Penny Bernard Schaber

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STATE REPRESENTATIVE 57th ASSEMBLY DISTRICT

Check Scam Protection Act Testimony
AB 261

February 3, 2010

Chairman Wirch and Members of the Committee:

In many facets of society today, consumers are left unprotected. There are national level examples, such as the Bernie Madoff scandal and the mortgage crisis that demonstrate the struggles consumers face on a daily basis and their susceptibility to financial danger. Here in Wisconsin, we have not had any scandals of that magnitude, it is vitally important that we protect our constituents.

In an economic time like the one we find ourselves in now, consumers are increasingly vulnerable. Always watching their wallets and counting pennies, Wisconsinites are forced to work longer hours and act frugally simply to stay afloat. Unfortunately, the number of scams is rising and individuals are being cheated out of their hard earned money. According to the National Check Fraud Center, check fraud and counterfeiting are among the fastest-growing problems affecting the nation's financial system, creating an estimated annual loss of $10 billion. When a $1000 loan from a bank such as this arrives in the mail, cashing it at the bank provides instant gratification. Immediately, money is available to pay the bill that has been sitting on the kitchen counter. However, not only does the individual now have to repay the $1000, but the added fees and interest are significant. Similar scams send "checks" to businesses, however once deposited, these checks actually take money from the bank account usually for unwanted or unnecessary services on a monthly basis.

Especially with these scams targeting businesses and the elderly, it is important we take a stand to prevent them. While this legislation will not prevent another Bernie Madoff scandal, it is a step forward in consumer protection. As a consumer we have the right to full disclosure and this right should not be manipulated. This bill will prevent businesses from being misled into signing up for services they would normally not want or need, and protect the elderly from signing up for a monthly deduction to be taken out of their checking account without their full understanding.

AB 261 will help make sure businesses run openly and ethically to provide products or services. The bill will also provide knowledge and protection to consumers, businesses, and the elderly from having their finances drained without their knowledge. I encourage you to support this bill which would prohibit unfair and deceptive practices in trade and commerce. This bill was passed with strong bi-partisan support in the Assembly.

Thank you,

Penny Bernard Schaber

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Testimony of Senator John Lehman
Assembly Bill 261
Senate Committee on Small Business, Emergency Preparedness, Technical Colleges and Consumer Protection
February 3, 2010

Thank you Chairperson Wirch and committee members for today's public hearing on Assembly Bill 261 – legislation to protect Wisconsin consumers and businesses from so-called "check scams".

As the author of 2007 Senate Bill 211, similar legislation this committee and the full Senate approved last session, I appreciate all the work done by Representative Bernard Schaber moving the bill forward in the Assembly and addressing concerns raised along the way in this legislative session.

I'm sure most if not all committee members have received a marketing solicitation that appear to be a check, payable to you, but in actuality if endorsed signs you up for an unwanted service or commits you to some sort of financial agreement.

The Department of Agriculture Trade and Consumer Protection (DATCP) estimates that if state law specifically targeted this misleading marketing practice they would receive over 500 complaints a years from Wisconsin consumers. And in recent years our neighboring state Michigan and fifteen other states reached a $14.5 million settlement with a practitioner of a "check scam". Clearly this is not an isolated practice and people have been scammed.

Under the bill, DATCP would have the power to bring enforcement action and levy fines of up to $10,000 a penalty structure similar to that of the do-not-call list – on those engaging in this scam.

And thanks to the efforts of Representative Bernard Schaber concerns raised by some in the financial industry have been addressed while still protecting consumers. Assembly Amendment 2 allows a limited exception to the provisions of the bill but protects consumers by also requiring enhanced disclosure of what agreement is being proposed by the marketing materials, requires a verification process and protects consumers in cases where an agreement was entered into fraudulently.

In sum, AB 261 is a simple, common sense measure to help protect Wisconsin consumers and businesses from a deceptive practice.

That's why the bill, in addition to broad bipartisan support shown by the overwhelming vote in the Assembly, has garnered the support of an array of organizations including AARP, the National Federation of Independent Businesses and the Wisconsin Credit Union League.

I hope the committee will see fit to support and advance this consumer protection bill.

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