

Senate Bill 338 relating to: Payday loan providers and granting rule-making authority.

BILL SPONSORS

Introduced by Senators **Schultz** and **Stepp**;
Cosponsored by Representative *Jeskewitz*

BILL HISTORY

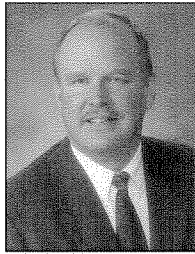
Senate Bill 338 was introduced on 12-03-03 and referred to the Committee on Agriculture, Financial Institutions and Insurance.
On 01-13-04 a Public hearing was held.
On 03-03-04. Executive action taken and the committee introduced and adopted Senate Substitute Amendment 1
Substitute Amendment 1 was recommended by committee on Agriculture, Financial Institutions and Insurance, Ayes 5, Noes 0
The committee recommended Senate Substitute Amendment 1 to SB 338 for passage on a vote Ayes 3 Noes 2.

LRB ANALYSIS

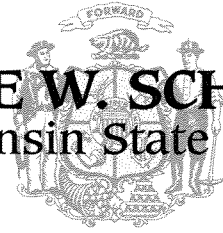
Current Law: Currently, state and federal law contain numerous provisions regulating consumer loans (generally, loans of \$25,000 or less made to individuals for personal, family, or household purposes). For example, under current law, the creditor must provide the borrower under the consumer loan with certain information before the loan is consummated. Among other things, the creditor must disclose the total amount financed in the transaction, the amount of the finance charge assessed in the transaction, and the cost of the credit calculated as a yearly rate. The creditor must also provide the borrower with a notice that encourages the borrower to examine the loan documentation and that advises the borrower of certain rights. Generally, current law does not regulate the total finance charges that may be assessed on a consumer transaction, although current law does require certain persons who desire to assess a finance charge in excess of 18% per year to obtain a license from the Division of Banking in the Department of Financial Institutions.

Proposed Changes: This bill creates additional notice requirements that specifically apply to payday loans made by these licensed lenders. In a typical payday loan transaction, the creditor accepts a personal check from the borrower, pays the borrower the amount of the check less any applicable finance charge, and agrees to wait a short time, such as two weeks, before depositing the check. Under this bill, before disbursing funds pursuant to a payday loan of less than \$15,000 with a term of at least three days but not more than 31 days, the payday loan provider must provide the borrower with a notice that compares the cost of the payday loan if it is paid in full when due with the cost of the payday loan if it is paid in full after being refinanced three times. Furthermore, the payday loan provider must notify the borrower that a payday loan is not intended to meet long-term financial needs, that a payday loan should be used only in a financial emergency, that the borrower will be required to pay additional fees if the payday loan is not paid in full when due, and that refinancing the payday loan, or entering into consecutive payday loans to pay an existing payday loan, may cause financial hardship. This bill also requires the payday loan provider to notify the borrower that the borrower may cancel such a payday loan at any time before receiving the loan funds. In addition, the payday loan provider must provide the borrower with materials, obtained from the Department of Financial Institutions, that inform the borrower of the potential costs of entering into a payday loan and of other options for borrowing funds that may be available.

	Major Impact: DFI Policy Change
FISCAL EFFECT	None
SUPPORT	<p>The following person/people appeared in favor of this bill: (1) Rep. Sue Jeskewitz, 24th Assembly District, Madison (2) Sen. Dale Schultz, 17th Senate District, Madison (3) Peggy Partenfelder_Moede, WI Deferred Deposit Assn., Madison (4) Cassie Hoertsch, Casual Cash, Sturgeon Bay. (5) Margaret Milkie, Mister Money, Green Bay. (6) John Rabenold, Community Financial Services Assn. of America, Cincinnati Ohio. (7) Candy Haslam, Casual Cash, Sturgeon Bay. (8) Ed Bublitz, Consumer, Madison. (9) Scott Hendrickson, Consumer, Sturgeon Bay. (10) Greg Baer, WI Deferred Deposit Assn., Appleton.</p> <p>The following person/people registered in favor of this bill: (1) David Haslam, Casual Cash, Sturgeon Bay. (2) Beth McInnis, Advance America. (3) Sue Moline Larson, Lutheran Office for Public Policy, Madison. (4) Ken Mille, First Payday Loan of WI., Champaign, IL. (5) Pat Philips Seis, American Cash Advance Center, Madison. (6) Candi Whitman, Check Advance, Columbus. (7) Derrick Bushman, Xpress Cash Management, Hatley. (8) Cindy Jenkins, Venture Services, Chattanooga, TN. (9) Matt Mitchell, QC Financial Services, Chicago. (10) Marcia Budde, Check Advance, Portage. (11) Vicki Gamroth, Check Advance, WI Rapids. (12) Angela Hewitt, Check Advance, WI Rapids. (13) Wendi Evans, Check Advance, Endeavor. (14) Denise Adams, Check into Cash, Oshkosh. (15) Kevin Dabney, Speedy Loan, West Allis. (16) Kristie Villalpando, Check into Cash, ?</p> <p>Community Loans of America registered their support for the bill with the State Ethics Board, but did not testify or register at the public hearing.</p> <p>The following organization(s) registered their intention to lobby on SB 338 but did not take a position on the bill: (1) Wisconsin Bankers Assn. (2) Wisconsin Federation of Cooperatives (3) Wisconsin Financial Services Association. (4) State Bar of Wisconsin. (5) WI Catholic Conference. (6) WI Credit Union League.</p>
OPPOSITION	<p>No one appeared in opposition to this bill. No one registered in opposition to this bill.</p> <p>The Economic Justice Institute Inc. registered their opposition for the bill with the State Ethics Board, but did not testify or register at the public hearing.</p>
CONTACT	John O'Brien, Clerk Sen. Ag. Fin. Inst. & Insurance Committee 266-0703
DATE	March 8, 2004



DALE W. SCHULTZ
Wisconsin State Senator



January 12, 2004

Senate Committee on Agriculture, Financial Institutions and Insurance
Assembly Committee on Financial Institutions

Re: SB 338

Senate Bill 338 is straight forward bill which provides increased education and disclosures as well as puts in place safeguards for Wisconsin consumers who choose to make a short-term payday loan. While I know there are many in this room today that would like to see payday lending stores disappear altogether, the reality is that these financial institutions serve a niche group of consumers in this state, who only need a small loan, on average \$300 or less for a short period of time.

SB 338 is legislation that provides a responsible solution to existing problems within the payday loan industry. This bill is about educating consumers as well as disclosing important information to the consumer so that they are able to make the most informed decision possible.

Many payday lenders in this state are already providing these increased disclosures and information to their customers; however SB 338 will ensure that all licensed payday lenders in this state will have to adhere to the same standards of practice.

What does SB 338 do to inform and protect consumers? It raises consumer awareness over the potential pitfalls of payday loans, and requires all payday loans to clearly indicate the following in writing:

1. Payday loans do not meet long-term financial needs.
2. Payday loans are for financial emergencies.
3. Refinancing of the original loan will result in additional fees.
4. Payday loans may be cancelled at any time before the transaction is completed.
5. Maximum term of the loan can be no more than 31 days.
6. Minimum term of the loan must be three days to allow flexibility in setting the due date to the persons payday, which allows the best opportunity for the customer to payback the loan
7. Lowers the loan amount on payday lending which currently falls under the Wisconsin Consumer Act, from \$25,000 to \$15,000.
8. Educational materials on payday lending

As I stated earlier, this bill will inform and protect consumers while still allowing customers the ability to take out short term, small loans. Thank you for your consideration of SB 338.

With Kindest Regards

Dale W. Schultz

Vote Record Committee on Agriculture, Financial Institutions and Insurance

Date: 1-13-04 ~~5-18-08~~ ADOPTION OF Sub
 Moved by: Schultz Seconded by: Reilly
 AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt 0308B _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- | | | | | |
|---------------------------------------|------------------------------------|---------------------------------------|---|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Adoption | <input type="checkbox"/> Confirmation | <input type="checkbox"/> Concurrence | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Rejection | <input type="checkbox"/> Tabling | <input type="checkbox"/> Nonconcurrence | |

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	_____	_____	_____	_____

Motion Carried Motion Failed

Vote Record

Committee on Agriculture, Financial Institutions and Insurance

Date: 1-13-04

Bill Number: SB-338 as amended

Moved by: Schultz Seconded by: Hansen

Motion: _____

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Motion Carried

Motion Failed



CONSUMER LAW LITIGATION CLINIC

**TESTIMONY IN OPPOSITION TO S.B. 338 AND A.B. 665
BEFORE THE SENATE COMMITTEE ON AGRICULTURE, FINANCIAL
INSTITUTIONS AND INSURANCE AND BEFORE THE ASSEMBLY COMMITTEE
ON FINANCIAL INSTITUTIONS**

January 13, 2003

My name is Katherine Teitgen. I am a third year law student testifying on behalf of the Consumer Law Litigation Clinic, a U.W. Law School clinical program which represents lower income consumers. I am here with my supervising attorney, Stephen Meili. The CLLC became interested in the issue of payday loans because many of our clients have come to us in significant debt as a result of payday loans. While we generally support and encourage disclosures to customers, we oppose Senate Bill 338 and Assemble Bill 665. We are concerned that the scope of the bills are limited in their regulation of payday lenders and do little to meaningfully address the problems that trap Wisconsin consumers into high, predatory rates charged by payday lenders.

Since 2000 alone, there has been a 50% increase in the number of payday loan locations across the nation: from 10,000 to 15,000. These lenders have made loans worth \$25 billion. According the Center for Responsible Lending, the cost to consumers of these loans is \$3.4 billion a year. This number doesn't take into account insufficient fund fees, bounced check fees, disparities between the credit risk and effective interest rate charged borrowers, and increased public costs due to collection efforts and payday lending-induced bankruptcies.

The exponential national growth in the payday loan industry has been mirrored in Wisconsin over the last decade. In 1993, there was only one payday loan outlet in Wisconsin. As of October 28 2003, the Wisconsin Department of Financial Institutions (DFI) reported 56 licensed companies with 328 offices. In 2002 alone, payday lenders made 1,222,864 loans totaling \$327,296,623. The industry's growth rate is not just an urban phenomenon: payday lenders exist in about 50 small towns and cities throughout Wisconsin.

Wisconsin is one of only four states that have left payday lending completely unregulated, meaning that the sky is the limit on interest rates. Already, 13 states prohibit payday lending. The 33 remaining states all place limitations upon the industry by limiting the interest rates and/or fees charged, limiting or prohibiting rollovers, and/or limiting the maximum amount loaned.

Payday loans are billed as short term loans. They are usually around \$100-\$300, with astronomical interest rates that typically exceed 500%. For customers, such as the elderly and disabled, who use Social Security checks as collateral, the interest rate can exceed 1000%! For example, if a customer wished to borrow \$300 today, she would write a check for \$360 and postdate her check two weeks from today. The customer receives \$300 in cash that day, while the lender retains a \$60 fee and promises not to deposit the check for two weeks. In Wisconsin, lenders on average charge around 20% of the initial loan.

If a customer cannot pay the loan in full when it comes due, she has three options. (1) Extend or rollover the loan by paying another fee (\$60 in the example above) (2) pay off the loan but borrow again from the payday lender immediately in a "back-to-back" transaction or (3) default and incur bounced check fees, and other fees. While most consumers chose to roll over their loans, any of these options begin a downward spiral into ever-increasing debt.

The practice of rolling over loans requires the consumer to pay hefty fees every two weeks while receiving no new cash from the lender. In a matter of weeks or months, the fees consumers have paid outstrip the amount of principal they received through the loan in the first place. The CLLC has represented numerous clients who have incurred over \$1000 in rollover fees on payday loans. They are not alone. Most payday loan customers in Wisconsin roll over their loans at least once. Accordingly to DFI, in 2000 nearly 20% of borrowers rolled them over more than five times. Although we believe the DFI underestimated the number of rollovers by Wisconsin consumers because it did not include customers who default or go bankrupt, these numbers are alarming, nevertheless.

In other states, the study of rollovers has revealed even higher numbers. For example, the Indiana DFI conducted an extensive study of over 54 thousand loans in 1999 and found 77% of all payday loans were roll-overs. The Indiana DFI study also found an average 10.19 payday loans per customer. In North Carolina regulators found about 87% of borrowers would roll over their loan at least one time with any given lender. Excluding debtors who borrowed from multiple locations, 38.3% of customers renewed their payday loans more than ten times. In a survey by the CRL, they found that borrowers receive 8 to 13 loans per year.

Thus, although these loans are meant for short term solutions, consumers become "captive borrowers," a term coined by the Illinois Department of Financial Institutions. From the first loan, they are unable to repay the high fees and the principal. The payday loan companies are aware of this. In fact, rollovers are what make payday lending so profitable. In our experience, payday lenders frequently pursue their customers in court and expose them to coercive collection practices. Lenders have threatened to pursue civil or criminal charges as soon as a customer informs them that they are unable to repay the loan on the due date and are unwilling to roll over the loan.

Unfortunately, S.B. 338 and A.B. 665 do not address these problems. They only require payday lenders to make minimal disclosures to consumers, such as the admonition that payday loans should not be viewed as a long term solution to financial problems. Consumers are already painfully aware of this. Federal law already requires payday lenders to disclose their exorbitant, three figure annual interest rates. Who would plan to enter a long-term relationship with a lender that charges 500% interest? Many consumers in difficult financial situations feel they lack any choice but to visit a payday lender when bills are due and they need cash quickly.

S.B. 338 also requires payday lenders to notify borrowers that they may cancel their payday loan at anytime before receiving the loan funds. This will make no practical difference to a consumer. Payday lenders stress speed as a major advantage of their product. Would a customer reconsider her decision in the few minutes between submitting her loan application and receiving the cash?

The CLLC 's position is that the only truly effective protection for consumers is a reasonable limit on the interest rates charged by payday lenders and a more generous minimum loan period to help address the rollover problem. Senator Robson's bill, S.B. 345 (which is supported by, among other organizations, the AARP), would limit aggregate fees and interest rate charges to 5% of the amount of the loan. It also includes a 30-day minimum loan period, which will reduce the frequency of rollovers, as well as their associated fees.

Therefore, we urge you to reject S.B. 338 and A.B. 665, or in the alternative to amend those bills to include the consumer protections in S.B. 345.

Thank you



SUE JESKEWITZ

State Representative • 24th Assembly District

Payday Loan Talking Points

Relating to consumer protection guidelines for payday loan providers.

Thank you Chairman Montgomery, Chairman Schultz and members of the Assembly Financial Institutions Committee and the Senate Agriculture, Financial Institutions and Insurance Committee for holding a joint hearing on Assembly Bill 665.

- Over the past few years, the use of payday loans has grown considerably in Wisconsin. These businesses, or creditors, generally lend up to no more than \$500 for two weeks for a fee, typically around 20% of the loan.
- While these small consumer loans are intended for financial emergencies, some consumers are unfortunately using payday loans to meet their long-term financial needs.
- In an effort to raise consumer awareness over the potential pitfalls of payday loans, this legislation would require payday loan companies to provide the following information.

1. A printed notice indicating all of the following:

- Payday loans are not intended to meet **long-term financial needs**.
- Consumers should only use payday loans in **financial emergencies**.
- Consumers are required to pay **additional interest** if the loan is refinanced (rolled over) rather than paid in full when due.
- Refinancing a loan or taking out consecutive payday loans to pay an existing payday loan may **cause financial hardship**.

2. **A printed notice comparing the cost of a payday loan if it is paid in full at the end of the loan and the cost of the payday loan if it is paid in full after the loan is refinanced 3 times.**
3. **Maximum Advance Amount of \$15,000. Currently Payday lenders fall under the WI Consumer Act which has a maximum amount of \$25,000.**
4. **Minimum Term of Three days. This will allow a consumer to pay back the loan earlier than the intended two-week period.**
5. **Maximum Term 31 days. Allow the consumer a full 31 days to pay off the loan, which will give the consumer a higher ability to do so without having to extend the loan. Why then do opponents of this bill continually use the Annual Percent Rate when it is only for 31 days?**
6. **A printed notice that the consumer may cancel the loan, at no cost to them, at any time before receiving funds in relation to the transaction.**
7. **Educational materials provided by the Department of Financial Institution.**

I ask those that object to this bill----when you have a bank overdraft of \$50 ---what does the bank charge you? My bank charges \$28.00. Also, you may be charged by the grocery store or business where you wrote the check, for maybe \$20.00? Wouldn't it have cost you less money to borrow that \$50.00 from a pay day lender?

If the industry would go away, Where do these people get help? If they have exhausted other sources such as family and friends? They can't turn to a conventional bank because they are not interested in giving these kinds of short term loans. Ex. When our son graduated from college and went to CA to work the Disney Corporation, the first week that he was there, the brakes on his car went out. Fortunately for Chad, Mom and Dad came to the rescue and loaned him the \$1500. If he would not have had family to turn to, he would had to access some other loan entity.

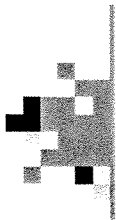
This bill is about educating consumers as well as disclosing important information to the consumer so that they are able to make the most informed decision possible.

Thank you again for hearing this bill and I encourage your support for Assembly Bill 665. Are there any questions?

SHORT TERM CREDIT FEES

<i>ORIGINAL PURCHASE OR BALANCE</i>	<i>APPLICABLE FEES</i>	<i>FEES EXPRESSED AS APR</i>
\$200 PAYDAY ADVANCE	\$30 FEE	=391%APR
APARTMENT RENT OF \$500	HAS \$50 LATE FEE WHEN PAID 5 DAYS LATE	=520%APR
\$200 CREDIT CARD BALANCE - 1 DAY LATE	\$29 FEE FOR 1 DAY	=5,292%APR
\$200 BOUNCED CHECK TO GROCERY STORE	BANK FEE \$25 GROCERY STORE FEE \$20	= 585%APR

TABLE ONE



**WISCONSIN DEFERRED
DEPOSIT ASSOCIATION**

16 North Carroll Street
Suite 900
Madison, WI 53703

Phone: 608-256-7701
Fax: 608-251-8192

TO: Senate and Assembly Financial Institution Committee Members
FROM: Greg Baer, President of the Wisconsin Deferred Deposit Association
DATE: January 13, 2004
RE: Support of SB338 & AB 665

Good morning Chairman Schultz and Chairman Montgomery. I am Greg Baer, President of the Wisconsin Deferred Deposit Association and the owner and operator of Mister Money of Appleton. Because I believe in fostering a safe and free flow competitive market place amongst financial institutions, I am here in support of Senate Bill 338 and Assembly Bill 665.

On a side note, thank you for making this a joint hearing. As an owner that is in the store everyday it is hard to leave my customers.

For those of you not familiar, the payday advance is a simple product. It is as simple as being a little short of money before payday due to a host of reasons. It is as simple as writing a check on your personal account for the funds you need, plus a flat fee, and the payday advance company agreeing to hold your check until your next payday. In order to qualify for a payday advance, you must have a source of income and a checking account. In other words, fully employed working men and women who manage their money through a checking account at a financial institutions use the payday advance as an alternative to piling on more credit card debt or incurring bounced check fees. This product is used by many middle class consumers to help them avoid the high costs they might otherwise incur when they have to pay their credit cards late or the high cost of bouncing one or more checks. Late fees and NSF's have risen dramatically during the last decade creating the market opportunity for a less expensive payday advance. It is a quick, simple and less expensive alternative.

SB 338 and AB 665 is about educating consumers as well as disclosing important information to the consumer so that they are able to make the most informed decision possible. As the sole owner of my one store, I employ six people and while I train each employee, it is imperative that I get help from the State in making sure that all other payday lenders are meeting the educational needs of their consumers and that any consumer who walks into any payday advance store is completely informed of what and how a payday advance operates.

SB 338 and AB 665 require all payday lending stores to clearly indicate the following in writing:

Payday loans do not meet long-term financial needs.

Payday loans are for financial emergencies.

Refinancing of the original loan will result in additional fees. Payday loans may be cancelled at any time before the transaction is completed.

In addition, the state will provide an informational brochure, which I will purchase from the state to have at my store available to all customers. SB 338 and AB 665 are reasonable bills which educate consumers. The bills also put in safeguards that make sure that the maximum term on the loan in is 31 days and the minimum term is three days.

The payday advance is popular because it's quick, it's easy and it saves consumers money. Yet, as I am sure you will hear this morning, the payday advance is perceived as the problem by some "consumer advocates." This would appear to be because they either do not understand the consumer's need to save money by avoiding higher fees associated with paying a late or bounced check fee, or they believe that if the payday advance is prohibited that these real consumer needs will somehow disappear. Of course that will not happen.

The industry respectfully asks that you support the bills as written. Thank you for your time this morning, Peg and I would be happy to address any questions the committee members might have at this time.



State of Wisconsin
Department of Financial Institutions

Jim Doyle, **Governor**

Lorrie Keating Heinemann, **Secretary**

Testimony of
Lorrie Keating Heinemann
Department of Financial Institutions
Senate Committee on Agriculture, Financial Institutions and Insurance
and Assembly Committee on Financial Institutions
SB 338/ AB 665
January 13, 2004

Chairman Schultz, Chairman Montgomery, committee members, on behalf of the Department of Financial Institutions, I thank you for the opportunity to speak to you today about SB 338 and AB 665.

I am so pleased that you have taken the initiative to bring this issue up in the Legislature. DFI's mission is to protect and promote Wisconsin's financial strength, which we feel includes the financial strength of Wisconsin's citizens. We want to ensure access to credit while, at the same time, promote the financial solvency of consumers in this state. In 2002, Wisconsin citizens spent \$73.5 million on payday loan finance fees. Approximately \$56 million went directly out of Wisconsin as 76 percent of our payday lending locations are owned by out-of-state companies. This has a huge economic impact on our communities and is a main reason that this legislation warrants the serious attention you are giving it today.

Today, I would like to tell you about the research we have done at DFI. Many states around the country have already dealt with the issue of payday lending and we are fortunate to be able to evaluate many different options in terms of effective legislation in this area. We have had a chance to share this information with one of the authors of this bill, Representative Jeskewitz, as well as with your staff, Senator Schultz.

33 states and the District of Columbia have passed more comprehensive payday lending regulations and we have taken a look at what they have done. I would like to take a few moments to discuss the state of Florida. In July of 2001, Governor Jeb Bush signed one of the toughest laws regulating payday lending in the country. Florida's law caps the finance fee on a payday loan at 10 percent (plus allows an additional \$5 verification fee), prohibits any loan rollover and allows for a maximum loan amount of \$500.

Despite worries that this bill would destroy the industry, recent data has shown that, since implementation of the new law, the growth rate in the number of licensed payday lending locations in Florida is over 10 percent annually. Therefore, the industry maintains a profitable presence and the consumer receives assistance in avoiding expensive long-term debt. Florida has one of the strongest laws in the country regulating payday lending but it has been good for the industry and good for the consumer.

Office of the Secretary

Mail: PO Box 8861 Madison, WI 53708-8861
Voice: (608) 264-7800

Fax: (608) 261-4DFI

Courier: 345 W. Washington Ave. 5th Floor Madison, WI 53703
TTY: (608) 266-8818
Internet: www.wdfi.org

Another illustrative example of effective regulation is the Virginia payday lending law. In July of 2002, Virginia's payday lending law went into effect with a 15 percent finance fee cap, a prohibition on any rollovers and a \$500 maximum loan amount. Since implementation of these regulations, the industry has grown by almost 33 percent. This growth demonstrates that we can keep a profitable payday lending industry even with stronger consumer protections.

However, there are many other states that have passed meaningful legislation in this area that also recognize the niche these lenders fill. I would like to outline some examples of specific areas addressed in many other states.

Rollover Limits:

We have learned that 31 states (including: IA, IL, IN and MN) limit rollovers and 19 of those prohibit any rollovers.

The State of Washington mandates that after 4 loan rollovers in which the customer is unable to pay the original principle, the lender must convert the loan to a payment plan with only one more fee allowed. This way, the lender receives payment instead of defaulted loan and the customer can stabilize their finances.

Central Database to Track Rollovers:

Rollover limit enforcement is almost impossible without a central tracking system. Florida has already implemented a central database and it provides a good model for such a program. An outside vendor runs the Florida program with no upfront costs to the state because the vendor collects a \$1 per loan transaction fee to run the system. This fee is taken from out of the allowable \$5 verification fee under Florida state law. Furthermore, Oklahoma is slated to implement a database by July of this year and Michigan is currently debating the option.

A central database may also help put Wisconsin-owned, smaller lenders on an equal playing field with the larger national companies. This has been the experience in Florida, as large companies with the resources to accept more defaults no longer have an advantage over the smaller, locally owned enterprises.

****Fee/Interest Limits:**

40 states (including IA, IN, MI, and MN) already have laws that limit the amount of interest and fees that payday lenders may charge. Our analysis shows that other states with a 10-15 percent fee cap can maintain a prosperous industry, as the growth rates in Florida and Virginia illustrate.

Minimum Loan Terms:

Minimum loan term is also an important factor in any legislation. The typical loan is for a 14-day period. You may want to consider making the minimum term 14 days and if the borrower is able to pay off the loan earlier, great. The lender receives the principle back and still retains their profitable fee. The longer the minimum term, the more likely the lender is to get paid back.

Maximum Loan Amount:

Industry representatives have informed us that the average loan in Wisconsin is between \$200 and \$350. We also know that 29 states have maximum loan amounts under \$1,000 and 26 of those (including: IA, IL, IN and MN) have loan amounts capped

at \$500 or less. It appears that, given the industry experience here in Wisconsin, a maximum loan amount under \$1,000 would allow the needed flexibility for lenders and borrowers.

We have spoken numerous times with industry representatives as well as consumer advocates. Our conclusion is that we can implement meaningful regulation and maintain a competitive industry in Wisconsin. The payday lending industry functions profitably under the business model they publicize, which is to provide, "...a short-term solution to an immediate need, [that] is not intended for repeated use in carrying an individual from payday to payday."¹ I believe our research shows that regulations allowing flexibility within that business model are possible and can strengthen the economic viability of communities.

Thank you for your time today. We hope this information will yield fruitful discussions going forward. I will be happy to answer any questions you may have.

¹ Community Financial Services Association FAQ Sheet, <http://www.cfsa.net/custinf/ccustinf.html>



CONSUMER LAW LITIGATION CLINIC

**TESTIMONY IN OPPOSITION TO S.B. 338 AND A.B. 665
BEFORE THE SENATE COMMITTEE ON AGRICULTURE, FINANCIAL
INSTITUTIONS AND INSURANCE AND BEFORE THE ASSEMBLY COMMITTEE
ON FINANCIAL INSTITUTIONS**

January 13, 2003

My name is Katherine Teitgen. I am a third year law student testifying on behalf of the Consumer Law Litigation Clinic, a U.W. Law School clinical program which represents lower income consumers. I am here with my supervising attorney, Stephen Meili. The CLLC became interested in the issue of payday loans because many of our clients have come to us in significant debt as a result of payday loans. While we generally support and encourage disclosures to customers, we oppose Senate Bill 338 and Assemble Bill 665. We are concerned that the scope of the bills are limited in their regulation of payday lenders and do little to meaningfully address the problems that trap Wisconsin consumers into high, predatory rates charged by payday lenders.

Since 2000 alone, there has been a 50% increase in the number of payday loan locations across the nation: from 10,000 to 15,000. These lenders have made loans worth \$25 billion. According the Center for Responsible Lending, the cost to consumers of these loans is \$3.4 billion a year. This number doesn't take into account insufficient fund fees, bounced check fees, disparities between the credit risk and effective interest rate charged borrowers, and increased public costs due to collection efforts and payday lending-induced bankruptcies.

The exponential national growth in the payday loan industry has been mirrored in Wisconsin over the last decade. In 1993, there was only one payday loan outlet in Wisconsin. As of October 28 2003, the Wisconsin Department of Financial Institutions (DFI) reported 56 licensed companies with 328 offices. In 2002 alone, payday lenders made 1,222,864 loans totaling \$327,296,623. The industry's growth rate is not just an urban phenomenon: payday lenders exist in about 50 small towns and cities throughout Wisconsin.

Wisconsin is one of only four states that have left payday lending completely unregulated, meaning that the sky is the limit on interest rates. Already, 13 states prohibit payday lending. The 33 remaining states all place limitations upon the industry by limiting the interest rates and/or fees charged, limiting or prohibiting rollovers, and/or limiting the maximum amount loaned.

Payday loans are billed as short term loans. They are usually around \$100-\$300, with astronomical interest rates that typically exceed 500%. For customers, such as the elderly and disabled, who use Social Security checks as collateral, the interest rate can exceed 1000%! For example, if a customer wished to borrow \$300 today, she would write a check for \$360 and postdate her check two weeks from today. The customer receives \$300 in cash that day, while the lender retains a \$60 fee and promises not to deposit the check for two weeks. In Wisconsin, lenders on average charge around 20% of the initial loan.

If a customer cannot pay the loan in full when it comes due, she has three options. (1) Extend or rollover the loan by paying another fee (\$60 in the example above) (2) pay off the loan but borrow again from the payday lender immediately in a "back-to-back" transaction or (3) default and incur bounced check fees, and other fees. While most consumers chose to roll over their loans, any of these options begin a downward spiral into ever-increasing debt.

The practice of rolling over loans requires the consumer to pay hefty fees every two weeks while receiving no new cash from the lender. In a matter of weeks or months, the fees consumers have paid outstrip the amount of principal they received through the loan in the first place. The CLLC has represented numerous clients who have incurred over \$1000 in rollover fees on payday loans. They are not alone. Most payday loan customers in Wisconsin roll over their loans at least once. Accordingly to DFI, in 2000 nearly 20% of borrowers rolled them over more than five times. Although we believe the DFI underestimated the number of rollovers by Wisconsin consumers because it did not include customers who default or go bankrupt, these numbers are alarming, nevertheless.

In other states, the study of rollovers has revealed even higher numbers. For example, the Indiana DFI conducted an extensive study of over 54 thousand loans in 1999 and found 77% of all payday loans were roll-overs. The Indiana DFI study also found an average 10.19 payday loans per customer. In North Carolina regulators found about 87% of borrowers would roll over their loan at least one time with any given lender. Excluding debtors who borrowed from multiple locations, 38.3% of customers renewed their payday loans more than ten times. In a survey by the CRL, they found that borrowers receive 8 to 13 loans per year.

Thus, although these loans are meant for short term solutions, consumers become "captive borrowers," a term coined by the Illinois Department of Financial Institutions. From the first loan, they are unable to repay the high fees and the principal. The payday loan companies are aware of this. In fact, rollovers are what make payday lending so profitable. In our experience, payday lenders frequently pursue their customers in court and expose them to coercive collection practices. Lenders have threatened to pursue civil or criminal charges as soon as a customer informs them that they are unable to repay the loan on the due date and are unwilling to roll over the loan.

Unfortunately, S.B. 338 and A.B. 665 do not address these problems. They only require payday lenders to make minimal disclosures to consumers, such as the admonition that payday loans should not be viewed as a long term solution to financial problems. Consumers are already painfully aware of this. Federal law already requires payday lenders to disclose their exorbitant, three figure annual interest rates. Who would plan to enter a long-term relationship with a lender that charges 500% interest? Many consumers in difficult financial situations feel they lack any choice but to visit a payday lender when bills are due and they need cash quickly.

S.B. 338 also requires payday lenders to notify borrowers that they may cancel their payday loan at anytime before receiving the loan funds. This will make no practical difference to a consumer. Payday lenders stress speed as a major advantage of their product. Would a customer reconsider her decision in the few minutes between submitting her loan application and receiving the cash?

The CLLC 's position is that the only truly effective protection for consumers is a reasonable limit on the interest rates charged by payday lenders and a more generous minimum loan period to help address the rollover problem. Senator Robson's bill, S.B. 345 (which is supported by, among other organizations, the AARP), would limit aggregate fees and interest rate charges to 5% of the amount of the loan. It also includes a 30-day minimum loan period, which will reduce the frequency of rollovers, as well as their associated fees.

Therefore, we urge you to reject S.B. 338 and A.B. 665, or in the alternative to amend those bills to include the consumer protections in S.B. 345.

Thank you