

Testimony of Ed Sivak
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Before the Mississippi House of Representatives
Banking and Financial Services Committee

“Payday Lending Hearing”

January 10, 2010

Good afternoon Chairman Flaggs and members of the committee. Thank you for holding the hearing on payday lending and for allowing me to testify.

I serve as the Senior Vice President of Policy for the Hope Enterprise Corporation (HOPE) www.hope-ec.org, a nonprofit community development finance institution that also sponsors Hope Federal Credit Union. For sixteen years, HOPE has worked to break the cycle of poverty throughout Mississippi and the Mid South by undertaking a wide range of income and asset development strategies to benefit the region’s low- and moderate-income residents. In total, HOPE has generated \$1.4 billion in financing and investments for over 75,000 small business owners, homeowners and working families.

I am also the Director of the Mississippi Economic Policy Center (MEPC) www.mepconline.org. An initiative of HOPE, MEPC engages in rigorous and accessible analysis that informs the policy debate on issues affecting the economic and social well being of Mississippi’s working families.

Payday Loan Regulations Create Challenges for Working Families and Unlevel Playing Field for other Lenders

According to information collected from Mississippi’s Southern District Bankruptcy Court, the most recent data show that there were 5,103 Chapter 13 bankruptcy claims associated with payday lending. The number of bankruptcies with a relationship to payday lending suggests that Mississippi’s law creates problems for families and the businesses left waiting for outstanding payments from the individuals filing claims.

One reason for the high number of bankruptcies includes the structural deficiencies of the product. Both the high fees and the short repayment term make the product unsustainable for many working families. Provisions in the Mississippi Check Casher Act allow check cashers that offer delayed deposit, or a payday loan, to charge fees that amount to 572.26% interest on a payday loan due in 14 days. Hence, on a \$200 loan, a borrower must pay \$43.90 in fees for a total payment of \$243.90. As a result, borrowers take out multiple payday loans over the course

of the year. Multiple sources estimate approximately 7-9 payday loans are taken out by borrowers annually.¹

Table 1 illustrates how borrowers could find themselves in a situation where they would need to take out additional payday loans after the initial loan.

Table 1	
Borrower earning \$35,000 a year, taking out \$300 payday loan @ \$21.95 per \$100 borrowed	
Take home pay (assumes borrower is paid every 2 weeks after taxes)	\$1,344
Payday loan (\$300 principal, 65.85 fees)	(\$365)
Remaining Paycheck	\$979
Basic living expenses	\$1,107
Shortfall	(\$128)
Source: Center of Responsible Lending; MEPC Analysis	

One response to criticisms regarding Mississippi’s high fees is that lenders are pricing for risk. Since the payday loans are not underwritten – credit scores and ability to repay are not taken into account when making a loan decision – lenders need to be compensated for risk incurred from the transaction.

As this response is evaluated, readers should keep in mind that payday lenders secure access to a borrower’s bank account either through a post dated check or through electronic access. In essence, through these means, the payday loan is repaid before other bills.

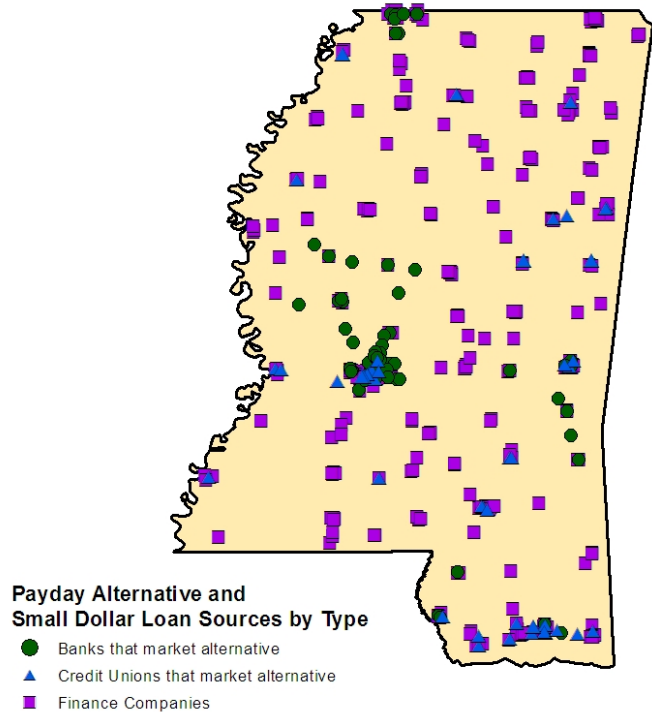
Other Issues for Consideration

Proponents of payday lending typically cite concerns over the potential harm to families that lack alternatives and potential loss of payday lending jobs. A review of the experience in other states that have reverted back to existing usury laws to cover payday lending suggests that Mississippi’s families would navigate the changed financial landscape and that many of the existing entities that formerly offered payday loans would be able to remain open.

Alternatives exist; families find ways to make ends meet

One of the criticisms often raised of efforts to reform existing payday lending laws is that alternatives do not exist and that families will be worse off than with the high fee product. An assessment of small dollar loan options in Mississippi reveals that there are nearly 600 banks, credit unions and finance companies that either market an alternative to payday lending or that offer small dollar loans. These credit options are located in 75 counties where 98% of the state’s population resides. The map below provides a quick snapshot of the dispersion of lenders throughout the state of Mississippi.

Payday Loan Alternatives and Small Dollar Loan Finance Companies Mississippi



Source: Mississippi Automated Resource Information System; Mississippi Department of Banking and Consumer Finance; BankPlus; Mississippi Credit Union League; MEPC Analysis.

Note: List may not include all banks and credit unions that offer alternative. List of Finance Companies includes all finance companies registered with the Department of Banking and Consumer Finance.

Additional research from North Carolina's experience shows that following the end of payday lending in North Carolina that families were not worse off. Seventy-seven (77.2%) percent of families survey stated that the prohibition of payday lending in North Carolina had no effect on their household. An additional fifteen percent (15.6%) of families indicated that their households experienced a positive effect. Only 7.3% reported a negative effect.ⁱⁱ

Job predictions are likely overstated

Another issue often raised in payday lending debates includes the premise that a common rate cap used by all lenders will result in the close of payday lending stores and a subsequent loss of jobs. However, in Mississippi, all entities that offer payday loans are also licensed check cashers. Many of the stores that offer payday loans offer an array of products – cashing checks, title loans, and money orders. Those businesses that are diversified will likely stay in business. Others will innovate – thus mitigating the effect of the policy change on jobs.

Arizona offers a case study. Following the sunset of the payday lending law in Arizona this summer, 214 licensees switched their license to become an auto title lender.ⁱⁱⁱ Most stores that offered payday lending had other ways to generate revenue, to remain in business and keeping people employed.

Additionally, reviews of industry write-ups on employment characteristics reveals that the quality and stability of payday lending jobs is questionable. The Advance America Prospectus states:

“In the year ended December 31, 2003, the turnover among our payday cash advance center managers was approximately 46% and among our other payday cash advance center employees was 92%.”^{iv}

Recommendations

In light of the structural deficiencies of the products created that are legal under the current law and the experience of families and alternative financial service providers in other states where payday lending reform has taken place, Mississippi has the opportunity to also implement reform. If the sunset of the current law is not an option due to the ongoing and difficult debate surrounding payday lending in Mississippi, new legislation that drops interest rates to double digits and extends the term for repayment to ninety days would represent a significant improvement over the current law.

Finally, there is currently no mechanism in place to enforce consumer protections in real time. While Mississippi prohibits lenders from making multiple loans to borrowers with outstanding balances, there is no way to track and prevent this practice from happening. Any reauthorization of this law that keeps payday lending legal in the state should require a statewide system to hold lenders accountable for following the law.

i King, Uriah, Leslie Parrish and Ozlem Tanik. “Financial Quicksand”. Center for Responsible Lending. Washington, DC. November 30, 2006.

ii Manturuk, Kim and Roberto Quercia. “North Carolina Consumers After Payday Lending: Attitudes and Experiences with Credit Options.”

Center for Community Capital. University of North Carolina at Chapel Hill. November 2007.

http://www.ccc.unc.edu/documents/NC_After_Payday.pdf Note: The Community Financial Services Association of America challenged the findings of this study noting that only a small number (23) of the people surveyed were payday loan customers and that of those 23 only 5 said that the prohibition had a positive effect on their household. The Center for Community Capital stood by the findings of their study. Their response to the challenges can be found at <http://www.ccc.unc.edu/documents/ResponseToCFSA.pdf>

iii Interview with Kelly Griffith, Deputy Director Southwest Center for Economic Integrity citing data provided by the Arizona Department of Financial Institutions. January 7, 2011.

iv Advance America Prospectus, filed 12/17/2004.