

ACORN
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Consumers Union
National Association of Consumer Advocates
National Association of Consumer Agency Administrators
National Community Reinvestment Coalition
National Council of La Raza
National Consumer Law Center
US Public Interest Research Group

June 26, 2007

The Honorable Tom Udall
United States House of Representatives
Washington, DC 20515

Dear Representative Udall:

Consumer Federation of America, Center for Responsible Lending, Consumer Action, the National Consumer Law Center, National Council of La Raza, US Public Interest Research Group, ACORN, Consumers Union, National Association of Consumer Advocates, National Association of Consumer Agency Administrators, National Community Reinvestment Coalition and the state officials and organizations listed below applaud you for sponsoring legislation to prohibit lending based on checks or debits drawn on depository institutions. You have recognized that it is an unsafe banking practice for consumers to be enticed by payday lenders to write checks or authorize debits when there may be no money on deposit to cover these cash advances. We are also pleased that your bill would prohibit banks from partnering with payday lenders, a tactic used by storefront lenders to evade state small loan and usury laws.

The Udall-Gutierrez "Payday Loan Reform Act of 2007" prohibits the relatively new practice of holding a check as security for a loan. Using the check as security for the payment of a payday loan is the key to the coercive collection tactics used by lenders. Consumers are often forced to choose among three untenable options at the end of a short-term loan because lenders are holding their check: 1) allow the check to be debited from their bank account where it will deplete money needed for food and other living necessities; 2) allow the check to bounce, triggering bounced check fees from both the lender and the consumer's bank, exposing the borrower to coercive collection tactics when lenders threaten civil or criminal prosecution for unpaid checks, and risking the loss of their bank account or check-writing privileges, or 3) renew the loan at an increased cost. Basing loans on personal checks that will be deposited to repay the loan on the next payday is the modern equivalent of securing loans through wage assignments, a disreputable credit practice that violates Federal Trade Commission rules.

This important bill also extends Electronic Funds Transfer Act protections to single payment loans that require consumers to sign over electronic access to their bank accounts. For almost thirty years, creditors have been prohibited from conditioning the extension of credit on electronic payment of installment loans. Payday loans made by some companies and via the Internet use mandatory electronic access to borrowers' bank accounts as security for the loans. This legislation tracks EFTA requirements by prohibiting single payment loans based on required electronic access to an account in a federally insured depository institution or insured credit union.

Congress provided these protections to military borrowers in 2006 by enacting the Talent/Nelson amendment (Military Lending Act or MLA) to the National Defense Authorization Act. In addition to capping rates for loans to Service members, the MLA prohibited loans secured by personal checks and electronic access to bank accounts. We believe that these protections should be provided to all consumers. Irrevocable electronic access to borrowers' bank accounts is especially problematic for loans made via the Internet. We have seen contracts that make it impossible for consumers to withdraw account access authorization, allowing lenders to repeatedly withdraw funds for loan renewals.

Your legislation also stops payday lenders from partnering with federally insured depository institutions to evade state usury or small loan rate caps. Following more stringent enforcement by the Federal Deposit Insurance Corporation, most banks have withdrawn from partnerships with payday lenders. Although bank charter "renting" has been curtailed by regulatory action, only legislation can create a clear, permanent prohibition that stops lenders from using this practice to undermine state small loan and usury regulation.

Sincerely,

Jean Ann Fox
Consumer Federation of America

Lauren Saunders
National Consumer Law Center
On behalf of its low income clients

Beatriz Ibarra
National Council of La Raza

Edmund Mierzwinski
U. S. Public Interest Research Group

Josh Nassar
Center for Responsible Lending

Ira Rheingold
National Association of Consumer Advocates

John Taylor
National Community Reinvestment Coalition

Jill L. Miles
National Association of Consumer Agency Administrators

Jeannine Kenney
Consumers Union

Linda Sherry
Consumer Action

Jordan Ash
ACORN

Ron Gilbert
Arise Citizens' Policy Project (AL)

Phyllis Rowe
Arizona Consumers Council

Holly Lachowicz
Southwest Center for Economic Integrity (AZ)

Al Sterman
Democratic Processes Center (AZ)

H. C. "Hank" Klein
Arkansans Against Abusive Payday Lending

Alan Fisher
California Reinvestment Coalition

Junious Williams
Urban Strategies Council (CA)

James P. Horan
Connecticut Association for Human Services

Lynn Drysdale
Jacksonville (FL) Area Legal Aid, Inc.

Tom Feltner
Woodstock Institute (IL)

Lynda DeLaforge
Citizen Action/Illinois

Rickie Coleman and Jason Selmon
Sunflower Community Action
Wichita, Kansas

Anne Marie Regan
Office of Kentucky Legal Services Program

Paheadra B. Robinson
Mississippi Center for Justice

Neil Fogarty
Consumers League of New Jersey

Russ Haven
New York Public Interest Research Group

Chris Keeley
NEDAP (NY)

The Honorable Barbara Buckley, Speaker
Nevada State Assembly

Dan Wulz
Clark County Legal Services (NV)

Bill Jordan
New Mexico Voices for Children

Peter Skillern
Community Reinvestment Association of North Carolina

Jeffrey D. Dillman
Housing Research & Advocacy Center (OH)

Kerry Smith
Community Legal Services, Inc. (PA)

Sue Berkowitz
South Carolina Appleseed Legal Justice Center

John Ruoff
South Carolina Fair Share

Don Baylor
Center for Public Policy Priorities (TX)

Stewart Ransom Miller, General Counsel
Legal Aid Society of Texas

Dana Wiggins
Virginia Partnership to Encourage Responsible Lending

James W. Speer
Virginia Poverty Law Center

Irene Leech
Virginia Citizens Consumer Council

Ward R. Scull and Michael H. Lane
Virginians Against Payday Loans

Jason M. Krumbein, Esq.
Krumbein Consumer Legal Service (VA)

Linda Hilton
Coalition of Religious Communities (Utah)