

# **Time for Ohio legislature to fix the state's payday lending loophole**

**By Sheryl Harris, The Plain Dealer**

**April 18, 2010, 12:00AM**

The map says it all.

When voters in 87 of Ohio's 88 counties said they wanted a 28 percent cap on payday loans, that should have stopped high-priced lending in Ohio.

That vote should have ended payday lenders' practice of charging consumers 391 percent annual interest to borrow money against their next paychecks.

Instead, payday lenders started really soaking their cash-poor customers. They now charge something more like 680 percent.

If the old payday loans were dangerous, these new payday clones are toxic.

Last week Rep. Matt Lundy, an Elyria Democrat, introduced yet another version of a bill to sew up payday lending loopholes. A few Republican upstarts led by Bill Coley of West Chester immediately tried (but failed) to shove the bill out of committee with a "no" vote while their Democrat colleagues were out of the room. Potty breaks apparently aren't safe in a democracy.

Since one of their own, Gerald Stebelton, a Republican from Lancaster, is a co-sponsor, the attempted stunt doesn't bode well for the bi-partisan effort.

Democrats haven't exactly been united on the issue either.

After a few contributions to the Ohio Legislative Black Caucus, Checksmart persuaded the largely Democratic group to lend its name to a statewide series of financial literacy workshops led by the payday lender. That's like co-sponsoring a "healthy eating" seminar with McDonald's.

Payday lenders established a beachhead in Ohio in 1995, when the General Assembly granted them an exemption from the state's usury law. In 2008, the legislature voted to end that exemption because the quick, two-week turnaround for repayment meant that consumers who lived paycheck to paycheck -- the market for these loans -- often fell deeper into debt trying to pay the expensive loans off.

When payday lenders took the issue to the ballot, Ohio voters backed the legislature and said they wanted loans capped at 28 percent. But payday lenders found a way around the people's will.

The check lenders evaded the interest cap by ignoring short-term loan licenses. Instead, they got mortgage licenses and small loan licenses that were never intended to shelter purveyors of quickie loans.

As a result, they can charge more. They even began giving customers loans not in the traditional form of cash, but as checks that they then charged additional money to cash. Using the creativity they've displayed in other states that have tried to rout out predatory lending, at least eight payday lenders have become licensed as "credit services organizations," which allows them to charge even more for hooking customers up with loans.

That's outrageous. Credit service organizations are supposed to be groups -- like Consumer Credit Counseling Service -- that help consumers climb out of debt.

Lundy's first attempt to close the payday lending loophole was, as it turned out, too big to pass. When Lundy unveiled the bill, even longtime payday foes like house minority leader Bill Batchelder, a Medina Republican, suggested it was a boulder-sized fix for a basketball-sized loophole.

Last week, Lundy introduced a pared-down version. HB 486 would bar lenders from:

- Charging fees to cash the checks they issue.
- Charging origination fees more than once every 90 days for loans of \$1,000 or less.
- Skirting fee limits by acting as credit service organization.

It's not perfect. Allowing origination fees means that customers who take out payday loans could still see what amounts to triple-digit interest rates at least once every three months. (David Rothstein of Policy Matters Ohio estimates that on smaller loans, customers will probably pay somewhere around 200 percent annual interest.)

But HB 486 would prevent the 680 percent APR on loans and get rid of some of the more outrageous practices used to circumvent Ohio lending law. By limiting the opportunities to charge fees, the bill could give consumers who turn to this very expensive form of credit a fighting chance to pay off their loans. More importantly, the bill -- which Batchelder describes as "short and clean" -- has a chance to pass.

It's possible legislators will weaken even this simple bill. They could simply refuse to take any action to shore up Ohio law. But 64 percent of Ohio voters said they wanted payday lending curbed. The measure carried in every county except for tiny Adams, in southern Ohio. The message to legislators is clear.

Eventually, if Congress decides to create a new Consumer Financial Protection Agency with the power to oversee payday lenders, Ohioans could see the feds set rules to ensure a fair marketplace.

But what an embarrassment for Ohio that would be. This state cannot allow its laws to be flouted.