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Monday 27 February 2017

Lundi 27 février 2017

Standing Committee on Social Policy

Comité permanent de la politique sociale

Putting Consumers First Act (Consumer Protection Statute Law Amendment), 2017

Loi de 2017 donnant la priorité aux consommateurs (modifiant des lois en ce qui concerne la protection du consommateur)

Chair: Peter Tabuns
Clerk: Katch Koch

Président : Peter Tabuns
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L’ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Monday 27 February 2017

Lundi 27 février 2017

The committee met at 1401 in room 151.

PUTTING CONSUMERS FIRST ACT (CONSUMER PROTECTION STATUTE LAW AMENDMENT), 2017

LOI DE 2017 DONNANT LA PRIORITÉ AUX CONSOMMATEURS (MODIFIANT DES LOIS EN CE QUI CONCERNE LA PROTECTION DU CONSOMMATEUR)

Consideration of the following bill:

Bill 59, An Act to enact a new Act with respect to home inspections and to amend various Acts with respect to financial services and consumer protection / Projet de loi 59, Loi édictant une nouvelle loi concernant les inspections immobilières et modifiant diverses lois concernant les services financiers et la protection du consommateur.

The Chair (Mr. Peter Tabuns): Good afternoon, committee members. I’m calling the social policy committee to order.

I understand that there’s a government motion that is going to be brought forward, Mr. Dhillon, before we go on to the presentations.

Mr. Vic Dhillon: Yes, Chair. Thank you very much.

I move that the Standing Committee on Social Policy now meet for clause-by-clause consideration of Bill 59 on Monday, May 6, and Tuesday—

The Chair (Mr. Peter Tabuns): March 6.

Mr. Vic Dhillon: —on Monday, March 6—I apologize—and Tuesday, March 7, 2017, during the committee’s regularly scheduled meeting times.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Dhillon. Is there any discussion of this motion? Mr. McDonell?

Mr. Jim McDonell: Could we just have a second just to check the schedules?

The Chair (Mr. Peter Tabuns): Any other discussion while Mr. McDonell is checking?

Mr. Vic Dhillon: Yes. We’re suggesting that so that we can meet on the regularly scheduled meeting days for this committee and avoid a further one-week delay because of the March break.

The Chair (Mr. Peter Tabuns): So that is not the week of the March break, then?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Peter Tabuns): Okay. Mr. McDonell?

Mr. Jim McDonell: What was the previous scheduling?

The Chair (Mr. Peter Tabuns): Mr. Dhillon?

Mr. Vic Dhillon: The previous schedule was March 6 and March 20. There’s quite a bit of committee work that needs to be done—

Mr. Jim McDonell: The committee already sits Monday and Tuesday?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Peter Tabuns): All right. You have no objection. Members of the committee, are you ready to vote? All those in favour? Opposed? The motion is passed.

Thank you, Mr. Dhillon.

CREDIT COUNSELLING CANADA

The Chair (Mr. Peter Tabuns): I’m going to call the first witness: Credit Counselling Canada, Patricia White and Laurie Campbell.

I’ll just let you know that you have, I think, up to five minutes to make a presentation, and then we’ll go five minutes per caucus with questions. If you’ll introduce yourself for Hansard, then we’ll get under way. It’s nice to have you here.

Ms. Patricia White: Thank you. Good afternoon, Chair Tabuns and members of the Standing Committee on Social Policy. I’m Patricia White, from Credit Counselling Canada, and I would like to introduce Laurie Campbell, who is the CEO of Credit Canada Debt Solutions. CCC is a membership organization with 17 agencies across Canada, 12 of which operate in Ontario. Laurie’s organization is one of our members.

We were both on the panel which reviewed the Payday Loans Act in 2014, so we bring considerable experience in assisting consumers with payday loans and extensive knowledge of the act.

We’re extremely pleased with the sections of Bill 59, Putting Consumers First Act, pertaining to payday loans. We know that payday borrowing is a symptom of much deeper financial problems, including a lack of financial literacy. A recent study on payday loans and financial intervention found a statistically significant relationship between payday loan use and financial intervention such as credit counselling or bankruptcy. For each $1,000 in payday loan debt, the likelihood of seeking intervention increased by 55%.

Our concern is for Ontarians who attempt to manage their personal finances by using payday loans. With our members counselling over 30,000 Canadians and educating thousands more annually, we feel we have the knowledge to speak to the challenges and needs of payday loan borrowers, our clients.

We applaud the work carried out in drafting the legislation, which addresses many of our concerns for borrowers. These include the amendments as follows:

—The ability of municipalities to create bylaws which might restrict the number of payday loan businesses within a particular area. We support this amendment, since many payday loan companies target low-income areas.

—Putting restrictions on the number of payday loans or concurrent loans to within a prescribed number of days or until the first loan is paid in full is essential. One of our members reported a client with 40 payday loans. Consumers go from one company to another in a vicious cycle of borrowing and trying to pay until they can no longer manage. Unfortunately, bankruptcy is often the only solution. Adding restrictions to loan brokers is also vital.

—Governing the type of advertising through regulations on content, size, location and signage will assist in providing accurate information on payday loans. Part of the regulations on advertising needs to address the promotion of low-cost introductory loans and the true cost of borrowing.

—Requiring the lender to request financial information such as income, key expenses and credit scores and limiting loans to less than 30% of net income will protect consumers against loans which are impossible to repay. Vulnerable consumers such as seniors, disabled individuals and those on fixed incomes are not able to repay payday loans.

—Ensuring that there is full disclosure in plain and easy-to-understand language around the cost of borrowing, the number of payments and other significant terms is essential for consumers. Our member, Credit Counselling Service of Sault Ste. Marie and District, recently carried out a survey with clients to test their knowledge of the cost of borrowing on payday loans. They found that 92% of clients didn't understand the rate expressed as the cost per $100 borrowed. An annualized rate would be more easily understood and make for an informed comparison to other credit products. A better understanding of all the terms of a payday loan, particularly the cost to borrow, is essential.

—Prohibiting the sale of gift cards and similar products is also critical.

We look forward to working with Ministry of Government and Consumer Services staff to consider appropriate regulations following the passing of Bill 59.

There is one area we want to bring to your attention. Financial education and awareness provisions were made under the Payday Loans Act, 2008. The act established the Ontario Payday Lending Education Fund. However, this section was not activated. Education helps people understand how to plan for emergencies and how to manage their income when expenses do not meet their cash flow. We support the government of Ontario to re-enact this section of the Payday Loans Act to assist Ontarians. In addition, we ask that consideration be given to funding this through the licensing of payday loan companies. We'd be pleased to partner with payday loan companies to provide financial literacy training through our member agencies in Ontario for the benefit of consumers.

Together, we need to do more to meet the needs of the underbanked, the marginalized and the vulnerable.

The Chair (Mr. Peter Tabuns): I'm sorry to say you're out of time.

Ms. Patricia White: That's fine; I'm done. Thank you.

The Chair (Mr. Peter Tabuns): It works on both ends. Excellent.

Ms. Patricia White: Yes.

The Chair (Mr. Peter Tabuns): We'll go first to the official opposition. Ms. Martow.

1410

Mrs. Gila Martow: Thank you for your presentation. I have two parts I wanted to ask you about. One is, how do credit cards differ in terms of people spending more than they are able to pay back and having multiple credit cards and sometimes using one credit card to pay off the other credit card, that sort of thing?

As well, we heard presentations last week from companies that wanted to make software available so that people couldn't get multiple payday loans, one after the other. They couldn't get payday loans until they had paid off previous payday loans, or certain time limits, and obviously we want to do what's best to help consumers but we also want to be fair. If you want to comment on that.

Ms. Laurie Campbell: Thanks for the question. It's a very good question around credit card usage and how people find themselves in difficulty with credit cards versus payday loans. There are certain provisions with credit cards that actually limit the number of cards that people can have. Generally, it's through a credit score or credit bureau checks where a lender will not issue credit to individuals who may have a certain score, may have over a number of cards because that impacts score, and as such their ability to get into debt with numerous cards can be limited in a way that payday loans cannot be limited.

For example, it was our agency that saw 40 payday loans with one individual. This individual was able to obtain this infinite number of loans because there are no checks and balances. There's no ability to check a credit score. There's no ability to check a credit rating. There's no way of knowing, for this lender, how many different outstanding loans this individual has. There are no checks and balances in place.

Often people who do obtain payday loans have other sources of credit that they have actually had difficulties with. A lender would know this if they checked their credit rating or their credit score and determined that they may not be a viable candidate for a payday loan. They need other types of intervention. They need to take a look at other ways of managing their finances.

Do you want to add to this?

Ms. Patricia White: You mentioned a company looking at software. We would agree that that kind of software is an excellent approach because then it would govern how many payday loans, and other lenders would be able to see that, so I think that's a distinct advantage to that kind of product.

Mrs. Gila Martow: Okay. I would just mention also, with credit cards, we see students who are still in university getting credit cards just sent to them with their name on it. We're seeing seniors who have to declare bankruptcy because they've gotten into huge credit card debt. Maybe at one time they were able to pay just the minimum and get by and every now and then pay a little extra on the capital when they were working, but when they're on a fixed income it becomes a big struggle. I think that there's a place in each of our communities—I think payday loans probably have a place in our communities, but we're here today to hear thoughts from the community about how to possibly make things fair.

Anything you want to add, or my colleague?

The Chair (Mr. Peter Tabuns): Mr. McDonell?

Mr. Jim McDonell: Does this legislation do anything to actually educate the people or help them out? Obviously there's a need for some type of payday lending because there's a lack of any other alternatives.

Ms. Laurie Campbell: Yes, and certainly we recognize that there is a hole, there is a vacuum in an area of lending for small loans or micro loans and those types of things. We know that in the past banks were giving out smaller loans. They no longer do that. Unfortunately, a lot of the individuals who are receiving these types of loans do lack financial literacy and don't understand the cost of repayment. I think that's really key. They don't understand that if they are getting, for every $100, $21 on $100—I know it's going down to $15—annualized over a year, that's 546% interest. That is impossible, so once people start getting into that snowball effect where they have one, two, 10, 20 payday loans, it's almost impossible to get out of. So some education around this and some more transparency around this area would be key.

Mr. Jim McDonell: I think everybody agrees these are not to be duplicated on and on, but for the person who needs something temporarily, I think the idea is making sure it's simple enough so they know exactly what it's costing them. People who tend to have problems financially need to know in very simple terms that—

The Chair (Mr. Peter Tabuns): Mr. McDonell, I'm sorry, but you're out of time.

We'll go the third party. Mr. Singh.

Mr. Jagmeet Singh: Thank you for being here. In terms of one of the issues that has come up that you've mentioned, you've alluded to the fact that there was a reduction in the cap in terms of what interest rate can be charged. Initially there wasn't, and now there's an amount per $100. Do you have an opinion on what that cap should be, if it should be even lower?

Ms. Laurie Campbell: We'd like it as low as possible, obviously, because whatever is going to help consumers and protect consumers is all the better. I think we're heading in the right direction. Do you have any further thoughts on that?

Ms. Patricia White: No. We appreciate the fact that it's being reduced. That's significant. We've seen that in other provinces as well, which is a good move, making it more affordable for consumers. I agree with what Laurie said: There is a niche for payday loans, but we want to make sure that the price is right, that the industry still can manage and that consumers are knowledgeable about the product.

Mr. Jagmeet Singh: Thank you. Do you have any thoughts on ensuring that there's access to affordable credit in terms of what we can do to ensure—this is not necessarily something that can be done on a provincial level, perhaps. But, in general, what can be done to ensure that people have access to credit from banks when they don't actually meet the requirement, based on their income or their credit rating or their credit history? What could be the solution in that case, where people still need access to affordable credit, but they don't meet the requirements set by our various lending institutions?

Ms. Patricia White: We think that, going forward—and we've seen some of this coming up through the credit union industry. They've been looking at what would be micro-lending of sorts. One of the most notable is Vancity credit union, which has been giving small loans, comparable to payday loans, at a much more affordable rate. We'd like to see more of that happening in the province of Ontario. We understand that there are some credit unions that are doing that, so we hope that will be expanded.

Mr. Jagmeet Singh: Thank you. That's very helpful. I have no further questions. Thank you so much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Singh. To the government: Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation. Can you tell us how your members' clients describe their experiences with debt collectors?

Ms. Patricia White: I'm sorry, I'm having trouble hearing you.

Mr. Vic Dhillon: How do your members' clients—what's their opinion about their experience with debt collectors?

Ms. Patricia White: With debt collectors in general?

Ms. Laurie Campbell: Are you referring to payday lending operations or debt collectors in general?

Mr. Vic Dhillon: Debt collectors in general.

Ms. Laurie Campbell: The experience has been, certainly, much improved. I've been in this industry, believe it or not, for 26 years. I can tell you, when I first started, the stories were abominable. Today, the legislation works, and it works well. I can tell you that there has been vast improvement over the years in the way that debt collectors operate and how they follow the legislation. It doesn't mean that some don't fall through the cracks. However, we have been fortunate enough to see that debt collectors will work with our organizations and will help individuals with a repayment plan when it's necessary. When there are variations to that, they usually fall in line pretty quickly.

Ms. Patricia White: One of the things I might add to what Laurie has said is that we're seeing more consumers who have online loans where they've gotten access to them not through their local brick-and-mortar business, whatever that is—bank, credit union, payday loan—but who look for something available online. We've seen experiences with those individuals where they don't know how to contact the lender, they don't understand the terms, or they don't even know where to go for questions. It's not solely to your point of harassment, but we have seen clients experiencing some difficulty with collections because these organizations and businesses fall between the cracks. They're not a collection agency, so they don't fall under the Collection and Debt Settlement Services Act, and they're not necessarily governed by another piece of legislation. It's difficult for those people. So that's an increasing need we see.

Ms. Laurie Campbell: And, also, they often are out of province, so the legislation is different from province to province in some of these areas. It's very, very hard to help these individuals know where to turn.

Mr. Vic Dhillon: Would you be able to tell us what percentage of your members' clients are facing debt because of payday loan types or other alternative financial services?

Ms. Laurie Campbell: Approximately 30% of the individuals that we see at Credit Canada have payday loans, so that just kind of gives you an idea of the volumes that we're seeing for individuals with payday loans. Often they have more than one. More often they have five, six, seven, eight payday loans. It's multiple payday loans. It started fairly innocently. They may have had a problem. I'll give you an example, and I'll be brief.

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An elderly man came to us because his partner, his dog, was ill. So they took the dog to the vet. The cost was $500. He got a payday loan to cover the cost of the vet. He could not pay his rent, so he borrowed another payday loan to pay the rent. By the time he came to see us, he had seven payday loans. He had lost his apartment, he could no longer insure his truck, and he was actually living at the Salvation Army. That gives you an example of how something very innocent can spiral because of one payday loan that is unfortunately left unchecked, and him getting several more to try to resolve a situation that only got worse.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation. We appreciate it a lot.

Ms. Laurie Campbell: Thank you.

ONTARIO ASSOCIATION OF HOME INSPECTORS

The Chair (Mr. Peter Tabuns): We'll go to our next presenter, then: the Ontario Association of Home Inspectors, Murray Parish and Pierre Champagne. Gentlemen, as you've heard, you have up to five minutes to present. There will be questions from each caucus. If you'd introduce yourselves for Hansard and just start in.

Mr. Pierre Champagne: Good afternoon, members of the committee. My name is Pierre Champagne, corporate lawyer for a number of years of the association. I'm here today with Murray Parish, home inspector since 2009 in the central north region and president of the association since 2015.

The Ontario Association of Home Inspectors is pleased and proud to be here to address you on Bill 59. The association was created in 1986. It was then the subject of the Ontario Association of Home Inspectors Act, 1994, a private member's bill that was adopted in 1994. That bill allowed the association to grant the designation of "registered home inspector," RHI. It allowed the association to regulate its members and created a disciplinary process as well as providing for training and a continuing education mandate.

The membership of the association has reached about 530 members, but the membership in the association is not mandatory. So the association very much welcomes the regulation of home inspectors in the province of Ontario.

As a result of this new initiative that you have undertaken, the association consulted its members, discussed the initiative with its partners and stakeholders. We're here to share with you three points—three key, critical points—where we believe that tweaking of the legislation would make it better for consumers and the industry.

My first point is the requirement that we find in subsection 51(5) to have a disclosure of the existence of home inspectors' insurance coverage in the home inspection contract. All members of the association, the Ontario Association of Home Inspectors, were required to have mandatory liability insurance coverage from 1994 to 2006. They had that insurance coverage. There was no requirement for it to be in the contract. The only reason that it became optional starting in 2006 is that there were difficulties obtaining insurance in this industry. That's being taken care of elsewhere in the legislation.

The other players in the real estate transaction, whether it's real estate agents, whether it's lawyers—nobody requires them to put in their contract, to advertise, that they have liability insurance. The consumer protection function is guaranteed when you have the requirement to have liability insurance. It's not the putting it into the contract that assists that. So what we say in our submission is that it unfairly targets home inspectors to have the requirement of liability insurance inserted into the contract. It targets them as the one party that says to everybody, "We have liability insurance." In fact, every actor in the real estate transaction has liability insurance.

Our suggestion and our submission is that it is important. We very much support having mandatory liability insurance. Where we think tweaking of subsection 51(5) is required is when you say, "Well, you are required to put that you have liability insurance in your contract." We don't think that's necessary. It does nothing to add to the consumer protection benefits of this legislation. That would require a small tweak to section 51(5) and probably 75 as well.

Our second point: Since 1994, experienced, well-qualified, well-trained home inspectors have become known as RHIs, registered home inspectors. That designation was granted to the association in a private member's bill adopted in 1994. It's now become a sign of a more specialized home inspector, somebody that does not simply meet the bare-bones requirements to be licensed.

When we look at the report that was prepared by the panel on December 10, 2013, for the minister, it does speak of a designation of licensed home inspector. When we look at the legislation, it doesn't come out with any type of designation that would assist in showing a higher level of competency.

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time.

Mr. Pierre Champagne: Okay. Thank you.

The Chair (Mr. Peter Tabuns): We'll go to our first questioner, then: Mr. Singh?

Mr. Jagmeet Singh: Did you want to just finish up? I'll give you some of my time.

Mr. Pierre Champagne: Thank you. What we want to say is that the RHI designation is very important from the perspective of the consumer. In other words, if you're retaining an RHI to do your home inspection, you're really saying, "I'm retaining somebody that has a specialized designation and more experience." That, we think, is very important.

Mr. Jagmeet Singh: Okay. You mentioned that the liability insurance is not necessary in the contract itself, and you mentioned that there is no benefit to the consumer. Why isn't there a benefit to the consumer?

Mr. Pierre Champagne: The consumer protection element is the requirement to have that liability insurance. The simple fact of inserting it into the contract adds nothing, and simply, in our submission, unfairly targets the home inspector as insured, as opposed to the other actors in the real estate transaction.

Mr. Jagmeet Singh: I got it. So you're saying that it's really incumbent on the people purchasing, selling—that they're the ones that need to have the insurance.

Mr. Pierre Champagne: No, no. Home inspectors need to have and are required to have liability insurance. It's in the legislation. We're just saying that there's no reason to force the home inspector to insert that into the contract.

Mr. Jagmeet Singh: Because they're already insured anyway.

Mr. Pierre Champagne: And, in fact, the proposed legislation requires them to be insured. So the protection is there.

Mr. Jagmeet Singh: I see. So it's redundant.

Mr. Pierre Champagne: It's redundant, and the others in the real estate transaction—whether it's lawyers, doctors, engineers—nobody is required to identify or advertise that they have liability insurance.

Mr. Jagmeet Singh: Oh, I see. So you think that by having that in, it somehow besmirches the reputation of a home inspector. It makes it seem like they need it to be in there overtly because there's some sort of lack of reliability or credibility with the profession.

Mr. Pierre Champagne: Well, I don't think it's a lack of credibility. I think it unfairly targets them with respect to their client in saying, "Look, this is who you should sue if there's a problem." In fact, the right to sue doesn't depend on whether somebody has liability insurance or not and whether that's inserted in the contract.

Mr. Jagmeet Singh: Oh, I see. It draws that to one's mind, so that the first claim that they would write up might be to the home inspector as opposed to the lawyer or someone else.

Mr. Pierre Champagne: The proper actor in the real estate transaction.

Mr. Jagmeet Singh: I see. Okay.

Actually, that's it. Those are my questions.

The Chair (Mr. Peter Tabuns): Mr. Baker?

Mr. Yvan Baker: Thanks so much for coming in. I just want to follow up on Mr. Singh's question. I understand your point about the liability insurance being required in the act, so why require it in the contract? I'm just trying to understand the harm it does. I know you just spoke to the fact that it makes people aware of the fact that there could potentially be liability in there for—consumers are more likely, if I've understood you correctly, if they do sue, to sue the home inspector over other parties that may be liable. Am I correct in understanding your concern?

Mr. Pierre Champagne: Well, I wouldn't put it the same way. The way I would present it is to say that any of the actors in a real estate transaction may be liable towards another. If you unfairly target the home inspector by forcing the home inspector to put into the contract that they have liability insurance, as opposed to the requirement to have it—and we're in support of the requirement to have liability insurance. We're saying that you're unfairly targeting the home inspectors as opposed to real estate agents or lawyers, who also have the same liability insurance, but it's not necessarily spelled out in their contract with whoever—the real estate agent with their client or lawyers with their client.

1430

Mr. Yvan Baker: I would have thought—and I haven't gone through this process personally—that if a homeowner goes to the extent of suing, seeking damages, that in the vast majority of cases, they'd have legal representation, and that in those cases, the legal representatives—the lawyers, in other words—representing them, if they're doing their jobs effectively and advising their clients effectively, would seek compensation from those parties that are indeed liable. Am I wrong in that?

If a real estate agent was liable in a certain situation, whether or not this clause was in the contract with the home inspector, they would seek damages from the real estate agent, and if they thought there was reason to sue the home inspector, they would do that as well. But I would have thought that the clause you're talking about wouldn't drive who people sue.

Mr. Pierre Champagne: That's indirectly our point. In other words, the clause doesn't add anything because it's the requirement to have liability insurance that adds the consumer protection. A lawyer or even individuals—by reviewing the act, you see that there's this requirement. If you're dealing with a home inspector, you'll know that there is liability insurance there, because it's required by a licensed home inspector.

Mr. Yvan Baker: Yes. I guess the only thing I would say is that I wonder whether from a consumer perspective it's beneficial for them to know, if there's a transparency benefit to the consumer of knowing that. But I hear what you're saying, and there's already a requirement.

I wanted to ask you quickly about something else, though. Do you see Bill 59 as enhancing the public's view of home inspectors, even adding more prestige, if you will, to the profession, given the enhanced consumer protections afforded under the act?

Mr. Murray Parish: I think what the act is going to do is it's going to make a level playing field. Everybody is going to have to have a licence. There's going to be, hopefully, a minimum education required, hopefully insurance required, and hopefully the act will be put out there enough that people realize it is a requirement to have this minimum. Right now, even though there is a regulatory body, it's not known that the objects are there that they can obtain.

Mr. Yvan Baker: Chair, how much time do I have left?

The Chair (Mr. Peter Tabuns): You have about a minute.

Mr. Yvan Baker: About a minute.

I just want to expand on that a little bit. I guess what I'm asking is, maybe more directly, do you feel as though consumers will have greater confidence? If Bill 59 passes as is, do you think consumers will have greater confidence in home inspectors?

Mr. Murray Parish: I think that would depend on whether or not we actually make more public awareness. If the public doesn't know that it's there, that we're here, that the act is there to protect them, then they won't know. Right now, there is an act there that is there to help protect them, but a lot of times, unless it's the realtor or the lawyer or a friend or a family member who says, "You know what? There's this group that has this designation, this training and this experience," then they don't know.

Mr. Yvan Baker: That's helpful input. Thank you.

Thank you, Chair.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Baker. To the opposition: Mr. McDonell.

Mr. Jim McDonell: Thank you for your presentation today. I'm a little bit taken aback by your request, because this is consumer protection legislation being put out. One of the selling points of the profession is, "If you subscribe to my services, I'm going to provide a professional report of what issues you may have, and if I happen to miss any, there's a guarantee with your insurance, similar to other professionals." Why would you want to make that harder for the consumer to know about?

Mr. Pierre Champagne: I think it's similar to all other professionals. All other professionals are treated in the same way. In other words, the requirement is there to have liability insurance. That's the same requirement you're imposing on home inspectors. Fair enough; we're in agreement.

Where we say, "Tweak it a little bit" is, "Well, hold on. If other professionals are not required to include that in their contract, why are you making that a requirement for home inspectors?" That's the only portion where we say there's disagreement. We're not against liability insurance as a requirement—not at all.

Mr. Murray Parish: Just to add to that point, back in the 2000s, when we couldn't get insurance, a lot of professionals had to get out because they couldn't afford to do business, or they had to take the chance of having to do the inspection without having insurance, which is not very good for their business, their family or for consumer protection.

Mr. Jim McDonell: Would you think that—of course, you're taking a large segment of professionals who don't have training and don't have the insurance. Is this bill set up so that it ensures that before anybody calls themselves a home inspector, they actually cover these requirements? Are you happy with the regulations here that would stop somebody from just coming in and calling themselves a home inspector and hoping that nothing ever happens? They may be very good it, or maybe not.

Mr. Pierre Champagne: That was our second point. Our second point was that the legislation provides the minimum level requirement for somebody to be a licensed home inspector. But in many areas, in many professions, you find specialists. Somebody who has attained more experience or who has attained a specialized degree in various fields can call themselves a specialist. That exists with lawyers—a specialist in civil litigation and so on. That exists with doctors. Here, we've had this designation called a registered home inspector since 1994, the RHI designation.

In the legislation, you're repealing portions of that private member's bill. You're keeping the association, but what we're asking is that the designation "RHI" also be preserved for the Ontario Association of Home Inspectors so that experienced home inspectors who wish to provide notice to the public that they have achieved this specialized training would be able to use this designation.

Mr. Jim McDonell: Who would regulate that, or who would enforce that?

Mr. Pierre Champagne: Since 1994, the Ontario Association of Home Inspectors has been using this designation, has been enforcing it and has been granting the designation, based on training and based on experience and on the qualifications of the individuals being put forward.

I think you can speak more to that.

Mr. Murray Parish: There's a—sorry, I'm drawing a blank.

Mr. Pierre Champagne: The RHI process.

Mr. Murray Parish: With the RHI process, there is baseline training, which I believe licensing should have. There is prior learning assessment that they can do through the board of education. There's an apprenticeship. Although it's a self-apprenticeship, there is still an apprenticeship for an RHI. They have to do 200 inspections and they have to be vetted and verified by a report verifier. We don't use any in-house people; we do contract people. We ask them to take the two building code courses, health and safety and building envelope, so they at least have a little bit of an idea of what they're inspecting.

I think somebody was saying that anybody could do a home inspection. Well, right now, you can. If you want to go out, you just go out and start working on a house. So it's good to have the requirements there in place. We've been doing it since 1994.

Mr. Jim McDonell: Do you see your members actually getting grandfathered in this clause? Are you happy with that part of it, if you're registered under your association?

Mr. Murray Parish: Not just our members, but any association out there that has the proper credentials and the proper training that is deemed correct by the committee or in the DAA—

The Chair (Mr. Peter Tabuns): I'm sorry. With that, you've run out of time. Thank you, both, for your presentation today.

MS. BARBARA CAPTIJN

The Chair (Mr. Peter Tabuns): Our next presenter, then, is consumer advocate Barbara Captijn. If I've murdered your name, my apologies.

Ms. Barbara Captijn: No, that's correct.

The Chair (Mr. Peter Tabuns): Excellent. Okay. You have up to five minutes. There will be questions from each caucus. If you'd introduce yourself for Hansard.

Ms. Barbara Captijn: Thank you, Chair Tabuns and the committee on social policy, for having me speak here today. I think it's important, if we're talking about consumer protection legislation and this bill, which is presumably putting consumers first, that you hear from grassroots consumers, whom I'm here today to speak for.

I am an independent consumer advocate. I do not work for any of the industry associations. I've never worked for government. I work with ordinary, everyday consumers trying to get their homes fixed, whether they are new or resale homes. I'm not paid by anyone to be here. I just feel that in social policy legislation, the grassroots consumer voice has to have a very big part in your decision-making process. My sole interest, therefore, is the consumer protection that other people have been talking about.

I hear a lot of talk about liability clauses and lawyers. Believe me, lawyers are the last thing a consumer wants to have to deal with after buying a new home. It's the most important purchase and the most significant purchase of most of our lives; therefore, there's precious little time and money left over to be haggling with various liability clauses and lawyers.

1440

I have three points to make about Bill 59:

(1) Is it really putting consumers first? If so, how?

(2) Is the bill solving problems or is it simply treating the symptoms of a larger underlying problem?

(3) I'd like to talk to you about what many consumers feel are serious weaknesses in the DAA model, the delegated administrative authority model, which you've chosen for this new regulatory body.

First of all, is this bill putting consumers first? Many consumers I speak to thought that all home inspectors had to be licensed in order to be able to complete a home inspection and charge money for it. Many of us read in a Toronto Star article in April 2016, and I quote, that in Ontario, "anyone with a business card and a flashlight can be a home inspector." This is very concerning, of course, to consumers, and if you say that your bill is putting consumers first, where were we before? Where have you put us for the last decade?

Believe me, this caused a great deal of consternation among consumers who have paid for these services. Just like when you pay for the services of an architect or a dentist, you have a reasonable right to believe that they have a certain minimum level of competency to deliver the service.

Another press release on the ministry's website says consumers will be protected from surprise costs with the introduction of this bill. That was on the ministry's website on August 17, 2016. I just think it's important that, in releasing this bill, you advise consumers that a home inspection is not a panacea. It does not solve and it can't disclose all latent and concealed defects in a home. It is a visual, usually non-invasive inspection of the home, usually with a checklist. It doesn't matter how qualified the person is. Of course, we all want the home inspector to have a certain minimum number of qualifications, but even a qualified engineer can't see, for example, if there's improper waterproofing done of a shower stall, which could only manifest itself two or three years after the home has been built. So is this really putting consumers first or is it trying to tinker around the edges of a larger problem of defects being built into homes during construction?

I would argue we are not doing enough to clamp down on the people who actually own this problem, someone who builds a home with construction defects in it and gets paid full price for it and simply leaves the scene, leaving it for Tarion and all sorts of other DAAs to deal with. It's not working, and it's leaving the consumer with a problem to pay for that he did not cause. I think we have to shift the root problem back to the plate of the person who created it and owns it, and that is the shoddy building problem we have in Ontario.

I ask you, is this bill treating symptoms of a larger problem, or is it getting at the root cause? If homes were built properly in the first place, we would have less need to rely on home inspectors to discover them, and even once they are discovered, it's usually the consumer who is left to pay for it.

The Chair (Mr. Peter Tabuns): Ms. Captijn, I'm sorry to say you're out of time.

We'll go first to the government and Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much. Your last name, it's Ms.—

Ms. Barbara Captijn: Captijn.

Mr. Vic Dhillon: Okay. Ms. Captijn, can you explain why you agree with regulating home inspectors in Ontario?

Ms. Barbara Captijn: Excuse me?

Mr. Vic Dhillon: Can you explain why you agree with regulating home inspectors in Ontario?

Ms. Barbara Captijn: For the same reason that when I go to a dentist, I have to rely that the dentist has a minimum level of competency in order for me to pay him for a service. I think it's just part of our modern democracy.

Where I do think this bill falls short is that it's using the DAA model, the delegated administrative authority model, which has been a disaster for Tarion and for consumer protection. I have three points to make about that, but I didn't get a chance to make them.

Mr. Vic Dhillon: Go ahead.

Ms. Barbara Captijn: The accountability and transparency elements are not there. There is the preponderance of industry members on the board of directors of a DAA, and also the cost. This bill does not outline the cost of setting up another DAA, and the fact that the Ombudsman of Ontario, for example, has no oversight over this new DAA. I know the Auditor General does. That's different from Tarion, in this case. But it's not enough. How can the public be convinced that the public interest is being served if a DAA operates at arm's length from the government? Who is protecting the consumer?

Everybody talks about protecting the consumer. You can't verify whether the DAA is actually doing that. It's a flawed model. It is not a model which many of us are happy to see used in this bill. There's nothing wrong with regulating home inspectors; it's just that the DAA model doesn't provide the accountability and transparency which consumers deserve. Even the government can't look into the operations of the TSSA or Tarion, and soon, perhaps this delegated administrative authority. It's a huge concern.

MPP Singh has brought Bill 60 to the Legislature in order to provide transparency and accountability to an existing DAA. It's a huge concern for consumers, MPP Dhillon. I urge you to take a look at whether consumers are protected by the delegated administrative authority or whether the industry bodies ultimately take control of it and control it for their own interests. We can't even tell whether lobbyists are lobbying the DAAs. There's no disclosure. There's no sunshine list disclosure. These are all huge problems with Tarion.

Your ministry files are full of consumer complaints about this. I have two articles here written by lawyer Alan Shanoff in the Toronto Sun about lack of transparency and accountability in the DAA model. I don't understand that this isn't being taken more seriously. It's a huge concern to consumers.

Mr. Vic Dhillon: Thank you very much.

Mrs. Amrit Mangat: Chair, do we have time?

The Chair (Mr. Peter Tabuns): Yes, you do, Ms. Mangat. Almost two minutes.

Mrs. Amrit Mangat: Thank you, Ms. Captijn, for your presentation. You spoke about Tarion in your answers. Can you compare how Tarion is consistent with home inspectors? I mean, how do you compare Tarion with home inspectors?

Ms. Barbara Captijn: When a new home is delivered by Tarion, they said that they do what they call a pre-delivery inspection. We've told them, "You can't call this an inspection because it's not being done by an inspector." It's being done by the builder or his sister or grandmother or whoever he designates. It's a misnomer. It should not be used. It is misleading to consumers. We haven't been able to get the consumer point of view across to Tarion because, like I said, the DAA model does not really allow for transparency and accountability.

I think it's an excellent question. Why isn't Tarion, before delivery of the home, having an inspection that is part of the warranty? But in any case, that inspector still couldn't see latent or concealed defects behind walls or under floors, which are hugely expensive to even detect, let alone repair or fix. So the consumer is left paying for somebody else's problem. I think that, as a social policy issue, that's a huge problem with consumer protection in Ontario.

But thank you for your question. I think it's a good one.

Mrs. Amrit Mangat: Do you think it's a fair comparison to compare Tarion with home inspectors?

Ms. Barbara Captijn: Well, Tarion is not a home inspection organization at all. They are a warranty provider and they are a regulator of the building industry. But they themselves admit they don't have the compliance tools to regulate the building industry. That is what they admitted in the Tarion interim report, which is on the ministry's website.

The Chair (Mr. Peter Tabuns): With that, I'm sorry to say you're out of time with this questioner. We go to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you for coming out. Many of the defects you're talking about that are missed through a new home, are most of them very difficult to be picked up by inspectors? They're not visual, as you say. They're built into the—they're buried in walls or underground. Is that the type of actual issues you see, from your point of view?

I guess the visual ones are easy to see.

Ms. Barbara Captijn: Yes—I mean, scratches on floors. I was in a home inspection recently where the realtor had provided—on the table of information for the prospective purchaser, there was a home inspection. It was from a qualified home inspector, but it noted water on the floor by the furnace. Of course, a consumer can see that as well, but you don't know what the cause is until you do some destructive testing.

1450

I think it's important to tell consumers that a home inspection is mostly a visual look at the home. It's an indication of the health of the home. But to your point, a lot is latent and concealed behind cement floors or behind walls and cannot be discovered on a visual inspection. Again, the problem is that builders are getting away with doing this in the first place.

Mr. Jim McDonell: Is there protection you see that allows the homeowner to actually go back after the builder right now?

Ms. Barbara Captijn: Well, there are all sorts of courtrooms, but the consumers don't have money to hire lawyers; this is the problem. And Tarion lawyers itself up—

Mr. Jim McDonell: We're seeing cases where the building code is clearly not followed, so the builder was negligent, and yet the only avenue they have is going back to court.

Ms. Barbara Captijn: The finger pointing begins, unfortunately. The municipality will send you to Tarion. Tarion sends you to the builder. The builder sends you to the subtrade. It is an impossible task for a consumer to get resolution on a lot of these. That's my work, on a volunteer basis, for the last five years. There is nobody else doing this except, perhaps, the organization you'll hear from next.

Somebody has got to stick up for the consumer. I don't think that this bill gives the transparency and accountability for you to be able to do that.

The Chair (Mr. Peter Tabuns): Ms. Martow.

Mrs. Gila Martow: Do you feel that the municipalities that have to sign off on the home inspections are doing an adequate job?

Ms. Barbara Captijn: No. They have told us when we've called—various municipalities act differently, but they say, "We can't inspect every two-by-four in new homes. It's not our fault. Go to Tarion. Go to a lawyer. Sue the municipality." Someone advised a consumer recently, "Why don't you sue the city of Toronto?" They've got armies of lawyers. By the way, I would challenge any of you: Try to find a Bay Street law firm that will defend a consumer against builders and Tarion—or that doesn't already represent one of the large builder lobbies. It's almost impossible. And if you could find them, you can't afford them.

So the consumer is left on his own to flap in the wind. It's unjust, it's unfair, and this bill does not address that.

Mrs. Gila Martow: Do I have any more time?

The Chair (Mr. Peter Tabuns): Yes, you have time.

Mrs. Gila Martow: Do you feel that title insurance—when people are purchasing a house, I sort of get the feeling that sometimes everybody feels, well, they're insured, so the standards kind of go down, or the realtors worry less.

Ms. Barbara Captijn: No. Our experience is—because everybody's been saying, "title insurance, title insurance"—when you really check that out, they insure your title to the property. Is there an easement or is there some dispute about your entitlement to that particular property?

They send you to Tarion. Tarion is a delegated administrative authority of this government, but it is unaccountable and it is untransparent. It is not doing its job for consumers. It's probably serving the industry very well, but that was not its intention. I call this mopping up the floor while the tap is still running. We're mopping up the floor but not fixing the problem at its source. To me, there is much more work to be done in consumer protection here, and this just isn't tackling it.

Mrs. Gila Martow: We're out of time?

The Chair (Mr. Peter Tabuns): You have 30 seconds.

Mrs. Gila Martow: If I could just very quickly say, you mentioned before about dentists being licensed and being qualified. Would you like to see the same for home builders or trades that follows the person, as opposed to the name of the corporation?

Ms. Barbara Captijn: Presumably, Tarion is already doing that. They are supposed to license builders. But how, for example, an Urbancorp kept getting its licence renewed when there were obvious signs that they couldn't meet their financial obligations to even their own clients—that is a flaw. As I said, Tarion admits itself that it doesn't have enough compliance tools.

The Chair (Mr. Peter Tabuns): With that, I'm sorry to say you're out of time with the opposition.

We go to Mr. Singh.

Mr. Jagmeet Singh: Thank you; it's a pleasure to have you here at the committee. Thank you for providing your input.

The main issue that you've raised—and I think it's an important issue because we've seen similar problems with other DAAs—is the difficulty in providing oversight for those types of structures.

Any other major area that's lacking? You've outlined a number of them. Anything that you think is missing in terms of this particular area of consumer protection?

Ms. Barbara Captijn: I think we have to make sure that bona fide consumer advocates are speaking for the consumer.

Mr. Jagmeet Singh: Right.

Ms. Barbara Captijn: I think that there are a lot of special interests who say that they represent the consumer, but you really have to get the grassroots consumer to speak for themselves.

Plus, the Ombudsman of Ontario should have oversight over this new authority. So should the sunshine list disclosure rules, and so should the lobbying rules, the freedom of information and the privacy act. All of those things are excluded from this bill, MPP Singh, and I think it's a gap.

It's a gap with Tarion, as well. They don't even have the right for the Auditor General to look at Tarion's books, and their executives are earning close to $1 million in salaries. This is a runaway organization that is a huge cause of concern for consumers.

I don't understand why we don't keep the problem on the plate of the person who owns it. The builders create the problems. Let's make them accountable for them and fix them. Home inspectors: Really, this is tinkering around the edges of a huge problem, a bigger problem—mopping the floor while the tap is running.

Mr. Jagmeet Singh: To use your example, one of the major issues with consumer protection, in your mind, would be, then, proper oversight, not of these other, smaller components—those are important as well—but more important, you would say, if I can put words in your mouth, is the issue of addressing the structure, accountability and transparency of Tarion. Is that your—

Ms. Barbara Captijn: Yes, in its role of regulating builders, because when you and I buy a home from a builder, we should get our money's worth. A home "free from defects" in workmanship and materials, according to the Ontario New Home Warranties Plan Act, is what the law of Ontario provides. But we are not getting it with this DAA. It's a mistake to look at the DAA format for this. I hope you will take that seriously.

Look at what was said on June 1, in Hansard, in the year 2000. Dr. Winfield voiced similar concerns about the DAA oversight authority for the TSSA, the Technical Standards and Safety Authority—June 1, Hansard, committee hearings, Bill 42, the year 2000. He hit all these points on the head, yet we don't seem to learn from this. I think it's to the detriment of consumer protection.

Mr. Jagmeet Singh: Thank you very much. I appreciate it.

The Chair (Mr. Peter Tabuns): Thank you very much, Ms. Captijn.

CANADIANS FOR PROPERLY BUILT HOMES

The Chair (Mr. Peter Tabuns): Our next presenter is joining us by teleconference. Ms. Somerville, can you hear me?

Dr. Karen Somerville: Yes, I can.

The Chair (Mr. Peter Tabuns): Excellent. I'll just identify who's here. On the government side we have MPPs Dhillon, Mangat and Baker. On the official opposition side, Ms. Martow and Mr. McDonell, and third party, Mr. Singh.

You may know that you have up to five minutes to present, and when you're done we'll go to each party, and they have up to five minutes to ask you questions.

Could you please start, and in starting, identify yourself first off.

Dr. Karen Somerville: I would be pleased to do that. Thank you for the opportunity today. My name is Karen Somerville. I'm the president of Canadians for Properly Built Homes.

The Chair (Mr. Peter Tabuns): Proceed.

Dr. Karen Somerville: Okay, thank you. Again, I appreciate the opportunity to speak today. We submitted a written document last week and we hope you all received that. I plan to summarize seven key points from our written submission from last week here today.

First of all, CPBH supports regulation of the home inspection industry, but we cannot support Bill 59. Our position is that the bill is seriously flawed. We're concerned that the bill seems to be mainly an effort to save the home inspection industry and related jobs and to create more revenues for the government through taxes and DAA oversight fees, rather than protecting consumers, which it is positioned as.

Secondly, we're concerned that in developing Bill 59, there was likely an overreliance on the 2013 home inspector panel report. It's our view that there were issues with the composition of the panel membership and a number of shortcomings with that report, including a likely serious underestimation of the cost increase of home inspections, should Bill 59 proceed.

Probably most importantly, some key aspects of the 2013 report may be obsolete. Obviously, the real estate market and the home inspection industry have changed significantly since that report was submitted. For example, rather than the industry growth that was referenced in the report, some are of the view that that industry—the home inspection industry—is now in serious decline.

Thirdly, we do not see this as a "consumers first" bill. If consumers were first in Ontario, there would already be legislation to ensure that the Ontario Building Code is enforced during construction of homes, and to deal with the serious problems with Tarion. Then consumers wouldn't have such a need for private home inspections.

Obviously, all of the woes of the current housing market cannot be solved by a private home inspection. It's our view that the government of Ontario must develop a sense of urgency and take a comprehensive view of what's going on with housing.

Further, if consumers were first, the organizational structure proposed in Bill 59 would not be a DAA, for example, a corporation that is a legal entity where the board must make decisions based on the best interests of the new corporation itself rather than the best interests of consumers.

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Fourth we're concerned about a lack of information related to Bill 59. MPP Singh noted this last November in the debates in the Legislature. From what we can see, this is proposing to be another organization similar to Tarion, with a board dominated, probably, by vested industry interests rather than consumers, potentially unnecessarily high cost and serious inadequate transparency and oversight.

During the debates in the Legislature in November, rightfully, MPP McDonell raised the issue of cost-effectiveness. A half hour ago, just today, I received a letter from the ministry that confirms that there has still been no detailed costing for this proposed DAA. The panel did not do that in 2013, and more than three years later, no one else seems to have done it. The ministry appears to be looking for a blank cheque, blindly moving ahead without an adequate cost estimate.

There is a strong concern that anticipated increased costs of implementing Bill 59 could drive the price of a home inspection up to the point that the price further deters home owners from getting a home inspection.

Fifth, it's imperative that private home inspections not become mandatory. We understand that some are of the view that they should become mandatory. It's not in the bill—we understand that—but we hear that a number of home inspection groups, for example, feel that it should be mandatory going forward. Instead, there should be a strong, effective consumer awareness campaign to make consumers aware of the risks of not having a home inspection. Consumers will pay for home inspections if they see value in the service.

Number six: As I've already stated, we disagree with the proposed DAA model. Before proceeding with another DAA, we urge you to seriously consider a direct government model, such as Alberta offers. That would be more in line with true consumer protection. We anticipate lower costs with a direct government model and the built-in transparency and accountability afforded—Auditor General, Ombudsman, sunshine list, freedom of information.

And seventh, if Bill 59 proceeds, we feel that there has been far too much left to the regulations. We recommend some key components should be built into the legislation itself. First of all, consumers must comprise the majority number of seats on the board, given that this is positioned as consumer protection legislation—

The Chair (Mr. Peter Tabuns): Ms. Somerville, I'm sorry to say that you've run out of time.

Dr. Karen Somerville: All right. Thank you.

The Chair (Mr. Peter Tabuns): I'm going to turn you over to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you for speaking. Do you have any particular points you want to get in? I know you were cut off.

Dr. Karen Somerville: That's okay. We just feel that too much has been left to the regulations, MPP McDonell, and there needs to be more built into the legislation itself. That's a key point.

Mr. Jim McDonell: I know one of the issues you were talking about—a consumer gets a home inspection. He sees a defect in the building that's identified. It hasn't been identified before or maybe it has been. Now it falls back to the owner, whereas it should go back to the builder if something was built wrong or didn't follow the code. Really, you're taking the responsibility away from the builder who actually caused the issue and you're just putting it back on the consumer. Any comment on that?

Dr. Karen Somerville: Yes, we certainly see that. We look at this legislation as a system, starting with enforcing the code during construction, which is not adequately done. We're meeting with Minister Mauro later this week on that. There's a problem with the enforcement of the Ontario building code. Then there's all the problems with Tarion. We've got problems with the LAT, where people go to dispute Tarion, as you know. Now we're coming forth with this legislation, which is well down the path where these other three sets of legislation have not been effective.

Mr. Jim McDonell: I guess I have a bit of an issue with just adding more inspection. I guess the goal is to beat the system; they can't be there 24 hours a day. I don't see that as a reasonable initiative, but I do agree with you that if it's identified—it shouldn't matter if it's identified the day it happens or three or four years later. If somebody hasn't followed the code and it has caused an issue, they should be responsible for it.

Dr. Karen Somerville: Absolutely. That's a key point that we made to Justice Cunningham. As I think you know, MPP McDonell, Tarion has through its own regulations decided that, for example, HVAC, heating systems, that warranty expires at the end of two years. If you have two mild winters and the third winter is a normal winter and then you realize that your heating isn't working, you're out of luck.

The point that we made to Justice Cunningham was that when a code violation is confirmed, a code violation is a code violation, and it should be addressed.

Mr. Jim McDonell: Yes, I agree with that. Any other points that you want to make on this? I know that you've been a tireless advocate for the consumer.

Dr. Karen Somerville: I want to stress the concern about the possible increases in the cost of home inspection that we might anticipate if this bill goes ahead. It's disturbing to us to hear from the ministry today that they still do not have costing models. They say that they haven't done detailed costing—I'm looking at the letter that we just received. It's disturbing that they would get this far down the road and not have costs.

These costs are all going to be paid for. If this proceeds, the costs are all going to be paid for by the consumer. We feel that government keeping control of this directly would undoubtedly be much more cost-effective rather than a whole new organization that can set its own salaries, for example. We've seen cases where salaries are out of control. We just really fundamentally disagree with the DAA model. There have been concerns about that for decades now.

Mr. Jim McDonell: You're absolutely right. There need to be some controls put in there.

The Chair (Mr. Peter Tabuns): Ms. Martow, you have about a minute left.

Mrs. Gila Martow: I would just say that I really appreciate you advocating on behalf of our houses being well built. I've been in my house for 24 years. I just wanted to share with the committee that it was a new construction and that when it rained for a good day and a half, I got a bit of water in the corner of the basement.

They came—it was before Tarion; I forget what it was called—and they put a hose for half an hour, and no water came in. They said, "No, you must have dropped some water there in your unfinished basement." I said, "Leave the hose running and go for lunch. Go for lunch." I might have even given them 20 bucks to go for lunch, to tell you the truth—I didn't. I did tell them where to go for lunch and they came back an hour or two later, and lo and behold, there was water coming in the basement.

The builder fixed it very quickly, and I have not had a problem for 24 years. I don't blame the builders for some things that happen when you're building a house—things shift—but I would like to see our consumers not having to hire lawyers. Thank you.

The Chair (Mr. Peter Tabuns): Ms. Martow, you're out of time. Mr. Singh.

Mr. Jagmeet Singh: Thank you very much. Thank you, Ms. Somerville, for joining us. This is MPP Singh.

Dr. Karen Somerville: Good afternoon.

Mr. Jagmeet Singh: Good afternoon. I also want to thank you for your tireless advocacy with respect to consumer rights and issues, particularly with respect to homes.

Dr. Karen Somerville: You're welcome.

Mr. Jagmeet Singh: Just on this bill, you've raised a number of concerns, and broadly speaking, you've raised the concern that this isn't really putting consumers first if major issues with respect to homebuilding—and top-of-mind for new homes would be Tarion—are not being addressed.

Dr. Karen Somerville: Correct.

Mr. Jagmeet Singh: On that issue, linking the two together, this legislation doesn't do anything to address any oversight of Tarion. Your thoughts on that being left out of this bill—if you could just reiterate your concerns.

Dr. Karen Somerville: Obviously we're all waiting to see what Justice Cunningham has recommended. I tried to address that earlier, but I appreciate the opportunity to speak to this again. When we take a look at consumers first, when it comes to the largest purchase most consumers ever make—and that's the purchase of a home—it needs to be looked at as an entire package, a comprehensive view of this. We obviously recognize that we're well into the process with this bill, but it's concerning that a more comprehensive view is not taken. The delays with the reform of Tarion that are required are very concerning, but the whole issue with the lack of enforcement of the Ontario building code, as well, is very concerning.

It has got to be looked at as a package, even the way that it's structured within the government. We have now got a Ministry of Housing that has nothing to do with housing quality, which is really astounding to many of us. It's now over with Minister Mauro. I think that's a big part of the problem when we look at how the Ontario government has kept this up: all of these silos. Last fall, we met with then-Minister Lalonde and we asked her for help in breaking down these silos.

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We see that as a big part of the problem. We would hope that at some point, this could be addressed. Maybe the new minister, Minister MacCharles, will help us with that, but looking at these with the siloed effect is really not in the best interests of consumers and putting consumers first.

Mr. Jagmeet Singh: Thank you very much. I appreciate that.

With respect to this bill in specific, are there any areas where you can see improvement or where you see some clear gaps? I know you've touched on some of them; I just want to give you another opportunity if there's something that you felt you weren't able to address.

Dr. Karen Somerville: The structure of a DAA. As a lawyer, MPP Singh, I assume that you're aware of this and hopefully you would agree with this. We know that the responsibility of the board of a DAA is to look out for the best interests of the corporation itself, not consumers. That is a fundamental flaw with this, as we see it. If it was kept under direct control by the government, such as Alberta has done—and Alberta's system is not perfect either. We know that. But we think it would be much more preferred if we could have direct government control. That is the role of government: protecting consumers and putting consumers first. Hiving this off into another DAA will not do that. We're deeply concerned about the proposed structure of this and the cost implications of it.

Yes, we know that the Auditor General is built into the bill. We feel that's certainly not enough. So we are asking you, as a committee, to seriously review the direct government model. The panel back in 2013 did not. They saw that Alberta and other jurisdictions, for example in the United States, have direct government control, but the panel said something like, "Well, we know that Ontario prefers a DAA, so we're just going to propose a DAA."

For something as important as this, somebody needs to be taking a hard look at this. The panel didn't do it; the panel didn't do detailed costing. We're hoping that you and your committee can find a way to seriously review the advantages of direct government control versus a DAA in all aspects.

But also, the bill right now calls for the minister to be recommending a minority of board members should the DAA go through. We just don't understand that. If this is supposed to be consumer protection, why would the majority of board members not be independent consumers, not the vested interests of the various industries involved?

The Chair (Mr. Peter Tabuns): Ms. Somerville, I'm sorry to say you've run out of time with this questioner. We go to the government: Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Ms. Somerville, for speaking before the committee today.

Dr. Karen Somerville: Thank you.

Mr. Vic Dhillon: Home inspectors have asked us for this legislation, and we've heard from consumers. Can you explain how your views are similar to or aligned with other advocates?

Dr. Karen Somerville: Well, other advocates—do you mean other consumers?

Mr. Vic Dhillon: Other organizations, people; yes, it could be consumers who are in favour of this legislation.

Dr. Karen Somerville: I can tell you that we have spent a great deal of time on this, particularly in the last two weeks. We have reached out to the home inspection industry. We have reached out through social media. Our constituency is consumers. We are a consumer advocacy organization, so we speak with consumers.

CPBH was founded in 2004. We have 13 years of doing this. We talk to consumers regularly, many of them from Ontario. We feel we have a very good view of many consumers' views on this. Our full board had a meeting around our position paper last week, our deputation. There is 100% agreement from our board.

You'll never find everybody who agrees on everything. The one disconnect that we have found in our work over the past three weeks where there is not agreement is on the issue of, if Bill 59 proceeds, whether it should be mandatory inspections or not. We have talked to a number of home inspectors who feel that Bill 59 should go ahead, and everybody, before a property is transferred, should have to have a home inspection.

We certainly do not agree with that, as I said in my comments. From a consumer perspective, we feel: Create an awareness campaign, outline the benefits and risks of a home inspection, but do not make it mandatory. Consumers, if they see the value, will purchase this.

To go back specifically to your question, our main constituency is the consumer constituency. We talk to other industries, including the home inspection industry, and we are in agreement that this should be regulated. But how it goes ahead is very much—there are different views on that, for sure. We talk to builders in our regular work, and I'm at Queen's Park in the next few days. Unfortunately, my meeting with you folks wasn't scheduled until fairly late. I'm on a plane tomorrow morning and I'll be at Queen's Park tomorrow afternoon.

We are in regular contact with a variety of stakeholder groups, but I cannot say to you that we are in complete agreement with everybody, and I think you know that.

Mr. Vic Dhillon: Okay. Thank you very much.

Dr. Karen Somerville: You're welcome.

The Chair (Mr. Peter Tabuns): Any other questions from the government side? There being none, Ms. Somerville, thank you very much for your presentation. A pleasure meeting you.

Dr. Karen Somerville: Thank you for the time today.

CITY OF TORONTO

The Chair (Mr. Peter Tabuns): Our next presenter should be Frances Nunziata, councillor from ward 11. We're a few minutes ahead of schedule. Committee, I suggest we recess until 3:20—oh. Frances, I'm very sorry. Please, have a seat.

Ms. Frances Nunziata: Can I get some water?

The Chair (Mr. Peter Tabuns): Yes, be my guest. My apologies to you, Councillor, and to my colleagues.

As you have undoubtedly heard, you have up to five minutes to present, and then we'll have five minutes per caucus to ask questions.

Ms. Frances Nunziata: I was told I had 10 minutes.

The Chair (Mr. Peter Tabuns): You were told 10?

Ms. Frances Nunziata: It's okay. I have a written submission. I'll try to speak fast.

The Chair (Mr. Peter Tabuns): Thank you.

Ms. Frances Nunziata: Good afternoon, Mr. Chairman and members of the committee. I am pleased to have this opportunity to speak to you today on behalf of the city of Toronto on Bill 59, the Putting Consumers First Act. I will focus my comments on the amendments proposed to Bill 59 which impact payday lending, more appropriately referred to as predatory lending, as this is an issue I have been involved with for several years now.

To provide some context, I had first raised concerns with predatory lenders in 2010 when I noticed the proliferation of payday storefronts throughout York South–Weston as well as in many other areas of the city of Toronto, clustering in areas where incomes are below the city's average. Since then, concern regarding this industry and the issue of predatory lending has been raised by the city's licensing and standards committee. More recently, the issue has been brought to the forefront by advocacy groups such as ACORN, whom I have worked with personally in the matter of predatory lenders, leading to a number of recommendations adopted by Toronto city council on this issue.

I am pleased to see that some of the issues raised in requests made by the city of Toronto to the province as they relate to payday lending have been addressed in the amendments proposed to Bill 59. But others have not been included and should be considered.

Calgary-based research has shown that the close proximity of payday lending offices to each other can ultimately draw borrowers into ongoing debt spirals. Closer to home, a recent study conducted at St. Michael's Hospital in Toronto linked the clustering of payday lending businesses in low-income neighbourhoods to negative public health outcomes.

Examples exist of Canadian cities outside the province of Ontario taking measures to limit the concentration of new payday and other predatory lenders by way of minimum separation distances from existing operations. Toronto city council has expressed an interest in considering the same approach. I am pleased to see the amendments proposed in Bill 59 to the Payday Loans Act and the City of Toronto Act that would allow the city to set limits on the number of payday loan establishments to operate within a given area. It is important to recognize, however, that limiting the number of these businesses will not eliminate the need for them in the absence of an alternative for consumers to use the services of payday lenders. Many will agree that payday lending is a business that thrives at the expense of the vulnerable, those living paycheque to paycheque, already struggling to make ends meet.

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Consumers also include those with unexpected emergency expenses and consequently in need of immediate funds, those who would not qualify for a loan from traditional lenders due to poor credit or those without bank accounts and no other way to cash their cheques.

In an effort to address the costs of alternative financial services for Ontario Works clients living in Toronto, in July 2012 the city implemented the City Services Benefit Card, a reloadable electronic funds transfer card for clients on Ontario Works. Among other benefits of this card, which functions similar to a debit card, city of Toronto residents without bank accounts are no longer in need of cheque-cashing services to access their Ontario Works payments.

The city of Toronto is trying to do more. In 2016, city council tasked our economic development and culture division with convening a meeting with regulated financial institutions, such as accredited banks and credit unions, to encourage them to locate in all communities, including low-income neighbourhoods, and to develop suitable services such as microcredit and other financial options that can fill in the credit gap. But the city can only ask and encourage this of financial institutions; the province of Ontario can require it of those financial institutions falling under its regulation.

If, through Bill 59, Ontario is truly seeking to put consumers first, this is the place to start. The unfortunate reality is that under current conditions, increasing regulations around payday loans will not eliminate the reliance upon them and may have the unintended consequence of pushing consumers to even less regulated financial alternatives. To really address the problem of payday loans, consumers need alternatives. Bill 59 falls short here.

Another area in which Bill 59 falls short is with respect to interest rates. This year, the province of Ontario lowered the maximum allowable cost of borrowing from payday lenders from $21 per $100 to $18 per $100, with the cost to be further reduced to $15 per $100 in 2018.

The Chair (Mr. Peter Tabuns): Councillor, I'm sorry to say, you are out of time.

Ms. Frances Nunziata: Can I just read the recommendations at the back?

The Chair (Mr. Peter Tabuns): Mr. Singh is the one who has first questions, and he may well give you some time. Mr. Singh.

Mr. Jagmeet Singh: Mr. Chair, you are absolutely right. Councillor, please proceed with your recommendations.

Ms. Frances Nunziata: Yes. My recommendations are at the back of the presentation. I do, however, reiterate that more can and should be done by the province to curb predatory lending, including a direct request from the city of Toronto to the province to:

—set a cap on the annual interest rate for all lenders;

—help establish other financial options for those who do not qualify for loans or other banking products from traditional banks;

—ensure that consumers are provided with clear, accurate information regarding interest rates being charged by payday lenders; and

—invest in financial literacy and management programs at the community level.

Those are the recommendations that I'm bringing forward to be included.

Mr. Jagmeet Singh: Thank you for your recommendations. You mentioned that in general you support the idea of limiting the number of payday loan companies in one location.

Ms. Frances Nunziata: Yes.

Mr. Jagmeet Singh: There has been some talk about zoning law amendments to prevent that, and you mentioned that this bill allows for that to happen or assists that in happening?

Ms. Frances Nunziata: We're asking the recommendation that we put before council—we're asking for that from the city of Toronto.

Mr. Jagmeet Singh: I understand.

Ms. Frances Nunziata: But that would probably have to be grandfathered in, because there are some parts of the city, and particularly in my ward: I have one block where I have about six or seven of them in one block.

Mr. Jagmeet Singh: In one block.

Ms. Frances Nunziata: Yes.

Mr. Jagmeet Singh: What else could the province do to help with that issue of that concentration in one area, where they're all in one area only, and it almost somehow encourages that as the only option instead of having access to other sorts of credit in those areas?

Ms. Frances Nunziata: Well, I think the recommendations that I'm recommending would help. What's happening with some of these payday loan establishments that we have—and I can speak to my area: A lot of them are now also pawnshops as well, and a lot of them now are buying and selling gold.

In poorer areas where there's a lot of crime, where we have a lot of break-and-enters and jewellery being stolen, what's happening is that they're bringing them to the local payday loans and selling them. That's a real problem in some parts of the city where we're having problems with crime—and the most vulnerable.

I'm not sure if that would be the province that could regulate that, but if we could prohibit the buying and selling of gold in these payday institutions, that would make a big difference.

Mr. Jagmeet Singh: Okay, so include not only the payday companies, but also the companies that buy and sell precious metal as well?

Ms. Frances Nunziata: Yes.

Mr. Jagmeet Singh: Any other areas? You've mentioned the payday area, and I understand your concerns and I think they're very well founded. Are there any other areas in this bill that you're concerned about or where you'd like to see more done to protect consumers?

Ms. Frances Nunziata: No. I think this is the key, to me.

Mr. Jagmeet Singh: Okay.

Ms. Frances Nunziata: I did hear the deputant earlier about home inspections. That would be an interest to me as well. I did hear, and I agreed with what the deputant was saying.

Mr. Jagmeet Singh: Okay. Thank you very much. I appreciate that.

No further questions.

The Chair (Mr. Peter Tabuns): Okay. Thank you, Mr. Singh.

Ms. Mangat?

Mrs. Amrit Mangat: Welcome, Councillor Nunziata, to Queen's Park. I really appreciate your advocacy and support of Bill 59, with a special focus on payday loans.

I understand that last year, in 2016, you even seconded a motion about the regulation of payday loans and giving the city more powers.

Ms. Frances Nunziata: Correct.

Mrs. Amrit Mangat: Can you share with the members of the committee, if this proposed legislation is passed, how this legislation would affect the city of Toronto, and how it would affect your ward, as well?

Ms. Frances Nunziata: I think that if the legislation was passed, it would—as you mentioned, I moved a motion in council last year, and I think that that would help the city of Toronto, through planning and through zoning, to be able to amend the zoning aspect of when these payday loans open up in communities—to give the city the authority to do that. Right now, we don't have that authority, so we need the province to pass legislation.

Mrs. Amrit Mangat: And how is it going to affect your ward?

Ms. Frances Nunziata: Oh, I'll tell you, it would make a lot of people—hundreds of residents in my ward—happy. They've been complaining about the proliferation of payday loans. Every month you see one just popping up. They just pop up, and they don't need a licence. They don't need to get a business licence—that's shocking—so they can just open up wherever they want. It's really attracting bad people into these establishments.

For some of them, I really don't know how they're making money, because when you walk by them, they're vacant. I don't know how they stay in business. I really believe that there are other things happening inside the establishment, other than cashing cheques, in my opinion.

Mrs. Amrit Mangat: Do you have any suggestions as to how we can make this proposed legislation better?

Ms. Frances Nunziata: I'd like to close all of them down.

Laughter.

Mrs. Amrit Mangat: Okay.

Ms. Frances Nunziata: That wouldn't make everybody happy.

No, I think the recommendations that I mentioned would help, and I think that the amendments the province has made—I commend them for that, and I support it.

Mrs. Amrit Mangat: You support it?

Ms. Frances Nunziata: Yes.

Mrs. Amrit Mangat: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Mangat.

Mr. Baker? No? We go to the official opposition: Ms. Martow.

Mrs. Gila Martow: Hi. Thank you very much for coming in, Councillor. I just want to ask you a couple of things. One is, what do you think would happen if we didn't have any payday loans to give small loans, especially in rural communities?

I know you're very focused on your ward and downtown Toronto, but we have many rural communities across Ontario which do not have public transportation—it's hard for us to imagine. People have to get to work. They find out their car needs brakes or needs a serious repair, and it's their only way to get a few hundred dollars to do that repair, so that they can go to work or go about their daily business. How would you expect them to get that small loan when banks don't offer it anymore?

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Ms. Frances Nunziata: I think that we can work with the banks, the traditional institutions, and you also have credit unions. You have them out in the world; you can work with them. I've been speaking to the various credit unions and they're willing to work with us and to work with the province to make it easier for people, as you mentioned, who don't qualify for a loan or who find it difficult to do their banking if they don't have a bank account. I think that if we work with the major institutions and the credit unions, we can help people who need that help.

Mrs. Gila Martow: I would just mention that we've seen a decrease in small loans from the major institutions, including credit unions. We don't have to watch the movies to remind ourselves that it used to be that people went to loan sharks. We certainly wouldn't want to see that proliferating.

Ms. Frances Nunziata: Well, payday loans are loan sharks. The interest rate that they charge? They're loan sharks.

Mrs. Gila Martow: If you borrow $100 and you're charged $15 or $21, I wouldn't necessarily call that loan sharking.

You mentioned, as well, predatory lenders. I've had constituents who were seniors on fixed income and their credit card debt just kept mounting. The credit card companies kept saying, "We'll increase your credit limit another $1,000 and another $1,000." Soon they owed $180,000 in credit card debt and had to declare bankruptcy. The credit card company felt that they were justified in doing this.

I think that sometimes we can't always protect everybody. We have to look at the big picture. I think that there is a place—maybe it's regulated, but there is a place—for microloans from institutions in our local communities. I'm not sure that the banks would provide it. But thank you very much.

The Chair (Mr. Peter Tabuns): Mr. McDonell?

Mr. Jim McDonell: I'm afraid that payday loans are a symptom of a problem, and I don't see anything in this bill that really solves that. We have some people who can't get loans because of previous bad credit, or an emergency comes up. This is a way of solving that.

We want to make sure we regulate it. We want to make sure it's done aboveboard, but driving it underground is something that we strove to get rid of, and this was the solution. It's easy to say, "Get rid of the associations and the payday loan companies," but what's the alternative?

Ms. Frances Nunziata: As I said, if we can work with the institutions and the credit unions, I'm sure that we can work it out.

The problem I have with payday loans is, if you think that they're acceptable in communities, you wonder why they go into communities where they are most vulnerable, where there are seniors and where there are people who live on a fixed income. Why do they go to those communities?

Mr. Jim McDonell: We see it more and more often, though. People are getting desperate. We see bills going up—fixed income, they have no alternative. Unfortunately, if you're not able to borrow money, the banks aren't going to give you money. They aren't in the business of issuing bad loans.

It's nasty to say, but there are far too many people in this province now who are in dire straits. It's unfortunate they have to resort to this type of industry, but unfortunately, that's their only choice. We don't see the government stepping up and solving the problem—

The Chair (Mr. Peter Tabuns): Mr. McDonell, I'm sorry to say, you're out of time.

Councillor, thank you very much for being here and presenting today. My apologies for the confusion at the beginning.

Ms. Frances Nunziata: No problem. Do you want a copy of my—

The Chair (Mr. Peter Tabuns): Yes, we would very much like a copy. Thank you.

DEALNET CAPITAL CORP.

The Chair (Mr. Peter Tabuns): Our next presenter, then, is DealNet Capital: Michael Hilmer. Mr. Hilmer, as you probably heard, you have up to five minutes to present, and then there will be five minutes of questions from each caucus. When you start off, if you would introduce yourself for Hansard, that would be helpful. Thank you.

Mr. Michael Hilmer: Sure. I have a handout as well, if I could—

The Chair (Mr. Peter Tabuns): Yes. The Clerk will take that.

Mr. Michael Hilmer: I'll start with a brief introduction and just get right into it. I also thought we had 10 minutes.

Good afternoon, committee members. My name is Mike Hilmer. I'm the chief executive officer and founder of DealNet Capital. We have considerable insight on the handling of door-to-door sales and lending in the home. DealNet is a company I founded several years ago to take the friction out of lending and give consumers greater options and methods of financing.

Bill 59 is a significant step in the right direction for consumers, and with the right regulations, this could be a powerful tool to protect consumers. However, there are holes in the bill that don't solve the problems of consumer fairness and transparency across all selling channels, and our experience has been brought to bear here to help you understand how to shape the regulations to achieve our collective goal, not just within door-to-door.

I've had to redact my speech significantly. I'm going to go right into the recommendations and then, through Q&A, if you want to understand how the models actually work in this space—I'm going to speak predominantly towards lending and how you create the relationship with the consumer. The recommendations are on page 9, which isn't labelled in the deck, so go to page 10 and back up one.

(1) When it comes to door-to-door, we don't necessarily think banning door-to-door is the right thing to do because there are multiple other channels for people to enter the house, be it through an inbound call from a customer or otherwise, that can result in a poor behaviour. So number one, we feel you must license agents. Today's sales agents are not licensed and they do not post a bond. We feel they should be licensed and the firm they work for should post material bonds based on volumes of sales. It's no different than an ESA—electrical standards association—or TSSA-licensed technician doing work in your home. To us, that's table stakes.

With licensing, we think government should impose heavy penalties similar to those currently being imposed in other provinces, which work effectively. This alone, because of the capital requirement for some of these outfits, will eliminate a material piece of the problem.

(2) Greater transparency: HVAC companies don't necessarily fund these agreements, but often hand off the agreement to a finance company. To that end, we recommend that any finance contracts—which is what these door-to-door agreements ultimately are—should display the name of the company billing, servicing and taking overall responsibility for the financing relationship.

We also recommend that the service promise, if there's a maintenance plan or a guaranteed service associated with the equipment, be separated out in many of the agreements. Today, they are blended into one single agreement which includes the financing and the service promise, but the finance is being delivered by another company; it's not being delivered by the HVAC company. In this way, the finance company has a direct relationship, day one, with the consumer, and it's just good business practice to know your consumer before you finance them. It's also good business practice that the consumer knows who's providing the loan and is very clear on what the terms of the loan are. This takes all the ambiguity out of the consumer relationship and adds a lot of transparency.

In the case of new home construction, there is considerable activity insofar as builders are able to sell the home for less money up front if the customer finances or leases the HVAC equipment separately. This is actually a very good thing for consumers which saves cash up front, given closing costs are rising, and provides for a longer-term warranty on the equipment—10 years versus one year under the Tarion program.

However, these two are finance arrangements and require a consumer contract and disclosures at the point in time when they are either consummated or the sale of the home happens. That's not necessarily being done in many cases today.

(3) This is somewhat from Bill 55, which sought to stop the water heater ridiculousness that was going on in the space. Third-party verification calls are often carried out by the HVAC company to confirm the disclosures and contract understanding with the consumer. Frankly, we see this as letting the fox run the henhouse. The finance company should provide this call in advance of any installation happening, and the script for this call must have minimum disclosures and confirmations that, if not satisfied, prevent the finance company from funding the deal. If you dry up the capital in door-to-door, you stop door-to-door.

To be clear, third-party verification calls are to be conducted by a third party not associated with an HVAC dealer, but the HVAC dealers are often providing those calls.

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The Chair (Mr. Peter Tabuns): I'm sorry to say, Mr. Hilmer, you're out of time for your presentation. We're going first to the government, and they may give you a little extra of their time.

Mr. Baker?

Mr. Yvan Baker: Yes. Were there a few quick points you wanted to make? We've got five minutes for my questions and answers.

Mr. Michael Hilmer: Two more quick bullets?

Mr. Yvan Baker: Sure.

Mr. Michael Hilmer: Buyout disclosure: another big source of problems. Again, what's happening in the space is these door-to-door companies go out and they contract on their own agreement, not necessarily with the finance agreement. Then, when the customer calls to buy it out, for a dispute or whatever the case may be, they quote a ridiculous buyout, and often they get it. So they're seeking a profit on those buyouts when a customer in many cases has just got the capital to pay it off.

So the buyout disclosures are upside down. I think there are some very simple ways to manage that through regulations. But by moving that relationship to the finance channel, you actually solve that.

I'll skip the last point, I think. You know the bill well.

Mr. Yvan Baker: Yes, absolutely. Thank you very much for coming in. I appreciate it.

I wanted to ask you about number 3 in your list of recommendations, about third-party verification calls. Could you just talk a little bit about why you think these calls are important? Could you expand on what you said or why you think these calls are important?

Mr. Michael Hilmer: They are essential. Being a finance company, even within OSFI, knowing your customer is absolutely critical. So I would prefer that we speak to those customers and make sure that we're sussing out a couple of things.

Number one: How did that person get into that home in the first place? Because we know they tell a lot of stories to get into that house. That would be the very first question. On what pretense did this person get into the house? Do they have ID? Are they credentialed? Is it a bona fide organization as far as we're concerned?

The second part of why we think that's important is often these sales organizations, believe it or not, provide value because they are putting in higher-efficiency equipment. The problem is, if they're going to work on a furnace, a lot of these consumers wind up with a whole-home combo. This might be in the case where people have a 450 FICO score. Their furnace broke, so they definitely need their furnace replaced, but somehow, they got talked into a water heater and an air conditioner for $15,000, and they can barely pay their mortgage. If we're taking those third-party verification calls, we can quantify and qualify that, and decline funding those agreements. Again, when you take the capital levy equation, there's no door-to-door.

We love the bill, but the way we look at the bill is this: Move some of these controls that we're trying to regulate at a dealer level to the guys who control the money, because that's unilateral; that's the lowest common denominator. It'll dry up.

But, at the same time, if I'm invited into your home because the furnace broke, the same predatory tactics can happen. A $69.99 payment could be $89.99 on a $12,000 buyout. So you can control that across all sales channels.

Mr. Yvan Baker: That makes sense.

Chair, how much time do I have?

The Chair (Mr. Peter Tabuns): You have about a minute.

Mr. Yvan Baker: I just want to keep focusing on that one topic. Talk to me a little about the kinds of things that you think that third-party verification, whether it's through you guys or through another third party—what I'm trying to understand is what is the problem that that is fixing? What are the types of problems that those third-party calls can fix?

Mr. Michael Hilmer: It depends who is doing it. If the finance company is doing it, it's not being seen to be a retention call. If a door-to-door company or an HVAC company is doing it, first of all, they don't have the infrastructure to do it well, but if they're doing it, they see it as an opportunity to save a sale. The customer is having second thoughts, and they view it as an opportunity to get them over the line. In our world, we only want a happy customer—because it creates problems for us later. We look at it as vetting the deal. It's a totally different transaction.

Mr. Yvan Baker: Okay. Time?

The Chair (Mr. Peter Tabuns): About 30 seconds.

Mr. Yvan Baker: So from a consumer protection perspective, what's the value of those calls, do you think? What kinds of things are you protecting consumers against—

Mr. Michael Hilmer: Full disclosure, predatory tactics: That all goes away. That space, the door-to-door channel, effectively dries up in and of itself while not taking away choice from the consumer, and that's the most important thing.

The way we look at these recommendations is, in some ways, as a platform opportunity on how to build on lending to consumers in the home via mobile, and all these other fintech strategies. I know there are a number of mandates. I've met with many policy-makers. We're still trying to figure out fintech—

The Chair (Mr. Peter Tabuns): With that, I'm sorry to say you're out of time.

We'll go now to the opposition: Mr. McDonell?

Mr. Jim McDonell: Thank you for coming out today. I'm just a little concerned. I mean, all of the regulated financial industries are above board. But I'm just wondering—if you simply turn to the financing arm, there's no guarantee that there's an arm's-length relationship between the two for the verification. Any comment on that?

Mr. Michael Hilmer: In some ways, I disagree. I think that ultimately, when a consumer agreement goes bad—because they're not happy or they're disputing it and they just refuse to pay—the dealer isn't the one with the balance sheet that's going to be impacted. It's the finance company.

It's sort of a disjointed space today. The guys who have no balance sheet are calling the day, in how these things happen. It should be controlled by the guys whose balance sheets are on the table. I think you can disintermediate that.

Mr. Jim McDonell: I guess my concern is not with the major institutions or financial institutions. But when there's no regulation around the relationship between the dealer and whoever is providing the capital, I don't see that as really independent verification calls.

Taking it away from those two might be a better choice than actually—if you have an unscrupulous company working with an unscrupulous finance company, you haven't really solved anything as far as the consumer goes.

Mr. Michael Hilmer: There is some merit to that. We've seen a lot of private finance companies that aren't necessarily, I would say, on the up and up, and not fully aligned with what I'm talking about. But I think you can manage that through regulation.

Mr. Jim McDonell: We don't see that here. So that's one of your recommendations, that there needs to be some screening on the financial side?

Mr. Michael Hilmer: Yes. Frankly, we have many more recommendations, but we didn't want to burden you with them. We've taken a swing at editing the regulations with something simple. Our interest is in seeing the bill get done quickly and then building on it.

Mr. Jim McDonell: The bill also deals with people that, say, are dealing with an appliance, like a furnace, that now has become unworkable. There's that time frame that delays the actual installation. I think that's a problem.

Mr. Michael Hilmer: Sure, the cooling-off period.

Mr. Jim McDonell: Any comment on that?

Mr. Michael Hilmer: We've seen it in Bill 55. I think it's 20 days in Bill 55. What we thought was a little disjointed in Bill 55 was if somebody really does need something fixed.

When we look at this, we look at all channels. Even if somebody makes an inbound call, there's no verification—none of that stuff is required—but they need a furnace fixed and maybe they don't have the capital. We think there are ways, through the TPV call, to confirm with the consumer that in fact this is a replacement for something that is broken versus an upsell or a cross-sell or an enhancement to their system.

But we have a lot of ideas, and we are happy to continue to add to the regulations as we go.

Mr. Jim McDonell: Okay. Any elaboration on some of the other ideas that you might have?

Mr. Michael Hilmer: None that can be done within the timeline that I have.

Mr. Jim McDonell: Thank you for coming in.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McDonell.

Mr. Singh.

Mr. Jagmeet Singh: Thank you for your presentation and your handout. It was very informative.

One of the things that I was concerned with is looking for broader principles to address the real issues with respect to door-to-door sales, and you've actually done that. What are we really trying to stop?

Mr. Michael Hilmer: Right.

Mr. Jagmeet Singh: I was focusing in on long-term, high-interest loans that people get locked into. That's really the big issue: They get locked into these high interests, and they're long-term, and you end up spending far more than whatever the item that you purchased is worth.

You've included the buyout disclosure, which is one of the biggest issues, I think. Many companies are actually benefiting, or there's such a huge penalty, when someone tries to get out—or to purchase, if it was a water heater—before the changes come into place. That was a big issue. People were trying to buy their water heater, and they had to pay triple the price of it, just to buy it outright, and they had to continue paying these high-interest payments. So I see that as an issue.

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I think the other point that you bring up is that there are legitimate door-to-door sales. Small companies are selling things that aren't high-priced and that don't require a long-term, locked-in, interest-related agreement. Your notion is that we need to address the key root issues as opposed to just stopping door-to-door sales. What are your thoughts on the high interest and the long-term element as a principle?

Mr. Michael Hilmer: A great question. Frankly, we see this in the biggest HVAC companies in Canada as well. The problem we see is, when you marry a service agreement with a finance agreement, it creates this ambiguity in terms of what the value is of both. We've said let's separate that because, I believe, in the CPA disclosures there is a certain allocated formula whereby you can allocate—when you're disclosing an APR, you can effectively say the APR is 6.99% by saying 30% of the actual payment every month is for the 10-year service warranty, and that's not right. That's in fact totally false. By separating those two components and saying, "Okay, the service promise is here and the finance promise is here," they actually take the ambiguity out of it, and that controls the buyouts because the APR becomes the true APR, the interest rate.

Mr. Jagmeet Singh: Right.

Mr. Michael Hilmer: But I do think there are caps. I've talked to some of the other associations and other lenders on this base. These are homeowners, and they shouldn't necessarily be burdened with the risk-based pricing you might see in a payday loan. If they're good-quality credit, we've seen caps thrown around of 15% and this kind of thing. I think you can moderate it there, but I also think you can moderate it too in terms of the total capital for a job.

Frankly, we've been successful in lobbying some of the other lenders to bring up their standard where they might cap the total value for a furnace instalment, as an example. So there's a number of little nuances that, to your point, will bring that formula down to something normal.

Mr. Jagmeet Singh: Okay. It makes sense.

Mr. Michael Hilmer: But I would say, though, there is a difference between a loan and a lease. A lease is where the company installing the equipment and signing the agreement owns the equipment. It's similar to leasing your car or, frankly, breaking your mortgage. There is a penalty because there's an expectation, if you're putting capital out for 10 years at a fair rate, that it stays out for 10 years, or some reasonable time frame, and there is a cost to repatriate that capital in a lease scenario. In a loan scenario, they're always open-ended loans. They can be paid off at any given time. There should be no penalties.

Mr. Jagmeet Singh: Interesting. Okay. That's very helpful. Thank you very much. I appreciate it.

The Chair (Mr. Peter Tabuns): Thank you, and that's it. Thank you very much.

MR. SHANNON CARSON

The Chair (Mr. Peter Tabuns): Our next presenter is Shannon Carson. As you probably have heard, you have up to five minutes to present and then up to five minutes with each caucus asking you questions. If you'd introduce yourself for Hansard, and then please proceed. Thank you, sir.

Mr. Shannon Carson: Good afternoon. My name is Shannon Carson, and I'd first like to state that I feel very privileged and I'm very humbled to be here in front of this committee. I represent the debt industry and the role it plays in the social and economic policies of today.

My experience with the industry is extensive, and my experience and expertise has been obtained through working in all aspects of the debt industry. I began my career as a regular debt collector and advanced to management with high-powered collection agencies. I have designed in-house legal departments which did not have a system in place for debt that was to be adjudicated for suit. I am very well versed in asset searches and skip tracing, which is locating the responsible party, because the execution of judgments cannot be complete unless one locates (1) the responsible party and (2) the assets to execute on the judgment. I'm also considered an expert by the courts and by my peers

But I'm no longer involved in debt collection and no longer involved in collecting bad debt. I'm now involved in helping the consumer not only understand the debt collection process, but also explaining how they can level the playing field when dealing with unscrupulous debt collectors and shady debt collection practices.

The documents that I have provided to this committee are documents that come from consumers who I know personally and who approached me to help them out with the subject matter that the documents provide.

I personally provide workshops that address what the consumer's rights are, how to take the necessary steps to combat false credit reporting, how to properly obtain debt validation and how to communicate with the collection agency and the debt collector, just to name a few.

There are numerous horror stories that I could relate to this committee about how and why the protection guidelines are broken. Some of them would make you angry; some would bring a tear to your eye. The conclusion is the consumer protection guidelines with regard to debt collection do not go far enough, and violations of the guidelines that are broken need to be enforced. In fact, other than the ministry of consumer protection, there is not any other entity the consumer can register debt collection complaints with. I would respectfully submit that if ever there was need for a watchdog to oversee an industry and hold it accountable for the manner in which they do business, it would be the debt collection industry here in Ontario.

It is because of the methods that debt collectors use to prey on consumers who have debt issues that a few years ago, I adopted the attitude wherein I wanted to be a part of the solution and not part of the problem. But I can attest that unless current guidelines are enforced and new ones are put in place, the consumer will always assume a burden of debt. The intimidation and excessive pressure applied by debt collectors and the failure of the system of enforcement will continue adding to the frustration of being in debt. The consumer needs and desires to see a light at the end of the tunnel, rather than the fear of failure because they cannot pay their debt.

The bottom line is, we need to do a better job of enforcement and we really do need to put the consumer first.

I'll take any questions. Just don't hurt me.

The Chair (Mr. Peter Tabuns): Thank you. The official opposition: Ms. Martow.

Mrs. Gila Martow: Thank you very much for coming in.

I think a lot of people don't realize that there is this big industry going on, so I'm glad you're sort of reminding us that companies buy up bad debt and they don't have to disclose to consumers when they're hounding them that they aren't the original debt holder.

I'm just wondering if you are here because you feel that this applies to the payday loan industry. What are you applying to, specifically on this bill that we're discussing?

Mr. Shannon Carson: Let's start with the people who purchase bad debt, that are not, as I noted—as I'm aware of right now, anyway, unless it has changed—under the collection act. That means that the actual way that they collect is one thing, but the method in which they collect is another thing.

Under the collection act, most of those accounts are assigned. In other words, if I'm a creditor and I need my accounts collected because they're delinquent, I then assign them to a particular collection agency, and that collection agency will then do the best they can to collect what's in arrears. A junk debt buyer—excuse me. A debt buyer actually buys junk and they don't report to anybody. That's the bottom line to it.

I understand that consumer protection states that those accounts that the junk debt buyer buys are first placements; they're not. I believe I gave some material and documents to the committee where you can see that some of the debt that they buy is as old as six years, if not older. As long as the guidelines in the consumer protection are followed, which would involve the people who purchase bad debt, the creditors who assign the bad debt and payday loans, the rest of them, once it goes into collection, then it would be up to the collection agency to follow the guidelines, and the debt collectors.

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Mrs. Gila Martow: I just would want to clarify again: Do you feel that it's a significant part of the payday loan industry to hand over to debt collection agencies who then hand over to junk debt buyers? What exactly are you advocating for?

Mr. Shannon Carson: I'm advocating that those who purchase debt are still under the consumer protection guidelines.

Mrs. Gila Martow: Okay. But that's not specifically to do with this bill. I'm just saying, I understand that, but—

Mr. Shannon Carson: It's not particularly with the entities you're speaking of, no, only when it goes to a debt collection agency.

Here's an issue, if I may. There is nothing in place—and I'm sure that the committee has it. I gave you a few documents where you'll see the same debt listed twice on a credit report. A consumer cannot get out of debt if, every time they turn around, there's another account on there. It's the same account; it has just been entered by another entity.

The second thing is, debt collectors are trained to dun—demand payment—payment in full, a payment schedule not to exceed three months, or go find somebody who loves you to make a payment and then go to the bank and get a loan. None of those make any sense, because if I had $5,000 laying around, if that was my debt, I wouldn't be talking to a debt collector to start with. Second of all, I don't have the $1,600 a month for three months that's going to pay that debt off. So that one won't work. And you're not going to go to a bank and get a loan if you're already in debt. That's not going to work. So where does the consumer go?

Sure, we have credit counselling services. Fine. But I'm not even too sure, to be honest with you, that a credit counselling service can look at a credit report and read it to the point where they know that that account has been re-aged.

I gave you an example in the material. There's a Bank of Montreal account that was six years old. It was purchased by a junk debt buyer that moved the debt back into the statute of limitations, which meant the consumer could have been sued. The account was already six years old. No payment was made on that account. They just bought it and they decided to move it back. This is what the consumer is not aware of, and this where the consumer needs to be protected. There is too much going on. These debt collectors and those who purchase debt can do whatever they want to do

Another example I gave was, I had a Telus account. That is my own personal account—

The Chair (Mr. Peter Tabuns): Mr. Carson, I'm sorry to say, you're out of time. I'll go on to the third party: Mr. Singh.

Mr. Jagmeet Singh: Thank you for sharing your personal story and your experience not only with previously collecting or assisting with the collection of debt, but then afterwards helping people and counselling those who get themselves into those situations.

Did you find, from your experience, that people who went through payday loans were more often in a position where they were the most hard hit when it came to being in debt?

Mr. Shannon Carson: Yes and no. I mean, I'm not trying to avoid the question.

Mr. Jagmeet Singh: No, no.

Mr. Shannon Carson: I'm just thinking in my mind, compared to what? I mean, compared to just the payday loans by themselves?

Mr. Jagmeet Singh: Just in terms of your experience with people in debt. You were in the debt collection world for a bit and—

Mr. Shannon Carson: They're equally the same, although I will say that payday loans seem to be more concurrent.

Mr. Jagmeet Singh: I see.

Mr. Shannon Carson: There are more payday loans that are bad debt out there now. You could buy a bad debt payday loan portfolio that would have a lot of volume in it. I'll say it that way.

Mr. Jagmeet Singh: Okay. Fair enough. Some of the things that have been talked about were putting a cap on the percentage or the interest rate. What are your thoughts on that?

Mr. Shannon Carson: You'll find that in my documentation, too, because I'm a true believer in the following: If you have a credit card and you have—well, first of all, let me back it up. When the consumer goes in to get a loan, very few of them read the fine print, which says that if you default on this loan, you're going to be responsible for all of the collection activity of recovering that loan. That's the first thing that happens. So right away there's a charge on that, no matter what the debt is.

Moving through the system: If you're paying—I don't know—18%, and every month or every year you get that 18% added on top of what you already owe, how are you going to get out of debt?

Let's say that the debt collector makes an offer. If a collector says, "You owe me $100. I want that $100 by Friday," the consumer says, "Wow. I've got to get $100." No, you don't. You pay what you can afford, not what the collector demands. That's number one.

Here's number two. If the collection agency would lighten up a little bit and ask the consumer, "What is it that you can actually pay?" The consumer says, "I can pay you 50 bucks a month." If the collection agency then said, "Every time you make a payment, we will report that payment to the credit bureau," it means what? The score goes up for the consumer. It also means that the collection agency is probably going to collect that debt a little quicker than if he does nothing. The older a debt is, the less chance to recover it.

For those who purchase bad debt, there's no downside for them anyway, because they're not the creditor. The money they get, they're going to keep. It's their money. So why can't they say, "Okay; you know what? It's $5,000 and you've paid off $2,500; you're free to go." At least the consumer knows there's light at the end of the tunnel.

Mr. Jagmeet Singh: Okay. That helps a lot. Thank you very much. That assists. No further questions, Mr. Chair.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Singh.

Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Mr. Carson, for sharing your feedback with us today. I really appreciate your insight. As you know, our government's goal with this bill is to build a fair, safe and informed marketplace. Bill 59 provides more consumer protection in the debt collection realm. How would you hope that Bill 59 will help protect consumers who are unfairly harassed by debt collection agencies?

Mr. Shannon Carson: Let me make it current for you. Canada Post raised their rates, correct? There are fewer dun letters by the collection agencies because they don't want to pay the higher rate for postage because, to them, it's throwing good money after bad money. Some 99% of the letters that they mail out are going to get thrown in the trash anyway, so, "Why should I pay an increase on postage when the debtor is probably not going to read it? I have a phone system that I can use."

So now what happens? What happens is, when the consumer gets that phone call, he has no idea what that person is talking about. "I didn't get any letter in the mail. By law, under the consumer proposal, they're supposed to send me a demand letter. I never got it."

Let's go a step further. Say the collector can't get a hold of me—I'll play the part of the consumer—and I go run a credit report. The next thing I see is, that same account on that credit report is for a few dollars more. Where did that come from? Well, the person who purchased the debt either assigned it to another collection agency or sold it to that collection agency. So now I have two entries in there. That needs to stop.

In the paperwork that I provided with regard to Telus, CBV swore up and down that I made a $5.23 payment by cheque. "Show it to me." They finally relented. They never had a payment. But in the meantime, what did it do to my credit report?

When I asked the credit bureau for proof, the credit bureau sent me back a fax. Does that really prove that I owe it—a fax?

If you're a consumer and you get browbeaten three or four times a week to pay the bill, pay the bill, pay the bill, and you finally get your credit report and you see all this camouflage of everything else that's on it, how are you going to do it? Where are you going to go?

If you don't know how collection agencies work and how debt collectors work, it's kind of hard to tell the consumer, "I'm not too sure. Go see an attorney. Here's a list of attorneys." My Telus account: I only cost me postage; I didn't go to an attorney.

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I know that not everybody understands the industry as I do, but validation—the law states, "Write a letter saying you don't owe it or take me to court." There's no way I'd tell a collection agency that, with all the tricks that they pull. What I'd say is, "Prove that I owe it, and here's what you have to do to prove it. If you can't prove it, I don't owe it." Some 90% of the people who get judgments against them get them because they don't show up in court and they get a judgment by default. Of that 90%, 65% don't have proper documentation proving that the consumer does owe the debt.

Until we can control the debt collector and what he needs to do for the consumer, such as proving the debt, sending the validation—the dun notice—cleaning up the credit reports a little bit, there is too much power out there with the debt collectors: "You don't want to pay? Fine."

If you really want to help the consumer, I'll give you another quick example. The Consumer Reporting Act—

The Chair (Mr. Peter Tabuns): Mr. Carson, I'm sorry to say, you're out of time. Ms. Mangat, my apologies.

Mrs. Amrit Mangat: Thank you, Mr. Carson.

Mr. Shannon Carson: Thank you.

The Chair (Mr. Peter Tabuns): Thank you for your presentation, sir.

CARDUS

The Chair (Mr. Peter Tabuns): Our next presenter is Brian Dijkema with Cardus. Again, I hope I didn't damage your name in my mispronunciation.

Mr. Brian Dijkema: No, you did a great job.

The Chair (Mr. Peter Tabuns): Excellent. As you've seen, you have up to five minutes to present and then up to five minutes of questions from each caucus. When you start, if you would introduce yourself for Hansard.

Mr. Brian Dijkema: Thanks very much for having me. My name is Brian Dijkema. I'm the program director for work and economics at Cardus. I'm glad that I can come and share the research that we've done on payday lending with you.

Payday loans, as you know, are not a new problem. They've been around for a long time. They've been decried for centuries: from the prophet Ezekiel in 500 BCE to the Torah, the Quran and a number of other holy scriptures. It was studied again in the 1900s, in 1967 under the Pearson government, in the 1990s and again here in the 21st century.

The solution to usury has eluded so many for so long that you might be tempted to simply give up and say that there is no solution. I would agree that there is no solution, but I don't think that that's a reason for us to give up and not try to help those who need better small-dollar credit alternatives.

The government's work on Bill 59 and Bill 156 shows that you haven't given up trying to build a better market, and I want to thank you for that. I want to especially thank all parties for working together on this problem. It's a tricky one, and I'm glad that there's a collegial environment around that.

Bill 59 is best viewed as the twin of Bill 156, which addresses the interest rates that payday lenders can charge in this province. I think they represent two parts of a larger project, and I would encourage the committee to see it in this way as well.

In our input on Bill 156 we noted that the interest rate reduction does little to address the real challenge of payday lending, which is the effect on a consumer's cash flow. Our analysis based on the financials of payday lenders suggest that the bottom rate at this time should be 17% if there are no other changes, and we encourage prudence in this regard, especially as other provinces like Alberta are changing their systems. We would encourage you to work on this but not to lean too heavily on interest rate reductions as a panacea to the problem.

Thankfully, Bill 59 goes some way to adding new planks that do stand to benefit borrowers in ways that interest rate reductions may not. According to our research, we think that there are four elements of this bill that will particularly benefit borrowers and three that are non-factors or redundant, and you may want to focus elsewhere. We recommend that the committee keep a tight focus on the former and not the latter in particular.

First, we applaud the moves towards gaining better data on the industry and the ability to collect that data that's done through the bill.

On the moves that would reduce repeat borrowing and multiple loans to the same customer: As we note in our paper, and as can be seen from a walk down the street to see the sort of drug dealer type, first-hit-is-free—moving away from that model is something to be applauded and would go a long way to protecting consumers. The parts of the bill that address that are prudent and we applaud them.

Likewise, the provisions that would enable better insight into the financial situation of the borrower, and particularly their ability to repay the loan, not only encourages sound business practice from the lenders, but discourages the movement of a necessary one-time loan, which may be taken for good reason, and turning it into a repeated loan and starting a cycle of dependency.

Finally, the spaces that open up room for instalment repayments should be pursued vigorously. As we note in our paper, the financial damage to the consumer comes mostly from the shock to their cash flow. Anything that can prevent that cash flow shock should be pursued with vigour.

We think there are three items in this bill that are not as helpful, mainly because they're redundant or because they pose some risk due to negative or unforeseen circumstances.

First is with regard to the devolution of power to municipalities. I'm from Hamilton and I know that our city is one city that wants this. I can see how it can be used and used well. But it also presents the possibility that lenders will be completely zoned out of a municipality.

I would like you to consider the analogy between gentrification and poverty, and this zoning law and payday lending. What may end up happening, and what is very likely to happen, is that we'll simply move the problem elsewhere rather than solving it. I would encourage you to consider that. I would also encourage you to consider that as part of a broader devolution strategy from the province to municipalities. It would be good to see some consistency in that regard.

The sections of the bill aimed at advertising and so on are also somewhat redundant. There are pretty good laws in place on advertising and, as much as I loathe the ads that many payday lenders use that tug on the heartstrings of people to try to draw them to borrow, it's unlikely, I think, to make any material difference to the market. Our research would suggest that that's the same. That seems to be very similar to the gentrification question and aesthetic argument.

Yes?

The Chair (Mr. Peter Tabuns): I'm afraid you're out of time.

Mr. Brian Dijkema: Oh.

The Chair (Mr. Peter Tabuns): I know, it goes by quickly, doesn't it?

Mr. Brian Dijkema: It does go by quickly. I thought I had more time.

The Chair (Mr. Peter Tabuns): First questions, then, to Mr. Singh.

Mr. Jagmeet Singh: If you need some more time to finish up your remarks, I'll give you that.

Mr. Brian Dijkema: Okay, I'll just move on.

Disclosure is, likewise, redundant. Most of the borrowers are not borrowing because they don't know or because they're being duped. They're not out of their minds; they are simply out of options. That's what we're encouraging this committee to do. If we try to choke the supply so much, what may end up happening is that the alternatives—NSFs, loan sharks, arrears, loss of one's job, or banal things like the cost of hydro disconnection or reconnection—will happen. We're saying a bad choice is better than a worse choice. We'd like to see the better choice being done, which is why we would like the government to take the next step and move beyond restriction and move toward enabling a better market. The way to do that—we have four suggestions.

One is to create social impact bonds that could provide capital for and return to those financial and community institutions who achieve a defined social policy objective.

The possibility of dedicating funds to act as backstops to loans for places like credit unions—I know that FirstOntario and a number in Ottawa and Windsor are also doing this. This would enable them to do that work better.

Removal of regulatory barriers standing in the way of civil society institutions like churches, mosques, synagogues and community foundations that currently stand in the way of partnership between those institutions and financial institutions like credit unions.

Finally, we'd love it if this could be done as part of a broader project looking at financial regulation, particularly around the financial technology industry, which stands to disrupt the current highly concentrated payday loan market. We look forward to working on that with you as well.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Singh.

Mr. Jagmeet Singh: Sure. Thank you very much, Mr. Chair.

On the fintech, I've heard some solutions where it provides access to loans, kind of like micro-financing, because the rates are very affordable and it gives users the ability to access affordable credit, essentially, in a way that doesn't expose them to high or usury-level interest rates. What other strategies do you suggest that the province do to work with fintech, generally speaking, and what are the principles that you envision to ensure that it's fair and that there's more access?

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Mr. Brian Dijkema: On fintech, on this one in particular, they can do a pretty good job of it already. One of the challenges is regulatory. There's some lack of clarity in some spots—so, I think, consultation with them to make that clear.

There have been some moves. Mogo has done some good work in this way. There are a number of others that are providing immediate access. They're working with employers, partnering with employers, for employees to get immediate access to their cash. That again is the real challenge.

People borrowing aren't stupid. In general, people who are on the lower end of the income scale are fairly good money managers. The bulk of them are. The challenge is often the loss of hours or things like breaks. They get ill or something like that, and they just need access to cash. It's cash they've already earned, for the most part. So just removing the barrier of having to go elsewhere and just getting access to it is one way.

Mr. Jagmeet Singh: Sure. I'm of the school of thought—I'll say I'm guilty as charged with respect to thinking that lowering the rates would be a panacea. I think of it as a panacea. I think that's the big problem: The interest rates are so high. Why do you think it's not the solution?

Mr. Brian Dijkema: Because I think if you look at the economics of it, which we've done in our paper, the real challenge is the cash crunch. It's the requirement to pay back the principle and the interest at once, at one time. The consumers are going to payday lenders because they have cash-flow problems, so a reduction from 21% to 19% to 17% to 15% will help solve that to some extent, but it won't solve the real problem, which is the big outlay at one time.

It's much, much better—as evidenced by Colorado's moves, as well—to take that loan and to spread it over, amortize it, and move it more towards installments. The cost may be the same, or even slightly higher, but for the consumer, instead of having to pay $121 10 days from now, they may be able to pay $60. That's the real challenge.

The evidence seems to suggest that it's a cash-flow problem more than anything else, so anything that can sort of spread that cash flow and reduce that shock is something that we would think would be more likely to help people, rather than the reduction. One of the challenges is that if the reduction happens and payday lenders or alternatives can no longer do business, our concern is that there are other options out there, but they're more costly, so people who are making decisions right now will be paying more: They'll be paying an—

The Chair (Mr. Peter Tabuns): And I'm sorry to say, with that, you're out of time with this questioner. We go to the government: Mr. Baker.

Mr. Yvan Baker: Thanks very much for coming. I really appreciate your thoughtful approach to tackling these issues. There are some really helpful thoughts you had both on what works in the bill and what you think should be changed and then some idea going forward, so I appreciate that.

I wanted to drill down, if I could, on a couple of the suggestions you had. One of them—I don't know if I understood you correctly; I know you were rushing through.

Mr. Brian Dijkema: Yes, sorry about that.

Mr. Yvan Baker: No, not at all. What I thought you were saying was that government should facilitate credit unions and other institutions providing the financing, the loans, that folks need. Did I understand that correctly? And if so, could you expand on that? How would that work?

Mr. Brian Dijkema: You did understand that correctly. What we've been advocating for is what we call a market-based, community-focused solution. One of the challenges with a lot of charities is that they have cash—churches, synagogues, mosques, that type of thing, community foundations—but they don't have the expertise to actually deliver on the loans. Financial institutions like credit unions, which are often community-based, have the expertise but lack either the cash or the time to do so. We are advocating that the government put some skin in the game in a way that's also market-oriented, so that you can achieve a particular social end.

There are externalities related to payday lending: health problems, increased police costs etc. If you can monetize those or put a number on those and say, "If we get rid of this challenge here, it's worth X amount of dollars to the province," then you can use that as sort of a bond to say that if organizations in Toronto or Hamilton can achieve this objective, there will be a financial return for them that will also be a financial return to the government. So that's one area.

Another one—and that was suggested back in the 1960s as well—is backstopping loans. It's money that has to be reserved. It has been done by governments for infrastructure projects and otherwise. But that's another way to do that as well.

Mr. Yvan Baker: Okay. Under that scenario, under that solution, do you envision—I just want to go back to credit unions for a moment, if I could, because credit unions are already there and they're already lending. There are some credit unions who have attempted to tackle part of what we're trying to tackle here by trying to offer loans at a more reasonable rate to qualifying borrowers.

Do you think the business model there is viable, whether it be for a credit union or whether a church or mosque or synagogue participates? This may be secondary or a detail, but do you think the business model is viable at those lower interest rates? Judging from what you said to Mr. Singh, I'm gathering that you would say no, and that eventually lower rates result in a lower return, which means a lower risk profile, which means some borrowers wouldn't have access to those loans.

I think that there are a lot of folks who are optimistic about the role that credit unions can play in addressing this. I'm just trying to get your sense, given the research, of what your thoughts are on that.

Mr. Brian Dijkema: I do think it's viable, provided somebody is willing to sacrifice. When you're looking at community and charity organizations, that is what they exist to do. They exist to sacrifice for the public good.

If you look at the cost provisions, 75% goes toward overhead: buildings, lights, salary etc. Only four dollars go toward bad debt, per $100. If you have an organization—a charity or a community organization—that's willing to let out that space at a low cost or even at a loss in order to achieve that, then you are drastically reducing the cost of provision and making the business model that much more viable.

I would say that, yes, it is possible, but there are challenges to that. Sometimes, charities can't work with for-profit institutions because of regulatory barriers. That would be one of the specific suggestions that we would be looking at.

Mr. Yvan Baker: Chair, how much time do I have?

The Chair (Mr. Peter Tabuns): You have about 30 seconds.

Mr. Yvan Baker: Just to finalize on that: What I hear you saying is that, on its own, if it's a for-profit solution, it's probably not going to work for all the borrowers who are out there at a lower rate. But, as you're saying, if you have a do-good partner, like a church or a mosque or a synagogue or even a government, in the backstopping-loans scenario, that could help then get credit unions or whatever the case may be to the place where they can lend at a lower rate to those borrowers who are currently borrowing at very high rates.

Mr. Brian Dijkema: Yes, that's one. I would also say that one of the challenges with payday lending is that debt is their only business. With credit unions or even banks—and the banks, I should note, have been very, very loath to get involved. It's conservatism of the wrong kind. But one of the reasons that they could get involved and even take a lower profit margin—

The Chair (Mr. Peter Tabuns): And with that, you're out of time. I'm very sorry about that.

We go to the opposition: Ms. Martow.

Mrs. Gila Martow: You can finish your sentence.

Mr. Brian Dijkema: Okay. They can make money off of other products like deposits and other products that they offer, which payday lenders don't. They only deal in debt, primarily.

Mrs. Gila Martow: I'll get to the banks in a second. I just want to say that, when I used to work as an optometrist, I can agree with you on the cash flow problem, because I had numerous people who couldn't do a $100 deposit for a pair of glasses. They would come every two weeks and give $20 until it was $100, and then we would do the same with the amount. They had no problem paying for the glasses; they just couldn't somehow save it up and do a lump sum. So I totally agree with you.

In terms of big banks, we keep hearing about payday loans at over 400% interest. These are tiny, little "micro-loans," I would call them. If we stopped looking at it as interest and we looked at it as an administrative fee, such as when you go to a bank machine and it's not your bank and they charge you $1.50 to take out $20—our hair goes grey when our kids do it just to take out a small amount. Do we think of that as interest, or do we think of that as an admin fee?

I am wondering if you could give some insight, if you've thought that maybe payday loans, small loans, should have an administrative fee of a certain amount per loan, and then interest on top of that.

Mr. Brian Dijkema: As I said earlier, 75% of the cost is actually administrative, so you're right to identify that. One of the challenges with the banks is that their corporate structure is not that profitable a business. Their interest rates are ridiculously high, but it's not that profitable. If you're a publicly traded company, you have an obligation to pursue the higher profits. That's one of the reasons why they don't.

We've encouraged them to move away from CSR on fancy water projects and more toward something that's in their value chain. I think they could do that and should do that, but again, there are regulatory challenges around that that prevent them from doing that. We've talked to the bankers a little bit. That has been a challenge.

If the specific question is, should we have administrative fees and then interest charges—

Mrs. Gila Martow: Right, but same for the payday loan institutions, because that's really what we're focusing on.

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Mr. Brian Dijkema: Yes, I would say that that's already built in. It is a fee, not so much an interest, and they like to talk about that quite a bit. That fee is actually—the bulk of it is paying for administration. I would caution, because sometimes you want to be able to reward those who can offer lower costs because of better or more efficient administration. Setting it too rigidly would be a challenge.

Mrs. Gila Martow: Okay, I can appreciate that. Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation.

ACORN CANADA

The Chair (Mr. Peter Tabuns): Our next presenters are ACORN Canada: Donna Borden. I think there are some documents there. Please have a seat, Ms. Borden. As you've heard, you have up to five minutes to present, and then it's five minutes per caucus for questions. If you'd start off by introducing yourself for Hansard and then proceed.

Ms. Donna Borden: Sure. My name is Donna Borden. I'm an ACORN leader. I'll just tell you a bit about ACORN. ACORN is an independent organization. It's for low- and moderate-income families. We have over 102,000 members all over Canada. We have 20 neighbourhood chapters in nine cities across Canada. We believe in social and economic justice, and we do it through our organization through memberships. In Ontario, we have two offices, in Toronto and Ottawa, and 11 chapters and 60,000 scattered members.

We have worked to create protection for low- and moderate-income families from predatory and high-interest loans, and we are pleased that the government is moving forward. Also, we'd like to thank the NDP because they have worked with us for the last 10 years and put our issues forward over the last 10 years.

In recent studies of ACORN members, over half have needed to use fringe, high-interest financial services. Only 6% of these people did it because they prefer fringe financial services. Low- and moderate-income people are using high-interest lending because mainstream financial services have failed them. They are using high-interest lenders to access basic needs like groceries, rent and to deal with a crisis. We have a report that I've just sent you. It's called Predatory Lending: A Survey of High-Interest Alternative Financial Service Users.

Regarding the minimum distance that you have in the bill, we were happy to see that the province has given the authority to the city to implement minimum distance bylaws. However, we'd like to see it extended to instalment loans and rent-to-own companies. The nature of this business and industry changes to create new products to avoid regulations. We do understand that all levels of government have to be involved in order to deal with instalment loans legally, but we feel that the government has a job to protect consumers from these high-interest loans. I'm sure that they can figure out a way for instalment loans and rent-to-owns—to add them to the minimum distance.

Also, regarding repeat lending, many studies and the report of our ACORN members outline that with many payday lenders, you just get caught in a vicious debt cycle trap. For example, Vancity Savings Credit Union did a recent study in BC, and two thirds of the payday users in the Lower Mainland and Greater Victoria were trapped in a cycle of debt.

Back to the loans: They are huge problems. For example, people go to company B to pay off company A. To stop this debt trap, we need the government to implement a real-time database or a tracking system. This has been implemented in many states in the United States and it has helped in enforcement to stop back-to-back loans and in getting real details of the nature of this harmful industry.

The other changes that would help the debt trap would be extended payments. The ministry needs to extend the payments, similar to what Alberta—to eliminate the two weeks and give consumers 42 to 63 days to repay back.

This is one step further than Bill 156's provision allowing borrowers to enter a 62-day agreement after their third payday loan. These were not included in Bill 59. We support this provision and would like to see it included as step one, whereas step two would be something similar to Alberta.

The real solution, we believe, to high-interest fringe lending is to create an alternative low-interest credit product. We'd like to see the government get the banks involved and provide services to low- and moderate-income people. The government should support credit unions creating products like Vancity did in Vancouver, products that reach to the scale of need, and request to the federal government that the Bank Act review loans at low interest and extended repayment terms for people of lower income. This is the only way that we get to scale to low-cost alternatives. It gives people a choice.

The government, with instalment loans, needs to regulate how these companies are disclosing the interest to make sure that they're not adding extra fees—like calling something the "cost of borrowing" when it's actually interest—plus ensure that they aren't forcing people to take on insurance and extremely high interest rates.

The Chair (Mr. Peter Tabuns): I'm sorry to say that you're out of time.

Ms. Donna Borden: And I was just done, too, so perfect.

The Chair (Mr. Peter Tabuns): Excellent. It all works out. We go to the government first. Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Ms. Borden, for appearing before the committee today. How do you view consumers' relationship with the alternative financing service providers?

Ms. Donna Borden: Consumers' relationships? I just feel that for the payday lenders, the people who keep going to the payday lenders—I think they're just going to them because they're trapped. It's just like being in a bad relationship: You don't know how to get out of it, and you're trapped. And consumers don't really know where to go to complain or how to get out of the trap.

Mr. Vic Dhillon: This bill's approach to payday lending focuses on disclosures, the frequency of borrowing and the affordability of loans. Do you think this would help protect vulnerable consumers?

Ms. Donna Borden: Yes, I do. Yes.

Mr. Vic Dhillon: As well, this bill gives municipalities the authority to regulate the location and the number of payday lenders in their cities. What would you see as the community-level impact of payday lending?

Ms. Donna Borden: The impact of them leaving?

Mr. Vic Dhillon: Lending.

Ms. Donna Borden: For lending? I think that if we allow more to keep opening up, it's going to have a really bad impact on our communities. We don't need to completely eliminate them until we find an alternative for people, but I think that allowing more to open up would have a really horrible, horrible impact on our communities. There are just too many of them now.

Mr. Vic Dhillon: Any idea what kind of model—what would it look like? How many places per population, or size of city? Do you have any—

Ms. Donna Borden: What we proposed to the city was 400 metres away from each, so if one closes, another can't open up if they're too close to the vicinity. Of course, also in the residential areas, not too close to the residential areas. That was one thing that ACORN proposed to the city, that we were working with the city on.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Peter Tabuns): We go to the opposition. Ms. Martow.

Mrs. Gila Martow: Thank you very much for all of your advocacy work. It's apparent that there are a lot of people in the communities who really do care and really want to help people. And it's tough; it's tough for us as legislators because people don't always make the decisions we want them to make. But we understand that in the public, there are a lot of people who need these microloans. They, for whatever reason, aren't able to borrow from a bank, have credit cards or even cash cheques so easily, and it's not all people who can't repay. Obviously these industries are in business, so the vast majority of people are able to repay these loans and repay them quickly.

I'm just wondering why you feel that, if there are regulations put in place, we would have to limit the number of payday loan places. Don't you think that the market would take care of that?

Ms. Donna Borden: No. The reason why we're asking for them to limit the payday loans is because we find now that a lot of the payday loan companies, or even the instalment companies, are clustering into one area, mostly in areas of low income. There's a rule now where they're not supposed to provide rollover loans—roll one loan into another.

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They don't have integrated loan computer systems together, so they might send a person across the street, because they're so close together. We were thinking that if a lot of people go—it's just like a whim; they can't borrow from somebody—if they limited how many or how close together they are, then these companies can't send someone across the street. Then they will take the opportunity to say, "Okay, you can't pay us back now, so we'll let you extend it for a longer period of time."

We think that there's just too many of them, and it looks pretty seedy, I think, in the neighbourhoods to have all of these stores opened up. We just feel that it would be better to limit how many we have in the city.

Mrs. Gila Martow: I would just mention that I'm reminded of a woman I met from Zimbabwe, of all places. These are farming communities, enormous, industrialized farming communities. She said that a big part of her job—I asked her what her exact job is on the farm, and her job is to deal with the employees. Basically, she herself maintains sort of bank accounts for them and helps them invest their money, and things like that. I guess that in a perfect world, people have employers they could get a small loan from, and things like that.

But this is a big First World country here, and we just want to make sure that people aren't going to loan sharks and getting desperate, that they are able to stay with their job if their car needs a repair. I'm not sure what the alternatives are to payday loans that you spoke about previously.

Ms. Donna Borden: We were looking at even Canada Post opening postal banking, because it's owned by the taxpayers. They could maybe provide low, alternative short-term loans to people and they could make a profit, because as we know, the payday lenders are making a profit.

We were also hoping that the banks would step up, and the banks could maybe offer low, short-term loans for people who, like you said, might have to have their car repaired. I've had co-workers who have had to buy medications for their children and had to borrow from payday lenders. So they would have the option to go to the bank and say, "I need to borrow it for a couple of weeks." Maybe even credit unions could step up and offer lower, more affordable alternatives for people.

I think people should have a choice about where they go to borrow their money. They're only going to payday lenders because they have no other choice.

Mrs. Gila Martow: Thank you very much.

Ms. Donna Borden: You're welcome.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Martow.

Mr. Singh.

Mr. Jagmeet Singh: Thank you so much for being here, and thank you for your advocacy and for ACORN's amazing history of advocacy.

Ms. Donna Borden: Thank you.

Mr. Jagmeet Singh: You touched on a number of really good points, and I just wanted to highlight some of them.

One of the things that people have talked about a lot is, we know that people sometimes need a short-term loan, but they're put into a really tough situation when they get it in circumstances where it makes it hard for them to pay it back.

You mentioned Vancity, with Vancity being a credit union offering micro-loans or small loans at a more affordable rate. That's a great suggestion.

I just want to summarize the other suggestion you brought up. Though it's not necessarily directed to us provincially, I think it's a great suggestion that we might be able to put pressure on the federal government for the postal banking. I think it's a great suggestion, and I want to just acknowledge that.

You touched on instalment loans. I just want to ask you this quick question. We just heard someone present about payday loans. One of the big issues is that you have to pay back all at once the fee plus the initial amount that you borrowed. If you spread that out, instead of paying the big fee and the interest, somehow spreading that out over time—I'd never thought of that before, to be honest. That sounds like something that makes sense. Does ACORN have a position on that, or have you thought of that as an idea?

Ms. Donna Borden: That's what we mentioned; it's what Alberta is doing. They've made it so that people have a longer period of time.

Mr. Jagmeet Singh: Okay.

Ms. Donna Borden: The one thing we were mentioning in Bill 156 is that it indicated that after the third loan, they had 62 days to pay it off, but in Alberta, they're giving people automatically, from the beginning, 42 to 62 days to pay off the loan, so they could pay it off in a longer period of time.

Mr. Jagmeet Singh: Okay. That's the same idea, then.

Ms. Donna Borden: It was something that we were hoping could be added, instead of just saying it's after the third loan.

Mr. Jagmeet Singh: Right. So right off the bat, giving people more time to pay it back, and then some sort of idea around paying it back in instalments, as opposed to having to pay back the whole amount.

Would that also make sense? Not to put words in your mouth if you don't know it now or if you're not sure of ACORN's position, but one is to pay it back over a longer period of time, but then also an idea of paying back little portions of it and not receiving a penalty for paying it back in small lumps.

Ms. Donna Borden: I guess if people had 42 or 62 days that they could do it—as long as they're not being penalized for it, I think that would be a good option.

Mr. Jagmeet Singh: Okay, cool. I appreciate that. Let me just see if there's anything else.

So, in general, ACORN supports the idea that there should be ways for people to access, based on their income—that lower-income folks should be able to find a way to get access to affordable credit. People need credit in this society, but we need to find a way to get it in an affordable way.

Ms. Donna Borden: Yes.

Mr. Jagmeet Singh: Okay, perfect. Thank you so much for your comments.

The Chair (Mr. Peter Tabuns): Thank you for your presentation today.

Ms. Donna Borden: Thank you.

INDEPENDENT PAYDAY LOAN ASSOCIATION OF CANADA

The Chair (Mr. Peter Tabuns): We'll go on to our next presenters, then. We have the Independent Payday Loan Association of Canada: Pat Mohan, Matthew Brumsey and Nick Novakovich. Gentlemen, you have up to five minutes to present. Before you speak, if you would introduce yourselves for Hansard, so we get you on record. When you're done we'll go caucus by caucus for five minutes each. Please proceed.

Mr. Nick Novakovich: Nick Novakovich, Cash Corner.

Mr. Patrick Mohan: Patrick Mohan, Money Direct.

Mr. Matt Brumsey: Matt Brumsey, Payday Plus.

Mr. Patrick Mohan: I guess we can forgo the first paragraph, since we've already introduced ourselves.

We are representatives of IPLAC, the Independent Payday Loan Association of Canada. Matt has nine stores in eastern Ontario; Nick, to my right, from Cash Corner, has five stores; and I have 10 stores. We are payday lenders and we are all compliant, regulated and licensed in the province. We consider ourselves to be ethical, moral and responsible lenders, and we provide a valuable service to our clients that banks and other financial institutions simply don't.

We're in favour of fair regulation that puts the consumer first and of rates that will also allow our businesses to be sustainable. If the regulations are not fair to all parties then chaos will reign and the consumer will revert back to utilizing unlicensed money lenders—both the criminal element and online, offshore and unregulated lenders.

We, as IPLAC, recommend the following:

(1) Cap the amount a payday lender may loan a certain individual at 50% of a person's net pay.

(2) Remove the 60-day repayment period on the third payday loan, because it no longer is a payday loan if it's 60 days to repay it, and that simply serves to extend a consumer's long-term debt.

(3) That the Ministry of Government and Consumer Services investigate and implement an Ontario payday loan database similar to what they have in the OLG, to restrict individuals from borrowing if they or their legal guardians make a request to do so. This could be for self-exclusion, mental health or other reasons.

(4) Require all payday loan stores to provide financial education materials and counselling to each customer before conducting a payday loan.

(5) Enforce the Payday Loans Act as it stands and, in particular, the regulation permitting only one loan product at a time, if that product is a payday loan.

(6) Set the rate for a payday loan at $21 per $100 or adapt a new payment system which supports the viability of the licensed and regulated industry.

To elaborate on these points: In order to ensure that the borrower is not overextended and has the opportunity to better control their cash flow and get out of debt, set a limit on the amount of a payday loan to 50% of a person's net pay. As well, the 60-day repayment time on a third loan effectively converts this loan into something other than a payday loan. Removing the 60-day repayment protects the consumer from having even greater levels of long-term debt than they may already have.

It's our understanding that there are a number of individuals who would like to self-exclude from using our services. There are many organizations serving people with dementia and other related illnesses who would like the opportunity to exclude those who they serve. We support a process to exclude someone from using our services. Although we are not certain of the legalities, we would like to see a system, as I said earlier, similar to the OLG player database for exclusion put in place.

According to a report by Ernst and Young commissioned by the Ontario government in 2004, the break-even rate for payday loans was $20.66 per $100 nationally. In the Deloitte report about Alberta's payday loan business issued in 2016, that break-even rate rose to $20.74 per $100. In Manitoba, when fees dropped to $17 per $100 in 2011, within one year, the number of licensed payday loan storefronts in the province fell by 48%, with customers now going online, unlicensed, unregulated, offshore, with a criminal element. Similar outcomes are now being evidenced in Alberta and British Columbia after they dropped their rates to $15 per $100 and $17 per $100, respectively.

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I have just distributed a small-loans study from Alberta which occurred from December to February. Mystery shoppers conducted a survey of 47 attempts to borrow from two credit unions and one payday loan company. You will note that the shoppers were granted seven approvals, while 40 of those 47, or 85%, were declined. The payday loan store required collateral in the form of their vehicle because they no longer offered the payday loan product. It simply wasn't viable.

According to our recent survey of thousands of clients over the last three weeks, over 50% of our clients travel under five kilometres to our retailers. This industry truly is made up of convenient, local providers. We are already seeing regional problems with the closure of stores in Huntsville and Gravenhurst. In these communities and all surrounding areas, former clients now need to travel hundreds of kilometres to go to North Bay, Orillia or Parry Sound, as they can no longer get a payday loan in Gravenhurst or Huntsville. Further closures have already occurred in Malton, Bayfield, a company called Xtra Cash in North Bay—they had another store in Sault Ste. Marie as well—and another company called Fast Cash, also in Sault Ste. Marie. All closed.

To reiterate, IPLAC is requesting that the government of Ontario focus on something that is really key to protecting the consumer, and that is, cap the amount that we can lend to 50% of someone's net pay. That truly protects the consumer. You'll see a chart that we sent around to you which demonstrates very clearly that it's not so much the rate of $21 or $18 or $15, because you can argue all day that $15 is still 400%, APR, but it's not an APR; it's a fee. It's a two-week loan, for the most part, and it's meant to bridge someone from one payday to the next. We believe at IPLAC that the way to protect the consumer is to cap the amount we can lend to 50% of someone's net pay. It's very easily policed and it will work for everyone; all stakeholders can win with this.

The Chair (Mr. Peter Tabuns): Thank you very much for that. We go first to the opposition: Ms. Martow.

Mrs. Gila Martow: Thank you for joining us today. I just want to ask about some of our smaller communities and what your thoughts are on the impact on our smaller communities if this was—I guess the word, in your terms, would be "overregulated."

Mr. Patrick Mohan: That's perhaps not a bad term. I'm going to let Matt handle that because his stores are largely in smaller communities.

Mr. Matt Brumsey: Yes, great question. Thank you, because this is very important to me. This bill doesn't look at us in smaller communities. I have two locations that have closed already because I can't afford to stay open. In the larger communities—Toronto, as an example—they have a volume. When I've got 200 files in my filing cabinet for the year, these are people who need me, and they love me and they talk to me, but they can't get to larger communities. With 200 files in that filing cabinet, unfortunately I can't afford to run at $17 or $15 on $100. I need the $21 to stay open. I have a list of small communities that have closed because of going to $18 on $100 already.

These people are leaving smiling. They can walk across the street. They know me by name, and it's unfortunate because all of our questionnaires that I've had are all positive. Most of them don't care about the rate—an extra $3—they love the service. There's the smile, the chat. We're going to be gone and, unfortunately, it's the Internet, and I'm scared for that.

Mrs. Gila Martow: I'm just wondering if you have any thoughts on a better system that could address some of the issues you hear from some of the concerned citizens. If there was a better system—I keep throwing it out there and nobody seems to be biting today—that if there could be an administrative fee that could not be called interest, because I think that that's what scares people off. I think that $21 just for the bother of meeting with somebody and discussing whether or not you should lend them $100 or $200 isn't so outrageous to me, but when you look at it in terms of interest, of course, it sounds outrageous.

Mr. Matt Brumsey: It sounds horrible. I think a lot of people get it when I say—if somebody says, "Oh my gosh, the $21, that's so much money; you're making so much money," I say, "I'm lending $100, not $100,000." I have hydro, I have rent and I have employees, and some of our locations are barely solvent.

We have come up with a way that I think will work for all communities. Unfortunately, this dropping of the rate is only going to work in larger communities that can hold the volume. You are going—not you; I apologize. This bill is going to destroy the smaller community.

Mr. Patrick Mohan: It's a very good question. If I could just jump in to elaborate a little bit.

Mr. Matt Brumsey: Yes, please.

Mr. Patrick Mohan: Someone presented earlier, a couple of presenters ago, and said that most of what we charge is really administrative. Most of our expenses are of an administrative nature.

Mrs. Gila Martow: I think he said 75%.

Mr. Patrick Mohan: Correct. Thank you.

It is true. We are unsecured lenders. You come in and you don't need to bring your car, your pink slip, your whatever. We're not taking a mortgage on your house and we're not putting a lien on your children. You walk in and you present the fact that you have a job and therefore you are entitled, or perhaps entitled, to secure a payday loan, and that is until your next payday. Completely unsecured. We believe and we trust in our customers.

By the way, 90% of our customers pay off in a timely fashion. Once that gap is bridged, from one payday to the next, they're good to go. Our customers see us maybe, on average, four times a year. If you add up the amount of money in fees that we charge on an annualized basis to that customer, who does an average loan of $400 at $21—so that's $84 times four—do that math, and it's not a lot of money on an annualized basis for doing a payday loan when you need it.

We, being responsible lenders, would say, "Yes, we'll be happy to look at and work with the government in terms of alternate payment programs from what we have right now." Administrative fees—and we could bandy about numbers here—if we had $25 or $30 for a registration fee, and then go to another number, whether it be $18 or whatever it is, for subsequent hundreds of dollars that they borrow.

I think the key is for us to all work in tandem to protect the consumer. We need to restrict the amount we lend if someone—

The Chair (Mr. Peter Tabuns): With that, I'm sorry to say you're out of time. The next questioner may give you some time.

Mr. Singh.

Mr. Jagmeet Singh: Thank you for being here. One of the issues that has been raised has been the idea of not requiring the client to pay back both the principal and the fee, or the interest, and instead having an instalment to pay that back over a longer period of time. What would the industry think about that?

Mr. Patrick Mohan: We disagree with that. A payday loan is a payday loan. Our cash flow is also an issue. If, in fact, someone was stretching out loans for 60-day periods, perhaps they should be using their Visa card, which that is intended for—a line of credit.

Our product is very specific. It's a payday loan. It's meant to bridge the gap between one payday to another when an emergency happens. We need to end that, close it off on your next payday. That's good for the consumer, because the consumer is now less burdened with yet more long-term debt, making that minimum payment for their Visa bill, making a minimum payment for this.

Mr. Jagmeet Singh: If there is evidence to suggest very clearly that it would put the consumer in a better position if they were able to pay back instalments spread over a longer period of time—it's still a short-term loan, so it's not years. If there is evidence to suggest that that would put them in a better position, would that change your answer?

Mr. Patrick Mohan: I'd have to see the numbers on it. We'd be very happy to look at any scenario and work with you on that. We're not closed to anything.

Mr. Jagmeet Singh: That's helpful. With respect to caps, you've talked about one of the caps and you're saying a cap that's specific to the consumer—a cap based on half the consumer's income—would be easy to assess. What would be the tool? I'm assuming income tax returns. What would be the tool?

Mr. Patrick Mohan: No, no, no. From our perspective? No. When an individual enters one of our locations to conduct a payday loan, we require them to show us their most recent pay stub. That tells us how much they make on a net basis—gross, net, how much tax, whatever—and when their payday is. So we know what it is.

1700

What I was suggesting is, it would be easy for the government to police this. We're already very regulated, and we support a very regulated industry, but this would make it very easy for the government—for the registrar, specifically—to police our industry to ensure that we're not over-lending, whereas you could talk about this loan or that loan, or, "I did an instalment loan," or, "I did whatever." What we're talking about is something that's very easy for the registrar and the government to police. The inspectors can come into any one of our stores at any time and they can ask us, "Let me see your book on loans for February 27." If it's 50% or more than 50%, we're violating the regulation.

Mr. Jagmeet Singh: Got it. Thank you very much.

Mr. Matt Brumsey: May I add to that?

Mr. Jagmeet Singh: Sure.

Mr. Matt Brumsey: To your question, with this industry we need a balance that helps everybody, not just—people say, "Toronto stores," right? So we're looking at this whole thing. I think this is the first time an independent board has ever come—we're unique. We really need you guys to look at us as independents. We are a different unit.

We're 340 stores in Ontario with approximately 2,000 employees who are going to lose their jobs with these rates. So we really need to back up and look at other options because we need a balance that we all can live with. We are willing to work with anybody here. We just need to have it work for all of us, because some of us won't be here.

Mr. Jagmeet Singh: Okay. Thank you very much.

The Chair (Mr. Peter Tabuns): We go to the government: Mr. Baker.

Mr. Yvan Baker: Thanks for coming in, gentlemen. I want to go back to the exhibit that you handed out; this one here, where you're talking about your proposal. I just want to make sure I understand how your scenario would play out—the capital lending on 50% of net pay. When I look at this chart—I don't know if you have a copy in front of you—

Mr. Patrick Mohan: I don't need it; I created it.

Mr. Yvan Baker: The way I look at this is, in the scenario that you've drawn up here, the bar on the far right has shows a reduction in fees that the consumer pays, which is driven—

Mr. Patrick Mohan: Correct.

Mr. Yvan Baker: But the way I understand this is, it's driven by the fact that they've been limited in what they can borrow, not limited in the fee that they're paying per $100. I guess what I'm trying to get to, though—I'm just trying to play this out for different scenarios—is, if the consumer had a higher pay but still had a cash crunch—that's what I keep hearing from the people who come to speak today: What drives people's need to use your service, in many cases, is not so much the amount of their income, although that's a driver, but this need for cash in the short term. If you had a consumer who had double the pay of the scenario you've painted here, so $2,000 for two weeks, would this person—if they went to their cap, if they borrowed to their proposed 50% cap and they borrow double this, they pay basically $210 in fees?

Mr. Patrick Mohan: Correct. Whatever double that is, because that's $500 on $1,000.

Mr. Yvan Baker: Yes. It still would be $21 per $100 when you're borrowing, right?

Mr. Patrick Mohan: So the fees would be $210.

Mr. Yvan Baker: Yes, $210; exactly. Okay. To me, what your proposal does is it limits the aggregate amount folks can borrow relative to their income. But if someone had a cash crunch, which is a major driver for a lot of folks coming to you in the first place, they'd max out at your 50% cap and then they'd have to go somewhere else for the other money they need.

Mr. Patrick Mohan: Depending—as a free society, they have that right.

Mr. Yvan Baker: They have that right, yes.

Mr. Patrick Mohan: People have more than one Visa card. But what we're doing here is truly trying to protect the consumer, from our perspective, in that no one can give more than 50%. The cluster of stores on Yonge Street that one individual spoke of: If they want to go across the street, from Money Direct to Cash Money, Money Mart, Payday Plus or Pay2Day, yes, they're there. And if they want to borrow from multiple stores, yes, they have the right to do so. However, we believe that if we can regulate ourselves to the point where we're not going to give more than 50%, that is at least some form of protection for that consumer.

1705

Mr. Yvan Baker: Yes. So it's a protection for the consumers whose challenge is that they're borrowing significant amounts of money, relative to their income, at these higher rates—at $21 per $100, in this example. I guess what it's not a protection for is those consumers who have that short-term cash crunch that exceeds the 50% hurdle. So that's my only concern. Those people who get over the 50% have two options, according to what I just heard you say: One is that they go to another payday lender, which means that this 50% cap isn't really a cap because the person is getting it partially from you and partially from another vendor or—

Mr. Patrick Mohan: Well, it is a cap.

Mr. Yvan Baker: Yes, but the reality is that the consumer is still taking on, relative to their net income, the same amount of debt that they would have. They're just having to go to two different places to get it—or they go to a non-regulated payday option, which is even worse.

Mr. Patrick Mohan: That's the other option.

Mr. Nick Novakovich: Mr. Baker, just for clarity, I think that the average consumer borrows around $400 or $450, so the majority would be served by the cap. So let's not think that there are all these people out there that are going to require $1,000 in terms of a need—the cash crunch, so to speak.

Mr. Yvan Baker: Yes, but then if that's true, then the cap isn't really going to materially change much.

Mr. Nick Novakovich: Yes it will, because it forces the people that are pushing the limits of 80% or 90%—it will make them come down to reality and actually put the consumer in a better spot to be able to pay it back. Most of those people that are paying 80% and 90%, once you put the fees on there, are not even able to pay the loan back.

Mr. Yvan Baker: Yes. I guess my thinking is that those people who are borrowing 80% or 90%, under the 50% cap, would have to go somewhere else for the other 30%—

The Chair (Mr. Peter Tabuns): Mr. Baker, I'm sorry; with that, you've hit your time limit.

Gentlemen, thank you so much for your presentation today. We appreciate it.

CONSUMERS FOR RESPONSIBLE HOME INSPECTIONS

The Chair (Mr. Peter Tabuns): The next presenters: Consumers for Responsible Home Inspections, Bruce McClure and Stephen Duncan. As you've heard, you have up to five minutes to present and then up to five minutes of questions from each caucus. I think we have some reports there, for members of the committee. If you would start off by introducing yourself so you're recorded by Hansard, and then go to it.

Mr. Bruce McClure: Yes. I'm Bruce McClure and this is Stephen Duncan, my assistant—

The Chair (Mr. Peter Tabuns): Excuse me one second. Folks, please, could we have quiet in the room? Those having conversations at the back: Please step outside. Thank you.

Sorry, sir.

Mr. Bruce McClure: No problem. Been a long day?

First and foremost, attending two days of these hearings, I'm totally impressed by the questions that are coming from the floor. That is a breath of fresh air, based on what we've been getting from the ministry.

Over the past 20 years, I've done thousands of home inspections. I've witnessed the interaction between the needs of sellers, buyers and realtors. I've interacted with thousands of home inspectors across North America. I've sat on the boards of directors, I've been the national president of the home inspectors and I've been the provincial president of the home inspectors. I've designed and built custom homes. I acquired my real estate licence at one point and took a sabbatical for three years to practise real estate so that I understood the full gamut of the picture.

When your government announced that they were going to hire home inspectors, at the same time, they announced they were going to a TV celebrity for advice. For a lot of us, that was a grave insult. Personally, I went to my desk, and 10 months later and $65,000 later my book was available in all the majors in North America. This book is not about me; it is not about my ego. This book is a statement of the industry of home inspection in North America, based on 35 states that have licensed home inspectors, and two provinces. So it's not my ego speaking. It has been written specifically for people like you. If you read the back cover, that's exactly what it says. It's here to help you understand the industry that you're going to set some rules and regulations for. I was thrilled on the first day to hear you talk about radon. You talked about mould. You talked about indoor air quality. It's all in the book. That's why it's here: to try to educate people.

Frankly, it was during the research—Steve here is my researcher. It was in doing the research for the book that I realized how critical radon is and how we need to be dealing with it. Really, what has happened since the book has come out is that I've almost jumped ship from being a home inspector, and I consider myself a consumer advocate. That's really the bulk of what I've been doing. I'm taking my knowledge from having the entire picture behind me to do that.

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I'm going to apologize right off the bat if I offend anybody, because I've been taught to shoot off the hip and tell it the way I see it. I do not see Bill 59, the way it stands, as being advantageous. We are being asked, in good faith, to give a single minister and ministry the responsibility to set up a DAA. We heard several other people speak earlier today about the consequences of a DAA. I'm going to give you some examples.

This is a ministry that is in charge of RECO, the authority that allows the realtors, who are not required to have any formal education about houses, housing, house maintenance or construction, to advertise that they know everything about real estate. Regardless of the conflict of interest, the minister allows realtors on a daily basis to select home inspectors, deselect home inspectors and supervise home inspections. How is this not a conflict of interest? It's our position that it's really the realtors who run the home inspection industry, when it should be for the consumers.

It's a ministry that looks after Tarion. I'm not even going to go down that road, especially after the conversations we had earlier today.

One of the things that disturbs us is, back in 2013, the ministry wrote a report called Qualifying Ontario's Home Inspectors, which is the basis for everything that we're here for today. In that report, there is a statement that says, "There should be no mandatory education requirement to become a home inspector." There is also a statement in there—and again I say the report is entitled Qualifying Ontario's Home Inspectors—that says, "Consumers often rely on and trust their real estate agents and should have the right to allow their agents to recommend and even to arrange home inspections." How is that not a conflict of interest in a document entitled Qualifying Ontario's Home Inspectors?

Then, of course, we can't forget that there were a couple of engineers on that committee, and somehow they're magically exempt from having to be licensed. I'm not aware of a discipline in engineering that trains for home inspection.

A couple of questions I do have: the ministry, through the Ontario Association of Home Inspectors, had Conestoga College write a competency study. Has that come to the table yet? This is a competency study for home inspectors.

The Chair (Mr. Peter Tabuns): I apologize for this, but you've run out of time.

I'm going to go to the government first. Ms. Mangat.

Mrs. Amrit Mangat: No, no. Mr. Dhillon.

The Chair (Mr. Peter Tabuns): Mr. Dhillon. Sorry.

Mr. Vic Dhillon: Thank you very much. Do you want to maybe say a couple of sentences?

Mr. Bruce McClure: I thank you kindly. I'll cut to the chase. We feel that this bill needs some assurances to us. To form a DAA, we want to see that it's at least 60% consumers. Leave 40% for the vested interests. We need realtors on there and we need home inspectors on there, but the 60% should be non-vested interests.

Independence is a critical part of what you're doing. Unless you can make the home inspection independent from the real estate transaction, the way it stands today, it's our position that—everybody in this room knows the terminology "independent legal advice." The home inspection should be independent real estate advice. There shouldn't be a realtor standing over the home inspector's shoulder, telling him what to do.

Education: Of course we can't legislate people out of business today. We can't go into it today, but we've got a five-year framework for implementing this with actual formal college education. I'm going to suggest—and I'll cut real quick here—that we abandon everything we know about home inspection and the terminologies for home inspection and home inspectors. We start over. We don't make the same mistakes that all of the other governments have made—and they're serious mistakes—and we actually start with something fresh, maybe even call them "home auditors."

Mr. Vic Dhillon: Okay. So your contention is that there is a conflict of interest between realtors and home inspectors. How do we eliminate this? How do we—

Mr. Bruce McClure: On the very first page of the handout is the wording that we'd like to see in a bill. That basically spells out the independence. Also, giving proper time—this is going to be very difficult, but actually putting in a proper cooling-off period after somebody has put an offer in on a house, instead of being pressured—"Oh, if you're having a home inspection, you've got 24 hours to do it, or you've two days to do it"—there should be a mandatory period in there of seven to 12 days.

If your Premier is serious about cooling down the housing market, this bill can really work with it.

Mr. Vic Dhillon: Thanks very much.

Mr. Bruce McClure: Okay.

The Chair (Mr. Peter Tabuns): Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Mr. McClure. You spoke about formal education and the level of education for the inspectors, right?

Mr. Bruce McClure: Yes.

Mrs. Amrit Mangat: Can you elaborate on that? What do you mean by that? How long—

Mr. Bruce McClure: Formal education. I think our colleges and universities should be involved in this, and we should have college courses for future home inspectors. Home inspectors really can't go out and do apprenticeships, because most home inspectors are single-shop families. Maybe we even need a level of engineering, because it's an engineering discipline. There's a very low opinion of home inspections right now, in the view of the public.

As an author, I go out and do book signings at Chapters. For a little guy like me who isn't a big name, that means sitting in Chapters for three to five hours on a Sunday or Saturday afternoon, talking to everybody who comes through the door. Between Alberta and Ontario, I spent 28 hours in Chapters, talking to people, unsolicited, before I got the first positive comment about home inspectors. That bothers me dramatically.

Mrs. Amrit Mangat: So what you are saying is that they have to have a college education, you mean, or a university degree?

Mr. Bruce McClure: Future, okay? We have to separate the people who are doing it today and who are going to stay in the business, and the people who are going to be coming down the pike five years from now.

Right now, Alberta and BC have licensed home inspectors. I could coach any of you to be a licensed home inspector in Alberta by noon tomorrow. That has not brought consumer protection to Alberta.

I do expert witnessing. I'm dealing with some legal cases in Alberta right now; one is coming to court next Thursday. I'm told by other inspectors in Alberta that there are inspectors bragging about doing eight inspections a day, with another inspector doing over 90 inspections in a month and he's got a full-time job. That's not in the public's best interest. We need quality home inspections.

Mrs. Amrit Mangat: No, no, I do understand what you are saying. My question to you is, you spoke about college education. This means a diploma, some kind of diploma?

Mr. Bruce McClure: Yes, down the road.

Mrs. Amrit Mangat: Two years? Three years?

Mr. Bruce McClure: Actually, I'm involved with Conestoga College. I've laid out a two-year program with the college that would involve the college going out—sorry. The hand is up.

The Chair (Mr. Peter Tabuns): Sorry, you're out of time.

We'll go to the opposition: Mr. McDonell.

Mr. Jim McDonell: Yes, maybe just a little longer on this: There's got to be some happy medium about people coming in from the industry. I mean the industry like, say, the building industry or whatever. They have some of the training required. You're looking at a process that would pre-qualify certain components, certain areas of the two-year training. Maybe they would only need six months. But that would be something the authority can look at.

Mr. Bruce McClure: In the college situation in Ontario, or the university situation, there are challenge exams. You can challenge any diploma, up to 70% of the material.

It's very interesting. A well-trained home inspector looks at the house as a system. The builders build the house. The framers frame the house. The electricians come in, the plumbers come in, the heating contractor is in, and they cut it all to pieces. They destroy the work of the framers.

What a trained home inspector does is, they look at the house as a system. They look at how one piece functions with the other piece, and how the house works in harmony.

The one thing—I don't know if I can build on it with this question, but a lot of our business is not dealing with new homes. A lot of the things that we go in and discover are all done by the homeowners—they watch TV, and they go out and buy the material at Home Depot and they do the job—or what I'll call the "Two Bobs and a Truck" renovators. That's a lot of the work that we're going out and discovering.

Mr. Jim McDonell: You hate the idea that you're grandfathering people who aren't qualified. You have to bring that up to a standard, so that if you're going to acquire the confidence of the public, you've got to—

Mr. Bruce McClure: Yes, we are, and that's the problem, as I've tried to explain by the book signings. The confidence is very, very low.

The things that need to be done are, we need to come up with a unified inspection report. I have been shot down for over a decade by home inspectors: "Oh, we can't all have the same report; we all have to be different." Do you all get a different report when you take your car in for a safety if you're selling your car? No, there's a standardized report. If we are going to pull the realtors out of involvement in the home inspection, they have to know, when they get a report, how to read it, not the fact that every home inspector has his own different version of a report. We need a standard.

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What happens right now—and it's highlighted in the handout there—is that there are three common standards of practice being used in Canada right now. I'll talk about the Canadian ones, being the CAHPI standard of practice and CSA-A770. Standards of practice are good; however, there are no protocols, there are no procedures, there are no best practices. The definition of "inspect" is, "Follow the standards." That's the closest definition for "inspect." It's all left to the individual inspector.

Mr. Jim McDonell: I agree. There can be changes made over the years to a home. It's hard to tie it to the building code, but it works. There should be some way of allowing the home inspector with the education to show that, without going back and doing something crazy to the home.

Mr. Bruce McClure: Exactly. Actually, when I first started this business, I had just come out of building houses. When I started in home inspection, I felt very comfortable in the code, and there were people who would actually pay me during construction of a subdivision house to go in and do staged inspections. I'm not comfortable doing that anymore, because there is not enough business there to stay up on the code to the level required.

Mr. Jim McDonell: Now, you're talking about the independence and the 60% consumer advocacy on the board. Could you maybe elaborate? I agree with that.

Mr. Bruce McClure: Sure. The thing is that on the 60% side that's consumers, we need educated people who understand. I consider electricians and plumbers to be acceptable people on the 60% side. They're sick of having people phone them saying, "The home inspector was at the house and he found this problem," and they go out and there's nothing wrong.

ESA, for example—I don't know if you're familiar with them coming out with a new program. Are you familiar? Have they been lobbying you at all with their ElecCheck program? No? I'll take that as a no. They're implementing a new program through ESA—the Electrical Safety Authority—where they will come to, for example, your house and they'll go through your house for $350. They'll open up all of your devices and do a full inspection. If your house is more than 50 years old, any of the problems they find, you have to correct; there's no grandfathering. They're lobbying this to make this law. I can't argue with it, because they are qualified to be doing that.

Personally, I have a few thousand hours of electrical under my belt, working under supervision. But the same thing: To go into your house—anybody's house in the room here—I cannot legally open your electrical panel. That's the most critical place where we find the do-it-yourselfer has created problems in the house—or in condominiums, where they're never looked at after construction.

The Chair (Mr. Peter Tabuns): Sorry, you've run out of time with this questioner. We go to Mr. Singh.

Mr. Jagmeet Singh: Thank you for being here. I appreciate your attendance and sharing your insights. A question for you, just on the home inspection side: We talked about the importance of home inspection, of course, but they should know what they're getting into. I appreciate the idea of having a standardized system. I liked your analogy of a safety for a car. That is standardized; that's a good analogy. Thank you for sharing that.

With respect to people sometimes going into a home where they're planning to renovate or gut the whole thing, in that case, is there less importance or less necessity for a home inspection, if you're going to tear out the insulation and the flooring and everything anyway?

Mr. Bruce McClure: Just to go on with that a little bit: First and foremost, the home inspector does not pass or fail a house. They are reporting on the condition of the house. If I did a home inspection for people in the room here, you may all have different reasons for buying that house.

Now in a situation like that, a home inspector goes in and he looks for performance-based problems. Personally, I love doing situations like that, because I'm very involved in construction. Home inspections are a very, very small portion of what I do. I hardly consider myself a home inspector anymore.

But to go in with a house like that, I do many of those. I'll sit down with the client. I'll tell you what you've got here: "Have we got good bones? You think you're going to come in and change this wall over here; I think we better take a look at the heating system. I think we better take a look at the electrical system. Let's look at what you really have to do."

This is the problem. We have a lot of people going out there putting lipstick on houses, trying to flip houses. When the home inspector comes in, they have to work so much harder to see through, because a lot of times, the home inspector is not a welcome guest in the house. I have personal experiences and my peers have experiences when the house has actually been booby-trapped. In one case, if I had not discovered the booby trap before I stumbled on it, I would be blind today.

Workplace safety for home inspectors: We don't think of workplace safety for home inspectors. I caught an infection on a home inspection. I was in bed for 15 days. I was delirious for four days. I didn't know where I was. I was on intravenous.

There are so many sides to this industry, and what frightens us is Bill 59 is blindly giving authority over to a single ministry to go ahead and set up a DAA, and who knows what they are going to do. That's my biggest concern, because on all the committees, they're literally listening to the vested interest groups.

Mr. Jagmeet Singh: Okay, thank you very much. I appreciate that. Thank you for your answers. No further questions, Mr. Chair.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation today.

Mr. Bruce McClure: We appreciate the opportunity to be here.

MR. CAMERON ALLEN

The Chair (Mr. Peter Tabuns): Our next and last presentation is by Cameron Allen. Mr. Allen, can you hear me?

Mr. Cameron Allen: Yes, I can, Mr. Chairman.

The Chair (Mr. Peter Tabuns): Excellent. I'll just note that here around the table, from the government, are Mr. Dhillon, Ms. Mangat, Mr. Baker; from the official opposition, Mr. McDonell; from the third party, Mr. Singh.

You probably know that you have up to five minutes to present, and when you finish presenting we'll go to each caucus and they'll have up to five minutes to ask questions. If you want to start by introducing yourself, and just go to it.

Mr. Cameron Allen: Good evening, Mr. Chairman and members of the committee. Thank you for allowing me to make this submission by teleconference. Quick background: I've been in the home inspection business for over 18 years, with 6,000-plus inspections completed. I've been a director, treasurer or founder of every home inspection association in this province, with the exception of one.

All of your constituency offices received a five-part series of columns I wrote on the home inspection industry this time last year. I've written a column called "Ask the Inspector" for the Kingston Whig-Standard for 15 years. At their request, I have presented submissions to former MGCS minister David Orazietti, and former minister Marie-France Lalonde. For eight years, I've also written a column for Postmedia on green home technology. I'm a retired builder.

The submissions to date with respect to the home inspection portion of Bill 59 have not referred to the act in debate. Rather, they requested changes, with their own agendas. I've read the February 21 Hansard documents and I had the OAHI position discreetly sent to me over this past weekend. We call this a "Trump leak" in media today.

The energy audit for homes has been proposed before and continues to receive stiff opposition from OREA. The most recent government legislation to reintroduce this has merit. However, lumping it with a home inspection is a mistake. Allow me a parallel example. You purchase a car without knowing the gas mileage. You provide the down payment, arrange your financing and then get a safety check done—or home inspection. At the inspection you find the gas mileage is too high. However, you're at the last step and now really want the car—or house. This is one of the reasons the gas mileage is on the window of new cars. You should know your operating costs before you buy a car or a home.

With respect to the radon issues described by the Lung Association, I totally agree. However, adding it in with a home inspection at this stage is not wise. I ask the committee to go to thewhig.com and click on the Homes section this Thursday, where my column discusses this very subject. For new homes, it could be better handled by the Ontario Building Code. In fact, section 9.13.1.3 of the current code states a requirement for soil gas control. There are, however, exceptions to this and the Ontario Building Code needs to be clearer. The Tarion warranty has covered new home repairs where radon has been found after assembly. Further, there are seasonal periods where radon testing is not accurate. When a homeowner decides to sell a home in June, this is the period of the year where accuracy of radon testing is questionable.

The home inspection association's request to take over the process is simply the largest single mistake that could be made with respect to this legislation. I have substantial supporting documentation where BC and Alberta now regret allowing the associations to set the standards, and they are now spending unnecessary legislative time and millions of dollars correcting this industry.

The home inspection industry is not a profession. It's a trade where standards of service and work supplied to the consumer are possible. It's a proven fact that structured standards, not unlike an electrician, plumber or gas technician, work properly. The actual licence, discipline and standards for these trades are dictated by a regulatory body for the common safety of the public.

1730

Commenting on Bill 59: Quite frankly, as a base for the DAA, it is well thought out and deserves to be passed. Some of my comments are within it.

The integration of disciplined investigation of home inspectors and mandated insurance is overdue. The actual inner workings of the DAA are addressed in the report A Closer Look: Qualifying Ontario's Home Inspectors, that was presented to the MGCS on December 10, 2013.

This report was developed by 16 knowledgeable participants, representing all sectors of the home inspection industry—with government and public participation—who volunteered hundreds of hours to produce this document.

When Minister Lalonde announced this document last November, she clearly stated that the operational structure within the DAA of the Home Inspection Act would follow this document.

In closing, the home inspection industry has acknowledged it's fractured. The associations have a fiefdom attitude, and the industry's consumer reputation is horrible. A couple of years ago, a Mike Holmes series berated this industry, and rightfully so.

OREA's estimate of 75% of homes inspected is inaccurate. The percentage of homes outside of Toronto is closer to 40% to 50%. The public has simply lost faith in the current home inspection process.

The information provided by a professionally trained, licensed and skilled home inspector has proven valuable time and time again. I have a thick stack of cards and emails from past clients who have expressed their appreciation as I helped them avoid the money-pit home.

A licensed structure for home inspectors, that the home-buying public can trust and believe in, is something every homebuyer deserves.

Please proceed with this legislation. Let's get step one in place: a DAA with a strong mandate to license and regulate this industry. Mr. Chairman, it's long overdue.

The Chair (Mr. Peter Tabuns): Mr. Allen—

Mr. Cameron Allen: I'm done.

The Chair (Mr. Peter Tabuns): Thank you very much. Our schedules coincide.

I go first to Mr. Singh.

Mr. Jagmeet Singh: Thank you for your input with respect to the various elements of the bill, and particularly your insight as being—you mentioned you were previously a home builder?

Mr. Cameron Allen: That's correct, sir.

Mr. Jagmeet Singh: Your insight with respect to home inspection is very insightful.

There has been a lot of talk about the importance of knowing what you're getting into, with respect to a home. Do you have any insight with respect to any other ways we can ensure that consumers are protected, beyond just knowing and having information about the status of the house?

Mr. Cameron Allen: That's a difficult question to answer in a quick stage, sir.

I feel that an energy audit is important. I think that some form of air quality inspection is important. I think they should all be done by independent professionals.

We have a lot of EnerGuide auditors who are available to fill this RAND that the province is looking at.

A home inspector's job is to provide a technical, operational, safety, functional, visual review of a home. That should be their emphasis. There's enough to do to know that job, sir, without involving them with other things.

Does that answer your question?

Mr. Jagmeet Singh: It does. Thank you very much. I appreciate it.

Mr. Cameron Allen: You're welcome.

Mr. Jagmeet Singh: I have no further questions. I want to thank you again for your presentation. There will be some more questions from other members.

Mr. Cameron Allen: I appreciate you letting me use telecom. I had a hip replaced six weeks ago, so walking is not quite right yet.

Mr. Jagmeet Singh: I wish you well in your recovery, sir.

Mr. Cameron Allen: Actually, it's doing quite well. It's just sitting for the drive from Kingston to Toronto would have been a little iffy.

Mr. Jagmeet Singh: Just a bit tough, yes.

Mr. Cameron Allen: Not a problem.

The Chair (Mr. Peter Tabuns): We go to the government, then: Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Mr. Allen, for your insight.

Mr. Cameron Allen: You're welcome.

Mrs. Amrit Mangat: The goal of Bill 59 is to improve consumer protection in many ways. Can you point to the main benefit of this legislation that alters the RAND home inspector field and also has the most positive impact on consumers?

Mr. Cameron Allen: We need a standard, ma'am. We need something to start with. There is a requirement in the document that was developed where every home inspector must pass a very intense examination. I've seen the NHICC one; I've seen the OAHI one. If the home inspector can't pass that licence, then he should go back to school. There is an existing structure in our colleges today that provides an education for that. We have to start somewhere.

With regard to the cost of this organization—I'm assuming that's your question; I missed a bit—this DAA should be self-funding. When I did my presentation to David Orazietti, I explained to him how that could be done, so I know it's somewhere in their files.

Mrs. Amrit Mangat: Would you mind sharing with the committee members how that could be done?

Mr. Cameron Allen: We estimate that's somewhere in the $1,200 to $1,500 home inspector range in Ontario. Once the initial set-up costs are past, a fee of somewhere between $500 and $700 annually—which is not out of line, if you're going to be in a business like this—should comfortably handle the overhead costs, as I broke it down.

Unfortunately, ma'am, I don't have the breakdown documents in front of me that I sent to Minister Orazietti, but I'm sure that if someone checked his files, they'd find them.

Mrs. Amrit Mangat: Thank you.

Mr. Cameron Allen: You're welcome.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Mangat.

We go, then, to the opposition: Mr. McDonell.

Mr. Jim McDonell: Thank you for joining us today.

Mr. Cameron Allen: My pleasure, sir.

Mr. Jim McDonell: You talked about the energy audit and the radon inspections. How do you see that as interfacing? Because they can't be part of the home inspections, just because of the time involved in them. That's really an opportunity for the homeowner to request them, if there's a thought behind it or a worry behind it.

Mr. Cameron Allen: At the moment, sir, approximately, according to the federal department of health, 7% of homes in Canada have radon concentrations greater than the 200 Bq level.

Properly done, a radon inspection is best done in early fall to early spring, when homes are closed up. It's much more difficult to do in the summertime. There are short-term tests of a week, but in actuality, the 30-day test is the right one to do. I don't know how a home inspector could provide that kind of information in the scope of a three- to four-hour home inspection.

Mr. Jim McDonell: Okay.

Mr. Cameron Allen: From a health aspect alone, I think it's something that everyone should do, strictly because we don't know.

From a conditioned-air position, which is what we now call the content of a home, as we tighten up our homes, sir, we're reducing the ability of the home to have natural passive airflow.

Years and years ago, when homes literally leaked and had air exchange values of eight, nine and 10, it wasn't as great an issue. Today when you look at a home—the standard today for proper air exchange is 2.5. I live in an 1894 church that I gutted four years ago, and it exceeded every standard for the international standard. Our air exchange is under 0.5. But I also have an HRV, and I also do radon testing every year.

It's simply something that a homeowner should do, not unlike changing the filter in their furnace or any other annual maintenance. It costs less than $100 to get one of the small test kits in. That seems like awful cheap insurance for your home's health.

Mr. Jim McDonell: You talk about doing it every year. Isn't there some science that if you pass once, the outside conditions and the house aren't likely going to change?

Mr. Cameron Allen: I do it every year, because I'm fussy. If it was done in a period of X years, I don't believe it would change a whole heck of a lot.

Mr. Jim McDonell: Any comments on the board makeup? It is really a consumer protection, making sure that the board is not strictly tailoring to the industry, but looking after the consumer.

Mr. Cameron Allen: I'm not privy to the information as to how the board is set up. But I do believe that it should be set up with the five or seven, obviously, and I don't believe that the home inspection industry should hold the balance in the board, sir.

Mr. Jim McDonell: Okay. The suggestion of 60% seems reasonable—that it would be non-home-inspector conflict of interest, basically.

Mr. Cameron Allen: I think the board should be made up of representatives from a couple of the home inspection associations that represent a percentage of them. I don't personally recommend that it come from any of the Internet associations, like NACHI or those. NHICC and OAHI, I think, should have representation, because between those two associations, they do have a high percentage of the inspectors that have fallen under their qualifications in Ontario.

The rest of it should be made up of consumer advocates, interested parties, someone from the legal profession, and possibly even someone from the real estate profession.

Mr. Jim McDonell: When we're moving over from an unlicensed to a licensed profession, how do you see that transition happening? Obviously, if you're going to write tests—there's a disruption of the industry, in which we go from zero now to 100%. Obviously, before you're going to give somebody the shingle, they have to qualify.

Mr. Cameron Allen: Okay, I missed the first part of your question. Sorry.

Mr. Jim McDonell: How do you transition from the state today toward a fully regulated DAA where the training credentials are actually in place? Right now there's no requirement. The regulatory system where there's full—

Mr. Cameron Allen: Right. I'm sure you've heard in the past few days how simple it is to get in. Okay, I've got your question now.

Within the document, as prepared for the province, there is a sunset clause. Within that sunset clause it's a two-year period which allows those that wish to remain in the business to write the examination. There will be an argument by the real estate associations, I expect: "What happens if we don't have enough inspectors?"

Two of the associations in Ontario, NHICC and OAHI—the RHI and the NHI are a third-party referred and confirmed inspection standard. My suggestion when I sent it to Marie-France Lalonde was to add a third year to those two designations only, so that there was an overlap period between year two and year three, so that there were sufficient home inspectors to provide the service, plus getting enough of those time to get into the process.

Did that answer your question, sir?

Mr. Jim McDonell: Yes.

The Chair (Mr. Peter Tabuns): And with that, Mr. Allen, we've run out of time. I want to thank you for your presentation today.

Members of the committee, we will be adjourning until 4 p.m. tomorrow, Tuesday, February 28, 2017.

The committee adjourned at 1741.

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