



May 19, 2017

Via E-mail

Dear Majority Leader Morelle, Chairman Zebrowski, and Chairman Hamilton:

We understand that the New York legislature is considering a proposal (A6511/S5771) modeled after a pilot lending program in California, and that supporters of the proposal have referenced our organizations or other California organizations in conversations seeking your approval of the proposal. As such, we are writing to ensure clarity of our position on the California pilot program.

Due to concerns with costs of the loans and the insufficient safeguards for affordability, our organizations have not actively supported California's pilot program. While the pilot sets relatively lower rates than those for payday loans, which can cost as much as 460% APR under California law, it still permits effective APRs much higher than those currently permitted in New York. Permitting similar loans in New York would be a step backward for New Yorkers.

Enacted in 2010 and later modified in 2013 and 2015, the original California pilot proposal has undergone several changes in the California Legislature, and more have been proposed this year. Throughout the legislative process, opposition from numerous groups, including CRL, Consumers Union, and the California Reinvestment Coalition (CRC) has mitigated some of the more egregious components of industry's proposals for the pilot. However, the pilot in its final form does not fully address our concerns about unsafe lending practices. Upon enactment and currently, the loan costs are excessive and lenders are not required to account for certain significant expenses, such as rent, in assessing whether a loan is affordable for a borrower. For example, the California pilot program allows loan costs to reach 50% of the borrower's gross monthly income. For borrowers paying 50% of their gross income on rent – a common occurrence in both California and New York – the staggering loan burden leaves nothing remaining even to pay income taxes, let alone buy food and other essentials. Even a limit on costs of 35% of a borrower's gross monthly income, as is proposed in A6511/S5771, does not do nearly enough to ensure borrowers can truly repay the loans.

A pilot program proposal modeled on California law is of significant concern for New York, which has effectively maintained and enforced its long-standing criminal usury cap of 25%. Unlike California, New York effectively protects against the harms of the high-cost payday loan debt trap that saturates California communities, particularly communities of color. The most effective tool to prevent such abusive lending practices is New York's current cap.

CRL, Consumers Union, CRC, and others have ongoing concerns about the costs and affordability of the California pilot loans, even in the context of the other abusive loans in California communities, such as payday loans and car title loans. These concerns are heightened in a state like New York, where the loans will be allowed to exceed the criminal usury rate, thus opening the door for other lenders to seek permission to charge such high costs – or higher.

Finally, we are aware of proposals being pushed by high-cost lenders in other states that are characterized as similar to what California has in place, but in reality, are not. As such, we would be happy to provide feedback on the specific proposal you are considering in New York.

Thank you for your consideration of this information.

Sincerely,



Graciela Aponte-Diaz
California Policy Director
Center for Responsible Lending



Suzanne Martindale
Staff Attorney, West Coast Office
Consumers Union



Liana Molina
Director of Community Engagement
California Reinvestment Coalition

CC: Chuck Bell, Consumers Union
Andy Morrison, New Economy Project