



CITY OF SAN ANTONIO

DIEGO M. BERNAL
CITY COUNCILMAN
DISTRICT 1

October 9, 2012

The Honorable John Carona
Chair, Senate Committee on Business and Commerce
Texas Senate
P.O. Box 12068
Capitol Station
Austin, Texas 78711

RE: Senate Interim Hearing scheduled October 9, 2012
Payday and Auto Title Lending Legislation

Dear Senator Carona,

Please accept this letter as written testimony for your consideration on the interim charge before you today regarding review of the implementation of House Bill 2592 and House Bill 2594, relating to the payday and auto title lending businesses ("credit access businesses").

In San Antonio, there are at least 210 credit access businesses registered with the Texas Office of Consumer Credit Commissioner. It has been found that these entities charge annual percentage rates of up to and over 500%. Through an ordinance in 2010, the San Antonio City Council passed a Resolution in support of the passage of legislation during the 82nd State Legislative Session requiring payday and auto title lenders to stop usurious lending practices. The Legislature's enactment of House Bill 2592 and House Bill 2594 included policies relating to notice provided to consumers as well as required licensing of credit access businesses by the Texas Office of Consumer Credit Commissioner. This legislation provides there can be no penalty for prepayment, there are no restrictions imposed on the amounts of the loans or interest rates charged. It was on my request that the San Antonio City Council considered an ordinance regulating payday and auto title loan companies in our community.

The need for such an ordinance to regulate credit access business loans is perhaps best exemplified by an example presented to the San Antonio City Council on September 20, 2012. The Executive Director of a local non-profit organization presented the facts of a loan to a sixty-eight year old woman who came to his organization seeking relief from a short term loan. **This elderly lady borrowed \$525.00 and religiously repaid \$102.00 a month, for six years, totaling in excess of \$7,200.00 in interest or "fees". Not one penny had been allocated to repayment of principal notwithstanding 6 years of payments.** The above is but one example out of many of a person who took out a short

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term loan, but ended up in debt for a considerable length of time, repaying the amount of the loan many times over. Except for loans to members of our armed forces, where the maximum amount of interest is set at 36%, there is no limit to the fee charged for the loan, or the amount of interest that can be collected.

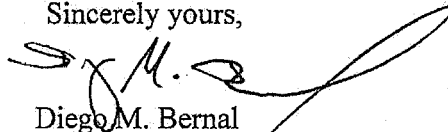
On September 20th, my colleagues and I voted unanimously for the passage and enactment of an ordinance regulating credit access businesses. The ordinance, which shall take effect on January 1, 2013, establishes regulations which closely follow and are similar to those passed in the City of Dallas and the City of Austin in an effort to protect members of our community from becoming consumed in a cycle of debt.

Prior to these local ordinances, there was no cap on the amount of a loan as a percentage of a borrower's income for credit access business loans. There was also no cap on fees or interest. The conclusion is inescapable that at the time some of these loans were created, the lender was aware the borrower would not be able to repay the loan as contracted, and that this short term debt would become a long term and heavy anchor on the financial health of the borrower.

The regulation of these businesses through comprehensive statewide legislation is preferred to regulation through local ordinances for the sake of uniformity, and to make it easier for these businesses to operate on a statewide basis. However, many state and nation wide businesses face local regulation, and this does not pose any barrier to their successful operations. By following the lead of the ordinances in Dallas, Austin and San Antonio, regulation based on these ordinances would not pose any obstacle to statewide operation. In the absence of such comprehensive statewide regulation, local ordinances such as those adopted by these cities should be allowed to continue in effect in order to protect the most vulnerable of our citizens.

In conclusion, payday and auto title loans can create financial problems for citizens of the state. I respectfully urge the Texas Legislature to use San Antonio's ordinance as a model and framework for statewide legislation for the regulation of these businesses. In the alternative, I request that the legislature allow the local ordinances to remain in effect.

Sincerely yours,



Diego M. Bernal
Councilmember, District 1

cc: Senator Chris Harris, Vice-Chair
Senator Leticia Van de Putte
Senator Kevin Eltife
Senator Craig Estes

Senator Mike Jackson
Senator Eddie Lucio, Jr.
Senator Kirk Watson
Senator John Whitmire