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May 11, 2018

Via Hand Delivery

The Honorable Mike DeWine  
Ohio Attorney General  
30 East Broad Street  
Columbus, Ohio 43215

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MAY 11 2018

**Ohio Attorney General  
Constitutional Offices Section**

Re: Summary Petition for "Short-Term Loan Consumer Protection Amendment"

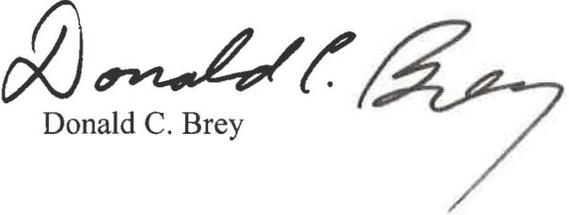
Dear Attorney General DeWine,

Enclosed is a petition to approve a (revised) summary of a constitutional amendment to be proposed by initiative petition, which is being filed with your office on behalf of petition committee members Nathan T. Coffman, Nicholas DiNardo, Michelle Marcus and Carl A. Ruby.

The petition contains 1603 signatures of electors on 121 part-petitions and the summary and full text of the amendment to be proposed.

Please contact me if you have any questions. Thank you.

Very truly yours,

  
Donald C. Brey

County ADAMS

Number 24

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Ohio Attorney General  
Constitutional Offices Section

## INITIATIVE PETITION

**To the Attorney General of Ohio:** Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

### TITLE

#### Short-Term Loan Consumer Protection Amendment

### SUMMARY

This Amendment would add a new section 14 to Article XV of the Ohio Constitution to prohibit certain money lenders from charging more than 28% on loans and to provide other protections to consumers of short-term loans. In addition to other provisions, the amendment would provide as follows:

- No person can make short-term loans unless they are licensed pursuant to laws passed by the General Assembly.
  - The General Assembly may, but is not required to, enact legislation to license persons to make short-term loans.
  - The General Assembly may provide greater consumer protection than set forth in this amendment, but may not provide less consumer protection.
  - Short-term loans made by unlicensed persons are void and unenforceable.
- As used in the amendment:
  - A short-term loan means a loan lasting less than 180 days or for less than \$4,000, indexed to inflation, except for (a) loans by chartered and lawfully operating federal or state banks, savings banks, trust companies, savings and loan associations, credit unions or a subsidiary of any such entity, if the subsidiary is regulated by a federal banking agency and is owned and controlled by a depository institution, and (b) interpersonal loans made to or for the benefit of a family or household member provided the interpersonal loan has an annual percentage rate under 28%.
  - All fees and charges are included in the computation of the annual percentage rate of short-term loans.
  - Any "monthly maintenance fee" is limited to the lesser of 5% of the originally contracted loan or \$25, indexed to inflation.
  - Any check collection charge for a dishonored payment is limited to \$20, plus any amount passed on from other financial institutions.
- Contracts for short-term loans:
  - Must be in writing and must set forth the terms and conditions of the loan.
  - Must be a precomputed loan payable in substantially equal installments.
  - Cannot require a total monthly payment more than the greater of 5% of the borrower's verified gross monthly income, or 6% of the borrower's verified net monthly income. (The lender must make a reasonable attempt to verify the borrower's income prior to initiating the loan by obtaining from the borrower written evidence of recurring income, including at least one document that is dated not earlier than 45 days before the initiation of the loan transaction.)
  - Must be for a minimum duration of the number of months equal to the sum of the original loan amount and all applicable charges divided by the total monthly payment.
  - Must warn that the cost of the loan is higher than average and include a statement informing the borrower about a complaint process.
  - Must state that the borrower can rescind or cancel the contract by 5:00 p.m. of the next business day.
  - Must require the borrower's written authorization to collect funds electronically.
  - Must state that the borrower has the right to revoke authorization for electronic payment at any time.
  - Require any notice terminating the loan and demanding immediate repayment, to give written notice at least ten days after the default and limits recovery to earned interest and fees, plus the outstanding balance.

- Charges for short-term loans are limited as follows:
  - A lender's charges are limited to interest of 28% or less, a monthly maintenance fee, one check collection charge per loan, and damages in a civil suit to collect on a defaulted loan (not to exceed the originally contracted loan amount).
  - Fees and charges (other than check collection charges) cannot exceed 50% of the originally contracted loan amount.
  - There can be no financial penalty for prepaying a short-term loan in full prior to the loan's maturity date.
  - The lender must inform the borrower the amount needed to pre-pay the loan in full not later than two business days after the borrower requests that information.
  - A licensed short-term loan lender can refinance a short-term loan with another short-term loan provided the interest rate does not exceed 28% per annum and provided the licensee does not charge, collect, or receive the monthly maintenance fee on the refinanced loan.
  
- A short-term loan lender may not:
  - Require borrowers to waive their legal rights to recourse.
  - Engage in any deceptive trade practice.
  - Offer financial incentives for taking out multiple loans.
  - Recommend that a borrower borrow more than requested.
  - Take title or registration of a car, home or other collateral as security for the short-term loan.
  - Charge for credit insurance premiums or for other ancillary products sold.
  - Keep trying to collect from a borrower's account after two consecutive failed attempts, without a new written authorization from the borrower.
  - Sue or threaten to sue the borrower for a payment being returned for insufficient funds unless the borrower has intentionally engaged in fraud.
  - Make another loan with the borrower (other than to refinance a short-term loan) if there is already an outstanding loan between the borrower and the lender, or someone with certain connections to the lender.
  
- No person shall:
  - Make a short-term loan to a borrower that is not physically present in the licensed short-term lender's business location.
  - Make a short-term loan to a borrower in Ohio from an office not located in Ohio.
  - Engage in any device or subterfuge to evade the requirements of this amendment.
  
- No person shall broker an extension of credit for a loan that is for less than \$4,000, indexed to inflation, that has a repayment term of less than 180 days, or has an annual percentage rate of more than 28%.
  
- The proposed amendment will take effect 365 days after the election at which it was approved.

## **COMMITTEE TO REPRESENT PETITIONERS**

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Nathan T. Coffman	1047 Birchmont Road	Columbus, Ohio 43220
Nicholas DiNardo	6136 Fairway Drive	Cincinnati, Ohio 45212
Michelle Marcus	19230 Winslow Road	Shaker Heights, OH 44122
Carl A. Ruby	7711 Garlough Rd	South Charleston, Ohio 45368

## FULL TEXT OF PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that Article XV of the Ohio Constitution is hereby amended to add the following Section:

### **Section 14. Short-Term Loan Consumer Protection Amendment.**

#### **(A) Definitions**

As used in this section:

- (1) “Short-term loan” means a loan, line of credit, or any other extension of credit that has a duration of less than 180 days or a principal amount as of the time the loan was made of less than \$4,000 indexed to inflation.

Notwithstanding the above, the term “short-term loan” does not include loans made by:

- a. Entities chartered and lawfully doing business under the authority of any Ohio law, law of another state, or federal law as a bank, savings bank, trust company, savings and loan association, or credit union, or a subsidiary of any such entity, if the subsidiary is regulated by a federal banking agency and is owned and controlled by a depository institution; or,
  - b. Interpersonal loans with an annual percentage rate under 28 percent made to or for the benefit of a family or household member.
- (2) “Interest” means all charges payable directly or indirectly by a borrower to a licensee as a condition to a short-term loan, including fees, service charges, renewal charges, and any ancillary product sold in connection with the loan, but not including the monthly maintenance fees or the check collection charge.
  - (3) In the computation of the “annual percentage rate” all fees and charges, including interest, application fees, participation fees, brokerage fees, fees for ancillary services, the monthly maintenance fees, and all other direct or indirect fees or charges, shall be included.
  - (4) “Licensee” means a person licensed under Ohio law to make short-term loans.
  - (5) “Monthly maintenance fee” shall mean a fee authorized by law that does not exceed the lesser of 5 percent of the originally contracted loan amount or \$25 indexed to inflation, provided the fee is not added to the loan balance on which interest is charged, and further provided that a monthly maintenance fee cannot be charged if the borrower is on active duty in the United States armed forces or is a dependent of that person.

- (6) “Check collection charge” means a charge authorized by law not exceeding an amount equal to \$20 plus any amount passed on from other financial institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges will be charged to the borrower are set forth in the written short-term loan contract.
- (7) “Precomputed loan” means a loan in which the debt is a sum comprising the principal amount and the amount of fees and interest computed in advance on the assumption that all scheduled payments will be made when due.
- (8) The term “indexed to inflation” when applied to a dollar amount means that starting January 1, 2020, that dollar amount shall be adjusted annually on the first day of January by the annual percentage change in the consumer price index for all urban consumers, midwest region, all items, as determined by the bureau of labor statistics of the United States department of labor or its successor index, as reported on the first day of June of the year preceding the adjustment.

**(B) Licensing Requirement**

- (1) No person shall make a short-term loan without first being licensed by the State of Ohio.
- (2) The General Assembly may, but is not required to, enact legislation to license persons to make short-term loans.
- (3) Legislation to license persons to make short-term loans shall contain at least the minimum consumer protection provisions set forth in this section. The General Assembly may provide for greater consumer protection than the minimum consumer protection provisions set forth in this section if it chooses to do so.
- (4) Any short-term loan made by a person who is not a licensee under legislation containing at least the minimum consumer protection provisions set forth in this section is void, and neither the lender nor any debt collector nor anyone else has the right to collect, receive, or retain any principal, interest, fees, or other charges in connection with the loan.

**(C) Minimum Consumer Protection Provisions – Terms of Loan Contract**

- (1) The short-term loan must be made pursuant to a written loan contract that sets forth the terms and conditions of the loan, including the total amount of fees and charges, the total amount of each payment and when each payment is due, and the annual percentage rate.

- (2) The minimum duration of a short-term loan shall be the number of months equal to the sum of the originally contracted loan amount and all applicable charges divided by the total monthly payment.
- (3) The total monthly payment on a short-term loan shall not exceed an amount that is the greater of:
  - a. 5 percent of the borrower's verified gross monthly income, or
  - b. 6 percent of the borrower's verified net monthly income.
- (4) The licensee must make a reasonable attempt to verify the borrower's income prior to initiating the loan by obtaining from the borrower one or more recent pay stubs or other written evidence of recurring income, such as a bank statement. The written evidence is to include at least one document that, when presented to the licensee, is dated not earlier than 45 days prior to the borrower's initiation of the loan transaction.
- (5) The superintendent of financial institutions or other public official authorized by the General Assembly shall have authority to adopt rules setting forth any other procedures such public official considers necessary to ensure accurate verification of borrower income.
- (6) A licensee shall not collect funds from a borrower's account electronically without written authorization from the borrower. The short-term loan contract shall not require electronic payment, and must contain the following statement in a minimum font size of ten points:

"Electronic payment is optional. You have the right to revoke or remove your authorization for electronic payment at any time."
- (7) The short-term loan contract may be rescinded or canceled on or before 5:00 p.m. of the business day immediately following the day of the loan transaction, and must contain the following statement in a minimum font size of ten points:

"You have the right to rescind or cancel this loan if you do so by 5:00 p.m. of the business day immediately following the day you receive this contract."
- (8) The short-term loan contract shall also include a statement warning that the cost of the loan is higher than average and a statement informing the borrower about a complaint process.
- (9) The short-term loan shall be a precomputed loan payable in substantially equal installments of principal, fees, and interest combined.
- (10) The short-term loan contract shall not include a demand feature that permits the licensee, if the borrower fails to repay the loan, to terminate the loan in advance of

the original maturity date and to demand repayment of the entire outstanding balance unless such a demand feature:

- a. Provides written notice of the loan's termination not earlier than ten days after the borrower's payment was due; and,
- b. Collects only prorated interest and the fees earned up to the loan's termination in addition to the outstanding balance, said outstanding balance and prorated fees to be calculated as if the borrower had voluntarily prepaid the loan in full on the termination date.

**(D) Minimum Consumer Protection Provisions – Cost of Loan**

- (1) A licensee may charge, collect, and receive only the following fees and charges in connection with a short-term loan:
  - a. Interest not exceeding a rate of 28 percent per annum;
  - b. A monthly maintenance fee;
  - c. One check collection charge per loan;
  - d. Damages, costs, and disbursements to which the licensee may become entitled by law in connection with a civil action to collect on the loan after default, except that the total amount of damages and costs cannot exceed the originally contracted loan amount.
- (2) Notwithstanding the above, the total amount of fees and charges a licensee can collect on a short-term loan (exclusive of the check collection charge) cannot exceed 50 percent of the originally contracted loan amount.
- (3) If a short-term loan is prepaid in full or refinanced prior to the loan's maturity date, the licensee shall refund to the borrower a prorated portion of the interest, monthly maintenance fees, and all other charges based on a ratio of the number of days the loan was outstanding and the number of days for which the loan was originally contracted.
- (4) The licensee shall not assess or charge a borrower a fee for prepaying the loan in full prior to the maturity date.
- (5) A licensee may refinance a short-term loan only if:
  - a. The refinanced loan is also a short-term loan;
  - b. The interest on the refinanced loan does not exceed a rate of 28 percent per annum; and,

- c. The licensee does not charge, collect, or receive the monthly maintenance fee on the refinanced loan.
- (6) The licensee shall, upon the request of the borrower or the borrower's agent, provide confirmation of the amount required to discharge the loan obligation in full. In responding to this request:
- a. The licensee shall at a minimum include a statement of the amount required to discharge the borrower's obligation fully as of the date the notice is provided and for each of the next three business days following that date;
  - b. The licensee shall make the information required in this subdivision available verbally and in writing; and,
  - c. The licensee shall provide the information as expeditiously as reasonably possible but in no case later than two business days after receiving the request.

**(E) Minimum Consumer Protection Provisions – Prohibited Activities**

- (1) A licensee shall not require the borrower to waive the borrower's right to legal recourse under any otherwise applicable provision of state or federal law.
- (2) No licensee shall make, publish, or otherwise disseminate, directly or indirectly, any misleading or false advertisement, or engage in any other deceptive trade practice.
- (3) No licensee shall offer any incentive to a borrower in exchange for the borrower taking out multiple loans over any period of time or provide a short-term loan at no charge or at a discounted charge as compensation for any previous or future business.
- (4) No licensee shall recommend to a borrower that the borrower obtain a loan for a dollar amount that is higher than the borrower has requested.
- (5) A licensee shall not accept the title or registration of a vehicle, real property, physical asset, or other collateral as security for the short-term loan obligation.
- (6) A licensee shall not charge credit insurance premiums or charges for any ancillary product sold.
- (7) A licensee shall not attempt to collect from a borrower's account after two consecutive attempts have failed, unless the licensee obtains new written authorization from the borrower to electronically transfer or withdraw funds from the borrower's account.
- (8) A licensee shall not bring or threaten to bring an action or complaint against the borrower for the borrower's failure to comply with the terms of the loan contract

solely due to the check, negotiable order of withdrawal, share draft, or negotiable instrument being returned or dishonored for insufficient funds, unless the borrower has intentionally engaged in fraud by, including but not limited to, closing or using any closed or false account to evade payment.

- (9) Except for refinancing a short-term loan, a licensee shall not make a loan to a borrower if there is an outstanding loan between that borrower and:
  - a. The licensee;
  - b. A person related to the licensee by common ownership or control;
  - c. A person in whom the licensee has any financial interest of at least 10 percent; or,
  - d. Any employee or agent of the licensee.
- (10) No person shall make a short-term loan to a borrower that is not physically present in the licensee's business location, and no person not located in Ohio may make a short-term loan to a borrower in Ohio from an office not located in Ohio.
- (11) No person shall engage in any device or subterfuge to evade the requirements of this section, including:
  - a. Assisting a borrower to obtain a loan on terms that would be prohibited by this section;
  - b. Making loans disguised as personal property sales and leaseback transactions;
  - c. Disguising loan proceeds as cash rebates for the pretextual installment sale of goods or services; or
  - d. Making loans above the definitional principal amount limit of a short-term loan and then encouraging the borrower to immediately repay an amount bringing the loan balance within the definition of a short-term loan.

**(E) Brokering Short-Term Loans**

No person shall for a fee or other valuable consideration broker an extension of credit for a buyer that meets any of the following conditions:

- (1) The amount is less than \$4,000 indexed to inflation;
- (2) The repayment term is less than 180 days; or
- (3) The annual percentage rate exceeds 28 percent.

**(F) Effective Date**

This section shall take effect 365 days after the election at which it was approved.

**STATEMENT OF CIRCULATOR**

I, Ch M Nunk declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of 24 electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of the same, that I witnessed the affixing of every signature, and that all signers were to the best of my knowledge and belief qualified to sign. I am employed to circulate this petition by

ABC  
406 WEST PLUM ST. Georgetown, OH 45121  
(Name and address of employer). (The preceding sentence shall be completed as requires by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.)

I further declare under penalty of election falsification that I witnessed the affixing of every signature to the foregoing petition paper, that all signers were to the best of my knowledge and belief qualified to sign, and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

  
(Signed)

4217 Bardwell Buford Rd Mt. ORAB, OH 10  
Number and Street, Road or Rural Route  
(Address of circulator's permanent residence in Ohio) 45154

Mt. ORAB, OH 45154  
City/Village or Township

OH 45154  
State Zip code

**WHOEVER COMMITS ELECTION FALSIFICATION  
IS GUILTY OF A FELONY OF THE FIFTH DEGREE**