

Community Reinvestment Association-North Carolina

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Consumer Federation of America

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Consumers Union

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National Community Reinvestment Coalition

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National Consumer Law Center

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U. S. Public Interest Research Group

218 D Street SE, Washington, DC 20003

October 2, 2002

Dear Representative/Senator:

The national consumer and community organizations listed above and supporters signed onto this letter are writing to alert you to the dangers of payday lending and to urge you to support regulatory and legislative efforts to stop payday lenders from misusing federal bank powers to evade state consumer protection laws. Industry trade groups are blitzing Congress this week to urge continued inaction on protecting consumers from usurious small loans that trap financially fragile families in a cycle of perpetual debt and to elicit your support for their campaign to put pressure on bank regulators.

Payday loans are usurious, predatory small loans that prey on cash-strapped low- and moderate-income consumers. These loans are cash advances for up to \$500, based on the borrower's personal check held for future deposit. The average cost of a payday loan is 470% APR, for a loan due in full within 14 days. Payday lenders encourage hard-pressed consumers to write unfunded checks in hopes they will have money available on their next payday to cover both the loan check and their normal expenses.

Contrary to industry claims that payday loans are an occasional transaction, studies of borrower loan records by state regulators find that 50 to 80% of payday loan customers enter into seven or more loan transactions at one lender over the course of a year and 20 to 30% of the customers enter into 14 or more. An analysis of Wisconsin data found that 79% of loans made to customers were either same-day roll-overs or new loans made before the borrower's next payday. Since many payday loan customers borrow from more than one lender at a time, millions of Americans are trapped paying triple-digit interest rates for long-term obligations disguised as quick cash until payday.

This debt trap is sprung by personal checks held for future deposit. Consumers are pressured to pay finance charges every payday to avoid bounced checks, civil or

threat of criminal charges or courts martial, or loss of their check-writing privileges or closed accounts, all because lenders hold both a contract to pay and signed checks.

Trade groups claim that industry-funded research by the Credit Research Center portrays customer satisfaction with payday lending. They do not mention that 80% of the payday loan customers surveyed either refused to acknowledge they ever had a payday loan or refused to be interviewed and almost twice as many payday loan borrowers denied they had a payday loan as completed the interview. Even though the CRC study is seriously flawed, it found that 75% of borrowers believe the government should limit the fees charged by lenders.

Industry trade groups tout their voluntary self-regulatory “Best Practices” as a replacement for consumer protection law. In our view, these “Best Practices” suffer the deficiencies of all self-regulatory codes in that they do not apply to non-member companies and cannot be enforced with any legal authority. Industry “Best Practices” make no mention of restraining triple-digit interest rates, promise only to comply with the legal minimum requirements that apply to lenders, and are riddled with loopholes that make these guidelines more public relations than consumer protection.

It should be a great concern to Congress that the payday loan industry is attempting to hijack federally insured banks to evade state consumer protections. We fully support efforts by the Comptroller of the Currency and the Office of Thrift Supervision to protect the safety and soundness of banks and thrifts from check cashers and payday lenders who rent bank charters in hopes of claiming bank rights to export home-state interest rates and preempt some state protections. State attorneys general and credit regulators are challenging rent-a-bank attempts to escape state law enforcement. Most recently, Advance America and its partner BankWest sued the Georgia Industrial Loan Commissioner to stop inspection of records as a first step to apply the Georgia Attorney General’s opinion that payday loans are subject to state small loan laws. Under pressure from community groups across the country, the FDIC, and the Illinois Office of Banks and Real Estate, Brickyard Bank recently announced its exit from the payday lending business through Check’n Go in North Carolina and Texas.

With rent-a-bank deals under challenge, the parent company of Check’n Go is attempting to buy the smallest bank in Illinois in hopes of turning its payday loan outlets into bank branches. The Speaker of the Illinois House wrote to the Federal Reserve Bank in Chicago that this was a blatant effort to evade Illinois regulations. The Federal Reserve and the FDIC have yet to rule on this application.

Bills have languished for three years that would stop the unfair practice of basing small loans on personal checks held for future deposit and that would stop the misuse of banks by third parties to escape legal requirements. Our organizations urge you to make sure HR 1055 or HR 1319 is enacted before you adjourn for the year. We also request your support for federal bank regulators and the FDIC to protect banks from high-risk partnerships with predatory payday lenders.

Sincerely,

Jean Ann Fox
Consumer Federation of America

Lynn Sheri King
National Community Reinvestment Coalition

Peter Skillern
Community Reinvestment Association-North Carolina

Frank Torres
Consumers Union

Margot Saunders
On behalf of the low-income clients of the
National Consumer Law Center

Edmund Mierzwinski
U. S. Public Interest Research Group

These organizations and individuals also endorse this letter.

ACORN (Association of Community Organizations for Reform Now)
AFSCME Local 3700, University of Illinois Clericals
Allentown Neighborhood Housing Services, Pennsylvania
Arizona Consumers Council
California Public Interest Research Group (CALPIRG)
California Reinvestment Committee
CDC Consumer Debt Counseling, Inc. (MO)
Center for Community Change
Center for Economic Progress, Illinois
Center for Public Representation (WI)
Center for Responsible Lending (NC)
Champaign County Health Care Consumers (IL)
Citizen Action of Illinois
Coalition for Consumer Rights, Illinois
Coalition of Neighborhoods, Ohio
Coalition of Religious Communities (UT)
Community Action Committee of the Lehigh Valley, Inc., Pennsylvania
Consumer Action (CA)
Covenant Community Capital Corporation, Houston, TX
Creola Johnson, Asst. Professor At Ohio State University Moritz College of Law
Delaware Community Reinvestment Action Council, Inc.
Democratic Processes Center, Inc. (AZ)
Detroit Alliance for Fair Banking
Edgemont Neighborhood Coalition (OH)
Fairness in Rural Lending, Wisconsin
Florida Public Interest Research Group

Gregory D. Squires, Professor, George Washington University
Illinois Public Interest Research Group
James T. McMillen, Consumer Advocate Attorney, TX
U. S. Jesuit Conference, Washington DC
Jewish Council on Urban Affairs, Illinois
John Lewis Coffee Shop, Inc., Iowa
Judy Moller, community advocate, Illinois
Lawyers' Committee for Civil Rights Under Law
Legal Aid Society of Dayton, Inc. (OH)
Los Angeles Neighborhood Housing Services
Maryland Consumer Rights Coalition, Inc.
Maryland Public Interest Research Group
Massachusetts Consumers' Coalition
Massachusetts Public Interest Research Group
Mercer County Community Action Agency
Metropolitan Milwaukee Fair Housing Council (WI)
Michigan Consumer Federation
Monsignor John Egan Campaign for Payday Loan Reform (IL)
Montana Public Interest Research Group (MontPIRG)
Nancy Grandquist Fields, former HUD Community Builder Fellow, Louisiana
National Association of Consumer Advocates
National Low Income Housing Coalition
N. C. Justice and Community Development Center
Neighborhood Housing Services of New York City
Nevada Fair Housing Center
New Mexico Public Interest Research Group
New York Public Interest Research Group
Niagra Frontier Consumer Association, Inc.
North Carolina Fair Housing Center
North Carolina Low Income Housing Coalition
North Carolina Public Interest Research Group
North Side Community Federal Credit Union, Illinois
Oregon Consumer League
Project IRENE, Illinois
REDEEM, West Virginia
Scott County Housing Council, Iowa
Texas Legal Services Center
Virginia Citizens Consumer Council
Virginia Poverty Law Center
WECO Funds, Inc. (OH)
Western New York Law Center
Wisconsin Consumers League
Wisconsin Public Interest Research Group
Women's Self-Employment Project
Woodstock Institute, Illinois