CRAIN'S
Cleveland Business

March 04, 2017 12:01 AM

Ohio's payday problem

Critics say the short-term lending industry preys on the poor, but lawmakers aren't scrambling for a fix

By Jeremy Nobile

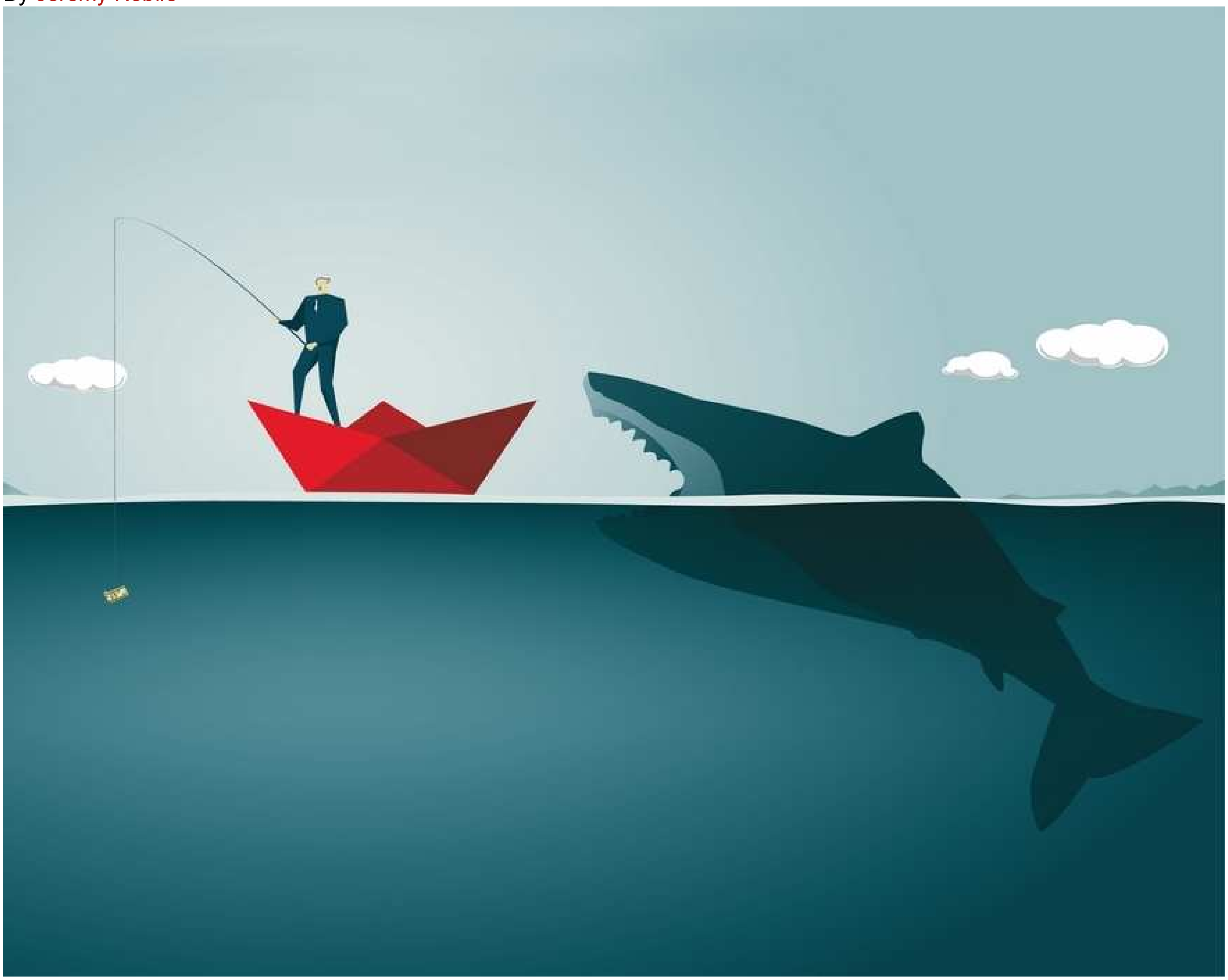

Photo by GETTY IMAGES

The short-term loan industry is running virtually unchecked in Ohio, straining local economies like Cleveland's, where the lenders are particularly active, and drawing ire from opponents of the lenders.

While lawmakers have voiced plans to regulate the industry, though, past efforts have been completely ineffective, and there's little momentum behind regulating those kinds of lenders today.

With no restraints on their business, payday and auto title lenders are flourishing in Greater Cleveland and across Ohio where shops like Advance America, Cashland and Check into Cash are hard to miss. Business is so strong that it's common to see several competing shops bunched together on the same city block, usually clustering around a city's poorer neighborhoods. Reports show one in 10 Ohioans has taken out a payday loan at some time, and the typical payday loan borrower is white, female and between 25 and 44 years old.

Lenders say they're serving a credit need banks won't touch, providing a significant resource to consumers.

However, the state's system for regulating these kinds of lenders is flawed, which has helped elevate payday loan costs in Ohio to the most expensive in the country.

According to the Small-Dollar Loan Project of The Pew Charitable Trusts, the typical annual percentage rate on a payday loan in Ohio is 591%. That's up to four times more than what borrowers pay in other states, like Colorado.

"Since we haven't seen any new legislation, it would be beneficial if (lawmakers) were able to address the interest rates

that the payday lenders can charge," said Douglas Bennett, a spokeman for the Council for Economic Opportunities in Greater Cleveland.
The CEOGC is a member group of the Ohio Association of Community Action Agencies, which advocates for reform of the payday loan industry.
"The current rates make it almost impossible for consumers to afford paying them back," Bennett said. "This should be an issue to Cleveland because if people continue to use them they might not ever get out of their current circumstances."
Past laws have targeted those APRs directly, capping them in Ohio at 28%. But the industry has exploited loopholes in state law that allow them to charge various layers of fees that hike those rates to nearly 600%.
Pew's report shows that a $300 loan in Ohio paid back over five months draws at least $680 in fees alone.
"There is definitely need for credit in low-income communities. We recognize folks need access to short-term credit that, unfortunately, is often not available through larger banks," said Katherine Hollingsworth, managing attorney of the consumer practice group for the nonprofit Legal Aid Society of Cleveland, which represents some borrowers when payday and auto title lenders threaten to sue them or repossess their cars.
"But the problem is the credit is so unaffordable, it has devastating effects on the individual and their families," she said.
Hollingsworth pointed to one local case in 2015 where a single mother with five children took out an auto title loan to "make ends meet." She ended up paying rent instead of her loan when it was due.
Auto title loans are very similar to payday loans in their terms, except the former uses a borrower's vehicle as collateral in the deal. According to a study from the nonprofit Center for Responsible Lending, some 60% of all short-term lending shops in Ohio offered both payday and auto title loans.
"She didn't understand at the time her car would be repossessed," Hollingsworth said.
And it was.
Without her car, the woman lost her job. She became homeless shortly afterward. And without transportation, her kids stopped going to school.
The issue took months to resolve. Legal Aid negotiated a deal with small, extended payments so the mother could get her car back and return to work to pay off the loan that got her in trouble originally.
"This one relatively small loan caused a domino effect where she became homeless and her children weren't in school because she lost her means for transportation," Hollingsworth said. "If anything like this is going to change, it's going to have to be at the legislative level."

Invisible ink

The trouble with legislation in Ohio is that it has been tried before.
The state passed the Pay Day Loan Act in 1995 requiring lenders to register with the state, but also exempting them from Ohio usury laws. The number of lenders surged from about 100 at the time to more than 1,500 a decade later.
In 2008, lawmakers passed the Short Term Loan Act (STLA) to rein in the industry. The law effeectively provided for max APRs of 28% and required loan terms to be no less than 31 days while also capping loan amounts to no more than 25% of a person's monthly income. After a pushback from the lenders, the issue was brought to a statewide referendum, where 64% of voters approved the law.
Shortly afterward, lenders moved to register through the Ohio Mortgage Lending Act (MLA). Doing so allowed them to tack on fees that amount to the astronomical APRs.
This method of operating through the MLA was challenged almost immediately.
In 2008, a municipal court judge found a Cashland store dodged the STLA in issuing an Elyria man a $500 loan that ultimately carried an APR of 245%. The store sued the man when he couldn't repay the loan.
However, the business was registered under the MLA, so the lender appealed. An appellate court found that lenders couldn't make loans under the MLA.
The case went all the way to the Ohio Supreme Court, which overturned the lower court by ruling the loophole lenders were exploiting was legitimate.
So, in effect, the state has a law governing payday lenders that might as well be written in invisible ink.
"As I understand it, there isn't a single payday lender registered in Ohio under the STLA," said Brian Laliberte, chair of the financial services litigation group for Tucker Ellis LLP. "No one is doing business under the STLA."

Like weeds

The total number of short-term lenders can be difficult to track, but Pew's December report shows Ohio has more than 650 payday loan storefronts in 76 counties. At least 66% are run by out-of-state companies.
Meanwhile, a November 2015 report by the nonprofit Center for Responsible Lending estimated Ohio was home to 836 storefronts that provided either payday loans, auto title loans or both. All combined, the sector earned at least $502 million in just loan fees. That's more than double the amount from 10 years prior, according to the study.
Nick Bourke, director of Pew's consumer finance program, said the lenders are "clearly a drag on the local economy" because they drain millions from consumers' pockets.
Pew suggests Ohio adopt a system like the one in Colorado where conventional two-week payday loans were replaced by six-month-installment loans with lower prices. There, the average $300 loan repaid over five months carried $172 in costs — as compared to the $680 in fees in Ohio. Bourke said research shows an industry claim that regulation would put those lenders out of business simply hasn't come to pass there.
According to the Pew study, Bourke points out, credit access remains widely available there. Average loan payments

consume only about 4% of a borrower's next paycheck. And with a clear pathway out of debt, 75% of those loans in Colorado are repaid early.
"Each year, borrowers in that state save more than $40 million, which goes back into the state's economy," Bourke said.
The industry takes exception with the notion that those short-term lenders aren't benefitting the economy in their own way, though.
A 2014 study by Kent State University associate professor of economics Shawn Rohlin reported that the short-term consumer loan industry pumped $900 million in direct and indirect spending into the Ohio economy, which caused residents' earnings to rise by $400 million and created an employment impact equal to 10,500 full-time jobs.
It's worth noting that study was funded by the Ohio Consumer Lending Association, though Rohlin said the lobbying group had no say on the methodology or results.
Asked about the unflattering reports targeting Ohio's short-term loan industry, Pat Crowley, spokesman for the Ohio Consumer Lenders Association trade group, deferred questions to a prepared statement:
"The Ohio Consumer Lenders Association is committed to making sure hundreds of thousands of underbanked Ohioans, who are overwhelmingly satisfied with our products and services, continue to have access to affordable credit options. Any new legislation that imposes restrictive caps or onerous regulations will do nothing but harm the very consumers the legislation is designed to assist by eliminating credit options and exposing consumers to more expensive options such as unregulated off-shore internet lenders, overdrafts, utility shut off fees, or worse — illegal lending activities. Proposing public policy that restricts credit access without providing a realistic alternative puts hundreds of thousands of Ohio families at risk. A one-size-fits all approach to products — which is what is being proposed by Pew — does not benefit Ohio consumers, who have many options from OCLA members that offer a variety of products and terms."

Looking forward

The Consumer Financial Protection Bureau last summer proposed a federal rule requiring short-term lenders to verify borrowers' ability to pay their loan back. Evaluating that credit worthiness is something those lenders have never had to do.
State lawmakers such as Rep. Michael Ashford, D-Toledo, advocate for reformed state laws to bring the lenders in check. But he has since lost support from across the aisle in Rep. Marlene Anielski, R-Walton Hills, who has said she will spend the rest of her two-year term focusing on suicide prevention efforts, as reported by Cleveland.com. Anielski announced she would introduce a bill for payday lending reform in December alongside Ashford.
A bill has yet to be introduced. And Ashford did not reply to several requests for comment about his vision for lender reform.
So what could come next in terms of laws regulating those lenders is unclear.
But opponents don't seem ready to give up their fight. The bigger issue, they say, is the overall impact on local economies these lenders have — which the industry maintains is wholly a positive one.
"This affects the business community because if consumers are spending their resources on these high interest rates, paying the loans back, they won't have any discretionary income to buy food, clothing, cars, etc.," Bennett said. "The business community should want consumers to have disposable income to spend in the local community."
"In a time when Cleveland manufacturers and other employers are looking for a stable workforce, the instability that this type of lender creates in the workforce has a harmful ripple effect long-term on the worker economy in Northeast Ohio," said Melanie Shakarian, director of development and communications at The Legal Aid Society of Cleveland. "It creates this generational poverty we're constantly trying to fight."