Senator Eliot Shapleigh

District 29

Texas Press Release

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BILLS BY SHAPLEIGH TO CURB PREDATORY LENDING GET LATE-SESSION COMMITTEE HEARING

PREDATORY LENDING LOBBY KILLS BILLS IN AUSTIN

"Predatory lenders spend millions to fund campaigns, then more to kill bills. What's the result? 1,100 percent interest on the streets and the vice president for Cash America now chairs the Finance Commission of Texas. The fox is not in the henhouse— the fox owns the henhouse."

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AUSTIN - Today, four bills filed by Senator Eliot Shapleigh (D-El Paso) were heard by the Senate Committee on Business and Commerce— with less than a month left in the legislative session. In 2008-09 the lending industry spent hundreds of thousands of dollars in political contributions to state legislators and to pay lobbyists to stifle efforts to curb payday lending.

Predatory payday loans are very often a last resort for Texans struggling to provide for their families. With the Texas economy following the rest of the nation into recession, there is concern that demand for these predatory loans will increase, meaning greater oversight of the industry is needed to protect vulnerable Texans.

Click here to watch video from The Senate Committee on Business and Commerce, May 5, 2009.

Closing remarks by Senators Davis and Shapleigh begin at 54:18

Nearly all Texas payday lenders have registered as Credit Services Organizations (CSOs), enabling them through a loophole in state law to no longer be subject to Texas' small loan law or regulation by the Office of the Consumer Credit Commissioner (OCCC). Because payday lenders operating as CSOs are no longer obligated to submit data to OCCC, Texas regulators have no official data regarding an industry that makes at least $2 billion in loans from more than 3,100 storefronts.

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According to the Center for Public Policy Priorities (CPPP), there were only 1,280 storefronts in 2005. The number of CSO entities also increased dramatically during that time period, from 87 entities in August 2005, to nearly 400 by November of 2008.

Annually, interest rates on payday loans can reach 1,100 percent APR, and by some estimates lenders collect more than $400 million in fees.

Payday loans routinely charge interest rates in excess of 500 percent APR. The following chart illustrates the fees and interest rates that are often paid on a $300 payday loan:

Fees and Interest Rates (APR) on a $300 Payday Loan

	Current Law-	OCCC rates	**CSO**	Rates
8-day loan	189%	$12.80	**1153%**	$75.82
10-day loan	161%	$14.00	**925%**	$76.03
15-day loan	124%	$15.60	**621%**	$76.54

Increasingly, these lenders are also making loans online. For example, according to a transcript of Cash America's first quarter investor call last month, about 40 percent of Cash America's online revenue comes from making loans using the credit services organization model.

Payday loan companies have made millions of dollars in profits because of the CSO loophole. According to a recent Dallas Morning News article:

- Cash America recorded a net income of $81 million last year – a 132 percent increase in just four years – on total revenue of $1.03 billion;
- Advance America last year made $4.2 billion in payday loans and charged $676 million in interest and fees; and
- EZCORP payday lending stores and pawn shops made a net income of $52 million on revenue of $457 million last year.

Texans took out more than $2.5 billion in loans from payday loan companies last year.

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Advertising for payday loans in El Paso - November 14, 2008

Meanwhile, states like Maine, Massachusetts, New York, New Jersey, West Virginia, Maryland and Connecticut have banned payday lending.

Other states permit loans based on checks held for deposit but at [a much lower rate than typical payday lending]:

- Maine caps interest at 30 percent for small loan.
- Oregon permits a one-month minimum term payday loan at 36 percent interest plus a $10 per $100 borrowed initial loan fee. As a result a $250 one-month loan costs 154 percent APR for the initial loan, and 36 percent APR for any subsequent loans.
- New Hampshire capped payday loan rates at 36 percent APR.
- in 2008, Ohio caped rates at 28 percent APR, after a state-wide vote.
- The Arkansas attorney general ruled that payday lenders had to abide by their constitutional usury limit of 17 percent.
- Arizona's payday lenders will lose their exemption to the 36 percent rate cap in July 2010, also through a ballot initiative in the fall.

In Texas, passing similar reforms has been made difficult by the payday lending lobby. The lending industry has spent hundred of thousands of dollars on campaigns and lobbyists to keep their industry unregulated.

"Predatory lenders spend millions to fund campaigns, then more to kill bills. What's the result? 1,100 percent interest on the streets and the vice president for Cash America now chairs the Finance Commission of Texas. The fox is not in the henhouse— the fox owns the henhouse," Senator Shapleigh said.

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In 2008 alone, payday lenders donated more than $400,000 to Governor Rick Perry, Lt. Governor David Dewhurst and members of the Texas Senate and House. Lenders also spent thousands more to hire lobbyists.

In March 2009, Governor Rick Perry appointed William J. White as chair of the Texas Finance Commission, a commission established to ensure that consumer loan companies, banks, and savings and loans operate responsibly. Before assuming his role as a regulator, White served since 1988 as the vice president for governmental affairs for lender Cash America International. Between the years 2000 and 2006, Cash America International spent more than $700,000 in political contributions in Texas. White's term as commission chair is not set to expire until February 2010.

This session, Senator Shapleigh filed the following bills to address predatory payday lending:

SB 189: This bill, co-authored by Senator Wendy Davis (D- Fort Worth), would establish a 36 percent interest rate cap on military borrowers and dependents. This bill mirrors recent federal legislation that became effective in October 2007 and ensures that state law enforcement is empowered to combat predatory lenders. This bill was passed by the Senate on March 17, 2009 and will move to the Texas House of Representatives for consideration.

SB 242: This bill, co-authored by Senator Davis, would require the OCCC to establish a database to which all payday lenders must submit the following information weekly:

- the amount of cash advanced under each transaction made, serviced, or brokered by the person during the preceding week;
- the amount of transactions made that were outstanding on the last day of the preceding week;
- the total number of transactions renewed during the preceding week;
- any alternative payment arrangements that the lender offered;
- the average monthly income of an individual to whom a cash advance is made under a deferred presentment transaction, if the person collects that information from individuals; and
- the total amount of interest, fees, or charges collected by the lender during the preceding week.

Under SB 242, the OCCC must compile this data into an annual report to the state legislature. The bill will also require that lenders become OCCC-certified.

SB 243: This bill, coauthored by Senator Davis, would make it explicitly clear that CSOs should not extend credit when they have a relationship with the lender. It would amend the state's Finance Code to prohibit CSOs from facilitating credit to consumers if they are affiliated with the lender, collect fees on behalf of the lender or receive an economic interest in the loan revenue, among other prohibitions.

SB 244: This bill, co-authored by Senator Davis, would make CSOs subject to interest rates set by the OCCC.

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SB 248: This bill, co-authored by Senator Davis, would limit annualized interest charges for all deferred presentment transactions to 36 percent APR, the same rate established for military families and their dependants through the Talent-Nelson Amendment of the National Defense Reauthorization Act.

Today only SB 248, SB 244, SB 243 and SB 242 were heard before the Senate Committee on Business and Commerce. With less than a month left in session, these bills have virtually no chance to pass.

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