



NEW YORKERS FOR RESPONSIBLE LENDING

MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: **New Yorkers for Responsible Lending (NYRL) vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York.** The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

The regime contemplated by this bill is an untested, experimental, and highly dangerous approach, which shockingly *guarantees* a state-sanctioned profit for check-casher lenders, and risks opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.

The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices.

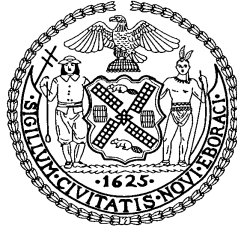
New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

NYRL is a state-wide coalition that promotes access to fair and affordable financial services and the preservation of assets for all New Yorkers and their communities. NYRL is committed to fighting predatory practices in the financial services industry through policy reform, education and outreach, research and direct services. NYRL members represent community development financial institutions, community-based organizations, affordable housing, first-time homebuyer, and foreclosure prevention groups, advocates for seniors, legal services organizations, and community reinvestment, fair lending, and consumer advocacy groups. For a list of NYRL members, go to <http://nedap.org/programs/nyrlmembers.html>.

SENATE COMMITTEE AGENDA



DRAFT

MICAH C. LASHER
Director
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MEMORANDUM IN OPPOSITION

LEGISLATIVE REFERENCE S.3841 – by Senator Farley – Banks Committee
A.7047 – by M. of A. Heastie – Banks Committee

TITLE AN ACT to amend the banking law, in relation to enacting the "short-term financial services loan act"

SUMMARY OF PROVISIONS

This bill would remove the prohibition against licensed check cashers making loans pursuant to the Banking Law. The bill authorizes check cashers to make small-dollar loans between \$300 and \$2,000 with a term of between 90 and 180 days at a maximum rate of interest established by regulation and establishes additional standards for such loans.

REASONS FOR OPPOSITION

At the same time the City is working to connect New Yorkers to safe, affordable financial services, this bill would authorize check cashers to make potentially harmful loans to the least financially stable consumers. This legislation effectively would open up New York State to payday lending, a predatory industry that costs 12 million Americans at least \$5 billion in fees each year.

New York's ban on payday lending is effective and helps the State's residents, as New Yorkers rely less on costly loans compared to the nation as a whole. According to a national study by FINRA in 2010, 9% of individuals reported taking out at least one payday loan in the previous five years; In New York, that number is only 4%. According to the same study, fewer New Yorkers had used any type of non-bank borrowing method (18% in New York, versus 24% nationally). Fewer New Yorkers had taken out credit card cash advances or have been charged a late fee in the previous year. Further, research in states with recent payday lending bans, such as North Carolina, demonstrates that the absence of payday lending has no significant impact on credit availability. Former payday borrowers generally think banning payday lending was positive, and households have an array of more affordable options to meet their short-term credit needs.

This bill proposes a special, open-ended exemption to the State's criminal usury cap of 25% for check cashers. Similar loans in many states have APRs well into the triple digits. Recent evidence, however, demonstrates that such lending can be done profitably at APRs that are not usurious. For example, the FDIC released a report last year detailing the results of a two-year, small-dollar loan pilot program with 31 banks. It found that banks participating in the pilot made more than 34,000 loans totaling about \$40 million, with average interest rates of between 13% and 16%. This special exemption to criminal usury is not necessary and would potentially set the stage for future carve-outs from what has been a highly effective law.

Moreover, once initially set, the bill would permit the Superintendent to amend the maximum rates and fees, but only upon the petition of a substantial portion of the check casher industry. This means that any review of applicable interest rates would have a built-in bias in favor of higher rates.

This bill would enable loans to be originated by check cashers, who are not regulated or overseen for safety and soundness and other lending considerations. At a time when consumers are struggling with their finances, this bill will open the field to an industry that does not have sufficient regulatory oversight to engage in lending. In order to ensure compliance with the proposed check casher lending scheme, the State would have to considerably expand its current examination and supervision of licensed check cashers. The bill does not provide adequate resources for thorough examinations and reviews of loan documents and files for each of the State's nearly 200 licensed check cashers.

Credit unions and banks already offer emergency loans. Several New York City community development credit unions, for example, which have partnered with the City's Department of Consumer Affairs Office of Financial Empowerment on a number of banking access initiatives, already offer affordable emergency loans of up to \$500, with application fees of \$25 or less, that can be approved in less than 24 hours and do not require a credit check. In addition, the FDIC's Survey of Bank Efforts to Serve the Unbanked and Underserved, released in December 2008, found that over 44% of banks surveyed offered affordable, small-dollar loans. Programs have been implemented with great success in other states to scale up the availability of such affordable loan options. The FDIC has been working with a cross-section of key stakeholders to expand the availability of affordable small-dollar loans offered by mainstream financial institutions. Credit unions and banks are already highly regulated by state and federal regulators. Scaling up short-term loans made by these institutions is a more appropriate strategy to expand consumer access to safe, appropriate short-term loans.

The proposed legislation would roll back a longstanding and effective law that has protected New Yorkers from predatory payday lending, and would open up consumers to loans in excess of the State's criminal usury rate made by entities not regulated sufficiently to provide such services. Safe, appropriate alternatives already exist, and if the Legislature wishes to address any demand for short-term credit, such efforts should be in line with federal efforts to scale up such existing products through mainstream banks and credit unions.

Accordingly, it is urged that this bill be disapproved.

Respectfully submitted,

MICAH C. LASHER
Director

KP: 5/13/11



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MEMORANDUM OF OPPOSITION

May 17, 2011

BILL NUMBER: S.3841 (Farley) same as A.7047(Heastie)

TITLE OF BILL: An act to amend the banking law, in relation to enacting the "short-term financial services loan act"

Statement of Opposition. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for all New York consumers. New York State unlike other states has to date kept these historically predatory loans out of New York State.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. The bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday loans have been targeted at low and moderate income communities and those on fixed incomes. Many older persons live on fixed incomes from social security.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

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The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections. New York should promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs. For the above reason AARP is strongly opposed to this legislation.

If you have any questions please call Bill Ferris or David McNally at (518) 434-4194



**NEW YORK
CITY BAR**

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**REPORT ON LEGISLATION BY THE
CONSUMER AFFAIRS AND CIVIL COURT COMMITTEES**

**A.7047
S.3841**

**M. of A. Heastie
Senator Farley**

AN ACT to amend the banking law, in relation to enacting the “short-term financial services loan act.”

THIS LEGISLATION IS OPPOSED

The Civil Court and Consumer Affairs Committees submit these comments in opposition to Bill A.7047/S.3841, the “Short-term Financial Services Loan Act.” This bill would allow check cashing establishments to make small loans of between \$300 and \$2,000 to consumers. The stated purpose of the bill is to “[address] the unfulfilled need of New Yorkers for an affordable, small-dollar, short-term credit product.” The Committee, however, believes that the type of loan this bill allows would prove to be unaffordable, as demonstrated by the track record of similar products in other states. We believe that the bill creates a huge and unwarranted loophole in New York’s longstanding 25% usury cap for consumer credit transactions, and that if passed, it will be detrimental to the citizens of our state.

Highlights of the Bill

Some highlights of the proposed legislation are:

1. The bill eliminates the prohibition in the Banking Law against check cashers making loans, and affirmatively permits licensed check cashers to offer small, short-term loans. Loans may be given between \$300 and \$2,000, for a term of between 90 and 180 days.
2. The amount of a loan may not be more than 25% of a borrower’s gross monthly income. Upon completion of all scheduled payments, a borrower may enter into a new loan agreement, and a borrower may re-finance a short-term loan once prior to the maturity of a loan, if the borrower has made three consecutive timely payments. If a borrower has re-financed a short-term loan, the borrower shall not be eligible to borrow from the same or any other licensed check casher until the loan is fully repaid. So that check cashers can monitor this restriction, the bill establishes a database, to be funded through licensing fees, to allow a licensee to determine whether an applicant has any other short-term loan outstanding.

3. The bill specifically exempts short-term loans made by check cashers from the existing New York usury law that places a 25% cap on such loans.¹ The Banking Superintendent would by regulation establish the maximum interest rate and fees including such charges as loan origination, monthly maintenance and late fees. In establishing such interest rates and fees, the Superintendent is directed to consider factors including the rates and fees charged by lenders in other states for similar products, and a reasonable profit for check cashers from offering and providing short-term loans.

4. The legislation provides for creation of a financial education fund to be funded through assessments of licensed check cashers and to be administered by the Banking Superintendent in consultation with the check cashing industry.

Discussion

As noted above, the longstanding usury law in New York places a maximum interest rate of 25% on loans to consumers including the short-term loans that are encompassed in this bill. The relevant inquiry is whether the justifications put forth for carving out this exception, taken together with the consumer protections claimed by the bill's proponents, pass muster.

The available information on the cost of these loans provides no assurance that they will be reasonably priced. In fact, the data from similar products in other states compels the conclusion that these short-term loans will carry triple-digit interest rates and significant transaction fees. A number of studies have examined the costs of payday loans, which if not identical, are quite similar to the short-term loans that will be offered by check cashers in this bill. The Consumer Federation of America found that payday loans at check cashing establishments had an average annual percentage rate of more than 400%.² The National Consumer Law Center reported that the interest rate for payday loans typically ranges from 300% to 500%.³ Data collected by various state agencies shows interest rates for payday loans that are routinely in triple digits.⁴

The bill, which gives unprecedented authority to the Banking Department to set the rates and fees, practically guarantees that the high costs associated with payday loans in other states will cross state lines into New York. This is because, as noted, the Banking Department must consider the rates and fees charged in other states for similar products.

The summary accompanying the bill states that there will be "strict limits" on licensed check cashers to "only lend money to qualified borrowers based on income and ability to pay back such loans." Upon a close examination of the legislation, however, those limits are not so strict. For instance, the only provision arguably related to ability to pay is that the loan amount

¹ General Obligations Law §5-501, Banking Law §14-a, Penal Law §§190.40.

² Jean Ann Fox and Patrick Woodall, Consumer Federation of America, *Cashed Out: Consumers Pay Steep Premium to 'Bank' at Check Cashing Outlets*, November 2006, at 2, available at http://consumerfed.org/elements/www.consumerfed.org/file/finance/CFA_2006_Check_Cashing_Study111506.pdf.

³ National Consumer Law Center, *The Cost of Credit*, 4th ed. (2009), at 342.

⁴ *Id.*

cannot be more than 25% of the borrower's gross monthly income. One obvious question then follows-- what if a borrower has other debts? This provision does not require a check casher to make a true analysis of a borrower's ability to repay. We are mindful that one of the characteristics of predatory consumer lending is that lenders make loan decisions based not on ability to repay, but on expected interest payments and fees.⁵

The bill contains other provisions aimed at protecting consumers, including a prohibition on a borrower re-financing a loan more than once, and a requirement that a licensed check casher verify through use of the statewide database that an applicant has no other outstanding loan before approving a loan. We question the efficacy of such protections, and note that in other states they have been employed largely to make high cost loans more palatable. Groups such as Consumers Union, the Consumer Federation of America, the National Consumer Law Center, and the Center for Responsible Lending, have all concluded that these safeguards fail to adequately protect consumers.⁶

The bill's proponents also point to the availability of short-term loans on the internet as an argument for allowing check cashing establishments to make such loans. That such loans are available does not make them fair or affordable. In some cases, in fact, they may be illegal, and the New York Attorney General has prosecuted out-of-state lenders who were marketing payday loans to New Yorkers.⁷ Moreover, even to the extent that short-term loans are available over the internet, this is a far cry from allowing licensed check cashers to make short-term loans from a physical storefront. We believe that the possible harm to New Yorkers will escalate if high-rate, high-fee loans are available on every block.

It is important that consumers have access to readily available sources of short-term credit. Consumer experts recognize that when traditional financial institutions pull back from providing such products, the options for persons with spotty or no credit history may lessen.⁸ In this connection we note that there are financial institutions including community credit unions that are increasingly succeeding in bringing affordable loan products to the public.⁹ The need for small-dollar loans in New York does not mean that extending to check cashing establishments the power to make loans is a way to responsibly meet that need.

⁵ Consumers Union, Consumer Federation of America, National Consumer Law Center, *Small Dollar Loan Products Scorecard--Updated*, May 2010, at 2 ("Small Loan Products Scorecard"), available at http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-2010.pdf.

⁶ *Small Loan Products Scorecard*, at 3, citing Uriah King & Leslie Parrish, Center for Responsible Lending, *Springing the Debt Trap: Rate Caps Are Only Proven Payday Lending Reform*, December 2007, available at <http://www.responsiblelending.org/payday-lending/research-analysis/springing-the-debt-trap.pdf>.

⁷ See "Attorney General Cuomo Announces Distribution of \$5.2 Million Settlement in 'Rent-A-Bank' Payday Lending Scheme," Press Release, November, 17, 2009, available at http://www.ag.ny.gov/media_center/2009/nov/nov17a_09.html.

⁸ National Consumer Law Center, *The Cost of Credit*, 4th ed.(2009), at 342.

⁹ National Consumer Law Center, *Stopping the Payday Loan Trap: Alternatives That Work, Ones That Don't*, June 2010, at 19.

Conclusion

We believe that creating a carve-out in New York's longstanding 25% usury law for short-term loans by check cashing establishments would create a dangerous loophole that could easily be only the beginning of high-rate loan products in our state. Studies show that the most effective way of protecting consumers against abusive lending is through a cap on the interest rate.¹⁰ In the past few years several states that previously exempted short-term lenders from existing double-digit interest rate caps, have rolled back the exemption, and some that had no interest rate caps on short-term loans, have imposed them.¹¹ It would be a shame for New York to go in the opposite direction. New York has always been in the forefront for its protections against unfair short-term loan products, and it should maintain that position.

Thank you for the opportunity to comment on this legislation. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Annie Ugurlayan
Chair, Consumer Affairs Committee

Janet Ray Kalson
Chair, Civil Court Committee

June 2011

¹⁰ *Small Loan Products Scorecard*, at 3.

¹¹ See Uriah King and Leslie Parrish, Center for Responsible Lending, *Payday Loans, Inc.: Short on Credit, Long on Debt*, March 2011, at 12. For example, New Hampshire recently enacted a 36% rate cap on payday loans.



Credit Union Association OPPOSES “Short Term Financial Services Loan Act”

The Credit Union Association of New York opposes S.3841 Farley/A.7047 Heastie, “The Short Term Financial Services Loan Act,” which would permit check cashers to provide consumers with short-term loans at rates exceeding New York’s usury cap. While the Association supports the goal of the sponsors to provide financing to persons who are facing hard times, the specific product, to be provided exclusively by check cashers, is not the way to further this objective.


Payday loans are among the most pernicious financial products in the financial services industry today. They typically provide cash to consumers who effectively use their upcoming paycheck as collateral. These loans are almost always offered with excessive interest rates. It is for this reason that these types of loans have been banned in New York State. This proposal would sanction many of the worst aspects of these types of loans. Most importantly, these loans would be attractive to persons most in need of financing and, as a result, would enable check cashers to provide such loans at rates far above those currently permitted by New York State law. In addition, this bill would entice consumers to enter a cycle of perpetually larger debt. Borrowers could refinance loans under this proposal, provided they do so only once.

While we have serious concerns with this bill, we are very cognizant of the fact that there are millions of New Yorkers in need of liquidity. As a result, the NCUA, which has jurisdiction over federal credit unions in New York, has authorized credit unions to provide short-term loans as an alternative to existing payday loans. This program is designed to create reasonable parameters for members so that they are only entering into loans that they can repay and do not get into an escalating amount of debt. A link to this program is available at http://www.ncua.gov/news/press_releases/2010/MA10-0916MatzPaydayLoan.pdf.

Unfortunately, this bill does not allow credit unions to offer viable alternatives to the short-term products offered through this legislation because only licensed check cashers are given authority to offer these types of loans.

Should you have any further questions, please contact Michael Lanotte at 518-437-8236.

Leading the Way

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NYPIRG OPPOSES

LEGISLATIVE MEMORANDUM NO: 58-11 CONTACT: Russ Haven PHONE: 518 436-0876

S.3841

IN SENATE, BILL NUMBER 3841. INTRODUCED BY SENATORS FARLEY, GRIFFO & KLEIN.

AN ACT to amend the banking law, in relation to enacting the "short-term financial services loan act"

SUMMARY OF PROVISIONS:

This legislation would amend the Banking Law to allow licensed check cashers to make loans from \$300 to the lesser of \$2,000 or 25% of the borrower's monthly gross income and repaid in 90-180 days. No scheduled repayment could be more than 10% of a borrower's gross monthly income. A borrower could refinance a loan once prior to the maturity date of the loan. The fees and charges would be set by the Superintendent of the Banking Department based on the rates charged by similar lenders in other states and allowing for reasonable profit by the lenders. The maximum rate of interest and fees that a lender could charge would be exempt from the state's civil and criminal usury laws. The Banking Department would be required to establish a database of borrowers and their loan status to be accessed by lenders to determine whether they could extend credit to a prospective borrower.

STATEMENT OF OPPOSITION:

1. This legislation would allow "pay day" style loans at some 400% APR, lending well above the state's criminal usury cap of 25%. This would be the proverbial "camel's nose under the tent" in terms of doing away with the state's usury laws.
2. The Banking Department has said that it opposes this legislation. The Banking Department has opposed similar schemes, such as attempts by payday lenders to begin lending in New York.
3. Senior, consumer and legal services advocates for low and moderate income New Yorkers oppose this legislation.

In such perilous economic times, the last thing that New York's most financially vulnerable need is to open the floodgates on predatory lending. New Yorkers fared comparatively better than other states in the financial meltdown because of the state's historic protections—like the usury cap, targeted by this legislation—and because it adopted legislation to *prevent* predatory lending within the parameters of federal law. This is no time for New York to reverse course and repeal its usury laws.

NEW YORKERS DO NOT NEED SHORT TERM LOANS AT 400% INTEREST RATES.

NYPIRG urges you to oppose this legislation.



SYRACUSE UNIVERSITY

COLLEGE OF LAW
OFFICE OF CLINICAL LEGAL EDUCATION

SIX REASONS WHY THE "SHORT TERM FINANCIAL SERVICES LOAN ACT" SHOULD NOT BE ENACTED

The bill (S. 3841/A. 7047) would open the floodgates to usurious payday lending. New York State, in its wisdom, has long banned the making of usurious short-term loans. The bill would gut the state's long-standing 25% interest rate cap on small, unsecured loans, by exempting check cashers from NYS's civil and criminal usury laws. This presents a dangerous and slippery slope. If New York permits check cashers to make these usurious short-term loans, the state will be hard pressed to ban payday lenders and other entities from doing the same.

The bill would allow check cashers to make loans with the worst characteristics of payday loans. Like payday loans, the loans would be short-term, carry triple-digit interest rates, and target working poor New Yorkers. The bill would permit check cashers to make loans without regard to people's ability to repay. There would be no underwriting of the loans to consider people's other debts and obligations – basic principles of responsible lending. Unlike banks, check cashers have no legal obligation to meet community credit needs.

Payday lending is an especially destructive form of credit. Like predatory mortgage lending, abusive short-term loans (like those proposed in the bill) threaten the financial well-being of communities. The destructive nature of payday lending is well documented. In states where payday lending is permitted, payday lenders have stripped billions of dollars in wealth from the working poor. Short-term loans that carry triple-digit APRs are designed to ensnare borrowers in a cycle of long-term, insurmountable debt.

The NYS Banking Superintendent would be required to set fees and interest for the loans at usurious rates. This requirement would be unprecedented. In an effort to mask the true cost of these loans, the bill does not specify the exorbitant rates or fees that check cashers would be permitted to charge. Rather, the bill would require the NYS Banking Department to set maximum fees and interest for these loans, and to base the fees and rates on those charged by similar (i.e., payday) lenders in other states. The bill would also require the Banking Department to ensure that interest and fees are high enough to guarantee a profit to the check cashers.

Passage of this bill would be a move in the wrong direction. New York has been a leader among states in consumer protections against abusive financial services and products. New York legislators would do great harm to low and moderate income communities, and would lower the bar nationally, by opening the door to a new wave of predatory lending in New York.

New York State should promote access to sound, affordable, fair credit. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner. The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices that gouge people.



Pratt Area Community Council

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MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: Pratt Area Community Council, 201 DeKalb Avenue, Brooklyn, NY 11205 vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

The regime contemplated by this bill is an untested, experimental, and highly dangerous approach, which shockingly *guarantees* a state-sanctioned profit for check-casher lenders, and risks opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.

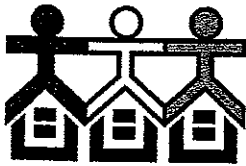
The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.



Long Island Housing Services, Inc.
640 Johnson Ave., Suite 8, Bohemia, New York 11716-2624
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www.LIFairHousing.org

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MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

Executive Director

Michelle Santantonio

Advisory Council

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Mildred Lewis
Robert W. Ralph
Nina J. Stewart, Esq.
Beth M. Wickey, Esq.

Consultant

Janet Hanson
Juana Cortes de Torres, Esq.

STATEMENT OF OPPOSITION: Long Island Housing Services, Inc. vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

The regime contemplated by this bill is an untested, experimental, and highly dangerous approach, which shockingly *guarantees* a state-sanctioned profit for check-casher lenders, and risks opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.



**A 501 (c) (3),
not-for-profit,
fair housing
agency serving
Long Islanders
since 1969.**

The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

Thank you for your responsible attention to the consumer concerns of your constituents.

Sincerely,



Michelle Santantonio
Executive Director

C: LI Delegates, NYS Assembly
Senator Owen H. Johnson 4th Dist.; Senator Carl L. Marcellino 5th Dist.

**MEMORANDUM OF OPPOSITION
THE LEGAL AID SOCIETY OF NEW YORK**

May 18, 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: The Legal Aid Society in New York City opposes S. 3841 / A.7047 because carving out an exception under the State's usury cap for short-term loans made by check cashers could potentially lead to the introduction of payday loans in New York—a major step back for New York consumers. We do not believe that this is the goal of the bill and we believe that there are alternative means for small dollar loans to consumers that should be explored to make such loans accessible to New Yorkers. Such alternative approaches would permit access to loans for consumers while maintaining the rigorous consumer protections that New York State has historically embraced.

The Legal Aid Society is the oldest and largest legal services provider for low-income families and individuals in the United States. The Society handles some 300,000 cases and legal matters for low-income New Yorkers with civil, criminal and juvenile rights problems annually. This includes more than 30,000 individual civil matters as well as law reform cases which benefit some two million low-income families and individuals. Through a network of ten neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and special projects, the Society's Civil Practice provides

comprehensive, direct legal assistance to low-income New Yorkers. In addition to individual assistance, The Legal Aid Society represents clients in law reform litigation, advocacy and neighborhood initiatives, and provides extensive back-up support and technical assistance for community organizations.

The Legal Aid Society represents low-income consumers who constantly face unethical practices, such as exorbitant interest rates, by unscrupulous creditors. Based on this experience, we have concerns that the bill in its current will be misconstrued as permitting payday lending in New York. Creditors and lenders have utilized abusive practices to target low-income communities of color, and these efforts will expand exponentially if payday lending is permitted. Payday lenders have long clamored to break into New York's lucrative market to advertise short-term loans.

There are good reasons why the practice of payday lending has been banned in 13 States, including New York. Payday lending involves small term loans that, if not paid back in full at the end of the term, are renewed, extended, or increased to pay off the first loan. The practice includes extensive fees for each transaction and exorbitant interest rates. If the lender deposits the check to repay the loan and there are insufficient funds in the borrower's account, the borrower is hit with even more fees and still owes the amount of the loan to the lender. Payday lenders alone have turned millions of small loans, most for \$500 or less, into a \$30 billion-a-year industry. A full three quarters of loan volume of the payday lending industry is generated by borrowers who, after meeting the short-term due date of the loan, must re-borrow before their next pay period. Among the over 80 percent of payday borrowers who conduct multiple transactions: (1) half of the new loans originate at the borrower's first opportunity (immediately or after a 24-hour or more

waiting period where required), (2) 87% of new loans are opened within two weeks, or generally before the next payday, and (3) only 6 percent of subsequent payday loans are taken out longer than a month after the previous loan was paid off. These grim facts highlight why payday lending is currently illegal in New York State.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In States where it is legal, payday lending has stripped billions of dollars in wealth from low- and moderate-income communities and from communities of color. In communities of color, payday lenders are three times as concentrated as compared to other neighborhoods. The industry claims that low-income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industry's behalf in States throughout the country.

By exempting check cashers from the State's long-standing 25% interest rate cap on small, unsecured loans under New York State's civil and criminal usury laws, the bill could be read to permit the New York State Banking Department to set maximum fees and interest rates comparable to the exorbitant fees and interest rates already being charged by payday lenders in other States. Payday lenders in other States typically charge more than 400% APR for their short-term loans. Under the bill, the Banking Department could be required to ensure that the fees and interest rates are high enough to

guarantee a profit for check cashers. The Banking Department has raised concerns that this could lead to payday lending.

We agree that the discretionary setting of interest rates with no cap on short-term loans can lead to the introduction of payday lending in New York State. Consumers who cannot pay off the first loan renew their loan and incur even more debt which they cannot pay off. Based on the foregoing, if the bill is going to move forward, we urge that it be made explicit that payday loans are not permitted by the legislation so as to preserve the State's current strong usury law.



Empire Justice Center

119 Washington Ave. ♦ Albany, NY 12210
Phone 518.462.6831 ♦ Fax 518.462.6687

www.empirejustice.org

Memorandum in Opposition

A.7047(Heastie)/S.3841(Farley)

New Yorkers Do Not Need Check Cashers as Lenders in New York

This bill would enact the "short-term financial services loan act." The bill would authorize check cashers to become lenders and make short-term consumer loans.

STATEMENT OF OPPOSITION

Empire Justice Center strongly opposes A.7047/S.3841, referred to as the "short-term financial services loan act." We believe the bill would create an unlevel playing field by allowing check cashers to make loans that are currently prohibited from being made by mainstream, regulated banks and credit unions. These prohibitions have protected New Yorkers from payday and other non mainstream lenders that prey on low income and struggling consumers by charging exceptionally high interest rates. The abuse of low-income consumers by the financial services industry is well documented and well known. At this point in time, we should be adding safeguards and protections, not opening a door which will lead to greater exploitation.

While this legislation is not specifically written as a traditional payday lending bill, the essence of the bill is exactly that. We strongly believe that this bill is a first foot in the door for the non-mainstream financial services industry to start making payday-like loans to consumers in New York. New York consumers are fortunate not to be experiencing the hardships that are well documented and experienced by consumers in other states as a result of payday lending. Congress has effectively equated payday lending with predatory lending and banned payday loans being made to military personnel. It makes no sense at all that at a point in time when policy makers, advocates and state agencies are pushing hard in other states to ban payday lending (such as in Washington and Illinois), that New York would sanction a similar product to be made within its borders.

Here in New York, we have a well-established financial services industry. Some community credit unions and banks already offer small-dollar short term loan products, the same products that the check cashers want to be able to make through this legislation. The mainstream lenders, however, make responsible short-term loans within our existing laws, laws put in place to protect New York consumers. It is wholly

unnecessary to license and allow check cashers to enter an industry which already exists and is well regulated. The ability to lend money should not be extended to check cashers.

Again, we believe this bill would create an unlevel playing field that would have a negative impact on traditional, responsible lenders and check cashers. The legislation would exclude check cashers from coverage under New York's interest rate cap for small dollar consumer loans. If passed, the bill would mean that check cashers could make small dollar loans at an interest rate above our state limit, while mainstream lenders adhere to our state limit. It is now known the detrimental impact that a two-tiered system of regulations had on the mortgage lending industry and on consumers. (In one respect, the responsible, well-regulated lenders were harmed by the practices of irresponsible and unregulated lenders, and in another respect, the actions of the irresponsible lenders lead to a great race to the bottom for the industry as a whole.) There is no rational reason to allow check cashers to come in and make loans under a separate set of guidelines than exists for traditional lenders. The potential for harm of a two-tiered system to consumers is great.

We strongly urge the legislature not to move forward with this legislation. The bill would have real implications for New York's lower-income consumers and could fundamentally alter consumer lending in our state. Instead, we recommend an independent study and examination of the extent of the need for small dollar short-term loans, and whether that need is currently being met by our existing lending community. If a real unmet need exists, the next step should be to work within our existing financial institutional system to create a responsible product that is not harmful to consumers. Allowing check cashers to start lending under an entirely new and separate set of guidelines should not be the next step.

There is no question that this legislation will hurt lower-income New Yorkers. As written, the legislation would allow a rogue financial services industry to profit from the most financially vulnerable segment of our state.

For these reasons, the Empire Justice Center strongly opposes this legislation and requests that instead, the NYS Legislature holds hearings and conducts meetings with consumers and advocates to determine the extent of the need and how the need can be met through our existing financial services industry. Check cashers should not become lenders so easily.

This memorandum was prepared by:

Kirsten E. Keefe, Senior Staff Attorney
(518) 462-6831, ext. 109
kkeefe@empirejustice.org
May 16, 2011 (updated)



OPPOSE

S.3841 (Farley)
A.7047 (Heastie)
May 16, 2011

MFY LEGAL SERVICES, a member of New Yorkers for Responsible Lending, provides advice, counsel and representation to hundreds of low-income, elderly and disabled New Yorkers faced with a variety of consumer issues, from predatory lending practices to abusive debt collection. **MFY vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York.** The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

The regime contemplated by this bill is an untested, experimental, and highly dangerous approach, which shockingly *guarantees* a state-sanctioned profit for check-casher lenders, and risks opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.

The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth

from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

Please contact Carolyn Coffey at (212) 417-3701 or Anamaria Segura at (212) 417-3707 with any questions.

The Health & Welfare Council of Long Island

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PAUL JUDE TONNA

Monday, May 16, 2011

Dear Senator Marcellino;

At a time when New Yorkers are struggling financially, we look to our leaders to promote economic development through safe financial practices and responsible lending. Thus far, New York has been a leader among states in consumer protections against abusive financial services and products; prohibiting predatory mortgages, high-cost check-cashing, and payday lending by passed one of the strongest laws in the country against predatory mortgage lending.

We understand that legislation S. 3841 / A.7047 which stands before you for a vote (1) would gut New York's longstanding ban on usurious small-dollar loans and (2) open the door to a new wave of predatory lending through the proposed exception under the State's usury cap for short-term loans made by check cashers. **The Health & Welfare Council of Long Island urges you to oppose S. 3841 / A.7047.**

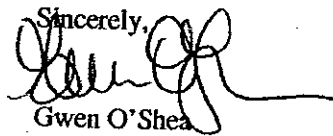
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The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in economic potential from its communities.

The legislation would significantly harm to low and moderate income individuals and families, specifically veterans, seniors and the disabled. On behalf of Long Island's most vulnerable, we thank you for your support in opposition!

Sincerely,



Gwen O'Shea
President/CEO

ABOUT HEALTH & WELFARE COUNCIL OF LONG ISLAND (HWCLI)

HWCLI is a regional planning, research/public education and advocacy organization

that serves as the umbrella for public and voluntary agencies serving Long Island's poor and vulnerable individuals and families.



United Way of Long Island



Advocacy and Independent Living Services for Individuals
With All Disabilities

497 State Street • Rochester, NY 14608
585-442-6470 (V/TTY) • fax 585-271-8558 • web www.rcil.org

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MEMORANDUM IN OPPOSITION

May 16, 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assembly Member Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: The Regional Center for Independent Living strongly opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The mission of the Regional Center for Independent Living (RCIL) is to empower people with disabilities to live independently, to advocate for themselves and to enhance the quality of community life for people with disabilities of all ages. The services and programs include peer counseling, information and referral, skills training and advocacy, assisting individuals to achieve their self-determined goals. We are especially concerned about the potential impact of predatory lending practices on people with disabilities, who often face difficult economic pressures and struggle against the effects of poverty.

The proposed bill masks the true cost of the loans involved by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

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The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.

The overwhelmingly destructive nature of payday loans has been well documented. The same threat would face those who live from Social Security Disability check to Social Security Disability check, whether or not the individual is able to maintain part time work as well. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from check to check, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities, people with disabilities, and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.



CAMBA
Legal Services

MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: CAMBA Legal Services, Inc. vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

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Genesee Co-op

Federal Credit Union

www.genesee.coop

395 Gregory Street
Rochester, NY 14620-1327
Phone: 585.461.2230
Fax: 585.461.3189

MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: **GENESEE CO-OP FEDERAL CREDIT UNION vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York.** The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

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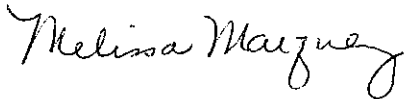
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The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Marquez".

Melissa Marquez
Chief Executive Officer
Genesee Co-op FCU

LEGISLATIVE MEMO:

WE OPPOSE



S.3841/Farley-A.7047/Heastie Check Casher Loans

District Council 37 opposes this bill because it would erode longstanding protections in New York against abusive short-term loans. This bill would open the door to costly loan products that in other states have proven to be costly and harmful to working people and low-income citizens.

This legislation professes to meet a need for short-term loans in New York and to provide an alternative to such products as overdraft protection and payday loans which gouge borrowers. In fact, the bill would lay the groundwork for just such products to enter New York. This legislation would create a two-tier system that would allow check cashers to bypass New York's 26% usury cap. There is no rational reason to allow check cashers to jump in and make loans under a separate set of guidelines than exists for traditional lenders.

In reality, our state already has a well-established financial services industry. Community credit unions and some banks already offer small-dollar short term loans, the same products that the check cashers want to be able to make through this legislation. However, check casher loans would be exempt from New York's existing usury rate cap, allowing them to market loans to ordinary citizens at exorbitant rates. Unquestionably, this legislation would result in harm to low-income and working New Yorkers and senior citizens.

New York has been a leader among states in protections against abusive and over-reaching financial services. There is simply no basis for the legislature to rush headlong in allowing such costly products to gain a foothold here. This bill would set a harmful, dangerous precedent that might only be the beginning of a type of ill-advised loan products that should not be allowed to enter our state.

On behalf of the 121,000 members of District Council 37 and our 50,000 retirees, we express our opposition to this legislation.

Wanda Williams, Director
Political Action and Legislation

Political Action and
Legislation Department

Wanda Williams
Director

Albany Address:

150 State Street, 5th floor
Albany, NY 12207-1682
Tel: (518) 436-0665
Fax: (518) 436-1066

May 16, 2011



MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047a

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: THE FINANCIAL CLINIC, a non-profit financial development firm that exists to promote financial security and improve financial mobility among working poor families in New York City, vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for all New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

The regime contemplated by this bill is an untested, experimental, and highly dangerous approach, which shockingly *guarantees* a state-sanctioned profit for check-casher lenders, and risks opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.

BUILDING FINANCIAL SECURITY AND IMPROVING FINANCIAL MOBILITY



The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.



Neighborhood Economic Development Advocacy Project

176 Grand Street, Suite 300, New York, NY 10013
Tel.: (212) 680-5100 Fax: (212) 680-5104
www.nedap.org

MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: NEDAP vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

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MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assembly member Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: RethinkingDebt.org vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

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The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of



Helping people reclaim financial health

Corporate Headquarters:
1000 University Avenue, Suite 900
Rochester, NY 14607
Phone 585.546.3440
Toll Free 888.724.2227
Fax 585.546.5693
Email RTD.info@rethinkingdebt.org

communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

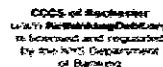
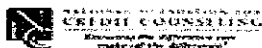
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The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

Regards,

Linda Howland
CEO



STATE WIDE

New York StateWide Senior Action Council, Inc.

275 State Street, Albany, NY 12210 • (518) 436-1006 • Fax (518) 436-7642

Toll-Free Patients Rights Helpline 1-800-333-4374

MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: New York StateWide Senior Action Council, Inc. vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

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Regional Chapters: Capital District ■ Finger Lakes ■ Long Island ■ Lower Hudson Valley ■ New York City ■ North Country ■ Rockland County ■ Western New York

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Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

BWICA EDUCATIONAL FUND, INC.

5901 13th Avenue
Brooklyn, NY 11219
(718) 686-1333
(718) 729-1807 Fax
maconsult@aol.com

MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: **Brooklyn-Wide Interagency Council of the Aging, Inc. vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York.** The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

The regime contemplated by this bill is an untested, experimental, and highly dangerous approach, which shockingly *guarantees* a state-sanctioned profit for check-casher lenders, and risks opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.

The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check

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Williamsburg-Greenpoint

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María Alvarez
Executive Director

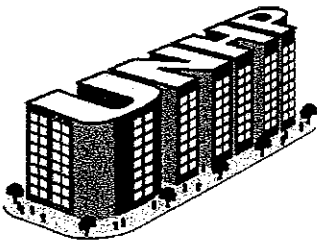
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Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.



UNIVERSITY NEIGHBORHOOD HOUSING PROGRAM

Working to Improve, Preserve, Create & Finance Affordable Housing

State Senator Gustavo Rivera
181 State Street, Room 408 LOB
Albany, NY 12247

District Office
2432 Grand Concourse, Suite 506
Bronx, NY 10458

MEMORANDUM IN OPPOSITION

May 17, 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: University Neighborhood Housing Program (UNHP) strongly opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York State. The proposed legislation would explicitly carve out an exception under the State's usury cap of 25% for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers. The impact of this in neighborhoods like the Northwest Bronx would be devastating.

UNHP is a nonprofit Community Development Financial Institution (CDFI) working on affordable housing issues in the Northwest Bronx for the past 28 years. Our extensive experience on housing and community reinvestment matters during the past three decades tells us that this bill is extremely dangerous for our neighborhoods and others like it throughout the state.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NY State Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers.

As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.

This bill presents an untested, experimental, and highly dangerous approach, by shockingly *guaranteeing* a state-sanctioned profit for check-casher lenders, and risking opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.

The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities of color such as the northwest Bronx, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York. We know how the last wave of predatory lending turned out, and should hopefully have learned some lessons.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

Sincerely,



Jim Buckley
Executive Director



Gregory Lobo Jost
Deputy Director



LOWER EAST SIDE PEOPLE'S FEDERAL CREDIT UNION

MEMORANDUM IN OPPOSITION

May 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: **The Lower East Side People's Federal Credit Union vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York.** The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

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As a 25 year old community development credit union, we have extensive experience in serving the borrowing needs of low income New Yorkers. Among our loan products we include an anti-predatory payday-type loan, with an interest rate of 18% -- the

maximum interest we charge. One of the conditions for this loan is financial counseling. Our counselors teach these members how to create a workable budget based on their income and bring their debt level under control. Unlike the payday lending industry, our goal is to move the borrower away from the short-term lending model and into the more conventional (and fair) consumer loans.

As we know from our own experience, low income New Yorkers do not desire access to high-cost short term loans. They desire – and deserve—access to the same capital resources as higher income New Yorkers. This bill stands against everything we and other community development financial institutions have been struggling to create since we opened our doors – non-discriminatory access to capital.

The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

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IBERO-AMERICAN DEVELOPMENT CORPORATION

MEMORANDUM IN OPPOSITION

May 18, 2011

BILL NUMBER: S.3841 / A.7047

SPONSORS: Senator Farley / Assemblymember Heastie

TITLE OF BILL: Enacts the "short-term financial services loan act"; authorizes licensed cashers of checks to provide short-term loans under certain circumstances.

STATEMENT OF OPPOSITION: Ibero-American Development Corporation vehemently opposes S. 3841 / A.7047, which would gut New York's longstanding ban on usurious small-dollar loans, and open the door to a new wave of predatory lending in New York. The proposed legislation would explicitly carve out an exception under the State's usury cap for short-term loans made by check cashers. It could thus make usurious loans such as payday loans legal in New York—a major step backward for New York consumers.

The bill masks the true cost of these loans by failing to specify the maximum interest rates or fees that check cashers would be permitted to charge. In fact, the bill would require the NYS Banking Department to permit maximum fees and interest rates comparable to the exorbitant fees and triple-digit interest rates already being charged by similar lenders—i.e., payday lenders—in other states. Payday lenders in other states typically charge more than 400% APR for their short-term loans. Incredibly, the bill would also require the Banking Department to ensure that the fees and interest rates are high enough to guarantee a profit for check cashers. *As a result, the Banking Department would be required to permit check cashers to charge triple-digit APRs on these loans.*

The regime contemplated by this bill is an untested, experimental, and highly dangerous approach, which shockingly *guarantees* a state-sanctioned profit for check-casher lenders, and risks opening the floodgates to a host of abusive products, such as payday loans. No state in the country has adopted such a reckless approach, and New York should not be the first.

The industry claims that low income New Yorkers who live paycheck to paycheck desire access to high-cost short term loans, widely citing a flawed and inconclusive study by Cypress Research Group. In fact, Cypress Research has a long-standing relationship with the check cashing and payday lending industries, having conducted many industry-funded surveys and testified on the industries' behalf in states throughout the country.


The overwhelmingly destructive nature of payday loans has been well documented. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being of communities. In states where it is legal, payday lending has stripped billions of dollars in wealth from low and moderate income communities and from communities of color.

The fact that many New Yorkers are struggling financially, having trouble getting from paycheck to paycheck, does not justify the legalization of exploitative lending practices. New York has been a leader among states in consumer protections against abusive financial services and products, prohibiting predatory mortgages, high-cost check-cashing, and payday lending. In 2008, New York passed one of the strongest laws in the country against predatory mortgage lending, because legislators believed that mortgage companies should not be permitted to take advantage of the most economically vulnerable New Yorkers.

Today, legislators would do tremendous harm to low and moderate income communities and communities of color, and would lower the bar nationally, by eviscerating consumer protections and opening the door to a new wave of predatory lending in New York.

The New York legislature should preserve the integrity of the state's strong usury law. Instead of rolling back critical consumer protections, the NYS legislature should affirmatively promote community development financial institutions and other responsible lenders that are in the business of meeting community credit needs in a safe and non-discriminatory manner.

Respectfully,

A handwritten signature in black ink, appearing to read 'Eugenio Marlin', with a stylized flourish at the end.

Eugenio Marlin
President and CEO