



Testimony before the Senate Insurance & Financial Institutions Committee

Supporting SB 407 Unlicensed Online Lending

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Thank you for the opportunity to speak today. I'm glad to see this issue receiving attention, and I want to take the opportunity to share with you what I've learned about online lending, why Indiana is currently a target for predatory online lenders, and what we can do about it.

My first request for help from a borrower with an online loan came in the fall of 2017. A mental health counselor was working with a client I'll call Liz who was having insomnia and panic attacks. This made sense – her sister had just passed away and she adopted the children. But as they dug into the sources of that stress, it was revealed that part of it was financial – missed work had led her to fall behind on bills and she had a loan the counselor didn't think could possibly be legal. I've shared snippets of the loan document with you – it's not quite a one year loan for \$1000 at 780% APR, and if you'll notice, the payments are structured so that she had already paid back the principal in the first month. Over the course of the loan, she would have paid over \$3000k in finance charges.

We encouraged Liz to file a complaint with the Department of Financial Institutions and the Consumer Financial Protection Bureau. Because the latter has an online form, while at DFI a form must be printed and mailed in to the Department, she submitted a complaint there. And this appears to be a route that many Indiana borrowers take - that complaint database is open to the public and searchable.

I didn't realize at that time that a loan by an unlicensed lender can be declared void and uncollectable, and that the Department of Financial Institutions can send a cease and desist letter to lenders who are unlicensed and not following Indiana law. But Liz did what many borrowers do when they reach the breaking point – she told her creditors she was thinking about bankruptcy and set up payment plans.

Not all states are targets the way Indiana is. Many online lenders have a list of states they do and don't target. And at least one study suggests that scaring these lenders off requires two things: a strong legal framework and active enforcement.

You have before you an opportunity to add to Indiana's legal framework. SB 407 updates the code to:

- ensure that we regard internet lending as doing business in the state of Indiana,
- makes clear that failing to be licensed is a deceptive act subject to penalty, and

- in transactions where banks or tribes and non-bank lenders partner to use federal preemption to evade state law, directs the eye to the partner in the transaction with the predominant economic interest in the loan.