



LE G A L
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INCORPORATED

OPPOSE Short-Term Financial Services Loan Act

April 22, 2013
S.3999-A-Farley
A.1113-A-Heastie

MFY Legal Services, Inc. (MFY) envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 8,000 New Yorkers each year. Specifically, MFY'S Consumer Rights Project provides advice, counsel, and representation to low-income New Yorkers on a range of consumer problems. MFY, a member of New Yorkers for Responsible Lending, **adamantly opposes S.3999-A/A.1113-A, which would gut New York's longstanding usury prohibition and open the door to a new wave of predatory lending in New York.** The bill would exempt New York check cashers from the state's usury protections and permit them to make high-cost, unsafe, small-dollar loans. Passage of the bill would also risk opening the floodgates to a host of abusive and usurious products, such as payday loans – a major step backward for New Yorkers and New York communities.

The bill seeks to hide the fact that the loans would clearly violate New York's usury law. The bill, as recently amended, tries to mask the true cost of these short-term loans by misleadingly separating the fees that check cashers would be permitted to charge from the allowable interest. The definition of usury under New York's usury law, however, clearly includes *both interest and fees*. Even if check cashers made short-term loans with *interest* rates at 25%, the *annual percentage rate* of the loans, given the list of fees set forth in the bill, would be as high as 204% – more than eight times the state's usury limit. The amended bill continues to include a provision that would categorically exempt check cashers from the state usury law when making these loans.

The bill would harm, not help, individuals and families. Like payday loans, the loans contemplated would be short-term, carry triple-digit interest rates, and be made 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. Like predatory mortgage lending, the abusive short-term loans proposed in the bill would threaten the well-being of communities. Despite industry claims of offering a quick financial fix, these loans are designed to ensnare borrowers in a cycle of long-term, often insurmountable debt. The cycle also leads to ruined credit, in turn impeding people's ability to secure housing and jobs, and other economic opportunity.

High-cost, short-term loans harm neighborhoods and communities, and undermine economic development. Like predatory mortgage lending, abusive short-term loans threaten the financial well-being not only of individuals and families but of entire 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. Low income New Yorkers driven into debt by these loans will have even less discretionary income to spend locally.

New York regulators are cracking down on illegal Internet payday lending and illegal attempts by debt collectors to collect on payday loans made in New York. S.3999-A/A.1113-A would directly undermine existing efforts in New York to crack down on abusive, short-term lending. Some bill proponents claim that S.3999-A/A.1113 is necessary because payday lenders are soliciting New Yorkers through the Internet. This argument makes no sense as a matter of public policy and is clearly a red herring. According to Pew Charitable Trusts: “In states with strong legal protections, the result is a large net decrease in payday loan usage; borrowers are not driven to seek payday loans online or from other sources.”

In February 2013, the NYS Department of Financial Services issued a strongly worded letter to New York debt collectors, reminding them that it is illegal to collect on payday loans made to people in New York, because payday lending is itself illegal. Recent press reports underscore the illegality of Internet payday loans made to people in New York and that state regulators are investigating and mounting enforcement actions to crack down on these illegal lending practices.

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 New Yorkers. Advocates around the country increasingly recognize that the answer to people’s income shortfalls should not be facilitating unfair and abusive lending, and that sound policymaking in this area should focus instead on promoting a living wage, savings, and responsible lending.

The New York legislature should preserve the integrity of the state’s strong usury law. 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. 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.

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