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February 24, 2023

Hon. Matt D. Klein, Chair
Senate Commerce & Consumer Protection Committee
Minnesota Senate Building
St. Paul, MN 55155-1298

Hon. Gary H. Dahms, Ranking Minority Member
Senate Commerce & Consumer Protection Committee
Minnesota Senate Building
St. Paul, MN 55155-1298

Re: SF 1635

Dear Senator Klein, Senator Dahms, and committee members,

Pursuant to my duty under section 8.32 of the Minnesota Statutes to recommend statutory changes to protect consumers, I write in strong support of SF 1635. This legislation will protect Minnesota consumers from predatory interest rates on payday loans and other short-term debt and I strongly encourage the committee to advance it.

Each year my Office receives many complaints concerning payday loans. We attempt to assist, educate, and mediate on behalf of consumers related to those complaints, but Minnesota law can permit extremely high finance charges that consumers often cannot avoid. While such loans are marketed as "one time only" or emergency credit, consumers can find themselves trapped in a downward spiral of debt as they take out a series of loans, one after another, accruing greater and greater finance charges that can quickly exceed the amount borrowed. SF 1635 replaces the formula in sections 47.60 and 47.601 that allows for these large recurring charges with a clear 36% annual interest rate. This will provide a predictable and fair rate limit (called a "usury" limit) that does not exploit Minnesotans facing difficult circumstances and financial instability.

I particularly support the bill's anti-evasion provisions. As long as usury laws have existed, unscrupulous actors have sought to evade them by attempting to disguise and shield loans from the law and enforcement. For example, after section 47.601 was added in 2009, my Office had to bring several enforcement actions to ensure compliance from online lenders. One called Integrity Advance LLC challenged the Minnesota law all the way to the Minnesota Supreme Court, which ruled that Minnesota's laws apply to online lenders. 879 N.W.2d 90 (Minn. 2015). The company was eventually enjoined from illegal lending and ordered to pay over $7 million in restitution and penalties. Another called CashCall, Inc. claimed it was exempt because it made loans under the name of a separate tribal entity, but a court recognized that CashCall could be the actual lender and thus subject to enforcement. 2014 WL 4056028, at *5 (Minn. Ct. App. Aug. 18, 2014). CashCall was eventually enjoined from violating the law and ordered to pay $4,500,000 in restitution. And as recently as last month, my Office enjoined a debt collector called TrueAccord from collection on usurious loans with up to 900% APR. We obtained $105,000 in restitution for consumers related to unlawful collection on those online loans.

The anti-evasion provisions embedded in SF 1635 will strengthen these enforcement tools and ensure that online lenders comply with the 36% rate cap. Among other things, they include provisions that codify the "true lender" doctrine, which my Office invoked in the *Cashcall* matter and ensures that lenders cannot shield their loan products behind banks, sovereign entities, and other institutions to try to evade operation of the law or enforcement.

I encourage the Senate Commerce & Consumer Protection Committee to advance this important bill. Thank you for allowing me to provide my recommendations. If you have any questions or would like additional information, my team and I would be happy to help in any way that we can.

Sincerely,

KEITH ELLISON
Attorney General