

Public Policy Position
HB 5097

The Consumer Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 495 members. The Consumer Law Section is not the State Bar of Michigan and the position expressed herein is that of the Consumer Law Section only and not the State Bar of Michigan. To date, the State Bar does not have a position on this item.

The Consumer Law Section has a public policy decision-making body with 15 members. On November 12, 2020, the Section adopted its position after a discussion and vote at a scheduled meeting. 11 members voted in favor of the Section's position on HB 5097, 0 members voted against this position, 0 members abstained, 4 members did not vote.

Oppose

Explanation:

The members of the Council of the Michigan Consumer Law Section strongly oppose the HB 5097. Please note that the Consumer Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest. The position expressed is that of the Council on behalf of the Consumer Law Section only and is not the position of the State Bar of Michigan

HB 5097, creates another high cost lending product in Michigan by expanding the Deferred Presentment Act to include small loans up to \$2,500. Lenders would be able to charge a service fee of 11% monthly on the principal of the loan, which is equivalent to around 132% APR. This means on a \$2,500, one-year loan, a borrower would pay back more than \$4,000.

This bill which allows a triple digit interest rate is harmful to Michigan consumers. Michigan already has laws that govern small loans – Michigan Regulatory Loan act and the Credit Reform Act. These laws have a strong interest rate cap of 25% intended to protect our residents from predatory loans. HB 5097 is nothing more than an attempt to allow the payday lending industry to gain an unfair advantage by getting around the interest cap that other small loan providers are required to abide by in Michigan.

If small dollar loans are allowed under the Deferred Presentment Act as set out in HB 5097, the most effective way to protect consumers is to put a rate cap on small dollar loans. Sixteen states and DC cap rates at 36% or less. This 36% is based on the federal Military Lending Act which institutes a cap of 36% for most consumer loan products for active-duty military members and their families. This

law was enacted at the request of the Department of Defense, which saw the negative impact of predatory lenders on their active-duty military personnel, with some military members losing security clearance due to financial problems caused by predatory lending. We strongly believe the best option is to protect all consumers with a 36% rate cap, not just active-duty military.

Michigan lawmakers should not authorize the sale of clearly predatory products. Michigan's working families need access to safe, affordable options and not to be trapped in high-cost loans that are nearly impossible to escape. We urge you to oppose HB 5097.

Members of the Council of the Michigan Consumer Law Section
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