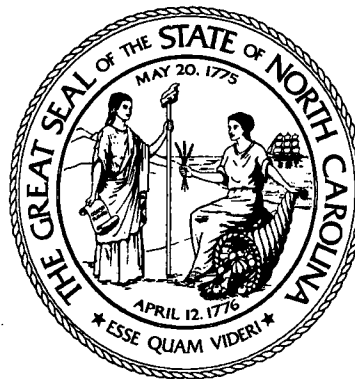


**2010**

**JOINT LEGISLATIVE  
STUDY COMMISSION  
ON THE  
MODERNIZATION OF  
NORTH CAROLINA  
BANKING LAWS & THE  
CONSUMER FINANCE  
ACT**

**MINUTES**

**Joint Legislative Study Commission on the  
Modernization of North Carolina Banking Laws  
and the Consumer Finance Act**



***REPORT TO THE 2010  
REGULAR SESSION  
OF THE  
2009 GENERAL ASSEMBLY  
OF NORTH CAROLINA***

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STATE OF NORTH CAROLINA

JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH  
CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT

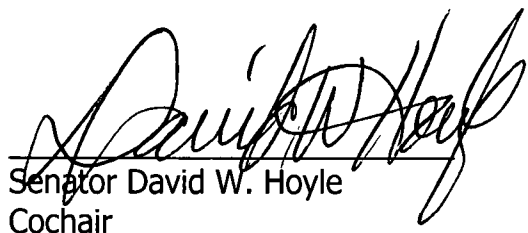


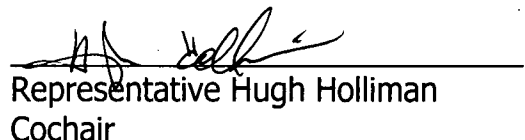
April 27, 2010

TO THE MEMBERS OF THE 2010 REGULAR SESSION OF THE 2009 GENERAL ASSEMBLY  
OF NORTH CAROLINA:

Attached for your consideration is the report to the 2010 Regular Session of the 2009 General Assembly of North Carolina. This report was prepared by the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act.

Respectfully submitted,

  
\_\_\_\_\_  
Senator David W. Hoyle  
Cochair

  
\_\_\_\_\_  
Representative Hugh Holliman  
Cochair

# **2009 JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT**

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## COMMISSION AUTHORIZATION

**S.L. 2009-574**

### **PART XLVIII. JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT (H.B. 1341 – Holliman, Brubaker)**

**SECTION 48.1.** There is created the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act. The purpose of the Commission is to determine whether and to what extent the North Carolina Banking Laws and the Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes) need to be updated.

**SECTION 48.2.** The Commission shall consist of 16 members as follows:

- (1) Five members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate, appointed by the President Pro Tempore of the Senate.
- (3) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the Speaker of the House of Representatives.
- (4) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the President Pro Tempore of the Senate.

**SECTION 48.3.** The Commission shall have two cochair, one designated by the Speaker of the House of Representatives and one designated by the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the cochair. Any vacancy on the Commission shall be filled by the original appointing authority. A quorum of the Commission shall be a majority of its members.

**SECTION 48.4.** The Commission shall study the following issues related to the modernization of the North Carolina Consumer Finance Act:

- (1) The increase in costs of operations for the consumer finance industry and its impact on the delivery of products to the public.
- (2) The maximum dollar amount that can be lent to an individual consumer.
- (3) The appropriate rate of interest and fees to be charged for each level of consumer transaction.
- (4) Strategies for increasing consumer protection and disclosure.

**SECTION 48.5.** The Commission also shall study any issue related to the Banking Laws of North Carolina that the Commission deems appropriate.

**SECTION 48.6.** Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.



All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

**SECTION 48.7.** The Commissioner of Banks shall use up to twenty-five thousand dollars (\$25,000) of the funds available to the State Banking Commission for the 2009-2010 fiscal year to fund the study authorized by this act.

**SECTION 48.8.** The Commission shall report the results of its study and its recommendations, including any proposed legislative changes, to the 2010 Regular Session of the 2009 General Assembly. The Commission shall terminate on May 1, 2010, or upon the filing of its final report, whichever occurs first.

## **COMMISSION PROCEEDINGS**

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act held 4 meetings between January 27, 2010 and April 27, 2010.

### **January 27, 2010**

#### **Review of Commission's Charge**

Ryan Blackledge, Commission Co-Counsel

#### **A Review of the Legislative History of the NC Consumer Finance Act**

Karen Cochrane Brown, Commission Co-Counsel

#### **The State of the Consumer Credit Industry in NC**

C. Everett Wallace, President, North Carolina Consumer Credit and Personal Finance Council

#### **Comments by Consumer Advocate Organizations**

Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending

Al Ripley, Director, Consumer Action Network, NC Justice Center

### **March 24, 2010**

#### **A Review of the Supervision of the North Carolina Consumer Credit Finance Industry by the Office of Commissioner of Banks**

Mark Pearce, NC Deputy Commissioner of Banks

#### **Review of Survey Conducted by the NC Credit and Personal Finance Council**

C. Everett Wallace, President, North Carolina Consumer Credit and Personal Finance Council

Morris Marshburn, RSM McGladrey & Pullen

Bob Esch, RSM McGladrey & Pullen

#### **Response on Behalf of Consumer Advocate Organizations**

Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending

**April 20, 2010**

**Demographics of Consumer Credit Customers**

Jeff Joyner, FirstPoint Resources/Equifax

**Remarks from Members of North Carolina Consumer Credit & Personal Finance Council**

C. Everett Wallace, President, North Carolina Consumer Credit and Personal Finance Council

Priscilla Butler, President & CEO, Capitol Credit, Greenville, NC

Pam Smith, Chief Financial Officer, Century Finance, Rocky Mount, NC

Chip Williamson, Founder, Creekside Financial, Blowing Rock, NC

**April 27, 2010**

**Remarks on behalf of Credit Counselors**

Tom Luzon, Director of Counseling, OnTrack Financial Education & Counseling, Asheville, NC

**Response to Industry Report on behalf of Consumers**

Louise Mack, Executive Director, Prosperity Unlimited

Chris Kukla, Senior Counsel for Government Affairs, Center for Responsible Lending

Al Ripley, Counsel for Consumer and Housing Affairs, NC Justice Center

Rev. William Barber, President, NC NAACP

**Committee Discussion of Draft Report**

## **SUMMARY OF COMMISSION PROCEEDINGS**

**January 27, 2010**

Mr. Ryan Blackledge, Commission Co-Counsel, explained the Commission's charge as set forth in Part 48 of S.L. 2009-574. Ms. Karen Cochrane-Brown, Commission Co-Counsel, provided a review of the North Carolina Consumer Finance Act including its history. The Act allows non-bank lenders to make unsecured loans of \$10,000 or less and is governed by the Commissioner of Banks.

Mr. C. Everett Wallace of the North Carolina Consumer Credit and Personal Finance Council presented on the state of the consumer credit industry in North Carolina. He stated that the industry has changed and that the current interest rate structure denies consumers access to the loans they need because the rates have not changed substantially since 1982 nor has the maximum amount of the loans. Mr. Wallace stated that consumer finance companies were closing their offices and not offering some small loans because they were not profitable.

Mr. Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending, stated that there is not sufficient data to support an increase in the interest rate or loan limits. According to the Commissioner of Banks' reports, 80% of the consumer loans are made with existing customers or with customers who have had prior loans. His data showed consumer finance companies were opening offices. According to Mr. Kukla, 37 states and the District of Columbia have lower interest rates than North Carolina. The Center for Responsible Lending recommended that there be no increase in rates or loan limits. He stated that there are many other forms of credit for consumers other than consumer finance loans.

Mr. Al Ripley, Director of the Consumer Action Network at the North Carolina Justice Center, provided an overview of recent poverty statistics in North Carolina which indicated increases in poverty and unemployment and a decline in the median income. The Center considers high fees and charges for services and loan products and practices that encourage high cost repeat transactions to be harmful to consumers. The Justice Center recommended that lending laws be changed to reduce fees and rates and discourage high cost financial services. In addition, the State should strengthen programs and services that provide social safety nets and more detailed reporting on consumer finance issues to the Commissioner of Banks.

Senator Dan Blue stated that the scope of the Commission was to address the rates and fees for consumer finance loans; broaden or draw in the loan brackets; and address the maximum amount for loans.

There was Committee discussion around the various issues presented.

**March 24, 2010**

Mr. Mark Pearce, Deputy Commissioner of Banks, provided an overview and annual report from the Commissioner of Banks regarding the consumer finance industry. He stated that the Commissioner of Banks focuses on broad access to consumer credit, the overall market, industry sustainability, and fairness to the consumer. There are 79 consumer finance lenders in the State. Over the last ten years, the number of consumer credit lenders and number of locations in the State have declined due to a number of different reasons including external factors such as mergers and acquisitions and companies opting to go under federal regulations. The number of smaller loans (\$1,000-\$3,000) have increased in recent years since the abolishment of payday lending. Loans of less than \$1,000 are now declining. Larger loans have increased 149% in the past decade and mid-sized loans are going down. Most of the large loans are made by the two largest consumer finance lenders in the State. Mr. Pearce stated that all of the data is self-reported and all of the lenders do not report in the same fashion. The data shows that about 70% of the consumer finance lenders are profitable in any given year but that the data shows that expenses have increased for consumer finance lenders. Mr. Pearce stated that the annual report concluded that the market for consumer finance loans has expanded and diversified; the industry has shrunk in the State but not necessarily due to the Consumer Finance Act; and there are big variations in business models for consumer finance lenders. In addition, the report does not provide good insight into the profitability of the consumer finance companies but the industry does not appear to be closing down. Mr. Pearce stated that the Commissioner of Banks does not focus on reasonable returns on equity but whether the consumers are getting the products they need at a fair deal.

Mr. C. Everett Wallace, President of the North Carolina Consumer Credit and Personal Finance Council, stated that there had been increased costs in the consumer finance industry but no change in allowable charges in over 25 years. He then presented a survey made by the Council from December 15, 2009, to January 31, 2010, of customers at various consumer finance offices. Surveyed customers thought the business were trustworthy and helpful; and the companies helped them fulfill their current needs. 99% were very satisfied, felt they were treated fairly, and would refer others. Mr. Wallace was concerned with whether consumer finance companies are profitable and, if not, what should be done to allow for profitability.

Mr. Morris Marshburn and Mr. Bob Esch, both of the accounting firm, RSM McGladrey & Pullen, presented on a report based on a survey conducted of consumer finance companies for the North Carolina Consumer Credit and Personal Finance Council. The report was developed based on information provided by the companies but had not been audited or verified to actual financial reports. The survey responses were from 58% of the total offices in the State and mostly from medium to small lending companies. The data was adjusted to reflect small loan operations so that large lending company figures would not skew the results. The survey showed that the average cost per direct loan in 2008 was \$692.37 with an average loss of about \$200 per loan. Smaller companies do not have deposits to back the loans and must borrow money to do so. The survey set forth the following: revenue has not kept pace with increasing costs; loan loss provisions have increased; company borrowing costs are volatile; small

lenders are owner-operated; and consumer finance loans are a major credit source for many people.

Mr. Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending, responded by noting the difficulty of trying to understand the actual financial status of consumer finance companies since different companies report information in different ways. The average loss figure of \$200 per loan would translate into \$45 to \$60 million over the past three years and the companies would have already been out of business. He stated that the survey was a "snapshot" but did not provide all of the data necessary to decide if there was a net gain or net loss.

There was Committee discussion around the various issues presented.

### **April 20, 2010**

Mr. Jeff Joyner, a regional sales manager with FirstPoint Resources, which is an authorized seller for Equifax, presented aggregate information on consumer finance customers in North Carolina. His 2003-2010 data suggests that consumer finance customers are not that different from the rest of North Carolinians. During those seven years, 5.92% of North Carolinians had an open consumer finance account and 60% of those had just one or two accounts. Although North Carolina consumer finance customers tend to have a lower average FICO score than the North Carolina average, the scores are in a somewhat normal distribution. The customers also tend to have other accounts: 62% hold a mortgage, 85% have a credit card on file, 70% have 1-4 auto loans over the past 7 years, and 83% have some sort of banking loan relationship (including auto and home loans).

The committee also heard from members of the North Carolina Consumer Credit and Personal Finance Council, including Pam Smith, Priscilla Butler, Chip Williamson, and C. Everett Wallace.

Ms. Pam Smith, Chief Financial Officer with Century Finance in Rocky Mount, North Carolina, summarized the trouble she sees for her industry: it is a regulated industry with caps on the allowable income, but their costs of doing business are increasing in the market. Ms. Smith wants to continue to lend so as to help borrowers. She expressed frustration in her inability to get out of the business by selling her company because no one wants to buy it. Century Finance also lends for automobile purchases. Those loans represent approximately 60% of loaned dollars and approximately 40% of the number of loans. Century Finance has \$17 million in loans, 24 employees, and approximately 6,000 customers.

Ms. Priscilla Butler, President & CEO of Capital Credit in Greenville, North Carolina, reviewed the day-to-day operations of a consumer finance loan office. She explained that the business is a "hands on" operation where employees walk through applications with customers – and also look at the customers' income and expenses to ensure they can repay the loan. Ms. Butler expressed concern over the lack of an allowable late fee, arguing that many customers do not pay on time (80-90%, she estimates) because they

do not have a late fee. Ms. Butler pointed out that those customers then experience a hit to their credit score for a late payment. Capital Credit has three offices, \$11 million in loans, and 16 employees.

Mr. Chip Williamson, Founder of Creekside Financial in Blowing Rock, North Carolina, stated that the consumer finance industry is a difficult market because one needs knowledge of the regulations and access to capital. Mr. Williamson and his partner started out as a direct personal consumer finance business, but have since diversified into auto loans. Creekside Financial has three offices, \$2 million in loans, and approximately 2,000 customers.

Mr. C. Everett Wallace, President of the North Carolina Consumer Credit and Personal Finance Council, stressed the importance of access to short-term capital for low-income customers in a time when many reasonably priced credit products are disappearing. The primary challenge, he explained, is making the industry profitable enough to keep businesses serving the market. He cited two advantages of a consumer finance loan over a credit card: (1) installment loans offer a fixed payment schedule, facilitating putting the payment into a monthly budget and (2) installment loans' 18% is much better than credit cards' 30% rates. The industry is interested in a late penalty – just like credit cards – and would like a small adjustment in the allowable rates to produce a reasonable return on the loans.

The committee discussed various issues, including what is a fair rate, ways to ensure credit continues to flow, the importance of avoiding pushing consumers to non-legal loans, and the overall goal of finding a situation that creates a win-win for all parties.

#### **April 27, 2010**

Mr. Tom Luzon, Director of Counseling for OnTrack Financial Education and Counseling said that his organization in Asheville has a staff of ten counselors who advise clients and attempt to help them learn to save money. He noted that adding a late payment would not get these loans paid. He said the reason the payment wasn't being made was because the borrower did not have the funds, so the late payment would only add to the principal balance.

Ms. Louise Mack, Executive Director of Prosperity Unlimited in Kannapolis, said that her organization provides credit counseling to some of the customers of consumer finance companies. She said that sometimes it would be better to tell people "no" on loans because getting the loan makes their financial situation worse rather than better.

Mr. Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending reviewed several points that have been presented to the Committee, including (1) 80% of the 2008 loans were made to current or repeat borrowers; (2) 70% of the direct lending companies were profitable; (3) 60% of the loans were made by 2 companies; and (4) 60% of the stores in N.C. are owned by out-of-state companies. He also noted that lending companies often purchase insurance to help recoup losses on loans secured by property. The insurance is paid for by the borrower. Mr. Kukla said that it seems the

system is working and there is no necessity to make changes now. He urged that the issue receive more study and that the Commissioner continue to collect data.

Mr. Al Ripley, Counsel for Consumer and Housing Affairs for the North Carolina Justice Center, opposed any change in the law and stressed that in light of the current economy, it is a particularly bad time to raise rates or fees for people who are struggling. Mr. Ripley reminded the committee of the Consumer Union study that showed that 36 states had lending rates that were below the levels in North Carolina, and that nationally the trend is for more consumer protection.

Mr. William Barber, President of the North Carolina NAACP, told the commission that the NAACP was on record as challenging predatory lending practices. He stated that the changes in the law sought by the consumer loan industry would be a step back and he echoed Mr. Ripley's concern that in the current economy, it was not the time to add fees on consumer loans in the State.

The Commission held a discussion on and adopted the draft report.



## **FINDINGS AND RECOMMENDATIONS**

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act makes the following findings and recommendations to the 2010 Session of the 2009 General Assembly:

### **FINDINGS:**

The Committee finds that:

1. The North Carolina Consumer Credit and Personal Finance Council (Council) believes that the current interest rate structure denies consumers access to the loans they need because the rates and maximum amounts of the loans have not changed substantially since 1982. As a result the Council believes that consumer finance companies can no longer afford to make small loans because of the increases in operating costs faced by the consumer finance companies.
2. Consumer advocacy organizations such as the Center for Responsible Lending believe that there is not sufficient data to support an increase in the interest rate or loan limits. The Consumer Action Network at the North Carolina Justice Center believes that higher fees and charges for services and loan products and practices that encourage high cost repeat transactions are harmful to consumers.
3. The annual report from the Commissioner of Banks shows that about 70% of the consumer finance lenders in the State are profitable in any given year but that the data shows that expenses have increased for consumer finance lenders. The annual report concluded that the market for consumer finance loans has expanded and diversified; the industry has shrunk in the State but not necessarily due to the Consumer Finance Act; and there are large variations in business models for consumer finance lenders. The report does not provide clear information regarding the profitability of the consumer finance companies.
4. There are very divergent views on the state of the consumer finance industry in the State and more consistent and clear data is needed regarding the costs and profitability of the industry as well as its impact on consumers and their access to credit.

## **RECOMMENDATIONS:**

The Committee recommends the following:

1. The Commissioner of Banks should immediately invite an equally proportionate group of borrowers, economic and market experts, consumer advocates and the industry to review these findings. The Commissioner should report to the 2011 General Assembly on the various data and opinions presented in the meetings and provide recommendations for legislation to modernize the Consumer Finance Act.
2. To ensure future policy making has the benefit of necessary, consistent and meaningful financial and operating data about this industry, the Commissioner of Banks should consider both operational information currently gathered by that agency, including the current annual Consumer Finance Industry report, and the reasonable gathering of additional data, or a new format of analysis, that will give legislators and the public clear understanding about its operation and financial results.
3. All recommendations for modifications to the Consumer Finance Act must be linked to the goal of understandable, transparent, effective and fair credit. The laws governing consumer credit must contain all appropriate consumer protections, and must also recognize the requirement for the potential profitability for the lender.

**PART XLVIII. JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT (H.B. 1341 – Holliman, Brubaker)**

**SECTION 48.1.** There is created the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act. The purpose of the Commission is to determine whether and to what extent the North Carolina Banking Laws and the Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes) need to be updated.

**SECTION 48.2.** The Commission shall consist of 16 members as follows:

- (1) Five members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate, appointed by the President Pro Tempore of the Senate.
- (3) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the Speaker of the House of Representatives.
- (4) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the President Pro Tempore of the Senate.

**SECTION 48.3.** The Commission shall have two cochair, one designated by the Speaker of the House of Representatives and one designated by the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the cochair. Any vacancy on the Commission shall be filled by the original appointing authority. A quorum of the Commission shall be a majority of its members.

**SECTION 48.4.** The Commission shall study the following issues related to the modernization of the North Carolina Consumer Finance Act:

- (1) The increase in costs of operations for the consumer finance industry and its impact on the delivery of products to the public.
- (2) The maximum dollar amount that can be lent to an individual consumer.
- (3) The appropriate rate of interest and fees to be charged for each level of consumer transaction.
- (4) Strategies for increasing consumer protection and disclosure.

**SECTION 48.5.** The Commission also shall study any issue related to the Banking Laws of North Carolina that the Commission deems appropriate.

**SECTION 48.6.** Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

**SECTION 48.7.** The Commissioner of Banks shall use up to twenty-five thousand dollars (\$25,000) of the funds available to the State Banking Commission for the 2009-2010 fiscal year to fund the study authorized by this act.

**SECTION 48.8.** The Commission shall report the results of its study and its recommendations, including any proposed legislative changes, to the 2010 Regular Session of the 2009 General Assembly. The Commission shall terminate on May 1, 2010, or upon the filing of its final report, whichever occurs first.



Office of Speaker Joe Hackney

## Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act

### 2009-2010 Session Committee/Commission Appointments

Pursuant to the authority granted in S.L. 2009-574, Part XLVIII, Section 48.2(1) and (3) Speaker Hackney has made the following appointments to the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act. These appointments are effective immediately. The Commission shall report the results of its study and its recommendations, including any proposed legislative changes, the 2010 Regular Session of the 2009 General Assembly. The Commission shall terminate on May 1, 2010, or upon the filing of its final report, whichever occurs first.

Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act	
Representative Hugh Holliman	Co-Chair - Section 48.3
Representative Harold J. Brubaker	
Representative Susan C. Fisher	
Representative Larry D. Hall	
Representative Arthur Williams	
Chris McKinley (Alamance County) <a href="mailto:cmckinley@greencapfinancial.com">cmckinley@greencapfinancial.com</a>	Representing the Consumer Finance Industry
Lisa B. McDougald (Wake County) <a href="mailto:lmcdougald@bbandt.com">lmcdougald@bbandt.com</a>	Representing a State Chartered Bank
Hazel Mack-Hilliard (Forsyth County) <a href="mailto:HazelM@legalaiddnc.org">HazelM@legalaiddnc.org</a>	Representing a Consumer Advocacy organization

Thank you for your willingness to serve in this capacity. I am deeply grateful for people like you who are willing to give their time and talent to move North Carolina forward. I know that you will have much to offer to the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act and will be effective and diligent in your service to our State.

Very truly yours,

Joe Hackney

Monday, September 29, 2009

# 2009 Joint Study on the Modernization of North Carolina Banking Laws and the Consumer Finance Act

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## 2009 Joint Study on the Modernization of North Carolina Banking Laws and the Consumer Finance Act

[illegible]



**Carol Bowers (Rep. Holliman)**

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**From:** Carol Bowers (Rep. Holliman)

**Sent:** Thursday, April 22, 2010 2:04 PM

**Subject:** Joint Study on the Modernization of NC Banking Laws and the Consumer Finance Act meeting



**NORTH CAROLINA GENERAL ASSEMBLY**

LEGISLATIVE BUILDING  
RALEIGH NC 27601

April 22, 2010

**MEMORANDUM**

**TO:** Members of the Joint Study on the Modernization of NC Banking Laws and the Consumer Finance Act

**FROM:** Rep. Hugh Holliman, Co-Chair  
Sen. David Hoyle, Co-Chair

**SUBJECT:** Meeting Notice

The Joint Study on the Modernization of NC Banking Laws and the Consumer Finance Act Committee will meet on the following date:

DAY: **Tuesday**  
DATE: **April 27, 2010**  
TIME: **1:00 pm**  
LOCATION: **1228/1327 LB**

If you have any questions concerning this meeting or cannot attend, please contact Carol Bowers at 919-715-0873 or email [hollimanla@ncleg.net](mailto:hollimanla@ncleg.net)

04/22/2010

**Joint Legislative Study Commission on the Modernization of  
North Carolina Banking Laws and the Consumer Finance Act**

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**AGENDA**

**April 20, 2010**

**1:00 p.m.**

**Legislative Building: Room 1228**

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**I. Introduction**

*Senator David Hoyle, Co-Chair*

*Representative Hugh Holliman, Co-Chair*

**II. Remarks on behalf of Credit Counselors**

*Tom Luzon, Director of Counseling, OnTrack Financial Education &  
Counseling, Asheville, NC*

**III. Response to Industry Report on behalf of Consumers**

*Louise Mack, Executive Director, Prosperity Unlimited*

*Chris Kukla, Senior Counsel for Government Affairs, Center for Responsible  
Lending*

*Al Ripley, Counsel for Consumer and Housing Affairs, NC Justice Center*

*Rev. William Barber, President, NC NAACP*

**IV. Committee Discussion of Draft Report**

**V. Adjourn**

## MINUTES

### JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF THE NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT

Tuesday, April 27, 1:00 p.m.  
Room 1228 Legislative Building

The Joint Legislative Study Commission on the Modernization of the North Carolina Banking Laws and the Consumer Finance Act met Tuesday, April 27 at 1 p.m. in Room 1228 of the Legislative Building. Co-Chair Representative Hugh Holliman presided. *(SEE ATTACHMENT: Members and Guests Attending.)*

#### Presentations

Mr. Tom Luzon, Director of Counseling for OnTrack Financial Education and Counseling noted that the meeting was being held near the end of Financial Literacy Month. His organization in Asheville has a staff of ten counselors who advise clients. He said he knew what these counselors go through trying to get people to save \$20 in a savings account. The fact that getting \$20 saved was difficult enough he said, and even more difficult for some people to pay as a late fee on a loan. He said the idea of adding a late payment would not get a loan paid. He said the reason the payment wasn't being made because the borrower didn't have the funds, so the late payment would only add to the principal balance and then interest will be charge on that new balance.

Co-Chair Senate Hoyle asked where people can get a loan, if these people are financially illiterate, and any interest rate. Mr. Luzon said the first thing is to assess the situation and sometimes the client could get by without a loan, if they knew how to handle the finances. He said the Self-Help Credit Union was one source. Co-Chair Hoyle said in his hometown of Gastonia, there was no Self-Help Credit Union there. Mr. Luzon said his group tried to work with clients so they would not have to borrow money in the first place.

Next, Louise Mack, Executive Director of Prosperity Unlimited in Kannapolis, said her company had been working to provide credit counseling. She, herself, also acts as a counselor even though she is the Executive Director. Relating her personal story, she was a single mother with three children, employed by Phillip Morris, Inc. When she needed a new engine block for her car, she borrowed the money, but felt she was not financially literate-even though she had a degree in accounting. She said that sometimes it was better to tell people "no" on loans because the loan made the financial situation worse rather than better.

Chris Kukla, Senior Counsel for Governmental Affairs, for the Center for Responsible Lending, said there were some things that had come to the Commission:

1. 80% of the 2008 loans were made to current or repeat borrowers
2. 70% of the direct lending companies were profitable
3. 60% of the loans were made by 2 companies.
4. 60% of the stores in N. C. are owned by out of state companies

He said that loans made by companies other than CitiFinancial and American General for \$3500 or less were secured by real property. There is insurance lending companies can purchase that helps re-coup losses, if they can not recover the collateral. He said that testimony was given by one lender who said that 80% of her customers paid late. If this is the case, the loan balance does not go down, so that while there is no specific late "fee" the interest does add up because the balance does not go down.

Mr. Kukla said it seems the system is working and that there is no necessity to make changes now. He urged the issue receive more study and that the Commission of Banks had done a good job in collecting data.

In the discussion, Senator Stein asked several questions regarding the insurance a lender could obtain to cover the loss in case the lender was unable to obtain the collateral of real property. This would eliminate the need for civil action. He asked who paid for the insurance. Mr. Kukla said the borrower paid for the insurance.

Co-Chair Senator Hoyle asked the relationship between the Center for Responsible Lending and the Self-Help Credit Union. Mr. Kukla said the Center for Responsible Lending was an affiliate of the Self-Help Credit Union. Senator Hoyle said that his first experience with the Self-Help Credit Union took place during his second term in the Senate. At that time, then-Senator Wib Gulley of Durham and Marion Eakes, who was the head of the Self-Help Credit Union were seeking funds from the General Assembly. Senator Marc Basnight told Senator Gulley and Mr. Eakes that if they could get some support, the General Assembly would appropriate \$10 million to the Self-Help Credit Union. Senator Hoyle said he supported the effort and so did other Legislators and the money was appropriated. Later, he said there was more money appropriated, and lately the Golden Leaf Foundation has also given the credit union \$5 million. Co-Chair Hoyle said the Self-Help Credit Union, which received more federal money cost of capital is "nothing", compared to others in the lending business where the cost of capital must be deducted from the interest rate that is charged to get the net rate of return. "They (Self-Help Credit Union) ought to make loans cheaper than anybody else," the Senator said. He concluded by saying that without changes in the direct loan laws, the General Assembly seemed to be saying to the 40% of the North Carolina owned businesses, "just go out of business."

Ms. Young asked if credit unions, other than the Self-Help Credit Union, made small loans. Mr. Kukla said they did, but he did not feel at liberty to discuss any of the details of those practices.

Mr. McKinley said that credit unions make small loans, but they are made with the payments being made through direct deposit, so the risk was less. *(Actually, credit unions such as the State Employees Credit Union do make small loans, but not all payments are direct deposit. The rate for direct deposit payments is usually a little better than those where the payments are made by the borrower without direct deposit.)*

Mr. McKinley asked if a company had a \$5 million building and made a \$1000 profit at the end of the year, would that achieve what Mr. Kukla considered a proper

amount of profit. Mr. Kukla said there was no data available to figure what goes into the idea of profit. He said the Commissioner of Banks considered 70% of the lending companies profitable. He said the Commissioner of Banks could collect all the data and maintain it internally and make the decisions.

Al Ripley, Counsel for Consumer and Housing Affairs for the North Carolina Justice Center was the next to appear before the Commission.

He said 1.8 million people in North Carolina are uninsured, about 20% of the population. There are 1.3 million people living in poverty. He said the Justice Center feels the state of the current economy is a particularly bad time to raise rates of fees for people who are struggling.

In terms of laws in other states, Mr. Ripley said, the Consumer Union did a study two years ago of lending laws in all 50 states. That study showed that 36 states had lending rates that were below the levels in North Carolina. He said nationally the trend is for more protection, just as Congress has debated.

Mr. Ripley said the loans were designed because lenders knew they would be lending money to people who would be late making payments. He said the high APRs are designed to compensate the lenders up front. He said it is not risk-based pricing. He also pointed out other problems such as credit score changes, etc.

He said in researching discussions from the year 2000 when some of the same issues were being discussed. Then, as now, he said there is still a case of lack of all the information needed to make a determination.

Mr. McKinley asked if the 36 states with lower interest rates also had pay day loans or title loans. Mr. Ripley said he did not have the precise number, but that many of those states did have that type loan. He said there were multiple channels of income, including auto loans. Mr. McKinley said that 29 states have pay day loans. He said in Virginia there were 8 independent lenders, and there you can either make pay day loans or direct loans as in North Carolina. He said the 8 independent lenders in Virginia have \$8 million in loans, while in North Carolina there are 74 local owned lenders. Mr. Ripley said that was an example of why there should be more study of the issue.

Representative Hall asked if a late fee was added, would there be a new market since the information presented to the Commission was that 80% of the borrowers pay late. Mr. Ripley said that is a concern. He said a late fee might be seen by lenders as an incentive to make loans to people they believe might pay late.

Representative Hall also asked about turndowns, and would a late fee add or decrease the number of people who are turned down for a loan. Mr. Ripley said a late fee would not change the financial condition of the borrower.

The discussion shifted to the issue of "late" whether it was one day, two days, or thirty days. Ms. Butler who had appeared at the last meeting of the Commission said that she did say that about 80% of her customers paid late, but that the question was phrased so that "late" meant anything from one-day on.

Mr. McKinley concerned with the idea that a lender would take on more risk to be able to get a late fee. He said the principal reduction interest was not significant and that there was a lot of cost involved in delinquencies. Mr. Ripley said the Commissioner of Banks pointed out that

80% of the loans were below \$3500 and the loans were backed up by personal property that the borrower paid for the lender to have.

Reverend William Barber, President of the North Carolina NAACP told the Commission, the NAACP was on record as challenging predatory lending practices. He said that the current economic situation was harder on the poor than others in society.

He said the NAACP was "disappointed" that the General Assembly could be asked to add late fees to what he called "already predatory" lending practices. He said the loans could charge between 30% and 36% and with other practices as high as 50%, according to his information.

He said the changes to the laws sought by the consumer loan companies would be a step back.

He said he would like to come back for a discussion about access to capital for minorities. He closed by saying this was not the time to be adding late fees to consumer lending in North Carolina.

Co-Chair Senator Hoyle noted that he had received a lot of calls recently because of his membership on the Commission. Some of the calls, he said had come from the AARP which supports a credit card that charges 22.24% minimum rate which goes up to 29% if one payment is missed. He said that a \$39 late fee was attached for being one day late. He said in his opinion this makes the case that the AARP which is against making any changes is as bad as they people they oppose.

Karen Cochrane-Brown, from the Research Division presented the draft report of the Commission. The recommendations based on the meetings and findings are:

1. The Commissioner of Banks should draw borrowers, lenders, and economic experts etc together to review the Commission findings. Then the Commissioner of Banks and the group should report data and recommendations to the 2011 Legislative Session.
2. The Commissioner of Banks is also directed to gather operational data and any additional information to give the public better understanding.
3. Any modifications should reflect transparency, appropriate consumer protections and recognize the requirement for lender profit.

Senator Stein asked if the Commissioner of Banks had the authority and wherewithal to get the data necessary for the Legislature to act. Mark Pearce, from the Commission of Banks office, said the Office had the authority to collect the data. There had not been a focus on the profitability issue earlier.

Co-Chair Hoyle asked if the Commissioner of Banks could work from annual reports or financial statements. Mr. Pearce said that in regulating banks the Office was focused on solvency, viability of the institution etc. In the consumer lending industry, the focus has been on assuring the rules and rates for lending set by the General Assembly were being followed. Co-Chair Holliman asked if the Commissioner or Banks would

follow up to obtain the data needed to determine what goes into the status of a company's profitability., Mr. Pearce said some of that work has started already.

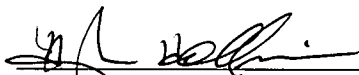
Representative Fisher said she would like to see the Commissioner of Banks pay attention to the business practices since one of the themes of the information presented was the increased costs. She also feels that additional fees are at odds with the economy of today.

. Mr. McKinley said there was a lot of objective data that stopped a lot of misconceptions about the industry. He said he had hoped to see recognition that the consumer finance business serves a wide range of consumers in North Carolina.

Co-Chair Hoyle moved adoption of the report. The motion to adopt passed.

Representative Hall moved approval of the minutes of the April 20th meeting. That motion also passed.

The meeting adjourned at 2:02 p.m.



Representative Hugh Holliman, Co-Chair  
Presiding



Carol Bowers, Committee Clerk

\_\_\_\_\_  
Senator David Hoyle, Co-Chair

\_\_\_\_\_  
Minutes by Ted Harrison

HOUSE PAGES

Jt. Study modernization  
NAME OF COMMITTEE OF N.C. BANKING LAWS DATE 4/27/10

1. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

2. Name: \_\_\_\_\_

County: \_\_\_\_\_

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Richard Nixon	The White House
Adam Linker	NC HAE

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Larry Heckman

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Dennis Triplatt

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Richard Mendenhall

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WILLIAM BRAXTON

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Harris Greene

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attorney at law

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Pam Smith

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Carley Ruff	NC Housing Coalition
REGINA GREEN	NC HOUSING COALITION
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Vic BARR	SECURITY FINANCIAL SERVICES
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**Date**

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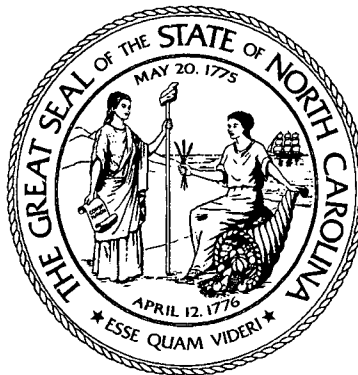
Mary Be McMillen

Mc AFL-CIO

Harrison Gilbert

Governor's Office

**Joint Legislative Study Commission on the  
Modernization of North Carolina Banking Laws  
and the Consumer Finance Act**



***REPORT TO THE 2010  
REGULAR SESSION  
OF THE  
2009 GENERAL ASSEMBLY  
OF NORTH CAROLINA***



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STATE OF NORTH CAROLINA

JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH  
CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT



April 27, 2010

TO THE MEMBERS OF THE 2010 REGULAR SESSION OF THE 2009 GENERAL ASSEMBLY  
OF NORTH CAROLINA:

Attached for your consideration is the report to the 2010 Regular Session of the 2009 General Assembly of North Carolina. This report was prepared by the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act.

Respectfully submitted,

---

Senator David W. Hoyle  
Cochair

---

Representative Hugh Holliman  
Cochair

# 2009 JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT

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# COMMISSION AUTHORIZATION

S.L. 2009-574

## PART XLVIII. JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT (H.B. 1341 – Holliman, Brubaker)

**SECTION 48.1.** There is created the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act. The purpose of the Commission is to determine whether and to what extent the North Carolina Banking Laws and the Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes) need to be updated.

**SECTION 48.2.** The Commission shall consist of 16 members as follows:

- (1) Five members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate, appointed by the President Pro Tempore of the Senate.
- (3) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the Speaker of the House of Representatives.
- (4) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the President Pro Tempore of the Senate.

**SECTION 48.3.** The Commission shall have two cochair, one designated by the Speaker of the House of Representatives and one designated by the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the cochair. Any vacancy on the Commission shall be filled by the original appointing authority. A quorum of the Commission shall be a majority of its members.

**SECTION 48.4.** The Commission shall study the following issues related to the modernization of the North Carolina Consumer Finance Act:

- (1) The increase in costs of operations for the consumer finance industry and its impact on the delivery of products to the public.
- (2) The maximum dollar amount that can be lent to an individual consumer.
- (3) The appropriate rate of interest and fees to be charged for each level of consumer transaction.
- (4) Strategies for increasing consumer protection and disclosure.

**SECTION 48.5.** The Commission also shall study any issue related to the Banking Laws of North Carolina that the Commission deems appropriate.

**SECTION 48.6.** Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

**SECTION 48.7.** The Commissioner of Banks shall use up to twenty-five thousand dollars (\$25,000) of the funds available to the State Banking Commission for the 2009-2010 fiscal year to fund the study authorized by this act.

**SECTION 48.8.** The Commission shall report the results of its study and its recommendations, including any proposed legislative changes, to the 2010 Regular Session of the 2009 General Assembly. The Commission shall terminate on May 1, 2010, or upon the filing of its final report, whichever occurs first.

## **COMMISSION PROCEEDINGS**

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act held 4 meetings between January 27, 2010 and April 27, 2010.

### **January 27, 2010**

#### **Review of Commission's Charge**

Ryan Blackledge, Commission Co-Counsel

#### **A Review of the Legislative History of the NC Consumer Finance Act**

Karen Cochrane Brown, Commission Co-Counsel

#### **The State of the Consumer Credit Industry in NC**

C. Everett Wallace, President, North Carolina Consumer Credit and Personal Finance Council

#### **Comments by Consumer Advocate Organizations**

Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending

Al Ripley, Director, Consumer Action Network, NC Justice Center

### **March 24, 2010**

#### **A Review of the Supervision of the NC Consumer Finance Industry by the Office of Commissioner of Banks**

Mark Pearce, NC Deputy Commissioner of Banks

#### **Review of Survey Conducted by the NC Credit and Personal Finance Council**

C. Everett Wallace, President, North Carolina Consumer Credit and Personal Finance Council

Morris Marshburn, RSM McGladrey & Pullen

Bob Esch, RSM McGladrey & Pullen

#### **Response on Behalf of Consumer Advocate Organizations**

Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending



**April 20, 2010**

**Demographics of Consumer Credit Customers**

Jeff Joyner, FirstPoint Resources/Equifax

**Remarks from Members of NC Credit & Personal Finance Council**

C. Everett Wallace, President, North Carolina Consumer Credit and Personal Finance Council

Priscilla Butler, President & CEO, Capitol Credit, Greenville, NC

Pam Smith, Chief Financial Officer, Century Finance, Rocky Mount, NC

Chip Williamson, Founder, Creekside Financial, Blowing Rock, NC

**April 27, 2010**

**Review of the Draft Report.**

## **SUMMARY OF COMMISSION PROCEEDINGS**

**January 27, 2010**

Mr. Ryan Blackledge, Commission Co-Counsel, explained the Commission's charge as set forth in Part 48 of S.L. 2009-574. Ms. Karen Cochrane-Brown, Commission Co-Counsel, provided a review of the North Carolina Consumer Finance Act including its history. The Act allows non-bank lenders to make unsecured loans of \$10,000 or less and is governed by the Commissioner of Banks.

Mr. C. Everett Wallace of the North Carolina Credit and Personal Finance Council presented on the state of the consumer credit industry in North Carolina. He stated that the industry has changed and that the current interest rate structure denies consumers access to the loans they need because the rates have not changed substantially since 1982 nor has the maximum amount of the loans. Mr. Wallace stated that consumer finance companies were closing their offices and not offering some small loans because they were not profitable.

Mr. Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending, stated that there is not sufficient data to support an increase in the interest rate or loan limits. According to the Commissioner of Banks' reports, 80% of the consumer loans are made with existing customers or with customers who have had prior loans. His data showed consumer finance companies were opening offices. According to Mr. Kukla, 37 states and the District of Columbia have lower interest rates than North Carolina. The Center for Responsible Lending recommended that there be no increase in rates or loan limits. He stated that there are many other forms of credit for consumers other than consumer finance loans.

Mr. Al Ripley, Director of the Consumer Action Network at the North Carolina Justice Center, provided an overview of recent poverty statistics in North Carolina which indicated increases in poverty and unemployment and a decline in the median income. The Center considers high fees and charges for services and loan products and practices that encourage high cost repeat transactions to be harmful to consumers. The Justice Center recommended that lending laws be changed to reduce fees and rates and discourage high cost financial services. In addition, the State should strengthen programs and services that provide social safety nets and more detailed reporting on consumer finance issues to the Commissioner of Banks.

Senator Dan Blue stated that the scope of the Commission was to address the rates and fees for consumer finance loans; broaden or draw in the loan brackets; and address the maximum amount for loans.

There was Committee discussion around the various issues presented.

**March 24, 2010**

Mr. Mark Pearce, Deputy Commissioner of Banks, provided an overview and annual report from the Commissioner of Banks regarding the consumer finance industry. He stated that the Commissioner of Banks focuses on broad access to consumer credit, the overall market, industry sustainability, and fairness to the consumer. There are 79 consumer finance lenders in the State. Over the last ten years, the number of consumer credit lenders and number of locations in the State have declined due to a number of different reasons including external factors such as mergers and acquisitions and companies opting to go under federal regulations. The number of smaller loans (\$1,000-\$3,000) have increased in recent years since the abolishment of payday lending. Loans of less than \$1,000 are now declining. Larger loans have increased 149% in the past decade and mid-sized loans are going down. Most of the large loans are made by the two largest consumer finance lenders in the State. Mr. Pearce stated that all of the data is self-reported and all of the lenders do not report in the same fashion. The data shows that about 70% of the consumer finance lenders are profitable in any given year but that the data shows that expenses have increased for consumer finance lenders. Mr. Pearce stated that the annual report concluded that the market for consumer finance loans has expanded and diversified; the industry has shrunk in the State but not necessarily due to the Consumer Finance Act, and there are big variations in business models for consumer finance lenders. In addition, the report does not provide good insight into the profitability of the consumer finance companies but the industry does not appear to be closing down. Mr. Pearce stated that the Commissioner of Banks does not focus on reasonable returns on equity but whether the consumers are getting the products they need at a fair deal.

Mr. C. Everett Wallace, President of the North Carolina Credit and Personal Finance Council, stated that there had been increased costs in the consumer finance industry but no change in allowable charges in over 25 years. He then presented a survey made by the Council from December 15, 2009, to January 31, 2010, of customers at various consumer finance offices. Surveyed customers thought the business were trustworthy and helpful; and the companies helped them fulfill their current needs. 99% were very satisfied, felt they were treated fairly, and would refer others. Mr. Wallace was concerned with whether consumer finance companies are profitable and, if not, what should be done to allow for profitability.

Mr. Morris Marshburn and Mr. Bob Esch, both of the accounting firm RSM McGladrey & Pullen, presented on a report based on a survey conducted of consumer finance companies for the North Carolina Credit and Personal Finance Council. The report was developed based on information provided by the companies but had not been audited or verified to actual financial reports. The survey responses were from 58% of the total offices in the State and mostly from medium to small lending companies. The data was adjusted to reflect small loan operations so that large lending company figures would not skew the results. The survey showed that the average cost per direct loan in 2008 was \$692.37 with an average loss of about \$200 per loan. Smaller companies do not have deposits to back the loans and must borrow money to do so. The survey set forth the following: revenue has not kept pace with increasing costs; loan loss provisions

have increased; company borrowing costs are volatile; small lenders are owner-operated; and consumer finance loans are a major credit source for many people.

Mr. Chris Kukla, Senior Counsel for Legislative Affairs, Center for Responsible Lending, responded by noting the difficulty of trying to understand the actual financial status of consumer finance companies since different companies report information in different ways. The average loss figure of \$200 per loan would translate into \$45 to \$60 million over the past three years and the companies would have already been out of business. He stated that the survey was a "snapshot" but did not provide all of the data necessary to decide if there was a net gain or net loss.

There was Committee discussion around the various issues presented.

### **April 20, 2010**

Mr. Jeff Joyner, a regional sales manager with FirstPoint Resources, which is an authorized seller for Equifax, presented aggregate information on consumer finance customers in North Carolina. His 2003-2010 data suggests that consumer finance customers are not that different from the rest of North Carolinians. During those seven years, 5.92% of North Carolinians had an open consumer finance account and 60% of those had just one or two accounts. Although North Carolina consumer finance customers tend to have a lower average FICO score than the North Carolina average, the scores are in a somewhat normal distribution. The customers also tend to have other accounts: 62% hold a mortgage, 85% have a credit card on file, 70% have 1-4 auto loans over the past 7 years, and 83% have some sort of banking loan relationship (including auto and home loans).

The committee also heard from members of the NC Credit and Personal Finance Council, including Pam Smith, Priscilla Butler, Chip Williamson, and C. Everett Wallace.

Ms. Pam Smith, Chief Financial Officer with Century Finance in Rocky Mount, North Carolina, summarized the trouble she sees for her industry: it is a regulated industry with caps on the allowable income, but their costs of doing business are increasing in the market. Ms. Smith wants to continue to lend so as to help borrowers. She expressed frustration in her inability to get out of the business by selling her company because no one wants to buy it. Century Finance also lends for automobile purchases. Those loans represent approximately 60% of loaned dollars and approximately 40% of the number of loans. Century Finance has \$17 million in loans, 24 employees, and approximately 6,000 customers.

Ms. Priscilla Butler, President & CEO of Capital Credit in Greenville, North Carolina, reviewed the day-to-day operations of a consumer finance loan office. She explained that the business is a "hands on" operation where employees walk through applications with customers – and also look at the customers' income and expenses to ensure they can repay the loan. Ms. Butler expressed concern over the lack of an allowable late fee, arguing that many customers do not pay on time (80-90%, she estimates) because they don't have a late fee. Unfortunately, she pointed out, those customers then experience

a hit to their credit score for a late payment. Capital Credit has three offices, \$11 million in loans, and 16 employees.

Mr. Chip Williamson, Founder of Creekside Financial in Blowing Rock, North Carolina, stated that the consumer finance industry is a difficult market because one needs knowledge of the regulations and access to capital. Mr. Williamson and his partner started out as a direct personal consumer finance business, but have since diversified into auto loans. Creekside Financial has three offices, \$2 million in loans, and approximately 2,000 customers.

Mr. C. Everett Wallace, President of the North Carolina Consumer Credit and Personal Finance Council, stressed the importance of access to short-term capital for low-income customers in a time when many reasonably priced credit products are disappearing. The primary challenge, he explained, is making the industry profitable enough to keep businesses serving the market. He cited two advantages of a consumer finance loan over a credit card: (1) installment loans offer a fixed payment schedule, facilitating putting the payment into a monthly budget and (2) installment loans' 18% is much better than credit cards' 30% rates. The industry is interested in a late penalty – just like credit cards – and would like a small adjustment in the allowable rates to produce a reasonable return on the loans.

The committee discussed various issues, including what is a fair rate, ways to ensure credit continues to flow, the importance of avoiding pushing consumers to non-legal loans, and the overall goal of finding a situation that creates a win-win for all parties.

**April 27, 2010**

The committee held a discussion on the draft report.

## **FINDINGS AND RECOMMENDATIONS**

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act makes the following findings and recommendations to the 2010 Session of the 2009 General Assembly:

### **FINDINGS:**

The Committee finds that:

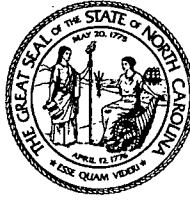
1. The North Carolina Credit and Personal Finance Council (Council) believes that the current interest rate structure denies consumers access to the loans they need because the rates and maximum amounts of the loans have not changed substantially since 1982. As a result the Council believes that consumer finance companies can no longer afford to make small loans because of the increases in operating costs faced by the consumer finance companies.
2. Consumer advocacy organizations such as the Center for Responsible Lending believe that there is not sufficient data to support an increase in the interest rate or loan limits. The Consumer Action Network at the North Carolina Justice Center believes that higher fees and charges for services and loan products and practices that encourage high cost repeat transactions are harmful to consumers.
3. The annual report from the Commissioner of Banks shows that about 70% of the consumer finance lenders in the State are profitable in any given year but that the data shows that expenses have increased for consumer finance lenders. The annual report concluded that the market for consumer finance loans has expanded and diversified; the industry has shrunk in the State but not necessarily due to the Consumer Finance Act, and there are large variations in business models for consumer finance lenders. The report does not provide clear information regarding the profitability of the consumer finance companies.
4. There are very divergent views on the state of the consumer finance industry in the State and more consistent and clear data is needed regarding the costs and profitability of the industry as well as its impact on consumers and their access to credit.

## **RECOMMENDATIONS:**

1417

The Committee recommends the following:

1. The Commissioner of Banks should immediately invite an equally proportionate group of borrowers, economic and market experts, consumer advocates and the industry to review these findings. The Commissioner should report to the 2011 General Assembly on the various data and opinions presented in the meetings and provide recommendations for legislation to modernize the Consumer Finance Act.
2. To ensure future policy making has the benefit of necessary, consistent and meaningful financial and operating data about this industry, the Commissioner of Banks should consider both operational information currently gathered by that agency, including the current annual Consumer Finance Industry report, and the reasonable gathering of additional data, or a new format of analysis, that will give legislators and the public clear understanding about its operation and financial results.
3. All recommendations for modifications to the Consumer Finance Act must be linked to the goal of understandable, transparent, effective and fair credit. The laws governing consumer credit should contain all appropriate consumer protections, but they also must recognize the requirement for the potential profitability for the lender.



## **NORTH CAROLINA GENERAL ASSEMBLY**

LEGISLATIVE BUILDING  
RALEIGH NC 27601

April 1, 2010

### **MEMORANDUM**

**TO:** Members of the Joint Study on the Modernization of NC Banking Laws  
and the Consumer Finance Act

**FROM:** Rep. Hugh Holliman, Co-Chair  
Sen. David Hoyle, Co-Chair

**SUBJECT:** Meeting Notice

The Joint Study on the Modernization of NC Banking Laws and the Consumer Finance Act Committee will meet on the following date:

**DAY:** Tuesday  
**DATE:** April 20, 2010  
**TIME:** 10:00 am  
**LOCATION:** 1228/1327 LB

If you have any questions concerning this meeting or cannot attend, please contact Carol Bowers at 919-715-0873 or email [hollimanla@ncleg.net](mailto:hollimanla@ncleg.net)



# **Blue Ribbon Task Force on the State Health Plan for Teachers and State Employees**

Thursday, April <sup>20</sup>~~22~~, 2010  
9:00 a.m.

Legislative Building, Room 1228/1327

## **I. Welcome, Introductions, and Remarks**

*Representative Hugh Holliman, Co-Chair*  
*Senator Dan Blue, Co-Chair*

## **II. Approval of Minutes**

## **III. Federal Health Care Reform: State Health Plan Impact**

*Jack Walker, Executive Administrator*  
*State Health Plan*

## **IV. Draft Interim Task Force Report**

## **V. Closing Remarks & Adjournment**

# VISITOR REGISTRATION SHEET

Name of Committee

Banking

Date

4/20/10

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Glenn Hall	RLNC member, National Finance
Monteagan	NMRS
Dave Heron	Williams Mullen
Bill Scobbin	TSS
John Rainey	Altria
Jim Hensley	J. Warren & Assoc.
Amey Miller	Huntone Wms -
Lu Ann Brown	CFSA

# VISITOR REGISTRATION SHEET

Joint Study Modernization Banking

Name of Committee

4/20/10  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<u>Sandy Seals</u>	<u>Wms Muller</u>
Erin Wagner DiNero	
Wagner Financial Svc	RLNC - Winston-Salem,
Priscilla D Butte	
Capitol Credit Co.	RLNC - Greenville NC
Vic BARR	
	RLNC - SECURITY FINANCIAL SERVICES
<u>LES PIERCE</u>	<u>SECURITY FINANCIAL SERVICES</u>
<u>WILLIAM BRAXTON</u>	<u>THE MONEY SHOPPE</u>
<u>Dennis Triplett</u>	<u>Welcome Finance Company</u>
Kathy Johnston	
Robin Biddick	Time Investment Corp / <u>Time</u> Financing Serv.
<u>Chris Kulda</u>	<u>CME</u>
<u>Sara Wed</u>	"

# VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Thomas Moore	Industries: Well
DAVID BARNES	Pogon Spruill
Paul Stock	NCTBA
Maers Goff	Smith Anderson
Dora King Morgan	Morgan - King Services, Inc.
CHIP WILLIAMSON	CREEKSIDE FINANCE
Fred Bone	Bone & Asso.
Harris Greene	Greene Finance Corp.
Dave Darby	L. L. J. & Co. Smith
Dave Carter	Alman
John Crawford	Home Credit

# VISITOR REGISTRATION SHEET

Joint Study Modernization Banking
4/20/10

Name of Committee
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jay Shire	Holiday Finance <span style="float: right; font-size: small;">1410 DALE EARNHARDT KANNAPOLIS, NC</span>
Kerry Hargrett	" " "
Sherry Deamer	" " "
McNeil Chestnut	For the Comm. Bkrs.
Rebekah O'Connell	Triangle Family Services, Consumer Credit Counseling
Al Ripley	NC Justice Ctr.
Larry Heekner	NC Credit + Personal Finance Council
Danice Brown	TROUTMAN SANDERS
Pam Smith	Century Finance
Wayne Smith	Century Finance, Inc. <span style="float: right;">(RLNC MEMBER)</span>
Brian Reese	Home Credit, RLNC Member

## MINUTES

### JOINT LEGISLATIVE LEGISALTIVE STUDY COMMISSION ON THE MODERNIZATION OF THE NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT.

**Tuesday, April 20, 2010**  
**10:00 a.m. Room 1228 Legislative Building.**

The Joint Legislative Study Commission on the Modernization of the North Carolina Banking Laws and the Consumer Finance Act met Tuesday, April 20 at 10:00 a.m. in Room 1228 of the Legislative Building. Co-Chair Senator David Hoyle presided. **(SEE ATTACHMENT: Members and Guests Attending.)**

Senator Hoyle noted the absence of Co-Chair Representative Holliman and announced the Commission would hold one more meeting prior to the convening of the Session on May 12<sup>th</sup>. At that point, Co-Chair Hoyle introduced C. Everett Wallace of the North Carolina Credit and Personal Finance Council.

#### **Presentations**

Mr. Wallace said the first presentation would be from a representative from Equifax. He said the three credit bureaus, Equifax, TransUnion and Experian "run our lives." He said the presentation would provide a profile of the people who use consumer credit.

Jeff Joyner, from FirstPoint Resources, which is the authorized sales agent for Equifax in North Carolina and Virginia, made the presentation. **(SEE ATTACHMENT: Demographics of Consumer Credit Customers.)** His presentation was a report made to Home Credit group. Since the data was aggregate level and not individual consumer data level, it could be made available at this meeting.

The data was collected over the last seven years. The study began with 8 million North Carolina credit records. After that number was reduced by the number of people who did not have any credit records or credit activity in the last 24 months, there were 476,000 records, the number of people who had a personal finance loan. Taking the 16 metropolitan statistical areas, the break point was loans less than \$3500 and loans more than \$3500. Eighty per cent of the people had less than 4 personal finance loan accounts.

That national credit score average is 689, in North Carolina the average is 673 and the average among the people in this survey was 578. The income distribution range for most of these borrowers is between \$20,000 and \$40,000. The age distribution is between 28 and 47.

Mr. Joyner said the delinquency rate is about the same as credit card holders, mortgage holders and other installment loan borrowers. The preponderance of bankruptcies in the group comes in those who have a mid-level credit score, people who are still trying to struggle through. People with lower credit scores don't file bankruptcy often, "they're already a lost cause," he said.

Of the people who have a consumer finance company trade line, 62% also have mortgages on homes, 85% have credit card accounts, but these are sub-prime credit cards with high interest, 83% have a lending relationship with a bank, and 37% have a loan history with a credit union.

Auto loans make up for a large percentage of the borrowing for the people in this survey: 70% of the people have had between 1 and 4 auto loans during the seven –year sample period; not four at a time, Mr. Joyner cautioned.

In the discussion, Representative Brubaker asked about the percentage of bankruptcies. Mr. Joyner said the national average was about 1% and in this consumer loan group the average ran about 2%.

Ms. Mack Hilliard asked about the time frame for the survey. Mr. Joyner said the data was collected between 2004 and 2010.

During a discussion with Representative Hall about credit card interest rates, Mr. Joyner said credit card companies were scanning accounts more often and when balances moved closer to limits, the companies were raising rates and limits lowering limits.

Ms. Young asked about mortgage payment histories. Mr. Joyner said there was some evidence of late payments, but the number of mortgage holders still on file in the survey means they were not into foreclosure. She followed by asking if a consumer switching from borrowing from a bank to borrowing from a consumer finance company would receive a lower credit score. Mr. Joyner said it would not. The tracking is done on factors in a portfolio review such as the difference between the balance and the limit, payments, the number of inquiries for credit information etc., when all these hit a particular mark and the score starts to drop, interest rates go up or limits are changed. As Mr. McKinley said the inquiries could come from anywhere someone sought to establish credit. Mr. Joyner agreed. He said it was more the number than source or the inquiries.

Mr. McKinley asked about trends in FICO. Mr. Joyner said scores have gone down. The high end scores are stable. The people in the 600 range tend to have “appetites for credit”, and their scores fluctuate more.

Representative Fisher asked how long it would take for the new credit card changes to affect the market. Mr. Joyner said the major affect would be higher interest rates. At the same time, credit card companies would lower the limits which would have an impact on credit scores because users would thus reflect higher use against the lower limits. She asked if the rules had an impact on credit card offers for young people. Mr. Joyner said the marketing had changed and most states have an “18 years or older” law for card holders.

#### **Remarks from Members of the N. C. Credit & Personal Finance Council**

*(NOTE: Actual order of speakers is different from agenda)*

PAM SMITH: CFO, Century Finance, Rocky Mount, N. C.

Century Finance has \$17 million loans outstanding, 6,000 customers some of whom are auto finance customers, and 24 employees

The Company was started by Ms. Smith's husband, Wayne in 1991. She began working part-time with her husband in the business that became full-time later. When monthly rent on the first office was \$400 per month and now with 5 offices, the rent ranges from \$1,000 to \$1600 per month. Health insurance earlier was \$51 per month and now over \$400. Postage, bank fees etc have increased.

She noted that consumer finance was a highly regulated business, while the people with whom they do business are less so. Their employees must be trained to work with the regulations that must be met. She said the regulations are good to protect the consumers, but the regulations "come at a cost." Credit reports requests must be run against the terrorist list to verify borrowers.

Court costs for judgments have gone up and the company must have a lawyer for judgment cases, whereas self-representation was allowed earlier.

She said the process of making a loan has not changed in the past 20 years. There are no ways to cut costs of processing the loan, but a \$1,000 loan is not profitable.

She said she and her husband like and enjoy what they do, but that the business can not continue in the current environment. They have raised their minimum loan amount and may consider doing that again next year, moves she said are not good for the consumer. She said when the company started; it took less than a year for the first branch to be profitable. Their last branch has been open three years, but has yet to reach a profit level.

Representative Hall asked if consideration of selling the business or some alternative such as that been caused by the economic downturn. Ms. Smith said that the last two years had been bad. Their company had been considering growth, until the last two years. She said change had come gradually. She said they can't raise prices like a convenience store.

Representative Hall asked how the delinquency rate had change in the past two years. She said it had not changed significantly.

Answering a question from Ms. Mack- Hilliard, Ms. Smith said her company's average loan was between \$1000 and \$1500.

Ms. Young asked the proportion of auto loans to consumer loans. Ms. Smith said in dollar comparison, auto loans amounted to about 60% of their business.

Mr. McKinley asked the company did not do auto loans what would be the feasibility of continuing to operate. Ms. Smith said, "Not very good."

Ms. Smith told Co-Chair Hoyle that her company made very few unsecured loans.



MS. PRISCILLA BUTLER, Pres. & CEO, Capitol Credit  
Greenville, N. C.

Capitol Credit began in 1995, has about \$11 million in loans with 16 employees.

She said the most important thing to her and to the consumer loan industry was the way customers were treated. She said information was verified and an important step was "debt load", making sure the customer can afford the payment on the amount of money being borrowed. Then the actual decision is made and then the loan is closed. There is face to face service. The customer relationship will continue over the life of the loan.

Ms. Butler said the processing took about an hour to an hour and a half, if done properly.

She said there was no penalty for paying late, but this still penalizes the customer because the late payment does affect their credit rating.

Ms. Butler said the training was a major part of the cost of doing business.

She ended by stressing the personal contact as a key to the consumer finance industry in a world with more and more impersonal contact.

Mr. McKinley asked if there was any incentive to make a loan to someone who could not pay it back. Ms. Butler said not. In a follow-up, Mr. McKinley asked why the customer came to her company, rather than a bank. She said her customers could go to a bank, but usually would have to borrow more than they wanted to borrow. She said she believed it was because there was personal contact, not a lot of red tape, and they knew they would be treated fairly. She said their customers were their friends.

Senator Blue asked what percentage of the borrowers paid as much as a week late. Ms. Butler said about 80% to 90%. She said as long as she had been in the business there had never been a late fee on consumer direct loans.

MR. CHIP WILLIAMSON, Founder, Creekside Financial  
Blowing Rock, N. C.

Creekside Financial began in 2002, has \$10 million in loans and about 2,000 customers.

Mr. Williamson began Harrison Capital Management in 2002, an investment management company. He joined Creekside Finance in 2005. He said the consumer finance business was hard to start new. He said his partner had the knowledge of the finance business and Mr. Williamson had access to capital. The company began with one location, and then opened another, financed with bank loans, and then they raised private money. The company opened another branch and had trouble getting to a third branch. After the third branch was opened, the company had to raise capital privately, since banks would not loan them money. Creekside made a profit in the third year.

Mr. Williamson said his company needed help from the General Assembly to allow the company to sustain itself. He put that on a wider scale saying without the help

from the General Assembly, the consumer finance industry in North Carolina was facing a "train wreck".

Mr. Williamson said the consumer finance industry was growing from the customer point of view. He also stressed the personal service aspect as a major part of the industry's appeal for customers. He said the original plan for his company was to open two-three branches every year, currently he said for his company to grow they would probably look to Virginia or South Carolina. He said the laws there are more favorable to the direct lending business.

Ms. Mack-Hilliard asked about Mr. Williamson's other business. He said he operated Harrison Capital Management and his partner, Larry Gragg runs Creekside Financial. As partner and co-owner he said he is involved at a senior level with the operation.

Mr. Braswell asked about the difference in the Virginia and South Carolina laws. Mr. Williamson said he did not know but a man from Virginia at a meeting he attended spoke about the difference and Mr. Williamson's partner was excited about the idea. Senator Hoyle said the Commission would get the information on usury laws in the other states.

Mr. McKinley asked what the expected return on investment would be for an investor in the direct lending business. Mr. Williamson said there was a wide range based on risk involved. Mr. McKinley asked about 4% to 5% for a North Carolina company. Mr. Williamson said that would not attract a lot of capital, because investors tended not to know the consumer lending business and there was a higher return in other businesses. He said his company had to turn to the private market for capital, but "we had to pay a high return."

Mr. Everett asked how much change had Creekside experience from its original business planning. Mr. Williamson said the company was more heavily into auto loans now than they had anticipated originally. Further, he responded to another question from Mr. Everett that the company turned down about 60% of the direct loan applications. He said the "risk is too high for us."

Mr. Wallace from the NC Credit and Personal Finance Council followed up with excerpts from a report on the industry conducted by a consumer advocate group. (***SEE ATTACHMENT: Center for Financial Services Innovations***)

He said the report noted that many of the unbanked and underbanked population borrowed for basics needs and cited a shortage of high quality, short term, and small dollar credit available. Mr. Wallace said the report recommends installment loans as a product to meet these needs.

He made reference to predictions that between 1.5 and 2 trillion dollars in credit will be taken from the market place in the next two to three years.

In summary, Mr. Wallace said the consumer finance industry needs both statutory and regulatory relief. He said the need was for two things:

1. Ability to charge late fees
2. Adjustment in the way they charge customers

Senator Blue posed several questions to Mr. Wallace based on the example that servicing a loan of \$1,000 was \$600 and the return was \$200. Senator Blue then suggested that the way for the profit to work was to guarantee the average loan was \$3,000, since the work was the same. He said the information about what goes into the cost to the company wasn't known, but compared this to utility rate increases which are considered based on having the information from the company as to costs. The Senator and Mr. Wallace were not able to reach common ground on a rate of return for the industry.

There was a brief discussion of publicly traded consumer finance companies which ended in the short-term knowledge that Household Finance was such a company, and a request for further information.

Ms. Mack Hilliard asked the Assistant Commissioner of Banks, Mark Pearce about any research that office had done concerning what might be appropriate rates and fees. Mr. Pearce said the General Assembly was the appropriate body to make such a policy determination. The Banking Commission research does not show that the industry is on "life support", as he put it. He said there is concern, but that 70% of the companies are profitable. He said this meeting held substance and said the need was evident to continue talking.

Co-Chair Senator Hoyle said the availability of capital was shrinking. He said the banks will say they have money to lend, but the regulators are interfering. He said we would not have any economic recovery until credit is flowing again. He said it may have been over done with AIG, Goldman-Sachs, etc. but credit was needed to get consumer spending going again.

Representative Hall moved approval of the minutes of the March 24, 2010 meeting and the Co-Chair Senator Hoyle seconded, then the minutes were approved.

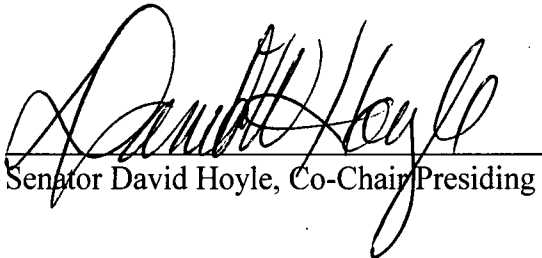
Co-Chair Hoyle asked for a proposal for the Commission to discuss at the next meeting. Representative Hall said he hoped the discussion would help the flow of credit to help the consumers. Co-Chair Senator Hoyle asked for any ideas that might help. Representative Brubaker recalled discussions in the General Assembly 27 years ago on the same subject. He quoted Representative "Mickey" Michaux about people seeking credit: "If they don't get it here, they're going to get it somewhere."

Representative Fisher suggested looking at other states based on what was said about Virginia and South Carolina at this time.

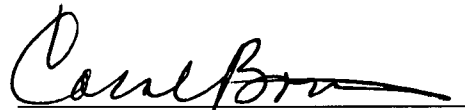
Mr. McKinley said he felt the Commission could arrive at a "win-win" answer.

Co-Chair Senator Hoyle said some of these small loans were being used to help start new small businesses.


The meeting adjourned at 11:50 a.m.




Senator David Hoyle, Co-Chair Presiding



Carol Bowers  
Commission Assistant



Representative Hugh Holliman, Co-Chair



Minutes by Ted Harrison



## **NORTH CAROLINA GENERAL ASSEMBLY**

LEGISLATIVE BUILDING  
RALEIGH NC 27601

March 1, 2010

### **MEMORANDUM**

**TO:** Members, Joint Study on the Modernization of NC Banking Laws and the Consumer Finance Act

**FROM:** Rep. Hugh Holliman, Co-Chair  
Sen. David Hoyle, Co-Chair

**SUBJECT:** Meeting Notice

The Joint Study on the Modernization of NC Banking Laws and the Consumer Finance Act Committee will meet on the following date:

**DAY:** Wednesday  
**DATE:** March 24, 2010  
**TIME:** 10:00 am  
**LOCATION:** 1228/1327 LB

If you have any questions concerning this meeting or cannot attend, please contact Carol Bowers at 919-715-0873 or email [hollimanla@ncleg.net](mailto:hollimanla@ncleg.net)

**Joint Legislative Study Commission on the Modernization of  
North Carolina Banking Laws and the Consumer Finance Act**

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**AGENDA**

**March 24, 2010**

**10:00 a.m.**

**Legislative Building: Room 1228**

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**I. Introduction**

*Representative Hugh Holliman, Co-Chair*

*Senator David Hoyle, Co-Chair*

**II. A Review of the Supervision of the NC Consumer Finance  
Industry by the Office of Commissioner of Banks**

*Mark Pearce, NC Deputy Commissioner of Banks*

**III. Review of Survey Conducted by the NC Credit and Personal  
Finance Council**

*C. Everett Wallace*

**IV. Response on behalf of Consumer Advocate Organizations**

*Chris Kukla, Senior Counsel for Legislative Affairs,*

*Center for Responsible Lending*

**V. Committee Discussion**

**VI. Adjourn**

HOUSE PAGES

NAME OF COMMITTEE \_\_\_\_\_ DATE \_\_\_\_\_

1. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

2. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

HOUSE SGT-AT-ARM SENATE  
1. Name: David Shearon

2. Name: Martha Larrick RONALD SPANN

3. Name: \_\_\_\_\_ CHARLES MACRATI

4. Name: \_\_\_\_\_

## VISITOR REGISTRATION SHEET

Study Comm N.C. Bank

Name of Committee

3-24-10

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rob Schofield

NC Policy Watch

Phil Leharan

NC AGCO

Maer Giff

Smith Anderson

Kelly Johnston

Time Investment Corp.

Robin Riddick

Time Investment Corp

Jamella Wm

Time Investment Corp

Lisa Martin

NC Home Builders

Emily Wilbourn

TPLT

David Perdue

Green Corp Financial customer

Mandy Sizzon

Green Corp Financial

Kent Yance

Security Financial



# VISITOR REGISTRATION SHEET

● Log Study Com. of Modern NC Bank.      3-24-10  
 Name of Committee      Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Margaret Matrone	MCH FA
Wayne Smith	Resident Lenders of N.C. Century Finance, Inc. - Rocky Mount, NC
Bryan Smith	Student- North Carolina State
<span style="font-size: 1.5em;">●</span> Daniel Baum	Troutman Sanders
Paul Stock	NCA
Lauren Whaley	NC Credit Union League
David C. Darby	RLNC
Glen Hall	RLNC National Finance Co. Sanford NC
Brian Reese	RLNC, Home Credit
Larry Leckner	Clark, Lytle, Geschickling, Wilmington
<span style="font-size: 1.5em;">●</span> Les Pierce	Security Finance

# VISITOR REGISTRATION SHEET

Leg. Study Com on Modern N.C. Bank Laws - 3-24-68  
Name of Committee Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME \_\_\_\_\_

### FIRM OR AGENCY AND ADDRESS

Marvell Chestnut

For the Comm. of Bks

Lee-Ann Olson

CFSA

Rose Williams

NC DOI

# VISITOR REGISTRATION SHEET

N.C. Joint Comm. Banking Laws 3-24-10  
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Erin Wagner DiNero	RLNC - Wagner Financial Svc, Winston-Salem
Priscilla M. Butler	RLNC - Capitol Credit Co. Greenville NC
Pam Smith	RLNC - Century Finance - Rocky Mount, NC
Dennis Triplett	RLNC - Welcome Finance - Mcbane, NC
WILLIAM BRAXTON	RLNC - THE MONEY SHOPPE, GRAHAM, NC
Dorise G. Chappell	RLNC - Greene Finance Corp. - Mt. Airy, NC
Roxanne Staples	Atlantic Discount Corp. <sup>Nags Head,</sup> NC
Sherry W. Beaver	Holiday Finance Kannapolis NC
Kelly Hargett	Holiday Finance Kannapolis NC
Larry Shive	Holiday Finance Kannapolis, NC

# VISITOR REGISTRATION SHEET

Print Leg. Study Comm. N.C. Banking Laws
3-24-10  
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Crawford	Home Credit Inc.
Fred Bone	Bone's Assn.
Harris Greene	Greene Finance Corp. Mt. Airy NC
DRK Carlton	Henry
Chris Kukua	CRL
Sara Weed	CRL
SUSAN LUTON	CRL
Amy Fuller	Hunter's Wings -

# VISITOR REGISTRATION SHEET

N.C. Joint Comm. Banking Laws

Date 3-24-10

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME \_\_\_\_\_

FIRM OR AGENCY AND ADDRESS

Larry Bewley

2 B A

Heather Thom

NCKWA

Andy Ellen

NK Rmt

## MINUTES

### JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT.

Wednesday, March 24, 2010  
10:00 a.m.  
Room 1228 Legislative Building

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act met Wednesday, March 24th at 10 a.m. in Room 1228 of the Legislative Building. (*SEE ATTACHMENT: Members and Guests Attending Attached.*) Co-Chairman Representative Hugh Holliman presided.

### PRESENTATIONS

Deputy Commissioner of Banks Mark Pearce provided an overview and annual report from the Commission of Banks regarding consumer finance. (*SEE ATTACHMENT: Supervision of the NC Consumer Finance Industry by the Commission of Banks.*)

Mr. Pearce said the Banking Commission focuses attention on several points concerning the consumer finance industry in the state:

- Broad access to consumer credit
- Where does the industry fit in today's market
- Is the industry sustainable
- Are consumers getting a fair deal

The Consumer Finance Act requires a lender to opt into one of two categories:

G. S. 53- 173 –lenders.

These make loans of up to \$3,000 and may charge up to 36% interest. These are the original lenders considered under the Act and there are 6 of these lenders in the State.

G. S. 53-176-lenders

These may make loans up to \$10,000. Most of the lenders in the State (73) fall into this category. These have a blended interest rate wherein smaller loans have a large interest rate and the rate goes down for larger loans.

The office of the Commissioner of Banks considers the annual renewal applications for the lenders and does an annual report on the 79 lending operations. There are individual office reviews, plus corporate examinations.

Since the General Assembly abolished the so-called "pay day lending" practices, The Commissioner of Banks has been charged with making sure this law is enforced. The Office research has shown that since North Carolina has abolished the "payday" loans, consumers have found a variety of credit products to fill their needs and don't seem to miss the "payday" loans.

Further research by the Commissioner's office shows consumers are satisfied with their dealings with consumer finance offices.

Mr. Pearce said that revolving credit has gone up 65% in the last decade. At the same time the consumer finance industry has had no growth. In the last year credit card use has gone down as card companies have pulled back and there are new federal credit card laws which will also impact that debt avenue.

In the last ten years, the number of consumer credit lenders and number of locations have declined in the State. Some of this is due to external factors: for instance one company opted to come under federal rather than state regulations; however the offices are still in the State.

Another company with home offices overseas has opted out of the consumer finance business in the U. S. entirely. Mr. Pearce also said that there have been a number of mergers and acquisitions in the industry.

Smaller loans (\$1000-\$3000) have gone up in the absence of payday lending. Loans of less than \$1000 went up slightly after payday lending ended, but now are declining. Larger loans have had a 149% growth over the past decade. Mid-sized loans are going down. This leads the Commission of Banks to consider that there are two consumer loans industries: there are 2 big lenders with a number of offices that have about 40% of the offices. Then there are companies with 1 to 6 locations about 20% of the offices, the mid-sized companies with up to 40 locations and about 40% of the offices.

Nine out of ten of the large loans are made by the two largest lenders. The smaller companies tend toward the \$1000 to \$3,000 loan range. Large lenders deal with signature loans. Smaller lenders want collateral. (96% want property security) Small loans secure more car loans.

Mr. Pearce provided caveats to his information:

- Data is self-reported and unaudited
- All lenders don't report the same way
- No income shown from other sources-indirect lending
- Different accounting/corporate treatment mechanisms
  - Capitalization of loan processing fees
  - Reporting of insurance income

Loan receivables are flat, with 18% fewer offices. Loan loss reserves are up 111% reflecting the economic conditions, and assets are down 5%. Thus liabilities are down by 11%, but the net worth of the firms is up 89%.

Mr. Pearce said the data reflects that about 70% of the lenders are profitable in any given year. Overall income is up per office by 11%, with interest income up by 13% and fees and other income up 2%. However, overall expenses per office is up 15% since 1998 and the interest income is down 26%. Operating expenses in the same period has gone up 48%.

The ultimate conclusions for the Commissioner of Bank report:

1. Market has expanded and diversified
2. Industry in N. C. has shrunk, but not due to Consumer Finance Act
3. Big variation in model between large lenders

- & small/medium lenders
- 4. Annual report not good profitability insight.
- 5. NCCOB does not see industry dying

In the meantime, the Commission of Banks office will focus on:

- 1 Risk-focused examinations
- 2 Non-filing fees, insurance & pay day residual
- 3 Expanding & Monitoring Annual data:
  - Credit insurance
  - Non-filing insurance
  - Indirect lending
  - # of customers

**NOTE: Questions from members were of such low volume as to be unintelligible. Therefore presenters' responses may only approximate the question posed.**

During the discussion, Representative Brubaker asked if there were specific reasons for consumer loan companies to opt for federal rather than state regulations. Mr. Pearce said sometimes it may be more efficient if a parent bank has a federal charter to bring the consumer loan offices under the federal charter. On the other hand some companies might feel that state regulations are more restrictive. Mr. Pearce said the federal regulations are "no regulations at all." Along the same line, Senator Stein asked how many consumer finance companies which are affiliated with a bank could make such a switch for federal regulation. Mr. Pearce said the consumer finance business was traditionally a state chartered business. Switching to federal charter involved some expense and he did not know just how many North Carolina companies were operating under a federal charter.

In terms of profitability of the companies, Mr. Pearce reminded the group that the profitability had been a subject of discussion for the General Assembly in recent years. He said he had solicited comments from the consumer finance industry in a letter last fall, but did not receive any responses.

When asked what the Commissioner of Banks might suggest as a reasonable return on equity. Mr. Pearce said the COB did not make such a call. The COB interest centers on whether consumers are getting the products they need at a fair deal.

Mr. Pearce said there are fewer very, very small loans; more loans are over \$600, but under \$1000.

The next presentation was made by Everett Wallace, President of the North Carolina Credit and Personal Finance Council, concerning a survey made by the Council during the period December 15, 2009 through January 31, 2010. More than 2500 customers at consumer credit offices filled out 10-question forms regarding their experience with the consumer credit finance industry in the state. *(SEE ATTACHMENT: Survey of Consumer Attitudes.)*



Mr. Wallace prefaced his discussion by saying that there had been increased costs in the terms of doing business in the consumer finance credit industry, but no change in allowable charges in over 25 years.

The finance industry survey showed a positive response to the business from these customers in several areas:

- Business was trustworthy & helpful
- Compared costs before coming in
- Came to fulfill current need
- 99% were very satisfied
- 99% felt they were treated fairly
- 99% would refer others to the company

Mr. Wallace summarized his concern posing the question: are direct lending companies profitable and if not what should be done to allow this business for be profitable. He then introduced Morris Marshburn and Bob Esch from the accounting firm of RSM McGladrey & Pullen to review a survey done for the North Carolina Credit and Personal Finance Council. (The report is copyrighted by the firm) **(SEE ATTACHMENT: Cost Data etc.)**

The report was also introduced with the caveat that it was developed from information supplied by the various companies and that the information had been neither audited nor verified to actual financial reports. Further the survey is based on responses from 35 direct loan companies which provided information surveys and through the accounting firm web site. The firm sought to separate the responses in that some companies do only direct loans, while other companies do both direct and indirect loans such as buying the finance contract from the dealer on a car that is financed.

Mr. Esch said the consumer finance credit industry served over 500,000 customers in North Carolina with a total of over \$1.39 billion in loans. He said the response for the survey amounted to 58% of the total offices and most were from medium to small lending companies. The survey data was adjusted so as to reflect only the small loan operations as near as possible so that large lending company figures would not skew the results.

Mr. Marshburn said the survey showed that the average cost per direct loan in 2008 was \$692.37. The branch cost was the highest cost in that total and the provision for credit loss was the next highest.

Mr. Marshburn said that the smaller companies do not have deposits to back their loans and must borrow money. While interest rates are low for the companies to borrow money now, those rates are expected to increase as the economy improves and loans will be based on the LIBOR rates. (LIBOR is the London Interbank Offered Rate the rate basis for banks to borrow unsecured funds from other banks. The LIBOR is set daily.)

The survey put forward several points of consideration:

- Revenue has not kept pace with costs
- Total costs have increased
- Branch costs—largest part of lending- are up 15.4%
- Loan loss provisions are up
- Home office costs are down slightly
- Company borrowing costs are volatile

In summary, the RSM McGladrey Pullen survey sought to provide the following take away points for the Commission to consider:

- Branch costs, the highest component for direct loans are up
- Slow economy requires greater loan loss provisions
- Borrowing costs for small companies are dependent on larger financial institutions
- Small lenders are owner-operated
- Direct loans major credit source for many
- Significant benefits to customers

Representative Brubaker began the discussion asking how long the industry could survive, but Mr. Marshburn would not project a prediction or guess.

Mr. Marshburn explained in a discussion with Ms. Mack-Hilliard the components of the profit margin in a loan process which includes the interest on the loan, insurance etc. Mr. McKinley amplified on the explanation. Mr. Esch recalled part of the survey presentation which represented an average loss of nearly \$200 per loan in 2008.

Mr. Esch told Senator Blue that the survey did not compute the average loan being made, but he would be able to add that later.

Ms. Young had a question concerning indirect loans—that instrument wherein a car financing may be arranged with the dealer and the consumer loan company buys the loan contract. As Mr. Esch explained these loans are not covered by the Commissioner of Banks, while some consumer credit companies offer both direct and indirect loans. He told Ms. Young that he did not have a data of direct to indirect loan ratio.

Representative Hall asked Mr. Wallace if the cost of doing business would continue to rise no matter what the General Assembly does. Mr. Wallace said there was the smallest number of branches in the state than since 1959. His take on the question was that if the General Assembly did not act the “net impact will be the businesses will not be there.”

Co-Chairman Representative Holliman asked how companies that made only direct loans could make any money. There was no specific answer since some companies have different costs structures, others may have more equity, but that times were tough for these companies.

Prior to the next presenter, Co-Chair Representative Holliman accepted a motion from Representative Hall for approval of the minutes for the January 27, 2010 meeting. The motion passed.

The next presenter, Chris Kukla responded on behalf of the Center for Responsible Lending. He noted that the previous presentations when paired with the Commissioner of Bank’s report reflected the difficulty of trying to coming to grips with the situation: different companies report information in different ways. As he put it, taking the average loss of nearly \$200 per loan, then consumer finance companies had “turned into on the largest charities in the state” if that was carried to the extreme. He said that lost figure would translate to a lost of \$45 to \$60 million over the past three years.

Further he said the survey did not take into consideration tax treatments, with pre-tax income. He said the provision of loan losses is the money held to cover losses, not the losses themselves. Further he said the last survey showed significant expense loss in the category of "other" without identifying what "other" means.

He also said that collections on various forms of insurance income shown, but the cost is not shown.

He said the survey showed a "snapshot", but did not provide all the data necessary to decide if there is a net gain or a net loss. He said the survey losses do not track the losses as shown in the Commissioner of Banks report.

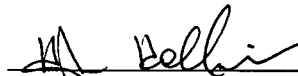
Mr. Kukla noted that many customers were using consumer finance loans for everyday living expenses. In his way of thinking that means these people would continue to pay the rates and fees for a long time to cover everyday living.

Citing the consumer credit representatives' belief that it is a tough time for these companies, Mr. Kukla said that it was a tough time for all financial service companies and decisions by the General Assembly should not be based on what is good for one segment of the financial service industry.

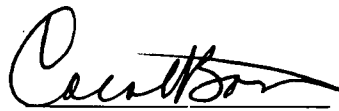
The following discussion revolved around various topics including loss charge offs, loss reserves and the balance between data that does not provide the complete picture, at least in Mr. Kukla's view.

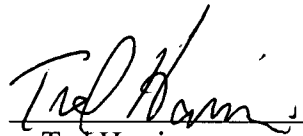
Mr. Braswell said the industry had provided all the information requested by the Commissioner of Banks and if that office required more information the companies would provide it if asked.

The meeting adjourned at 11:55 a.m.

  
Representative Hugh Holliman  
Co-Chair Presiding

\_\_\_\_\_  
Senator David Hoyle  
Co-Chair

  
Carol Bowers  
Commission Clerk

  
Ted Harrison  
Minutes

# Trends in North Carolina's Consumer Finance Industry

Joint Legislative Study Commission on the Moderation of  
North Carolina Banking Laws and the Consumer Finance Act

Mark Pearce

Chief Deputy Commissioner of Banks

March 24, 2010



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Office of the Commissioner of Banks  
State of North Carolina

# Overview

- Overview of consumer finance industry and regulatory structure
- Review of trends in consumer finance industry business models and profitability



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Office of the Commissioner of Banks  
State of North Carolina

# OVERVIEW OF CONSUMER CREDIT INDUSTRY



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Office of the Commissioner of Banks  
State of North Carolina

## Consumer Credit Environment: Key Questions to Consider

- Do North Carolina families have access to array of credit products offered in responsible fashion?
- What role does consumer finance industry play in meeting that need?
- Is consumer finance industry sustainable under current regulatory approach?
- Do consumers get a fair deal?



Office of the Commissioner of Banks  
State of North Carolina

# Consumer Finance Industry

- Regulated by NCCOB
  - Licensing
    - 6 lenders under 53-173 (\$3,000)
    - 73 lenders under 53-176 (\$10,000) with 483 offices
  - Examinations at office and corporate level
    - Examine sample of lender offices each year
  - Supervision and enforcement
    - Annual report data collection
    - Enforcement actions against payday lending subterfuges
    - Participation in industry conferences, etc.
    - Continue to defend Commissioner's decision in Advance America



Office of the Commissioner of Banks  
State of North Carolina



## Prior NCCOB research into consumer credit market

- NCCOB funded study to look at NC after payday lending (Nov 2007). Some key findings:
  - 9 out of 10 households believed payday lending was a bad thing
  - Former payday loan customers did not miss payday lenders and reported being better off without it
  - NC consumers had broad range of other products, including consumer finance loans
- Consumers generally satisfied with consumer finance lenders, but declining trend:
  - 95% of consumer surveyed 'very satisfied' or 'somewhat satisfied' in 2007, but dropped to 83% in 2009



Office of the Commissioner of Banks  
State of North Carolina

# Boom and retrenchment of credit cards

- Explosion of credit cards to finance purchases in last decade
  - Revolving debt up 65% nationwide from 1998-2008
  - NC Consumer Finance receivables flat over same time period
- Credit contraction post financial system crisis
  - Credit card lines withdrawn and underwriting tightened
    - Total revolving debt down 10% in last year
  - New federal laws and regulations shifting cost structures of credit cards



Office of the Commissioner of Banks  
State of North Carolina

# TRENDS IN CONSUMER FINANCE INDUSTRY



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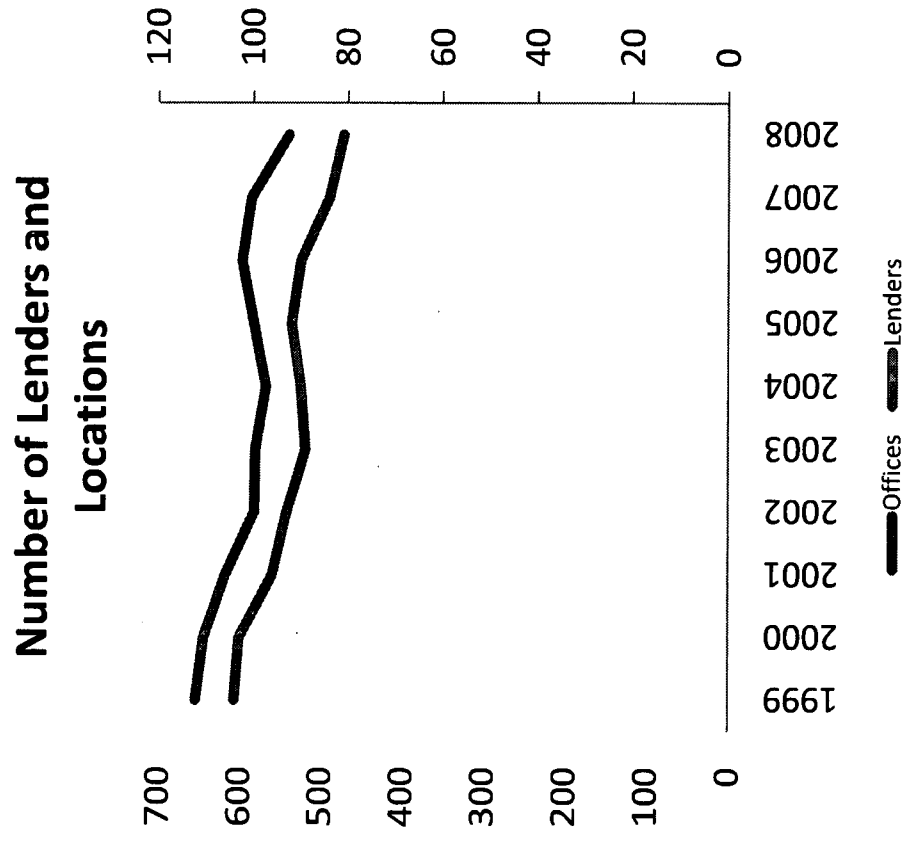
Office of the Commissioner of Banks  
State of North Carolina

# Steady Decline in CF Lenders through 2008

- 22% decline in number of lenders
- 17% decline in number of locations
  - 2008 decline driven by closure of Equity One and restructuring of WFF
- 2009 saw another drop
  - Primarily result of HSBC's departure from retail consumer finance market



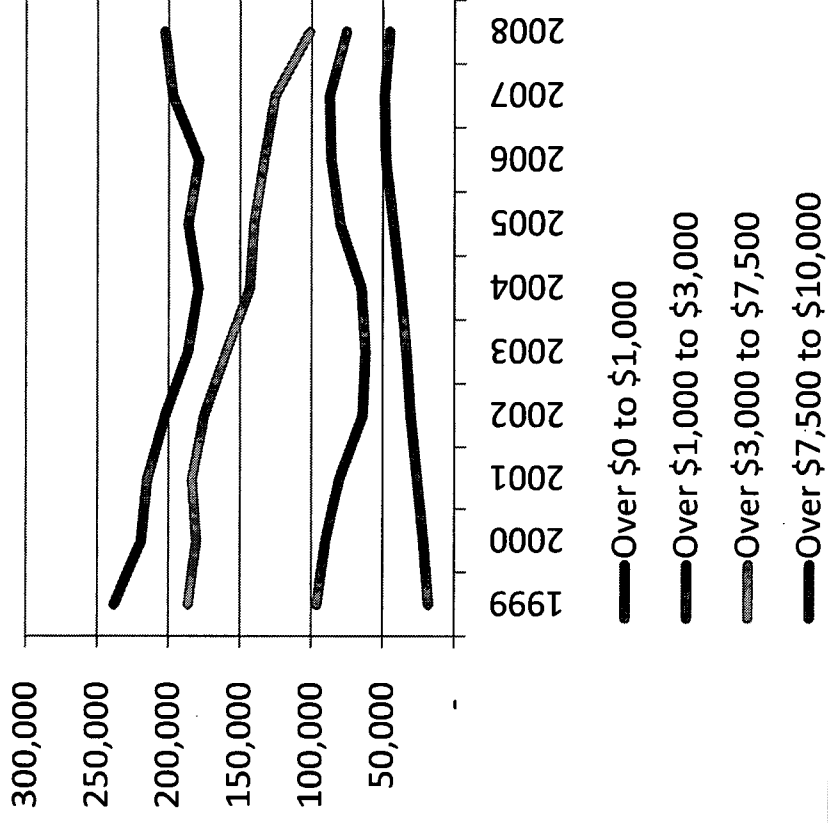
Office of the Commissioner of Banks  
State of North Carolina



# Decline in loan volume matches decline in locations

- Trends by loan size inconsistent
- “Bread and butter” small loans rebounding after payday lending
- Large loans increased 149% in past decade, while mid-size loans dropped 46%

Number of Loans by Size



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State of North Carolina

# Consumer Finance Industry: A Tale of Two Industries

- Concentration in two large lenders with significant retail branch network (approximately 100 offices each)
  - 40% of the market
- Remainder of small (1-6 offices) and medium (7-40 offices) lenders
  - 10-14 Medium size lenders= 40% of market
  - 60-70 Small size lenders = 20% of market



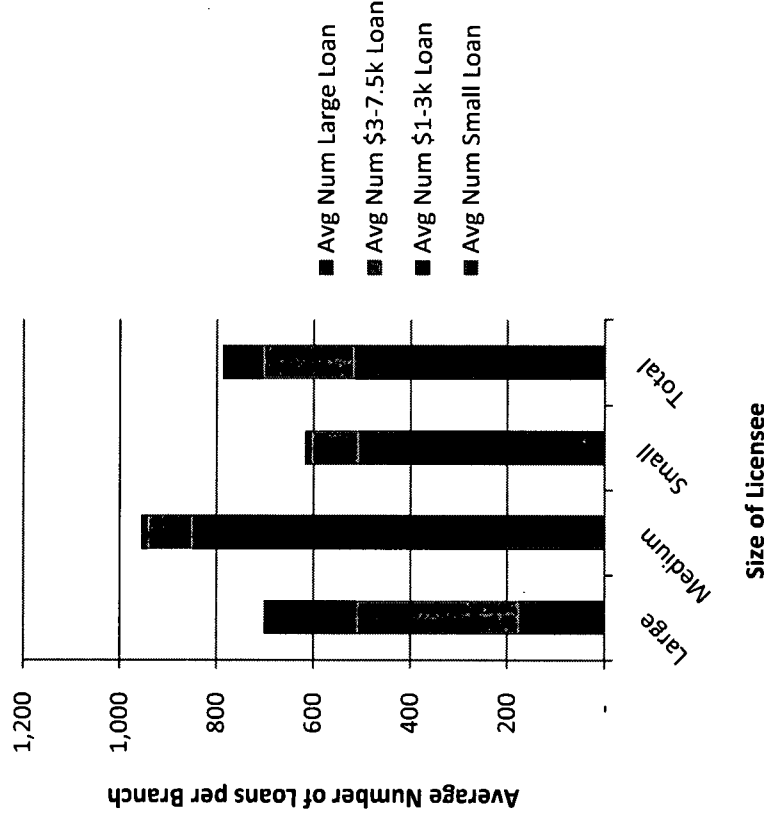
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Office of the Commissioner of Banks  
State of North Carolina

# Large lenders focus on big loans; rarely make small loans

- 89% of all loans over \$7,500 in 2008 were made by two large lenders
- 95% of all loans under \$1,000 in 2008 were made by small and medium lenders

Average Number of Loans per Branch (2008)

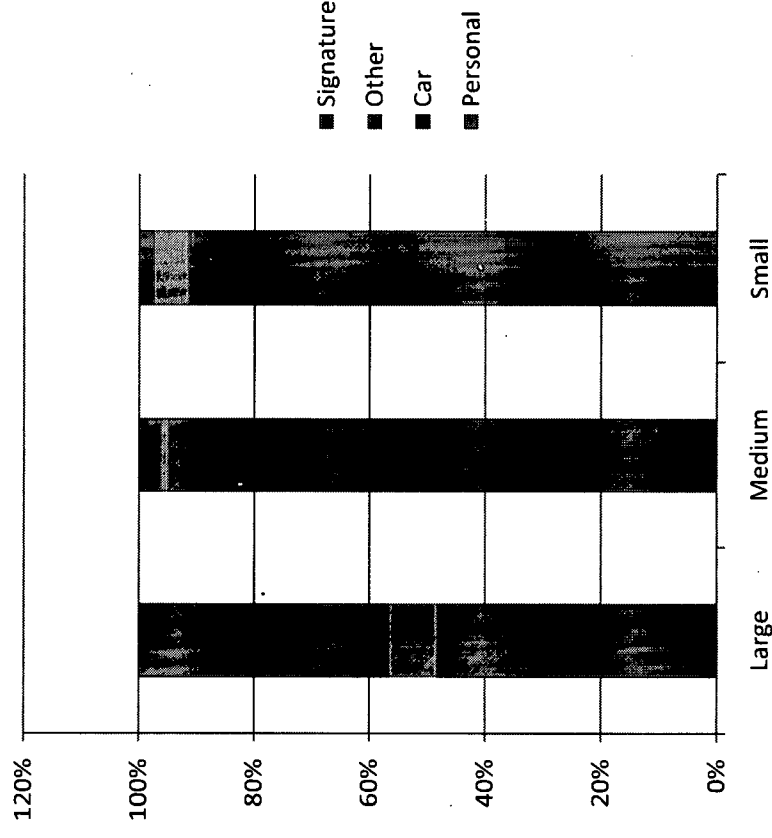


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# Small and medium lenders rely on collateral

- Over 40% of large lenders' loans were "signature" loans (86% of total)
- 96% of small and medium lenders' loans were secured by property
- Small lenders secure more loans with cars

Security Interest by  
Collateral Type (2008)



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# Limits of Using NCCOB's Annual Report to Examine CF Lender Financial Condition

- Limitations of Data
  - Self-reported and unaudited
  - Variations in reporting by individual lenders
  - Does not include income from other business operations (e.g. indirect lending)
  - Differences in accounting and corporate treatment mechanisms
    - Capitalization of loan processing fee
    - Reporting of insurance income



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State of North Carolina

# Significant Balance Sheet Changes since 1998

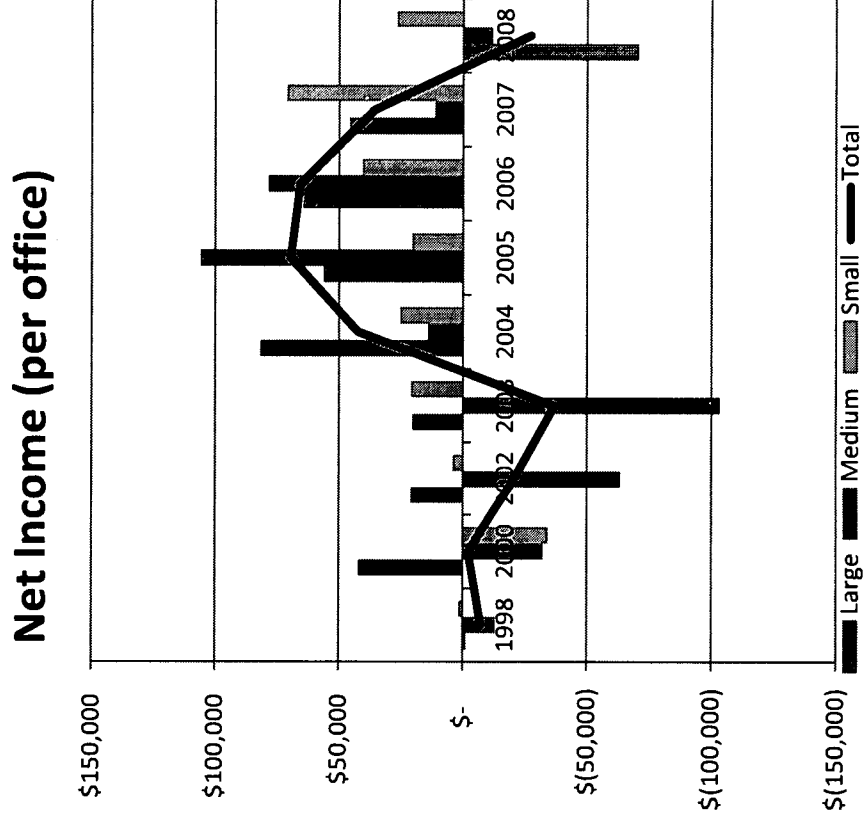
- Loan receivables flat, even as number of offices down 18%
- Loan loss reserves up 111%, reflecting industry assessment of economic downturn
- Total assets down 5%
- Total liabilities down 11%
- Net worth of firms up 89%



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# Industry net income tracks general economic conditions

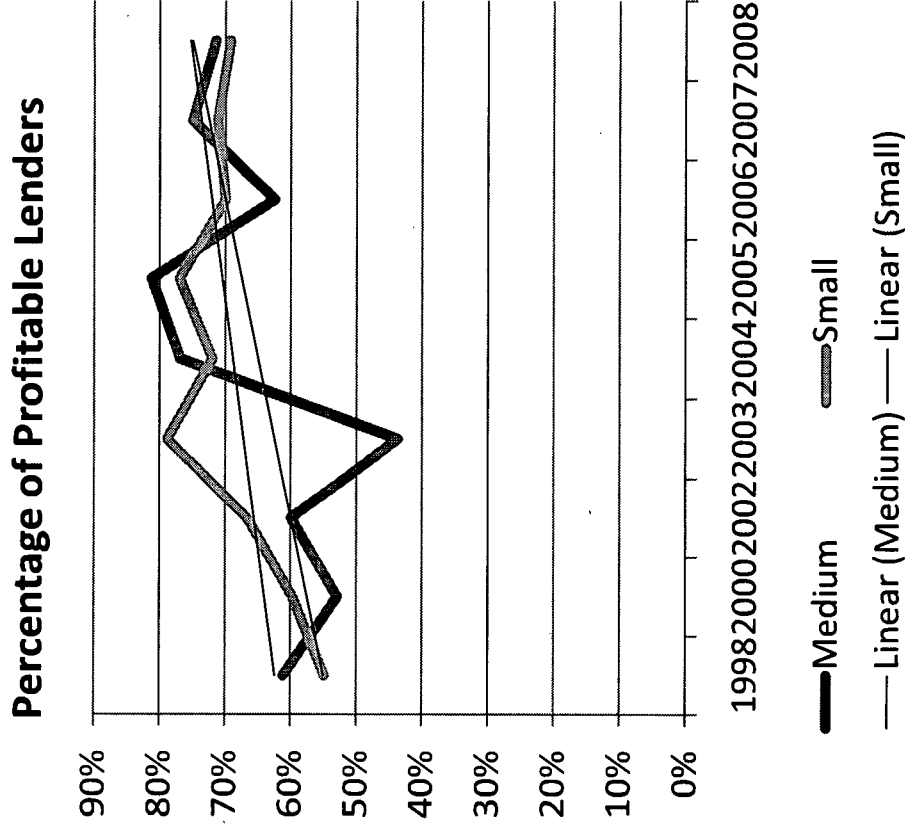
- Large lenders profitable 1998-2007
- Significant variability in profit among medium size lenders
- Small lenders trending upward on profitability until 2008



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# Profitability of Small and Medium Lenders

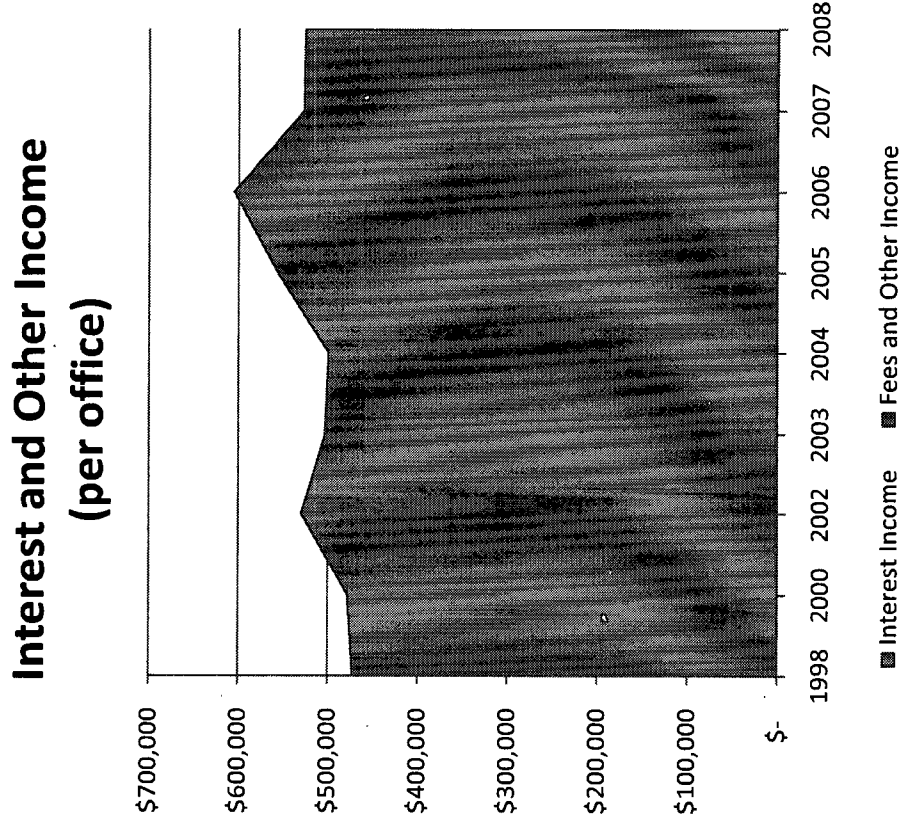
- Most lenders profitable in any given year
- Trend shows increasing percentage of profitable lenders



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State of North Carolina

# Industry Income

- Overall income (per office) increased 11%
- Interest income up 13%, with fee and other income up 2%

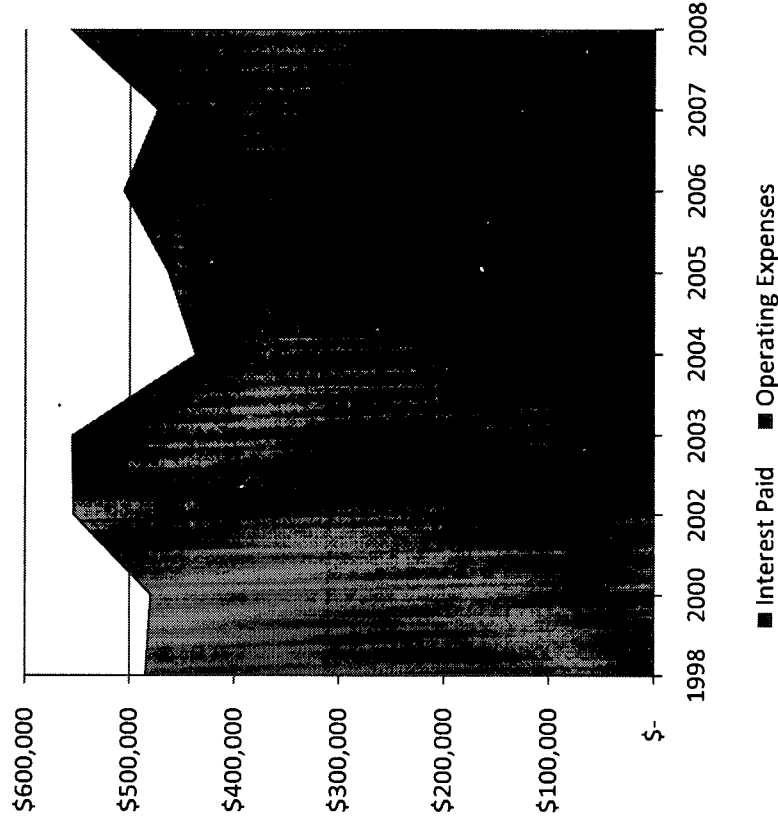


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# Industry Expenses

- Overall expenses (per office) up 15% since 1998.
- Interest expense down 26%
- Operating expenses up 42%

Interest and Operating Costs  
(per office)



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# Conclusions

- Consumer credit market expanded and diversified in past decade and now retrenching as consumers struggle
- Consumer finance industry in North Carolina has consolidated and shrunk somewhat as a result downturn, but many changes appear driven by factors unrelated to CF Act
- Large lenders business model different from small and medium lenders -- focus on large, unsecured loans
- Annual report offers limited insight into profitability, but:
  - 2/3rds or more lenders report profitable and increased net worth
  - Profitability tracks economic conditions
- NCCOB anticipates difficult and lean years during “Great Recession” but does not yet see “sky falling” for overall industry survival



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State of North Carolina

# NCCOB Focus Areas for Consumer Finance Industry

- Risk-focused examination
- Close scrutiny of non-filing fees and insurance to avoid payday lending type subterfuges
- Expansion of annual report data collection and monitoring
  - Credit insurance penetration
  - Non-filing insurance and repossession activity
  - Indirect lending activities
  - Number of customers



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# Questions?



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State of North Carolina

# Survey of Customer Attitudes

Presented by NCCPFC

<sup>24</sup>  
March 9, 2010

11

The North Carolina Credit and Personal Finance Council (NCCPFC) conducted a survey of its customers from December 15, 2009 to January 31, 2010.

Customers were asked to fill out a form containing 10 questions that were designed to gauge their attitude towards the consumer credit finance industry in North Carolina.

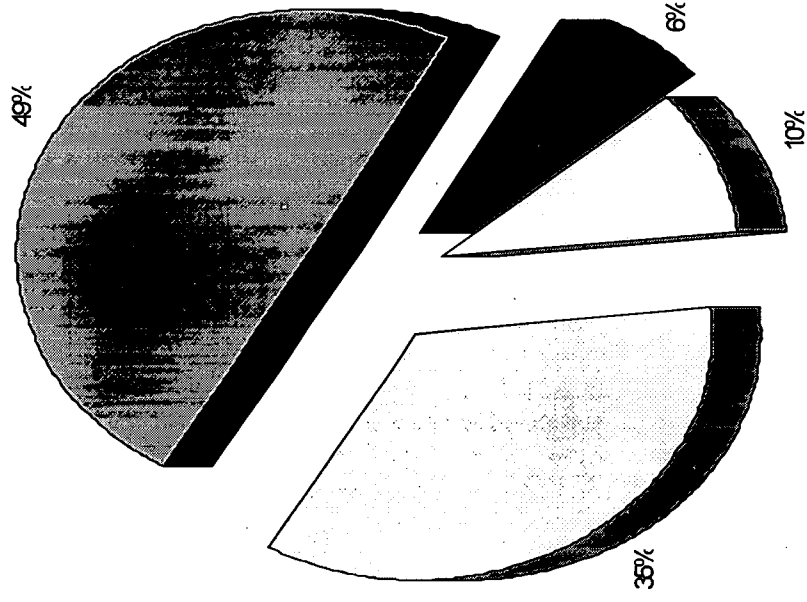
Answers were received from 64 rural and urban communities across the state.

More than 2,500 customers fill out forms and their answers were forwarded to NCCPFC. The answers were compiled by students from UNC-CH and analyzed by NCCPFC.

# Question 1

The responses to this question indicate that the vast majority of customers chose to do business with the consumer finance companies because they trust them and/or they were believed to be helpful.

Why Have You Chosen To Do Business  
With This Financial Institution?



☒ I trust them

☒ They are the only firm convenient to where I live

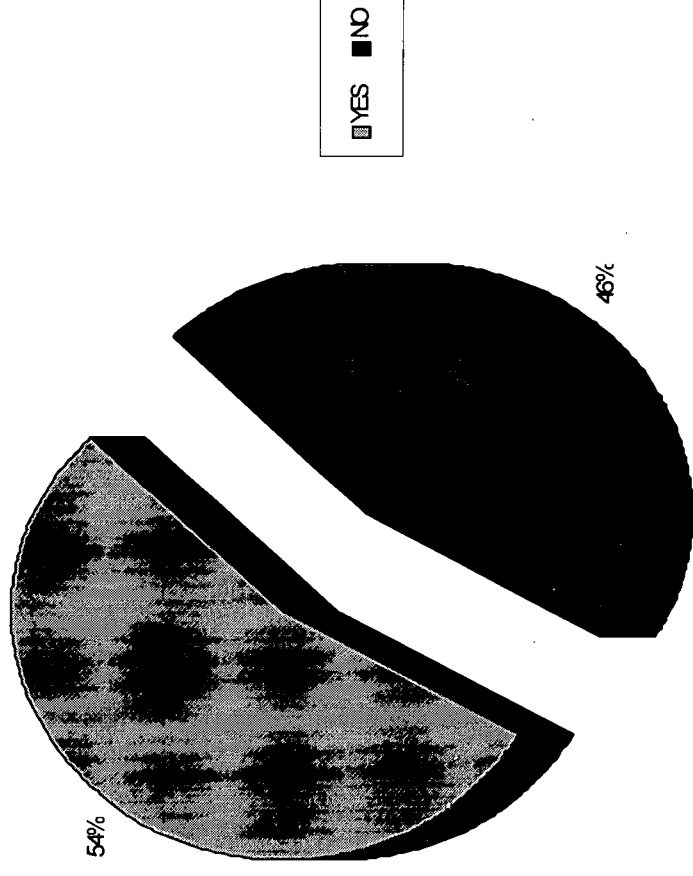
☐ This is the only place I can qualify for credit

☐ They are helpful

# Question 2

Do You Consider Or Compare The Costs Of This Loan  
With The Costs Of Other Credit Options?

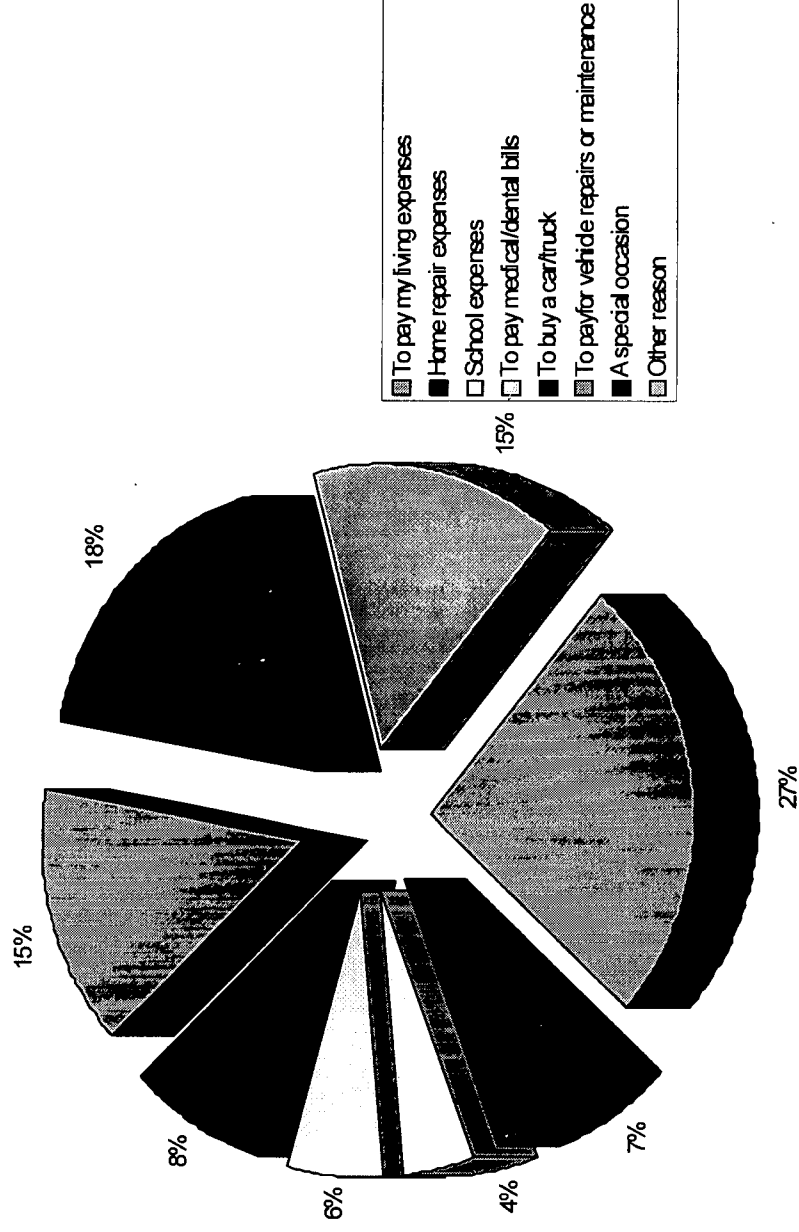
The majority of the respondents said that they had considered or compared credit costs and decided to get a loan from a consumer finance company.



# Question 3

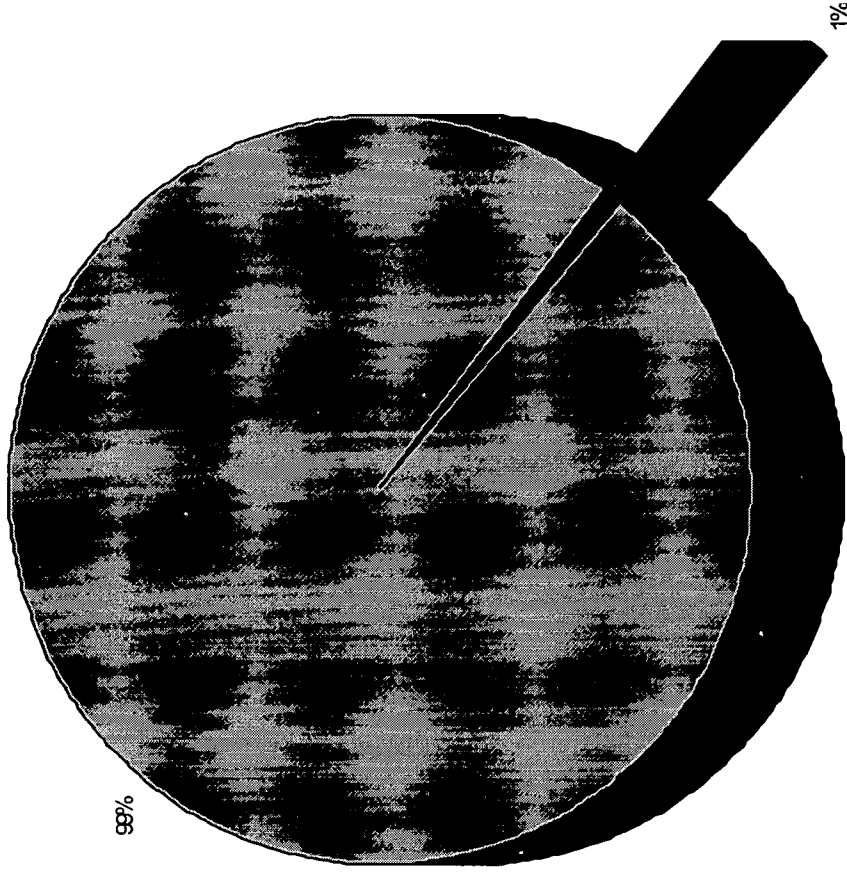
Why Did You Get Your Current Loan?

The principal reason given in nearly two-thirds of the answers to this question suggested that the loan was to assist the customer in meeting some life expense or emergency.



99% of the customers answering this question were satisfied to very satisfied with their consumer finance institution.

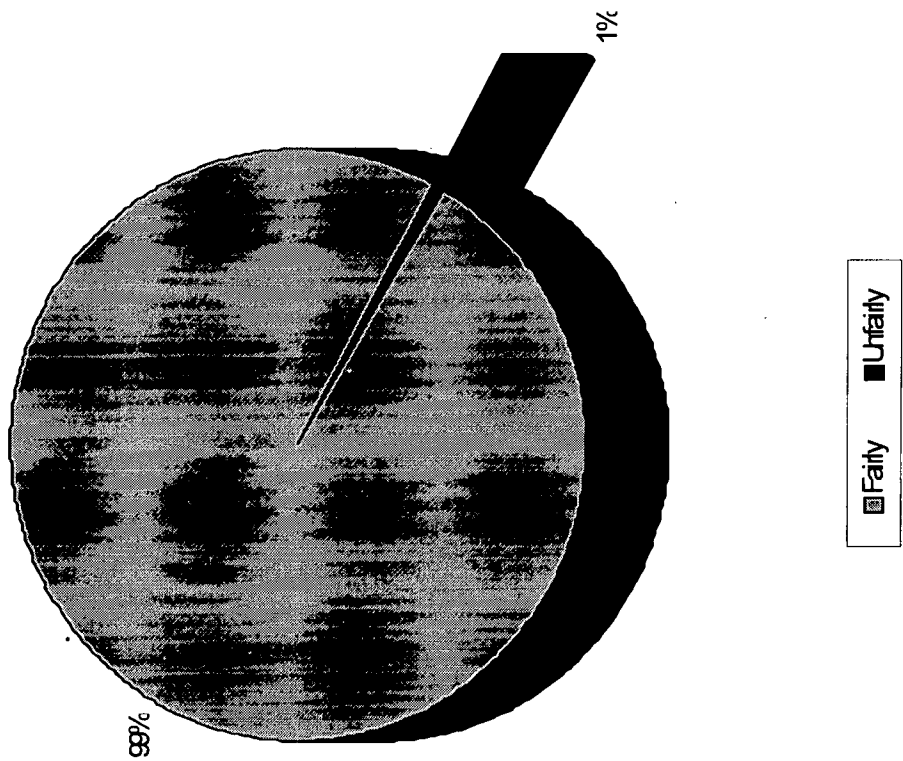
**Question 4  
(Satisfaction)**



■ Satisfied ■ Unsatisfied

Nearly all of the respondents to this question (99%) felt that the company treated them fairly to very fairly.

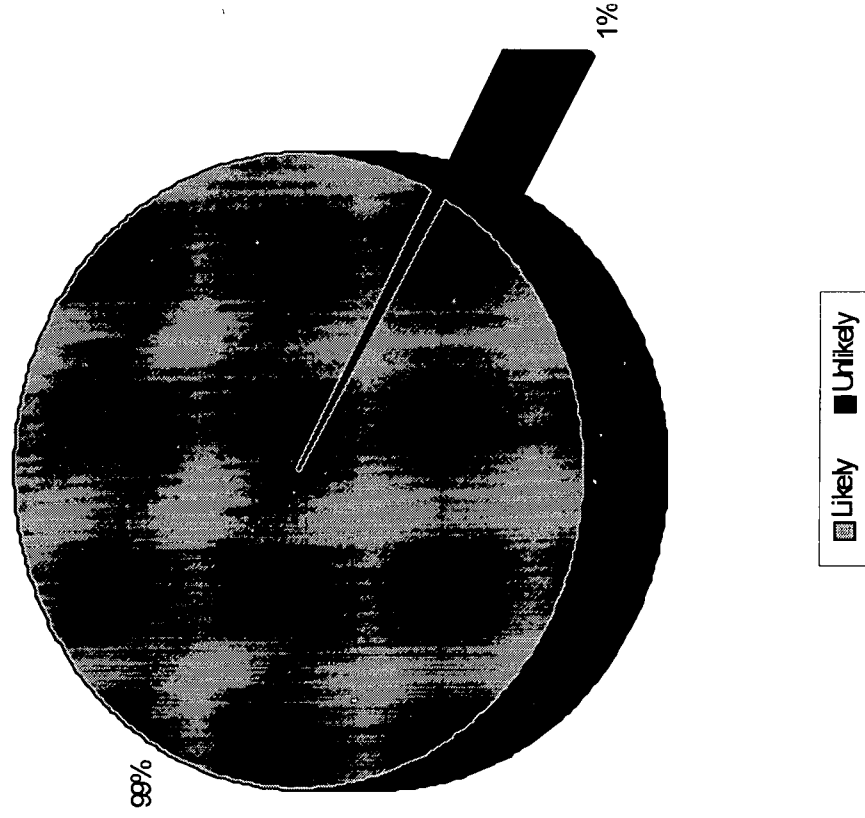
Question 5  
(Fairness)





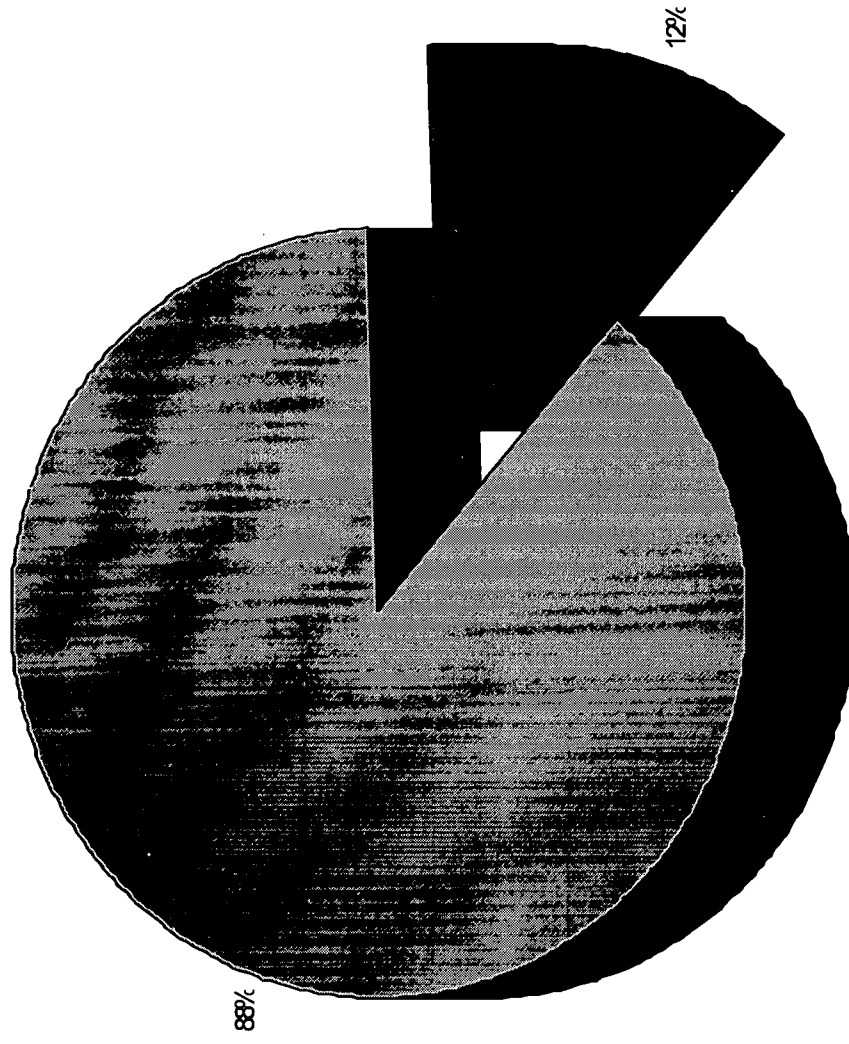
Virtually all of the customers (99%) said that they were likely to very likely to refer their consumer finance company to their friends and families.

Question 6  
(Referral)



88% of the customers who answers this question believed that they or their families would be adversely affected if they could not get a loan from a consumer finance company.

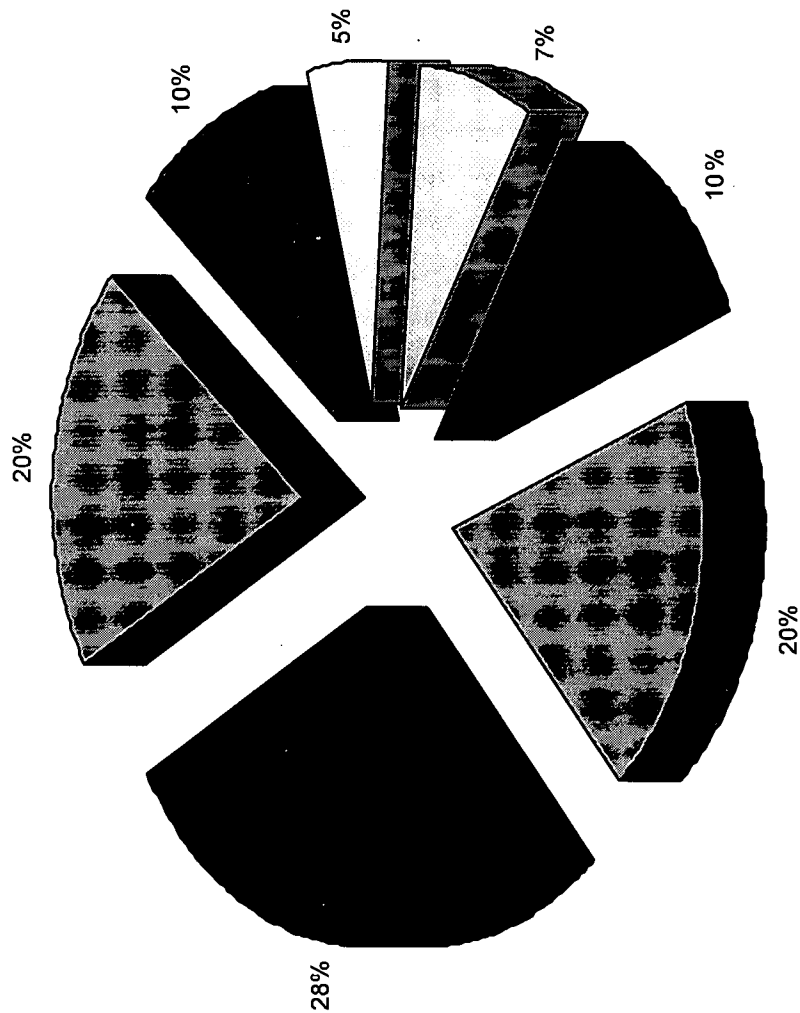
Question 7  
(Affect)



■ Affected   ■ Unaffected

# Question 8

What Would Happen If You Could Not Get A Loan  
From A Company Such As This?

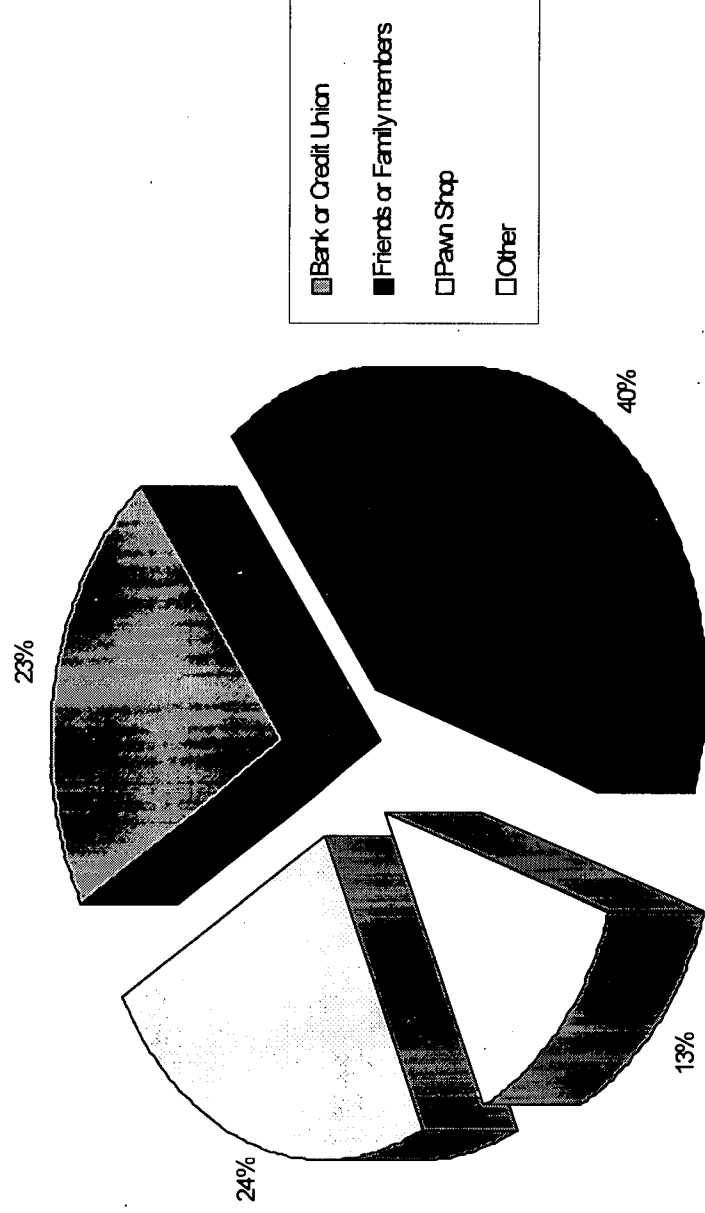


- ☒ I could not pay my daily living expenses
- ☒ I could not pay to have my home repaired
- ☐ I could not pay for school
- ☐ I could not pay medical bills
- ☒ I could not but a car/truck
- ☒ I could not have vehicle repairs/maintenance
- ☒ Other problems for me or my family

# Question 9

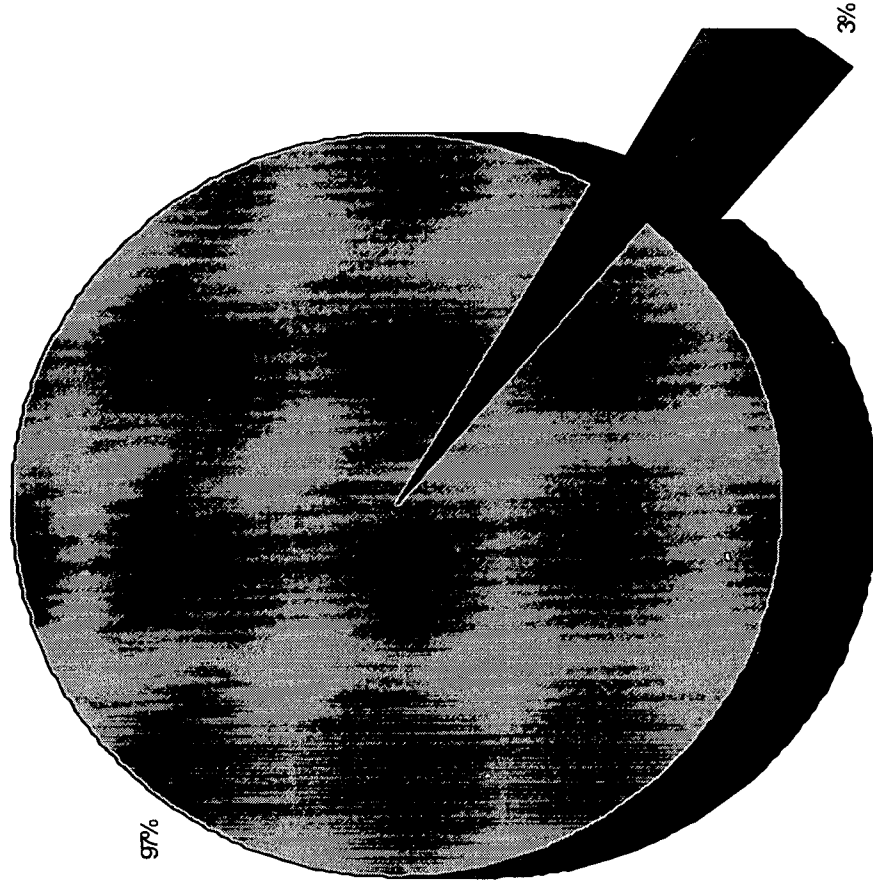
If You Could Not Get A Loan From Companies Such as This,  
Where Would You Get A Loan?

Less than a quarter to the customers believed that they would be able to get their credit needs met by a bank or credit union. The greatest number believed they would have to go to friends and/or family.



Approximately  
**97%** of the people  
in the survey  
indicated that the  
loss of the  
consumer finance  
companies would  
have a negative to  
very negative  
affect on their  
community.

### Question 10 (Impact on Community)

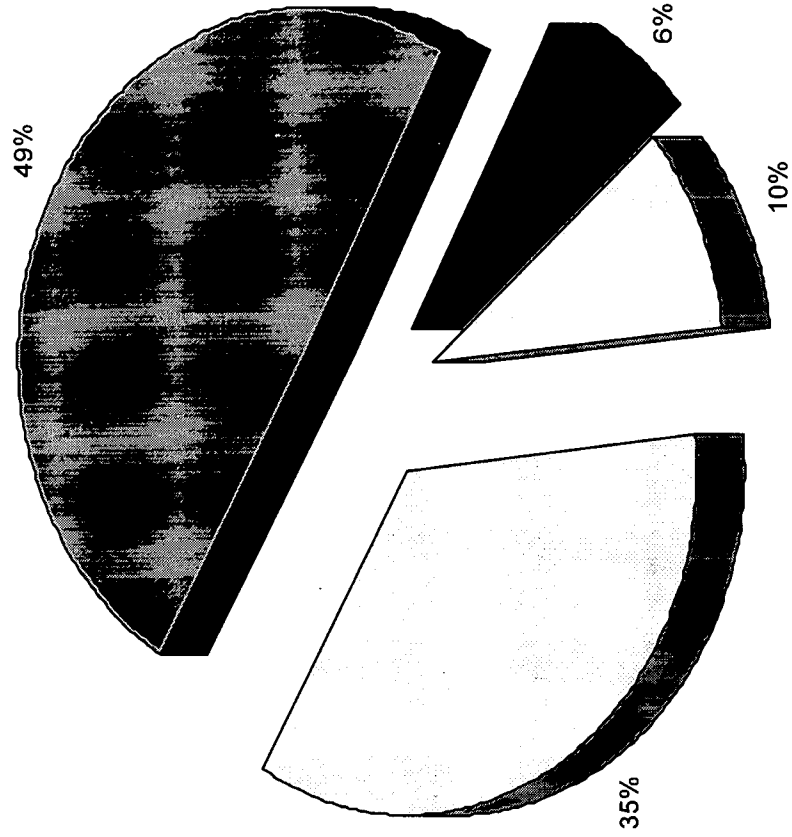


■ Negatively    ■ Positively

# Detail Answers

# Question 1

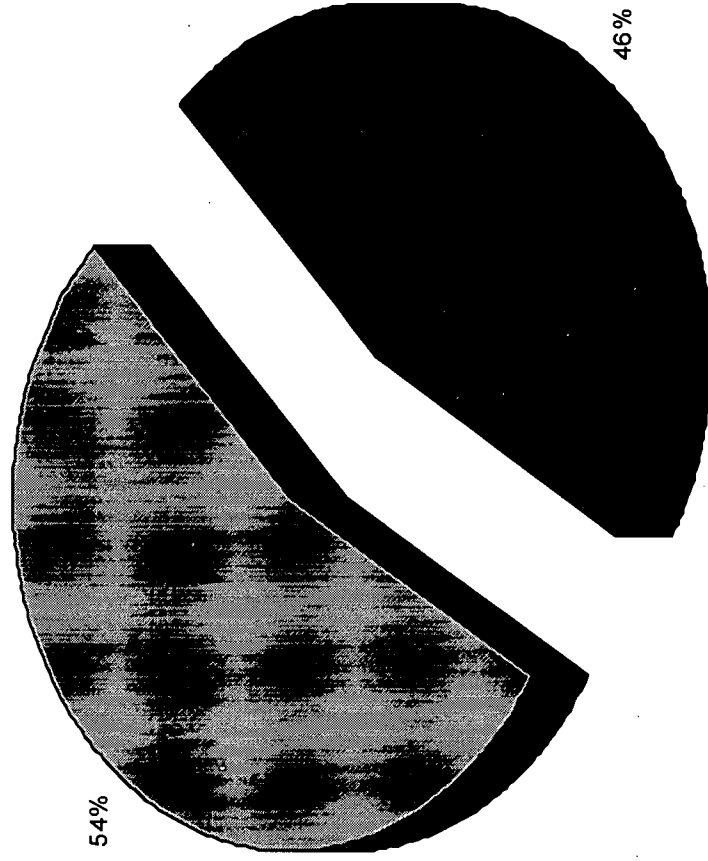
Why Have You Chosen To Do Business  
With This Financial Institution?



- ☒ I trust them
- ☒ They are the only firm convenient to where I live
- ☐ This is the only place I can qualify for credit
- ☐ They are helpful

# Question 2

Do You Consider Or Compare The Costs Of This Loan  
With The Costs Of Other Credit Options?

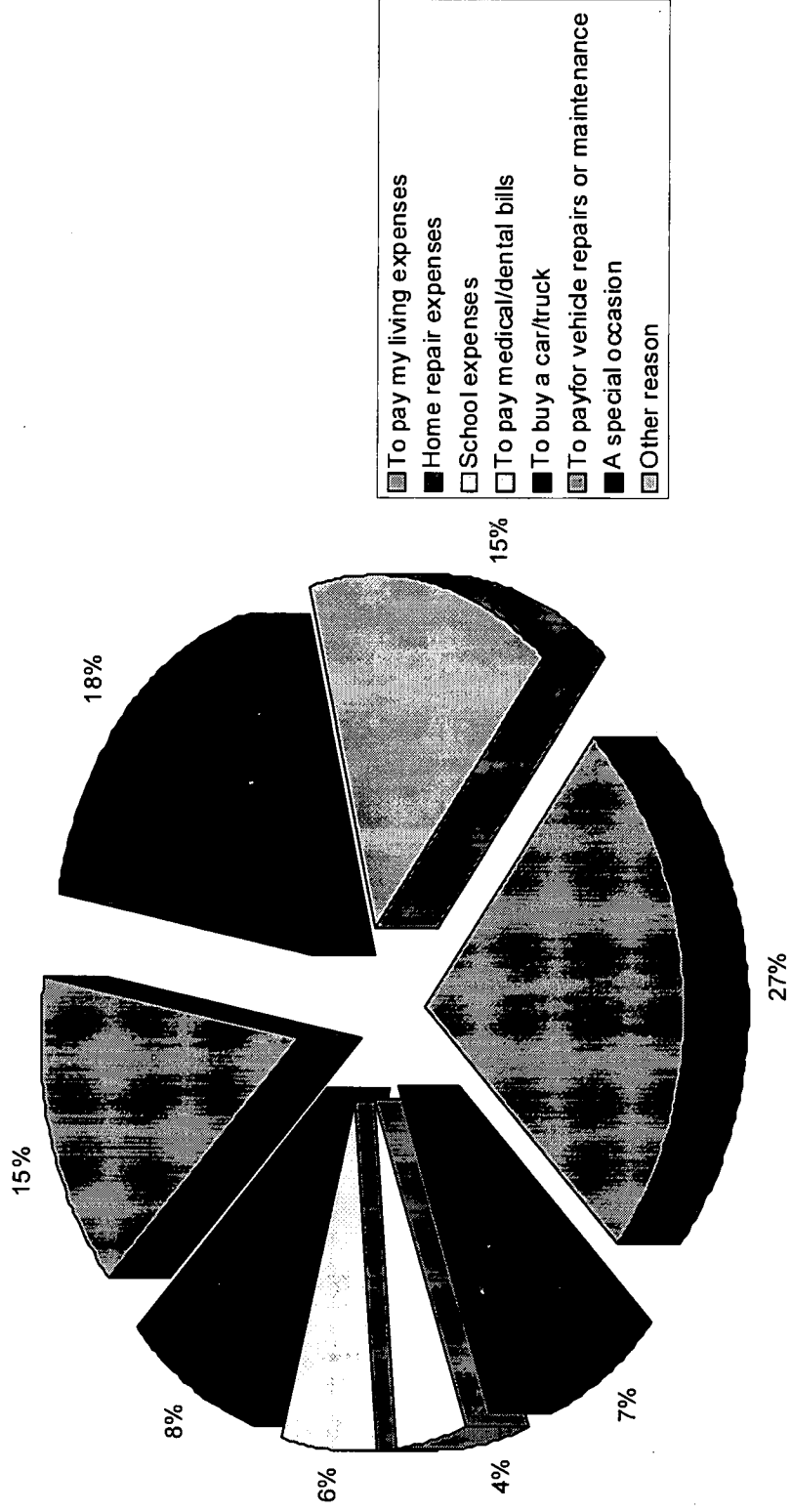


☒ YES ☐ NO



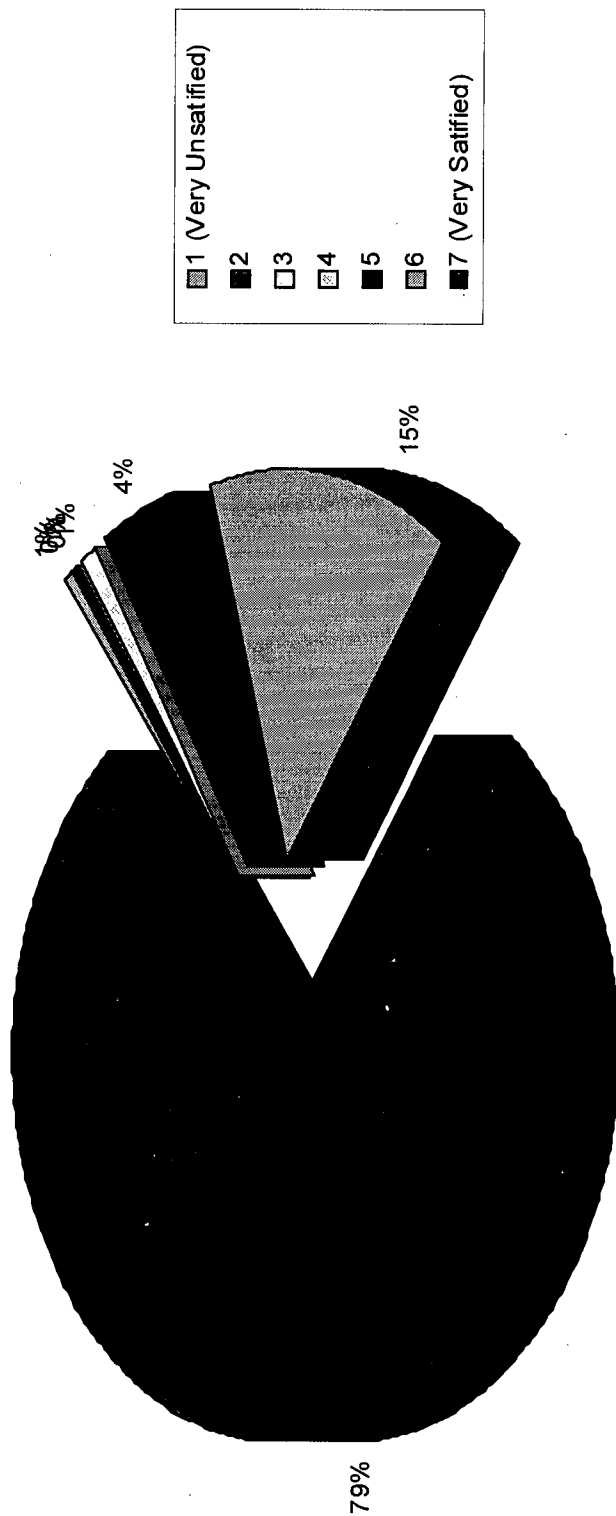
# Question 3

Why Did You Get Your Current Loan?



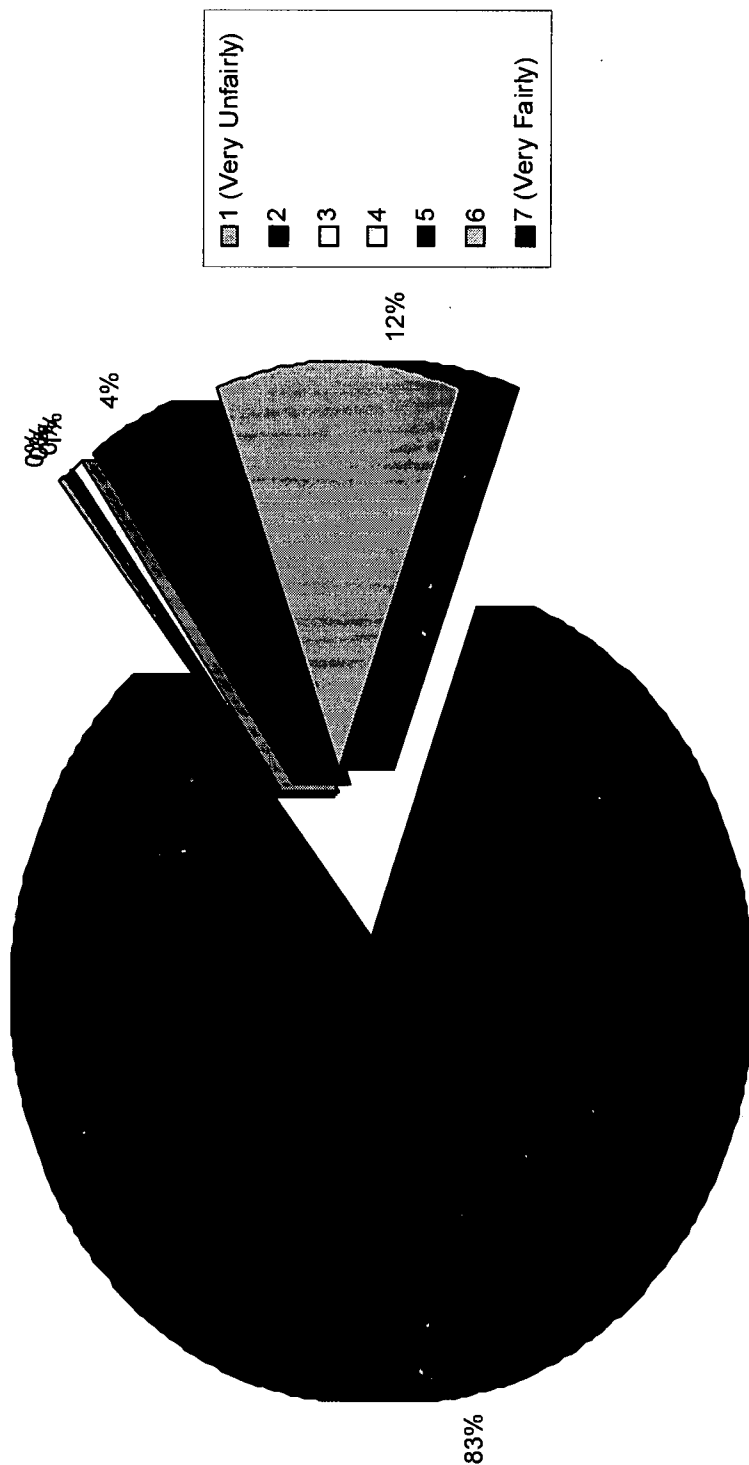
# Question 4

Please Rate Your Level Of Satisfaction With This Financial Institution  
On a ScaleOf 1 (very unsatisfied) to 7 (very satified)



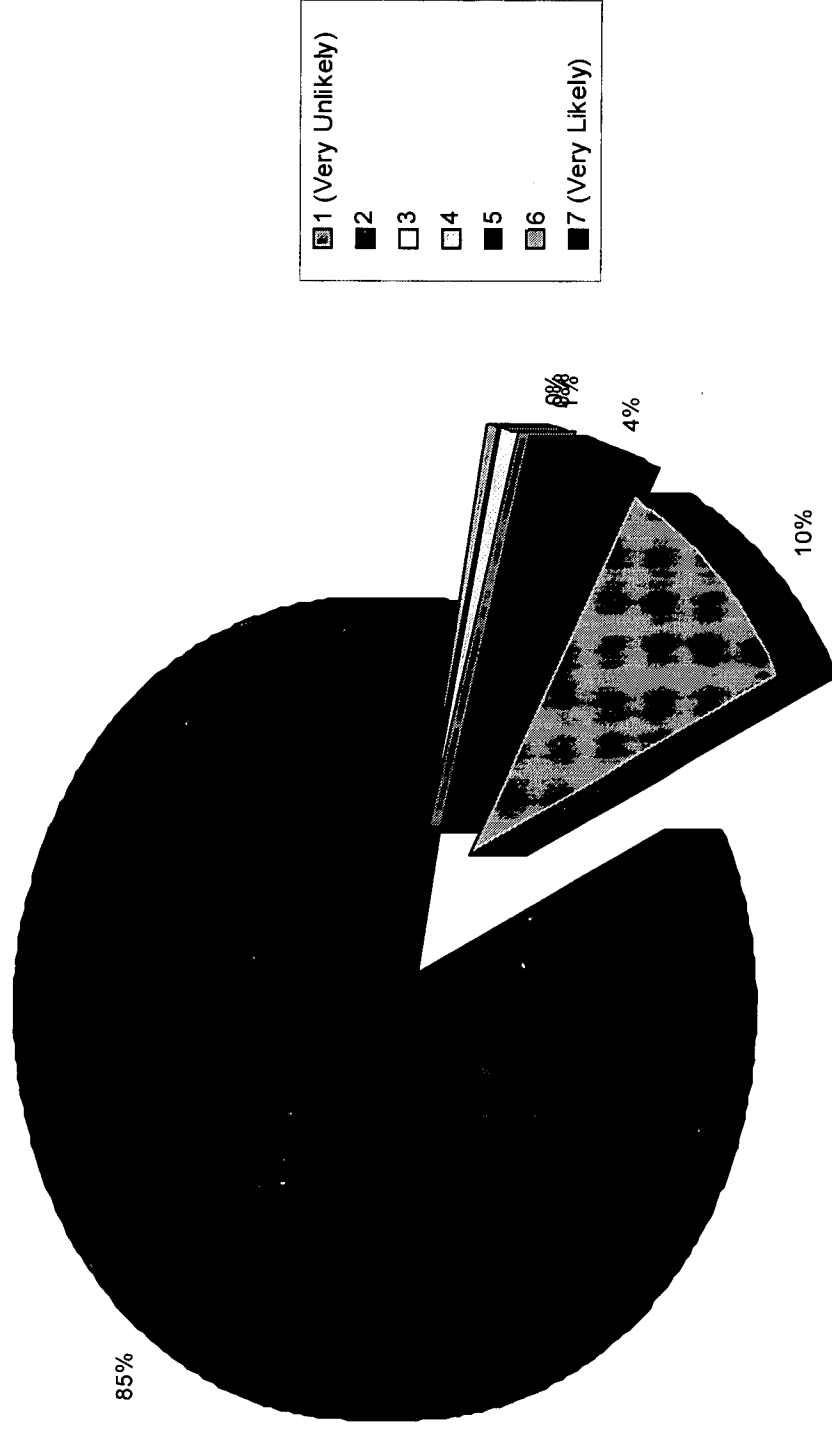
# Question 5

Please Rate The Extent To Which You Believe  
This Company Will Treat You Fairly



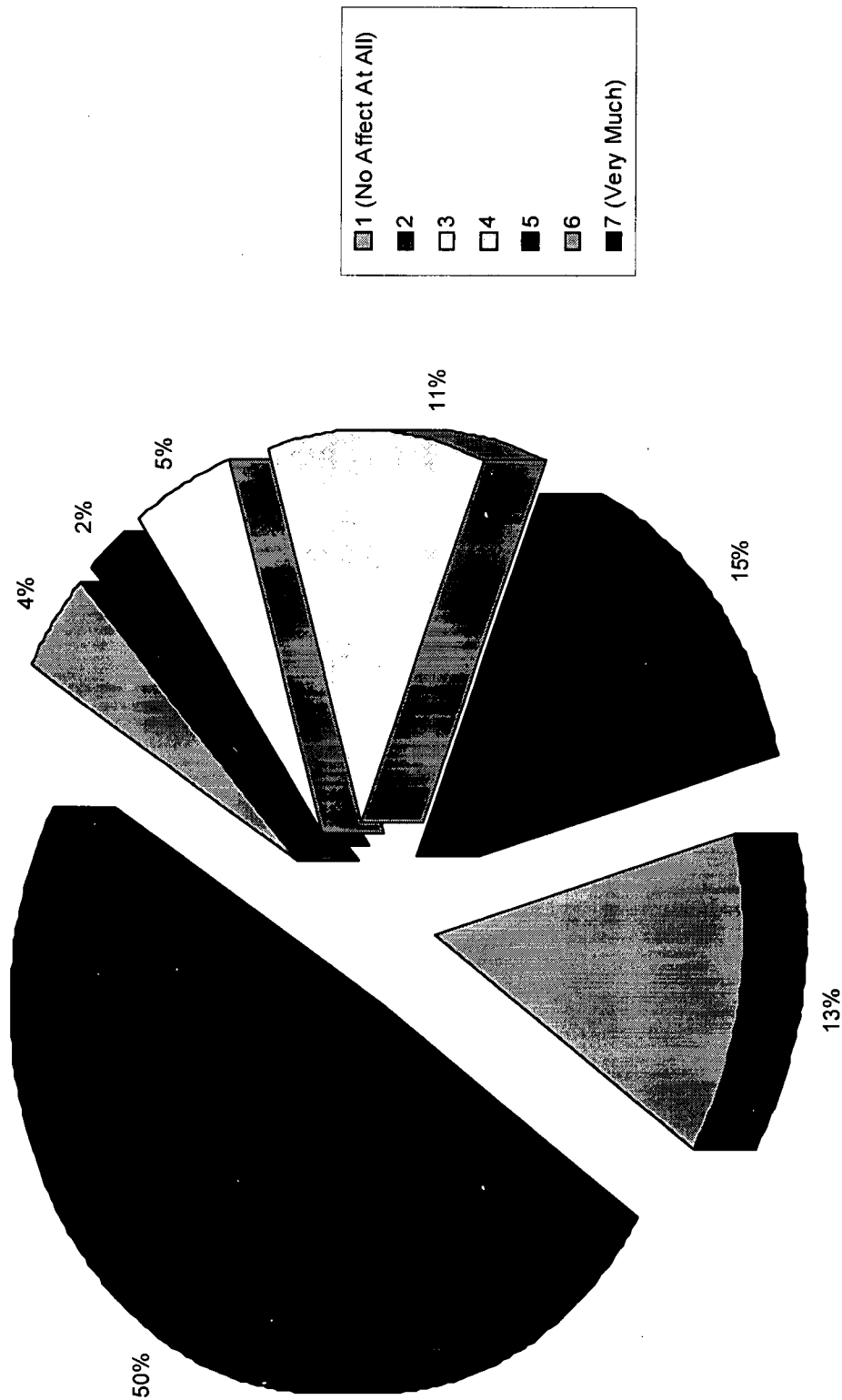
# Question 6

Would You Refer Your Family Or Friends To Do Business With This Company?



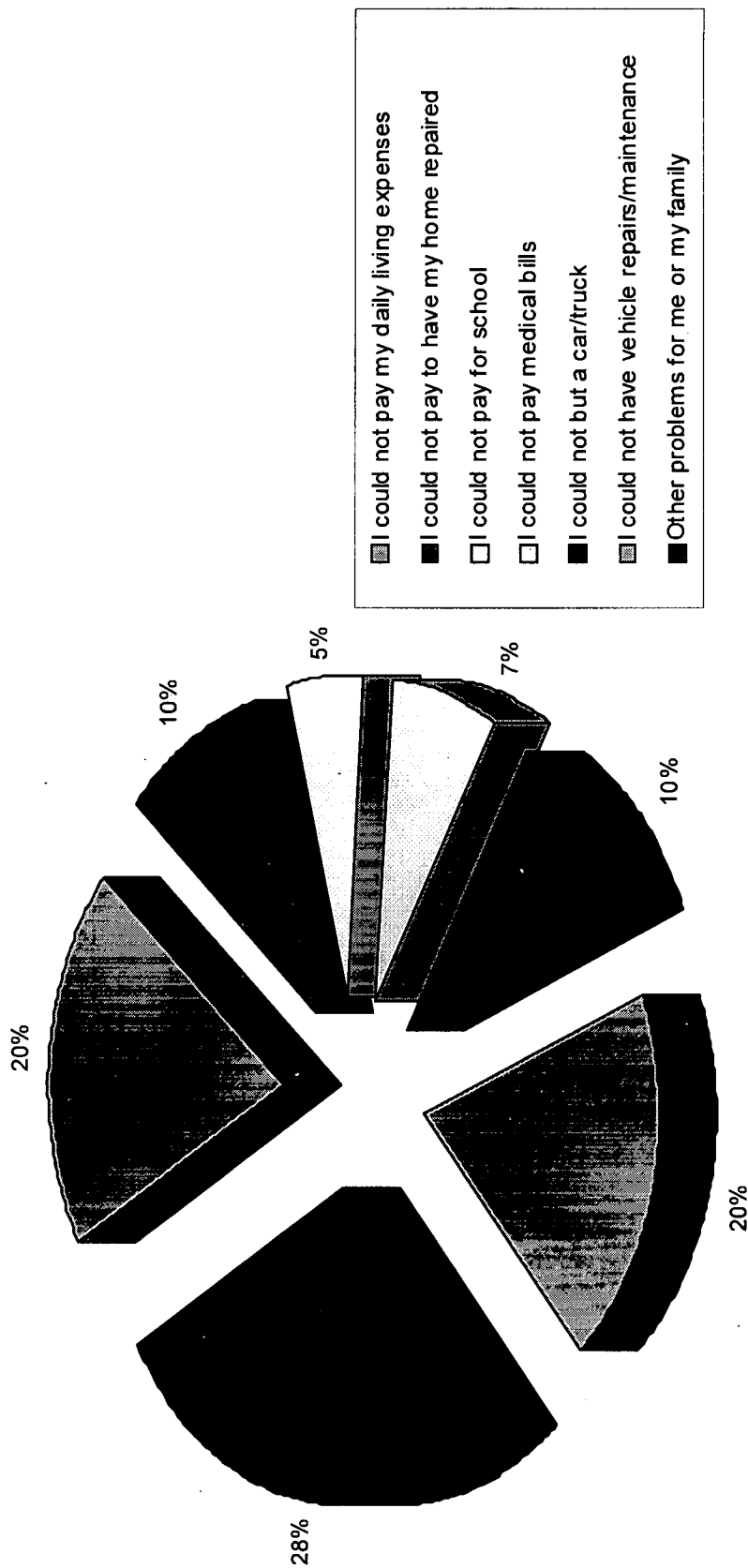
# Question 7

Describe How You OR Your Family Would Be Affected  
If You Could Not Get A Loan From A Company Such As This



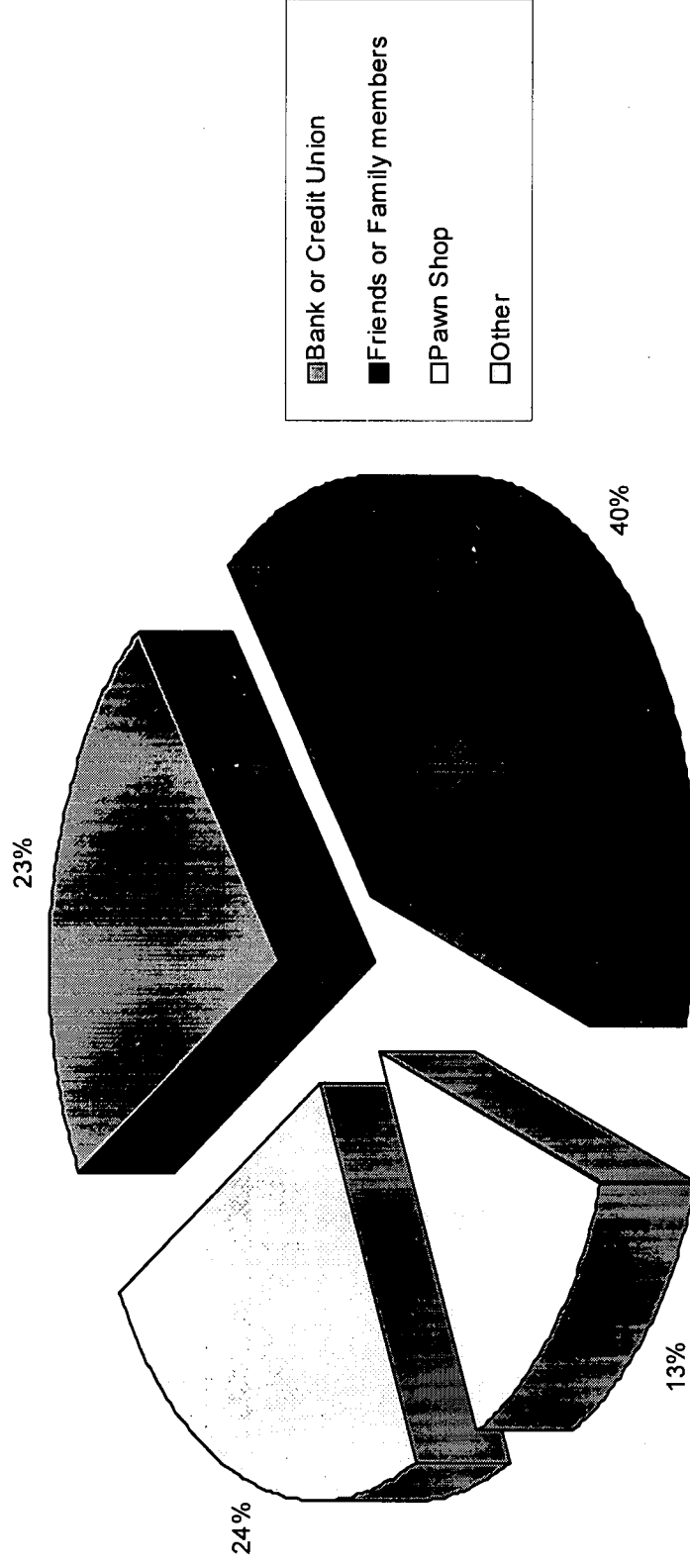
# Question 8

What Would Happen If You Could Not Get A Loan  
From A Company Such As This?



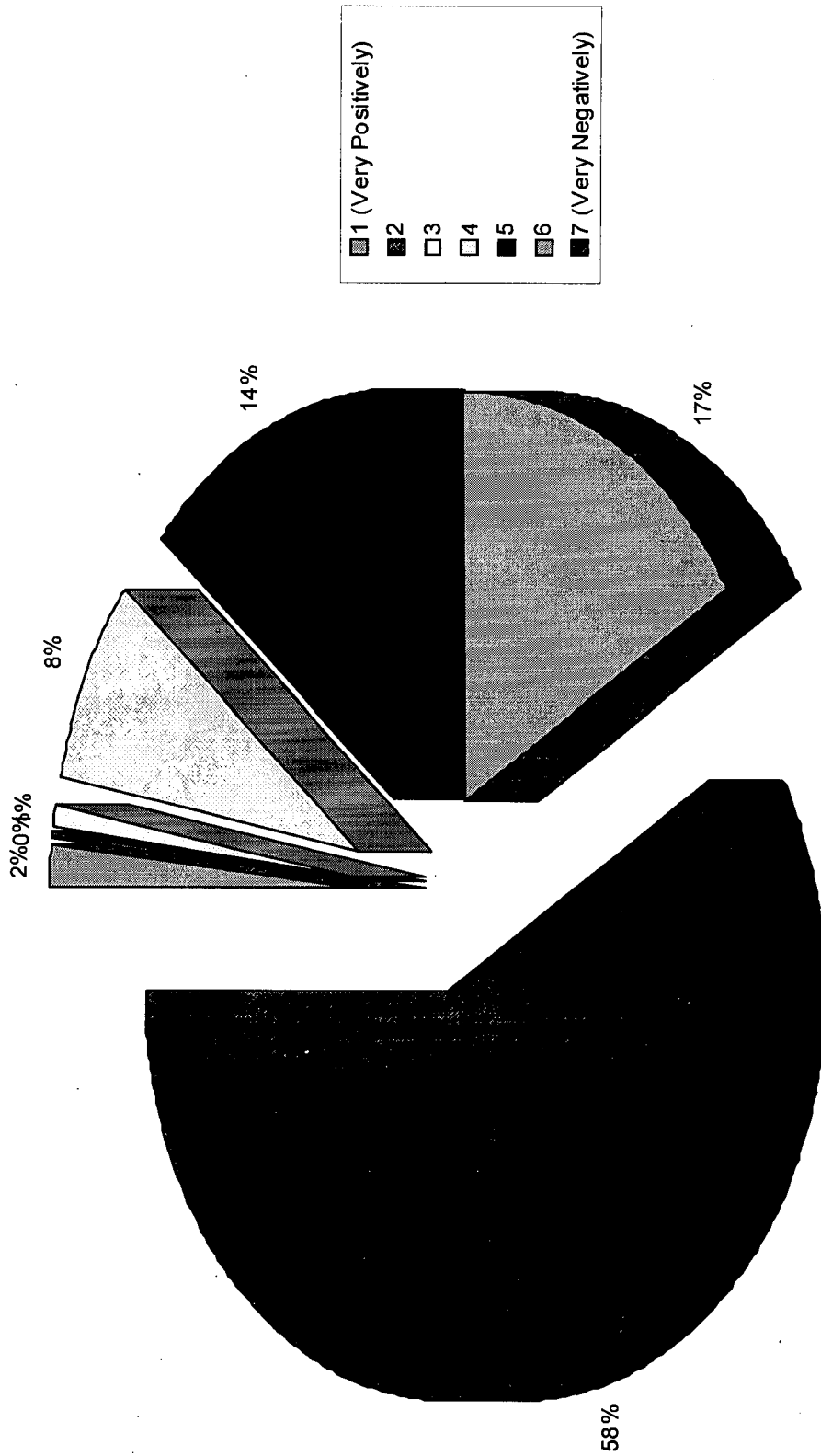
# Question 9

If You Could Not Get A Loan From Companies Such as This,  
Where Would You Get A Loan?



# Question 10

To What Extent Do You Believe Your Community Would Be Impacted If Financial Institutions, Such As This, Were Not Allowed To Operate?





# **Cost Data – Direct Lending Under the North Carolina Consumer Finance Act, A Study Prepared on behalf of the North Carolina Credit and Personal Finance Council**

**March 24, 2010**

## About RSM McGladrey, Inc. and McGladrey & Pullen, LLP

RSM McGladrey is a leading professional services firm providing accounting, tax and business consulting. RSM McGladrey operates in an alternative practice structure with McGladrey & Pullen LLP, a partner-owned CPA firm that delivers audit and attest services. Through separate and independent legal entities, they work together to serve clients' business needs. Together, the companies rank as the fifth largest U.S. provider of accounting, tax and business consulting services (source: *Accounting Today*), with 8,000 professionals and associates in nearly 100 offices. RSM McGladrey Inc. and McGladrey & Pullen LLP are member firms of RSM International, an affiliation of independent accounting and consulting firms.

Our Raleigh, North Carolina office provides accounting, tax, and consulting services to a wide variety of consumer lending companies across the United States.

# Restricted Use of Report

This report is intended solely for the information and use of the Resident Lenders of North Carolina Association for its meeting with the legislative panel on March 24, 2010 and should not be used for any other purposes.

The survey data was prepared on a confidential basis and any individual company information is confidential and will not be provided.

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## Notice

- Data portrayed in the attached presentation were derived from the information submitted by individual companies. This information has not been audited, reviewed or compiled or verified to actual financial statement reports by RSM McGladrey, Inc. and we provide no opinion or other assurance on this information.

## Cost Study – Overview and Scope

- RSM McGladrey, Inc. (“RSM”) sent surveys to companies that provide direct loans in the state of North Carolina and provided survey forms on the industry association’s website. We received responses from 35 and summarized their information.
- The majority of the responses came from North Carolina small to mid-sized companies
- RSM allocated the costs, except for bad debts and interest, for those companies that do both types of lending based on the number of loans outstanding at each year end.
- For the provision for credit losses, we asked participants to provide charge offs by each type of lending.
- Interest expense was allocated based on the principal balance of loans outstanding.

## Cost Study – Overview and Scope, continued

- Many of the participants in the survey also do indirect lending. Management of these companies indicate that indirect lending can be a factor in increasing profitability and/or covering their costs of operations. The expenses reported by the participants in this report have been consistently allocated based on the number of direct loans to total loans for those companies that do both types of lending.
- Presented in the slides that follow are costs categorized as averages which are calculated on a Company by Company basis. Medians are also calculated which is the mid-point on a Company by Company basis.

## Response Rate in Dollars of Loans

Total direct loans from survey respondents	\$ 405,628,621	\$ 440,498,176	\$ 497,832,780	
Total receivables reported in Consumer Finance Annual Report	1,423,214,939	1,452,064,883	1,390,078,917	
Percent of respondents to total	28.5%	30.3%	35.8%	
Percent of respondents as a percentage of non-chain/national company types	68%	71%	74%	



## Number of Branches In Survey

Number of branches in responses	291	299	311	
Total number of branches in Consumer Finance Annual Report	597	586	540	
Percent of respondents to total	49%	51%	58%	



## Average Cost per Direct Loan - of all Companies Surveyed

	2006	2007	2008
<b>Per Loan Basis:</b>			
Branch salaries and benefits	175.98	178.94	189.01
Rent, repairs, and utilities	32.19	31.85	36.92
Depreciation	10.89	8.18	7.76
Credit reports	5.61	5.30	6.15
Other branch expenses	130.05	141.78	169.48
<b>Total branch expenses</b>	<b>\$ 354.71</b>	<b>\$ 366.05</b>	<b>\$ 409.32</b>
Home office expense	72.25	69.28	69.98
Interest expense	113.20	121.09	106.22
Provision for credit losses	81.03	86.83	106.85
<b>Total expense</b>	<b>\$ 621.19</b>	<b>\$ 643.26</b>	<b>\$ 692.38</b>

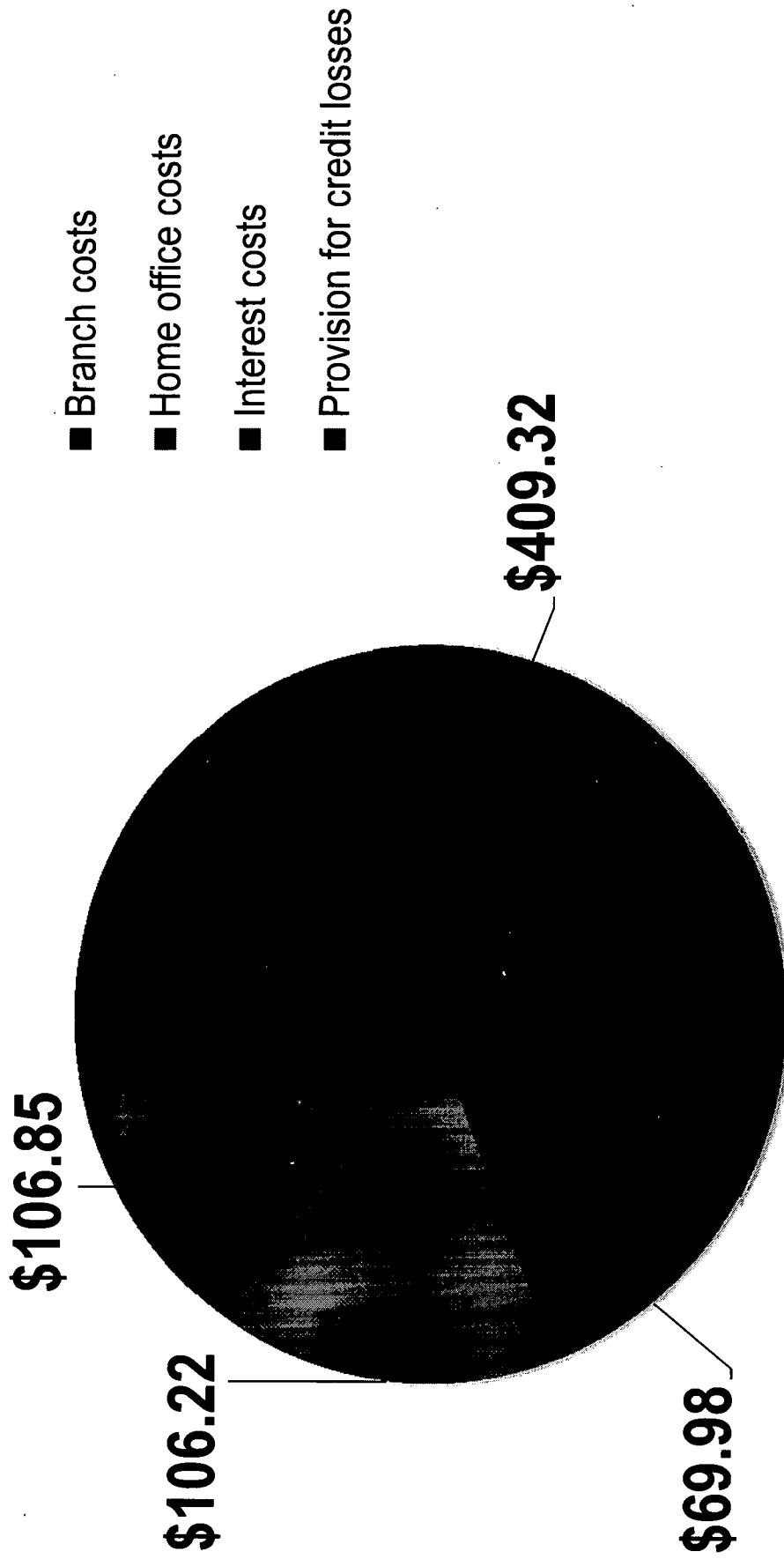
## Average Revenue and Cost per Direct Loan - of all Companies Surveyed

	2006	2007	2008
<b>Per Loan Basis:</b>			
Revenue	\$ 481.76	\$ 489.09	\$ 492.98
<b>Total branch expenses</b>	<b>354.71</b>	<b>366.05</b>	<b>409.32</b>
Home office expense	72.25	69.28	69.98
Interest expense	113.20	121.09	106.22
Provision for credit losses	81.03	86.83	106.85
<b>Total expense</b>	<b>621.19</b>	<b>643.26</b>	<b>692.38</b>
Pretax income (loss)	\$ (139.43)	\$ (154.17)	\$ (199.39)

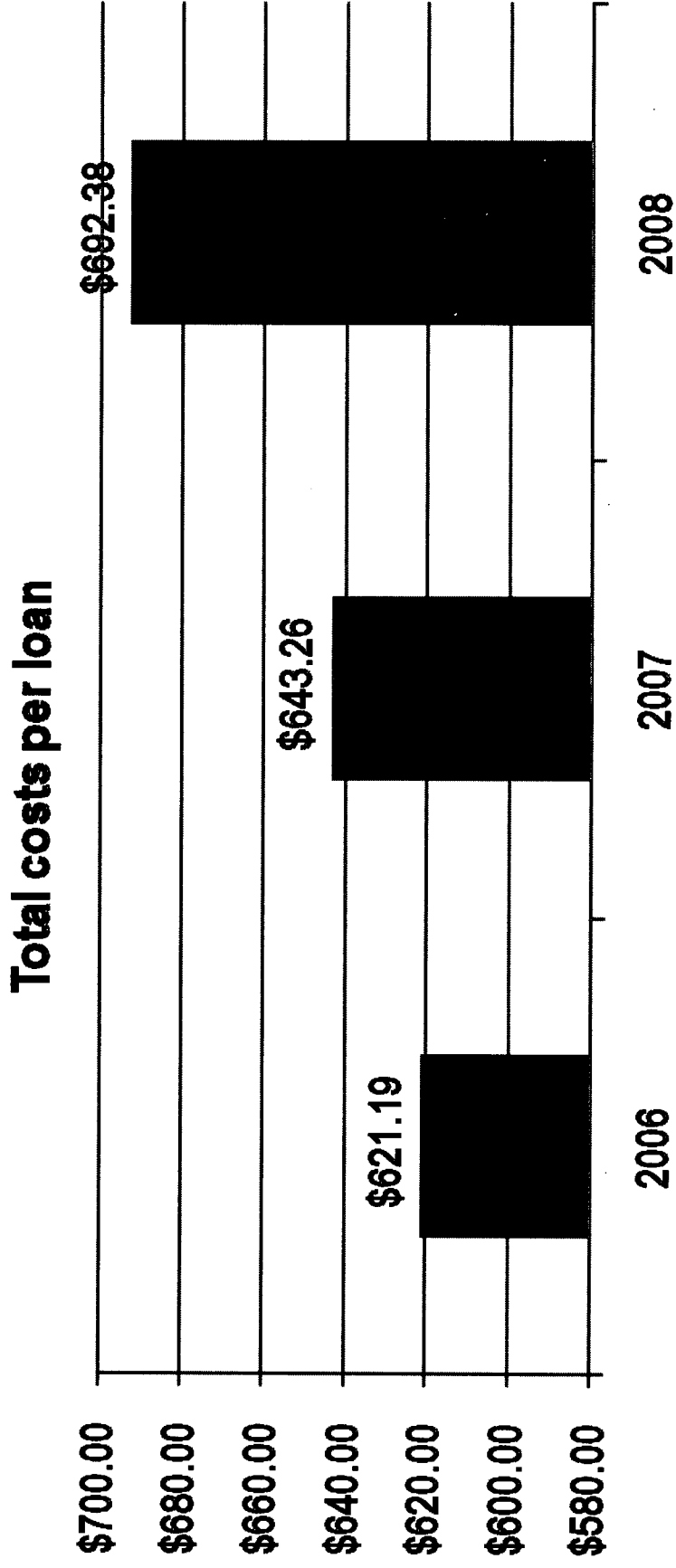
# Median Cost per Direct Loan - All Companies Surveyed

	2006	2007	2008
Per Loan Basis:			
Revenue	\$ 472.15	\$ 475.03	\$ 507.84
Branch salaries and benefits	144.50	146.34	157.60
Rent, repairs, and utilities	30.90	29.09	31.00
Depreciation	8.43	7.41	6.53
Credit reports	4.95	4.56	5.50
Other branch expenses	109.20	125.29	132.09
Total branch expenses	\$ 311.25	\$ 333.13	\$ 349.04
Home office expense	23.54	23.45	16.70
Interest expense	115.51	118.84	101.21
Provision for credit losses	69.08	64.83	78.08
Total expense	\$ 624.26	\$ 642.70	\$ 557.13
Pretax income (loss)	\$ (149.94)	\$ (96.75)	\$ (148.19)

## Average Cost Per Direct Loan for 2008 = \$692.37

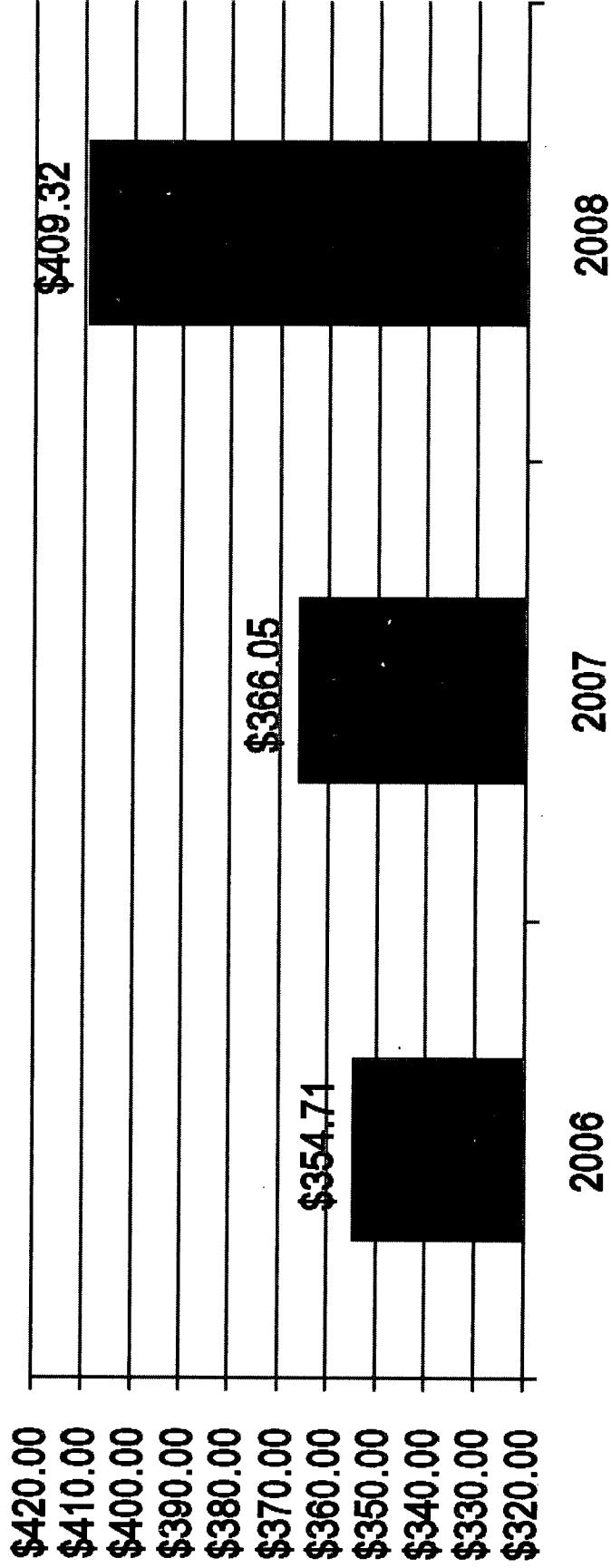


**Average Total costs per loan have increased from \$621.19 in 2006 to \$692.38 in 2008, an increase of 11%**



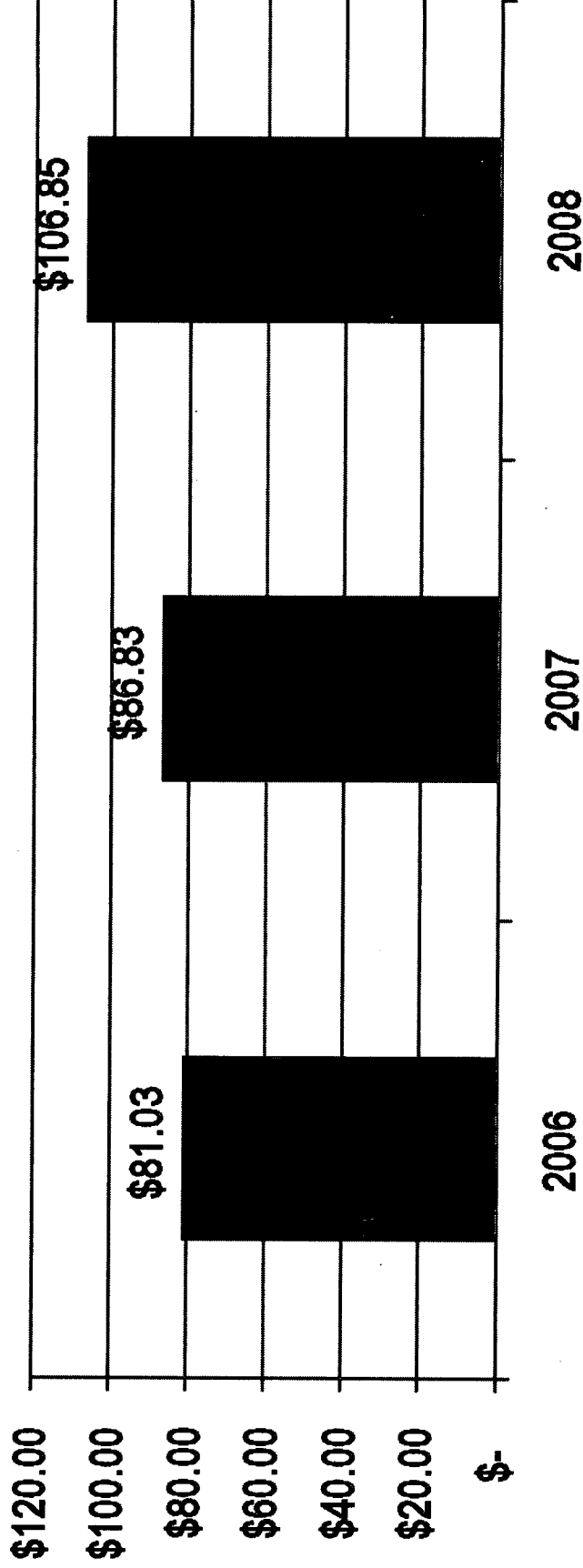
**Branch costs per loan have increased from \$354.71 in 2006 to \$409.32 in 2008, an increase of 15.4%**

**Branch costs per loan, average**



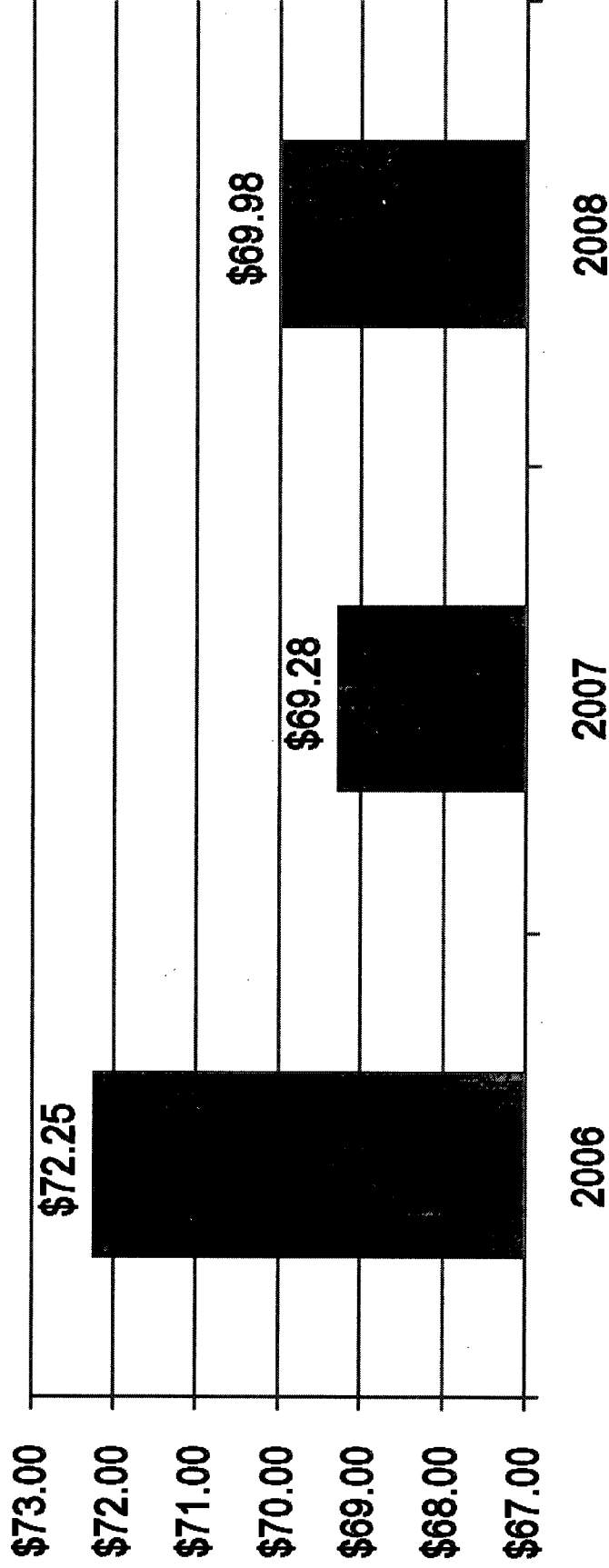
**Average Provision for Credit Losses per loan have increased from \$81.03 in 2006 to \$106.85 in 2008, an increase of 32%**

**Provision for Credit losses per loan, average**



**Average Home office costs per loan have decreased from \$72.25 in 2006 to \$69.98 in 2008, a decrease of (3%)**

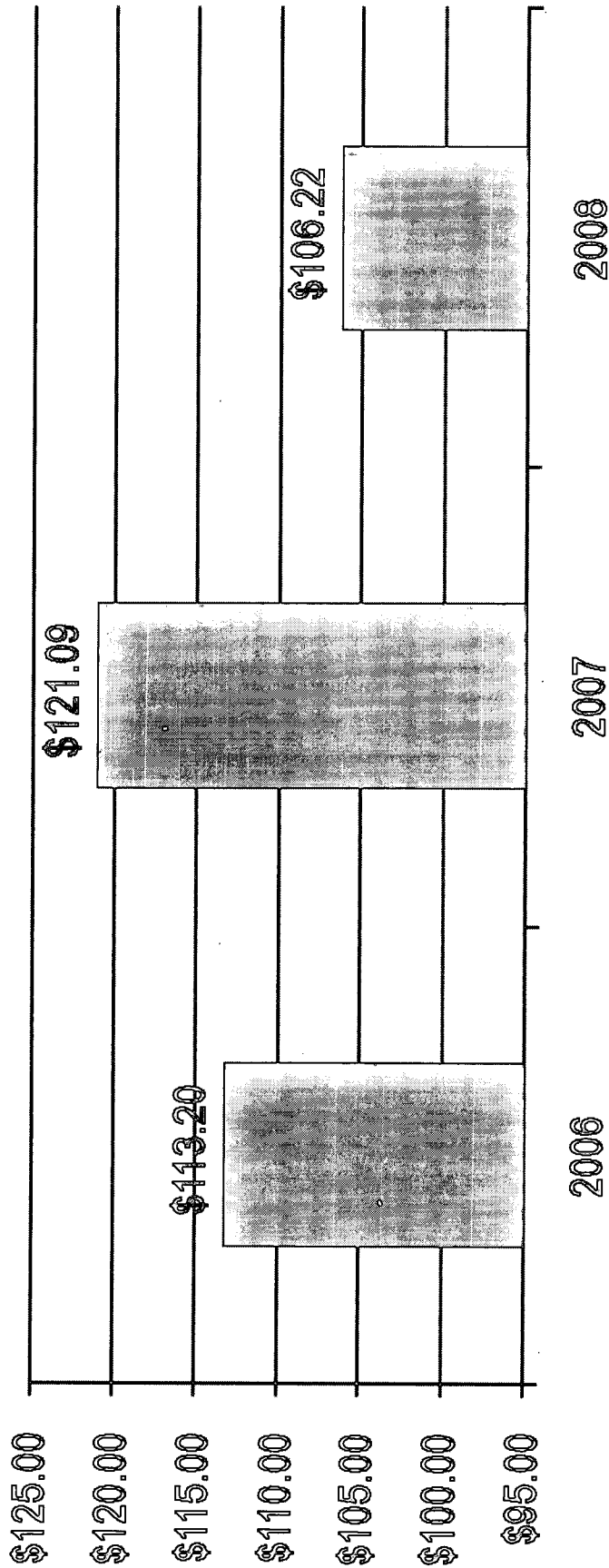
**Home office costs per loan, average**





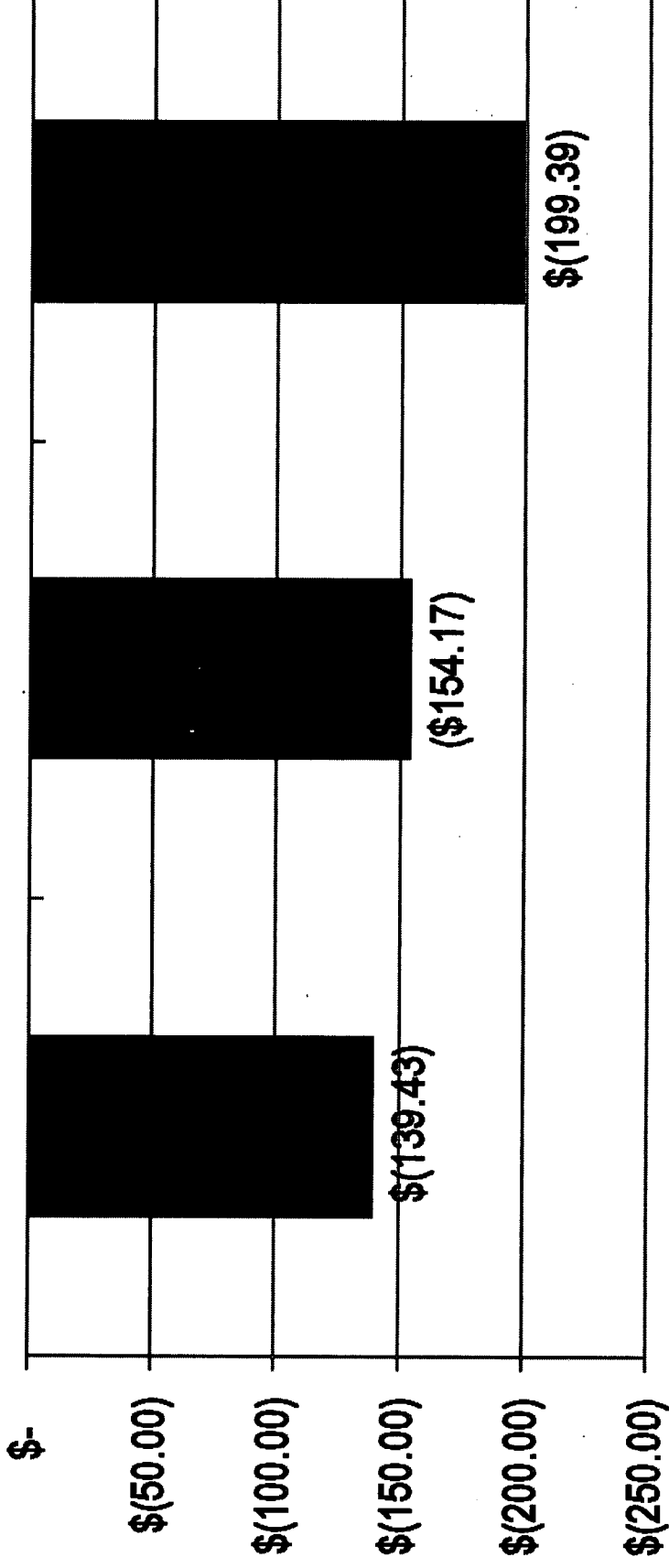
Average Interest costs per loan have decreased from \$113.20 to \$106.22 in 2008, a decrease of (6%)

Interest costs per loan, average



**Average Pre-Tax Loss per loan have increased from \$(139.43) to \$(199.39) in 2008, an increase of 43%**

**Pre-tax loss per loan, average**



## Discussion points regarding Increases/Decreases

- **Revenue** - Revenue per loan has not kept pace with rising overall costs, resulting in a greater average pre-tax loss per loan for 2006 to 2008
- **Total costs** - Total costs per loan have steadily increased over the period 2006 to 2008, increasing 11% over the period
- **Branch costs** - Branch costs are the largest component of lending costs. These costs include salaries and wages for employees, rent, utilities, taxes, credit reports, postage, and similar costs to operate the business. These costs have increased 15.4% from 2006 to 2008 and result in an average cost per loan of \$409.32.

## Discussion points regarding Increases/Decreases, continued

- **Provisions for loan losses** have increased as overall economic conditions have worsened. While consumer finance companies seek to minimize this risk, it is a cost that has risen substantially and influences the ability to continue to provide consumer loans. Consumer bankruptcies significantly influence this problem.
- **Home office costs** - Most finance companies in North Carolina operate in a branch structure. The corporate or home office expenses generally include the executive management, accounting, and supervisory personnel as well as other organization wide costs. These functions are important and provide oversight for the branch managers. During the period 2006 to 2008, average home office costs per loan have decreased 3%.

## Discussion points regarding Increases/Decreases, continued

- **Borrowing costs** - Small and medium sized consumer finance companies do not have access to deposits like other lending institutions and are dependent on credit facilities financing from large financial institutions. Rising costs may result in limited credit availability for finance companies to help customers.

## Other industry background information about NC Lending

- **Credit insurance protection for customers** - Credit insurance is offered to customers. There are many benefits to the consumer for purchasing credit insurance. This insurance protects the consumer in the event of accident, disability, death, or unemployment. When these events occur, assuming the customer purchased the insurance, the normal payment or the balance of the loan is covered. Without the insurance, the customer's credit rating is at more risk when unforeseen events occur.

# NC Installment Loans Require Principal Reduction During the Loan Term

- A common misinterpretation is the concept of loan amortization and the effect this has on total interest collected. For example, mathematically **30%** of \$1,000 is \$300. One might misinterpret this as being the interest collected on a 12 month loan from a finance company. Total interest collected on a 12 month loan of \$1,000 at 30% would be approximately \$220. This is because NC laws require that the loans be installment loans of principal and interest and not interest only loans. Also, at the end of the 12 month period in this example the \$1,000 principal is fully repaid – no balance would remain on the loan.
- By comparison, assuming a \$50 payment per month on a credit card with a \$1,000 balance at **18%** interest would result in interest of \$129 and the balance on the credit card would be \$679 at the end of 12 months. It would take 24 payments of \$50 to pay the credit card off completely resulting in \$227 of total interest during the 24 month period.

## Average Effective Rate Charges are Less than the Interest Rate Ceilings of 36% and 30%

- Maximum interest rate charges in North Carolina are limited based upon the size of the loan determined by step down rate formulas.
- These interest rate ceilings are 36% for the first \$600 loaned with a step down rate to 15% for amounts loaned in excess of \$600 for loans up to \$3,000 for GS 53-173 lenders. (7 offices in NC operated under GS 53-173 in 2008)

Range of Loan		Rate
Minimum	Maximum	
\$ -	\$ 600.00	36%
\$ 600.01	\$ 3,000.00	15%



## Average Effective Rate Charges are Less than the Interest Rate Ceilings of 36% and 30%

- The interest rate ceilings are 30% for the first \$1,000 loaned with a step down rate to 18% for amounts loaned in excess of \$1,000 up to \$7,500 for GS 53-176 lenders. For loans above \$7,500 to \$10,000, the total loan is at an 18% rate. **(533 offices in NC operated under GS 53-176 in 2008)**

Range of Loan		Rate
Minimum	Maximum	
\$ -	\$ 1,000.00	30%
\$ <del>1</del> ,000.01	\$ 7,500.00	18%
\$ 7,500.01	\$ 10,000.00	Flat rate of 18% on entire loan balance

## Average Effective Rate Charges are Less than the Interest Rate Ceilings of 36% and 30%

- A review of the North Carolina State Banking Commission reports indicates that the interest income collected as a percentage of average receivables outstanding (annual averages utilized) represented an average rate of **18%** in 2008. These average effective rate charges are well below the interest rate ceilings which are often reported. This is attributable to a number of factors including consumer needs for larger loan amounts.

## ***Most Direct Loan Providers in North Carolina are Small to Medium Sized Businesses and Rely on Large Banking Institutions for Funding***

- Substantially all of the Consumer Finance Lender Companies are small to medium sized closely-held businesses. These companies do not have access to deposits since they are not banks or credit unions. Many of these Companies rely on Credit Facilities from Large Banking Institutions and private funding for capital in order to be able to lend. The credit facilities generally must be renewed at rates of prime rate or more. An additional consideration is that these Companies are required to retain a significant amount of their earnings to remain solvent and continue to borrow funds and comply with loan agreements these Companies have with their Banks. These Bank loans typically require the personal guarantee of the stockholders of the Company.

## ***Economic Impact of Direct Lending in North Carolina***

- This type of lending plays an integral role to the North Carolina economy in providing a major credit source for hundreds of thousands of customers who may not otherwise be able to obtain credit from other sources. Total loans outstanding to customers in this category of lending amounted to \$1,390,100,000 as of December 31, 2008.
- In the survey alone, over \$42 million in salaries and wages were paid to approximately 1,400 employees.
- There were approximately 586,000 loans outstanding in 1998 compared to approximately 485,000 loans in 2008, according to the N.C. Banking Commission Report. N.C. Direct Loans have decreased from \$1.44 billion to \$1.39 billion for 2004 to 2008.

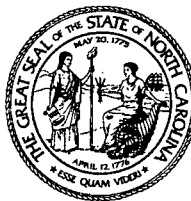
## ***Summary of Cost Study for Direct Lending in North Carolina***

- **Costs, particularly branch operating costs** represent the largest cost component for direct loans, representing 59% of total costs on average for 2008. These costs have steadily increased for North Carolina direct lenders, without proportional increases in revenue which have negatively impacted operating results of these lenders. By example, from 2006 to 2008, these costs have increased 15.4%.
- **Provisions for loan losses** have increased as overall economic conditions have worsened. While consumer finance companies seek to minimize this risk, it is a cost that has risen substantially and influences the ability to continue to provide consumer loans. Bankruptcies significantly influence this problem. As interest costs begin to rise, bad debts need to reduce or operating results will suffer further, limiting finance companies ability to do business in North Carolina.
- **Borrowing costs** - Small and medium sized consumer finance companies do not have access to deposits like other lending institutions and are dependent on credit facilities financing from large financial institutions. Rising costs may result in limited credit availability for finance companies to help customers.

## ***Summary of Cost Study for Direct Lending in North Carolina***

- **Closely-held small to mid-sized businesses** - Most of the finance companies surveyed are closely-held and owner-operated North Carolina businesses which provide jobs and benefit the economy of the State.
- **Economic impact** - This type of lending plays an integral role to the North Carolina economy in providing a major credit source for hundreds of thousands of customers who may not otherwise be able to obtain credit from other sources.
- **Benefits to customers** - This industry provides significant benefits to its customers and serves these customers well.

**We hope that you have found this information to be useful in assisting you with the important process of studying direct consumer lending in North Carolina.**



## **NORTH CAROLINA GENERAL ASSEMBLY**

LEGISLATIVE BUILDING  
RALEIGH NC 27601

December 29, 2009

### **MEMORANDUM**

**TO:** Members, Joint Study on the Modernization of NC Banking Laws and the  
Consumer Finance Act

**FROM:** Rep. Hugh Holliman, Co-Chair  
Sen. David Hoyle, Co-Chair

**SUBJECT:** Meeting Notice

The Joint Study on the Modernization of NC Banking Laws and the Consumer Finance Act Committee will meet on the following date:

**DAY:** Wednesday  
**DATE:** January 27, 2010  
**TIME:** 10:00 am  
**LOCATION:** 1228 LB

If you have any questions concerning this meeting or cannot attend, please contact Carol Bowers at 919-715-0873 or email [hollimanla@ncleg.net](mailto:hollimanla@ncleg.net)

# Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act

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## AGENDA

January 27, 2010

10:00 a.m.

Legislative Building: Room 1228

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**I. Introduction**

*Representative Hugh Holliman, Co-Chair*  
*Senator David Hoyle, Co-Chair*

**II. Review of Commission Charge**

*Ryan Blackledge, Commission Co-Counsel*

**III. A Review of the Legislative History of the NC Consumer Finance Act**

*Karen Cochran Brown, Commission Co-Counsel*

**IV. The State of the Consumer Credit Industry in NC**

*C. Everett Wallace*

**V. Comments by Consumer Advocate Organizations**

*Chris Kukla, Senior Counsel for Legislative Affairs,*  
*Center for Responsible Lending*

*Al Ripley, Director, Consumer Action Network, NC Justice Center*

**VI. Committee Discussion**

**VII. Adjourn**

*Visitor's*  
*Sgt. At Arms sheet*



HOUSE PAGES

Jt Study Commission Modernization

NAME OF COMMITTEE Banking Laws DATE 1/27/10

1. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

2. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

House

SGT-AT-ARM

SENATE

1. Name: Tom Wilder

Charles Harper

2. Name: David Shearon

Charles Mason

3. Name: \_\_\_\_\_

4. Name: \_\_\_\_\_

# VISITOR REGISTRATION SHEET

Consumer Finance Act.  
Name of Committee

1-27-10  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jametta Womack	Time Investment Corp. Greenville NC
Robin Riddick	Time Investment Corp, Greenville, N.C
Kelly Johnston	Time Investment Corp. Greenville, NC
Sandy Sandoz	WCSP
Mike Krzyzewski	DU
Paul Stet	NCBA
Maer Poff	Smith Anderson
DAVID BURNES	Poyne Smith

## VISITOR REGISTRATION SHEET

Consumer Finance Act.1-27-10

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

DANIEL BAUM

TROUTMAN SANDERS

Lee-Ann Chapman

DLE &amp; Assoc

Thomas Ware

Fisher &amp; Wells

Wayne Smith

Century Finances Inc - Resident Services

Harris Greene

Greene Finance Corp - Mt. Airy, NC

David C. Darby

L.F. Pate South Ins Co

Julian

Banc Assoc

L.J. McEntyre, Jr.

Macon Credit Co. Inc.  
Mitchell Credit Co. Inc.Franklin NC  
Spruce Pine NC

WILLIAM M. BRAXTON

THE MONEY SHOPPE, INC  
GRAHAM, NC

Amy Fuller

HEW

# VISITOR REGISTRATION SHEET

~~Consumer~~ Finance Act

1-27-10

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mark Pearu	NCCOB
Lynne Weaver	NC DOT
Phil Lehman	NC AGRO.
Will Corbett	NCCOB
Brian Balfour	Crutcher
Jessi Hayes	NC Home Builders Assn
Mark L. Largent	
Will Calton	Lawson of R/C/Colts
Jim Beasley	NC Fuel Banks
Elizabeth Brown	NCRMA

## VISITOR REGISTRATION SHEET

Consumer Finance Act.  
Name of Committee

1-27-10  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JOHN GOODMAN	NC CHAMBER
Rick Zechini	NC Assn. of Realtors
SUSAN LUPTON	CENTER FOR RESPONSIBLE LENDING
Sara Weed	Center for Responsible Lending
Larry Heckner	Clark, Lytle, Geduldig / NC Credit
Everette Wallace	NC Credit + Personal Finance Council
Brian Reese	Home Credit Corp Inc.
LES PIERCE	SECURITY FINANCE CORP.
Vic BARR	SECURITY FINANCIAL SERVICES
Jim Crawford	Home Credit Inc / NC Resident Lenders
B. Powell	AOL

CONSUMER FINANCE Act.

1-27-10

Date \_\_\_\_\_

NAME \_\_\_\_\_

FIRM OR AGENCY AND ADDRESS.

Doug Miskew

Public Sector Group

BRAD LOVIN

NC MHA

Harrison Gilbert

Governor's Office

## MINUTES

### JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT

Wednesday, January 27, 2010

10:00AM

Room 1228, Legislative Building

The Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act met for its initial meeting Wednesday, January 27, 2010 in Room 1228 of the Legislative Building. Representative Hugh Holliman, Co-Chair Presided. *(SEE ATTCHMENT: Members and Guests attending.)*

Ryan Blackledge, Commission Co-Counsel explained the charge as laid out in the so-called studies bill of the 2009 Legislative Session. *(SEE ATTCHMENT: Session Law 2009-574, House Bill 945)* The scope of the commission is outlined in four areas:

- 1 Increases to the finance industry and the impact on providing product to the public.
- 2 The amount of money which can be lent to a consumer
- 3 Level of fees and interest to be charged
- 4 Consumer protection

The bill does allow the Commission to study others issues that relate to the banking laws of North Carolina.

Co-Chair Holliman asked the members of the Commission introduce themselves.

Co-Counsel Karen Cochrane-Brown gave a review of the NC Consumer Finance Act. *(SEE ATTCHMENT: The North Carolina Consumer Finance Act.)* The Act passed in 1961 replaced a Small loans Act that dated back to the 1950s. It is the only state law that allows non-bank lenders to make unsecured loans. The lenders are licensed and governed by the Commissioner of Banks and limited to loans of \$10,000 or less. When the law was amended in 1981 and 1983 it created the current rate structure. Lenders have a two-tiered system with rates and loan limits for resident lenders and another structure for optional lenders.

## PRESENTATIONS

### The State of the Consumer Credit Industry in North Carolina

Mr. C. Everett Wallace spoke for the North Carolina Credit and Public Finance Council. *(SEE ATTACHMENT: Joint Legislative Study etc and Charts.)* He said the industry has undergone changes in the current economy leading to closing of offices and the elimination of certain loans. In his remarks, Mr. Everett said price controls would deny consumers access to the loans they need. The Council does not believe that the current Consumer Finance Act reflects the true "costs and economics of ...unsecured consumer credit," since the rate structure has not changed substantially since 1982.

Representative Brubaker asked for any specific recommendations. Mr. Wallace said that small loans had disappeared because these loans required a lot of processing much different from "putting a name in a computer" and receiving the information. He said these were face to face loans. In slightly larger loans he said the brackets had not been changed nor had the amount of money which could be lent.

In response to Senator Vaughn, Mr. Wallace said there were about 500 offices open in 2009, fewer than had been the case in 1960.

Representative Hall asked if there had been any study of the impact competition from other loan sources had upon this industry. Mr. Wallace said there was no definitive study, but that such options as credit card loans were drying up. Thus more people were coming to consumer loan offices, but if the company couldn't make a profitable small loan, then the loan wouldn't be made. With an 80% turn down rate for new loans, Representative Hall asked where those people were going. Mr. Wallace said that he couldn't provide that answer. Further he said that many of the people being turned away were new customers who were turned away because the company could not loan the money profitably.

Ms. Mack-Hilliard asked if consumer loan customers were credit card holders, too. Mr. Wallace said surprisingly yes. Ms. Young asked for some clarification on how the costs were incurred. Mr. Wallace said that a small loan of \$500 for instance took as much service as a \$2,000 loan. He said the cost of operations was more of a business burden than the cost of money to lend.

#### **Comments by Consumer Advocate Organizations (1)**

Chris Kukla from the Center for Responsible Lending said there is not sufficient data to support an increase in the interest rate or the loan limit. He said there is a lack of data to make any deep investigation. He believes that there is minimal competition that all customers are charged the same rate. He said that the Commissioner of Banks reports that about 80% of the consumer loans are made with existing customers or customers who have had a loan before, he referred to this as "churning."

Figures that he supplied indicate that the independent consumer loan companies had a net loss of 1 office in an unspecified year and that most of the offices which were closed belonged to four companies: Household Finance/ Beneficial, Equity One, Sallie Mae and Wells Fargo. His data showed that 18 independent stores had opened. (**SEE ATTACHMENT: Chart**)

Additionally, Mr. Kukla said the Center has some questions about parts of the latest report from the Commissioner of Banks, specifically on the fee income. And while the companies are saying that expenses are increasing the Commissioner's report doesn't bear that out, according to Mr. Kukla. He said there is no way to prove this out. Further he said the Commissioner's report was aggregate data and has no analysis.

The proposed loan limit increase to upwards of \$10,000 to \$20,000 would allow auto loans, in his opinion, even though most of the independent lenders have not shown an interest in making such loans.

Mr. Kukla told the Task Force that 37 states and the District of Columbia have lower interest rates than North Carolina.



The Center for Responsible Lending recommended:

1. No increase in rates
2. No increase in loan limits

He said the data from the Commissioner of Banks was insufficient to support such increases.

Representative Brubaker asked if there is a gap between those people who can get loans and those who can not. Mr. Kukla said he was sure there are people who would like to be able to obtain credit and may have trouble getting it, but the reasons are varied. Representative Brubaker also asked what rate Wells Fargo was charging now that it had moved its consumer loan operation into the bank. Mr. Kukla said it was unclear.

Representative Hall asked about so-called on site lending at such places as furniture stores, etc. Mr. Kukla said these loans were made under the Retail Installment Sales Act and not reported in the Commissioner of Bank's reports. Representative Hall asked if a consumer might shop between consumer loan offices and the on-site lending stores. Mr. Kukla agreed that could be the case, and that makes the point that the credit world is "larger than the finances companies." Representative Fisher said with on-site lending left out of the Commissioner of Banks report there was a 'leakage' of information that the Study Commission might need. Mr. Kukla noted that the Commissioner of Banks reports does not include loans made by credit unions either.

During further questions from Representative Fisher, Mr. Kukla said that automobile dealers who offer to finance a purchase would have a company to buy the loan from the dealer and backstop the dealer. These are indirect loans under the Retail Installment Sales Act and not reported to the Commissioner of Banks.

### **Comments by Consumer Advocate Organizations (2)**

Al Ripley, Director of the Consumer Action Network at the N. C. Justice Center began with an overview of the Justice Center. (*SEE ATTCHMENT: North Carolina Justice Center.*) The Center is a private, non-profit anti-poverty agency founded in 1966. He said that it was important to look at the borrowers when examining the commercial loan industry.

After the introduction, Mr. Ripley provided some of the most recent North Carolina poverty statistics. These figures indicated an increase in people using food and nutrition services, those living in poverty and the unemployed. The median income had declined between 2001 and 2008. The low income people represented in the statistics are some of the borrowers in the consumer finance business, he said.

Mr. Ripley said the "worker to savers to borrower to owner" model of the Credit Path theory is not working with many people unable to escape borrowing at high rates and high fees cycle that continued on and on. The Center considers these as practices that harm the consumer:

1. High fees and charges for services
2. High cost unaffordable loans
3. Loan products and practices that encourage high cost repeats

Mr. Ripley left the Study Commission these recommendations from the Center:

1. Follow other states to strengthen lending laws to reduce fees & rates
2. Discourage high cost financial services
3. Strengthen programs and services that provide a social safety net
4. More detailed and accurate reports on Consumer Finance to the Commissioner of Banks office

Mr. McKinley asked how many of the states with interest rates lower than North Carolina's allowed pay-day lending or title-lending. Mr. Ripley said he did not know off hand, but that he could make the report from the Consumers' Union available to any member who wished a copy. Mr. McKinley also asked how many times a loan might be renewed or re-negotiated to fit the definition of "churning". Mr. Ripley said there was no set number of times, but that some people were in constant debt with loans that charged from 36% to 54% interest which is allowed under the current law. He said some credit card holders who can not pay off the balance each month are also having the monthly interest rate squeeze.

Co-Chair Holliman asked for the staff to provide the state by state comparison on consumer finance loan rates and fees.

Representative Hall asked if the Commissioner of Banks would be coming to the Commission. Co-Chair Holliman said that would be the case.

Representative Fisher asked if states in the Consumer Union report which showed better interest rates than North Carolina had any consumer protection system. Co-Chair Holliman asked staff to include that information in the comparisons.

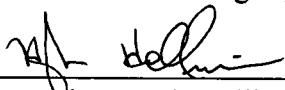
Senator Blue assessed the scope of the Study Commission in three areas:

1. Deal with rates and fees
2. Broaden or draw in the loan brackets
3. Deal with maximum amounts for loans

Co-Chair Holliman said he would include demand issues: is there a demand for these loans and is that demand being met.

Ms. Mack-Hilliard asked if the report from the Commissioner of Banks could provide such data as the # of loans made by company, etc. Co-Chair Holliman did not know what information would be covered in the report.

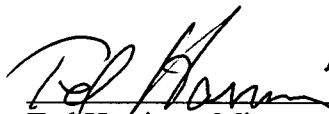
The Commission meeting adjourned at 11:28



Representative Hugh Holliman, Co-Chair  
Presiding.



Carol Bowers, Clerk



Ted Harrison, Minutes

Senator David Hoyle, Co-Chair

H

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**SESSION LAW 2009-574  
HOUSE BILL 945**

AN ACT TO PROVIDE FOR STUDIES BY THE COMMISSION, STATUTORY  
OVERSIGHT COMMITTEES AND COMMISSIONS, AND OTHER AGENCIES,  
COMMITTEES, AND COMMISSIONS.

The General Assembly of North Carolina enacts:

...

**PART XLVIII. JOINT LEGISLATIVE STUDY COMMISSION ON THE  
MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE  
CONSUMER FINANCE ACT (H.B. 1341 – Holliman, Brubaker)**

**SECTION 48.1.** There is created the Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act. The purpose of the Commission is to determine whether and to what extent the North Carolina Banking Laws and the Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes) need to be updated.

**SECTION 48.2.** The Commission shall consist of 16 members as follows:

- (1) Five members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- (2) Five members of the Senate, appointed by the President Pro Tempore of the Senate.
- (3) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the Speaker of the House of Representatives.
- (4) One member of the consumer finance industry, one member representing a State-chartered bank, and one member of a consumer advocacy organization, each appointed by the President Pro Tempore of the Senate.

**SECTION 48.3.** The Commission shall have two cochair, one designated by the Speaker of the House of Representatives and one designated by the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the cochair. Any vacancy on the Commission shall be filled by the original appointing authority. A quorum of the Commission shall be a majority of its members.

**SECTION 48.4.** The Commission shall study the following issues related to the modernization of the North Carolina Consumer Finance Act:

- (1) The increase in costs of operations for the consumer finance industry and its impact on the delivery of products to the public.
- (2) The maximum dollar amount that can be lent to an individual consumer.
- (3) The appropriate rate of interest and fees to be charged for each level of consumer transaction.
- (4) Strategies for increasing consumer protection and disclosure.

**SECTION 48.5.** The Commission also shall study any issue related to the Banking Laws of North Carolina that the Commission deems appropriate.

**SECTION 48.6.** Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

**SECTION 48.7.** The Commissioner of Banks shall use up to twenty-five thousand dollars (\$25,000) of the funds available to the State Banking Commission for the 2009-2010 fiscal year to fund the study authorized by this act.

**SECTION 48.8.** The Commission shall report the results of its study and its recommendations, including any proposed legislative changes, to the 2010 Regular Session of the 2009 General Assembly. The Commission shall terminate on May 1, 2010, or upon the filing of its final report, whichever occurs first.

## **The North Carolina Consumer Finance Act**

The North Carolina Consumer Finance Act (Article 15, Chap. 53) is the only State law that specifically authorizes nonbank lenders to make small unsecured loans. This Act authorizes the Commissioner of Banks to license and to supervise loan companies, which make direct consumer loans of \$10,000 or less. A licensee must meet several statutory requirements including maintaining loanable assets of not less than \$50,000. Lenders that do not charge interest rates higher than those permitted by Chapter 24 (Interest) are exempt from this Act. Also exempted are banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations, production credit associations, pawnbrokers, and installment paper dealers.

Two tiers of lenders are created by the Act. G.S. 53-173 allows interest charges of 36% per year on that part of the unpaid principal balance, which does not exceed \$600.00, and 15% per year on that portion which is more than \$600 but not more than \$3,000.

G.S. 53-176 authorizes optional rates for those lenders who elect to make loans of \$10,000 or less and who so notify the Commissioner. These lenders may charge interest at the rate of 30% per year on that part of the unpaid principal balance, which does not exceed \$1,000, and 18% per year on the remainder, which does not exceed \$7,500. If the principal balance is more than \$7,500, the maximum rate is 18% per year on the entire loan.

Lenders under the Act may charge a reasonable credit investigation fee, which cannot exceed the actual cost of the credit investigation. In addition, lenders may charge a loan processing fee of 5% of the loan, not to exceed \$25.

A number of bills have been introduced over the years related to the Act. These include the following:

### 2009

House Bill 1626 Cap APR for Consumer Loans

House Bill 1137 NC Consumer Finance Act Amendments

### 2006

S.L. 2006-243

An Act To Clarify The Application Of The North Carolina Consumer Finance Act To Various Lending Subterfuges

House Bill 652

Chapter 24 Exemptions

Senate Bill 903

Amend Interest Rate Laws

### 2005

House Bill 621

Small Installment Consumer Loans

### 2001

S.L. 2001-519

An Act To Modify The Consumer Finance Act To Increase The Loanable Assets Required Before An Entity Is Licensed To Engage In Business In The State, To Revise The Collection Of Interest Under Certain Circumstances, To Establish A Loan Processing Fee, To Allow Lenders To Charge A Late Payment Penalty Under Certain Circumstances, To Require Disclosures On Solicitation Of Loans By Facsimile Or Negotiable Checks, To Allow Lenders To Maintain Certain Records In The Form Of Optical Image Disks, To Repeal Obsolete Provisions Of The General Statutes, And To Make Conforming Changes To The General Statutes.

Bills Prior to 2000

1999

House Bill 95  
House Bill 1265  
House Bill 1635  
Senate Bill 570  
Senate Bill 1322

Small Loan Revisions  
Revisions to Consumer Lending  
Revisions to Consumer Lending  
Update Consumer Finance Act  
Revisions to Consumer Lending

1997

S.L. 1997-285  
House Bill 356  
Senate Bill 777

Bank Assessments  
LRC Study/Nonbanking Consumer Industries  
Adjust Interest Rates and Loan Ceilings

1995

S.L. 1995-155  
Senate Bill 205

Lender Interest Rate Adjustment  
Community Reinvestment Act

1993

Senate Bill 718  
Senate Bill 513  
Senate Bill 264/  
House Bill 271

Financial Boards Merged  
Banking Amendments  
GPAC/Banking Recommendations

1991

S.L. 1991-765  
House Bill 955

Clarify Regulation of Other Businesses Under Consumer Finance Act  
Consumer Finance Act Changes

1989

S.L. 1989-17

An Act To Further Regulate Consumer Finance Companies, Their Affiliates And Subsidiaries, To Require Their Registration Under the Mortgage Banker/Broker Registration Act, To Allow Consumer Finance Licensees To Maintain Their Records Out Of State, And To Make Various Technical Amendments

1983

S.L. 1983-126

An Act To Regain The State's Authority Over Interest Laws, And To Make Appropriate Changes In The State's Interest Laws

1981

S.L. 1981-561

An Act To Change The Rate Of Interest In The Consumer Finance Act And To Correct Several References To The New Legal Usury Rate And Loan Ceiling

## **Prohibit Various Lending Subterfuges (S.L. 2006-243)**

S.L. 2006-243 (HB 2894) clarifies that certain cash rebate transactions are subterfuges for unlawful loans and are prohibited. The act's language is consistent with a recent Court of Appeals decision which held that the Consumer Finance Act does apply to cash advances offered in the form of rebates.

The act clarifies that a subterfuge includes any transaction in which a cash rebate or other advance of funds is offered and all of the following apply:

- The cash advance is made contemporaneously with the transaction or soon thereafter.
- The amount of the cash advance is required to be repaid at a later date.
- The selling or providing of any item, service, or commodity with the transaction is incidental to, or a pretext for, the advance of funds.

This act became effective October 1, 2006, and applies to transactions that are investigated on or after that date under the North Carolina Consumer Finance Act, Article 15 of Chapter 53 of the General Statutes, as amended by this act, and applies to transactions that are subject to enforcement actions under the North Carolina Consumer Finance Act that are filed on or after that date.

## **Revise Consumer Finance Act (S.L. 2001-519)**

S.L. 2001-519 (HB 599) makes several changes to the North Carolina Consumer Finance Act. The Consumer Finance Act authorizes the Commissioner of Banks to license and to supervise loan companies, which make direct consumer loans of \$10,000 or less. The current law creates two tiers of lenders. G.S. 53-173 allows interest charges of 36% per year on that part of the unpaid principal balance, which does not exceed \$600, and 15% per year on that portion which is more than \$600 but not more than \$3,000. G.S. 53-176 authorizes optional rates for those lenders who elect to make loans of \$10,000 or less and who so notify the Commissioner. These lenders may charge interest at the rate of 30% per year on that part of the unpaid principal balance, which does not exceed \$1,000, and 18% per year on the remainder, which does not exceed \$7,500. If the principal balance is more than \$7,500, the maximum rate is 18% per year on the entire loan. Optional rate lenders may also charge a reasonable credit investigation fee, which cannot exceed the actual cost of the credit investigation. Both categories of lenders use a blended interest rate for most loans made under the Article.

This act makes the following changes to the current law:

- Increases the amount of loanable assets that a licensee must possess to obtain a license from \$25,000 to \$50,000.
- Creates a loan processing fee of \$25 for loans made under G.S. 53-173.
- Eliminates the credit investigation fee and authorizes a loan processing fee of \$25 for loans up to \$2,500, and 1% of the cash advance for loans above \$2,500, not to exceed a total fee of forty dollars, for loans made under G.S. 53-176.
- Requires lenders who solicit loans using facsimile or negotiable checks to comply with the law on soliciting loans with unsolicited checks by requiring certain disclosures on the check and other associated documents.
- Requires lenders to return to borrowers both the originals and copies of any note, or other evidence of indebtedness, upon payment of the loan in full.
- Allows licensees to make certain required reports to the Commissioner by means of optical disk.

The act became effective January 1, 2002, and applies to loans made on or after that date.

111

THE JOINT LEGISLATIVE STUDY COMMISSION FOR THE  
MODERNIZATION OF BANKING AND CONSUMER FINANCE LAWS

January 27, 2010

My name is C. Everett Wallace.

I am here today representing the North Carolina Credit and Personal Finance Council (NCCPFC). The North Carolina Credit & Personal Finance Council (NCCPFC) is the umbrella trade association for the traditional installment lending consumer credit industry in North Carolina. NCCPFC is comprised of three associations—the North Carolina Financial Services Association, the North Carolina Independent Finance Association and the Resident Lenders of North Carolina.

First, I would like to thank you for providing us with the opportunity to speak before the commission today. This industry is highly regulated under the North Carolina Consumer Finance Act, General Statute 53-164 et seq., passed in large part in 1982, which authorizes the Commissioner of Banks to license and supervise loan companies which make direct consumer loans of \$10,000 or less. According to the Commissioner of Banks 2008 Annual Report on the industry in North Carolina, there were 540 business locations and approximately 3600 employees and just over 425,000 loans. Increasingly, however, under the restrictions of this 27 year old law and changing economic conditions, the industry has been forced to reorder or eliminate certain loan products and close office locations. In fact, in the past year the availability of loans and the number of offices has been further reduced by the exit of Household Finance and Beneficial Finance from the consumer loan business in this state. In November 2009, an updated report from the NCOCOB confirms that currently there are fewer offices open in North Carolina than there were in 1960.

Since 1911, the heritage of the state licensed traditional installment lending business is to make loans in amounts that the borrower can afford and only to borrowers who have indicated they have the ability to repay. We believe it is the most responsible credit option for an increasing number of citizens. In upcoming hearings we will show you why it is becoming increasingly



difficult to provide that traditional personal service to the many households and individuals that are coming to the offices for loans. Unfortunately, North Carolina installment lenders are turning down around 80% of the new customers who apply to them for much needed credit. Far too often, these are requests for small amounts to cover basics like school supplies, auto repairs, furniture, DMV fees, baby clothes, etc.

We also intend to demonstrate that the installment credit industry provides an affordable and convenient source of capital for these customers. When compared with the cost of alternative forms of credit that are used by lower income individuals who have deposit accounts; such as, overdraft protection, credit card charges, or refund anticipation loans, installment loans are a reasonably priced, effective and stable product for this population.

Unlike the exotic or tricky terms of other consumer loans that are frequently criticized by our regulator and consumer advocates, the essential features of the traditional installment loans made under the NC Consumer Finance Act are: 1) they are local; 2) they result from face to face service; 3) they are approved by hometown loan officers. Additionally, these loans are repaid in substantially equal, fully amortizing monthly installments. The nearby loan office and personnel are available to counsel and provide assistance in difficult situations and the equal monthly installments of principal and interest are designed to pay the loan off in a way that fits within the borrower's available income. These loans are, by their nature, simple, understandable and sustainable.

We strongly advocate that the state's role in the consumer credit market should be to promote three things: competitive availability of consumer credit, transparency of transactions, and fairness in lender practices. We ultimately believe that price controls deny consumers access to the credit service that they need. We believe it is critical that we work to maintain and promote the availability of legitimate, regulated consumer credit with full transparency – while leaving pricing, to the greatest extent possible—to the marketplace. We look forward to the inevitable discussion and instruction from lenders who operate from institutions which are non-profit, tax advantaged, taxpayer subsidized, deposit based or charitably funded. We welcome fair competition but, we reject unfair comparisons that fail to take into account the differences in each industry's business model and business objectives.

This study commission has been empanelled at a very critical time, though we recognize there is never a good time to face such difficult economic issues. However, there is and has been for several years, a dramatic credit crunch in this country. And, despite the extraordinary efforts of the federal government, the availability of credit—especially for those in the middle and lower portions of the economic spectrum—has continued to deteriorate. While the traditional installment credit industry has not been found to be involved in creating this crisis, the impact on our customers has been substantial.

Rising unemployment, shrinking property value and limitations in available revolving credit is placing an increasing number of North Carolinians “between a rock and a hard place.” And, even though the Consumer Finance Act was intended to be the regulator of the primary source of service and capital in these situations, many of the companies that have made small consumer loans (\$500 – \$1,500) for as many as 100 years are no longer able to sustain this business. We will explore what can be changed to attract new capital for these and larger loans needed to accommodate today’s costs of goods.

Even as our state continues to enjoy one of the greatest spurts in growth in the country, the realistic economic picture for North Carolina’s citizens, cities and towns is changing. We will bring you detailed demographic information to describe the consumer finance customer and their communities. We expect that this too, will assist you in recognizing the urgency to act in modernizing the Consumer Finance Act, to stop the contraction of the traditional installment loan business and ensure that credit services are widely and properly available to the state’s moderate income citizens and less urban communities.

This joint study committee was created to examine the changes that would be necessary to “modernize” the state’s current consumer loan laws. In particular, the committee was specifically charged to study:

- The increase in costs of operations for the consumer finance industry and its impact of the delivery of credit to the public.
- The maximum dollar amount that can be lent to an individual borrower.
- The appropriate rate of interest and fees to be charged for each level of consumer transaction; and

- Strategies for increasing consumer protection and disclosure.

We find these to be the most relevant and essential issues to be reviewed by this panel. We believe that a studious examination of these items will result in recommendations for changes that can be embraced by everyone who is impacted by the work of the traditional installment loan industry in this state.

Because the traditional installment loan industry is built on a foundation that requires its members to first consider the borrower's ability to afford the loan they are requesting, it represents one of the best forms of lending to meet the public's need for small dollar loans. While the reports from the Commissioner of Banks indicate that the number of loans and revenues is trending down, the industry reports that expenses continue to increase and credit applications must be rejected at increasingly record high numbers. The only way personal installment lending will remain a viable option for North Carolinians is to recognize the economic requirement for profitability in the statutory and regulatory framework that governs the consumer credit industry in the state.

NCCPFC believes that the North Carolina General Assembly must modernize the Consumer Finance Act. This Act has not been substantially changed since 1982 and does not reflect the true costs and economics of providing unsecured, non-depository consumer credit in North Carolina in the year 2009. All business costs related to personnel, facilities, insurance, taxes, communications, and government compliance have consistently increased over the last 20+ years (CPI inflation =124%). It is only logical that consideration be given to the maximum interest rates that can be charged by members of our industry. They have not been allowed to account for normal business expenses increases or even have their rates "indexed" for inflation. The distinctive costs related to consumer lending beg for still more weight in the expense equation.

Borrowers, policy makers, and the industry should seek to have the most comprehensive and valid answer to the question of "What is a fair rate?" We are requesting that the committee review the economic issues and facts facing members of the industry to determine how they can both operate and serve citizens in this state. We believe that a report of the study committee findings, along with legislative recommendations, should be made as soon as conclusions can be made after these meetings.

Given the importance of this issue in today's credit environment, we would ask committee members to challenge all presenters to focus on the issues outlined in the Commission's charge and not engage in debate over tangential items or points.

### Summary

NCCPFC believes that legislators, regulators, advocates and industry representatives must come together to modernize our state's existing consumer lending laws. This needs to be done to ensure that unsecured consumer loans of all sizes remain available and affordable for the citizens of North Carolina. These modifications must be understandable, transparent, effective and fair. We strongly believe that the laws governing consumer credit should contain all appropriate consumer protections, but they, also, must ensure profitability for the service provider.

NCCPFC believes that there is a need to re-examine the Consumer Finance Act. This Act has not been substantially changed since 1982 and does not reflect the true costs and economics of providing unsecured, non-depository consumer credit in North Carolina in the year 2008. While, costs have continued to rise over the last 20+ years, the rate structure under which consumer credit industry operates has not been modified or even "indexed" for inflation.

There is a need to understand the nature of this business with its "high touch" and high cost of operation. Because most of these loans are serviced and collected in the same offices at which they are originated, advances in technology have not served to significantly reduce costs in this industry. We must all work together to arrive at a solution that will encourage the consumer credit finance industry to continue to meet the needs of all of our citizens.

Because this industry is built on a foundation that requires its members to first consider the borrower's ability to afford the loan they are requesting, it represents one of the best forms of lending to meet the public's need for small dollars loans. But, the only way this will remain a viable option is to infuse profitability into the statutory and regulatory framework that governs the consumer credit industry in the state.

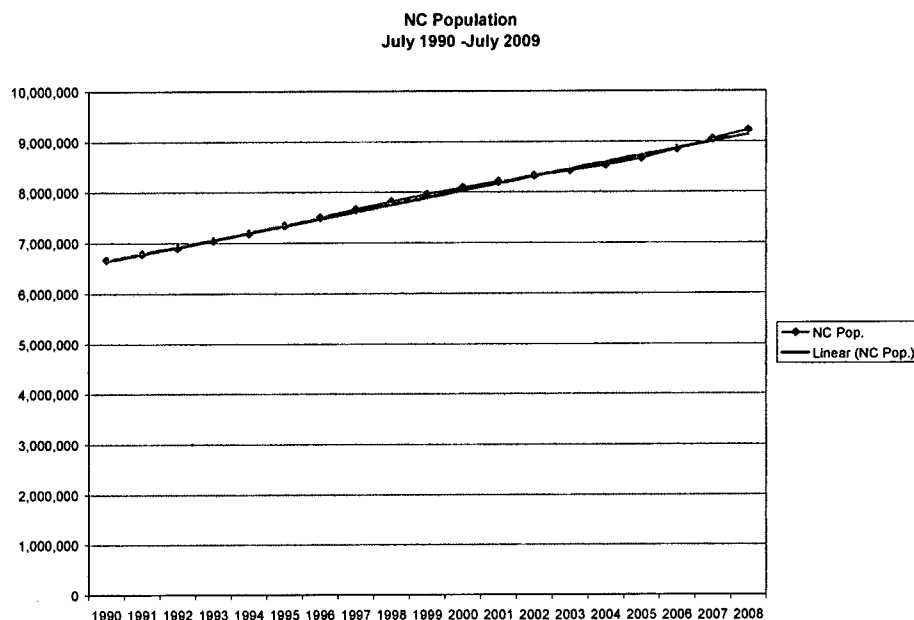
(SEE GRAPHS)

# Overview of the NC Consumer Finance Industry 1990 -2007

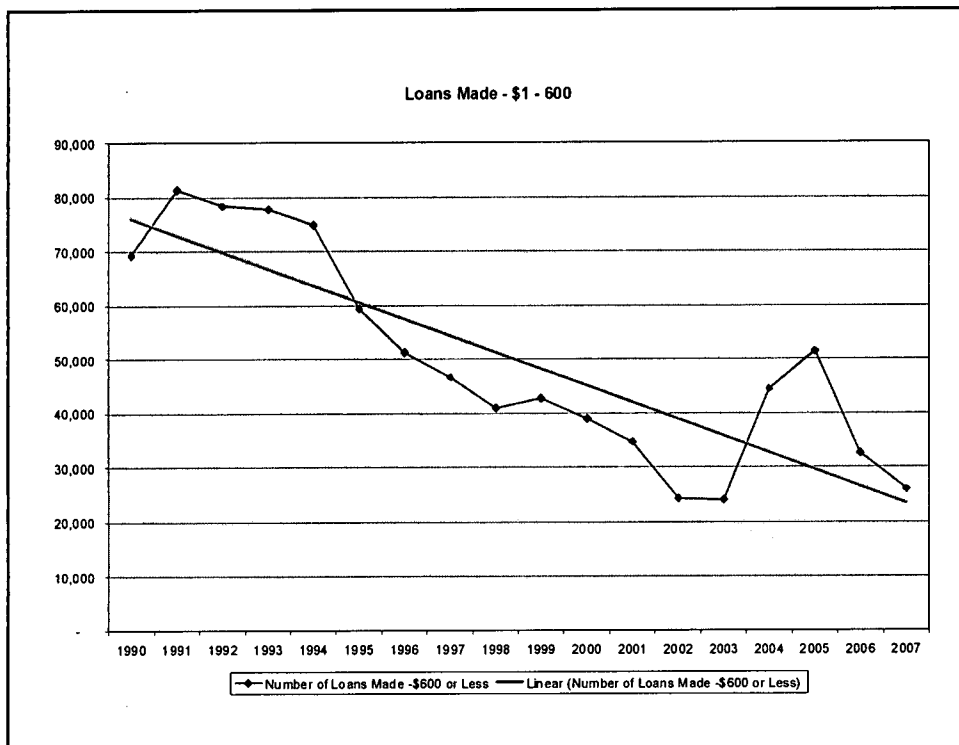
Presented by C. Everett Wallace

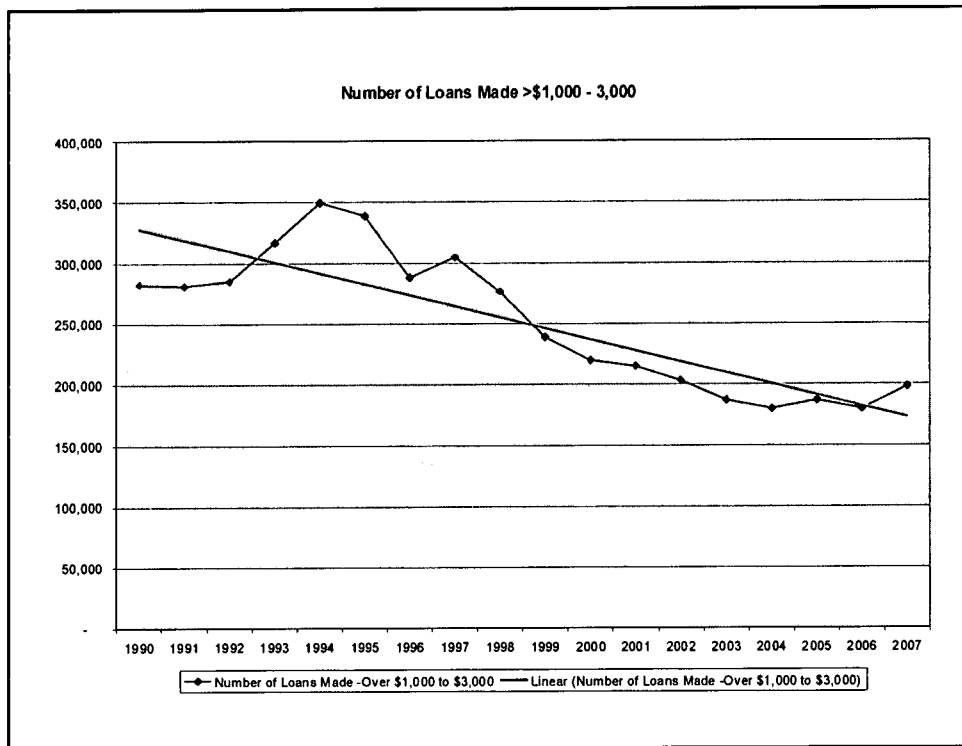
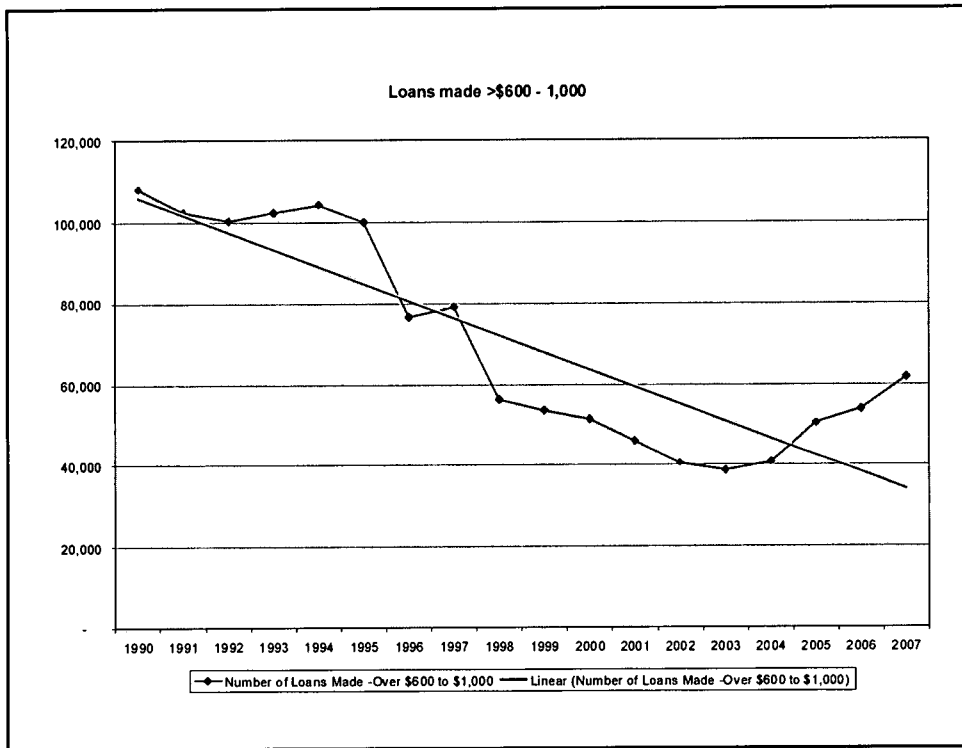
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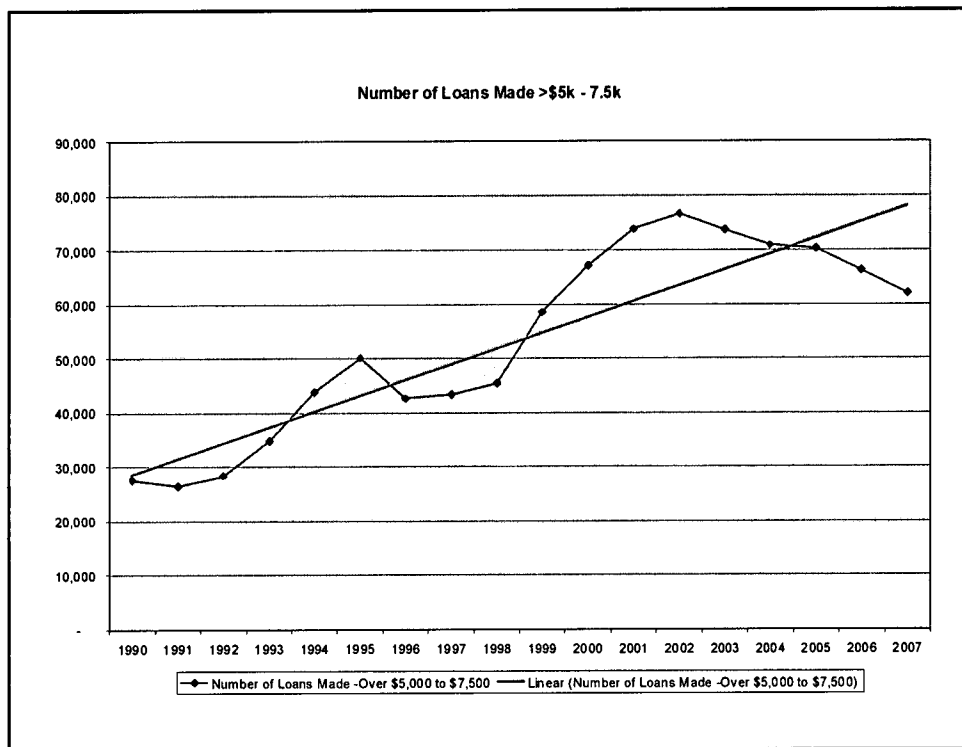
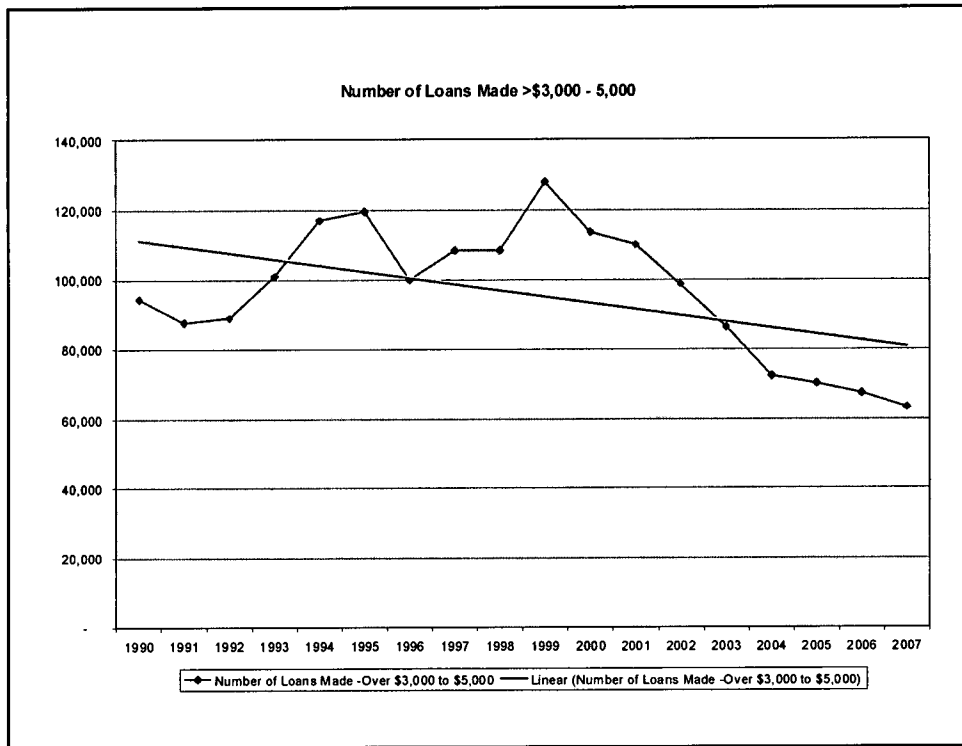
North Carolina Credit and Personal Finance Council  
January, 2010



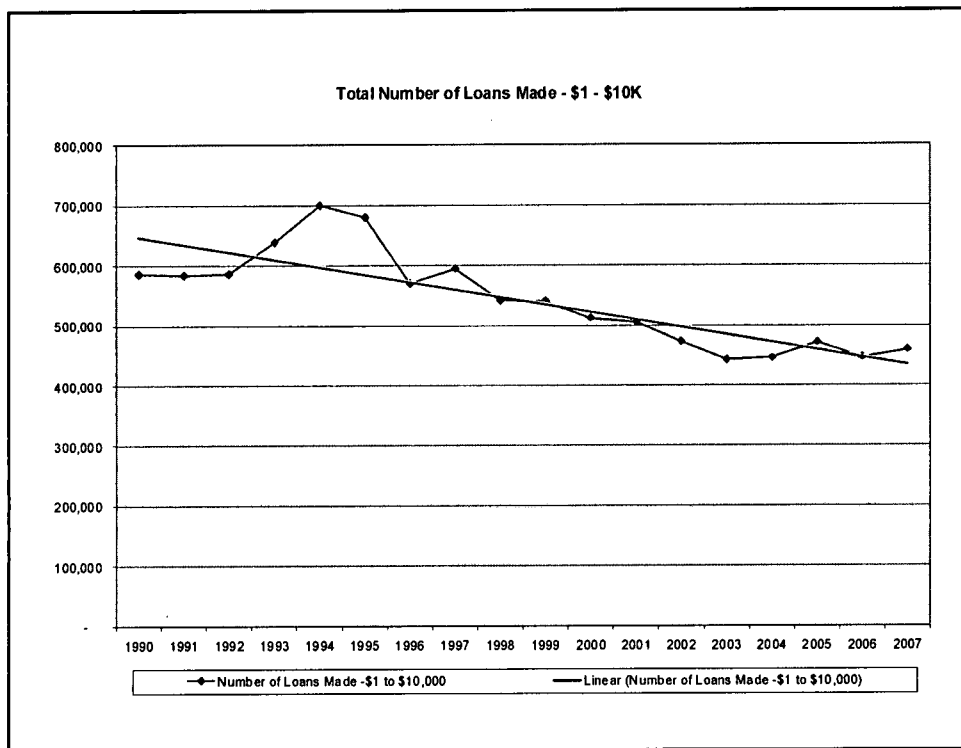
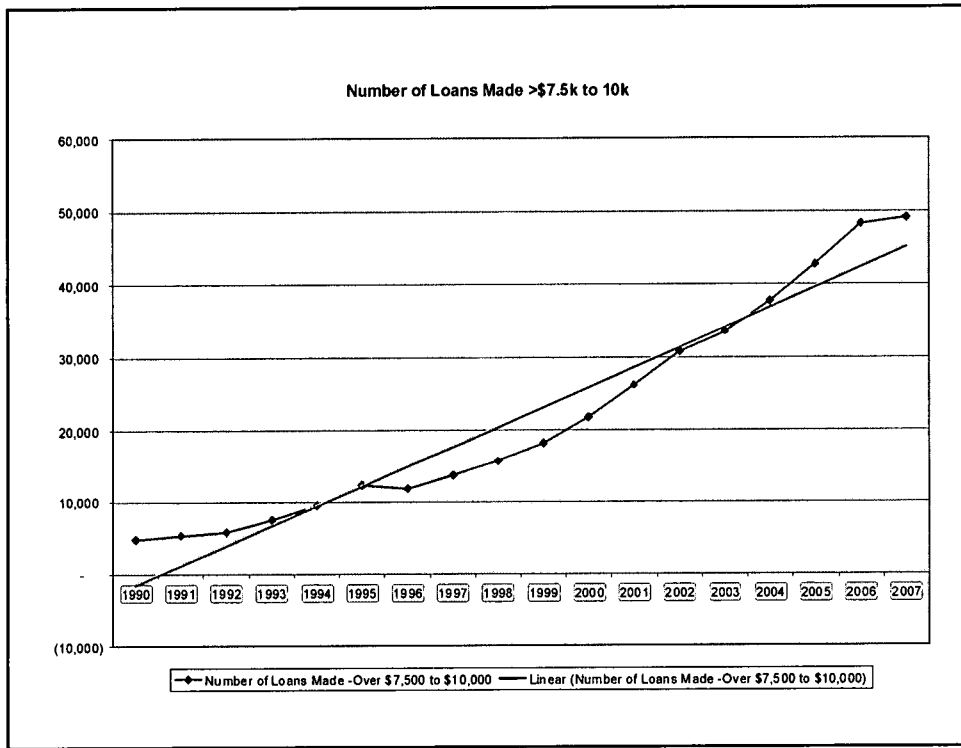
## Loans Made (Trendlines)

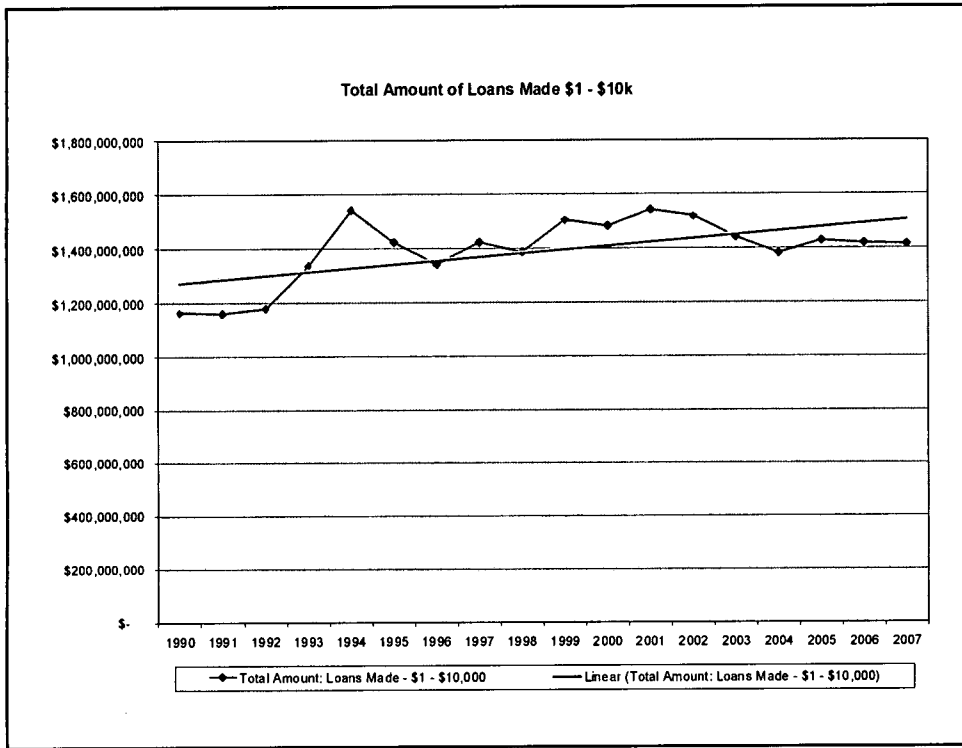




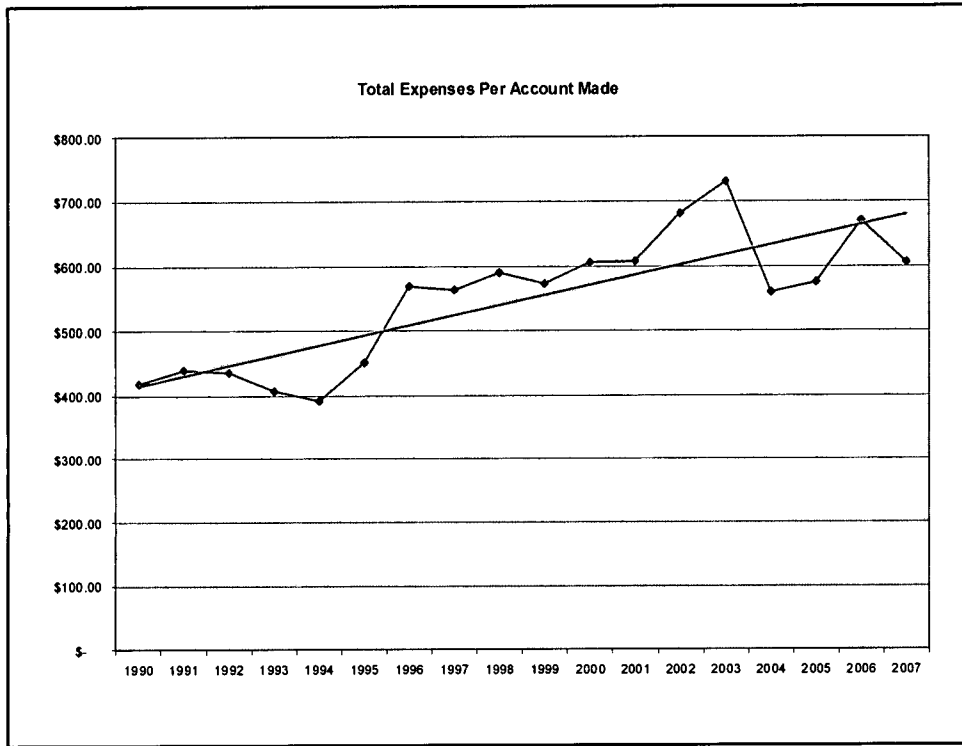








## Expenses Per Account Made



Company	Number of Offices Closed (Offices Remaining)	Company	Number of Offices Opened (Total Offices)
American General	7 (92)	Allied Financial Services, Inc.	1(11)
Auto Finance Co, Inc.	1 (closed)	Alpha Finance	1(1)
Beneficial NC	32 (closed)	Basic Finance	1 (5)
Blue Heron Finance	1 (closed)	Future Financial Services, LLC	1(4)
Coastal Finance	3 (6)	North State Acceptance	1(5)
CitiFinancial	6 (113)	Omni Financial of NC, Inc.	3(3)
Equity One (Banco Popular)	23 (American General (AIG) acquired company)	Professional Financial Services of NC, LLC	1(6)
Federal Financial Services, Inc.	1 (4)	Regional Finance Corporation of NC	5(18)
Greencap Financial	3 (8)	Security Finance Corporation of Lincolnton/dba Security Financial Services	1(34)
Golden Key Finance	1 (closed)	Steele Financial Services, Inc./dba Pine State Finance	1(1)
Household Finance Company(HFC)	13 (closed)	Time Investment Corp./dba Time Financing Service	2(19)
JB Penny/Globe Financial	1 (closed)	Turner Finance Co., Inc.	1(1)
Nordan Finance Company	1 (closed)	Whiestone Financial, Inc.	1(1)
Peoples Finance Company of Lexington	2 (1)	<b>Total Offices Opened</b>	<b>18</b>
Sallie Mae Financial (SLM)	4 (closed)		
Sandhill Finance	1 (1)	<b>Percent of Offices Closed Attributable to HSBC, AIG, Mergers and Changes in Supervision</b>	<b>84%</b>
Southern Loans	1 (10)		
The Money Shoppe, Inc.	1 (1)		
Universal Finance, Inc.	1 (9)		
Wells Fargo Finance	15 (All Finance Company activity moved into Wells Fargo Bank)		
Whiteville Finance	1 (closed)		
<b>Total Stores Closed</b>	<b>119 (19 independents)</b>		

Chris Kukla

# North Carolina Justice Center

## Presentation to the

### Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act (2009)

January 27, 2010

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#### I. Introduction

The Justice Center is a private, nonprofit anti-poverty organization located in Raleigh. Its mission is to reduce and eliminate poverty in North Carolina by helping to ensure that every North Carolina household gains access to the resources, services and fair treatment that it needs in order to enjoy economic security. Founded in 1996 through the merger of two former Legal Services organizations and staffed by a diverse array of professionals, the Justice Center pursues its ambitious mission through four main strategies:

**Litigation** - Justice Center lawyers take on carefully selected, high-impact cases that are designed to protect and expand the rights of low-income groups and individuals.

**Research and analysis** - Justice Center experts research and analyze public policies affecting low-income North Carolinians, identify strategies for improvement and publish their findings in an array of reports, newsletters and issue briefs.

**Public Policy Advocacy** - Justice Center advocates speak out on behalf of vulnerable North Carolinians and work to win concrete policy changes from elected officials and administrative agencies.

**Grassroots Action** - Justice Center activists build relationships with groups and individuals at the grassroots level and pursue a two-way process of education and empowerment.

# North Carolina Justice Center Recent Poverty Statistics for NC

## Food and Nutrition Services in North Carolina

	December 2007	December 2008	December 2009
Number of Individuals	923,151	1,072,607	1,302,121
		16.2 percent '07-'08	21.4 percent '08 -'09
			41 percent '07 - '09

## Health Care

In 2008, 15.9 percent of the population or 1,434,000 people in NC were uninsured.

## Wages and Income

	2001 (in 2008 \$)	2008
NC Median Income	\$ 47,241	\$ 46,549

## Poverty

Poverty	2000 Poverty Rate	2008 Poverty Rate	2008 # Living in Poverty
NC Living in Poverty	13.1%	14.6%	1,301,929
NC Children in Poverty	18.1%	19.5%	429,054

## Unemployment

### Civilian Labor Force Estimates for North Carolina for 2009

North Carolina Seasonally Adjusted													
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
Rate%	9.7	10.7	10.8	10.7	11.1	11.0	10.9	10.8	10.8	10.9	10.7	11.2	

### Civilian Labor Force Estimates for North Carolina for 2008

North Carolina Seasonally Adjusted													
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
Rate%	5.0	5.2	5.4	5.7	5.9	6.1	6.3	6.6	6.8	7.0	7.5	8.1	

# The Debt Trap, Loan Churning, And Why the “Credit Path Theory” Is Not Working

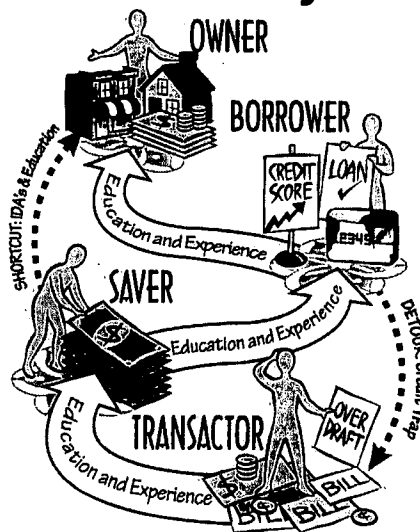


UNC  
COLLEGE OF  
ARTS & SCIENCES

CENTER for COMMUNITY CAPITAL

## The Credit Path: the theory

From: Alternatives  
Federal Credit Union



**The reality** is very different, with many getting mired in consumer debt before starting to save and build good credit. 7

## Practices That Harm Consumers

1. High fees and charges for financial services
2. High cost unaffordable loans
3. Loan product characteristics and industry practices that encourage repeat high cost transactions (churning)

## **Small Dollar Loan Products**

**August 2008; Consumers Union, the National Consumer Law Center, Consumer Federation of America**

- Many states have stronger consumer lending laws than North Carolina. Other states (36) have at least one interest rate cap that is lower than those under North Carolina Law.
- The report gave North Carolina a failing grade of F in two of its loan categories

*“Background:* Abusive lending practices not only harm individual consumers, but they place a needless drag on the overall U.S. economy. Abusive lending practices include those in which the lender charges excessive fees and interest rates, lends without regard to the borrowers’ ability to repay, refinances borrowers’ loans repeatedly over a short period of time without any economic gain for the borrower, and commits outright fraud or deception. Consumers experiencing abusive lending practices pay more for their loans and often get trapped in cycles of debt from which they cannot emerge. As a result, these consumers have fewer resources to devote toward building family wealth. This is especially true of consumers who are of modest means and just trying to make ends meet. Indeed, numerous studies have documented the consumer harms related to these abusive lending practices.” Pg. 3

- At the Justice Center we get complaints about lending abuses but we do not get any complaints about a lack of credit in NC. People that call are already over extended in high cost debt and having more debt at high cost does not help. We need to lower interest rates and fees on loan products not increase rates.



## **Conclusion**

To modernize North Carolina's Banking Laws and the Consumer Finance Act and to help people in North Carolina take advantage of responsible financial services the General Assembly should:

1. Follow the lead of other states and strengthen our lending laws to reduce rates and fees on loan products
2. Discourage high cost financial services
3. Strengthen programs and services that provide a social safety net
4. Require more detailed and accurate reporting by Consumer Finance Companies to the Commissioner of Bank's Office