

Testimony before the New York State Assembly Standing Committee on Banks and
Assembly Subcommittee on Banking in Underserved Communities

November 25, 2014

Thank you for the opportunity to testify today. My name is Susan Shin, and I am a Senior Staff Attorney at New Economy Project (formerly NEDAP). New Economy Project works with community groups in New York City to fight for economic justice and build a new economy that works for all New Yorkers. We also convene New Yorkers for Responsible Lending (NYRL), a statewide coalition with more than 160 organizational members across the state that have long been concerned with access to fair and affordable financial services and the preservation of assets for all New Yorkers and their communities. Our members include community development financial institutions, community-based organizations, affordable housing groups, advocates for seniors, legal services organizations, housing counselors, and community reinvestment, fair lending, labor, and consumer advocacy groups. I am here today to testify on behalf of New Economy Project, which is a member of NYRL.

We commend Assembly Member Robinson for her leadership when it comes to making sure that our state usury cap is upheld, notwithstanding tremendous pressure by the payday lending and check cashing industries to carve out a dangerous exemption to our state usury law.

I have just a few quick points that I would like to make, based on our twenty years of experience working with New York community groups to promote community lending:

First, in any discussion about small-dollar loans, we think it is extremely important to consider the context in which people obtain small-dollar loans. Typically, people borrow small amounts of money to get from paycheck to paycheck. As we all know, payday lending has been an especially lucrative business, exploiting the fact that so many people are struggling and do not earn a living wage. Thus, if we truly want to address small-dollar loan issues, one obvious answer is living wage jobs. For policymakers, the focus should be on ensuring a living wage and meaningfully supporting community development financial institutions, particularly community development credit unions, which responsibly serve their members.

Second, when the question is framed as “What are alternatives to high cost financial products?,” it suggests that we can accept a “less bad” alternative. The question, however, should not be how to design a less bad, less usurious “alternative” to high-cost usurious loans; a less noxious but still noxious product is not a good product.

Instead, we should set a high bar, so that at minimum, any and all lending is based on a person's ability to repay and complies with our state usury law.

Third, while we have no intention of disparaging any particular product or program being discussed at this hearing, we do believe that it is absolutely critical to ensure any loan product or program that may be piloted does not violate our state usury law and thereby open the door to dangerous exemptions from that law. We have seen how effective our state usury law is at keeping abusive and predatory payday loans out of New York, and we have seen excellent enforcement of that law by our state enforcement agencies, such as the Department of Financial Services and the Attorney General. We must continue to guard vigilantly against any carve-out from our strict 25% usury cap.

(We do want to note, just to clarify, that the hearing notice contains erroneous language insofar as it states that "alternative lenders...are not subject to state regulation." This is absolutely not the case. They are subject to state law, specifically our state usury law and, as mentioned above, we have seen excellent enforcement of that law by our state enforcement agencies.)

Finally, all of this underscores the need for the U.S. Consumer Financial Protection Bureau (CFPB) to issue a strong payday lending rule. We encourage the NYS Assembly to call upon the CFPB for a strong rule that not only does not undermine New York's robust existing protections against predatory payday lending, but also adds to our state protections - for example, by ensuring that online payday lenders cannot access New Yorkers' bank accounts and by protecting New Yorkers against dangerous lead generators that collect and wantonly share people's personal and financial information.

Thank you again for the opportunity to testify.