Woodstock Institute

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September 9, 2008

Mr. Craig Cellini
Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, IL 62786

Re: **Proposed Amendments to Consumer Installment Loan Act [205 ILCS 670]**

Dear Mr. Cellini:

I am writing you from Woodstock Institute on behalf of the Monsignor John Egan Campaign for Payday Loan Reform to comment on the proposed amendments to the rules implementing the Consumer Installment Loan Act. Woodstock Institute supports many of the changes proposed by the Illinois Department of Financial and Professional Regulation, but would like to take this opportunity to suggest several changes that we believe will protect consumers from abuses common to the automobile title loan industry.

Woodstock Institute is a 35-year-old applied research, policy development, and advocacy organization working to increase access to fairly priced financial products and services in lower-income communities and communities of color. The Institute is also a member of the Monsignor John Egan Campaign for Payday Loan Reform, a statewide coalition of consumer and community groups working to bring safe and affordable consumer credit to Illinois borrowers. The campaign was convened by the late Monsignor John Egan in 1999 after hearing the story of one of his parishioners who was victimized by a payday loan. Monsignor Egan was outraged at the story and took on payday loan reform as one of his last fights for social justice. Monsignor Egan convened a group of religious leaders, consumer advocates, public interest organizations, and social service organizations forming the Campaign for Payday Loan Reform. The Campaign was renamed after Monsignor Egan on October 2, 2001.

As a leading researcher of consumer lending issues in the country, Woodstock Institute has worked hard to protect consumers from the problems associated with high cost consumer credit, particularly title, payday, installment, and credit card loans. Over the past ten years, Woodstock has authored several in-depth research reports on high cost consumer credit in Illinois, making the case for strong consumer protections in Illinois and throughout the country. Using the findings from these reports, Woodstock Institute's staff was actively engaged in the initial passage of the short-term, title-secured lending limits subject to these proposed amendments.

Recently, Woodstock Institute, in conjunction with the Public Action Foundation, released a first-of-its-kind analysis of the terms and conditions of automobile title loans in Illinois. Entitled *Debt Detour: The Automobile Title Lending Industry in Illinois*, the report detailed the high-cost repeated refinancing, and insurmountable balloon payments common to short-term title-secured loans made in Illinois. We believe that the proposed amendments are a step in the right direction, but would like to take this opportunity to suggest several changes that we believe will protect consumers from common abuses, including many of those uncovered by our past research.

1. **Woodstock Institute supports the elimination of the 60-day limit from the definition of a short-term, title-secured loan.**

   In 2001, state financial regulators adopted strong consumer protections for title loans with terms of less than 60 days which, according to Woodstock Institute's research, have been ignored or circumvented by automobile title lenders.

   Currently, the average title loan in Illinois has a term of 209 days, long enough to ensure that it would not be subject to the rules as currently written.[1] Rather than changing this threshold to reflect the average loan length, Woodstock Institute strongly supports the proposed amendment which eliminates the use of loan term as the threshold for the applicability of additional consumer protections under the Consumer Installment Loan Act. The problems associated with using loan term to define a loan are well documented. Previous Woodstock Institute research has documented the practice of extending payday loan terms beyond the 120 day threshold to evade the consumer protections provided by the Payday Loan Reform Act.[2]

2. **Woodstock Institute opposes increasing the maximum automobile title loan principal if lenders are no longer required to index the loan amount to the borrower's income.**

   The proposed amendment allows loans based on the value of the collateral rather than the borrower's ability to repay. The median Illinois title loan is $1,500, however, it is not uncommon to see loans in excess of both the current $2,000 cap and the proposed $4,000 cap, since title loans are typically indexed to the value of the automobile used as collateral. While increasing the maximum principal permits these larger loans to be originated based on the value of the collateral, the rules as proposed do not require a lender to consider the borrower's ability to meet the monthly payments of the loan. Woodstock strongly encourages the Department to maintain the limit on monthly principal and interest payment at 50 percent of the borrower's monthly income intact.

3. **In addition to the changes provided in the proposed amendment, Woodstock Institute respectfully requests that the department add the following eight consumer protections to protect borrowers from common industry abuses:**

   a. **The consumer protections provided by the proposed amendment should be enforced by a consumer reporting service.**

      The current rules limit lenders from originating a title loan to a borrower who has taken an outstanding title loan in the past 15 days or from refinancing an existing title loan more than two times. Borrower self-certification is insufficient and does not provide the lender with the ability to

[1]Feltner, Thomas. 2007. *Debt Detour: The Automobile Title Loan Industry in Illinois.* Chicago, IL: Woodstock Institute, November 13. p. 5.

[2]Feltner, Thomas, and Sarah Duda. 2008. *The Illinois Payday Loan Loophole.* Chicago, IL: Woodstock Institute, April.

see if the borrower has outstanding obligations tied to the car title that might prevent the borrower from satisfying the obligation or the lender from collecting the debt. Borrower self-certification also does not prevent the origination of loans in violation of rules, and puts the burden of oversight on state examiners charged with reviewing loan-by-loan documentation.

b. **Balloon payments on short-term, title- secured loans should be prohibited.**

Automobile title loans in Illinois almost always structured as interest-only loans with a large balloon payment due at the end of the term. Over 93 percent of the cases reviewed as part of a recent report involved loans structured in this manner. Just three percent of the cases involved fully amortizing loans – or loans where the principal and interest are paid down in equal, periodic installments. While balloon payment loans may initially offer borrowers lower monthly payments, the balloon payment of the entire principal could encourage default or renewal.

c. **The proposed amendment should require reasonable repossession procedures.**

d. **The proposed amendment should include a borrower's right to surplus.** In cases where loan default leads to repossession and sale at auction, the borrower should be entitled receive any proceeds in excess of the outstanding loan balance.

e. **The proposed amendment should allow borrowers to cancel an automobile title loan within three days at no cost.**

f. **The proposed amendment should prohibit the collection of post-default interest.**

g. **The proposed amendment should prohibit the collection of attorney's fees.**

h. **The proposed amendment should prohibit mandatory arbitration clauses that are oppressive, unfair, unconscionable, or substantially in derogation of the rights of consumers.**

Woodstock Institute appreciates the Illinois Department of Financial and Professional Regulation's leadership on this issues and its ongoing role in protecting borrowers choosing to use automobile title loans. In addition to the changes in the proposed amendment listed, we strongly encourage the Department to consider the eight additional protections we believe are critical to ensuring borrowers receive a fairly priced loan that they are able to repay. Please contact me at 312/368-0310 for more information.

Sincerely,

Tom Feltner
Policy and Communications Director

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Attachment