

**Testimony of Troy McCullen**  
**House Financial Institutions and Consumer Credit Subcommittee**  
**April 2, 2009**

Good afternoon, Mr. Chairman and members of the Committee. My name is Troy McCullen and I own the largest small loan company in Louisiana and operate 30 locations. I am also president of the Louisiana Cash Advance Association and working closely with the Louisiana Legislature and the Office of Financial Institutions helped draft and pass the laws under which we operate. Our laws are working, and I want to offer you information that will help you in your decision-making process.

From the beginning, we had two specific goals in mind – provide structure to a service that customers need and want, and implement tight consumer protections. All lenders are licensed, regulated and extensively audited by the Office of Financial Institutions, and I believe we have one of the best consumer protection laws in the country. If you want a national standard and want to implement something that will work, implement Louisiana’s law.

As with any new industry, ours has certainly had its problems, and there are bad operators in every industry. But with lots of hard work things are leveling out, and in Louisiana the number of lenders is actual dropping. This phenomenon happens in every new industry, and is the way our country’s free market system works. Businesses rise and fall based on consumer demand. I believe we will continue to see downward adjustments and consolidations in the future.

## Louisiana Law:

- Provides for full disclosure of all fees and terms on the promissory note including APR,
- Prohibits companies from accepting fees to rollover, flip or renew a loan. This is one of my hot buttons, and our law keeps consumers from getting into a cycle of debt,
- Allows for the collection of reasonable attorney's fees and court costs, and
- Mandates the posting of a fee schedule and OFI's 800 number.

The maximum fee allowed on a cash advance in Louisiana is 16.75% of the face of the check. This means when someone borrows \$100.00, the fee is \$20.00. If they borrow \$200.00, the fee is \$40.00. No compounding, no excessive fees. There is a \$45.00 fee cap, and like other lenders we are allowed a \$5.00 documentation fee.

If a customer defaults, we are allowed to charge 36% for the first year and 18% thereafter. There are VERY few complaints. In fact, Louisiana had over 4.1 million transactions in 2008 and regulators received only 24 complaints which is statistically non-existent. Of those 24 complaints, only two pertained to excessive fees.

While we are an open book and disclose all fees in the promissory note, I believe we should be taken out from under the Truth in Lending requirements. Ours is a fee based business, and APR should not apply. Money is just like any other commodity, and applying APR to our business skews reality and is illogical. I compare our business to an AAA Rental store. You can buy a hedge clipper at Home Depot for \$100.00 or you can rent it from AAA for \$20.00. Our customers rent the same way. It's just our product is money, and they pay a fee for the

convenience. If they do not need our service, they will not come in. An example of how someone would use our service is if they bounce three \$50.00 checks, the total fees can exceed \$150.00. If the same person borrows \$150.00 from one of our stores, the fee is around \$30.00. \$150.00 vs. \$30.00.

Defaults are a constant problem. If a \$300.00 loan customer charges off, seven other customers must pay in order for us to break even. Louisiana's law could be better by allowing us to reduce or control bad debt in a better way. Some states have implemented a database which allows only one or two loans per customer at a time. I am not in favor of the database, but controlling consumer bad debt is a benefit. We use TeleTrack to track negative data, and if a customer has more than one loan, we will not loan to them. If they have charged off somewhere else, we will not loan to them. The consumer groups want you to believe that we are trying to put people deeper into debt, when in actuality we want our customers to pay and not default.

Perception vs. Reality. The consumer groups have done an excellent job of spreading misinformation, and I've realized that perception can become reality when repeated enough times. But the horror stories you see in the newspapers and on television are not reality in Louisiana. And for the record we are not predatory as there is nothing to take away. Again, the consumer groups are spreading incorrect information, and they know it. Predatory lending applies only to the mortgage business. It has nothing to do with rates or fees or APR. If it did, every NSF fee would be considered predatory.

According to the recently released FDIC Study of Bank Overdraft Programs an average \$66.00 check that bounces and is repaid in two weeks incurs an APR of over 1,000%. A \$60.00 ATM overdraft that is repaid in two weeks incurs an APR of over 1,100%. ATM overdrafts and NSF overdrafts paid by the bank for their customers are extensions of credit. I'm not suggesting that you apply APR to

these extensions of credit, but my point is if you apply APR to us, then the same should be applied to them. If you exempt them, we should also be exempt because we too offer a fee based service.

While the rate appears not to be a big deal, it will have a detrimental effect on our industry. I believe this bill could put many of the lenders in my state out of business. If that occurs, you will not only swell the unemployment lines, but the availability of credit will be restricted and ultimately you will hurt those you are trying to help. We should be expanding credit these days, not restricting it.

I respectfully request that you defeat this bill in its current form or alter it to mirror the Louisiana law, which allows for \$ .20 per \$1.00 plus a documentation fee. Thank you.