ORIGINAL

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

COMMERCE COMMITTEE

IN RE: PAYDAY LENDING

MAIN CAPITOL BUILDING
ROOM 140
HARRISBURG, PENNSYLVANIA

WEDNESDAY, AUGUST 9, 2004, 1:05 P.M.

BEFORE:

HON. GEORGE C. HASAY, MAJORITY CHAIRMAN
HON. THOMAS CALTAGIRONE, MINORITY CHAIRMAN
HON. BOB ALLEN
HON. KEITH GILLESPIE
HON. MATTHEW GOOD
HON. DAVID MILLARD
HON. STEVEN NICKOL
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HON. MARIO SCAVELLO
HON. JAMES CASORIO
HON. PHYLLIS MUNDY
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I N D E X

CHAIRMAN HASAY: Having the hour of 1:00 arrived, the House Commerce Committee will now come to order. We have a public hearing today on payday lending. For those folks that don't know what payday lending is, it's different stores that have grown within the last few years. What they do is they give loans, small loans, like $300 to $500 within a week. They do charge a higher percent and they have some additional fees other than banks. Banks have now a tradition of not being interested in giving the loans for $300 to $500.

We have a number of people testifying here today to hear what payday lending institutions do. I didn't have any of those payday stores until within the last two years up in Northeast Pennsylvania. So it will be interesting to hear the different ones that have comments today at the hearing.

The first person to testify is Beth McConnell. She's the director of PennPIRG and PennPIRG Educational Fund which is a consumer group. Beth, thank you for coming here today and being with us. You may start at your own convenience. Thank you.

MS. McCONNELL: Good afternoon. Thank you for having me. It's good to see you all. My name, again, is Beth McConnell and I'm the director of Pennsylvania Public Interest Research Group, PennPIRG. PennPIRG is a non-partisan, non-profit consumer advocacy organization. It represents several thousand citizens and members across the state.

I thank you, of course, for giving me the opportunity to comment this afternoon on payday lending and also offer our perspective as to how to protect consumers from being trapped under unmanageable debt which often occurs within this fringe banking industry.

Of course, we have all seen the advertisements that promise quick cash until payday or quick financial fixes, just fill out a few simple forms and short-term cash flow problems seemingly solved. But as the old adage goes, if it sounds too good to be true, it probably is. And certainly it is in this case. Payday lenders hook consumers into a cycle of unmanageable debt as borrowers, saddled with outrageous fees, take out new loans to pay off the old and so on and so on.

This Committee has considered some measures in the past that aim to regulate the industry to allegedly protect consumers. However, PennPIRG believes that those measures will not achieve that goal, rather will legitimize the payday lending industry and its brand of loan sharking.

We urge this Committee to protect consumers by cracking down on the lenders' questionable legal standing by passing anti-brokering legislation, for example, as well as passing resolutions to urge the State Attorney, General as well as the Federal Deposit Insurance Corporation, the FDIC, to crack down on the lenders' arrangements with out-of-state banks which allows them to operate.

This is how it works. Payday lenders particularly prey on working consumers who are living paycheck to paycheck. They offer loans usually up to $500 against a future payroll or government benefits check. Typically, the consumer will write a check for $230, for example, to borrow $200 for about 2 weeks which is usually until their next payday.

So the actual cost of that loan for

two weeks is $30; in other words, an annual percentage rate of 390 percent. For comparison, some of the higher APRs on credit cards are less than 24 percent and Pennsylvania law already capped small loans at 23.75 percent APR.

Now, consumers who are desperate enough to visit a payday lender often find there's not enough money on payday to cover both the principal of the loan as well as the finance charges on top of that loan. In that case, the consumer will usually pay then just the finance charge, the $30 or other fees, and roll it over until the next paycheck, so two weeks later, thus, incurring additional finance charges during that time period. So that would bring the total finance charge for a $200 one-month loan to $60.

As is usually the case, of course, two weeks later on the next payday, the consumer finds that they are unable to pay the principal and the fees and then continue rolling it over time and time and time again until becoming mired in unmanageable debt.

That is exactly what the payday lenders bank on. I will reference this later in my testimony but about half of the customers in one study were -- actually, about 20 percent of the customers comprised about half of the total transactions for a business. So they do rely on these repeat customers.

Now, one borrower actually told the National Consumer Law Center that he paid nearly $20,000 in fees for about $3,000 in loans. As a member of the military, this particular customer was a prime target for payday lenders. He was lower income, supporting a family, in a pinch for cash and also guaranteed a paycheck. In this case, this consumer actually filed for bankruptcy after rolling over loans with nine different lenders over the course of six years.

While his experience is certainly extreme it's not at all unique. The Center for Responsible Lending estimates that 91 percent of all payday loans are made to borrowers with five or more loans per year. This same report estimated chronic payday borrowing, over four loans per year, cost Americans $3.4 billion annually.

Now, unlike conventional lenders, payday lenders do not assess a borrower's ability to repay the loan. The only thing that you're asked to see is proof that you actually have a checking account and a steady income; but in no case do the payday lenders actually ask what your other debts or responsibilities are. So they have absolutely no idea whether or not you're capable of repaying this debt. And that is, according to the Department of US Housing and Urban Development, one of the characteristics of predatory lending.

So that means that payday lenders are, by taking a blind eye, knowingly extending credit to people who cannot afford it. The benefits of that blind lending is certainly solely in payday lenders' corner as those who cannot afford to pay and forced to roll over and otherwise extend their loans giving the lender the captive fee payer.

The FDIC has highlighted concerns with the soundness of the payday lenders by stating, quote, the combination of the borrower's limited financial capacity, the unsecured nature of the credit and the limited underwriting analysis of the borrower's ability to repay pose substantial credit risk for insured depository institutions.

Payday lenders are operating on shaky legal ground in Pennsylvania. State usury law caps small loans at -- interest rates or APR is at 23.75 percent for licensed lenders. In fact, former Pennsylvania Attorney General Mike Fisher brought actions against three companies for making payday loans in violation of those state limits effectively shutting them down a few years ago.

However, there are a number of companies -- actually, I think about ten in total -- that are able to escape state law by partnering with out-of-state banks, thus, are not subject to Pennsylvania rules under current FDIC guidelines.

One example, National Cash Advance, which is owned by Advance America, when I most recently checked, they are making their loans through BankWest of South Dakota. That was after the Comptroller of the Currency shut down its former payday lending partner for its unsound practices. There has been regulatory action at the Federal level. The Comptroller of the Currency, the Office of Thrift Supervision and the Federal Reserve have shut down most of these payday lenders.

Again, just about ten state-chartered FDIC supervised banks are the only financial institutions that we know of that are partnering with pawn chains and check cashers and payday lenders to offer these short-term, high-interest loans.

Other states have taken a very critical view of payday lending. Maryland enacted an anti-brokering law to give regulators the authority to enforce the small loan rate caps in their state. That's, again, with companies that are partnering with out-of-state banks. North Carolina permitted its four-year experiment with payday lending to sunset since that state's banking commissioner showed that many consumers were becoming mired in debt despite efforts to clamp down on repeat borrowing.

Georgia Governor Sonny Perdue just recently signed legislation that prohibits payday lenders from operating in the state outside of its existing usury laws. Just last week the former Governor of Georgia, Roy Barnes, who is now in private practice as an attorney, filed a lawsuit against 60 payday lenders in the state to shut them down and seek penalties for violating the law.

I would like to also, though, share

some of Florida's experience with payday lenders. That state enacted legislation in 2001 that aims to do some of the very similar things that House Bill 2150 aims to do, such as limiting rollovers and preventing multiple loans to a single consumer at a given time as well as limiting fees.

Unfortunately, the legislation did little to protect consumers from getting hooked into a cycle of debt and it certainly allowed the industry to flourish in the state. Among other things, the legislation actually required the creation of a database tracking system whereby the payday lenders actually have to report to this database system how many consumers took out loans, for what amount, for what term.

It was that report that the company Veritec Solutions, which operates a database system, submitted a report to the Florida Legislature and the findings I'm about to go through come from that report. I have enclosed a copy of one of the pages in my testimony.

For example, first of all, Florida law attempts to limit the number of loans that a customer is extended by requiring a 24-hour cooling off period between loans. But despite that, of course, chronic borrowing is continuing.

The report shows that on average consumers took out 7.6 loans during a 12-month period. Alarmingly, there were over 37,000 customers that had over 20 loans or more in a 12-month period. As many as 5,640 of them took out 26 loans within a year. Similarly, another report, a separate report from Iowa regulators show that the average consumer in 2003 had 12.31 loans at the same exact lender and almost half of those customers had 12 or more loans in 2003 at the same lender.

The Florida report also demonstrates that repeat and chronic borrowing, again, as I mentioned earlier, is part of the industry's business model. Thus, PennPIRG would argue that it's unrealistic to expect the industry believes that any sort of regulation of the manner being discussed will truly limit their ability to suck consumers into a cycle of debt. For example, the 20.5 percent of customers who took out more than 12 loans per year account for 50 percent of the industry's total transactions.

The Florida legislation also limits fees to 10 percent of the loan and that's not an annual percentage rate. It's 10 percent of the face value of the loan plus a $5 transaction fee. And that's certainly not eliminating the usurious rates.

On average, the annual percentage rate for payday loans in this report is 283 percent. That's certainly below the industry standard of over 400 percent nationwide. But we would argue that getting ripped off a little less than Florida is certainly not a measure of consumer protection or something you should necessarily be proud of or strive for.

I do hope the Committee keeps in mind that the legislation that's before the Committee, House Bill 2150, would actually permit annual percentage rates of as much as over 400 percent for a two week loan. Some have argued that regulating the industry could stop its slow growth. But Florida's experience has been the opposite.

Since enactment of the bill, the industry has grown, as has its customer base. From November of 2002 to October of 2003, the estimated annual increase in active provider locations in Florida was 15.3 percent while total registered customers increased by over 40 percent during that same time period.

The legislation also aims to prohibit lenders from extending loans to consumers with an already outstanding loan with themselves or with another provider. In the initial implementation of the law, the lender has to rely on the consumer's good faith just to sign a statement saying, I confirm that I don't have another outstanding loan. Of course, the lenders own good faith is to check their own records. When that was a voluntary system, of course, it failed.

The report showed that the number of customers with multiple transactions was 16 percent in the initial review or over 19,000 customers. Close to about 78 percent of them had two loans open at the same time -- again, that's close to 15,000 customers -- and about 16.8 percent had 3 open at one time, etc., etc. It was only when a mandatory system of reporting and verifying in the state database did the number of multiple loans actually reduce to about 2,800, now 2,800 customers with multiple loans.

So the provisions that are within House Bill 2150 we believe are inadequate to protect consumers from payday lending. We think that they will have the opposite intention and actually legitimize the industry in Pennsylvania and give them legal cover at a time when we should be doing the opposite, cracking down on the lenders.

As I mentioned, in addition to permitting APRs in excess of 400 percent for a two-week loan, the bill which most recently we had heard was supported by the payday lending industry. Of course, I'm sure we will hear more details about later today. But it will not prevent successive loans whereby the borrower pays off the first loan but immediately borrows again to stay afloat until his or her next payday.

While the bill does require that lenders offer repayment plans after the fourth successive loan, the provision will do little to help consumers escape from debt. To being with, the rules for offering the payment plan are somewhat vague and weak, leaving it up to interpretation by the lender how the plan should be offered. Most likely, we will see some fine print on the bottom of some contract.

But also by simply steering consumers

into waiting 24 hours between loans, lenders can avoid the requirement of having to offer the payment plan at all. As we saw in Florida, even a 24-hour limit does not deter chronic and repeat borrowing.

Proponents of payday lending have argued that the practice offers cash-strapped consumers help in emergency situations. But payday loans are creating more financial trouble than they are solving for most consumers. Other options do exist for consumers and more can certainly be explored. Even cash advances on credit cards, small loans from a credit union, even paying bills late and paying late fees or even paying bounced check fees are sometimes much cheaper solutions for consumers who are stuck in between paychecks.

We urge the Committee to reject any legislation that permits payday lenders from operating outside small loan rate caps in Pennsylvania. Instead, we urge this Committee to pass anti-brokering legislation that would prohibit the renting of out-of-state bank charters that allow lenders to skirt Pennsylvania usury laws.

Again, we would also like to urge this Committee to urge the FDIC to use its regulatory powers to end the practice of allowing payday lenders to use bank powers and undermine states' authority to uniformly regulate small loan companies and enforce usury laws. I would be happy to take any questions.

CHAIRMAN HASAY: Thank you, Director McConnell, for the information. You're a consumer. You want a loan. Let's say your refrigerator breaks down on Monday. So you want to replace that the same day. So you go in and you say to the payday lender, I want a loan for $500. What happens next?

MS. MCCONNELL: You need to write a check to the payday lender for $500 plus finance charges which are usually, in most cases, $15 per $100 borrowed. This legislation actually allows for $17.50 per $100 borrowed. So you write a check for 500 plus those fees.

The payday lender will then hold on to that check until the term of the loan expires which is usually 14 days. And on that 14th day, you need to either come back in with cash for the 500 plus the fees or the lender will deposit that check. Most likely, if they deposit that check, it bounces because very few people who are that cash strapped can afford to pay those high finance charges. So the consumer will then roll the loan over, incurring another set of fees and extending the time at which they have to pay it, repeating the cycle.

CHAIRMAN HASAY: What collateral does the payday lender have?

MS. McCONNELL: Just your check.

CHAIRMAN HASAY: Just that check?

MS. McCONNELL: You need to provide some sort of proof that you actually do have an income and a checking account such as a pay stub or, again, being able to write a check proves that you have a checking account. But the lender doesn't do a credit check on you necessarily with a major credit bureau such as Experian or TransUnion. They don't assess your ability to repay by asking you to fill out a form stating how much other debt you have.

Again, I think not even checking with your credit bureau to see what your credit standing is like is evidence of it being predatory borrowing. We will look aside and look the other way and not assess whether or not you can actually pay this loan like most banks and credit cards already do because they are relying on the fees, those repeat fees and the defaults in order to sustain the industry.

CHAIRMAN HASAY: Your employer doesn't send your paycheck to the payday lender?

MS. McCONNELL: No, not at all. You write a personal check to the lender that they then hold as collateral until the term of the loan. Again, they can either cash that check on the 14th day or you can come back to the lender and give them cash or some other -- usually, it's cash. I don't know, cash or check.

CHAIRMAN HASAY: On the 14th day, what if they don't show up?

MS. McCONNELL: Then the lender can cash the check and if it bounces, under current law, you can be prosecuted under criminal bad check laws. This legislation aims to shield consumers from the criminal penalties. It does allow for civil penalties but not criminal unless the consumer knowingly closed the account before the loan was actually arranged. But it doesn't necessarily help the consumer who could be prosecuted criminally for writing bad checks on all the other -- checks that they wrote on their account from the bank that will also bounce as a result.

CHAIRMAN HASAY: North Carolina, in your statement, did they close these stores?

MS. McCONNELL: Many of the stores have closed since the law sunsetted. However, many stores still operate also as a result of renting out-of-state bank charters. That's what's happening. In most states that have actually, again, eliminated payday lending, the lenders are avoiding those laws by partnering with out-of-state banks.

However, some states are challenging that arrangement in court now. Litigation has been pending. Some of the other folks that are testifying today may be able to comment on the details of that. There is also some question about whether or not the FDIC, unless they expressly prohibit a certain practice, can -- well, let me take a step back.

There is some question about whether or not a state-chartered bank can be subject to different rules than a federally-chartered bank.

Federally-chartered banks are not allowed to engage in payday lending. State-chartered banks are allowed to, again, because they are under FDIC. There is some question, some legal question about whether or not such different rules can exist and, if not, it gives the ability of attorneys to actually close down payday lenders rather than the rent-a-bank arrangements.

The point I guess that I want to make with all of this is that the lenders are operating on very shaky legal ground and the reason why they want regulation in Pennsylvania is because it legitimizes the industry and shields them from further litigation which they may not win.

We are really concerned about moving in any direction that, again, gives legitimacy to an industry that really we should be shutting down unless, of course, they are required to meet the same rules that banks are required to meet in offering small loans.

CHAIRMAN HASAY: Thank you very much for your testimony. Some of the members may have questions. The gentleman from Schuylkill County, Mr. Allen.

REPRESENTATIVE ALLEN: Thank you, Mr.

Chairman. I am not a proponent or an opponent to this bill as it is drafted but I have a question for you that goes to the heart of the issue here. If we do not do something to correct the situation and the FDIC bans out-of-state banks from issuing licenses or whatever you want to call them so that there is no way to get a payday check possible, aren't we really just turning to loan sharking then as the only way open for a person to get an emergency check?

MS. McCONNELL: I would argue that what is happening now with payday lenders is a form of semi-legal loan sharking as it is. I do agree that we need to do something to deal with the industry. Again, we would argue that shutting them down on making them abide to our own state laws is the best thing to do.

But, of course, we can do more to help consumers that are struggling. We can do a better job of educating consumers about financial management, about other options that exist, again, as I highlighted earlier. Even using your credit card or bounced check fees sometimes are better, not that we would encourage people to write bad checks. Although, that's exactly what the lenders do. I think the best that we can do as policymakers and as regulators is try and solve the problems that consumers are facing rather than legitimize an industry that's causing them harm.

REPRESENTATIVE ALLEN: I understand your testimony. But my great concern is if we don't step forward and do something in one way or another, that the day the person needs the excess cash, he's going to go to the street corner for it and if he goes to the street corner for it, the rates are not going to be 25 percent. They are going to be 40 and 50 percent and they are not going to stop loaning him the money because that's what a loan shark does.

I agree with you on the one premise, that the rates are extremely high. But my concern is, if we don't put a control and we go to an open market system, then people will find those -- and I'll use the word loan shark -- to do their job and get their money. And that's what my concern is.

If we're going to ban this and walk away from it, my major concern in this whole issue is then we are going to have a loan shark, whether it's in my urban community that I represent or

Philadelphia or Pittsburgh or Harrisburg, they are going to be available. And they are going to be willing to lend that money and they will be willing to take the money back in any way they can. And that's what my great concern is on this issue.

MS. McCONNELL: If loan sharks are offering 40 or 50 percent, that's a better deal than payday lenders are offering now. But I recognize your concern. There will always be that element of society that will be hard for us to control and law enforcement should do its best to clamp down on those illegal practices.

I think the majority of payday lending consumers -- I don't know that the majority of them will necessarily seek out those sorts of loan sharks, street corner loan sharks. I think the majority of them are probably not part of that. I don't even think they would know where to go necessarily to find a loan shark. There may be some.

But most of these consumers are average working consumers. Again, members of the military are one of the primary targets for payday lenders. They can actually go to the military itself to get loans at a much better rate than the payday lenders. I think that's almost always going to exist but I don't necessarily believe we are going to see such an increase in that type of activity if we simply protect consumers.

REPRESENTATIVE ALLEN: Thank you.

CHAIRMAN HASAY: Beth, in those other states where some of the payday lending stores were closed or restricted, did the banking industry come in and say, well -- because if you want to borrow money from a bank, you have to borrow from some banks at least $3,000. Did the banking industry in those other states say, well, we're going to give $500 loans out now?

MS. McCONNELL: That's a good question. I don't know the answer to that. I can look into it and get back to you. I do know that there have been some experiments at smaller banks and credit unions of doing more small loans than previously as a community service to avoid payday lenders. I don't know an awful lot about how many of them are out there or what their success is like. But I can look into that and get back to you. Some of the other testifiers may also know the details of that.

CHAIRMAN HASAY: We may have the Secretary of Banking here and we will probably ask him that question. He may be here today . I know he's in State College and on his way here. So we're hoping to hear from Secretary Schenek. The gentleman from Westmoreland, Mr. Tangretti, has a question.

REPRESENTATIVE TANGRETTI: Thank you, Mr. Chairman. Good afternoon. Beth, just for my own edification and for everybody else's, what's the history here of payday lending? This seems to kind of just popped up over the last few years. Is that accurate or have I just not seen it?

MS. McCONNELL: We are definitely seeing an explosive growth in the industry over the last few years. I don't know exactly why other than potentially this rent-a-bank arrangement that's becoming more and more popular which is allowing them to skirt usury laws. And that's one of the reasons why we're also looking for legislation in multiple states -- it's not just Pennsylvania -- to, again, shield them from the crack down.

REPRESENTATIVE TANGRETTI: Take me through once again, if you would -- you mentioned that Mike Fisher, in his role as Attorney General, did close down a number of these but there are still some operating as a result of their relationship with other chartered banks. Is that accurate?

MS. McCONNELL: From my understanding, other state-chartered banks.

REPRESENTATIVE TANGRETTI: Why is it that that makes it legal as opposed to illegal versus what Mike Fisher did?

MS. McCONNELL: Federal law does preempt states in many cases, not just in this case but in many cases, from establishing certain rules or regulations to protect consumers outside of what another state does.

For example, if a bank is headquartered and registered in Delaware and Delaware law allows for small loan rates of a thousand percent or has no limit and the bank is then setting up shop in Pennsylvania, for example, then Delaware law is the prevailing law because it is weaker and that's where the bank is chartered.

REPRESENTATIVE TANGRETTI: If that bank wanted to come to Pennsylvania to do business as a bank, it would have to be chartered by the state?

MS. McCONNELL: Here is the way they avoid that. The payday lenders are actually renting the charters of the out-of-state banks' store fronts, for example, which are not actually banks. You've got somebody who is probably making minimum wage, working a couple hours a day without any sort of financial training, requires you to fill out some form and then plugs it in the computer and processing it because of the rental arrangement. So the official bank may be People's Bank of Texas but the payday lender might be Cash Advance.

REPRESENTATIVE TANGRETTI: I guess my confusion is that you're suggesting and obviously accurate there is no Pennsylvania law that would prohibit that from happening?

MS. McCONNELL: From renting out-of-state charters currently, that is correct.

REPRESENTATIVE TANGRETTI: That doesn't even sound feasible. Obviously, it's the case. We can, in effect, stop that practice from happening if we were to adopt what you termed anti-brokering laws?

MS. McCONNELL: I imagine that payday

lenders would still challenge anti-brokering laws in a court of law. But what we tend to see is that the payday lenders are often losing these battles. We do believe that there is some legitimate reason to believe that we could defend those anti-brokering laws.

REPRESENTATIVE TANGRETTI: One final question. Do you see any way that House Bill 2150 can be improved to the extent that -- do you see this, following up on Representative Allen's question, in any way being improved to the extent that it would provide a service without taking advantage of individuals?

MS. McCONNELL: Not in any sort of the way that the payday lenders would probably support the bill in that form. If we were able to reduce the annual percentage rates down to what Pennsylvania already has small loans at, 23.75 percent APR -- again, keeping in mind the interest rate and APR are two different numbers -- if we're able to prevent successive loans and also allow consumers who are seeking pre-borrowing to enter into some sort of credit counseling, I think that would be a big improvement over the bill.

Again, the problem really that we're

trying to stop are the usurious rates and the repeat borrowing. So if we're able to lower those rates down to, again, what other banks are required to meet now, as well as prevent the repeat borrowing, I think it would be worthy of considering. I would doubt very much that the payday lenders would support such a bill.

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

CHAIRMAN HASAY: The gentleman from York, Mr. Nickol, to my far left has a question.

REPRESENTATIVE NICKOL: Thank you. I gather these exist because there is a consumer demand for payday lending. I would gather that the very people you refer to other alternatives for these consumers to go to get money, I would presume that they are at the payday because they don't have the other alternatives available to them because of bad credit or whatever. It's kind of a catch 22 here where I agree with much of what you're saying but I don't understand your conclusion as to why we should take no action. Maybe you can help me with that. You used the term a couple times that North Carolina eliminated payday lending but then you further testified they didn't.

MS. McCONNELL: North Carolina passed a statute a few years ago aimed to regulate payday lenders and what they found is that despite their attempts to regulate it and stop repeat borrowing, consumers were still borrowing time and time again. Lenders were still able to find ways around the law to hook them into the cycle of debt.

As a result, after a number of years, North Carolina allowed that law to sunset. Thus, technically now, payday lending is illegal in the state. The only reason why the lender still exists is because of this rent-a-bank arrangement the state has yet to be able to crack down on, although states are moving in that direction.

Again, Georgia is an example where litigation has been filed against the lenders for violating their usury laws. There may be some legislation movement pending in North Carolina. I think the Center for Responsible Lending can actually speak in more detail about that as well.

In terms of your first question which is, is there a legitimate consumer need for payday lending, I mean, certainly consumers get strapped for cash and certainly there are times they are looking for solutions and don't know where to go. I would argue that payday lending is not a solution, it's only making the situation worse. If we were able to limit the APR, again, down to what Pennsylvania state banks are already required to meet, I think that would be a move in the right direction.

But allowing consumers to get mired into a cycle of debt that makes their financial situation a lot worse in the end than they started out -- and sometimes tens of thousands of dollars in debt, filing for bankruptcy, harassed by collection agencies. I don't think that's a way out for consumers or has been any sort of solution and I think by legalizing the industry and allowing them to charge these APRs, we're essentially nodding that that's okay.

REPRESENTATIVE NICKOL: But what I'm trying to get at is you said in North Carolina they eliminated payday lending and they didn't. They just let their law expire. I gather they are in the same situation we are because we don't have a law either and it violates our usury limits. So we have two states here which don't authorize payday lending but it's occurring any way without any kind of regulation at all.

MS. McCONNELL: That's why I would argue that we should move forward on passing anti-brokering legislation to prohibit the rent-a-state banking charters and defend that legislation in court. That's essentially why the lenders still exist, the rent-a-bank arrangement. And putting pressure on the FDIC to do their part to prohibit the rent-a-bank arrangements as well as moving forward as a state on our own would essentially put the industry out of business.

REPRESENTATIVE NICKOL: Have any states done that?

MS. McCONNELL: Again, Georgia is beginning to do that now. They just recently passed the legislation and lawsuits have just been filed against the lenders that are still operating. So states are moving forward. A group of Senators, just recently, from New York as well as elsewhere, US Senators, sent a letter to the FDIC urging them to prohibit the rent-a-bank arrangement. I would encourage that this Committee consider doing similar.

REPRESENTATIVE NICKOL: Until the FDIC

plugs that loophole, why would we not want to consider legislation here to at least have some form of regulation over payday lending until such a point in time that federal authorities allow us to put a total limit?

MS. McCONNELL: Two points to that. One, I think, again, we can pass our own anti-brokering legislation and defend that in court. Again, there is some legitimate legal opinion that that legislation would survive a court case based on federal law. And that essentially would be our own way to stop the payday lenders and rent-a-bank arrangements here.

Second, I think regulating the industry and allowing for rates that are usurious now to continue, I think it sends a very different message to federal regulators, as well to other states, about our view of payday lending and its place and its role in our state. I think the message it sends is that we will allow it versus we want to crack down on it which I think is the solution with the anti-brokering legislation.

REPRESENTATIVE NICKOL: I realize you're looking for the perfect but I don't understand why we shouldn't give some modicum of protection in the interim by enacting at least some reasonable requirements. I guess we can differ on that. But I don't know that our ultimate aim might not be the same. I don't understand your absoluteness of the position that nothing, no protection is better than a little bit in the interim until there is some change in the federal regulation.

MS. McCONNELL: I hear what you're saying. I guess the perspective that PennPIRG has is no payday lending industry is better than some payday lending industry. We would rather put an end to payday lenders, again, as long as they are violating usury laws we have here in Pennsylvania rather than find some way to make their brand of loan sharking somewhat less bad than it already is or somewhat less of a rip off than it already is.

REPRESENTATIVE NICKOL: Thank you, Mr. Chairman.

CHAIRMAN HASAY: The gentleman from Westmoreland, Mr. Casorio.

REPRESENTATIVE CASORIO: Thank you, Mr. Chairman. Thank you for holding this hearing. Ms. McConnell, thank you for being with us today. I have just a couple of brief points and I'm looking forward to hearing from our friends from the State AFL. The ten state-chartered supervised banks that you spoke of a bit with Representative Tangretti, those are ,again, banks out of the borders of Pennsylvania?

MS. McCONNELL: Those are primarily banks out of -- yes, I believe they are all out of Pennsylvania and they are FDIC supervised banks.

REPRESENTATIVE CASORIO: Again, this was a very extensive report. Thank you. I guess we can surmise that ten of the state-chartered banks seem to be the culprit for most of the problem here?

MS. McCONNELL: Exactly. As far as we can tell, there are ten of these banks that are partnering, again, or renting their charters with most of the payday lenders and pawnshops. I can actually get you a list of those ten banks.

REPRESENTATIVE CASORIO: Thank you. You said the nationwide annual percentage rate was about 390 percent on a whole. House Bill 2150 that we are considering here would allow for as much as a 420 percent rate per year; is that correct?

MS. McCONNELL: The industry standard

right now nationwide is about 408 percent APR. A two-week loan for $100 under this legislation, the APR would top 400 percent. But you can slice it a few different ways and get some higher APRs. If it's a one-week loan, the APR can be as high as 900 percent under this legislation. It really depends on how you look at it and how much is borrowed, certainly. But generally, the APRs are significantly higher than the state law allows.

REPRESENTATIVE CASORIO: I think that 900 number -- and again, that may be extreme. But if we take it to the 400 percent number, it really exemplifies the problem here. We can never force people to change any kind of behavior. But hopefully, we can try to educate them. I'm afraid what these kinds of loans do -- we have a letter that, I think, we all received the other day from someone saying that these are aimed at mostly middle America, if you will. I tend to disagree with that.

I think they are aimed mostly at poorer Americans, if you will, folks on low incomes, seniors, if you will, that don't have family to live in that three or four room house from 1950 that they built and they don't get out that often and doesn't have the economics or the tools or the ability to differentiate between various financial concerns. I think that's who they are targeting here, quite frankly. It's all about education.

The Florida report that you talked about, which was very extensive as well, was it based anywhere geographically in the state, I'm just wondering, or was it the state on a whole or did there seem to be pockets of geography?

MS. McCONNELL: The report actually does look at where the customers are and I can refer to that. I can't profess to know an awful lot about Florida demographics or geography to tell you whether or not these are lower-income areas or higher-income areas. I think primarily this is metropolitan area. It may not necessarily tell you within that metropolitan area. But most of the consumers, about 27 and a half percent, were in the Tampa region, about 17 and a half percent in the Orlando region, 13 percent in the area around Jacksonville, 10 percent in Fort Lauderdale and so on and so forth.

I think you're right. Payday lenders do particularly target consumers who are strapped for cash but consumers who are working or have a regular paycheck. Some of the data on demographics has shown that they are predominantly woman, often in single parent households, again, with a regular job and regular paycheck supporting families in many cases. That's exactly what the lenders go after.

Again, members of the military are other prime targets for lenders. If you drive actually near or around military bases, often as you head into the base you will see a large number of payday lenders with names like Military Cash Advance or Patriot Lenders or some other sort of name that elicits some sort of government involvement in some way because it's called military something. So they are clustered often around there.

One of the concerns certainly also, since we just passed legislation to allow for some extended gambling in Pennsylvania, is whether or not some of the payday lenders will set up shop around those locations and particularly target gamblers. I think that's a real concern.

REPRESENTATIVE CASORIO: The successive loans that you spoke of I think is truly the telling point here. Chairman Hasay gave the example of a refrigerator. I think those of us that have that type of problem would certainly be able to at least handle the majority of that loan in a successive week or two or three and have that loan paid off. But I think where folks borrowing $300, $400, $500, not meeting that, not meeting the APR and then coming back and borrowing another $300, $400, $500 to cover that three or four times over, as you said, that's probably the core problem, I think, that rubs us wrong.

I appreciate your testimony here today. Again, my concern is the lack of education. We may have to couple with the banking department -- hopefully, the Secretary will make his way here from State College -- and see if we can't at least collectively through our legislative districts -- most of my constituents probably don't even know these places exist, if you will. So I think it's an educational process and I'm glad that you were here today to tell us. Thank you. Thank you, Mr. Chairman.

CHAIRMAN HASAY: Mr. Gillespie from Lancaster has a question.

REPRESENTATIVE GILLESPIE: Thank you,

Mr. Chairman. Once again, thank you for your testimony. Continuing on with Chairman Hasay's refrigerator example, you mentioned the first round of 17.50 per hundred for the $500. In my quick calculation, that's somewhere close to $600, a little bit less. You said when they default on that or fail, then a whole new set of charges will come in for round two. I'm just curious. Could you give us a quick example of what that may be and what the time line would be that that would kick in?

MS. McCONNELL: For example, just to use round numbers, your loan is $500 and your fees are $100, making the total loan $600 that you owe at the end of the term of the loan, which, again, is usually about 14 days. If you are unable to pay that full $600, normally a consumer will pay the fees, the finance charges, the $100, roll the loan over again for another two weeks and incur another set of finance charges, another $100 in fees. So they have paid $100. They still owe $600. Two weeks later, again, they need to either pay that full $600 or they pay the fees, the $100, roll it over again so they have paid $200 and still owe $600. So week after week after week they are making no progress on the principal of the loan, of course, because the finance charges are so unmanageable and they just pay the fees.

Now, the payday lenders may argue that they have an enormous number of consumers that default so they need to charge those high fees in order to make up for the defaulted loans. Actually, there is some research out there that shows that, well, lenders -- I believe it was in one state and I believe it was in North Carolina again -- claimed about 12 and a half million dollars in write-offs in bad loans. They earned over $100 million in fees that same year. So they are making the money back on the fees even when the loan is in default itself. That, again, is key to the business model, key to making the industry profitable.

REPRESENTATIVE CASORIO: Thank you. Thank you, Mr. Chairman.

CHAIRMAN HASAY: The Chairman recognizes the gentleman from Lackawanna, Mr. Wansacz, for the final question.

REPRESENTATIVE WANSACZ: Thank you, Mr. Chairman. Thank you, Beth, for testifying. My question is following up on Representative

Casorio's questions. How do people find out about the payday lending institutions? I know you mentioned around military, billboards. What happens for those of us who don't have a military base in the area? How are they targeting people? How are they finding people to give them loans?

MS. McCONNELL: Certainly, I know when I walk down -- I live in Center City Philadelphia. When I walk down Market Street in Center City, I see huge signs, quick cash until payday, it's simple, come on in, you won't believe how easy it is to get $500. They place ads certainly in newspapers and the advertising market just like most businesses do.

I don't want to get too much into internet, payday lending and the difference between the two, but certainly there is an influx of this stuff on the web as well. I get e-mail messages to my e-mail account all the time to apply for a payday loan, which I think is ironic. They market just like any other business does. They are particularly clustered in areas where their consumers and where their market is, lower income but working consumers.

One of the things -- I didn't cover

this a bit in my testimony. But not long ago I called a couple of payday lenders just to find out what can I learn, if I'm somebody who is interested in actually taking out one of these loans. And I called and I asked them how much it would cost. Can I get an answer? And I couldn't.

I called three or four different lenders and they would not actually tell me what the arrangement was like and what I was doing and how much it would cost. They want to get you in the store. Come on down. We'll show you the contract. We'll explain it there. I can't tell you because I'm not a loan officer. They can't give you any information over the phone or they claim not to be able to give you any information over the phone. So they get you in the store and, obviously, it's easier for them to make that loan.

I think that's unfair to the consumer who is trying to do a good job and shop around and be a smart consumer and find out how much something costs. We actually, in meetings with the industry a few months ago at a summit in Chicago, urged them to do a better job in training their customer service representatives who answer the phones to be honest. They refused to do so because they were concerned, this particular representative, concerned about the liability issues of a telephone representative actually giving information to a consumer.

REPRESENTATIVE WANSACZ: I'm trying to go back and understand this issue completely. When people come in, for example, and take out a payday loan, the chances of them, as Chairman Hasay mentioned -- if they don't show up to pay their bills and they get a bounced check fee or something, what happens? Do they just worry about going to the bank and never pay the payday loans? Somebody having a small business and a background where people have bounced checks before, it's very difficult for a business to go after somebody for not paying. Do you know the percentage of cases like this?

MS. McCONNELL: I don't know the percentage. I do know that in some cases, it depends certainly on the bank and the type of account you have. In some cases, if you bounce a check, the bank will pay the check and you owe the bank the fees and you work it out with them. Not all consumers have that kind of arrangement. If the check bounces, it bounces and you still owe the person that you originally wrote the check to, plus you owe them the bounced check fees, plus you also owe your bank bounced check fees. You still in most cases will need to deal with the payday lender.

And another lawsuit was actually filed in another state -- forgive me for not knowing where -- recently for payday lenders that actually engaged in some pretty aggressive collections tactics with those consumers, threatening criminal prosecution, harassing telephone calls and some real over-the-top behavior according to this particular lawsuit. I can actually, again, forward you exactly what that state was and what the lawsuit was. I can't recall exactly where but it was recent.

CHAIRMAN HASAY: We still have a couple more questions. The gentleman from Philadelphia, Mr. Thomas.

REPRESENTATIVE THOMAS: Thank you, Mr. Chairman. Thank you, Ms. McConnell, for your testimony. It is my understanding from a lot of check cashers, at least in Philadelphia County, that they do not support payday lending. Has that come up in your research?

MS. McCONNELL: I can't actually comment on that, particularly the difference between check cashers and payday lenders. I think Mr. Ackelsberg from Community Legal Services has some particular background in the difference between the check cashers and store front payday lenders. He can probably comment on that better than I can.

REPRESENTATIVE THOMAS: I know at least two or three check cashers in the general area of my district office. They do not engage in payday lending and they are strongly opposed to payday lending practices. I was wondering if it has come up in your research.

Going back to comment that a colleague made earlier as I was coming in on this issue of whether some protection is better than no protection, my question to you is whether or not we are viewing the issue of protection in the right context because it seems to me payday lending is a bad practice and the protection we will be giving actually will act as a cover for what has been deemed illegal practices; is that a correct?

MS. McCONNELL: Thank you,

Representative Thomas. I think you articulated much better than I did. I think that's exactly right. The protection that this bill gives is more protection to the industry than it is to the consumer and that's why PennPIRG opposes it. I also want to close with my remark and comment there and to also thank you, Representative, for your leadership. I know that you have been working very hard as a champion of consumers on this particular issue for some time now. I appreciate that.

REPRESENTATIVE THOMAS: Thank you, Mr. Chairman.

CHAIRMAN HASAY: For the information of the public, this Committee addressed check cashers a number of years ago when we made them register and be licensed. What check cashers do is just cash your check for a fee. Payday lenders are different. You get a loan and you pay interest and fees. So check cashers are separate in that respect.

Beth, you have always been very informative. We really appreciate you coming in and keeping an eye on the consumer. The members have had a lot of questions. Again, thank you for your time and your testimony and for coming here today.

MS. McCONNELL: Thank you for having me.

CHAIRMAN HASAY: We are going to try to keep on schedule. We are a little bit behind. Next we have Pearre Dean, Regional COPE Director with the American Federation of Labor. Director Dean, thank you for coming today and we appreciate what you have to say about payday lending.

MR. DEAN: Thank you, Mr. Chairman. Thanks for having me here. My name is Pearre Dean. I am the Regional COPE Director for the Pennsylvania AFL-CIO. I'm here to testify on behalf of the 900,000-plus members of our organization. I'm here to testify on House Bill 2150.

We believe this legislation will have a strong negative impact on Pennsylvania's workers and their families. Payday lending is directly and specifically aimed at our members who have paydays. It is our responsibility to protect our members' paychecks while they are hard at work in these trying economic times. Obviously, we believe that this is the responsible position for members of the General Assembly as well.

These are harsh days for Pennsylvania workers. Wages and real dollars are below what the average pay was in 1979. Pay increases have been more than offset, in recent years, by health care cost shifting. Workers in the Commonwealth are working harder, being more productive and yet in real dollars are earning less. This is a continuing trend with slight upticks for the past 25 years.

The unemployed worker rate has been consistently high in the state with over 350,000 workers on average without jobs, but looking for work each month. As the Chairman knows, the statewide unemployment figures are much higher in the Northeast and almost all rural Pennsylvania and Southwest Pennsylvania.

Dislocated workers, those who have good family-sustaining jobs, are now finding new careers in low-wage service jobs. This group of workers have downsized their living standards, lost health care protection and are particularly vulnerable to these predatory lenders, such as payday lenders, to maintain obligations undertaken when they had good paying jobs.

In sum, these are hard economic times for the average workers in Pennsylvania, those employed and those unemployed. It should be noted that one in eight, and I repeat, one in eight Pennsylvania workers received unemployment compensation last year.

Other measures of the economic health of the Commonwealth citizens all tell the same story. Bankruptcies are at an all time high. Mortgage foreclosures across the state are at a all time high. The Pennsylvania minimum wage remains frozen since 1997 at $5.15 an hour.

In this atmosphere, we are here to talk about House Bill 2150, Printer's No. 2897, which would create enabling legislation for payday lenders. For workers, the heart of the money is in the interest rate. Call it a fee, brokerage rate, whatever legal mumbo jumbo lingo, whatever you want to dream up. It's the interest rate.

In this case, the bill talks about a 17.5 percent maximum interest rate. Is that per day, per month, per year, what have you? It doesn't state that in the legislation at all. I don't believe that it is a mistake that it was drafted that way.

In real terms, the 17.5 percent amounts to 450 percent interest on the money that's borrowed for two weeks from payday to payday. Many are paid weekly, in which case, the loan rate is 910 percent if borrowed for the full week. The rate charge will be $17.50 per $100 borrowed. If the allowable $500 is borrowed, the cost to the worker would be $87.50 for $500. If the bill's ceiling is increased to $1,000 borrowed, the cost to the worker is $175.

If you think that payday lending institutions operate anywhere at the rates near 17.5 percent annual interest rate, please look at the attachments that I have included with my testimony, which are some web ads and some things I have picked up along the way.

In hard economic times, it is simply beyond reasonable justification to charge borrowers, often desperate, triple-digit interest. In effect, this would be legalized loan sharking. Until the proponents of the legislation are willing to talk about double-digit annual interest rates -- and I want to clarify what I mean by double digit. I'm talking about the 23.5 percent that was talked about in the earlier testimony.

There is no reason for representatives of working men and women to talk about the bells and whistles of consumer protection. We would like to point out, however, the strikingly unique nature of payday lending.

Payday lenders would have the tools to assure repayment virtually as strong as garnishment. Payday lenders operate either with a post-dated check or an electronic transfer authorization. Payday lenders get their money first. They get all of the loan repaid.

This characteristic of the scheme is particularly poisonous. Few workers can withstand to have $500 or $1,000 taken out of their paycheck in one lump sum. The only solution is to go back and borrow again, paying another $17.50 per 100 owed. Although rollovers would be limited in this legislation, they are ways around the limitation, waiting one day, having a working spouse or someone else in the home to take out the loan, plus others that the creative financially desperate minds will invent.

What we are saying here is not only are the rates outrageous, but they also drag working families into perpetual debt. This is not good public policy. Regarding existing payday lenders, there seems to be some confusion regarding their status.

Some are renting federal bank charters and using the bank charter as legal authority to conduct payday lending. I have attached a letter from the Comptroller of the Currency/Administrator of National Banks, which strongly discourages banks from engaging in this practice and indicates strongly that any federal bank that engages in this activity will be closely monitored with their license on the line. The compliance requirements are so stringent that few federally chartered banks will engage in this activity or be able to meet the requirements since the OCC letter.

Also attached is the consent order in the case of Advance American; Cash Advance Centers, Incorporated; Agent and Bank Service Provider for Peoples Bank of Paris, Texas dated 2003. Among the many aspects of this consent order is the commitment that Advance America will no longer provide services related to the organization's renewal and rollover of bank payday loans in or after February 28, 2003 in North Carolina.

So be clear, the consent order does not preclude future payday lending arrangements in the Commonwealth or anywhere else. Approval by the Comptroller of the Currency is provided for in the consent order. We do not know, and it well may be true, that the facts for Advance America have changed and have been approved by the Comptroller. The point here is that federal bank oversight has intensified and with that intensity has come a push for state-enabling legislation like House Bill 2150.

Additionally, the FDIC, on July 2nd, 2003, issued guidelines on payday lenders that rent bank charters of FDIC-insured banks, according to the Consumer Federation of America. I quote, while the FDIC does not categorically prohibit banks from partnering with payday lenders, the guidelines require up to dollar for dollar capitalization of loans, call any loan 60 days in default and brand serial loans as an unsafe banking.

Small loans, where there is no federal bank or state charter rented, are governed by the Consumer Discount Company Act, formerly known as the Small Loan Act, adopted by the Pennsylvania

General Assembly and is the law in our great state.

The Consumer Discount Company Act covers loans from $25 to $25,000 and has an allowable annual interest rate of 23.5 percent. The enforcement of this law lies with the Secretary of Banking and includes civil and criminal penalties.

We suppose by using some legal lingo, payday lenders can argue that they are not lenders, but brokers. Payday lenders handle every aspect of the loan including the financing and, therefore, should be fully regulated as provided by law.

The last door open to payday lenders is to rent state bank charters and this is a prevalent activity. In order to stop this usurious lending by store fronts that register as loan brokers and partner with banks in South Dakota and Delaware to charge unlimited rates, the Pennsylvania General Assembly can do what other states have done: prohibit store fronts from brokering or arranging loans that they can't legally make themselves.

Our sister state of Maryland did just

that and is free from stores that make loans at triple-digit interest rates. Georgia just outlawed rent-a-bank payday lending with a law that has withstood legal challenge. I am open for any questions that you may have.

CHAIRMAN HASAY: Thank you, Mr. Dean, very much for your information. I know you know your members very well. We have worked together in the past with the Committee. There is a question that strikes my mind as well. The guy that's going in for the refrigerator that has to borrow $500 and he needs it today and the payday lenders or cash advance give him the loan, why wouldn't he just use his credit card to do that? His percent would be 23 percent. Or some of these folks, they don't have credit cards?

MR. DEAN: That may be the general consensus, that these folks don't have credit or can't get enough credit to sustain a loan of $500.

CHAIRMAN HASAY: I mean, these places are busy and they have clients. I know some of the members have some questions. I know the gentleman from Monroe, Mr. Scavello, has a question or two. Thank you, Mr. Dean.

MR. DEAN: Thank you.

REPRESENTATIVE SCAVELLO: Thank you, Mr. Chairman. Thank you, Mr. Dean, for your testimony. I heard earlier about loan sharking. It wasn't in your testimony. I just felt that whenever someone went to a loan shark, they were doing something illegal, either gambling or maybe buying drugs or whatever else, to borrow money. I always thought that. With payday lending, is it possible that that might also be the case, where somebody is looking not to fix their refrigerator, but maybe to gamble or buy illegal drugs or something like? Is that a possibility?

MR. DEAN: That's a possibility. The consumer makes the choice of what they are going to use the money for.

REPRESENTATIVE SCAVELLO: I tend to agree with you that if someone can't afford to get a loan properly, once they put themselves in a position like this, they will never get out. They will be paying $30 or whatever it is a week for the next hundred years.

MR. DEAN: Just like credit cards, if you pay the minimum.

REPRESENTATIVE SCAVELLO: And it preys on the people that have it the least. If they have families -- like I heard earlier, it's predominantly women with families. That comes out to food off their table.

MR. DEAN: Exactly.

REPRESENTATIVE SCAVELLO: It's taking money out of their pocket to do just that. Thank you for your testimony.

MR. DEAN: Thank you.

CHAIRMAN HASAY: The Chair recognizes the gentleman from Schuylkill, Mr. Allen, to my far left.

REPRESENTATIVE ALLEN: Thank you, Director Dean, for being here today. I have a very strident question for you. Are you suggesting that the Secretary of Banking in Pennsylvania ban payday lenders?

MR. DEAN: That's what I'm suggesting.

REPRESENTATIVE ALLEN: From reading your testimony, if the Secretary of Banking does that -- I talked earlier about the loan sharking situation -- are you concerned about that? Do you think that's a viable thing or not or do you just think the people will try to get some kind of conventional loan in some other way? That's my greatest concern in this issue. I'm not disputing that you may be right. Maybe the thing would be to ban payday lenders. But then the question comes to be, where do we go from there? And that could be a major problem that I see. I would like your comments on that.

MR. DEAN: As far as the actual loan sharking issue, I'm unaware of it. And in my travels, I have never come across anyone I have ever known to ever go to a loan shark or what have you and get one of these loans and be in perpetual debt with these guys and get your legs broken by some unscrupulous character in an alley somewhere. I'm unaware of that.

The whole thing with the payday lending for us is the interest rate, period, the 400 and some percent. I have some examples in the bank of my testimony which are some outrageous rates. I think the fifth page from the back of the testimony talks about dealing with a bank from Grenada. We don't know what their lending practices are.

REPRESENTATIVE ALLEN: I have one more question, Mr. Chairman, if I'm allowed. If the interest rates were dropped to a certain degree -- now, the payday lending industry says that if the interest rates are dropped, because of the number of people who default on these loans, that they would not be able to operate. I'm asking if the payday lenders would drop their interest rates or they were capped at a certain level that maybe you would deem fair, are you willing to accept payday lenders or do you want them just eliminated, period?

MR. DEAN: If they are going to exist, I would like to see the interest rate dropped to whatever the 23.5 percent is. Being a former mortgage originator, we have a debt-to-loan ratio. If they follow these guidelines the same way banks do and operate like banks and follow the same guidelines and they do the 23.5 percent instead of this ridiculous 400, we can sit down and talk about that.

REPRESENTATIVE ALLEN: Thank you. That's the direction I was going in. I thank you for your honest answer. Thank you.

CHAIRMAN HASAY: Since we are over in the far left, the Chair recognizes the gentleman from York, Mr. Nickol.

REPRESENTATIVE NICKOL: Thank you. I'm curious. In reading your testimony, you talked about our sister state of Maryland and you say they are free from stores that make loans at triple-digit rates. Are you saying that Maryland is free of payday lenders or that Maryland -- they have payday lenders but they are at a lower rate? What exactly are you saying about Maryland? Do they have payday lenders?

MR. DEAN: From what I understand, they have been able to drop their interest rate to a double-digit interest rate of 99 percent.

REPRESENTATIVE NICKOL: Isn't that through state regulation that they were able to do that?

MR. DEAN: Through state regulation, yes.

REPRESENTATIVE NICKOL: So we do have the prospect that Pennsylvania could enact some regulation or some law that would give a modicum of protection to people who are using payday lenders today?

MR. DEAN: It could be done.

REPRESENTATIVE NICKOL: I'm curious on another point and I don't know if you have an answer on this or not. I've been told that there is no barrier to payday lenders -- we could ban store fronts but there is no barrier to us banning payday lending over the internet?

MR. DEAN: That's correct. I have actually done a lot of research on the payday lending aspect over the internet and I have come across 73 web sites that do this. In the testimony that I have submitted, there are some examples in the back. There is also my cash now dot com which is one bank of Grenada, one bank from Rehoboth Beach of Delaware in which you have to fax your banking information, your statements, your pay stubs and the fax number is a fax number in Delaware County.

REPRESENTATIVE NICKOL: I really have somewhat of a fear, as articulated by Representative Allen in questioning with the previous witness, of what may be the result of just saying, okay, we're just not going to pass anything or just totally eliminating payday lending.

I mean, I have six children. So I become a payday lender myself and my interest is much lower than what these are charging, if I'm repaid at all. Most recently I got a call from one of my children who forgot and who didn't escrow for the real estate taxes, just totally forgot about it and all of a sudden the real estate taxes become due and dad gets a phone call. So I realize some of the situations people are up against that may go and use a payday lender.

Do you have a fear if we don't do something to in some way clean up and legitimize them with proper regulation, as maybe the State of Maryland has done as you're suggesting, we're going to have the same people using the internet or going to a loan shark? I mean, are we throwing out a modicum of protection that we can offer through legislation instead of really throwing these people to the dogs.

MR. DEAN: The consumer protections that are in the current legislation are industry based. They are not coming from us. They are not coming from any consumer entity. These are protections that they submitted themselves, wrote into the legislation and is basically the fox watching the hen house.

REPRESENTATIVE NICKOL: But it might be possible in your estimation to make changes to that so that -- I mean, what I gather from the previous testifier is they want us to do nothing.

They prefer that we don't give any legitimacy at all or even give some modicum of protection to the consumer. I take it your position may be somewhat different than theirs in that you could see the prospect, maybe not this bill, but a bill, that would offer some legitimacy, say, to payday lenders but with a lot of added protections to the consumer?

MR. DEAN: I will say it this way. If it's going to exist, we would like to see as many consumer protections as possible. As far as seeing it legitimized, like I said, if it's going to happen, let's put as many consumer protections in there as we can.

REPRESENTATIVE NICKOL: Thank you.

CHAIRMAN HASAY: The Chair recognizes the gentleman from Philadelphia, Mr. Thomas.

REPRESENTATIVE THOMAS: Thank you. Thank you, Mr. Dean. I was just curious as to whether or not all of labor is on board with opposing this bill?

MR. DEAN: The 900,000 members or the 62 or 63 organizations that belong to the Pennsylvania AFL-CIO are against payday lending. If you're talking about all of labor, all of labor is not on board with this legislation. We had the Teamsters that are for this.

REPRESENTATIVE THOMAS: The Teamsters are supporting this?

MR. DEAN: They are supporting this.

REPRESENTATIVE THOMAS: Do you know why they are supporting this?

MR. DEAN: They have a few members of theirs in the western part of the state and also in Ohio that run these payday organizations.

REPRESENTATIVE THOMAS: Thank you, Mr. Dean. My last question would be, if I understand you correctly, you can accept a legislative prescription for payday lending if it's truly consumer driven and not industry driven? I notice in your testimony you indicate that double-digit interest rates are unacceptable. Would single-digit interest rates be acceptable?

MR. DEAN: They would be acceptable. Our whole push against this is the interest rate. Plain and simple, it's the outrageous interest rate. If that can be brought down to the 23.5 percent as the Small Loan Act indicates, we may be able to sit down and talk about something with consumer protections.

REPRESENTATIVE THOMAS: The legislative prescription that's before us, in your opinion, is industry driven and if we're going to go down this path, it should be consumer driven?

MR. DEAN: Correct.

REPRESENTATIVE THOMAS: Thank you.

CHAIRMAN HASAY: We still have another question from the gentleman from Westmoreland, Mr. Casorio.

REPRESENTATIVE CASORIO: Thank you, Chairman Hasay. Director Dean, thank you for coming here today and thank you for your work and President George's work on behalf of the working people of Pennsylvania.

Two points. One, I talked earlier when we discussed Ms. McConnell's testimony about education. And I think we, at the state, have been loath to rally behind this education as quickly as we should and I think we need to pick up the slack.

With that said, let me ask you, I know that you try to educate your members on a wide variety of things from health care to family interests and working concerns and conditions. Is there any -- and if there is, please tell me what and, if not, maybe we can start something. Is there any kind of educational program that the AFL sets up to at least help its members with banking or financial concerns, even basic 101 differences between certain lending tools or instruments?

MR. DEAN: We have our credit unions in which they can borrow money from or get low-interest rate loans from. They offer consumer education on how to save your money, how to spend your money, what traps to look out for and so on. We have a number of national organizations through our national AFL-CIO which is called Union Plus and they deal with either secured or unsecured credit cards if our members should deem it necessary to go that route.

REPRESENTATIVE CASORIO: Members of the AFL in the state, can you give me the number of membership total?

MR. DEAN: In the state?

REPRESENTATIVE CASORIO: Yes.

MR. DEAN: 900,000.

REPRESENTATIVE CASORIO: So those 900,000 folks and their families, 3 or 4 members of the family, that's 3 to 4 million people, roughly, we're talking about that may have some interaction with banking or financial interests. Are they, again, alerted or are they given something that's mailed from the AFL or are they informed other than just that there is a credit union? Is there an outreach program?

MR. DEAN: We have a director of community services who handles that aspect of reaching out to the members as far as that sort of education, also community-driven organizations, credit counseling and so on. But, again, that kind of information is available and we do distribute that.

REPRESENTATIVE CASORIO: Credit unions are a good reference point for a lot of folks. One other point quickly. You mentioned about Grenada, a bank in Grenada. Lord knows it could be anywhere else. We have seen the state siphon jobs into India and other places offshore. Not only is this something that's, if not criminal, certainly predatory, certainly predatory.

The number of banking numbers, the number of Social Security numbers, check numbers, credit card numbers, those types of things that are going into the hands of these payday folks and banks that are being siphoned to Grenada and India who are countries that don't do banking, if you will, that is an offshore third party, that raises a concern for me and another day for a hearing probably for security interests, ID theft, not only personal ID theft.

And these folks are vulnerable. They probably don't even have the ability to interact. If they are using payday on a successive basis, three or four loans, they are going to be far behind catching up on identity theft when someone goes out and charges a $600 stereo or fitness equipment or what have you.

Again, those folks are vulnerable and not only in an individual sense, but as a national security threat, those kinds of IDs and numbers going offshore and Lord knows who's coming back in under the guise of being Pearre Dean or Jim Casorio. So I think not only does it raise a concern of being predatory, but certainly an individual security threat and potentially a national security threat.

I wanted to thank you for bringing that up and I appreciate you being here today. Thank you, Mr. Chairman.

MR. DEAN: Thank you.

CHAIRMAN HASAY: Mr. Dean, thank you very much for your information. You have been very informative to the members of the Committee and the public on your information you provided testimony for today. Thank you very much.

MR. DEAN: Thank you, Mr. Chairman.

CHAIRMAN HASAY: Next we have Mr. Irv Ackelsberg who is the managing attorney for Community Legal Services. Mr. Ackelsberg, thank you for coming here today and we appreciate your testimony.

MR. ACKELSBERG: Thank you, Mr. Chairman and members of the Committee. My name is Irv Ackelsberg and I am with Community Legal Services, a state-funded legal services organization in Philadelphia where I have practiced mostly consumer law for the last 27 years. My expertise is primarily in the area of consumer credit. I'm a contributing author of the legal treatise Pennsylvania Consumer Law and I am a member of the Financial Abuse Subcommittee of the recently appointed Governor's Task Force on Working Families.

What I would like to do is to step outside for a minute my prepared remarks that are in writing that you all have and answer some of the questions that have emerged here with prior witnesses. What I would like to do, if you will indulge me on that, is talk a little bit -- I believe it was Representative Tangretti that asked for some history about loan sharking and state law. I would like to do that.

I would also like to explain a term that's been used and I think it requires a little bit of explanation, this idea of renting of bank charters, since you can't actually rent a bank charter. It's a figure of speech and I want to explain a little bit how that actually works.

I also want to give you some examples of what these loans look like in flesh and blood and I have attached some examples to my testimony. I want to actually run through an example of how that refrigerator purchase then becomes a series of loans and to actually put a dollar figure on, not in the abstract, but what this bill, House Bill 2150, would allow. I also want to attempt to answer the question raised by Representatives Allen and Tangretti about, don't we need something or else we'll just have loan sharking.

In terms of the history, I would ask

you to turn the clock back to the 1930s. There was loan sharking rampant all over the country. The Russell Sage Foundation began a national movement to try to do something about this problem.

Usually, the way it's described in the history books is that workers on a Monday would get $5 and then on Friday, the so-called salary lenders -- those were the names of these characters -- they would then actually be there at the gates of the factory requiring payment of $6 for the $5 that was received. So for that 5 days, you were paying 20 percent. Again, we're not talking APRs when we say that. You would have to annualize that or what that means. But this was the practice that was going on all over this country.

And what happened was there was this movement to try to protect the citizens of the country from this kind of predatory practice. The way the movement framed the request for legal action was they asked for the passage of what's called small loan laws, laws that would license and regulate the making of small loans. And we have one of those. The Consumer Discount Company

Act is Pennsylvania's small loan law, the original version of which was passed, I believe, in 1937 and has been updated over time.

These loans, if regulated by the Consumer Discount Company Act, would be illegal. They are illegal. But there is a loophole and that's the loophole that creates this so-called rent-a-bank arrangement. What the law says is that it's illegal not only to make, but to arrange small loans that violate the Consumer Discount Company Act; except that early on in the statute it states, however, a business that arranges a consumer discount company loan or arranges a loan that would otherwise be covered by the consumer discount company loan is not covered by this law if they don't receive a fee, a direct fee, from the borrower to make the loan.

So what do we have? We have situations where all over the Commonwealth there are store fronts, not banks, store fronts advertising payday loans. But then when you go into the store and get the loan, what you get, what you see are documents from a bank. Now, when you go to that store front, it's not a branch of that bank. It just says payday today or cash today. But when you actually get the paperwork, it's from a bank. But the bank's relationship with that transaction disappears once the loan is made. The collections are done by some other entity.

And there is substantial belief -- and the Attorney General of New York is pursuing this belief in litigation -- that, in fact, the minute the loan is made by the bank, the store front is required to buy back a majority interest in the loan; in other words, really taking the risk of the loan on themselves.

If, in fact, that is happening, the whole thing is really a scam in that the loan really isn't being made by the bank. I mean, the bank is -- you know, in the moment it's being made, made with the bank. But under this contractual arrangement, all the risk is instantly being shifted. So what you have is the store front really doing precisely what the consumer discount company was designed to prevent.

So you have some Attorney Generals, for example, Attorney General Spitzer in New York, who is actually suing the store fronts, the industry behind the store fronts, saying this is all a subterfuge. We don't believe that it's really an out-of-state bank.

So what this Committee, what the Legislature could do is simply plug the loophole by saying that an arranger, whether or not you get a fee directly from the consumer, an arranger or a broker of these loans is covered by the law. That's all you would have to do. And by that change, that simple change, payday lending would be illegal in Pennsylvania.

I want to show you some examples of the transactions. If you go to my prepared testimony to Exhibit 2, it starts with a newspaper add. The page number is hard to see at the bottom. It says P-2. This is the page number I'm asking you to turn to. It's an ad. It says, need cash? Don't wait till payday. This particular ad was running in the Philadelphia Daily News in 2003.

I might add that that particular store front is not doing this any longer but they were at the time. And this is going on in other store fronts. There is a reference to come in, get cash today. That's the name on the sign on the store front, cash today. And then you see at the bottom that the loans are made by a bank in Delaware.

What we did in our office was get a paralegal to apply for one of these loans just so that we would be able to see what, in fact, is happening. They advertise that there was a right of recision. So I assured her that the minute she signs up, we will get you out of it but we really need to see what these loans look like.

What I have attached are the documents that were generated by this loan application. You will see that -- and by the way, when she went there, the sign was cash today. It was right next door to a check casher that was renting the space. You will see that she has to give information about her employment and her checking account.

Then if you turn the page, this is a feature that I would suspect is on all payday contracts. This is a mandatory arbitration clause so that the consumer applying for one of these rather outrageous loans is also giving up her right to the court system in the event she was mistreated in any way. This is fairly standard. I note there is nothing in 2150 that would prevent this practice.

If you turn the page, you will notice

that they do give some APR disclosures, that they were advising her that a loan for 14 days would be 521 percent. Then if you turn the page again to P-6, this is the actual loan. You will see that what she got was $250 that she was to pay back $300 fourteen days later, and that the annual percentage rate of that transaction was 456.25. You will notice the mandatory arbitration clause.

You will notice also something I circled, that we have retained Big Boss, LLC to service your loan. I didn't make this up. This is what the contract provides. By the way, Big Boss, I found out, if you go to the Department of State Corporation Bureau site, Big Boss, Inc. is a Pennsylvania corporation located in Mercer County. I don't know exactly how it operates. But it does suggest that when this borrower gets in trouble, can't make it, that Big Boss is the entity, not the bank in Delaware, that will be coming after her. If you turn to P-8, there you have it. There's the check. You will also notice it's processed by Big Boss.

Now, to show you an example of how one of these loans snowballs and, again, to use the example of the $500 refrigerator -- and, Chairman

Hasay, you're absolutely right. You stole my thunder when you said, well, what about credit cards. That is exactly right. You could even get a cash advance on them. If it were a cash need, you could get a cash advance on a credit card, very expensive, but a whole lot cheaper than what's here.

So then we are talking about this being targeted to basically the tapped out borrower. What in the world kind of policy could we be adopting where we encourage people who are so far overextended that they have tapped out all their cards, to give them yet another chance to get further in debt. It really makes no sense.

But I wanted to show you an example of just how crazy I would say -- excuse the vernacular. But I really think that this example speaks for itself. If you turn to P-1, this is actually the page before the newspaper ad in my testimony.

What I have done is to generate an example of a $500 loan that is essentially reborrowed five separate times. I also did it in a loan that comes due in seven days. I did it because I want to show you the most extreme example that would be allowed by House Bill 2150. I specifically based this on what is allowed by that bill.

I have heard the proponents say that they have made an effort to stop the repetitive borrowing. Well, you have to read the fine print in this bill and you will see that they do no such thing. It is true that they have a definition called renewal loan which means that on day one you come in, you borrow $500 and on the day it comes due, you can't afford to repay it so you pay just the finance charge and you roll that over. And the bill does limit you to one time to do that.

However, the law also has a separate category called successive loans. What it allows you to do is, on the same day, make a payday loan to pay off another payday loan. The way the definitions work in this section is they say you can only borrow -- you're limited to a $500 loan. However, you can have up to two loans outstanding at any one time. So you can have up to $1,000. You could literally walk into the store and make a second loan to pay off the first loan. And under House Bill 2150, that's not repeat borrowing.

That's called a successive loan.

What you can do is you borrow once. You can then do four successive loans. Then the definition of successive loans says, we don't count the first loan as a successive loan. So that means you can effectively get five loans. What I have done here is I have taken the example of a $500 loan that is then refinanced four times through one of these successive loans to show you what happens.

I have it as September 1st, 2004. The consumer borrows $500 for 7 days. Now, the APR is going to be higher in seven days but I want to show you the worst example. This bill would allow for a loan coming due in as little as seven days -- and I might ask, just consider, if someone doesn't have $300 on Friday, what are the chances of them having $350 next Friday? I mean, this is just such a set-up.

But on September 1st, 2004, you borrow $500 for 7 days. So you get $500 in your pocket. The cost of credit is $87.50. That's the 17.50 per 100. So the cost of credit is $87.50. The APR on that seven-day loan is 910 percent. Okay. You go back in a week. You don't have the money.

You take out another loan to pay off the first loan.

You still only got the original $500. Really, all you're doing now is borrowing money to pay the finance charge. You still only have really the $500 in your pocket. He's not going to be walking out of there with any new dollars. So that's another $87.50. You see that I do that four times. What that gets you by 28 days later, September 29th, is you have paid a total of 437.50 to get $500 in one month's time, less than one month, with an effective annual percentage rate of 1,141 percent.

Now, if the person doesn't pay -- and that's what was asked here. What happens if they just can't pay; there is no money in the account? This bill provides for a charge of $25. It would allow court costs. It would allow attorney fees. It doesn't specify the amount of that. I'm estimating court costs of roughly $250 and attorney fees of roughly $500. That adds up to over $1,200 for the use of that $500 and it doesn't count the charges, the bounced check charges, that are going to be the borrower's own bank.

Let me go to the question asked by Representative Allen and Tangretti, what about loan sharking and if we don't do something, aren't we going to just encourage loan sharking? I would say really that was the question raised in 1937 and they passed a law to create some kind of business opportunity for legitimate businesses to offer small loans.

Now, if 24 percent isn't high enough for the finance companies of this state to make small loans, if we really think it's so urgent to find a way for people whose credit cards are tapped out to borrow yet more and more money, if that is seen as an urgent need, I am sure that we can find a way to stimulate that kind of lending with the existing institutions in this state so that we don't need to essentially legitimize loan sharking.

This idea that somehow because there is legal loan sharking going on we need to license it, I mean, it really doesn't make any sense to me. I mean, we can think of a lot of illegal activities going on on the street corners of this Commonwealth that we want to keep illegal and not license. It really, I would suggest, doesn't make a lot of sense.

We have to understand the context in which this proposal is being made. The proponents would have us believe that the market is not producing enough credit, that already overextended consumers need yet another way to get further in trouble. This is really not a good thing.

When you think about the context of what is going on, our families are already drowning in debt. They owe more than their net worth. Bankruptcies are exploding. Credit card companies are mailing these cards to our children. They offer free gifts as invitations. You see them at the concerts, at the ball games. I was at a Phillies game last week. There they are, get a free something or other and get yet another credit card.

There are finance companies mailing live checks out. You have probably seen them in the mail, that if you deposit that check, it becomes a 25 percent loan that's immediately then followed by invitations to, oh, we'll lower the interest rate with a nice, convenient home equity loan.

Mortgage brokers are patrolling our

communities looking for senior citizens trusting enough to assume mortgage obligations they didn't ask for and can't afford. Foreclosures are exploding out of sight everywhere in the Commonwealth fueled largely by the increase in these subprime high-cost refinancing.

This is the context of this bill and I ask this Committee, why do we need more? This bill, this particular bill that is being proposed, is a very bad bill. I, in my written testimony, lay out some of the specific reasons in this bill why I believe it's a bad bill. We have already heard the fact that it authorizes extortionist interest rates and I have given you some examples of just how bad they are.

It encourages perpetual debt by allowing an endless chain of payday loans. And the example I gave you shows that. It encourages perpetual debt by failing to require lenders to accept installment repayments, thereby pushing borrowers into further payday lending.

Now, the proponents are claiming that House Bill 2150 does give borrowers the opportunity for an individual to enter into a long-term repayment plan. But the provision in the law is very, very weak. It does not apply until the consumer has taken out five loans, consecutive loans or renews it one time. In other words, it would not be allowed -- in that example I gave you, you went through every one of those loans and only then would a repayment be offered.

This is much less than the industry has agreed to in other states such as Florida's requirement that anytime a consumer is unable to repay a payday loan, there is a free 60-day extension provided the consumer goes to consumer credit counseling, in which case the payday lender must comply with the counselor's repayment plan.

Moreover, under the language proposed, the limited right to repayment is only triggered if the consumer requests it in person on the due date of the loan, not a day earlier or a day later. I mean, it's almost like a got you kind of provision the way it's described. Oh, you didn't ask for it at the right time and place so we're not going to give it to you.

It does not prohibit payday lenders from lending to borrowers they know cannot repay the loan. When a borrower comes in and they can't pay the loan that they got last week and you offer them another loan, that is lending without regard to payment ability. It should not happen.

I think the evidence that Beth McConnell testified to about the evidence in other states is very, very compelling and the witness from North Carolina from the Center of Responsible Lending will be able to give you more detail on that.

As Ms. McConnell mentioned, it does not prohibit payday lenders from operating at or near gambling establishments which, given what the Legislature has recently authorized, is a really important thing to consider. You can be sure that if House Bill 2150 is passed, the minute the slot parlors open up, ringing right around the perimeter of that establishment will be payday lenders eager to fuel gambling addictions.

House Bill 2150 would reverse the 70-year-old policy that I described that was behind the Consumer Discount Act.

CHAIRMAN HASAY: Mr. Ackelsberg, I understand what you're saying in your comments and you're very informed in the comments that you've given to Committee. But we're not considering the bill. We're taking information on the bill. The purpose of the hearing here today was to have our members informed as to what payday lending is all about. So we haven't gotten to that step. There may be other bills introduced that go in a different direction after the hearing. But the Committee has the fortune of Secretary Schenek, the Secretary of Banking, to hear from him later. Go ahead.

MR. ACKELSBERG: I want to wrap up. I wanted to call your attention to the last attachment. I have attached language that could be an amendment to the Consumer Discount Company Act that would very clearly and easily ban the practice from Pennsylvania. It could be done. There have been members referenced asking, well, what could we do? And here is a suggestion of how to do it.

In conclusion, the payday lending business is debt pushing of the worst sort. It is loan sharking wrapped in the mantle of a respectable business. Just because the business has the aura of respectability, because it has lawyers and lobbyists working for it does not change the basic character of the business. We don't have to legalize this outrageous, usurious and immoral business just because there are people doing it already. What we should be doing is kicking them out of our state. Thank you and I'll take your questions.

CHAIRMAN HASAY: Thank you, Mr. Ackelsberg. You have been very informative. You have certainly done a lot of work in this area. We probably have a couple questions. The Chair recognized the gentleman from Westmoreland, Mr. Tangretti.

REPRESENTATIVE TANGRETTI: Thank you, Mr. Chairman. Let me first thank you for your very compelling testimony and to clear up just a minor misrepresentation of what I asked.

MR. ACKELSBERG: Sorry about that.

REPRESENTATIVE TANGRETTI: That's okay. But given the nature of everything, I want to make sure that we all understand what we're talking about. I asked Ms. McConnell, is there anything that she felt that could, in fact, improve the bill that would be acceptable and I referenced Chairman Allen's question because he was on the same lines.

I did not suggest -- and I'm not suggesting that there is anything wrong with this necessarily. But I did not suggest that loan sharking would now become prevalent if we did not have something in place dealing with payday lending. As a matter of fact, in talking to my colleague, Mr. Wansacz, it occurred to me that if we didn't have payday lending, we would go back to where we were before.

It seems to me that what you just stated made the most sense, among other things, and that is that legitimizing it by virtue of having a store front separates it out from what we all know as loan sharking where you would have to go in an alley somewhere or the back room of a bar or some other place.

As a consequence, it seems to me we have now allowed for it. If that, in fact, is the case -- apparently, it is -- we have now allowed for individuals to assume, by virtue of the fact that they are advertising and they have a sign on the front of the store front, that it is, in fact, legal and appropriate and it's above board and it's okay because somebody must be looking out for my interests and it's an encouragement for them to use that service to be contrasted with loan sharking.

I thought it was essential, if you will permit me, to clarify that one position of mine. Thank you.

MR. ACKELSBERG: Can I respond?

CHAIRMAN HASAY: Please.

MR. ACKELSBERG: What I think implicit in your comment, I think, is the question that was also asked of the previous witnesses. Could one come up with a bill hypothetically that did provide small loans at rates that were not through the roof with consumer protections? I think the answer to that is sure, of course, it could.

In fact, I, myself, did a little of that exercise when the last version of this -- I think in last session it was called House Bill 1808. And I was doing exactly that. I'm sitting in my office and trying to come up with something like that. But as previous witnesses have said, I suspect that those asking you to pass this bill and authorize payday lending are not real interested in that kind of responsible lending.

My guess is that if you call their bluff and came up with a bill that did just that, that they would basically say we're not interested. They are in the business of doing the kind of loans that were in that example. That's my sense of it. And it's based not just on -- I'm not saying that out of thin air. It's based on the research done nationally about what these same companies are, in fact, doing when they have gotten the authority of the legitimization that you suggest might be in the consumer's interest.

REPRESENTATIVE TANGRETTI: Thank you.

CHAIRMAN HASAY: The other gentleman from Westmoreland, Mr. Casorio, has a question.

REPRESENTATIVE CASORIO: Thank you, Chairman Hasay. Your $500 refrigerator is getting a lot of use today. Mr. Ackelsberg, thank you for being here today. I appreciate you coming. I have just a couple of observations and then maybe pointing to some of your testimony.

You said earlier about a scheme and the business is running a scheme on individuals. I was thinking the exact same thing, when you were talking about the 1930s and so forth. It certainly does sound like certain businesses operating a pawning scheme on consumers in this type of economic environment, if you will. I thought that was pretty poignant.

We are talking about certain bills and

the Chairman was kind enough to hold these informative hearings because for myself and I think the majority of the members, this has been an eye opening for everyone and that's what these hearings are planned for.

Again, I'm going to say if this isn't criminal behavior -- and I'm going to point to something. If it isn't criminal behavior -- and I purposely leave a long pause there -- then it certainly is predatory. There is no question about that in my mind. You have given us page P-6 and we have all seen these before. It's the statement with the annual percentage rate and the finance charge. And that annual percentage rate up in the corner is 456.25.

These are the kind of forms we see when we go to the credit union to finance -- my personal car is 4.99 percent. When we go to refinance our home mortgage, it's 6.25 percent or thereabouts. This is a 456.25 percent yearly rate. And that's an understatement because from your example, what you gave us before on the five times that folks could do successive loans, to me, it's somewhere in the 900 percentile of an APR rate. That is just a glaring example of what is going on here.

I mean, in my estimation, this isn't a solution in search of a problem. There is certainly a problem out there. And, no, we can't take care of everybody and, no, we can't keep people from gambling or smoking or drinking. But we can certainly, I believe, protect some of the most vulnerable segments of society against this kind of behavior.

If you poll anyone, I think they would say that this is certainly, again, at minimum, predatory behavior and tries to rip people off, seniors, folks that are making $5.15 an hour working two or three jobs. This is outrageous.

I want to thank you for your testimony and really for this glaring example of that annual percentage rate sheet that really brings it home in terms of all of us who have probably done some refinancing or purchasing over the last several years.

MR. ACKELSBERG: Thank you, Representative.

REPRESENTATIVE CASORIO: Thank you, Chairman Hasay.

CHAIRMAN HASAY: You have been very

informative and we appreciate that. Members of the Committee appreciates all the work you have done in this area. We have one final question from the gentleman from Philadelphia, Mr. Thomas.

REPRESENTATIVE THOMAS: Thank you, Mr. Chairman. Mr. Ackelsberg, I want to thank you for your testimony. It was on point and I know that it heightened all of our understanding with respect to this practice. I have one question. You've been before this Committee and other Committees on several occasions and I see my friend over there from the banking industry.

Should we really be talking about making some changes because payday lending, check cashing, all of this seems to have come about as a result of deregulating the banking industry over a decade ago. So if we take payday lending today, what will people have to look forward to tomorrow? Should we really be talking about the banking code and how we could make banking a more friendlier industry in the Commonwealth of Pennsylvania?

MR. ACKELSBERG: That's a wonderful question. Probably to do it justice would require more time than I think the Chair would allow me. But you certainly asked the right question. Let me answer the question a number of ways.

First of all, the notion that the lending of money is something that's inherently prone to overreaching, that the lending of money is an area that deserves special protection from government is something as old as the Bible.

The notion of usury has been there really as long -- and it goes back way back before the country was founded. This is a very, very old and well-sold notion that people who are desperate for money should not be taken advantage of. I mean, that's just a simple statement of western tradition and I use western very broadly because, as I said, it goes back to the Bible and all the old books.

What happened is that despite those thousands of years of tradition, we went through what I believe to have been a deregulation frenzy that began in the 1980s. And I think that what we're seeing is the consequence of that in the area of financial services.

Now, there is no question that it has brought some good. We only have to look at all the wonderful financial service opportunities that most Americans have at their fingertips at the click of a mouse. But we have to understand that there's been a whole second parallel system that some economists have described as financial apartheid that has grown up through this deregulation.

The fact that there are some Americans, white and black, mainly working poor, who don't deal with banks at all, who are dealing with check cashers and rent-to-own outfits and pawnshops and now these payday lenders and this whole underground has to be looked at. We have to return to the notion that state government has a critical role to protect those who are in need of protection in the area of lending, in the area of consumer credit.

I also want to mention two things in closing. One is that probably the most important thing that state government can do in this area of what to do when you need $300 to buy a refrigerator or, to use another example, get a new radiator, probably the most important thing state government can do would be to try to create a situation where every Pennsylvanian had a $300 savings account.

I mean, imagine that. Imagine if

people had a $300 saving account so they could deal with emergencies. This problem is caused by the fact that we're in this new world and nobody has savings. We are completely tapped out and that really needs to be reversed.

The last thing I want to say, just because I don't want to leave it hanging, I know, Representative Thomas, that you asked about the check cashers. I just remembered that you had asked that question and Ms. McConnell had mentioned that I could answer that for you. The reason I would submit that you don't see the check cashers pushing House Bill 2150 or other versions is that the check cashing law specifically prohibits them from engaging in payday lending.

Now, that hasn't prevented some of them from setting up different companies next door that are trying to do this rent-a-bank payday lending. But the law is clear that a check casher in this Commonwealth cannot do payday lending.

And the proponents of this bill and others, from my understanding, they are not suggesting that that be repealed or changed in any way. What they are really I think trying to do is set up a competitive kind of network where you have these stand-alone payday companies that are not in check cashing places. So basically what you have are the check cashers on one side and the national payday lenders on the other. I think the national payday lenders in this bill and others are looking to basically be able to do this without competition from the check cashers.

CHAIRMAN HASAY: Thank you very much, Mr. Ackelsberg, very much. You have been very informative. I appreciate those articles as well. Next we have Ms. Yolanda McGill. She is with the Center for Responsible Lending. Ms. McGill, thank you for coming today and have a seat. You can proceed as soon as you're ready. Thank you very much.

MS. McGILL: Thank you very much, Mr. Chairman, and I appreciate the opportunity to come here and speak with you today. I want to direct you to the materials that I brought. I didn't prepare remarks because I didn't want to duplicate the efforts of the prior testifiers. I want to direct you to the three pieces I brought. The first is a greenish sheet that talks about the Center for Responsible Lending. The second one is the "Be Wary" sheet and that will be the sheet that I will be speaking from. The third document is actually a copy of the Georgia bill that's been mentioned here a couple of times for your future reference.

I'm just going to go down the "Be Wary" sheet and I also want to go back to some of the questions that were brought up earlier. But I really actually want to be here as a resource.

CHAIRMAN HASAY: Thank you.

MS. McGILL: A little bit about myself, again, I am Yolanda McGill, Policy Counsel with the Center for Responsible Lending. It says up at the top there what our mission is. The center is dedicated to protecting home ownership and family wealth by working to eliminate abusive financial practices. We are a non-profit, non-partisan research advocacy organization that promotes responsible lending practices and access to fair terms of credit for low-wealth families.

We are based in North Carolina. We also have a DC office. We do work nationwide. So my background in this is, actually, I have been involved directly in the legislative efforts both in North Carolina on payday lending and also in the Georgia situation. So I do have experience in negotiating legislation and working with the industry on these types of things and my comments will be based on that background.

As we go to the sheet here, I did want to just point out that as some of the prior testifiers have said -- and I think this is very, very important -- as you consider the bill that's before you or bills that might come up in the future -- I think Mr. Ackelsberg and also the fellow from the AFL-CIO's filaments are squarely that where the rubber hits the road for payday lending is with repeat borrowing. It is in the loan flipping. It is in the fees. It is a business model. This is based on our research.

But also in our negotiations with the industry, we have tried to come to the table and try to get a resolution around payday lending. I think North Carolina, as it was mentioned earlier, our law did sunset and the industry has been trying to push for reauthorization since then.

Where we noticed in our negotiations we could not make any progress was on this issue of the successive transactions. This was cause for concern for us and we started looking into it. Our research indicates that the business model is based on this. There are several studies out there that indicate this and our negotiations could not move forward on this particular point. We felt like this bore this out.

What I would also like to emphasize in my remarks is that regulation is regulation. It takes many forms. Mr. Ackelsberg did bring up the point that the Consumer Discount Law is the small loan law here in the books in Pennsylvania. That is, indeed, regulation.

That is what happened in Georgia. The decision there was taken that when it came down to regulating payday lending, they had a small loan law in the books, the Georgia Industrial Loan Act. So the way that they decided to regulate the payday lending industry there was to tighten the penalties up for the loan laws that were already on the books and said, okay, you've been breaking our law down here.

Now, instead of a slap on the wrist, because they had enforcement actions going on being brought by the insurance commissioner down there who regulates industrial loans, these people were just shutting down their stores and moving next door, reopening and continuing. So what this bill did was, in effect, make the penalties pretty high and increased the price for breaking these laws. They did deem it to be illegal and now they have the tools in place.

That law was challenged. Advance America and their banking partner, BankWest, along with three other sets of Plaintiffs did sue the Attorney General and the Secretary of State to get a preliminary injunction. They failed in that attempt. So these shops have had to leave Georgia.

The recent case that was brought by Governor Barnes was against 60 to 100 shops that failed to close down. But the other ones did close shop. Advance America had 86 stores in Georgia running on this illegal bank model and according to the papers they filed in that case, they were making a million dollars a month in Georgia in those 86 stores; at least that's what they put in their pleadings.

Again, I would also like to emphasize that in considering payday lending regulation, this whole idea of regulation really should be based on exactly what you're doing now, gathering all the information, listening to all the sides and really coming up with the best model for Pennsylvanians.

What we have seen time and again is, again, what was referred to earlier, this idea of, well, we have to have this particular type of regulation and we just can't function otherwise and if you try to pass something that caps these fees, they answer and either say, A, we can't operate under that and that's not our business model or, B, you're not authorized to do that because we are an agent of an out-of-state bank.

I would submit that both of those are incorrect. You can authorize payday lending to the level that you see fit. Whether or not you decide to extend a different type of licensing regime or not, whether you decide to stick with what you already have. That really is up to you.

Anti-brokering is the key to plug the loophole. I believe the Representative from the table over there asked about what could be done with respect to these banks that are coming in and assisting in these loans being made. Again, anti-brokering has been very effective in Maryland. They have an anti-brokering provision that they added to their Consumer Credit Act.

Again, they didn't pass a payday law. They said, we have legislation already. We have a consumer credit act. We are going to add an anti-brokering provision to that act. It's two lines basically. It just says, by the way, you are not allowed to arrange a loan that is in violation of this act. They have no payday lending there. We did a recent survey. We found two shops -- that's it -- in Maryland, as opposed to Pennsylvania where you guys have a little over 200 shops here. Georgia had over 400.

Another example that is worth noting when you're dealing with this is the example of Texas. I can point any Legislator or regulator that's trying to deal with payday lending to Texas. According to the industry, Texas is not a payday state. Texas does not have regulation. However, if you look at the statutes in Texas and the administrative code, they, indeed, have a payday regulation.

Now, why is this? Why are people differing on this? We would submit that it's because the code in Texas authorizes triple-digit interest rate but it's not as high as the typical model. It's a sliding scale. Basically, in

Texas, a lender can make a $100 loan for 14 days and get a 300 percent interest rate. But the way the Texas Legislature decided to do it was that the bigger the loan is, the lower the fee and the longer the loan is outstanding, that changes the fee as well. This is an attempt, again, to build in some type of consumer protection.

The industry's reaction to this is to ignore it, that Texas has 1,000 of these rent-a-bank operators, even though there is a statute there in place. So this doesn't happen just in places where there is no special safe harbor. Even in places where there is a safe harbor, what we have seen is the industry, if they are not getting the fees they want, they have gone to this rent-a-bank option which is why everybody is encouraging anti-brokering. That must be a part of the equation no matter what you do.

If we turn to the back of my sheet, we also talk about some of these best practices. I think Mr. Ackelsberg covered it so well that I don't know if I can actually add anything to that. But, again, there is some caution. I know we're not talking about 2150 because it can change.

This whole issue of the payment

option, again, is something that should be looked at and we have here in this little gray box some of the provisions that we have seen that the industry has presented as, quote/unquote, consumer protections.

But really the devil is in the details and we would caution you that when the language is being put forth, to really work it out, just like Mr. Ackelsberg had done in his worst-case scenario, and really see how these things all hang together.

Another thing I wanted to point out about 2150 is that I noted in there that it would actually codify the rent-a-bank situation. There's a definition in there for a small loan lender and there's a definition for a small loan broker which is the opposite of the recommendations that you've been hearing from the previous testifiers and from myself.

That would be the opposite of anti-brokering. That would be actually saying, yes, this law covers these purported agents of out-of-state banks. And what that does is that opens up, again, this ability for these people to basically cherry pick like they did in Texas.

That's exactly what you would be doing, codifying the Texas situation. Either we do it by the state rules or we don't. I think those were actually my comments. So I would be happy to take questions.

CHAIRMAN HASAY: We very much appreciate your time coming here today, from the Committee, and giving us information on the Center for Responsible Lending. Since Maryland and Georgia has closed those shops, do those folks get out of that borrowing mode that they are in and get a little more normal, responsible in their finances?

MS. McGILL: They do. I mean, the idea of the customer demand and the repeat customer, that is something that should be really looked at closely. Just as you have heard here, when you have that borrower walk in for the first time, sure, maybe they are interested in getting a payday loan. And the payday industry would say, our customers love us. This person came back ten times. But you have to ask yourself, did they come back ten times voluntarily or did they come back ten times because they didn't have a way to pay off that loan? That's really the issue here.

Yes, maybe the first time they were

fine. Maybe the first time they got a coupon just like I did last Sunday in a mailer that came to my house that was a coupon from First American Cash Advance that said, for first-time customers, your first cash advance is free. Now, why would you make that offer if you weren't assuming that I would be back? It's very interesting.

CHAIRMAN HASAY: Thank you. The gentleman from Monroe, Mr. Scavello.

REPRESENTATIVE SCAVELLO: Thank you, Mr. Chairman, and thank you, Ms. McGill, for your testimony. First, I would not fix my refrigerator. I would buy it brand new and get 90 days no interest and then there's a saver as well. You mentioned that Maryland took care of it and Georgia as well. Delaware, in Mr. Ackelsberg's testimony, there's an example there of Sun Coast Bank of Delaware in Rehoboth. Have they done anything or are they doing payday lending in Delaware?

MS. McGILL: County Bank of Rehoboth beach is one of the state-chartered FDIC banks that support payday lending store fronts. Yes, County Bank is one of the more egregious offenders. It is a very small state bank. It is located in Delaware, a place that actually authorizes payday lending.

County Bank, however, offers no payday loans in its branches. Not only that, when you read its servicing agreements with its payday partners, it prohibits these people from opening shops in Delaware. In other words, they don't do it in their own backyard. County Bank partners with payday lenders in North Carolina. They partner with payday lenders -- they used to do it in Georgia. They partner with payday lenders all over the country but they don't do it in Delaware.

There are also some banks out of South Dakota that do it. The largest bank that does this is Republic Bank of Kentucky. Again, they don't do it in Kentucky. They do it in other places.

REPRESENTATIVE SCAVELLO: That's interesting because I have property just below the branch of Rehoboth there.

MS. McGILL: You had no idea.

REPRESENTATIVE SCAVELLO: I had no idea. And to be honest, the property in that area goes for about 600,000 in the Rehoboth area. So I couldn't imagine somebody needing a payday loan for $300 or so.

MS. McGILL: County Bank has about 23 partnerships the last we counted.

REPRESENTATIVE SCAVELLO: What a way to do business and take advantage of people. Thank you, Mr. Chairman.

CHAIRMAN HASAY: The gentleman from Lackawanna, Mr. Wansacz, has a question.

REPRESENTATIVE WANSACZ: Thank you, Mr. Chairman. Keeping with this present theme of refrigerators, say a person that borrows and gets into trouble -- and we've been hearing testimony after testimony about the people that do get in trouble. What would you recommend to the people out there that are watching? What should they do that are in a situation with no hope to get out of this? I haven't heard anybody address that yet. I am wondering if you could address that.

MS. McGILL: Absolutely. The Center for Responsible Lending is an affiliate with a redevelopment financial institution called Self-help Credit Union. Credit unions actually are a great place to go for small credit. First of all, we also have the idea of the small loan lender. You do have small lenders in

Pennsylvania. You have a small loan law. We would encourage that. That is cheaper.

We would also encourage you to think about the relationships that you have. It's true credit unions are membership based. Our credit union, though, for instance, is not. You just have to live in a certain geographic area. There are many credits unions that are like that. You can also think about your employer. I remember I got a cash advance from my employer when I was waiting tables. That's probably not very common but that's another place you could go.

You could also consider your relief societies. You should talk to a credit counselor if you are in trouble. There are good credit counseling agencies out there. We actually do make sure that people have someplace to go. We actually encourage them to talk to their churches.

There are so many community organizations out there. Even if you can't get a loan from that particular place, they can direct you where you can. There are some places that are care outfits that maybe have a slush fund that can give you a little bit of money and get you started and get you going someplace else.

But the point about the payday loan situation is that it will make your situation worse. Getting a loan that you cannot afford is not going to improve your situation.

REPRESENTATIVE WANSACZ: If I may, thank you for telling people where they can go. I'm talking about the person that has taken out that loan to buy a refrigerator with the payday loan. Once they are caught in a situation, what should they do? What advice can you give them?

MS. McGILL: There are great -- we call them victim funds. Again, if they are in the military, the Navy and Army Relief Society does help with these loans specifically and definitely go to a credit counselor because something that we found in our negotiations is that it's almost impossible for the borrower to do a work-out plan with a payday lender. It just doesn't happen. They say, no, bring us a fee or pay it off.

We try to get people to go to credit counselors. Unfortunately, it has come up where credit counselors have said we haven't been able to work with these people, that you need another intermediary there. So go to them, get an attorney that will write a demand letter so that you can get your installment payments going. That really is the key. Most people that we interact with do want to pay this off. They really do. These are not dead beats. They just don't understand why they keep giving them 50 bucks every couple of weeks and the loan never goes away. The key is to somehow get a situation that you can get on installments.

Unfortunately, what we're seeing is that you usually can't do that directly. So you need to go get an advocate, whether it's a counselor or an attorney or even a bank person. A lot of bank officers, credit union officers, community bank officers will intervene for you. So you should get an advocate. That's what I would recommend. And United Way and those type of agencies will help as well.

CHAIRMAN HASAY: Thank you very much, Ms. McGill and I thank the Center for Responsible Lending as well for very much enlightening the members of the Committee. Thank you very much.

MS. McGILL: Thank you.

CHAIRMAN HASAY: Next we have Carol Stewart. Carol is the vice president of Advance America, Community Financial Services Association of America. Thank you for coming, Carol. We appreciate it. We would like to hear what you have to say today in your testimony.

MS. STEWART: Thank you, Mr. Chairman. I apologize ahead of time for not having my comments reduced to writing. I travel all over the country testifying before Committees for the Community Financial Services Association of America. Some Committees ask for written testimony and others do not. So I am happy, if you need for me to do so, to reduce my comments to writing and present them after the fact to the Committee, if you would like.

CHAIRMAN HASAY: That will be fine. We have a stenographer here for that.

MS. STEWART: Thank you. My name is Carol Stewart and I'm here on behalf of the Community Financial Services Association of America which is the national trade association for payday lending. I also represent Advance America which is the largest payday lender in the country. We have a little over 2,200 stores across the country.

I want to begin with giving you a little bit about my background before I start. My background actually is not in financial services, but it's in education. I was a fifth grade teacher and kindergarten teacher longer than I care to remember. From there, I became an elementary school principal. I have a doctorate in elementary education. I left the world of school districts to go to work for the Legislature in 1990. And for a decade, I worked on education policy; first as a research director in the House Education Committee and later as a Governor's Education Senior Advisor. I went from there to the State Chamber of Commence where I worked on issues including removing the Confederate flag off of the state flagstone, as well as a number of other business issues for the chamber.

When I received a call from one of our chamber board members asking me to consider coming to work for a payday lender on a national basis, it took me about two months of research to make a decision about whether this truly was an industry I wished to represent. I had reputational issues, personally, that I wanted to make sure that I felt comfortable with in terms of representing this industry.

I will tell you I just celebrated,

August 6th, my third year representing Advance America across the country. And I can tell you not one day has gone by that I have not been proud of the way that my company offers the payday advance service.

I have been in stores all across the country and I have heard story after story from customers firsthand and from our branch managers and our front-line staff about the good work that we have done in loaning people money when they have needed it most, including the most heart-wrenching story I've heard, which is one in Harrisburg. I took Representative Ross to one of our stores and had someone tell us right after September 11th that the only way she could go visit her brother in the hospital was by getting a loan from our company and getting an airline ticket to go up and visit him.

While there are horror stories out there -- are there unscrupulous payday lenders out there? Absolutely. Is there a way to clean up the industry by regulating it? Absolutely. I'm here to talk with you today about how best we feel from our perspective to make that work.

My company started in 1997. Advance

America started with nothing. We have grown very, very quickly as a result of consumer demand. The consumer demand is out there, as you have heard previously, because banks stopped making signature loans and there are very few alternatives for consumers to get $500, $300, $250 for a short period of time.

The way that the loan works has been explained to you. It's a relatively short application. We see a customer's pay stub or their source of income statement and a bank statement. They write a personal check out for the amount advanced plus the fee and then they sign a loan agreement. They tell us when they are going to come back in and pay us off which is typically the next payday. Our loans are typically a 14 day to a 19 day loan and the fees average nationwide about $17.50 per hundred.

Why would somebody need this? Well, no one has really talked today about the options out there that our customers tell us that they think they have that are more expensive than a payday advance. If you look at bouncing checks, that bounced check charge to our customers is much, much higher.

As a matter of fact, I have some comparisons, Mr. Chairman. On a 14-day term, the annual percentage rate on $100 credit card balance with a $27 late fee is 704 percent APR. A $100 check that bounces with a $29 NSF fee and a merchant fee which is typically about $25, that's a 1,407 percent APR. An overdraft fee of $35 on a $100 check is a 913 percent APR. A $100 utility bill that has to be reconnected will have a reconnect fee and a late fee of $57. That's a 1,486 percent APR. Even using your ATM machine, a one-day term, with a withdrawal fee of $1.49 on $100 for a one-day term is 544 percent APR.

Now, we don't normally think about those kinds of fees in terms of an APR but I can tell you that our customers do. They understand exactly what happens if they don't have this particular loan from us. Their options typically are bouncing those checks and having those fees that I just mentioned associated with bouncing those checks assessed to them.

Who are our customers? We have heard a lot today about who our customers are. Let me give you some data from our industry. Our customers are middle income, middle educated, working families. Forty-two percent of them own their homes. Ninety-four percent of them have a high school diploma. Fifty-six percent of them have been to college. Sixty-eight percent of them are under forty-five years of age. And the majority have a salary between $25,000 and $50,000 per year. A hundred percent of them have a steady income and have a bank account.

They choose to use our product, they tell us in our customer surveys, for several reasons. One is convenience. Two is to avoid the less desirable alternatives that I just mentioned. The third one is for privacy. Could they go to their employer? Could they go to members of their families? Could they go to their friends or their churches? Absolutely. And some of them have that option. Some of them don't have that option. But for privacy purposes and for their own dignity, a number of our customers tell us they choose to handle these transactions in private and not by going to any of those people.

Most of them tell us that they go to us because they understand exactly what that loan costs. We charge a fee for our product. There are no closing costs. There are no balloon payments. There are no administrative fees or hidden fees attached to a payday loan. It is a straight, fully-disclosed fee per hundred for that product. And they tell us that they choose it because it's cheaper. Customers know what they are doing and they know that they are capable of making their own decisions.

The fact is millions use it. We extend between $25 billion and $30 billion of credit per year as an industry. Our customers are overwhelmingly satisfied. In the states that regulate payday lending, those regulators tell us that they receive virtually no consumer complaints about the industry and how the product is offered.

Having said that, CFSA and Advance America support strict regulation of the industry. The majority of states have enacted legislation. As a matter of fact, Alaska's Governor just signed a bill into law as a new law regulating the industry which puts us up to 36 states and the District of Columbia now regulating payday lending.

Our association's mission is to raise our standards. The best way to do that is by regulation that requires all companies to live up to a set of industry regulations. CFSA has adopted best practices both in general and for military use. Companies cannot belong to the trade association without annually signing a statement saying that their companies abide by those best practices.

Those best practices include some of the things you have heard today like the next day right of recision, that the customer can undo a loan. If they take out a loan and decide they shouldn't have that loan for some reason or they had an alternative in terms of how to come up with that money, they can rescind that loan free of charge.

We believe in full disclosure of those terms, not only in terms of the fee amount, but also as an APR. Those best practices include a limitation or a ban on rollovers depending on what a state decides. Some states choose to ban rollovers completely, which you have heard today about paying that fee back without paying the loan amount. Other states allow a limited number of rollovers.

Consumers should have access to short-term credit but we think they should be protected, too. I would like to talk just a minute about how I'm here today, what has happened today in Pennsylvania. We received a call several years ago from Representative Chris Ross who sits on the Council of State Governments, the suggested state legislative committee. This is the Committee for Council of State Governments that studies trends across the country and adopts model legislation for states to look at.

Some of the Legislators on that Committee have been in states that had regulated payday lending and had made the decision that the Council of State Governments ought to look at that trend and look at a number of ways of regulating that industry across the country. Chris sat on that Committee and took part in the debate and the deliberation about what made sense in terms of fair and balanced legislation that allowed this product to be offered to consumers but also put every consumer protection in place that it possible could.

I believe it was three years ago, maybe, Mr. Chairman, that Chris Ross originally came forward with legislation. I think there were a couple of Committee meetings with some testimony taken at that time. We sat down with a number of members of the Committee who had concerns about the legislation as it was introduced, which was the model legislation from the Council of State Governments, and started working with the banking department at your direction, Mr. Chairman, on what made sense in terms of legislation.

In those three years, I think we have worked with four or five banking secretaries and interim secretaries and worked with the Committee over several years to work on this legislation. The bill that you see today, 2150, is not the model legislation adopted by the Council of State Governments, nor is it the legislation that the industry requests necessarily when they come into those states.

Each state really crafts the legislation to address the needs of its own constituency. So you will find every piece of legislation across the states very different. I can tell you that 2150 is probably one of the most restrictive pieces of legislation currently even offered out there. I can tell you I don't think that that's the final form from all I have heard from Representative Ross and from others. I think this is a work in process. I know we're not here to talk about the legislation.

And I see the Secretary in here. So in deference to his time, I will stop it there and answer any questions.

CHAIRMAN HASAY: Thanks, Ms. Stewart. The gentleman from Lancaster, Mr. Gillespie, has a question.

REPRESENTATIVE GILLESPIE: Thank you, Mr. Chairman. Thank you. How many clients do you have?

MS. STEWART: In Pennsylvania or across the country?

REPRESENTATIVE GILLESPIE: With Advance America and CSFA.

MS. STEWART: I can get that number for you. I didn't bring it with me today. I did bring the numbers in terms of dollar figures and credit we advance, which is about $27 billion to $30 billion in credit each year. I did bring the number of outlets that we think we have in Pennsylvania. It's hard to tell when you don't regulate and license those. We think there are over 300 payday advance outlets in the State of Pennsylvania.

REPRESENTATIVE GILLESPIE: What's been your experience with those as to how many, percentage-wise or number-wise, default on their loans?

MS. STEWART: Interestingly enough, we heard earlier today that the default rates are relatively high. I can tell you the experience that I have with CSFA is that that is not the case. In terms of subprime lending, we probably have one of the lowest default rates because our customers know if they default on a loan, they won't get another loan from us.

For Advance America, for every hundred customers that walk through our doors, about 90 of them will come back and pay us back and be responsible in how they utilize that product. Out of that other 10 percent, I think about half of them will pay us back but will pay us back after the deadline is extended. They will contact us. They will enter into some kind of an agreement with us or a repayment plan. We will do those repayment plans whenever a customer needs it. We won't wait for a number of successive times to put that in place, in terms of my company.

Out of the five that don't come back

and pay us back, we deposit their checks and about half of those checks clear. The other half of those are write-offs. We will write off about two and a half to three loans per hundred.

REPRESENTATIVE GILLESPIE: Thank you. Thank you, Mr. Chairman.

CHAIRMAN HASAY: The gentleman from Westmoreland, Mr. Casorio, has a question.

REPRESENTATIVE CASORIO: Thank you, Mr. Chairman. Ms. Stewart, thank you for being here as well. You certainly had an extensive list of data on the socioeconomic backgrounds of your clients. Do you have any data that might suggest the general use of these funds that folks come in for? I know it's not a prerequisite for them to say they are going to fix Chairman Hasay's refrigerator or maybe buy an airplane ticket to see somebody in Boston, but do you have any data that suggests that?

MS. STEWART: We don't have data. We do not ask a customer why they are taking out the loan. I will tell you anecdotally from traveling across the country and spending a day in a store in many different parts of the country what I hear. And what I hear as the No. 1 reason that customers come in and take out a payday loan is that they have something wrong with their car, that they need a car to get to work and so they have to repair that right away.

I have heard everything from that to customers that do exactly what one of the gentlemen mentioned, which is have some unexpected need or some need that they don't budget for come up, like your property taxes being due or your taxes on your car being due or that type of thing and they will take out loans for that. They will take out loans to buy Christmas presents for their children. They will take loans out for back to school. They will take out loans for vacations.

I mean, I have heard any variety of reasons that customers will take out a payday loan. Typically, it's some expense that is not a normal monthly budgeted expense that may arise and may arise six or seven or eight times a year.

REPRESENTATIVE CASORIO: Let me just, before I ask a closed question, go to -- again, we didn't have the luxury of a written statement. Your comments were -- and correct me if I'm wrong. You mentioned bounced checks, overdrafts, late fees from credit cards companies and comparatively you were stating those to be in the same range, if you will, of some of the rates we have seen from earlier testifiers for pay services that we have been witnessing here today.

I would say, though, that -- and certainly you can make comment if the Chairman sees fit -- certainly the bounced checks and overdraft fees and late charges on credit cards, for hopefully the majority of us, are exceptions. Those are things that would come up not on a regular course.

The norm, as I have witnessed here today, the norm is that page that we saw earlier with the annual percentage rate of 456 percent. That's the norm. I think really, yes, the bounced check fees and the overdraft statements and the late charges on credit cards comparatively may be predatory in themselves as well, yes. But I, again, see that 456 percent being predatory.

So really I guess the analogy is it isn't comparing apples with oranges. It's, what I see it anyway as, comparing apples with apples. Just because the banks charge those kinds of fees and maybe take advantage of some folks, it doesn't make the 456 percent APR -- and that's the one example we saw -- certainly right.

Let me ask you a question about privacy. You said that folks come to you because of privacy concerns. They don't want to go to the bank. They don't want to go to a brother-in-law, whoever. Does -- and, one, I'll ask you for Advance who you can speak for and, two, maybe you would have information industry-wide. I will follow up with a question I asked earlier. Does the industry -- do they sell any information from individual consumers coming into your place of business?

MS. STEWART: I want to address each of your points. The answer is no, we do not sell any information that we have from any of our customers. That information is private. As a matter of fact, if you come in and visit my store -- and I hope you will show up at one of our stores and visit it. If you were to look at a customer file, we would do exactly what the gentleman did that gave you a loan application and black out any of the information or cover up any of the information that would give any information about that particular customer. We do not share that information. We, just like a bank, have very strict privacy rules and laws and policies that we follow.

In terms of your question about 456 APR versus some of these others, I would probably venture a guess that you would not need a payday loan either but there is a segment of the population -- as a matter of fact, I think Bretton Woods did a study -- and I'll be glad to provide that for you after the fact -- on bounced check practices.

What that study showed, if I can paraphrase that -- and I won't be exactly accurate because I didn't bring the data. But for those customers that bounced checks in a bank -- I can get you the percentage. I want to say 10 or 20 percent of the customers that have banking accounts bounce checks. The customers that do bounce checks typically bounce several checks at any given time and several checks over periods of time. So the customers that bounce checks typically bounce more than one and bounce them frequently.

REPRESENTATIVE CASORIO: And I would tend to agree with you. But I guess maybe what I was saying is that although it seems that you may be correct at least from some knowledge of yours, secondhand, of folks that maybe bounce a check, they repeatedly do that or do that on some frequent basis.

Again, for those of us that pay our bills -- and I'm sure some of us have incurred through being away, through a sick member of the family, through just the mail process, maybe incurred an inadvertant late charge on a credit card or whatever and we try to get that rectified. Again, I think that 10 percent of the population isn't the norm of what we see. They are the exception, hopefully.

But if a person came into your store or any store, good credit, hard working, supporting a family, strapped because their car transmission broke and they need that $500 to pay the local mechanic, that 456 percent rate that we saw earlier is the exception. It isn't the norm. Maybe I'm wrong. Is there a way for folks that come in with better credit than others to get a better rate?

MS. STEWART: No. But to answer your question, we do -- and I can give you the data both from my company and for the CSFA member companies as well in terms of -- you know, we're really talking about, in all of this, customers that use this product over and over and over and taking out loans over and over and over. Even if you look at the information that was provided from Florida, I think 80 percent of the customers don't use it over and over. They use it twelve times or less a year. They may use it monthly. But that certainly is not fliping it every time or using it each time successively.

I think the majority of customers that get payday loans -- and we have a number of customers that come in one time and we never see them again. We have a number of customers that come in a couple of times a year or they may come in because they are on commission or there are some extenuating circumstances that they may use it successively for two or three times and then go away for six months and we never see them again.

So there's really not a cookie cutter way. But I will tell you the majority of our customers are using the product responsibly, just as you're referring to. They are not using it every time which would in actuality get up to a 456 APR.

REPRESENTATIVE CASORIO: So 80 percent in the Florida study, just for example, they came in, take out the loan for the car, pay it off in the 14 -- and pay it off with the $100 per $500 roughly that they borrowed. They come in in a 14-day period and pay off that $500 loan and pay $600 back to the Advance America; is that correct?

MS. STEWART: And walk away.

REPRESENTATIVE CASORIO: Again, I said it earlier. We certainly can't regulate what folks do, whether they drink, smoke, gamble. They come into your store of their own free will and their own volition, I guess. And they are walking in on their own free volition and if they chose to do so, that's their choice. But, again, that kind of percentage rate, even a lower percentage rate from 456 for a two-week loan, unless you're strapped to the end of the wall, I guess, seems to me, again, predatory.

I appreciate you taking time to be here. There is certainly no martyrdom for you from this panel and we are hearing from folks who have been giving us great resource information today. But I want to thank you for coming.

MS. STEWART: Certainly. And just to

make one final point about that, too, we are here to work with the Committee, with the banking department, with all interested parties. We welcome sitting down at the table with anyone who is interested in talking with us about a compromise on this.

REPRESENTATIVE CASORIO: Thank you, Mr. Chairman.

CHAIRMAN HASAY: Ms. Stewart, thank you for coming today. There's another question, a member that has a question. The Committee aired this payday lending out today to hear both sides of it. It's interesting to hear what you have to say about you give a quick -- that's a quick loan and a convenient loan to your clients. Your client, if he's going to borrow $500, why wouldn't he use his credit card?

MS. STEWART: The majority of our customers have credit cards. I think 57 or 58 percent of our customers have credit cards. There are a number of reasons that they may not want to use them. One of them that I have heard, interestingly enough, on many occasions is that they don't see a credit card as a short-term loan product. They pay the minimum on that credit card and they see that as a longer-term credit option that they have and may not have the wherewithal in terms of the discipline to pay back that credit card in full, rather than just paying the minimum term that they legally could pay or paying it late. A number of our customers like the short-term aspect of that card.

Another point that I wanted to make, going back to the earlier gentleman's point, is that banks tell us that it costs them over $150 to originate a loan of any size, to originate and service a loan. So while the 23 percent APR that is currently in your Consumer Discount Act and it's been suggested today, if you think about that, that is less than 10 cents a day to loan money, to have $100 out on the street. We can't pay our light bill, much less our employees, for that amount of a fee that we would be getting in.

CHAIRMAN HASAY: The gentleman from Westmoreland, the other gentleman that's on this Committee from Westmoreland County -- I don't know how two from the same county got in. Mr. Tangretti has a question.

REPRESENTATIVE TANGRETTI: Thank you, Mr. Chairman. Ms. Stewart, I think it became pretty obvious that all of the testifiers prior to you were opposed to payday lending and, in fact, fairly well described the process as predatory.

In Ms. McGill's pamphlet, the Center for Responsible Lending brochure pamphlet, it has seven signs of predatory payday loans. Given the nature of that, I'm going to ask you to react to this from the same document. Ninety-one percent of all payday loans are made to borrowers with five or more payday loans per year.

MS. STEWART: Five or more per year? I don't know if the 91 percent is correct. I know that a number of benefit departments have done studies on usage, as has the industry, and the figure that I use is about six or seven payday loans a year.

REPRESENTATIVE TANGRETTI: Is that a bad thing?

THE WITNESS: No, I don't believe that's a bad thing.

REPRESENTATIVE TANGRETTI: Let me read these to you. I want you to react to them as it relates to your industry. This is the seven signs of a predatory payday loan. Repeated loan flipping through renewals, extensions or back-to-back loans charging more fees for no new money.

MS. STEWART: Well, I would submit to you that if you roll over a loan, which means that you come in and you pay none of the principal back, that you pay the interest only and take that loan out again, that you are borrowing the exact same money. I know there are others that may disagree with that.

But if a customer comes in and pays us back completely, just like they had the option of using their credit card at the department store and going down to another department store and using it again the same day, I don't believe that that is borrowing the same money. There was a question asked earlier today about a customer having lots of loans out at the same time. I think that's something your banking secretary will probably address and is working on addressing.

REPRESENTATIVE TANGRETTI: What you're suggesting is that even though if somebody may do that -- and you are not necessarily agreeing with the certain percentage of people who have repeat loans -- that isn't necessarily a bad thing either in your opinion?

MS. STEWART: If they use it successively, is that your question?

REPRESENTATIVE TANGRETTI: Yes.

MS. STEWART: No, I think if they are using it responsibly, that's one thing.

REPRESENTATIVE TANGRETTI: As an industry, how do you prevent someone from not being responsible in that process?

MS. STEWART: I can tell you, as a company, we do a couple of different things. One of the things we do is subscribe to an industry database to check to make sure that our customers -- to look at what kind of usage they have with other companies. Do they have other outstanding payday loans with other companies? Do they have other subprime loans out in terms of rent-to-own, that kind of thing. We will look at that in terms of ability to pay.

Then we also, after a certain period of time, tell the customer -- and it could be after the second loan, because we get to know our customers, or it could be after the fifth loan. We will impose a cooling off period, a break, in that product. We are in the business of getting our money back.

If we see a customer that's using it responsibly and struggling to pay us back, we will either work with them to set up a repayment plan or we won't loan them the money because we do want to be paid back. We don't want all of our customers to end up in default.

REPRESENTATIVE TANGRETTI: Short minimum loan term, usually two weeks, which is not enough time for a borrower to recover from emergency situations, do you view that as a predatory lending practice?

MS. STEWART: No, I do not, because I feel like these are small denominational and short-term credit. When a customer comes in, we explain to them exactly what is the proper use of a payday loan. We look at what they give us. We look at how much they earn.

Because the customer may be able by law to borrow $500 -- I can tell you our average loans are much less than that. They are about $245 because we do look at their ability to repay that loan based on what their source of income is, based on the amount of income they have and we will only lend a percentage that we think is reasonable for them to be able to pay us back in terms of that loan.

I would submit other CSFA companies do the same thing. It's the companies that lend 100 percent of what that customer shows them on their pay stub that tends to be the kind of practice you're referring to.

REPRESENTATIVE TANGRETTI: Single balloon payment instead of an installment plan that allows partial payments over time, you suggested that you may or may not exercise the option to do that if you feel it's appropriate?

MS. STEWART That is correct. There are states that have passed laws triggering an installment plan after a period of time.

REPRESENTATIVE TANGRETTI: Okay. Triple-digit interest rates usually over 400 percent.

MS. STEWART: I think I have alluded to that but I will be glad to talk again about the fact --

REPRESENTATIVE TANGRETTI: I'm curious, if I may. You did allude to it. In fact, you explained it fairly well, I think. I'm just curious about the methodology. The calculations for those interest rates vis-a-vis the ATM charges and the bounced checks and the like is the same calculation as it relates to your --

MS. STEWART: That is correct.

REPRESENTATIVE TANGRETTI: Here's one that I guess gets to the first question and that is consideration of the borrower's ability to pay. My guess is a guess. But what I suspect from what you're telling me is that you look at a paycheck only and you determine that individual's ability to pay based on what his bi-weekly pay is or monthly pay is or whatever, the method by which he's paid, as opposed to outstanding debts and other kinds of payments and other indebtedness that he or she may have incurred.

As you get into this turning over of loans or extending loans four and five or six and eight and ten, how could you possibly make that judgment without knowing those other details about one's financial life?

MS. STEWART: I have two responses to that. One is that I think the due diligence that you do on a loan depends on the size of a loan. If I were extending a home mortgage to you, the due diligence I would do in looking at you as a credit risk is much greater than the due diligence I would do to extend credit of $230.

I think not only do we look at the amount of income that comes in, the source of income, but we also look at the bank statement for a number of reasons. One is to insure that they do have an active checking account. But also we look through that checking account statement to see what that history is in terms of the checks that have been written, what bills have been paid in that.

I think the fact that my company, in particular, and CSFA companies have such a low default rate speaks highly of our ability to assess the ability to repay of those customers without ordering a full credit report which obviously would be much more than the $17.50 we would get for issuing $100 to you. We would be paying more on the credit reports and doing that kind of due diligence over a period of time than we would be able to collect in a fee that we charge for that money.

REPRESENTATIVE TANGRETTI: Using a check as collateral for the loan, leading to insufficient funds fees, bounced check fees and fear of criminal prosecution for writing a bad check.

MS. STEWART: Using the check as collateral?

REPRESENTATIVE TANGRETTI: Yes.

MS. STEWART: That check is held, as I had mentioned earlier. Very few of our customers' checks are ever dealt with other than to hand them back to the customer because the customers do pay us back. Some consider that check as collateral. It's a personal check. It's not a paycheck. We know when we are taking that check, that we are taking our chances that we won't get the money back from that check. I'm not sure exactly how it is predatory. The worst thing that can happen is they can't get another loan from us and walk away.

REPRESENTATIVE TANGRETTI: Mandatory arbitration clauses which eliminate the borrower's right to sue.

MS. STEWART: That is in our agreements. We follow all of the federal laws in terms of how we can deal with arbitration and we stick to those laws very, very carefully.

REPRESENTATIVE TANGRETTI: Mr. Chairman and Ms. Stewart, if I may ask, you had mentioned a couple of times statistical data that you would provide to the Committee. I would be interested, Mr. Chairman, if we could -- we talked about default rates and someone asked about total number of customers and the like. It would be very helpful if we had those for us.

MS. STEWART: I would be happy to get those for you.

REPRESENTATIVE TANGRETTI: Thank you, Mr. Chairman. Thank you, Ms. Stewart.

CHAIRMAN HASAY: Thank you, Ms. Stewart. We would appreciate that information that Mr. Tangretti has requested. I think that would be very helpful to the members of the Committee. Thank you very much. What state did you work in the Legislature?

MS. STEWART: South Carolina.

CHAIRMAN HASAY: I thought it was down south. Finally, we are honored to have here the Secretary of Banking, the Honorable William Schenek. Thank you for being here. As you know, we are airing out payday lending and there's a bill that's in Committee. But as we had spoken previously, we have agreed to work with the Department and you, Mr. Secretary, and Governor

Rendell's office as well. So proceed when you're ready.

SECRETARY SCHENEK: Thank you, Mr. Chairman, members of the Committee. I applaud you for having a hearing on this important subject. I am going to begin with a little history. I first began to learn about payday lending when I started this job of Secretary of Banking in February of 2003.

At that time, people came to talk about payday lending in our office and presented it as a business which meets one time for occasional needs. Somebody's car breaks down. You got to get to work. You need $200 to fix the car. The payday comes. They pay off the loan.

I understood the $35 charge for borrowing that $200 as a banker because it costs money to put in an office and pay the light, heat and rent, to pay the salaries, to pay for the computers and $35 taken alone is not a significant amount of money to charge for a financial transaction. And $35 is certainly a lot, as the discussion I have heard so far, certainly a lot relevant to $200. But relevant to the transaction itself, I could understand that, especially meeting a one-time need.

I also learned at the time that the industry is unregulated in Pennsylvania and developed the feeling rather quickly that it should be regulated. We also sent a Secretary's letter to all of the banks that we charter in Pennsylvania saying we would look at them very hard if they chose to rent their charter to payday loan companies, to use their charters for payday loan companies to come into Pennsylvania or to go to any other state.

The federal regulators had already basically prohibited federally-chartered banks from doing that. The only banks that were doing it were state banks. I wanted to make sure that if a state bank was doing it, it wasn't a Pennsylvania bank. And no Pennsylvania banks now rent their charters to payday loan companies.

We then began extensive research in the banking department, looking at what other states are doing, what the seminars were and became knowledgeable about the business. One of the things we learned is this idea of a payday loan company having its business model based on a one time or occasional loan was simply not the business model. The business model is a relationship business. The business model is to make it easy for consumers to borrow this money over and over again.

Ms. Jones borrows $200 for two weeks and pays $35. At the end of two weeks, she has a choice. She can pay $35 to borrow it again or she can pay them 200. She has to buy groceries. It's pretty obvious Ms. Jones is going to pay the $35. At the end of six months, she has paid them $420 and she still owes them 200 bucks. That's the model we looked at.

Now, I believe that all of us working together have multiple options right now. We could do nothing and allow the industry to continue to operate in Pennsylvania unregulated. We could pass legislation which allows present practices but they are regulated. We could put the industry out of business in Pennsylvania and do that through legislation or potentially -- it would be time consuming and it would be expensive -- but the Banking Department could begin litigation and enter the courts to try to put them out of business.

There is another alternative. We

could develop legislation which would allow the business to go on in a very modified fashion with real consumer protections. At this point, I believe that that may be a viable route. If it's not possible to do that and I believe to get legislation which adequately really protects the consumer, then I believe we should take the steps necessary to get the payday lenders out of Pennsylvania.

We're working with Representative Chris Ross to develop legislation which I believe would put protections in place. Let me describe the kinds of protections we are talking about. First of all, a maximum loan amount of the lesser of $500 or 25 percent of the consumer's gross monthly income.

A consumer would only be able to borrow from one payday lender at a time. We could establish a database, an independent database which would be developed by the Department of Banking, which would be paid for by the payday lenders, a third-party vendor. The database would record every payday loan that was made to track those to insure that the consumer was only borrowing from one payday lender at a time and understand what was going on with each of those loans.

We can also put in place a cooling off period, a period of time during which the consumer cannot borrow from a payday lender of any type, completely out of the industry. If they have a chance to sit back and think, what am I doing here? Is this really working for me and my family? Is this something I really want to do?

At the end of the time of the cooling off period we require, say, several loans could be made. The cooling off period is required. If a consumer, at that point in time, could not repay their loan of $200, didn't have $200 in cash, couldn't repay it, they would go into a required term loan arrangement, a mandatory term out plan, probably no more than $50 every two weeks, some manageable amount of money that a family could handle. If they were borrowing $500, it would take 10 two-week periods to pay it off.

Also we would propose in the legislation that at any time that a consumer would decide that they didn't want in this anymore, they could raise their hand and say, I want out. I want it termed. I want to be able to pay no more than $50 every two weeks and get out of this. It's their option, as distinguished from the cooling off period which is required, which is if they couldn't pay the principal amount, the full amount due, they would be required to go into that payout period.

We would also have all the fees and charges posted, have it very clear to the consumer that's coming in and borrowing that mandatory repayments were in place, the cooling off period is in place. It would also ask the payday lenders to contribute 25 cents for every transaction that they do into a Commonwealth fund that would provide national literacy programs in Pennsylvania.

We would have real consumer protection in the event that they are unable to make these payments. For example, with dishonored checks, the damages for bad checks that are in present legislation would not apply. Contracts should not contain provisions which waive consumer rights and cannot contain mandatory arbitration clauses. The Big Boss collection company that was mentioned earlier wouldn't have very many tools to operate. The lender wouldn't have an unfair leverage over the consumer if they weren't able to pay.

The two other things we are doing, we are working with the credit unions to actively encourage the credit unions to be real competitors for the payday lending. And there are credit unions that would like to do that. It will be a slow process. But I believe some will stand up and offer real alternatives.

We are also working with consumer discount companies, consumer finance companies. We believe that under the present Consumer Discount Act, that there may be room for the combination of the interest rates that are allowed and the fees that are allowed to let consumer discount companies make these kinds of loans at higher charges than they make today that include the fees but substantially less than payday lending companies charge. Are they viable competitors? We don't know. But they began to show an interest at this point.

Let me stop there and take your questions, Mr. Chairman.

CHAIRMAN HASAY: The gentleman from Westmoreland, Mr. Casorio, has a question.

REPRESENTATIVE CASORIO: Thank you,

Mr. Chairman. I knew it would only be a matter of time before you mixed up the colleagues from Westmoreland. It's been a long day. But thank you. You have done a great job and you have been the butt of our refrigerator jokes. So thank you for being so understanding.

Secretary Schenek, thank you for being here. It's a pleasure to have you here. We know the drive from State College on a warm August day is not as pleasant as sitting here with us. I know you would agree. I wanted to say that I'm encouraged by your brief comments, quite frankly. You weren't physically here for most of the day but you know what went on.

SECRETARY SCHENEK: Paul told me.

REPRESENTATIVE CASORIO: You know what we heard. You know the process probably better than those of us up here. I am encouraged by what you have told us. We're hoping -- and I think that's unanimous with the members that are here now and we have had a pretty large delegation here over this afternoon that's come and gone -- that we can work with the Administration to take care of this problem immediately by the end of November when we leave here for sign or die. I think that's a realistic goal.

I only throw that out because what I heard from you today is a very detailed, prescribed, methodical process that we're going to go through to help the consumers, to clean up this mess and to make sure that folks aren't preyed upon just because they are making $5.15 an hour or they don't have a GED or high school diploma or maybe they don't know the difference between a certificate of deposit and an annuity and a mutual fund. That's not their fault. We need to do what we can.

I said earlier before you got here that we can't regulate folks, whether they want to smoke or drink or get these loans or gamble. We can't. That's not our business. It will never happen. But we can allow them to have the tools. With your help and the Administration's help, I am certainly encouraged.

Can you get us, Mr. Secretary -- I'm sure you will -- the prescribed formula that you have given us here this afternoon, a listing of the points that you based it on? I, for one, and the Chairman, if not, would certainly be willing to spearhead this effort and work with the

Administration to try to alleviate some of the problems we have heard today.

SECRETARY SCHENEK: Thank you.

REPRESENTATIVE CASORIO: Thank you, Mr. Secretary. Thank you, Chairman Hasay.

CHAIRMAN HASAY: The gentleman from Lackawanna, Mr. Wansacz, has a question.

REPRESENTATIVE WANSACZ: Thank you, Mr. Chairman and thank you, Mr. Secretary. I was a little at first disturbed to hear you talking about cars when our theme has been refrigerators. But the question that I have -- and I am very encouraged by what you were talking about, taking some steps. When we come back to, let's say, this Big Boss and you talked about taking the tools away from Big Boss, what type of tools are you going to take? I mean, what type of tools can we really regulate to take away from these collection companies which are trying to get some of the money back?

SECRETARY SCHENEK: As I understand it, there is pretty tough legislation in place right now that gives collection companies tools including criminal proceedings. We would remove that and remove most of the tools under the civil proceedings as well so that basically if you want to make one of these loans and charge this rate, you're on your own.

REPRESENTATIVE WANSACZ: Thank you, Mr. Secretary.

CHAIRMAN HASAY: The Committee looks forward to working with you, Mr. Secretary, on this issue. The Chair thanks you very much for coming here today. I know you were out in State College and rushed back through construction and everything else that's going on up in those interstates. Again, thank you very much. We look forward to working with you and seek your advice and consult and wisdom on this issue.

SECRETARY SCHENEK: Thank you, Mr. Chairman.

CHAIRMAN HASAY: This hearing is now adjourned.

(The hearing concluded at 4:15 p.m.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

Shannon L. Manderbach
Notary Public

NOTARIAL SEAL
Shannon L. Manderbach, Notary Public
Enola, Cumberland County
My Commission Expires June 6, 2005