESENTATIVE PAYNE: John Payne, Dauphin County.

REPRESENTATIVE PICKETT: Tina Pickett, Bradford, Sullivan, and Susquehanna Counties.

REPRESENTATIVE DELOZIER: Sheryl Delozier, Cumberland County.

REPRESENTATIVE BARBIN: Bryan Barbin, Cambria County.

REPRESENTATIVE PARKER: Cherelle Parker, Philadelphia County.

MINORITY CHAIRMAN PRESTON: Joe Preston, Allegheny County.

MAJORITY CHAIRMAN GODSHALL: Bob Godshall, Montgomery.

REPRESENTATIVE BURNS: Frank Burns, Cambria and Somerset.

MAJORITY CHAIRMAN GODSHALL: Okay. Those amendments were, in most cases, apparently hand-delivered on Monday, and we're making additional copies. But in the meantime, we're going to get started so we don't get behind to begin with.

So I would like to turn the meeting over to Representative Ross, who is the sponsor of the legislation. Representative Ross.

REPRESENTATIVE ROSS: Thank you, Chairman Godshall and Chairman Preston and all the Members of the committee. I appreciate your taking the time out today to have this hearing on my HB 2191, as we hope will be amended.

The amendment, as the Secretary of Banking ably described it, was an effort between myself, others interested in the issue, Senate staff, to come to a meeting of the minds to create the strongest possible consumer protections for people that are using short-term lending in Pennsylvania.

This is an issue that I've been working on off and on over 12 years, and we actually at one point were able to pass some consumer protection legislation in this area through the House. Unfortunately, it was not adopted by the Senate at that time. And we actually went through a period of time where the Secretary of Banking changed and the new Secretary attempted to simply shut off short-term lending of this sort in Pennsylvania.

I think the current Secretary, after looking at experience, recognizes that in fact that is an extremely difficult, perhaps impossible thing to do, that they have had success in some rare occasions in being able to shut down particularly those that do this kind of lending on the Internet. But overall, we find that they were able to shut down one lender, but we've been readily able to see approximately 30 other lenders that are continuing to operate.

They tend to wind up changing their names, moving their addresses rather readily so that they pop up again if you attempt to stop them, sort of like Whack-A-Mole. They're using Native-American tribes and their charters, and we've all seen how difficult it is to attempt to regulate, with the sovereignty of Native-American peoples, with gaming, cigarette sales, and some other issues along those lines. So the fact of the matter is that basically this industry exists out of control outside of our State and perhaps outside of our nation.

We have an article that I'm going to refer to again later from the Inquirer just of Sunday where they talk about a gentleman, while during the period of time when we were theoretically closing down payday lending, who took out a loan, a gentleman from Havertown took out a $250 loan and, within a year, wound up paying $2,000 in finance charges. Now, that's exactly the sort of thing that I'm attempting to stop happening here in Pennsylvania.

There are in fact a significant number of Pennsylvanians who need to use short-term unsecured loans because they don't have adequate savings to cover unexpected expenses. That's just a fact of life for a fair number of people all throughout our State. And I've certainly seen that -- young people who have not had a chance to build up savings; people who have been downsized or lost their job or have other kinds of financial problems and have run through their savings and are in vulnerable circumstances. All of the available options for these people present risks and typically high costs, so the challenge is to try and figure out how to provide some alternatives for people that are in this position that are less expensive, more controlled, and more fair to them. And as I mentioned in my remarks, the current attempts to ban payday loans in Pennsylvania have simply driven the lenders out of the reach of the regulators, exposing borrowers to even greater risks of being exploited.

What I'm proposing in HB 2191 with the amendment that has been agreed to with the Secretary of Banking is protections, and specifically what I focus on is three areas: cost, transparency in the terms of the loan, and avoiding the potential cycle of debt.

HB 2191 as amended will charge lenders a fee of 12.5 percent on the value of the loan plus a loan verification fee of $5. This is typically half of what is being charged by Pennsylvania borrowers on the Internet, based on an August 2011 study by the Consumer Federation of America -- half.

Overdraft protections, late fees, and charges for insufficient funds are also generally more expensive, sometimes twice as expensive as the provisions would provide for in this bill. Thirty dollars, $32, $35, $40 per-bounced-check charges or overdraft projections, late fees, and similar kinds of charges, often which accumulate and accrue over time, are substantially higher than what would be allowed for under this legislation.

Second, it's terribly important that the loans be transparent and that the borrowers, particularly those who are less financially sophisticated, have a full understanding of what they are borrowing. The bill makes it very clear what kinds of disclosures are required. Warnings have to be issued about the potential dangers of this product. And also that the borrower is given the option to rescind the loan if, for instance, they find that they don't need it or they find another less expensive alternative. They also are advised of the extended payment plan options if they find they have difficulty paying it off, as well as the opportunity to receive free credit counseling if they become aware that they are having difficulty managing their finances.

It's critical that a borrower understand the terms of the loan, and if any of you have read your credit card terms, you understand that this is not always the case, that some of those terms are very complicated, hard to understand, and also are often changed unilaterally by the credit card company during the time that you hold the card.

These loans have a straightforward fee that everybody can understand. There are no complicated additional hidden charges, and there's a simple fee also for the verification and also to provide payment for the credit counseling.

The most important part and what we're probably going to be spending most of our time talking today about is the cycle of debt. That's really where this gentleman got into trouble. He got rollover loans. He obviously extended those rollover loans, and it's very easy to understand how expensive that can become and how quickly that can become expensive. If you choose not to pay off your loan under the Internet model that this gentleman got in trouble with, he simply extended the loan payment for another term. He incurred an additional charge, similar to the charge that he already had. If it was $32, he suddenly owed $64. Then if he found that he was not able to pay at the end of the second loan period, then suddenly he owed $96. It rapidly grows to a point where it's higher than the amount that he originally borrowed and becomes increasingly difficult for him to ever pay back.

This is the cycle of debt. This is what we have to stop. The bill does two main things. First of all, it requires repayment at the end of the loan term, full repayment of the amount outstanding as well as the charges outstanding. If you do not do that, you are in default. That blocks the rollover.

Secondly, if you're in a position where you cannot pay that back and you make the lender aware of that, you're allowed to go into an extended payment plan. The extended payment plan under the bill is a minimum of four additional payment periods. If you're paid every 2 weeks, that would be four additional 2-week payment periods. If you're paid monthly, that would be 4 months.

During that period of time, you have the opportunity to spread your payments out. You incur no additional charges during that period of time, and you're also required to wait 7 days before you even consider taking another loan at the end of that payment period. This is, I think, aggressive means to break the cycle of debt.

Remember, you're only allowed under this legislation a maximum of 25 percent of your total paycheck to be borrowed at any one time. So including the initial period, the additional four periods -- that would be five total periods, so it would be essentially no more than 5 percent of your income over any one of those pay periods -- that controls the total amount of debt and prevents you from being stuck in a situation where you're more likely to be trapped in a cycle of debt.

I think that the other option that has been offered is credit cards. The challenge I see with credit cards is although initially they would be a less expensive way to borrow money, there are no rollover protections. As a matter of fact, you're almost encouraged to roll over that debt. And many people, we're well aware of, have gotten in tremendous trouble with piling up credit card debt well beyond their means of paying it.

So there are risks in all other options. I think that we've made a serious effort. I do not pretend that people will all use these tools as wisely as I would like. Obviously, people don't use mortgages wisely. They don't use credit card debts wisely at all times. We're giving people a fair chance and an opportunity to use this more clearly and with a better understanding.

And to take an example, again going back to this Inquirer article, if this gentleman had had our bill in place when he made the initial borrowing, first of all, his charge initially would have been $36.25. If at the end of his term he had found that he was unable to pay that loan back, $286.25 I guess at that point, then he would have been able to go into an extended payment plan. He would not have been allowed to roll it over. He would have had a chance to pay that loan off over an extended period of time. He would have gotten out of debt. He would have been offered free credit counseling to make sure that he didn't get into trouble in the future, and he would have come out of that with a charge of $36.25 instead of $2,000. I think it well explains exactly why we need this legislation.

I'm going to stop there. I'm happy to take questions, but I also want to let the committee know that I will stay through the hearing today and be available at the end if anybody has any follow-up questions at that point.

Thank you, Mr. Chairman. I'll take questions now.

MAJORITY CHAIRMAN GODSHALL: I think we'll wait for questions, you know, at the end rather than in the beginning to see what might come up.

The one thing I wanted, on the extended payment period, say if I have a 60-day, a $300 loan at 60 days and I can't pay it at the end of 60 days, exactly what happens?

REPRESENTATIVE ROSS: You have to merely let the lender know that you want to go into the extended payment plan, and then you have four additional pay periods.

MAJORITY CHAIRMAN GODSHALL: So at that point I have paid $42.50 for my $300, so now I'm going into extended payments.

REPRESENTATIVE ROSS: Yes. No additional charges.

MAJORITY CHAIRMAN GODSHALL: What does that cost me to go into the extended---

REPRESENTATIVE ROSS: Nothing more; nothing more. You just spread the payment out.

The goal behind this is to prevent you from defaulting. So instead of having to pay it back over a 2-week or a 4-week period, you now have four additional 2-week periods or 4 additional months to pay that back.

MAJORITY CHAIRMAN GODSHALL: Pay that original loan back.

REPRESENTATIVE ROSS: The original loan with the original fee, nothing more. It's stretched out.

MAJORITY CHAIRMAN GODSHALL: Thank you.

Okay; I think with that, we'll wait and we'll get on to, you know, the meeting, and you'll have a chance at the end.

REPRESENTATIVE ROSS: Thank you very much.

MAJORITY CHAIRMAN GODSHALL: Thank you.

PANEL 1

MAJORITY CHAIRMAN GODSHALL: At this time, I'd like to call John Rabenold, Vice President of Government Affairs of Axcess Financial; Pat Cirillo, Ph.D., President, Cypress Research Group; and Hilary Miller, Chairman of the Board of the Consumer Credit Research Foundation.

Gentlemen and lady, when you're ready. Please identify yourselves.

MR. RABENOLD: Yes, sir. Thank you, Mr. Chairman.

Good morning. My name is John Rabenold. I am Vice President of Axcess Financial, a position I've served for about 12 years. We own the retail storefront that goes by the name "Check 'n Go." We operate in about a little under 30 States.

I'm here in support of HB 2191, a bill to regulate short-term loans. And if I can leave you with one fact today, it's that I believe consumers will be better off, not worse off, with the regulated form of short-term credit. I believe that we can meet the demand for a product at a lower price and with better services than is currently available to Pennsylvania consumers. I really believe that.

From my perspective, that's really the essence of HB 2191. The bill will force prices down and drive the quality of service up. And we hope to invest in Pennsylvania. We hope to hire workers. We hope to serve customers in a fair and responsible way.

This bill is really about establishing a set of fees as opposed to accruing interest. You know, this industry emerged when financial institutions did two things. One, they went away from convenient signature loans; and second and more importantly, they began to escalate or rely on non-interest income or fees. And fees are at a historic high -- fees for bounced checks; fees for over-the-credit limit; fees for late payments. You get any of these disclosures, and there are dozens of fees that are associated with a consumer's pay.

Merchants and utility companies and government agencies soon followed suit, and I think everybody has heard about the $40 cup of coffee: Somebody paying by check at a Starbucks; the check bounces; the bank charges $35; Starbucks charges an equal-sized fee. It gets pretty expensive.

We have demonstrated that bouncing a check is not as cheap as it used to be. According to a recent Time article, they reported that banks earned $31.6 billion in bounced-check fees in 1 year, and then when considering that credit unions do the same, the recipient of the check is charging fees, that $31.6 billion only escalates. Add treble damages that some people seek, hits on credit ratings, repossessions, evictions, foreclosures, et cetera, you know, people are looking to avoid those costs. And if you think about the $31.6 billion in terms of Pennsylvania, if Pennsylvania just represents 4 percent of the U.S. population, that's $1.264 billion they're paying in overdraft fees.

Consumers are seeking alternatives. They go online. I know they go online. It's a huge pressure point from a business perspective to compete against unregulated, unlicensed lenders. We've presented information in the past that online lenders have really targeted, above the national average, Pennsylvania customers, because there is no competition to afford the Pennsylvania consumer. These companies are based out of Costa Rica. My favorite is mypaydayloan.com. The transaction, the disclaimer is that all transactions are considered to have taken place in Costa Rica. I know the Chippewa Cree in Montana have a site that goes by the name plaingreenloans.com, and, you know, they're not seeking licensure, and I wouldn't expect them to. And, you know, there are thousands of services here.

I know customers--- Yes, sir?

MAJORITY CHAIRMAN GODSHALL: I just wanted to mention, which I should have in the beginning, you know, your panel has 30 minutes. We're under somewhat of a time restraint. You've got 30 minutes; the other side gets 30 minutes, so.

MR. RABENOLD: I'll be brief. Thank you, sir.

I know people go border crossing. I know they go to

Delaware and they go to Ohio. I operate in both States. I saw one store, another company shared with me they have 70 percent of their population base that comes out of Pennsylvania. There's a store in Ohio; 40 percent of their customer base comes out of Pennsylvania. So I know that customers will come and use this form of credit. And regardless of the 419 hype, consumers will know that they can obtain credit at a better price and at better terms than they can otherwise get in today's market.

And it's important the fees remain constant, okay? This doesn't accrue the way you would think interest accrues or the way just somebody with 419 percent accrues. It's a constant fee. It's tied to be repaid on the consumer's next payday, whether that next payday is 17 days away or 35 days away, what have you.

We can talk about APR, but alone, it's misleading, and it's just really a number. We compare those with costs of dollars, and that's what people are spending.

You know, my opinion on HB 2191, and I've been accused of wanting to have these rollover loans and I rely on rollover loans. 2191 cures the cycle-of-debt problem. I mean, 2191 is designed to make sure that customer gets out of debt. In fact, the customer who uses it successfully must go into and exit out of a debt-free period before they can use it again. They can't come back to my store, one of our retail stores, without ensuring that they've paid that back, and today, that's just not the case.

The conclusion for us is 2191 has a lot of benefits. Not only does it provide credit, we believe it will create 2,000 to 3,000 jobs directly that pay competitive wages and provide for health-care coverage. We think it will generate about $150 million in spending on wages, benefits, occupancy, goods and services, not to mention the credit that consumers are getting and spending in their communities. Whether it be vets, mechanics, doctor bills, school fees, et cetera, that money is going to stay here. It's going to generate $5 to $10 million in government oversight, compliance verification, and credit counseling services. This is the best funded consumer credit counseling and financial literacy package that I've seen in any of these bills across the country, and it's pretty impressive.

If I could show just where we're going to conclude, where this is going to leave things -- if we could have this other slide.

You know, in addition to the economic opportunity for Pennsylvanians, it's going to save consumers money and drive time. It's going to provide great services. But what you'll see is this will be one of the cheapest credit products in the country when you compare it to other States. It will be about fourth cheapest where we operate. We have Rhode Island, Florida, Iowa, and, you know, these are sort of tied with and cheap, and you can see it's quite a difference from what's being charged in other States.

You know, 2191 is a model for fair and responsible lending, and I hope to be a constituent in your State, and I look forward and I urge your passage of this bill.

Thank you, sir.

MAJORITY CHAIRMAN GODSHALL: Thank you.

DR. CIRILLO: Good morning.

My name is Pat Cirillo, and I'm President of Cypress Research Group. I'd like to thank the Chairman and Members of the committee for allowing me to appear before you this morning.

I'm a career researcher and a statistician by training within several industries, including public education, higher education, the arts, high tech, and of course financial services. I developed a focus on the subprime consumer, in particular their borrowing behaviors in the early 2000s, so a few years before the recent lending crisis hit.

In my practice, I've conducted over 30 quantitative studies and have been witness to over 100 focus groups of borrowers pertaining to short-term lending. I have visited hundreds of stores across the country to analyze the responses of tens of thousands of individual short-term loan customers. I have also analyzed the transactional databases that monitor industry activity.

As a result, I would like to briefly share five conclusions based on the analyses of data obtained through the now 8 years of my work in this sector.

First, are high fees the cause of the "debt trap"? I'll say a little bit more about the debt trap in a minute, but first I'd like to address the evidence for an association between the ostensibly high fees charged by the traditional short-term loan industry and borrowing behavior.

A recent study I conducted, along with Dr. Marc Fusaro, an economics professor at Arkansas Tech, showed that reducing fees to a very low level, a level which is proposed by critics of the industry as a solution to the cycle of debt, has no impact on borrowing levels. That is, reducing the fees to very low levels does not decrease the level of borrowing by short-term loan borrowers. For example, reducing the APR to 28 percent would not reduce borrowing levels. In fact, our data suggests it would increase it.

Second, the "cycle of debt" itself. That phrase seems to have been coined in reaction to a statistic published by one of the larger lenders in the early 2000s which stated that short-term loan borrowers obtain on average about eight loans per year. That one piece of information seems to have been taken to the extreme to conclude that borrowers are, quote, unquote, "trapped." In my opinion, that conclusion is wrong. In order for that conclusion to be right, the typical borrower would have to obtain a string of loans, without a break, to the point of being unable to pay back that or any other debt. Put simply, this does not match the borrowing pattern of the typical borrower at all, and I see no evidence of such borrowing being the norm.

Are there borrowers who borrow serially and then default on their original loan? Sure there are, but they are in the minority.

Third, are short-term loan customers treated well and fairly by the industry? This is probably the area where I have the most data, and the answer is a resounding yes. In fact, it was customer satisfaction data which first peaked my interest in this sector. I couldn't connect the words that I was reading about the industry in the press, such words as "predatory" and "harmful," with the data that I was reviewing, and these customers seemed so satisfied with the product and service they were receiving. Having now been in the lobbies of hundreds of stores, I see the high level of training and expertise that store CSRs, or tellers, have and how professionally they treat customers.

When I read articles in the press about short-term loan lenders, I don't recognize who was being described at all. In all the studies that I've done and seen, over 80 percent of customers are satisfied, and virtually none of them are dissatisfied because of poor service or unfair treatment.

Fourth, how do consumers view the cost of short-term loans? That's another disconnect for me and consumers when the focus is put on the APR. In order for a short-term loan to have an APR of over 400 percent, a borrower needs to obtain a 14-day loan 26 times in a year. That's a very rare event.

Borrowers express confusion over this description of loan costs. As they would say, "Why would you express an annual percentage for a 2- to 3-week loan?" As I've witnessed in dozens of focus groups on this topic, these borrowers are extremely good shoppers, and they know the costs of these loans in their communities very well. They want to know the cost of the loan when they walk in the door, as the poster we saw. That poster that we saw a minute ago is in virtually every payday loan store in the country, only in bigger font. So what customers want to see is the actual dollar value of the loan. That's the information that is useful to them. Focusing on the APR of short-term loans is inflammatory, in my opinion, and not terribly helpful to the consumer, who just wants to know how much it costs.

Fifth, what do consumers do when they don't have a choice -- and I think that's most pertinent based on what we just heard -- don't have the choice of a storefront for a short-term loan?

I have completed two studies on this, and a couple other researchers have also. The most commonly used alternative to a payday loan is to overdraft your checking account. If you ask consumers in a focus group what are their choices, they'll tell you, "Well, I can overdraft my checking account or I can get a payday loan." They'll say that, and those are the words that they will use. Basically in my recent study what we've seen is that without a storefront option for lending -- about half of them will take that -- they will bounce more checks, and other data has supported that.

The second most common alternative -- and this is growing in use -- is Internet loans, and I would estimate that about 2 percent of your previous market, which is probably 5 percent of your State citizens, would turn to the Internet for a loan instead of a storefront, in the absence of a storefront.

The third most common is to pawn possessions. And the important thing for those considering this issue is that consumers are very, very aware of their choices, and none of these choices are the best for all options. When consumers have no prime credit available to them and they are faced with the need for short-term cash, they consider all their options and they choose the one which is the cheapest and the best match for their current situation at that time. Some have had bad experiences with banks, so they avoid bouncing checks; they don't want to give any more fees to their banks. Some have the option of using their credit cards, but most don't. And fewer than 50 percent of short-term customers have a credit card, by the way, and fewer than 10 percent have a balance available on their card. Every consumer is different and they make different choices based on their current circumstance.

What is very clear to me from the data is that their decision is very well informed. They know the costs down to the dollar -- the quarter, actually -- involved in all of their options.

Again, thank you, Mr. Chairman and Members of the committee, for allowing me to share this research with you this morning.

MR. MILLER: Good morning.

My name is Hilary Miller. I'm the head of Consumer Credit Research Foundation, a nonprofit organization devoted to academic research regarding the short-term credit needs of consumers. We're not controlled by any trade group. We foster and finance academic research regarding the credit needs of ordinary Americans, much of it published in refereed scholarly journals.

My own background consists of an undergraduate degree in statistics, a graduate degree in statistics and finance, and a law degree. I have studied this subject for more than 10 years. I'd like to share with you some of the things that we know through scholarship and through economic research in order to inform your thinking about this bill.

Not far from this place, in the winter of 1777, Washington's 11,000 men at Valley Forge nearly starved, while nearby, the British Army spent the winter in relative excess, benefiting from plentiful local crops. The reason for the difference in living standard was a system of controls on food prices that had been imposed by your predecessors in this Legislature, principally to protect the Continental Army from high commodity prices.

The resulting and predictable shortages were catastrophic. Faced with mandated below-cost prices, farmers withheld their produce and many even made black market sales to the British for gold, producing, of course, exactly the opposite of the effect intended by the Legislature.

Ultimately, the Continental Congress adopted an anti-price-control measure in the summer of 1778 and normal supplies resumed. This experiment seems in many ways very far removed from modern payday lending, and yet it serves as a nearly precise analogy for the unintended consequences of having a legislative price cap on a commodity, and money is a commodity.

These kinds of restrictions have been largely repealed with respect to money in the United States, and if you think about the progress that we've made in the last 30 years, credit has been democratized and it has been an extremely powerful economic force, particularly for those who are the less affluent members of our society. Indeed the greatest gains as a result of the democratization of credit and the elimination of most usury ceilings in this country have accrued to the highest-risk borrowers and arguably those who could benefit the most from credit.

Consumer credit is regarded by economists as good for people. That is, in economic terms, consumers derive a welfare benefit from enjoying things now that they will be able to pay for in an organized way in the future. Implied rates of return on a household investment tend to be high. Imagine, for example, the value to a crib now of a couple with a newborn or the value of a car to a newly employed commuting member of the workforce. In the vast majority of cases, credit serves a useful and salutary purpose.

This is so even when credit is very expensive. Research shows that the vast majority of consumers, including the users of payday loan credit, understand their loans and use their loans as intended and are responsible in their use.

And here is the key message: When credit is restricted, as it is in Pennsylvania, consumers turn to other frequently more expensive and less friendly sources of credit, such as bank overdrafts, late bill payments, and unlicensed illegal lenders. In economics, we call these "inferior substitutes." Consumers do not simply reduce their borrowing to the level permitted or desired or imagined by the Legislature. Rather, by tampering with market forces, laws such as the current restrictions on interest rates in Pennsylvania have the effect of driving consumers to inferior substitute credit products.

For the last few years, Pennsylvania has been operating under a credit price ceiling that is below legitimate lenders' costs. As a result, all legitimate short-term small lenders other than those heavily subsidized by some other source have been driven out of the market, and the market has been effectively abandoned to black market lenders.

Our research also shows that Internet advertising for unregulated offshore and tribal lending is targeted most heavily at States like Pennsylvania that restrict local lenders to charging unprofitable rates. This bill addresses this issue. It will provide for the first time an opportunity for Pennsylvania consumers of modest means who have impaired credit or thin credit files an opportunity to borrow lawfully from local retail operators. As a result, licensed regulated lenders can be expected to return to the market in this Commonwealth. They will hire employees here and pay taxes here, which their Internet-based or Ohio-based or Delaware-based competitors do not do.

The bill contains the toughest consumer safeguards of any comparable legal structure in America, including the limitations you've heard described by my colleagues here today. Key among these features is the preclusion of rollovers, a feature of payday loans often cited by critics as a cause of a "cycle of debt."

In every respect, this is a state-of-the-art consumer protection law, but possibly from an economist's standpoint it is, if anything, too consumer friendly. It will not permit lawful operators to bargain with consumers for specific individualized credit terms, which from an economic standpoint, we might like. But it recognizes the political realities of this situation, and it will make it possible for lawful operators to operate here. It will accomplish its principal regulatory purpose and represents a good compromise in the current political environment. It will certainly be an improvement over the status quo for consumers and positive for employment and tax revenue in this Commonwealth.

This is a good opportunity for you to learn from the mistakes of your predecessors in 1777. Interest rate ceilings, indeed price ceilings of any kind when they're below producers' costs, produce perverse results.

Thank you for your time. I'd be happy to answer any questions.

MAJORITY CHAIRMAN GODSHALL: I'm going to ask the questions to be to the point rather than statements, and the first question would be from Representative Parker.

REPRESENTATIVE PARKER: Thank you, Mr. Chairman.

And good morning to each of you. Thank you for being here.

Let me start with you, and help me, is it Rabe---

MR. RABENOLD: Rabenold.

REPRESENTATIVE PARKER: Rabenold.

MR. RABENOLD: Yes; Rabenold.

REPRESENTATIVE PARKER: Rabenold. I actually feel like I know you and I wanted to call you John, because I have received so many e-mails from you within the past few days. But with those e-mails in mind, sir, I just had a quick question for you.

I was reading one of them, and, you know, usually at the end of our e-mails we say our name, our role at a company or corporation, contact information. Yours has everything here, sir, aside from the city and State where you're located. So it mentions Axcess Financial Services, but where are you located? Where is that firm based?

MR. RABENOLD: Mr. Chairman and Representative Parker, we're located in a suburb of Cincinnati, Ohio.

REPRESENTATIVE PARKER: Cincinnati, Ohio. Okay.

So I guess I wanted to sort of get that on the record. I wanted to make sure that your company is based in Ohio, so when you mention companies based in Ohio and Pennsylvanians who are traveling across the border to access these kinds of loans by companies providing them in Ohio and other regions, your company happens to be one of those based outside of Pennsylvania that is actually benefiting as it relates to the industry.

MR. RABENOLD: Mr. Chairman, Representative Parker, yes, we have customers come from Pennsylvania to Ohio and avail themselves to the service there.

REPRESENTATIVE PARKER: Okay. So I don't want to call this the Ohio Benefits Bill, but, you know, when you just sort of made sure that you pointed that out, it immediately came to my mind.

Your company does not make loans over the Internet.

MR. RABENOLD: Mr. Chairman, Representative Parker, we do---

REPRESENTATIVE PARKER: You do.

MR. RABENOLD: ---actually make loans over the Internet. We do so with a State license and in accordance with the State laws and regulations of that particular State. In States where we're not permitted to do or where we don't hold a license or we're not permitted to do online lending, we do not operate in that State.

REPRESENTATIVE PARKER: Okay. And let's just sort of go to, you mentioned Rhode Island. Now, I see Rhode Island listed on this actual chart here, and I think the initial APR from the originally introduced bill was about 419 percent, but then when I looked at the amended bill, I believe the APR was about 369 percent. And you talked about or earlier it was mentioned about sort of the fairness of where the costs are of getting a payday loan in Pennsylvania. It would, you know, sort of be in the lower brackets compared to other States. So when you think about 369 percent, take me to what your company offers in Rhode Island, and tell me, what is the APR for a loan that you offer in Rhode Island versus what your company would offer if you were doing business if this bill were passed as amended today? How much is the APR in Rhode Island?

MR. RABENOLD: Mr. Chairman, Representative Parker, you know, the difficulty with APR is you have to throw in a lot of figures -- right? -- to make some assumption. And I just remind people that, you know, APR is used as a comparison tool to compare to other APRs. So having said that, State law in Rhode Island caps the per-100 price at $10. So $10 on a $100 loan for 2 weeks would yield a 260-percent APR. Now, if you go to a month, that fee stays the same but the APR would drop to a 120 percent APR.

REPRESENTATIVE PARKER: Okay. And I only wanted to get that on the record, sir, because I just wanted to note that even in the amended form, the APR that was referenced earlier as being just a number, and I've actually even seen a quote somewhere that mentioned that APR is a very sort of manipulative instrument to use. But the fact of the matter is that the APR is accepted and it's the legally required standard based on the FDIC, that we have to, you know, make sure that the APR is listed so that consumers will know the cost. So if this bill were passed, Pennsylvanians would be -- as amended -- would be paying 369 percent APR in Rhode Island. They would have, with the product that you offer, it's a 260 percent APR. I just want to make sure that I'm clear and that I'm not putting words in your mouth.

MR. RABENOLD: Mr. Chairman and Representative Parker, yes, if you assume a 14-day term with the associated fees for that specific term, that is what it would yield.

I mean, you know, we disclosed APR before we were required to, because I want people to know that. I don't want them to come back and say, I just paid 350 percent APR. I'd rather have them have that objection prior to them entering into the transaction than figuring it out afterwards. But what is important, and perhaps one of the researchers can speak to this, is the relevance of the use of APR.

REPRESENTATIVE PARKER: And I do have a question for one of our researchers here. I just thank you for that and just wanted to again make sure the record was clear in that if this bill were passed as it's being proposed to be amended, Pennsylvanians would pay a 369 percent APR, and in Rhode Island they pay a 260 percent APR from the company that we just heard from.

In addition to that, I wanted to quickly just ask you as it related to veterans, I know it was about 19--, I believe it was -- I have to come back to the actual when, but President Bush was extremely aggressive in ensuring that active military duty individuals and families, that they would not be negatively or adversely impacted by payday loans and actually made them illegal for those families. And I noticed that there were some protections, proposed protections or what was being offered as protections, that would help those who were active duty members of our Armed Forces. Why do you think there was a need to ensure that our veterans were protected? I mean, President Bush noted that this would threaten their ability to serve our country, and I wasn't certain and thought that before we get to the researcher, you would sort of be familiar with that.

MR. RABENOLD: Yeah; Mr. Chairman and Representative Parker, I am familiar with that. That was the Talent amendment -- Jim Talent.

REPRESENTATIVE PARKER: Talent. Okay.

MR. RABENOLD: Yeah. He was a Senator in an election year who lost to Claire McCaskill that year, who felt he needed this amendment -- right? -- and it created the same type situation that we see in Pennsylvania today.

Military personnel were never a large part of our business. It wasn't illegal; it was that loans to the military would not exceed 36 percent APR, and so therefore, we can't afford to lend small amounts of money for short periods of time at that rate. So military personnel could no longer gain access, at least legally, from licensed or regulated payday lenders, which left them to their own options that Pennsylvanians face today.

REPRESENTATIVE PARKER: I appreciate your saying that for the record. And I did note "illegal" on purpose, because I think the point you just made is the actual point of Pennsylvania's law in that your ability to do business in Pennsylvania is in fact not illegal but based on current rules and regs in that approximately 24-percent interest rate that you would be required to adhere to if you were making your loans here in the Commonwealth of Pennsylvania. It is very much similar to that which was proposed in that amendment that President Bush supported, which reduced that number and made it a double-digit number and interest rate in an effort to protect those families. So while it wasn't illegal for the military families, payday lending is not currently illegal in the Commonwealth of Pennsylvania; it is just not profitable for those in the industry, and I also wanted us to get that on the record.

So I thank you for clarifying that.

MAJORITY CHAIRMAN GODSHALL: Okay. At this time, I'm going to have to -- we have a whole string of people that are asking them questions, and if we have time, I'll come back.

But other than that, I'm going to have to go to the next Member, Tina Pickett.

REPRESENTATIVE PARKER: Mr. Chairman, can I be recognized during the second round if we get an opportunity?

MAJORITY CHAIRMAN GODSHALL: If we get time to do that.

REPRESENTATIVE PARKER: Thank you.

MAJORITY CHAIRMAN GODSHALL: Tina Pickett.

REPRESENTATIVE PICKETT: Thank you, Mr. Chairman. I just have a quick question.

We talked about the borrower not being able to get a second loan until the first one is paid off. What is the system or the mechanism that keeps them from just going to another payday lender and getting that second loan and continuing to have, so to speak, that cycle of debt?

MR. RABENOLD: Mr. Chairman, Representative, the bill requires the State to contract with a third party to provide a realtime online database that all regulated companies would provide information into. A single company has won every bid so far, a company called Vertex Solutions. They're based out of Florida. They operate in about 12 States. So as a condition of license, all companies must participate in the system, right? And so as a customer comes in, let's just say they obtain a loan from me, it's for $300, I put all that information in the system. So the guy, they could only get $300 from me; the customer wants to go get $300 across the street. They would go across the street and then they would find that that customer is in the system, that a $300 loan may exceed their 25 percent income, you know, ratio to income, or they may otherwise be in a cooling-off period or whatever, and then they would be denied. They would be denied credit. So it's designed to stop a consumer from going store to store to store, racking up three, four, five, six, seven loans, $1,000, $2,000, $3,000. It's designed to ensure compliance with the law. And it has worked without problem in all the regulated States where it's used.

REPRESENTATIVE PICKETT: Thank you, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: Representative Ellis.

REPRESENTATIVE ELLIS: Good morning.

I just want to make this a little bit easier for me to understand, and Representative Parker was talking a lot about the APR, and in the testimony I heard specifically, you know, that the research that you two have done found that the consumers want to know the cost. So if I'm doing it right, and I'm saying I'm going to borrow $500, in Pennsylvania, under Representative Ross's bill, I would pay $67.50. Is that correct?

MR. MILLER: I think that's correct.

REPRESENTATIVE ELLIS: Okay. I just want to make it simple, so that if I need to know that I'm jammed up and my washer breaks or my children have an unexpected bill, I know I can make the choice based on, if I want $500, I have to pay $567 back. Now, that period comes and I cannot pay it off by the end of that. I don't get charged again; I work it out with the company and I move forward and continue to work towards paying that thing, and I can only do that up to six times a year? Is that correct?

Maybe, Mr. Rabenold, you might be able to answer that.

MR. RABENOLD: Mr. Chairman, Representative Ellis, the legislation limits the extended payment plan availability to once per year.

REPRESENTATIVE ELLIS: Okay. So say I extend my payment one time and then I pay it off. Then I say, you know what? I like doing business with them; I need money again. I can come back to you five more times -- four more times.

MR. RABENOLD: There is, Mr. Chairman, Representative Ellis, there is no cap on the number of---

REPRESENTATIVE ELLIS: Well, assuming I took it out the longest length of time.

MR. RABENOLD: Correct. Yes, sir.

REPRESENTATIVE ELLIS: So it seems to me that if I'm going to borrow a thousand dollars and I take it to the longest possible time, which would be 2 months, and if I did that six times a year, then what I'm actually doing is borrowing $6,000 instead of just borrowing a thousand. I would imagine that if I went to a bank, I would have a strong monthly payment of a $6,000 loan, and then I probably would not be able to meet that payment with the interest as well. So I wonder, I guess what I'm saying is, what are the like products, and give me an example of another option for me and how it compares to what your services are.

MR. MILLER: I can answer that.

REPRESENTATIVE ELLIS: Okay.

MR. MILLER: So for consumers in the demographic who are most likely to use this form of loan, they are not folks who are likely to be able to walk into their local bank and get a signature loan as perhaps you and I might be able to get. So for them, the alternatives are almost universally much worse than proposed by this bill.

One alternative, and clearly the alternative of first resort, ought to be using a credit card or getting a cash advance on a credit card, which is relatively inexpensive. And many of these people do have credit cards, as Dr. Cirillo testified. The problem is that fewer than 10 percent of them have any meaningful unused credit line available on their credit cards; they're tapped out. So for them, the options now become, overdraw my checking account and be charged a $35 fee for each overdraft, assuming the bank pays it. If the bank doesn't pay it, I get no benefit from overdrawing the checking account. Paying bills late; pawning property that I own; or getting an illegal loan from a loan shark or the Internet.

So the options, this is the best of the available alternative options in this marketplace. It's not by any means less desirable than the other alternatives available to most consumers.

REPRESENTATIVE ELLIS: I appreciate that.

And then I guess as a statement, and maybe your research could back it up, there is clearly a need for this. I had, and I assume my colleagues did as well, many people over the last few years coming into our offices, "Where can we go for help?" I hear people talking about borrowing against their 401(k)s, you know, drawing that down. And other options that we hear over and over are also bad options when all they really need is help to get through the next month or the next 2 months. So are there statistics that show that there is a growing demand or a consistent demand for this kind of service?

MR. MILLER: Well, ever since the end of the bottom of the consumer credit crisis, banks have been shrinking the amount of consumer credit they've been making available in society. So people even who were prime candidates for the cheapest and most favorable terms have found themselves shifted farther down, for want of a better term, the "food chain" and forced to borrow from other sources. So as a result, demand for this product or products like it has skyrocketed among borrowers who formerly were candidates for credit on much more favorable terms.

REPRESENTATIVE ELLIS: Okay. And then just finally, Mr. Rabenold, to address Representative Parker's question about you living in Ohio, didn't you just testify that you looked forward to moving to Pennsylvania? Or have you not made that decision?

MR. RABENOLD: Mr. Chairman, Representative Ellis, my family is from Pennsylvania. My dad grew up in the Lehigh Valley and went to Penn State. But I would consider that, sir.

REPRESENTATIVE ELLIS: Well, we would love to have you in the 11th District in Butler County. Thank you.

MINORITY CHAIRMAN PRESTON: Wait a minute; wait a minute.

MAJORITY CHAIRMAN GODSHALL: Representative Kampf.

REPRESENTATIVE KAMPF: Thank you, Mr. Chairman. Hopefully just two quick questions.

Can one of you quantify for me in dollars or number of people, how many people are going across the border to access this product or going to the Internet from Pennsylvania to access this product?

And then, what happens if I don't pay back this loan even in the extended period of time? What are the terms after that? Thank you.

DR. CIRILLO: Mr. Chairman, Representative, I'll answer the first question.

We don't have exact estimates of the number of Pennsylvanians who are obtaining Internet loans. We can estimate that based on the level of activity that you had prior to the law changing a few years ago.

Most studies have shown that 5 percent of households take out a payday loan. It's actually a small portion of the market. So I would estimate that probably about 2 percent, based on other data that we've seen in States where Internet loans are available, or offered I should say, but storefront loans are not, I would probably estimate about 2 percent of Pennsylvania households are accessing loans online.

Maybe, John, you have the answers about---

MR. RABENOLD: Yeah. You know, we've seen, Mr. Chairman and Representative, we've seen the Montel Williams commercials -- right? -- and they're a lead generator and they sell leads to other online companies. We have some data that Experian put together for us that showed the penetration of those online companies targeting Pennsylvania consumers, and it's higher than just the Pennsylvania population percentage of 4 percent. It was 5 to 8 percent of the online hits were from Pennsylvania.

On the default question, the way the bill is set up, if a customer can't pay us back -- right? -- we're not permitted to roll it over; we're not permitted to refinance it; we won't increase the amount of credit. Ultimately, if the consumer has no interest in paying us back, we would deposit the check and the customer would face a bounced-check fee from the bank or credit union, and that's it, and not be a customer again.

That data would also be stored in the database so that if they go to another company and try and apply for a loan, that data would come up on the system and then the lender would know, we've got a problem here; we probably ought not lend and make that credit extension.

MAJORITY CHAIRMAN GODSHALL: One of our Members from the military has a question, Representative Perry.

REPRESENTATIVE PERRY: Thank you, Mr. Chairman. I actually have a couple.

If I'm a military guy -- and I'm a little bit older, but I'm trying to update my mindset to today's practices, and I don't know them at all. But I'm from Pennsylvania and I join the military, and I get stationed in let's say Fort Stewart, Georgia, or something like that, so I have no local bank. They don't know me; I don't know them. I'm, you know, a thousand miles from home. I'm an E-3, and my transmission on my car breaks. I have got to make it to work or be AWOL or something like that. What are my options? And maybe not specific to Georgia, but, you know, Anywhere USA.

MR. MILLER: So one of your options is, generally speaking, not a payday loan from a lawful lender, because as we've discussed previously, Federal law, which applies in every State, precludes making a payday loan to you at an interest rate in excess of 36 percent, and no lawful lender can afford to do that and make a profit. So you could, and in fact we believe a very large number of Service members do, obtain payday loans over the Internet, and you could get that money almost immediately and have it in your checking account the next day. And, you know, in this day and age it doesn't matter where your checking account is because you can access it electronically from anywhere.

REPRESENTATIVE PERRY: Okay. And I've got to tell you, and I'm not going to go on here, Mr. Chairman, but I remember being a young man trying to establish credit, and again, I'm a little bit older, so now, I guess, credit cards send cards to 16-, 17-year-old individuals immediately upon their birth dates and that's how you establish credit. But I used the services of similar organizations when I was younger for needs and wants and made my own decisions, and I made it this far. You know, I'm not sure why we need to be involved in private transactions.

But let me ask you this, Mr. Rabenold, in particular, because it was alluded earlier in questioning that this would be the Ohio Benefits Bill or something like that.

Would your company, and I'm assuming other companies, although you can't speak for them, would you establish a presence in Pennsylvania if we changed the law here?

I mean, I'm assuming that your company is benefiting to a certain extent because of your proximity to Pennsylvania, and people can travel -- if you lived in Texas or if your business was based in Texas, people from Pennsylvania probably wouldn't travel there for a payday loan, right? But you're close, so people are traveling over the border. But since you are close, if we changed the law, are you considering establishing a presence, a physical presence, in Pennsylvania?

MR. RABENOLD: Yeah. Mr. Chairman, Representative, you know, one of the first things we would do is we would send out our HR department and start hiring people, and we would hire anywhere from two to five people per store, and we would do that throughout the State.

REPRESENTATIVE PERRY: It would be stores in Pennsylvania, physical---

MR. RABENOLD: Stores in Pennsylvania, yes. You know, we do best at brick and mortar. We do best at brick and mortar. We would retain, go out and compete, and hire employees from credit unions, banks, and retailers, people who are used to or accustomed to have cash. We'd have a couple levels of management, giving people an opportunity to move up in the organization, and we'd do all that in Pennsylvania.

With the rates that are being considered in Pennsylvania, I think you would see a northbound traffic coming out of Delaware into Pennsylvania and doing business here, because it's just simply less expensive to do so in Pennsylvania than it would be in Delaware.

So I think the benefits, you know, when I look at our expenses, our biggest three expenses, and they're all Pennsylvania related, the biggest expense is wages and benefits. You know, we're going to give their store manager the same health-care package that the president of our company has. The second biggest expense is occupancy expense, that and the cams and the stuff at the retail location. And the third biggest expense is going to be the purchase of goods and services to run the organization -- utilities, paper, copier, cleaning services, stuff like that. I mean, there's going to be an extraordinary amount of money that's going to be influxed into the Pennsylvania economy, and I think it's a great benefit for Pennsylvania.

REPRESENTATIVE PERRY: Thank you, sir.

Thank you, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: Thank you.

Chairman Preston.

MINORITY CHAIRMAN PRESTON: No; I'll yield to Ms. Parker, if you don't mind, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: Well, I have---

MINORITY CHAIRMAN PRESTON: All right. Go ahead.

MAJORITY CHAIRMAN GODSHALL: You know, I guess at one time I took benefit of the same situation. I was in a municipality in northwestern Pennsylvania, and I noticed something in a storefront that I really was intrigued with. And unfortunately it was a cash and/or check purchase, and it was something that I didn't want to go home to Philadelphia and then go back out another 200 or 300 miles, and I was told where I could get a loan, which I did, you know, and purchased that product.

So, you know, it's the same, I think, for a lot of people we have here. I'm up against it. If I drive for a living and my car registration or my license is due and I have to get a check in, and I don't know what PENNDOT charges for a bounced check and what on top of that the bank charges, but I have to use that, even though I know the check is no good, to get that license which I need for my livelihood. In those situations, we're looking at here, for a $100 loan, you're looking at approximately $17.50 if you pay it back in 14 days.

MR. RABENOLD: Mr. Chairman, you know, the driver's license in Pennsylvania costs $36.

MAJORITY CHAIRMAN GODSHALL: Right.

MR. RABENOLD: If you pay for it by check and that check bounces, the State -- the State -- is going to charge you $30. And so that time period is immediate, so let's think about the APR there. Then your bank or credit union is going to charge $25 to $35 as well. So now our $36 driver's license, we just added $60 in fees.

The reliance on fees for banks is important, too, because now they charge daily fees, and they charge daily fees of 5, 6, 7, 8 bucks a day per item. So if you go out 14 days, 30 days, those fees really escalate, and those are the fees that people are running from. And for them to get a short-term loan to make sure that that check doesn't bounce at PENNDOT and their driver's license is good so they can go about their business, that might be the best decision for them.

MAJORITY CHAIRMAN GODSHALL: Thank you. I have some other questions, but I know we're running way over time already.

Ms. Parker, I will give you 5 more minutes, out of respect for the rest of the people here.

REPRESENTATIVE PARKER: Chairman Godshall, thank you, sir. Thank you.

I wanted to agree, before we get to the research, with you, Mr. Rabenold, on the fact that I would agree with you a thousand percent that the demand is definitely there. The marketing that we see, you know, "Bad Credit No Problem"; you know, "Easy Access. Do you have a job, a steady income, and a checking account?"; you know, "You would be eligible." So the big bank, the prime guys, you know, "They won't give you an opportunity, but we will." So I wanted to just agree with you on the record in that I'm not denying that there is absolutely a demand.

I do want to ask the researcher who is here from Cypress: Cypress, is that based in Ohio?

DR. CIRILLO: Mr. Chairman, Representative, yes, Cleveland, Ohio.

REPRESENTATIVE PARKER: Okay. Are you associated, the Cypress firm, are you associated with any institution of higher learning in the United States or in the Ohio area?

DR. CIRILLO: No. We're an independent statistician, a statistical consulting research firm.

REPRESENTATIVE PARKER: Okay. So an independent consulting firm. So no affiliation with an academic institution.

DR. CIRILLO: Right.

REPRESENTATIVE PARKER: Are you paid for -- you're an independent firm, so you obviously can do business with whomever your company desires.

DR. CIRILLO: Yes.

REPRESENTATIVE PARKER: Are you paid by any entities representing the payday loan industry to conduct research at all?

DR. CIRILLO: Some of the studies I have done have been subsidized by the payday loan industry, but it's also true for the banking industry, credit unions, foundations, all different entities.

REPRESENTATIVE PARKER: Okay, but just---

DR. CIRILLO: Depending on what their question is, yes.

REPRESENTATIVE PARKER: But as it relates to research in this area, you have been contracted or received a contract from the industry to work on gathering data and/or statistics?

DR. CIRILLO: Yes; yes.

REPRESENTATIVE PARKER: Okay. I just wanted to get that on the record.

In addition to that, I noted sort of in your testimony, I was looking for a list of consumer organizations, nonprofit groups who are in support, because you talked about the demand a lot. And again, I even agreed with you on the record. Are there any consumer-based organizations, credit counseling agencies, that you included in this bill who could be available to assist those Pennsylvanians who actually would take advantage? Who is supporting this bill aside from those who represent the payday loan industry? Do you have the names of any organizations in the Commonwealth of Pennsylvania who support this effort? Any of you?

MR. RABENOLD: Mr. Chairman, I've heard of some agencies that are preparing letters of support. One of this was a moving target with the amendment, and so organizations wanted to see that. Today, no one is following me blindly. So once we have this amendment, we'll go court some help for that. But I know of nothing -- nobody has given me a letter of support for this bill from any of those agencies that you make.

REPRESENTATIVE PARKER: Well, I thank Chairman Godshall so very much for his graciousness in allowing this 5 minutes.

I want to close with a question for research, and that is, can you tell me where the payday lending model, where does the volume, the bulk of your customers, come from? Are they the customers that were described so ably earlier by one of my colleagues, the young person who's in need of credit or the family and they just need an extra lift to get through the next month or two, or are we talking about repeat borrowers who are actually keeping the payday lending industry alive?

MR. MILLER: I can respond to that.

REPRESENTATIVE PARKER: Sure.

MR. MILLER: In studies done in other States, there has been some research showing that in the absence of the kinds of protections provided by this bill, consumers who account for multiple loans per year tend to be the largest source of business for some payday lenders. This bill effectively precludes that kind of behavior by imposing both the one-loan limit and the no-rollover provision and the 7-day cooling-off period. So it is likely that people in the same demographic group will require the most credit under this bill. They're currently getting it from illegal sources. And if this bill is enacted, it is likely that you will see that many of the difficulties that have been experienced in other States will not be present here.

REPRESENTATIVE PARKER: Thank you, Chairman Godshall.

MAJORITY CHAIRMAN GODSHALL: Thank you.

I think as far as the need for, it is demonstrated probably by the amount and volume of illegal activity that we know exists in this State. And I read from the Department of Banking, who are also aware of the activities that are going on. So the consumers, I guess, are the ones that are determining either the need or lack thereof for this product.

Yes?

MINORITY CHAIRMAN PRESTON: One quick question, and I'd like to pose the same question for the next group.

Demographically, from socioeconomics, what ranges do you think that this usually applies to? Is it 80 percent, lower or middle incomes, and things like that.

MR. MILLER: So a key feature of credit in this demographic is that you must have a source of income in order to qualify, because there has to be a source of repayment. So there are very few truly destitute people who are able to qualify for these loans because they can't pay them back, and lenders are not interested in making loans to people who can't repay them. So the typical borrower tends to be someone with a family income in the $25,000 to $50,000 range.

MINORITY CHAIRMAN PRESTON: Okay. Thank you.

MAJORITY CHAIRMAN GODSHALL: Thank you very much.

MR. MILLER: Thank you, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: And if there are any Members that have questions, I'm sure you'll be here a little bit after to handle that.

PANEL 2

MAJORITY CHAIRMAN GODSHALL: I'd like to get -- we're running way over time for the second panel -- Kerry Smith, Staff Attorney, Community Legal Services; Ray Landis, AARP; Rev. Amy Reumann, Director, Lutheran Advocacy Ministry in Pennsylvania; and Greg Simmons, ACTION Housing.

Gentlemen and ladies, you have a maximum of 30 minutes, which the other people held to.

REVEREND REUMANN: And I will lead off.

Thank you, Mr. Chair and to the committee, for this opportunity to bring this testimony before you.

MAJORITY CHAIRMAN GODSHALL: Identify yourself for the record. Identify yourself.

REVEREND REUMANN: Pastor Amy Reumann, Lutheran Advocacy Ministry in Pennsylvania. We are the State public policy expression of the Evangelical Lutheran Church in America in Pennsylvania. We have seven bishops in 1,200 congregations, 17 social service organizations, 4 colleges, and 2 seminaries that work together and collaborate around public policy. And our mission is to advocate on behalf of and in partnership with those persons denied justice and dignity or who lack adequate representation and voice in public policy arenas.

I'm here to give a broad picture in terms of the faith tradition's response to propositions such as HB 2191 in terms of opposition to this bill.

The faith voices across the centuries from all major faith traditions have voiced vocal and fervent opposition to usurious lending and charging excessive interest, especially to those who are poor or vulnerable in any way. The sacred text of Judaism, Christianity, Buddhism, and Islam, to name a few, all recognize these practices as unjust, unethical, and that the poorest among us are at greatest risk of being trapped into unmanageable debt. All these sources see that usurious practices neither serve the common good nor assist those who are truly seeking a pathway out of poverty.

I have referenced several scripture texts here. I will simply note for you that the Hebrew Scriptures go so far as to say the poor should actually be charged no interest to help them out of their plight, and the Christian Scriptures also testify to the importance of not oppressing those who are poor or leading them into unmanageable situations due to excessive interest.

In this "Year of the Bible" in Pennsylvania, it would be good to be reminded that there is nothing in those texts that speak in support of charging excessive interest but plenty that witness to a clear opposition to practices like this that will prey on people who are vulnerable or desperate. The biblical witness is clear and consistent: charging of excessive interest is an offense to God, and 300 percent or more, I think, would fall safely in that category.

I follow in my testimony and you can read what the founder of my denomination, Martin Luther, had to say about this. He used many choice words for usurers, which I cannot repeat here in this forum, but he did note in commenting on the Lord's Prayer petition "Give us this day our daily bread," "How much trouble there now is in the world...on account of daily exploitation and usury in public business...on the part of those who wantonly oppress the poor and deprive them of their daily bread!" He saw this as an issue that related to hunger, to poverty, and to injustice.

I've collected several voices from around the country from our Lutheran social service partners as well as pastors that are witness to what is happening in their communities. I will just lift up a piece of what I've written out in more detail.

Darryl Dahlheimer, who is a program director at Lutheran Social Service Financial Counseling in Minnesota, calls payday lending a debt trap. He's seen it and tried to help people out of it over and over again in his place. He says it's "the first step into a ruinous cycle of debt and bankruptcy." What he says at the very end of the portion that I quoted, he said "Payday lending is like throwing gasoline on the fire of indebtedness." It does not solve anything; it makes someone's bad problem worse. It's like having -- for people who are fairly desperate, have poor credit, or no access to traditional loans, it's like a product that is an accelerant, which is what arsonists use, to make the problem much worse much more quickly.

Likewise, Pastor Charles Swadley of Richmond, Virginia, rallied the clergy of Richmond because of the problems of so many people in their low-income neighborhoods being trapped into a cycle of debt. He even raised his own loan fund to help buy people out of their loans for the church to help them to do it better. He said, we wanted to help people who had gotten into serious problems, and he detailed the story of a young man in his congregation in a group home for adults with mental incapacities who received loans both online and in brick-and-mortar stores who didn't understand what he was signing. He goes further to describe what happens to those whose English language is limited, to recent immigrants when they do not understand those terms, and people with a poor financial background.

As this Commonwealth contemplates unprecedented cutbacks to human services in the proposed budget, 20 percent to the Human Services Development Fund block grant, and the elimination of General Assistance, how many more people will be at risk of taking these kinds of loans if they are available?

I'll simply conclude by saying if military families are exempt, should we not extend that same privilege and right to all persons in Pennsylvania as well to have the same level of consumer protection? Please keep in place the prohibitions that have been in place in this Commonwealth for 100 years, for over a century, because they reflect both the broad consensus of the values of the faith community but also the requirements of the common good.

Thank you.

MR. LANDIS: Good morning, Mr. Chairman Godshall, Mr. Chairman Preston.

My name is Ray Landis. I'm the Advocacy Manager for AARP in Pennsylvania. AARP has about 1.8 million members in the Commonwealth, and I'm pleased to be here today to discuss HB 2191, legislation which AARP is opposed to.

In the interests of time, I just want to focus on --

we did submit written testimony, but I did want to focus on the parts of our testimony that show the impact of these loans on older Pennsylvanians and older Americans.

We note that the recent economic difficulties have stressed older Pennsylvanians and older Americans, and it has been noted that seniors and many seniors who are on limited or fixed incomes are ripe targets for predatory lenders' attention for payday loans. And part of the reason for this was reflected in the previous testimony. It was noted that payday lenders only lend to individuals who have incomes, and fortunately, seniors who are on Social Security have a source of income, a regular source of income, but in these difficult financial times when many seniors -- and in fact we see right now 25 percent of the individuals who receive Social Security are relying on Social Security for over 90 percent of their family's income. And we know the limits of Social Security. The average Social Security payment right now is approximately $1,400 a month, and for individuals and families trying to exist on $1,400 a month as 90 percent of their family's income, it means that their family budgets are very stretched.

And we've noted that AARP is concerned about the negative impact on Social Security beneficiaries as a result of this focus by payday lenders on older consumers. A recent Wall Street Journal article noted that "such lenders are increasingly targeting recipients of Social Security and other government benefits, including disability and veteran's benefits." And a study commissioned by the Wall Street Journal shows that payday loan shops cluster near housing for seniors and the disabled. We know, based on their activities in other States with laws similar to HB 2191, that payday lenders are perfectly willing to make these high-cost loans available to borrowers whose only source of income is a Social Security or a disability check.

Now, fortunately at this point in time, Pennsylvania seniors are protected against these exploitative payday loan practices. The Commonwealth's longstanding laws make them illegal if they carry interest rates higher than about 24 percent annually, regardless if the loan is made at a storefront or over the Internet. And it's one thing, you know, we hear about these Internet loans, but the fact of the matter is, they are illegal in Pennsylvania, and if Internet lenders are caught and prosecuted, as they have been, these loans, whether we need enforcement of these illegal activities -- and they are illegal activities, you know.

And we hear the claims that the Internet payday lending is increasing, but as AARP members talk to us about their current financial situations, being trapped in an illegal Internet payday loan is not one of the things that we're hearing from older Pennsylvanians. It's not a situation that many older Pennsylvanians, many of whom don't access the

Internet right now, are being caught in these illegal Internet loans.

We'll hear more about the problems of payday lending and some of the concerns about the interest rates from our next testifiers, but I do want to note that AARP, in looking and being active on these issues in other States, we've noted that in the States with laws similar to HB 2191, that more than 60 percent of the payday loan revenue is generated by borrowers with 12 or more loans a year. The industry is not making money off of the one-time lender who's in a one-time crisis that's coming and getting a payday loan. The industry makes money off of the repeat customers. And the protections that are in the legislation and in the amendment frankly are not going to stop individuals from coming to a payday lender more than once, more than twice, more than three times a year. Folks get trapped in this cycle of debt, and it's a situation that we don't have in Pennsylvania right now and we don't need to have it in Pennsylvania.

AARP feels that HB 2191 is going to exacerbate the problem it claims to solve and it's going to create untold harm to our State's seniors. And on behalf of our 1.8 million members, AARP urges the committee to reject this legislation and to continue the laws that have been in place for over 100 years in the Commonwealth.

Thank you.

MS. SMITH: Good morning, Chairmen and Members of the committee. Thank you for holding this hearing today and giving me the opportunity to testify about payday lending and our opposition to HB 2191.

My name is Kerry Smith, and I'm a staff attorney with Community Legal Services in Philadelphia. CLS provides free civil legal services to low-income residents of Philadelphia, and in my role as staff attorney, I've had experience watching the significant negative effect that payday lending can have on low-income and moderate borrowers, and I hope to share with you today some of the things that we've learned about how predatory payday loans can really trap borrowers in a long-term debt cycle and how Pennsylvania law already effectively regulates these loans, whether they're offered online or not. I'll also discuss how provisions similar to those in HB 2191, including the amendment that's offered today, have failed to stop the payday loan debt cycle.

In short, HB 2191 is going to worsen the very problem that it claims to solve. In fact, the bill does nothing more than really create a payday lending debt trap for Pennsylvania residents. Payday loans are marketed as a short-term 2-week loan just to help you for the occasional unexpected expense. The industry says the borrower simply takes out a loan, pays the high fees and interest rate the next time they get their paycheck, and then walks away.

Unfortunately, payday lending very rarely works like that. In fact, it only works like that 2 percent of the time.

The reality is that payday lending traps vulnerable people into a long-term cycle of debt. And why is that? Well, it's because the payday loan product itself is structured to create repetitive borrowing. A payday loan requires a single balloon payment of principal and very high interest within a very short period of time, and the loan is secured by access to a borrower's checking account, whether that be a post-dated check or electronic access to the account. So that means the payday lender always gets paid first -- before the mortgage company and the landlord, before the electric company, and before all other bills.

And because of that loan structure, the typical borrower is unable to pay the loan back and still have enough money to cover all their other expenses. Borrowers quickly then have to re-borrow against their future income just to make it to the end of the month, at which point they're going to be in the same financial situation all over again. That is the debt cycle trap, and HB 2191 does nothing but actually codify all the toxic elements of the payday loan structure into our State law, and it's going to authorize this kind of lending both in stores and over the Internet.

Importantly, Pennsylvania law already protects residents from the payday lending debt trap. It has already been mentioned we have a 100-year history of regulating small-dollar loans, 6 percent for unlicensed lenders, about 24 percent APR for lenders that have a license from the Department of Banking. Of course, the out-of-State payday lenders have been notorious for trying to evade our strong usury laws, whether it's offering illegal payday loans over the Internet or trying to create lines-of-credit products that they load up with fees. However, contrary to what the industry would like you to believe, this State and our courts here have been very effective at keeping the illegal practices and loans out of Pennsylvania.

Most recently, the Pennsylvania Supreme Court unanimously held that our State's usury laws apply to loans that are made over the Internet to Pennsylvania residents. Cash America, which is one of the main proponents of HB 2191 and the payday lender at the center of that Supreme Court decision, offered Internet payday loans at interest rates that ranged from 260 percent APR to over 1140 percent APR for an 8-day loan. And our Supreme Court concluded that those loans, when made to Pennsylvania residents, were illegal, and the court made it absolutely clear that our loan applies whether the loans are made in brick-and-mortar stores or whether they're made online.

Earlier there was reference mentioned to an Inquirer article from Sunday and a borrower who was trapped in a cycle of debt because of a payday loan that he had taken out over the Internet from Cash America. Mr. Alfeche took that loan out in 2006, prior to their Pennsylvania Supreme Court ruling that our loan applies to Internet lending. Had he been in a bad financial situation today and been looking for an alternative funding source, Cash America would not have been an option for him. Cash America does not make payday loans in Pennsylvania, and we do not need HB 2191 to protect Pennsylvania residents against loans that are made over the Internet. In fact, the only thing it will do is increase the prevalence of harms caused by payday loans and make them nearly impossible to resolve.

You know, in the rare occasion when I have a client who has fallen victim to a payday loan, it's a pretty simple and straightforward process for me to be able to get them out of that debt trap because it's illegal here. With HB 2191, I'm not going to be able to do that. And unfortunately the so-called consumer provisions of HB 2191, they're not going to protect consumers from the payday lending debt trap either. In States with laws like HB 2191, the payday loan debt trap is the norm, it is not the exception. Provisions limiting rollovers, providing cooling-off periods, and even an extended repayment plan do not work to stop the cycle of debt.

For example, in Florida, which has many of the same provisions included in HB 2191 as amended, that law is already on the books, and data from State regulators in Florida shows that borrowers are stuck in an average of 9 payday loans a year, and as Ray mentioned, 60 percent of their revenue comes from borrowers who are trapped in 12 or more loans a year. And data from Florida and other States with similar laws shows that 76 percent of payday lender business is due to repeat borrowers, and by that I mean borrowers who are unable to repay one payday loan and make it to their next payday without having to take out another one.

Now, payday loan supporters claim that a rollover ban will stop the cycle of debt, but the data shows that it doesn't. Payday lenders already know how to get around a rollover ban like that in the amendment. They simply make a new loan shortly after closing out the old one. In Oklahoma and Florida, both States that have the rollover ban like in the amendment before you, half of reopened new loans in these States were taken out at the borrower's first opportunity, and almost 90 percent of new loans were made during the same period as the previous loan is paid off. So despite those provisions, despite the rollover ban, borrowers are trapped in payday loan debt for over 200 days in a year.

Similarly, extended repayment plans, they have provided very little effective relief for borrowers. Because of the economic incentives of the business model, it's based on repeat borrowing. Lenders place very few eligible customers in these plans. States that collect data on repayment plans report that less than 3 percent of eligible transactions actually use the extended repayment plan option. So it's clear that the payday lending debt trap is not going to be mitigated by any of the so-called consumer provisions in the amendment to HB 2191.

And finally, I'd just like to point out that payday loans put borrowers who are living paycheck to paycheck really in a worse financial situation than they were before taking out the loan. Independent academic research shows that borrowers who were approved for a payday loan, they're 90 percent more likely to have to file a bankruptcy than someone who's denied a loan. Payday loans increase the chances that households will experience financial hardship, have difficulty paying bills, even have to delay medical care.

And contrary to what the industry says, payday loans are no better than overdraft or bounced-check fees. Both are predatory products, and in fact payday loans will actually increase the burden of overdraft and bounced-check fees. Every year payday lenders collect millions of dollars in bounced-check fees from their own customers, because the loan is secured by direct access to the borrower's bank account. And research shows that payday lending increases the odds that households actually ultimately lose their checking account because they incur so many bounced-check fees and overcharges due to payday lending. These are very real consequences, and under HB 2191, the bill allows for electronic debit authorization -- automatic repayment of the debt.

These concerns also are not hypothetical, as previously has been mentioned. In 2006, the Department of Defense conducted a comprehensive study of the impact of payday lending on military families, and it concluded that the financial consequences were devastating. It was impairing military readiness in our national security, and as a result, President George Bush signed into law prohibiting the very loans that HB 2191 is going to bring into Pennsylvania, prohibiting them from being made to military families. If these loans are so harmful to soldiers, that very same should be expected to be impacted on our most vulnerable, particularly people, seniors, with limited incomes.

While payday loans are marketed as these short-term solutions to a financial shortfall to get someone through to their payday, we know from data that they're just a long-term debt trap, and HB 2191 does nothing other than codify that debt trap into State law.

For these reasons, CLS and a growing coalition of organizations across the Commonwealth urge you to oppose the bill and keep predatory lending out of Pennsylvania.

MR. SIMMONS: Good morning, Chairman Godshall, Co-Chairman Preston, Members of the Consumer Affairs Committee.

My name is Greg Simmons, and I'd like to thank you for allowing us the opportunity to testify here today on the proposed legalization of payday lending in Pennsylvania.

I'm here representing ACTION Housing, an agency in Pittsburgh. We are dedicated to creating and preserving affordable housing in western Pennsylvania. We have developed and currently manage over 1,500 units of affordable senior and special-needs housing throughout Allegheny County. We administer the weatherization and crisis furnace repair programs for low-income families in Allegheny, Washington, and Greene Counties. And most germane to this discussion, we are actively involved in improving the financial health of consumers through our foreclosure mitigation, family savings account, and homeownership pre-purchase counseling programs.

ACTION Housing has been helping homeowners battle back from the brink of foreclosure for over 30 years. As a HEMAP support agency, we have been heavily involved with implementing one of the country's premier foreclosure mitigation programs.

A core component of all of those efforts is helping people, especially people of moderate means, understand their own finances in relation to the safe use of credit. We are here today to oppose the legalization of payday lending in Pennsylvania because we believe payday lending robs consumers of the ability to manage their own finances.

The bill will allow payday lenders to repay themselves in full from a consumer's checking account on payday without regard for the consumer's ability to repay the loan and before the consumer has an opportunity to pay their own rents, mortgage, utilities, or even feed their families. Simply put, we are concerned that cash-strapped consumers, particularly those facing a foreclosure, would take desperate measures to keep their homes and, in the process, drive themselves further towards foreclosure but with the introduction of additional unaffordable debt.

ACTION Housing believes that Pennsylvania's employment market has remained healthier than other areas of the country, in part due to a relatively stable housing market. Pennsylvania's housing market has been supported by responsible lenders, an effective consumer counseling program, and especially strong oversight by the Pennsylvania Department of Banking. To the extent that we are trying to help people obtain high-quality credit for homes, cars, college, and other necessary expenses, high-cost payday lending will push them further away from those goals. We believe that payday lending with a 370-percent interest rate further jeopardizes stability and has no place in a responsible consumer credit market.

One of the arguments in favor of legalization is that some Pennsylvanians may already be obtaining payday loans either over the Internet or by traveling out of State, and therefore, the practice needs to be regulated. The argument boils down to this: A few Pennsylvanians are going to great lengths to get payday loans, so we should legalize 370-percent payday loans to protect people from 370-percent payday loans. If someone can't manage the 24 percent interest that is currently capped under the State's usury statutes, what makes anyone think that 370 percent will be any more affordable?

HB 2191 and the amendment currently being circulated contains a list of so-called consumer protections, most of which have already been debunked as window-dressing in other States. The United States Department of Defense in a 2006 study on the effects of predatory lending to military personnel noted that Pennsylvania is among the States that banned payday lending before concluding, and this is a quote, "The other thirty-nine states have legalized payday lending using provisions such as mandatory databases, cooling off periods, attempts to stop rollovers and back-to-back transactions, and attempts to stop borrowing from multiple lenders. However, even with the addition of these 'consumer bells and whistles', these laws do not stop the debt trap," end quote.

As a result, as you've heard, of the Department of Defense study, Congress passed legislation severely limiting the interest rates payday lenders are allowed to charge active duty soldiers. HB 2191 makes a great show of touting protections for military personnel, but active duty soldiers, sailors, airmen, and marines already enjoy these protections under Federal Law.

On the other hand, nothing in existing law or proposed under this bill would protect military retirees or reservists from abusive lending. Imagine an Army retiree, having put in his 20 years of service to his country, suddenly finding himself in a position of having to pay 300-percent interest on a portion of his retirement benefits just because the furnace broke? Nothing in 2191 would prevent that from happening. For that matter, nothing would prevent payday lenders from collateralizing Social Security income from senior citizens, unemployment checks, pensions, disability payments, or virtually any other sort of fixed income that people rely on.

A 2008 Wall Street Journal article detailed payday lending practices secured by Social Security income, and a quick search of Internet payday lenders shows that they are actively engaged in marketing to Social Security recipients today.

The premise that HB 2191 is a consumer protection measure is deliberately misleading. The bill is not a consumer protection measure. Pennsylvania currently enjoys the best protection against abusive payday lending: the practice is effectively illegal. Simply put, HB 2191 is a bill to legalize payday lending in the Commonwealth of Pennsylvania. The simple fact is, none of the so-called consumer protections included in the bill would be necessary if the existing law were simply left alone.

The State does have a compelling interest to protect consumers by enforcing usury statutes, and carving out a loophole to allow payday lenders to charge consumers 370-percent interest rates is antithetical to the goal of consumer protection. We hope that the Consumer Affairs Committee will side with Pennsylvania consumers and not allow payday lending to set up shop in Pennsylvania.

Thank you for your attention to this matter, and I guess we'll be happy to take questions.

MAJORITY CHAIRMAN GODSHALL: Thank you.

You know, I don't know if we're talking about the same bill or you're talking about the same bill we have before us. You know, I'm not sure. We were talking about rollovers and rollovers and rollovers in the original presenter. There is no rollover allowed.

You're talking about Pennsylvania enjoys protection, you know, under our present laws. We know that millions and millions of dollars are coming into the State with illegal payday loans that are absolutely and totally, you know, way beyond our laws and so forth. What we have looked at with this bill is maybe trying to regulate the process that we know exists.

And on the 370 based on 26 pay periods, we're talking about a maximum 60-day loan and we're talking about another maximum 60-day period that you have to pay that off, if you can't pay it off in 60 days, at no additional cost. Now, that's far from 370 percent.

MR. SIMMONS: Would you like us to address that?

MAJORITY CHAIRMAN GODSHALL: Pardon?

MR. SIMMONS: May we address that?

MAJORITY CHAIRMAN GODSHALL: Okay.

MS. SMITH: Just starting first with, are we talking about the same bill? We are, absolutely. The amendment bans rollovers. Unfortunately, the reason why the payday lending industry is supporting the amendment is they know how to get around that. They simply make a new loan to the borrower right after the borrower pays back the old loan.

MAJORITY CHAIRMAN GODSHALL: There's a waiting period in the bill.

MS. SMITH: Even with cooling-off periods, in any State, like Florida, Florida has exactly this law on the books. People are trapped in payday loan debt. They simply wait -- and it's very easy to pay back the payday loan on your payday, right? That's the day you get an influx of cash into your checking account. That's the day you can easily pay that loan back. It's when you then have to pay the electric bill and your child-care provider and your landlord that you realize, there's too much month left at the end of this paycheck; I need to go back to that payday lender and take another loan out.

MAJORITY CHAIRMAN GODSHALL: Okay. What happens when you don't make those payments to the electric company and so forth? What happens then? You have no money to make the payments; what happens then to your family and your home when you don't make those payments? Do they turn the electric off?

MS. SMITH: Yeah; I agree with you, there certainly is a demand. It may be true that a lot of hardworking Pennsylvania families need a budget bridge in those kinds of situations, but the very last thing that's going to help a family in that situation is a payday loan. All it will do is delay a financial crisis to the next payday and make it worse.

MAJORITY CHAIRMAN GODSHALL: I understand all of that, but what's the other alternative they have? I have to pay the electric bill. You know, the electric bill is here; I have to pay it or it's going to get turned off. What's my alternative?

MR. LANDIS: I would argue, Mr. Chairman, that the alternative is going to the electric company and negotiating a payment plan. Every electric company in the State has a system and has a system set up where they want to work with consumers, and they will set up a system where a payment plan can be negotiated with the electric company. And getting in that situation is much better than getting in a situation of constant payday lending.

MAJORITY CHAIRMAN GODSHALL: Okay. Those regulations with the electric company come under our committee; we're well aware of that.

Okay; now my car payment is due. What happens? You know, I'm just saying that there are situations out there that people find themselves in, you know, and there's no other alternative. They need to make these payments. They have to. And there's a gentleman back there that says it's not true. Well, I know it is true.

And, you know, we talk about the debt traps. You know, I have some debt traps in my family -- they're known as credit cards -- for my grandchildren, and they're real debt traps. Yeah; big debt traps, really. I don't know if they'll ever get out of them. But there are just times in everybody's life that they're up against it that they need to make payments, whether it's doctor bills, whether it's car bills, whether it's electric or food, that they need to get cash and they need to get it quick, and we have tried in this bill, I guess at a $17.50 origination fee for $100, really which is extended for 120 days.

Now, the gentleman from AARP, now, you have a short-term credit card also or a short-term loan situation, I believe.

MR. LANDIS: AARP does not issue credit cards itself but we do have an agreement with a credit card company where the AARP name is on the credit card, yes.

MAJORITY CHAIRMAN GODSHALL: If I were borrowing say $300 from you for 60 days, how much would it cost me?

MR. LANDIS: I do not know that. I will be glad to find that information out and get it to you.

MAJORITY CHAIRMAN GODSHALL: And if I don't pay it at the end of 60 days, do I get a late fee or do I get, as this bill does, get another 60 days for allowing me to pay it?

MR. LANDIS: Again, that is---

MAJORITY CHAIRMAN GODSHALL: Well, I'm sure it's a late fee.

MR. LANDIS: It is the credit card company that has established those fees under the laws of Pennsylvania.

MAJORITY CHAIRMAN GODSHALL: And they allow for late fees.

MR. LANDIS: I do not know that information. I'd be glad to get it.

MAJORITY CHAIRMAN GODSHALL: I can tell you that they do. I'm aware of that.

But anyway, Representative Ellis.

REPRESENTATIVE ELLIS: Thank you very much, Mr. Chairman.

And members of the panel, thank you. You all do wonderful things across Pennsylvania, and I thank you for coming to testify today. I do have a little bit of confusion from all four of your testimonies, and I'll try to go as rapidly as possible. And Chairman Godshall hit a little bit just right now with the AARP product.

You said in your testimony you have 1.8 million members in Pennsylvania. How many of those people were offered the product, and is there a credit check for the product or is it sent out automatically and they're told to use it for prescriptions, or--- Like, how does that work?

MR. LANDIS: The AARP credit product is offered by a financial institution. AARP has negotiated with the financial institution to allow the AARP name to be put on the card.

REPRESENTATIVE ELLIS: What do they pay you guys -- I mean, how much money do you make from these credit cards in a given year?

MR. LANDIS: I do not know that. I will be glad to try to provide that information.

REPRESENTATIVE ELLIS: I would love to have that information. I'd also love to know how the members get it, if they're just given the card and say, here, it's your card.

MR. LANDIS: No. As with any credit card, there is an application process -- as with any bank. An AARP member does not automatically qualify for a card.

REPRESENTATIVE ELLIS: So you're saying a senior living on Social Security only, that's their only income, would not qualify---

MR. LANDIS: No, I did not---

REPRESENTATIVE ELLIS: Because you said they should not qualify for a short-term loan, so therefore, it would make sense they wouldn't qualify for a $300 product that you guys offer.

MR. LANDIS: I do not know that. It would depend on their assets. It would depend on the company that issues the credit card whether they would find them qualified for the credit card or not.

REPRESENTATIVE ELLIS: And could you also do me a favor, whenever you're looking up that information, can you also find out if any portion of the profit that they make from the credit card is used towards credit counseling for the seniors that you have put onto the credit card.

MR. LANDIS: Sure.

REPRESENTATIVE ELLIS: I would love to know that information.

Secondly, I'd like to go to the Community Legal Services, Ms. Smith.

How many people do you see in a year? Yourself, personally.

MS. SMITH: I can tell you right now I have probably 100 open cases.

REPRESENTATIVE ELLIS: Okay.

MS. SMITH: Ranging, I primarily represent homeowners who are facing mortgage foreclosure.

REPRESENTATIVE ELLIS: In that's a horrible problem that we're all facing in every district across Pennsylvania, so thank you for your work that you do with them. But what I want to try to understand is the folks that are coming to you. Do the majority of them use some form of borrowing, or is this an exception? I mean, you talked about how they've created a cycle of debt, the short-term lenders have, but you're seeing 100 people; how many of them are directly there because they took short-term loans?

MS. SMITH: Oh, let me clarify. My 100 open cases, the vast majority of those cases involve clients that I'm representing who are facing mortgage foreclosure. Actually, none of those cases currently have anything to do with payday lending. Probably about 5, 6 years ago when payday lenders were trying to evade Pennsylvania law by partnering with out-of-State banks, which the Federal banking regulators shut down, at that time I would certainly see borrowers who were trapped in the payday lending debt cycle.

REPRESENTATIVE ELLIS: Okay. So assuming you were still doing 100 cases back then, how many of those 100 were there directly because they took payday loans?

MS. SMITH: How many people had -- I'm not sure I could quantify it. I'd have to go back and look. But I can tell you right now that it's pretty rare that I actually have any clients who have been affected by payday lending, and it's very easy to get them out of the payday lending debt trap because it is illegal.

REPRESENTATIVE ELLIS: Okay. And, Mr. Simmons, maybe you could follow up, too, because you indicated in your testimony -- it was a little confusing to me -- you said people heading for foreclosure use this short-term lending, which puts them into foreclosure. If they're headed to foreclosure---

MR. SIMMONS: Correct.

REPRESENTATIVE ELLIS: ---and then they can avoid it for 60 days, 120 days, and their circumstances change, which I imagine does happen, because that's why these products exist, how can you say that they're headed to foreclosure and this puts them in foreclosure? I don't get that. Can you explain it to me.

MR. SIMMONS: Well, foreclosure is not a quick process. It usually happens over a period of months. So if you have a borrower who is in foreclosure and is delinquent and may owe his mortgage company a substantial amount of money, taking a payday loan in a short-term attempt to repay that loan or to bring that loan current, if there is, for example, no job attached to that so the person has no additional income---

REPRESENTATIVE ELLIS: Okay. I can imagine some different scenarios myself. How many of the people that you have been dealing with in the last 2 years are making short-term investment loans?

MR. SIMMONS: Payday loans? None.

REPRESENTATIVE ELLIS: Okay. Do you believe that if anybody had done that, they may have been able to avoid foreclosure?

MR. SIMMONS: On a short-term basis, possibly. But on a longer-term basis, to try to repair a loan, I believe that would not be helpful.

REPRESENTATIVE ELLIS: Okay. And either one of you can answer this.

If you go back years whenever these loans were available, what were the folks -- do you have any testimony, I mean data, that shows what they were taking the loans for before they came to your services or while in your services?

MS. SMITH: In my experience, people were short on cash and thought that they were marketed a quick and easy solution and then got trapped.

I remember in particular one homeowner whom I was representing who was in a mortgage foreclosure, and as we were gathering the documents needed to provide to the mortgage company to apply for a modification of her mortgage so she could save her home, we took a look at her bank statements and saw that basically for over the course of a year, she had paid almost $800 back on a $200 payday loan. And, you know, she actually had access to other sources of credit, like most payday borrowers. She had access to a credit card, and she thought that the payday loan that she had taken out was going to help her, but when she actually went back and looked at how many charges she had been paying for months---

REPRESENTATIVE ELLIS: And I appreciate that, but under Representative Ross's bill, if she would have done the exact same thing, taken out a $200 loan, rolled it over, as you used the term "rollover," five more times, she would not have paid anywhere near $800.

MS. SMITH: That's actually not true. Under the amended version of the bill---

REPRESENTATIVE ELLIS: Well, explain to me how it's not true, because I've read Representative Ross's bill. I've worked with him and listened to him and he has explained scenarios like that. So please tell me how, if you borrow $200 and you pay $26.50 and you do that five more times, how is that $800? Explain the math to me.

MS. SMITH: The bill, while it prohibits rollover loans, so where you're paying just a fee to extend the due date of the loan, the bill doesn't do anything to prohibit someone from paying off a loan and then the next day taking out another loan. In fact, under the provisions of the bill, you can be indebted to a payday lender every payday of the year.

REPRESENTATIVE ELLIS: That notwithstanding, and we've been over that before, how does $27 times 6 equal $800? It doesn't. That woman that you are using the example for, it would not be under the same situation now. She would pay far less on a product that she chose and she wanted and would have helped her -- I believe you said that -- if she didn't have to pay $800. So I'm a little confused.

You guys -- you specifically -- throw out the numbers of high interest rates and all these damages they do. You show statistics, but you have no personal anecdotes to say that there are people that are in foreclosure because of this. Now, we do have the researchers here that say this is not the cause of the spiral of debt. We had that testimony, and I'm sure you were in the room when that happened, and they provided data, and you referenced Florida. I would love it if you could provide that to the committee as well.

MS. SMITH: Yes. That State regulator data was not an industry-sponsored research.

REPRESENTATIVE ELLIS: I don't believe the data that we had here today was industry sponsored. Do you have knowledge that we don't have on the committee that that was paid for by the industry?

MS. SMITH: I'm sorry; I heard the testimony earlier that they were funded, some of their research studies were in fact funded by the payday lending industry.

REPRESENTATIVE ELLIS: Okay.

And then finally, and this is a little confusing to me, too, and this is from the Reverend. You guys do wonderful services -- Catholic Charities, Lutheran Services. I know in my district we benefit greatly, and you provided testimony today about, you know, folks -- how do you say it, Dahlheimer?

REVEREND REUMANN: That's good.

REPRESENTATIVE ELLIS: Okay; good. That "In the long run, when customers have reached the limit for cash advances or cannot pay back the amount owed, they face bounced checks, overdraft fees, and poor credit." Where did he come up with that, or is that just his thoughts?

REVEREND REUMANN: That is his experience as a financial counselor with people in a State where there is this kind of lending, where he was able to reflect on that and talk about it. Although thinking that it's going to make the situation better to allow these kinds of short-term loans, for the people he sees, it has actually made it worse.

REPRESENTATIVE ELLIS: Okay. Well, notwithstanding that, the quotations that you have from him, the source that that came from, the full source, in that, are there any recommendations that he makes instead of where these folks could turn for help?

REVEREND REUMANN: Well, they turn to him. But at that time, without the payday loan option, they would be forced to turn to other sources, you know, as have been detailed before, to try to arrange payments with whatever the utilities are.

REPRESENTATIVE ELLIS: Okay. Well, assuming somebody is heading down and they hit a rough spot and they don't have a payday loan investment, would they still not be facing bounced-check fees, late fees, all that stuff that he says happened because of this? Would they also not face that then?

REVEREND REUMANN: They may face that. They may find other options.

REPRESENTATIVE ELLIS: Okay.

REVEREND REUMANN: In these tough times, we want to throw people a lifeline. We want to give them as many options as possible. If this were a good and positive option, at least the Lutheran churches would want to support that, because we are on the front lines seeing people come to our doors---

REPRESENTATIVE ELLIS: Absolutely, and so are we. They come to our doors quite often as well. And what I think you, this panel particularly, has lost sight of is that we have a problem, and this legislation by Representative Ross is an attempt to solve the problem.

These products, as we heard in the earlier testimony, are being offered on the Internet. You're having cross-over-the-border bleed where folks from my area in western Pennsylvania will drive to Ohio. Youngstown is thriving on folks from my district. And they are using some form of alternative. And you know what? In many, many instances, it's a good alternative that keeps them going.

And I thank you for the work that you do with them whenever anybody hits rock bottom, but I think we're limiting the option if we don't support Representative Ross's bill.

Thank you very much, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: Representative Delozier.

REPRESENTATIVE DELOZIER: Thank you, Mr. Speaker.

A few of my questions have been asked, so I'll go over those. But one of the questions that I really wanted to get a better handle on is, in looking at the numbers that we have per $100, and we had the chart that was up here and according to this bill, we talked about a credit card that was offered by AARP and we talked about other services. First of all, my understanding is that you would be against any type of payday lending, no matter at what percent or any type of short-term lending that has additional costs in it. Correct?

MR. SIMMONS: I would be fine with payday lending under the existing usury statutes.

REPRESENTATIVE DELOZIER: So right now, you don't have a problem with short-term lending as a whole, but I'm assuming from your statements that zero percent would be the best.

REVEREND REUMANN: It would also be unrealistic, but not at what is being proposed here.

REPRESENTATIVE DELOZIER: Okay. But if you look at the numbers, even the $17.50, most of the credit cards, and we're talking about options, I guess my biggest question is, right now when you don't have these short-term loans, the individuals that all of you serve and that we hear from have to have some option to get cash on some basis. You're talking about credit cards. A lot of times those credit card percentages that they charge are 18 percent, and that's a continual fee every single month. If you look at $100 and $17.50, that's equal in and of itself. So we're talking about paying high percentages -- 18 percent, I think, is high as well -- but it's for short-term capability of buying what it is that we need to provide, whether it is to put -- I don't know how many people put mortgages on their credit card, but the capability of buying supplies, buying food, buying clothing, and those types of things. To me, it seems proportionate. But what are the other options at this point in time?

As we've discussed, there is a demand for short term, people to get through a hard time. You know, bouncing a check costs, in some cases, we've seen numbers where it's $30 plus the actual cost of the check plus additional fees. It ends up being more than that. So in a lot of cases, it seems that the percentages go up and up and up, but you're saying that this is the only one that's costing a high percentage, and I'm seeing a lot of the options also costing those high percentages. So if you can explain what the difference is.

MS. SMITH: Sure. Just getting to your first point about comparing what would be authorized under HB 2191 with a credit card, I think it brings us back to an issue perhaps we haven't addressed, which is the APR allowed under the amended version of HB 2191. When you're presented a credit card that charges 18-percent interest, on an annualized basis, that's 18 percent APR. What HB 2191 would do for a $300, 2-week loan is it would authorize a 369-percent APR. And that goes to show why APR is so important; it's the uniform yardstick that Congress established. It is mandated by the bill, HB 2191 itself, as well as the Federal Truth in Lending Act, so people understand the true cost of credit and can compare apples to apples. So in the example that you presented, 18 percent versus 369 percent, people can understand the true cost of credit, is that the payday loan would be much more expensive.

REPRESENTATIVE DELOZIER: If I can ask -- okay; so you're saying 18 percent for 1 month on a credit card and they're saying here for 60 days, it's $18.50 for $100. I guess to me I'm saying $18.50 is cheaper than 18 percent every single month.

MR. SIMMONS: I would answer that this way: With a credit card, say you borrow $500, okay? You typically have the option of how much to repay. You might have a minimum payment of $10 or $12 or something like that. With the payday loan, you have no such option. That $500 is due in full whether or not you have money in the bank to cover that, whether or not you're going to have bills coming up. At least with a credit card, you're able to tailer your repayment to a way that's not going to mess up the rest of your finances, at least in theory, and I don't think a payday loan would offer you that flexibility.

REPRESENTATIVE DELOZIER: Okay. So the consumer advocacies that you deny exist in the bill in and of itself, the capabilities, you mentioned some other States. How many other States have the requirement that the bill is going to have about the database to make sure that there are no other loans taken out?

MS. SMITH: I can get you that exact figure, the States that legalize triple-digit interest payday lending. A number of them have a database. The Florida statute tracks loans, and that's why we know that people get caught in the payday lending debt trap. That is information from realtime databases in States that have legalized the product.

REPRESENTATIVE DELOZIER: Okay. But the point of the database is so that you only have one loan out at a time. So you're saying the databases fail.

MS. SMITH: The database simply tracks what kind of loans are made to borrowers, and that's how we know in Florida that people, 90 percent of people, will have to take out a payday loan before their next payday once they pay it off.

REPRESENTATIVE DELOZIER: Okay. So my understanding of the database here in Pennsylvania was that if someone is a licensed payday lender, that they would check the database; if someone has an existing loan, they are denied.

MS. SMITH: The database does track what loans are currently being made, but under HB 2191 as amended, an individual borrower can be indebted to a payday lender every single pay period of a year.

REPRESENTATIVE DELOZIER: But they can't take that out without paying back their last one.

MR. SIMMONS: Well, they're going to pay back the last one automatically because it's just going to be taken out of their checking account on payday.

REPRESENTATIVE DELOZIER: So you're saying with their paycheck, that had you mentioned earlier.

I guess a lot of the ideas that are behind it that I have talked to Representative Ross about and the capability of making sure, doing what we can to make sure that they don't take another loan out unless this one is paid for, and I understand what you're saying about the paycheck and paying that out, but the capability of having the database, I guess my frustration is that, what are their options? And right now it doesn't seem that a lot of their options are any better than what the bill is putting forward either, so at this point in time the capability of making sure that there are some protections when in some cases I think some of their options are lacking.

So thank you very much, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: Thank you, Representative Delozier. That's exactly what I had said before: What are my options when my car payment is due and I make my livelihood, you know, with my car? It's, what are my options?

But anyway, Representative Perry.

REPRESENTATIVE PERRY: Thanks, Mr. Chairman, and thank you, folks.

I just want to clarify a couple of things here so I can understand. One of the claims is that with the payday lending, when the term is due, as soon as the money comes into your checking account, whatever, your savings account or whatever, if you're an employer or you deposit it, it immediately goes to the payday lender to pay off the bill at the term, and somehow that's a problem. But when you compare it to overdraft protection and you overdraw on your account, the money comes out immediately at that time, right? And also, doesn't the fee come out at that time? Is that true or not, or don't you know?

MS. SMITH: Overdrafts are absolutely a predatory product, and so they can easily, someone can accidently use their debit card to buy a $2 cup of coffee and incur a $25 overdraft fee. And that is a product that should be reined in, and I think we're seeing the Consumer Financial Protection Bureau take a look at that.

But payday lending is just going to exaggerate that problem. We know that payday lending causes increased overdrafts and in fact leads to people losing their banking account. They become unbanked because of payday lending, because of the overdrafts that are incurred because of payday lending. So unfortunately, payday lending is just going to exaggerate that problem.

REPRESENTATIVE PERRY: And maybe it will, maybe it won't. I'm not going to argue that. But I guess my point is that it sounds like you're opposed to that, too, you're opposed to the overdraft protection and the charges---

MS. SMITH: They both are predatory products, yes.

REPRESENTATIVE PERRY: But what I'm trying to determine here, it sounds like they're similar. They're very similar. To be based on your discussion, they come out immediately. I don't know what the APR is on the overdraft protection, but it's for 1 day or the day that it comes out immediately. So what's the APR on that? It's probably in the hundreds of percentage points, based on a day, and it's the same. So my point is, it's no different than what we have now. That is no different.

MS. SMITH: It's different in that if we authorize payday lending, more and more people will incur overdraft charges. The out-of-State payday lenders will collect millions of dollars in fees from people because of bounced checks, and people will lose their bank accounts. So we'll have two problems.

REPRESENTATIVE PERRY: I don't see it as different. You're claim is that it is more, it will cause more, but it's the same functionality.

Let me ask you this, because there are a lot of statistics that you folks have bandied about, and I don't know what you have and what you don't have. But do you know what people use? What's the propensity of what people use payday lending money for? TVs? Fixing the car? Paying the mortgage? Paying the food? What? What is it? Do we know? Does anybody know? Do you know?

MS. SMITH: I don't have a study that I can reference quickly. I can tell you anecdotally from people whom I've spoken to it's usually, you know, just that they're having trouble making ends meet, and, you know, there's nothing in particular that necessarily drives it. And they're pitched this fast cash that's going to help them get through to their next payday, and they just simply don't realize that it's going to cause a cycle of debt, a treadmill that's very difficult to get off.

REPRESENTATIVE PERRY: And I can appreciate that, and with all due respect to everybody here, this is America, and I'm affronted by my government, whether it's at the State level, the local level, the Federal level, making decisions to protect me from myself. I've made poor decisions in my life and I've made some good ones, and that's how we get to where we are. I'm just not -- well, you say this is protection. It's protection for whom, by whom. And I don't know what they're making purchases for, but that's none of my business, and I don't think it's really any of yours, with all due respect. And if they make poor decisions, that's theirs to work on and that's not my job. I appreciate that you sometimes see it as your job to fix that, but again, I think what we're all looking for here, and if you can, because they've asked over and over again, let's ask very pointedly, what are the other options?

MR. SIMMONS: Access to credit is not a right. Someone has to earn it.

REPRESENTATIVE PERRY: Correct.

MR. SIMMONS: They have to be responsible with it.

REPRESENTATIVE PERRY: Correct.

MR. SIMMONS: And putting people who are not necessarily the most responsible folks with their credit in a position where they're going to have more credit is not necessarily going to be beneficial to them. The answer to poverty is not debt. So I don't know that -- you're suggesting that we have no compelling argument for regulating this thing. By the same token, you're suggesting that people have a responsibility to manage their own finances, correct?

REPRESENTATIVE PERRY: I think they do.

MR. SIMMONS: Do lenders by the same token have a responsibility not to abuse those people?

REPRESENTATIVE PERRY: I think it would be appropriate, yes.

MR. SIMMONS: Okay.

REPRESENTATIVE PERRY: But those abuses are in the eyes of the beholder, and if you know what you're getting into -- look, if I buy a car with the feeling that I need to get back and forth to work everyday and that's why I'm buying the car, but if the car, obviously, has no engine or has a poor engine, it's obvious that that's a poor decision on my part, but that's just a poor decision.

MR. SIMMONS: Yeah; I don't think anybody goes into a payday loan thinking, I'm going to take this out and have to pay it for 6 months. I'm sure most people take it out for what they think is a short-term period of time and then find themselves in a situation where they again need money.

REPRESENTATIVE PERRY: Isn't the lender required to go through all the costs, fees, timeframes, et cetera, with the prospective borrower at the time of the loan?

MR. SIMMONS: Yes.

REPRESENTATIVE PERRY: Well, then isn't that individual responsible to make a decision based on---

MR. SIMMONS: In my experience, people who are desperate for money will do all sorts of things that are not in their best interests to get money.

REPRESENTATIVE PERRY: Okay. Let me ask you this, since, I guess, we're not going to discuss options, because maybe there aren't any others and maybe that's the point why we're here. What statistics do you have to support any information about what other choices people make since this kind of lending is not available? They borrow from their family. They go rob a bank. What other statistics do you have to support---

MR. SIMMONS: Bank robberies are very low.

REPRESENTATIVE PERRY: Good. Thank you. Yeah; that's great.

MS. SMITH: Actually, most people do have other options of credit. Actually, the two researchers, the consulting companies that spoke before, just to give you an example, a 2001 survey conducted by the Credit Research Center found that 94 percent of payday borrowers had somewhere else to go to borrow money. And a 2004 Cypress Research Group survey, also commissioned by the payday industry, found that only

9 percent of borrowers choose a payday loan because they had no other option.

So here in Pennsylvania, I think most people have lines of credit available to them. There was a study that payday borrowers in Texas, two-thirds of them had a $1,000 line of credit available on a credit card. People can borrow from friends and family. Ray mentioned just negotiating payment plans with creditors. All of those things are viable options.

Small-dollar loans that we authorized under our existing law at 24 percent APR, those are all options for families who need small-dollar credit.

MAJORITY CHAIRMAN GODSHALL: Okay; we're going to---

REPRESENTATIVE PERRY: Thanks, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: Thank you. We have two more presenters.

And I'll just ask you a question which was asked before: Who paid for that survey?

MS. SMITH: Those were the surveys by the industry proponents who testified earlier, Credit Research Center and the Cypress Research Group.

MAJORITY CHAIRMAN GODSHALL: Okay. That question was asked before when somebody mentioned a survey, so I wondered who paid for that one.

Anyway, we have two more presenters. Representative Ross, I know, would like to comment, and also Representative

Parker. I hope not all those yellow marks. Very quickly; we're running out of time.

REPRESENTATIVE PARKER: I'm not feeling the love today, Mr. Chairman.

Just quickly, could you tell us a little bit about what's happening in other States? I particularly want to sort of take a stroll back to the '08-09 fiscal year when we were told that we were entering sort of this great economic recession that had been the greatest since our depression. What has happened with other States? Do we see, because I didn't hear that all 50 States have this law actually in effect, and for those that do have a law similar in effect, are any of them noticing an adverse impact on their constituency?

MS. SMITH: Yeah. Pennsylvania is 1 of 17 States, plus the District of Columbia, that regulates small-dollar loans with a double-digit interest rate cap. That's the best way to protect people from the payday lending debt trap. So we're in that category now. We have the best consumer protections available in the country. And since 2005, no State has authorized triple-digit interest payday lending. In fact, seven States have been rolling back laws that allow triple-digit interest payday lending and putting laws in place like our existing law here in Pennsylvania. And they've also been cracking down on Internet payday lending like we have effectively when we kicked Cash America out.

REPRESENTATIVE PARKER: In addition to that, the gentleman who is here from -- is it Greg? Greg Simmons?

MR. SIMMONS: Yes.

REPRESENTATIVE PARKER: Greg, earlier I thought you did a great job attempting to respond to the question regarding options, options, options, because it brings me back to the Wall Street big guys bailout when they thought that the option was to make loans to people who didn't have the ability to repay, for those people who wanted to purchase homes and they really couldn't afford to pay the mortgages that they were approved for, although the underwriting went through, and we ended up facing a national mortgage crisis and foreclosures that we've never seen take place before. Tell us about the foreclosures in the counseling world as it relates to the nation versus Pennsylvania and the outstanding work of PHFA. The only reason why I want you to get this on the record is because this bill touts the use of credit counseling agencies and the offering of your services to individuals who are engaged in this kind of a bill. Tell me, how did that work?

MR. SIMMONS: Well, Pennsylvania was fortunate in some respects that we didn't have the housing bubble that they had in places like Nevada and Florida and Arizona, so we didn't have as far to fall when things went bust. We were running about -- at one point in Allegheny County, where I'm from, we were running at about 17 percent subprime lending in the early

2000s, and our foreclosures went up about 400 percent in 5 years, and 70 percent of that lending was subprime loans. So there is definitely a correlation between poor quality credit products and people losing their homes. Am I answering your question?

REPRESENTATIVE PARKER: Yes, it does.

Next I wanted to make sure that I got on the record this idea, and my colleague who I have an opportunity to sort of intellectually spar with often, Rep. Ellis, mentioned this earlier, and Reverend, it was in response to I think some of your testimony about sort of when those who are in need need a lifejacket or they need something just to help them sort of get through. And you talked about your constituency knocking on your door, and my colleague mentioned that people knock on our doors as elected officials in government all of the time, and I just wanted to remind us for the record that during these tough fiscal times in the Commonwealth, Pennsylvanians have knocked on our doors, and when they've knocked on our doors, we've told them that if you need some assistance in, you know, feeding your family, we're going to develop and implement an asset test; if you need help paying college tuition, we're going to find a way to cut proposed cutting of funding to higher education. So when people knock on your door, it's not always that they're knocking, but the response that they receive and they get from you is very much important.

Finally, I want to close with CLS, if I may, and I need you to talk with us about the research, because it was mentioned earlier today about sort of the research and who's funding it. So I think about sort of my grandmother and that old adage that "he or she who pays the piper calls the tune." And I think in earlier testimony, one of our participants did mention that their consulting firm is financed or has received contracts from the payday lending industry, and I wanted to note if you could talk a little bit about that and your coalition that supports you. And the reason why I want you to get this on the record is because I want Pennsylvanians to know that this issue is sort of not just being opposed by those who represent Philadelphia, because this is not a Philadelphia issue. So if you could just get those two things, the research along with statewide supporters.

MS. SMITH: I think the best research that's out there about payday lending and what happens with the payday lending debt trap that we can look to is probably the 2006 Department of Defense study, which, you know, really took a look at what was happening with military families. A lot of payday lending shops had set up and targeted communities outside of military bases, and that was causing such a debt trap and such financial stress on those families that it was impairing our national security. And I think that's a comprehensive, independent report about the harms of payday lending that we can all look to.

And then the second probably best source is the States that have experimented by legalizing triple-digit interest rate payday loans, and probably Florida is the best analogy, because it has a statute that's very similar to HB 2191 as amended that purports to deal with rollover loans. And we know, despite the ban on rollover loans in Florida, people are trapped in this debt. You know, 60 percent of payday loan revenue comes from people who are trapped in this debt for more than 12 loans a year.

There's a broad-based coalition that opposes HB 2191 from all across the State. In addition to those of us who are here testifying today, it includes the Veterans Leadership Project in Allegheny; it includes the United Way; it includes additional faith-based groups. Credit counseling agencies, the very agencies that would purportedly benefit from the credit counseling fund established by this bill, are saying we don't want that money, because the devastation and harm that's going to come from HB 2191 dwarfs whatever counseling money we can receive to get people out of this debt.

REPRESENTATIVE PARKER: Thank you.

And thank you, Mr. Chair.

MAJORITY CHAIRMAN GODSHALL: Thank you very much for your testimony. We appreciate you being here.

And Chris, Representative Ross, would like to wind up. I appreciate your involvement. I still don't know what my options are.

REPRESENTATIVE ROSS: I can maybe help a little bit with that, and I'll be very brief, because I just have a few quick comments and then, of course, any follow-up questions that anybody has.

First of all, I think there's a difference between using and being trapped in a product. If you're using it voluntarily, you have options and means of getting out of it. But if you choose it as the cheapest and best way to deal with your short-term borrowing needs, then I would say you're using rather than trapped.

Secondly, the question about States repealing and blocking payday lending, as I said, I've been involved in this issue for about 12 years. Over that period of time, there were several States -- there was generally a regulation process that was going on through many, many States when I was dealing with this before. Then about the same time that we attempted to borrow the usage, there were several other States that did also the same thing that we did. Some of those States have since reauthorized the practice under regulation. We now have 35 States currently that have some form of regulation and authorization of payday lending.

The APR has been talked about a lot, and when I think of 369 percent APR on a $100 loan, I think I'm going to be paying $369 back on a $100 loan. That's not the case. I'm going to be paying $17.50 back on that loan.

It has been talked about that we have a usury law in Pennsylvania and everybody says, well, we obviously ought to use the very inexpensive usury law limits and we can get all these short-term loans. I think those that are familiar know that those loans are not offered in Pennsylvania. There's a reason for that: If you have a 24-percent interest rate and you borrow $100 for 2 weeks, the allowable interest rate on that loan is less than a dollar. That is less than what I use at the MAC machine to get my own money out. There is no lending institution in Pennsylvania that is comfortable making a loan under those terms. That loan is not available.

It has been talked about that we have tremendous enforcement right now and that Internet payday lending is not available in Pennsylvania because the department is cracking down on it. The department, by their letter to you today, indicates that they know they have to follow a different path here. Montel Williams and the 30 other Internet lenders who were not caught by the department show that it is generally prevalent and available. That's not working.

I want to also remind everybody about the credit counseling option here, because most of the people that have been referred to that have gotten in trouble with this product have a definite need to use the credit counseling option. And because of the fee in this bill, that is going to be much more broadly available to borrowers and people that are potentially in trouble, so it is actually going to expand the opportunities to prevent abuses.

Thank you, and I'll take any questions that anybody has, too.

MINORITY CHAIRMAN PRESTON: What happens if someone defaults on a loan?

REPRESENTATIVE ROSS: Well, basically they probably won't get another one.

MINORITY CHAIRMAN PRESTON: Well, we know that, but what---

REPRESENTATIVE ROSS: In my bill, we do make it explicit that there are no criminal charges for a bounced check. There are options to try and pursue civilly, but my understanding of the industry is, because it's a small dollar amount and it's expensive to chase somebody through the court system, that they simply write it off and bear it in mind not to lend to that person again.

MINORITY CHAIRMAN PRESTON: But it does go on their credit report also, right?

REPRESENTATIVE ROSS: Oh, absolutely, as any form of default would, including some of the late payments that people would otherwise use and things like that.

MINORITY CHAIRMAN PRESTON: Okay.

REPRESENTATIVE ROSS: Actually, I'm not sure whether it goes on the credit report. It only would go on the credit report if actually there was an action filed. So actually as I'm thinking about it, it would not go on the credit report.

MINORITY CHAIRMAN PRESTON: And, you know, I look back because I remember when the industry first hit in Pennsylvania. The way it was, because I was actually in Philadelphia one time and it was almost like what they call predatory lending; people were looking at you, literally preying on you, and I think that really did cause a very bad taste in a lot of people's mouth, because I'm not even going to express to you some of the things that I was approached about, you know, for that.

But I just encourage people, one, both sides, if you have thoughts or ideas and if you've paid attention to what's been going on in the committee, I would suggest, whether you're for or against it and you still have suggestions and your own opinion for improvement, I would suggest that this is the time that you start putting some of those in writing. I think that, as most people will say and I've heard on my side of the aisle, I've always encouraged Members to be able to make up their own mind. Unfortunately, in society we're being asked to make up our minds for other people for this, whether we feel we're protecting them or not.

I have a tough situation sometimes of, Mr. Chairman, having gone through this several years ago when I raised the interest limit for finance companies and people jumped on me, but at the same time, who was I to determine whether or not someone wanted to do something or not, but to give them an opportunity. We did put some safeguards in it. So I'm just trying to look at this and I'm encouraging people to have an open mind and the Members of my committee to talk to everybody to make up your mind on how we're going to do this. And I encourage the consumer groups as well as the industry also to talk to the Members on the Democratic side of the committee.

Thank you very much, Mr. Chairman.

MAJORITY CHAIRMAN GODSHALL: Thank you, and at this time, the meeting is adjourned.

Thank you for your participation.

(The hearing concluded at 11:32 a.m.)

I hereby certify that the foregoing proceedings are a true and accurate transcription produced from audio on the said proceedings and that this is a correct transcript of the same.

Debra B. Miller

Committee Hearing Coordinator/

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