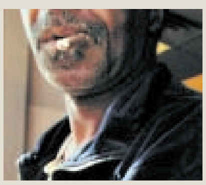
Buffalo News Special Report

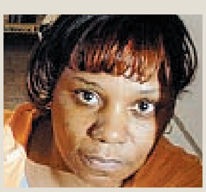
The High Cost of Being Poor

A four-part series reprinted from June 18-21, 2006

THE HIGH COST OF BEING POOR

CONTENTS
The series day-by-day





Reaction to the News series

An idea takes shape

In November 2005, about half-a-dozen Buffalo News reporters and editors sat in a circle and began brainstorming story ideas. As part of a two-day training session conducted by the Committee of Concerned Journalists, the News staffers were looking for story ideas that would be worth an extended investment of time and resources.

Jonathan Epstein, a News financial reporter who specializes in banking and insurance issues, suggested it might be worth taking a hard look at the lack of banks in some communities and the outrageous fees check-cashing businesses were charging poor people who had no other alternative. Epstein also talked about the harm done to unsophisticated home buyers who found themselves trapped by predatory lenders who loaned money at rates much higher than market value. Another member of the group mentioned the extraordinary markups of rent-to-own stores. Together, the group felt, all these things might be woven into a compelling series about the obstacles faced by the working poor.

News Editor Margaret Sullivan and Managing Editor Jerry Goldberg were intrigued by the idea, and agreed this would be a project worth a significant investment in time and resources. What resulted was a four-part series called, "The High Cost of Being Poor," which ran from June 18 to June 21, 2006. It was written by Epstein and Urban Affairs Editor Rod Watson, and edited by Projects Editor Susan Schulman, with photography by Harry Scull Jr.

The response was immediate. On Monday, June 19, the day after Part I was published, New York State Banking Commissioner Diana L. Taylor said she would confer with police and prosecutors in Buffalo to see if action should be taken against merchants charging illegally high fees to cash checks. The next day, Paul Tokasz, majority leader of the state Assembly, announced that the Assembly would hold hearings to find ways to strengthen oversight over check cashers, rent-to-own stores and "predatory" mortgage firms that prey on the working poor.

Take a look at the pages that follow, and you'll see a world that often is invisible to middle-class journalists, but is a part of the everyday world of the working poor.

Over five months, Epstein and Watson conducted more than 120 interviews. They, and other reporters, also went out to personally cash checks to confirm what they had been told by Buffalo residents.

Low-income workers face array of immoral – and illegal – charges

Harry Scull Jr./Buffalo News

The working poor have to surmount financial hurdles that seldom pose a problem for more affluent citizens. Among those are merchants who charge illegally high rates to cash checks, knowing that many low-income people have difficulty opening a checking account.

By Rod Watson
and Jonathan D. Epstein
News Staff Reporters

Day One
1
The High Cost of Being Poor

Alma Medina forked over $20 to cash a check at a corner store because she didn't have a checking account.

Nicole Hennegan turned to a rent-to-own store to buy a used TV, only to find a similar set would cost one-third as much at Kmart.

Chanell Rose paid what amounted to 180 percent in annual interest for a two-week loan against the income tax refund she needed to pay medical bills.

And Mona Lisa and Demetrius Wilson lost their home because of the interest and fees that came with their pricey mortgage.

Welcome to the world of the working poor, where people with the least end up paying the most to make it from day to day.

In this world, rent-to-own franchises are more prevalent than department stores, check cashers and predatory lenders replace banks that fled to richer communities, and high-priced corner stores rush in where supermarkets fear to tread.

Some of the costs are immoral. Others – like those at rent-to-own stores – stretch the letter of the law and are condemned by the state attorney general. Still others – the fees charged by unlicensed check cashers – are downright illegal.

And even when mainstream institutions are nearby, their services don't always help those struggling on the margins of this region's anemic economy.

Have $15,000 in your savings account? You'll get overdraft protection, free money orders and all the other perquisites of middle-class status.

Have only $50 in your account? You'll get socked in the wallet at every turn.

"I went over by $1 one time [at a bank ATM], and they charged me $30," said Juanita Smith, a public housing tenant raising four children.

It's a common lament. Call it the high cost of living on a low income.

See **Poor** Page 4

JUANITA SMITH, A PUBLIC HOUSING TENANT RAISING FOUR CHILDREN:

"I went over by $1 one time (at a bank ATM) and they charged me $30."

Neighborhood market prices can be 60 percent higher

POOR • From Page 3

It's a cycle of fees, penalties and higher prices that grab low-income people by the financial ankle, pulling them deeper into the hole no matter how hard they fight to crawl out.

Many of the costs – like paying a hefty premium to cash a check, buy a house or get a car loan – seem unimaginable to most. But they're an everyday experience for those on the margins, or below.

Low-income people pay these costs every day.

The Buffalo News talked to more than 120 residents, anti-poverty experts, community activists, bankers, merchants, check cashers, home builders and government regulators. Reporters also researched prices at stores, check cashers and rent-to-own outlets to get a picture of what life is like for those swimming upstream in a river of red ink.

"I can't get ahead. It's frustrating. It's stretching me in too many ways," said Smith, her voice trailing off as she decried the undertow of extra costs that keep people like her from ever overcoming financial mistakes or bad breaks.

"It's a fairly universal truth that low-income families are going to be paying higher prices for goods and services, for buying a car, for insurance, for filling up a car," said Matt Fellowes, senior research associate at the Brookings Institution in Washington, D.C., who is researching the cost of being poor.

Those extra costs don't result by accident. Instead, they're the result of a vacuum created by major businesses – particularly banks – leaving such neighborhoods and alternative providers filling the void.

Today, there are only 18 bank branches left on the East Side – a quarter of the 72 in the city – and most of those 18 are on the outskirts of the inner city, near the Broadway Market, Kaisertown or the University at Buffalo's South Campus.

"It sucks the economic breath out of a neighborhood when a bank branch closes," said John Taylor, president of the Washington-based National Community Reinvestment Coalition of community activists. "It's the removal of probably the most important, stable economic tenant in any neighborhood. In their absence, what's sprung up is this hybrid basic banking system, which includes payday lending, check cashers and pawnshops."

And some high-priced corner stores that break the law.

More than the law allows

In many suburban neighborhoods, you'll find a Tops and a Wegmans next to one another, and an HSBC or KeyBank not far away – or even right in the supermarket.

In the inner city, by contrast, it's primarily the corner store. It's a kind of one-stop shopping with an expensive twist: You can cash checks and buy food, but instead of paying less, everything costs more.

"The check can be $25, and they're taking $5 or $6," said Hennegan, a 23-year-old telemarketer who lives in Ferry-Grider public housing with her 7-year-old son. She was describing the check-cashing fees at delis and gas minimarts that proliferate on the East Side like air rushing in to fill a vacuum.

For bigger checks, particularly government-issued checks, the fees can be more – much more. In fact, they can run up to 10 percent of the face value of the check. And unlike at the bank, the cost often varies depending on who's behind the counter.

Medina – a mother of three who has done workfare and janitorial jobs since returning from Puerto Rico last fall – recalls paying $15 or $20 at a Grant Street liquor store to cash $200 checks.

"For me, it depends on what mood they're in," the 24-year-old said of the store clerks.

Rose seconds that, after paying $21 at a William Street market to cash her son's $210 state benefit check.

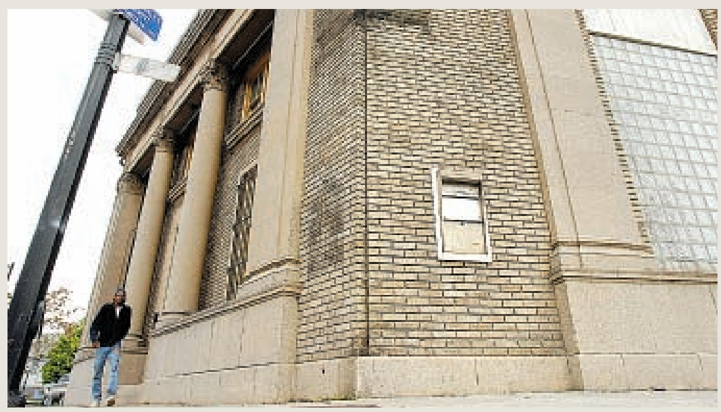
"Sometimes I can talk them down. It depends on who's behind the counter," said the 27-year-old nurse's aide. She lamented the 10 percent charge, which can take a big bite out of a check. "I depend on that money to help me pay bills because I don't bring in enough."

Such fees are illegal in New York, where only state-licensed check cashers can charge more than 99 cents – and their fees are capped at 1.64 percent of the check. There's only one such licensed operator in Western New York. That means all of those corner stores charging more than 99 cents are breaking the law.

Why would low-income people pay such fees to corner stores instead of opening a bank account?

Some, like Medina, never had a driver's license or the requisite state ID to cash checks in a bank or open an account, or they're intimidated by all the

See **Poor** Page 5



Harry Scull Jr./Buffalo News

A former Marine Midland bank sits idle on the corner of Genesee and Moselle streets. There are only 18 bank branches left on the East Side – a quarter of the 72 in the city – and most of those 18 are on the outskirts of the inner city.

World of the unbanked

A national look at the population without banking accounts and services

Number of adults	10.2 million, or 5% of U.S. population
Sex	54% women, 46% men
Race	72% white, 25% black
Age	42% under 35; 25% over 55
Occupation	More than half unemployed. Of those who work, 33 percent are blue-collar
Education	42% at least high-school graduates; 23% beyond high school
Income	70% of households earn less than $35,000 per year
Homes	60% rent.

Source: Scarborough Research

Bank fees: Giving to the rich and taking from the poor

Here's a look at two households, one low-income with $30 in its free checking account and $50 in its savings account at the end of the month; the other, a high-income household with $2,500 in checking, $15,000 in savings, $150,000 in bank investments and a $200,000 mortgage. Here's the experience of each one at the area's five largest banks.

Checking account fees and interest rates

At the end of the month, the low-income household has not earned any interest on its checking account balance, and paid a $6 fee at Bank of America. The high-income household earned between $1.25 and $6.25, with no fees.

Savings account fees and interest earned

The low-income household netted $1 at the end of the month in one case, but lost as much as $5 from the other banks. The high income household earned between $186 and $412.50.

Overdraft fees

A low-income household pays between $30 to $32 when a second check bounces in one year. The high-balance household gets a line of credit or overdraft with fees sometimes waived. M&T charges a $5 transfer fee. HSBC charges 19.49 percent interest. KeyBank charges a $5 transfer fee, 17 percent interest, and $25 annually for a credit line.

Money order fees

The low-income household pays between $6 and $10 for two money orders. Most banks waive fee for higher-income household.

ATM withdrawal fee

Low-income households pay $1.50 to $2 to use another bank's ATM. Fee is waived for most higher-income households.

	Checking account fees and interest rates				Savings account fees and interest earned				Overdraft fees		Money order fees		ATM withdrawal fee	
	Low-income		High-income		Low-income		High-income		Low-income	High-income	Low-income	High-income	Low-income	High-income
	Fees	Interest	Fees	Interest	Fees	Interest	Fees	Interest						
M&T	None	None	None	0.10%	$5	0.25%	Waived	1.75%	$32	$5	$6	Waived	$1.75	Waived
HSBC	None	None	None	0.25%	$3	0.25%	Waived	2.75%	$30	None	$10	Waived	$1	Waived
Key	None	None	None	0.05%	$4	0.15%	Waived	1.24%	$32	$5, plus 17% interest	$9.50	$9.50	$2	Waived
Bank of America	$5.95	None	None	0.10%	$3	0.50%	Waived	1.83%	$31	None	$8	Waived	$2	$2
Citizens	None	None	None	0.25%	$0	2%	Waived	2.50%	$31	None	$6	Waived	$1.75	Waived

At the end of the month, bank fees cost the low-income customer $37.75 to $49.70, while the high-income customer earned between $172.75 and $418.75.
Source: Buffalo News survey of local banks

Source: Buffalo News Research

POOR • From Page 4

questions banks ask since the 2001 terrorist attacks.

Still others, like Rose, fear the bank will seize their money for past debts, in this case to pay off old credit card loans and student loans.

But for most, the barriers are bigger. Once consumers have financial problems – primarily bouncing checks – that land them on the ChexSystems equivalent of a banking blacklist, bank accounts can seem out of reach.

That's particularly true for those who don't grow up immersed in financial literacy, aren't comfortable in banks to begin with and don't know how to straighten out problems once a bounced check escalates into a closed account.

"If you've been to a bank, and you've gotten burned by a bank, then guess what? You don't go to a bank anymore," said Buffalo Urban League President Brenda McDuffie.

Greater Buffalo Savings Bank President and CEO Andrew W. Dorn Jr. agreed, saying banks aren't always the most welcoming places for those who don't fit the prefered profile. He has even heard of a bank fingerprinting people who cash checks.

"How intimidating is that?" said Dorn, whose Main Street location cashes paychecks free for workers at nearby Sisters Hospital.

Hospital employees without checking accounts were reporting charges of $5 at banks or up to 12 percent at neighborhood stores to cash their paychecks, said David DeLorenzo, human relations director at Sisters. So DeLorenzo contacted financial institutions to get a better deal for people he says "work hard for their money."

"These people are living day to day, paycheck to paycheck," he said. "I don't even want a [hospital] vice president paying $5 when they don't need to, or a percentage out of their check."

For those managing on food stamps and workfare, such check-cashing fees are another form of "poor tax."

But it's only one of a litany of higher costs associated with being poor.

Hennegan found that out when she went to a rent-to-own store. Rose learned it when she filed for her income tax refund. The Wilsons learned it when they bought a house.

And they all experience it when buying groceries.

High-dollar diet

After cashing their checks for a fee in a corner store, low-income residents don't have to go far to face higher costs again.

Neighborhood markets may be a blessing for those without cars. But if shoppers count these blessings, they will come up short. Prices can be 10, 20 or 60 percent higher on name-brand items, food isn't as fresh, stores are smaller, and selection is practically non-existent in some cases.

See **Poor** Page 6

POOR • From Page 5

Price displays also can be hit-and-miss, which makes comparison shopping a problem. Because the county's item-pricing law exempts small stores, shoppers in neighborhood markets often don't know how much they're being charged until the cash register rings.

"Those are realities of being poor, not only in Buffalo but in America," said Masten Council Member Antoine Thompson, whose district got a Tops supermarket in 2003 after a long community battle. Other parts of the inner city aren't so lucky.

Sister Joan Sherry, who runs the Catholic Charities office in the Commodore Perry public housing complex, calls the small neighborhood stores "very expensive" for tenants, most of whom don't have cars and "pay like $7 for somebody to take them to Tops."

Often, that's a one-way fare, with shoppers taking the bus to a supermarket and paying for a jitney back when they're lugging the groceries. Or they pay a friend.

But a News comparison of prices at the big grocers versus the corner stores mentioned by residents shows shoppers can come out ahead by paying the transportation expense. Sometimes – as with bacon – the corner stores beat some large retailers, though with off-brands. But on most items, the residents were right.

For example, The News paid $11.99 for 30 size-5 Pampers at Farm Fresh Market on Bailey Avenue, while Tops sold the same pack for $10.42. Similarly, The News bought a 10-ounce box of Rice Krispies at the East Ferry Clover Farm for $3.99, while the same box cost $2.47 at Tops.

Clover Farm co-owner Victor Alabeli said the distributors that supply the family-owned small stores set the prices and the recommended markup.

"Most of the stuff, actually, we price down," Alabeli said, explaining that competition from the Jefferson Avenue Tops cut into the business of all the small stores.

Rafiq Abdo said that Big Basha marks up items by 17 to 20 percent but that most of the business is in cigarettes and beer and that residents "go to the big markets to shop" for food.

"Prices in here [are] good," he said of the gas/minimart at South Park Avenue and Louisiana Street. "We try to service the community and do our best. We never have any complaints."

Most shoppers know the price differences and realize they're paying more. But without cars, that knowledge often leaves them powerless.

Medina, for instance, takes her $435 in food stamps to the Aldi on Elmwood Avenue whenever she can get a ride.

But when the Aldi's food is gone, Medina – who can recite prices with the accuracy of someone who counts every penny – goes to her neighborhood store and pays $1.79 for a loaf of bread. That's three times the 59 cents it would cost her at the big grocery.

It's one more bite out of her meager budget – and one more example of how the poor pay more.

e-mail: rwatson@buffnews.com
e-mail: jepstein@buffnews.com

"Ten percent," the clerk said when asked to cash the $305 tax refund check. When the reporter protested what amounted to a $30 fee, the price quickly dropped. "I'll take $20."

Harry Scull Jr./Buffalo News

It's illegal for unlicensed check cashers to charge more than 99 cents for each transaction. Citgo charged a Buffalo News reporter $4 to cash a $150 payroll check and wanted $6.48 to cash a $309 bank check and $25 to cash a $305 federal income tax refund check.

Check-cashing charges exceed legal rate

By Rod Watson
NEWS STAFF REPORTER

Neighborhood stores are illegally operating unlicensed check-cashing businesses in Buffalo, charging excessive fees – as much as 10 percent – to customers in some of the poorest sections of the city, The Buffalo News found.

State law prohibits businesses from charging more than 99 cents to cash a check, unless they are licensed by the Banking Department, in which case they can charge up to 1.64 percent of the face value of the check.

But store owners in Buffalo routinely break that law, unhampered by regulators or prosecutors and charging whatever the market will bear, The News found.

Buffalo News reporters who cashed News checks at eight unlicensed stores paid fees up to $4 – well above the 99 cent limit. The fee to cash bank checks was as high as $15.

And when a reporter took an income tax refund check to the stores, the markups were even higher – much higher.

"Six percent, that's how much the banks charge," said a clerk at The Corner Store on Connecticut and 14th streets, justifying the $18.30 fee on a $305 check.

At the Sunoco minimart on East Delavan Avenue, the fee was $9. "We take $3 on every $100," the clerk said.

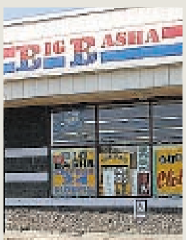
At Big Basha gas/minimart on South Park Avenue, the fee was $5 for every $100. "That's going to be $15," the clerk said after looking at the check.

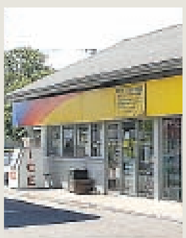
The reporter was offered a "deal" at the IGA

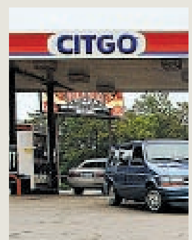
See **Illegal** Page 7

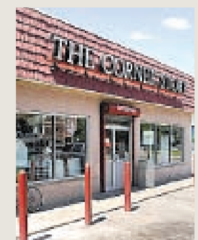
Check-cashers cash in on the poor while ignoring the law

It's illegal to charge more than 99 cents to cash checks without a license in New York, but plenty of neighborhood stores in Buffalo are doing so – and charging much, much more. Here's what four Buffalo News reporters experienced while trying to cash checks at eight unlicensed stores that neighborhood residents have complained about:









Amount/ type check	Big Basha	Sunoco minimart	IGA	Citgo minimart	Family Saver	Golden Farm	Corner Store	Frontier Liquor
	South Park Avenue	*East Delavan/ Suffolk*	*William Street*	*William Street*	*Bailey Avenue*	*Kensington Avenue*	*Connecticut and 14th streets*	*Grant Street*
Payroll check/Fee	$230/$4	$115/$3.45	$150/$2	$150/$4	$150/$2.25	$150/$3	$150/$4	$230/$4
Fees and policies	*Photocopied drivers license*		*$1 for each $100 or part of*	*$2 for every $100. Fingerprints*	*1.5 percent for every $100 Fingerprints*	*$2 fee for each $100*	*$3 for first $100 . $2 for every $100 after that*	
$309.48 bank check	$5.48	Would not cash	Would not cash	$6.48	$15	$6.48	Would not cash	Would not cash
$305 federal income tax	$15	$9	$30	$25	$18.30	$30	$18.30	$15
Fees and policies	*$5 per $100*	*$3 per $100*	*Offered to cash it for $8 later that day*	*Would not cash because it was past its 7-day limit*	*6 percent. Would not cash because it was past its 7-day limit*	*10%, willing to drop to $20 after objections*	*6 percent*	*$5 per $100*

Source: Buffalo News Research

ILLEGAL • From Page 6

market on William Street.

"We charge like 10 percent for income tax checks. But for you, I do it for $8," offered assistant manager Bassam Mawdha.

Golden Farm convenience store on Kensington Avenue was willing to negotiate.

"Ten percent," the clerk said when asked to cash the $305 tax refund check.

When the reporter protested what amounted to a $30 fee, the price quickly dropped.

"I'll take $20," the clerk said.

Such fees take a big bite out of the budgets of the working poor and those getting government assistance, who often don't have bank accounts or are so hard-pressed that they can't wait for a check to clear at a bank. The stores visited by The News were cited by residents, who repeatedly complained about the high fees and the fact the specific charge often varies depending on who's behind the counter.

Whatever the fee, if the charge is more than 99 cents and the store doesn't have a license, it is breaking the law, according to Regina Stone, deputy superintendent of licensed financial services for the state Banking Department.

Licensed check-cashers also must post a fee schedule for customers to see, and provide receipts, Stone said. None of the stores visited by The News did.

There's only one licensed check-casher – Martin Rubin's Buffalo Check Cashing on Jefferson Avenue – operating in the Buffalo area, according to the Banking Department.

A second licensed business – Delavan Check Cashing on East Delavan Avenue – was effectively shut down when banks last year refused to do business with owner Oscar Baker, who has federal money laundering and weapons convictions.

Baker is trying to reopen the business – and with good reason. Check cashing is lucrative. Rubin wouldn't reveal figures. But Baker said that in 2004 – his last full year of operation – Delavan Check Cashing processed $32.5 million worth of checks, collecting fees of $467,490.

A lot of Delavan Check Cashing's former business no doubt migrated to neighborhood stores, many charging much more than Baker or Rubin

See **Illegal** Page 8

No one seems to be enforcing the law on check cashing

ILLEGAL • From Page 7

while luring customers with curbside displays, eye-catching signs and scrolling electronic message boards.

Weeks after visiting the stores with checks, News reporters returned to ask the businesses about their check cashing policies.

Some denied charging the excessive fees. Others refused comment. But it was apparent some merchants who illegally cashed checks know the law, The News found.

At Big Basha, Rafiq Abdo was incredulous when told about the 5 percent fee The News was quoted to cash an income tax check.

"It's impossible. Anything over $100 is 1.5 percent," he insisted, referring to a past legal limit. He said the store has applied for a license, though the Banking Department lists no record of an application under that name.

At Golden Farms on Kensington Avenue, Ahmed Qassem denied that anyone at his store offered to cash an income tax check for $20 or $30. The store, he said, doesn't cash checks, except small checks for customers they know – which they do for free.

So why is there a big "Check Cashing" sign on the front of the building? Qassem was asked. The sign on the store – which also does money transfers – came that way from Western Union, Qassem said.

After checking with his partners, he later said the illegal fees might have been quoted by a rogue employee who was recently fired.

At the IGA market in the Towne Garden Plaza on William Street, Mawdha said the store charges $1 or $2 to cash checks and does it only for people who shop there.

"We lose a lot of money, too. Sometimes the check is no good," he said, showing reporters checks that had bounced.

Mawdha said he didn't recall previously saying the store charges 10 percent to cash income tax checks, or offering to cash one for $8. Asked if the store has a license to cash checks, he said the store's bookkeeper had it and referred questions to her. When contacted, the bookkeeper said she couldn't comment without the store's permission.

At The Corner Store, a manager who identified himself only as Mike, said he couldn't comment on the 6 percent fee quoted there. He also said he didn't know the store owner's last name or phone number and had no way of contacting him.

It was a similar story at Frontier Liquor on Grant Street, where a reporter going in as a customer was charged $4 to cash a $250 payroll check and was told the rate varies by type of check, with a fee of $5 per $100 for income tax checks.

When other reporters returned weeks later to get the store's explanation, the owner – identified by workers as Bill – said the store hasn't cashed checks in two years. He refused to give his last name and would say no more – except to point to another store down the block that he said cashes checks.

At the Citgo minimart at William Street and Fillmore Avenue, manager Kattu Anand said the store stopped cashing tax return checks last year. He had no explanation for the price a clerk quoted The News, but noted "I'm not here all the time."

As for not having a license to cash checks, Anand said regulators never mentioned that requirement. "They never asked. If they do, then we would definitely go for it," he said of the license. "Whatever is necessary, you have to do."

Stone, with the state Banking Department, said the Buffalo stores that charge more than 99 cents to cash checks without a license should "write in to the Banking Department and identify what they're doing." She said the department would advise them to stop until they get a determination from state officials.

So how do the stores get away with it? Because no one seems to be enforcing the law.

Stone said the Banking Department only regulates licensed check cashers, who must pay a $3,000 application fee – raised last month from $250 – as well as annual fees and undergo background probes.

What about the corner stores cashing checks without a license and charging more than 99 cents?

Banking Department officials said it's up to local law enforcement agencies to prosecute them, though the department will refer cases when they get complaints. A spokesman said they have not referred any Buffalo cases for prosecution.

Reporter Emma Sapong contributed to this story
e-mail: rwatson@buffnews.com

Harry Scull Jr. / Buffalo News

Check cashing law

Aside from banks, businesses like supermarkets may cash checks as part of their regular activities if they don't charge more than 99 cents. Otherwise, according to state laws and regulations, businesses that cash checks:

- Must be licensed by New York Banking Department, and must post that license.
- Can charge no more than 1.64 percent of the face value of the check.
- Must provide a receipt.
- Must post a fee schedule, in one-cent increments, in English and Spanish.
- May not loan money, including against paychecks.
- Must have at least one year of experience in check-cashing.
- Must submit to the state an investigative background report and fingerprints for all principals and employees.

Source: New York State Banking Department

RENT-TO-OWN BUYS MISERY FOR THE POOR

Harry Scull Jr./Buffalo News

Nicole Hennegan purchased a used television through a rent-to-own store. The set, which would have cost not much more than $300 new, would have cost her almost $1,000. But after missing her fourth $80 payment, the set was repossessed, and she lost the $240 she had already paid.

By Jonathan D. Epstein and Rod Watson

NEWS STAFF REPORTERS

DAY TWO
The High Cost of Being Poor

Here's how life works for the working poor – the people without credit cards or cash savings – when the washing machine breaks, the kids need a bed, or the family wants a television.

They do what Nicole Hennegan did: Go to a nearby rent-to-own store, where, for $80 a month, she picked out a used television for herself and her 7-year-old son.

Of course, the payments would continue for a year. In the end, it would cost almost $1,000 for a used 36-inch TV and stand that sells for not much more than $300 new at Kmart.

"I didn't have the money to buy it in cash," Hennegan said.

It's another cost of being poor.

"People know that they're getting ripped off. They just don't know how much," said Peter Dellinger, an attorney at Rochester's Empire Justice Center.

The Buffalo News reviewed the cost of items at three rent-to-own chains operating locally – Rent-A-Center, Aaron's Sales & Lease Ownership and Rentway – and checked the cost of the same or comparable items online or at retail stores.

Here's what The News found:

• A washer and dryer, selling for less than $660 at Best Buy or Lowe's, sold for as much as $2,000 if purchased over 24 months at Rentway.

• A refrigerator, selling for $430 at Sears or $448 at Lowe's, costs up to $1,700 when purchased over 24 months at Rentway.

• A Dell desktop computer, selling online for $559, costs nearly $3,500 when purchased over 21 months at Rent-A-Center.

• A 27-inch JVC television, selling for $215 on Amazon.com, costs nearly $1,000 over 15 months at Rentway.

"Rent-to-owns is just a real troubling industry," said Daniel J.

See **Rent-to-own** Page 10

EAST SIDE ACTIVIST MICHELE JOHNSON:

"You're stuck paying $20 a week, and by the time you're done paying for it, you've paid three times what it's worth. It's robbery."

$559 computer costs $3,455 at rent-to-own store

RENT-TO-OWN • From Page 9

Harry Scull Jr. / Buffalo News

Rent-to-own stores require customers to have only an income and home address to qualify.

Marked up – and up and up and up

While monthly costs are affordable, total rent-to-own costs can be up to three to four times the price in traditional retail stores.

	Total cost to own under life of rental contract			Retail Cost
Item	Rent-A-Center	Aaron's	Rentway	Sears, Best Buy, Lowe's, online
Supercapacity gas dryer *Monthly fees from $78 to $87*	$1,636	$960	$2,079	$658
Refrigerator *Monthly fees from $69 to $70*	$1,455	$840	$1,663	$430
Desktop computer *Monthly fees from $99 to $165*	$3,455	$1,200	$2,520	$559
27-inch television *Monthly fees from $45 to $65*	$844	$540	$974	$215

Note: Terms are for 12 to 24 months. Weekly rates are also available at Rent-A-Center and Rentway, bimonthly rates at Aaron's. Retail price is best price for same or comparable item from Sears, Best Buy, Lowe's or online.

Source: Buffalo News research

Burns, president of M&T Bank Corp.'s Rochester region and head of a United Way program to dissuade consumers from using rent-to-own stores.

Rent-to-own stores dot the American landscape, with nearly 60 in the Buffalo area. Most are in poor neighborhoods, many in Buffalo, where store owners and managers boast of giving people with no credit or savings the ability to buy large household goods with low payments over time.

"This is a unique and valuable combination of goods and services that a growing segment of the American public finds valuable," said Mary Gazioglu, a spokeswoman for Rent-A-Center, the No. 1 rent-to-own chain.

"We're giving them new products at fair prices and a good shopping experience," added Gilbert L. Danielson, chief financial officer for Aaron Rents, the No. 2 national chain.

But critics – including consumer lawyers and officials from the state attorney general's office – say the industry preys on those who can least afford its excessive fees.

Yet, the state attorney general's office says the prices – horrifying to consumers – are legal under New York's 20-year-old "rental-purchase" law.

"The law is written poorly since it gives rent-to-own stores very wide discretion to set prices," said Jim Morrissey, assistant attorney general in Buffalo. "They may not need to engage in outright deception, because the law grants them such latitude in what they may charge."

But consumer advocates are skeptical. The Empire Justice Center – a statewide consumer advocacy group – sued the rent-to-own industry at least eight times on behalf of individual consumers. The suits alleged the stores overcharged consumers, violating the intent, if not the specific language, of the state rental-purchase law.

All eight cases were settled out of court, so the industry practices were not tested before a judge or jury.

"You're stuck paying $20 a week, and by the time you're done paying for it, you've paid three times what it's worth," said East Side activist Michele Johnson. "It's robbery."

That was the experience of Hennegan. And of Mary Hayward, Alma Medina and others.

Medina moved back to Buffalo from Puerto Rico last September with no furniture and no job. But she couldn't have her children sleeping on the floor. So the 24-year-old single mother agreed to pay Rent-A-Center on Grant Street $189 a month over 15 months for two metal-framed beds. That's more than $2,800 for a set that would cost less than $1,000 in a department store.

Hayward, 66, lives in a housing project, has no car and takes care of her twin grandsons along with her granddaughter. When her dryer broke during a snowstorm, she couldn't wait for layaway at Sears. She also wanted a computer for her 17-year-old granddaughter for school.

She turned to Rent-A-Center, agreeing to pay $184 a month for both, or more than $3,700 over 20 months for items that together sold for less than $1,000 in regular retail stores.

"It makes me feel sick. They're terrible," she said. "They're charging too much."

State regulated

Rent-to-own is a growing industry, with some 8,300 stores nationwide serving 2.7 million people. It generates $6.6 billion in revenues annually.

The stores allow customers to buy brand-name appliances, furniture and electronics under long-term payment plans while using the items immediately. They don't check credit.

The customer can rent for as little as one week or make weekly or monthly payments until completing the contract, usually after 12 to 24 months, when the items become theirs. Or the customer can buy the item at any time, paying a lesser "cash price" early.

All prices – including the total – are spelled out. Many items are used. There's no penalty or obligation if customers return the item early. If a payment is missed, the item is reclaimed within a week with no refund.

Stores provide free delivery or pickup within a day, free service during the rental period and replacement merchandise if something breaks.

Currently, 47 states and the District of Columbia have laws to govern industry practices. Nine states limit total charges, but critics say most laws are weak and were written by the industry.

Industry officials said they sought state-by-state regulation in the 1980s, offering consumer disclosures in exchange for getting their transactions declared as leases and not loan sales, which are more restrictive.

Today, the toughest conditions are in Wisconsin,

See **Rent-to-own** Page 11

RENT-TO-OWN • From Page 10

Minnesota and New Jersey, where courts view rent-to-own contracts as credit sales subject to stricter lending rules and disclosures. Some companies either won't do business there or use special systems.

Ripe for abuses

When New York's law was introduced in 1986, backed by Gov. Mario Cuomo, the total price for rent-to-own purchases was a sticking point.

Lawmakers considered limiting the total price to 125 percent of the "cash price" but later agreed to twice the "cash price" – 200 percent. The cash price is what the store would charge to sell the item outright rather than on a rent-to-own basis.

But the law lets rent-to-own stores set those cash prices. They generally set them higher than traditional retailers.

That's the problem, says Dellinger. "That's clearly not the intent of the rent-to-own law," Dellinger said. "That's crazy."

Lawmakers, Dellinger contends, meant for the cash price to be based on traditional retail prices, set by merchants such as Sears or Orville's.

In fact, at the time the bill was being discussed, former State Attorney General Robert Abrams expressed concern about a "potential for abuse in creating fictitious cash prices."

But the rent-to-own industry says it has higher operating costs than traditional stores because there's more turnover of goods and more intensive customer service. They also say they pay higher wholesale prices for items because they generally lack the buying power of Sears, Best Buy or Wal-Mart.

"Is our transaction expensive? Sure, if you look at the end price on something," said Bill Keese, with the Association of Progressive Rental Organizations, an industry trade group based in Austin, Texas. "But we do a lot of things that retailers charge extra for."

There's also more risk, they say, so the business model is different. "They are in our stores because they're credit-constrained," said Danielson of Aaron Rents, parent of Aaron's stores. "You have to get a premium for that."

And they argue a consumer would pay almost as much at a traditional store with interest, delivery and finance fees through a retail credit plan. Such interest often exceeds 25 percent a year.

"I don't think we're that far off," Danielson said.

But The News found that's not always the case.

The Dell computer sold online for $559 has a cash price of as much as $1,700 at Rent-A-Center. Even with 25 percent interest over two years, the retail cost would be closer to $720.

The refrigerator, with two years' interest, would cost $552 at a regular retailer. That's comparable to Aaron's, but less than the $730 cash price at Rent-A-Center and $831 at Rentway.

Critics like Dellinger say New York's law must be changed.

But a spokesman for one of the law's key sponsors, State Sen. Dean Skelos, R-Rockville Centre, said that's unlikely.

"We have not received one complaint about this bill in 20 years," said spokesman Tom Dunham. "I don't think anybody's given the Legislature a reason to go back and revisit it."

And the rent-to-own industry vows to fight any attempt to stiffen state laws, said Keese of the industry group.

Over the past five years the industry contributed more than $21,000 to various candidates. Almost half went to Skelos, now deputy majority leader.

Nationally, the industry – with former House Majority Leader Richard Armey on Rent-A-Center's board – wants federal legislation to provide consistent rules from state to state. That effort isn't going anywhere.

Rent-to-own customers, meanwhile, are left paying their exorbitant bills.

"The poor have limited economic options. That's something people don't understand who haven't been poor," said Karen Nicolson, of Legal Services for the Elderly, Disabled or Disadvantaged of Western New York.

Medina now owns her beds. Just over a month after she started paying, her children's father used his tax refund to buy the beds from the rent-to-own.

It cost him more than $1,520 – at least 50 percent more than at the mall.

Hayward, in contrast, plunked down $2,360 before paying off the computer. She still owes $120 on the dryer.

And Hennegan? The single mother, employed as a telemarketer, made three $80 payments to Rent-A-Center on the 36-inch used Philips television. But when she missed the next payment, the TV was repossessed within days. She lost $240 already paid.

"I didn't have the money to buy it in cash," she said. "To me it seemed like it went down the drain."

e-mail: jepstein@buffnews.com; rwatson@buffnews.com

Some tax firms use loophole to grab money from poor

Rent-to-own stores offer a pricey way to buy goods, but there are equally costly ways for low-income consumers to borrow money.

In a world of alternative lending, consumers desperate for cash turn to pawn shops and other storefront lenders to obtain loans against their jewelry, paychecks, cars or almost anything else they can muster – even their income tax refunds.

"There's a whole separate genre of consumer exploitation exclusively targeted at low-income consumers," said Stuart Rossman, litigation director at National Consumer Law Center.

Tax "refund anticipation loans" are among the most common and controversial of these short-term loans offered outside traditional banking.

> ***"There's a whole separate genre of consumer exploitation exclusively targeted at low-income consumers."***
> *Stuart Rossman, of national consumer law center:*

Often advertised as "rapid" or "instant" refunds, taxpayers get them through paid preparers, such as Jackson-Hewitt or H&R Block.

Traditionally, these firms prepare returns for a fee, and refunds arrive in as little as eight days if done electronically. If the customer doesn't want to wait, tax preparers will offer them a bank loan for two weeks or less.

But it's not cheap.

There's typically a $25 to $30 fee to set up a temporary bank account. There's also a $30 to $130 loan processing charge, depending on the size of the refund, and whether the customer wants the money within 48 hours or the same day. And some preparers charge a $30 application fee. That's all on top of tax preparation fees that average $146 for these customers.

The loan is repaid when the IRS deposits the refund into the temporary account. But if the IRS challenges the refund – delaying or reducing it – the loan is still due.

Chanell Rose took that path this year. The 27-year-old single mother was hurt in a car accident in March 2005 and needed cash to pay medical bills and feed her family. She went to H&R Block and paid $140 to get her taxes done, and $90 more for the refund anticipation loan.

That represented an annual interest rate of about 180 percent for a two-week loan on her $1,300 refund. That normally would exceed interest caps in many states. New York, for example, bars small-loan rates over 25 percent.

But H&R Block and other preparers get around that by using out-of-state banks, like Delaware-based HSBC Bank USA, to make loans. These banks are often headquartered in states without interest limits – like Delaware – so it's that state's laws that apply.

In 2004, about 12.4 million Americans paid $1.24 billion in tax loan fees, according to IRS data compiled by National Consumer Law Center and the Consumer Federation of America.

See **Loans** Page 12

Tax firms use loophole to grab money

Amazing rates

Taxpayers can borrow against their tax refund – for an additional fee. Here's Chanell Rose's experience when she took her taxes to H&R Block.

Amount of refund	$1,300
Tax preparation fee	$143
Instant refund loan fees	$89.90
Annual interest rate	180%
Actual refund after fees	$1,067.10

Source: H&R Block/Chanell Rose

LOANS • From Page 11

Three-fourths went to low-income workers who get the Earned Income Tax Credit. "The whole point of the [tax credit] is not to make profits for the tax preparers," said Robert Manning, consumer finance professor at Rochester Institute of Technology.

Tax firms have faced numerous lawsuits over how they market the loans and disclose their terms. H&R Block, the nation's biggest preparer, has paid tens of millions of dollars to settle dozens of these cases.

"I have a huge issue with refund anticipation loans, but if somebody goes into one of these places, there's not a lot we can do," said New York bank superintendent Diana Taylor.

Under pressure from consumer activists, H&R Block began to better inform customers of fees and other options. The Kansas City-based company says it makes sure people know that borrowing against their tax refund is a loan and tries to discourage them. But it still promotes it with big signs.

"We'd like clients to choose something other than a [loan], but low-income clients need to be able to make the choice," said Vice President Bernie Wilson.

Equally controversial are "payday" loans, which is borrowing money for about two weeks against a paycheck or post-dated check written to the lender. Like "title" loans – which put a car up for collateral instead of a paycheck – payday loans are denounced by consumer advocates and are illegal in New York State. However, consumers can get them online.

– Jonathan D. Epstein

Harry Scull Jr. / Buffalo News

Chanell Rose, outside her South Division Street home, needed cash to pay medical bills so she got a loan against her tax return from H&R Block. The interest amounted to an annual interest rate of about 180 percent for a two-week loan.

PREDATORY LOANS TURN HOME INTO BAD DREAM

Harry Scull Jr./Buffalo News

Dimitrius and Mona Lisa Wilson finally achieved their dream of owning their own home, but lost it because of high interest rates and fees that some consider predatory.

By Jonathan D. Epstein

NEWS STAFF REPORTERS

DAY THREE

The High Cost of Being Poor

When Mona Lisa Wilson's day care business began taking off several years ago, she and her husband, Dimitrius, thought it was time to fulfill their dream: to own a home.

With four children and an annual income of $38,450, the Wilsons feared that dream was out of their reach, especially with Wilson's health problems and the family's past credit problems. So the Wilsons were excited when their home builder found a lender willing to help. But soon the Wilsons were shelling out $14,400 annually in mortgage, insurance and taxes. That was 37 percent of their earnings – 9 points higher than finance experts advise. High fees and penalties made it worse.

"We should have done more homework. We were just excited about this being our first home, and it was brand new," said Mrs. Wilson, 43.

The Wilsons experienced the world of "predatory lending," an ill-defined realm of transactions that are legal yet often prey on those with limited income and poor credit, advocates for the low-income residents say. It's a territory not generally inhabited by banks, but by mortgage companies and loan brokers eager to make a buck off the unsuspecting and inexperienced.

And it's another high cost on low-income people – just as they think they are about to break into the middle class.

For the Wilsons, the first hit came when their home builder took the unusual step of helping them get a loan – at any cost – through a local broker, a middleman who earned a high fee for arranging the loan.

Things got worse when the Wilsons got a mortgage rate higher than what most banks were offering customers.

The final blow came when the Wilsons, lacking a family attorney to look out for their interests, used a real estate lawyer referred to them by the builder and real estate agent. That lawyer did what he was legally required to do at the closing – ensure the mortgage is legal and properly filed. But he gave no advice about whether the loan

See **Lending** Page 14

Buffalo particularly susceptible to predatory loans from firms serving those with bad credit

LENDING • From Page 13

rates and fees seemed reasonable.

"It was set up for us to fail from the beginning," Mrs. Wilson said. "We made a bad decision, and we should have waited."

In the end, the home builder, real estate agent, mortgage broker, lender and the attorney the builder referred them to profited.

But with none of them looking out for the Wilsons' interests, the new homeowners took on a financial burden that proved unbearable.

In December, four years after buying their dream house, they lost it. In January, they filed for bankruptcy.

"They're so excited that they're going to get a house, they don't know that they should look into things," said Michele Johnson, an East Side housing activist. "They don't get an appraisal. They don't get an inspection. They don't get anything. And in the meantime, they're screwed beyond belief. It just happens over and over."

Predatory loans

Predatory loans, on the rise in America, are devastating to low-income borrowers like the Wilsons, who lose their homes, and to low-income neighborhoods, which see more abandoned and neglected properties and a drop in housing values.

As with many struggling communities, Buffalo is particularly susceptible, experts say, because there's an unusually high level of high-cost, risky loans issued in the city by companies serving borrowers with bad credit.

Such high-rate loans aren't necessarily bad, and not every such loan is predatory. This risky lending, in fact, makes credit and homeownership accessible for many who couldn't otherwise get a loan.

But as the Wilsons found, when such loans cross the line to become unaffordable, they're considered predatory – with terms, rates and fees that are beyond the borrower's ability to repay.

While no numbers are available, Johnson suspects about half the 30 foreclosures she sees weekly in Buffalo are from predatory loans, especially on the East Side. Others agree.

"You look at some of the predatory lending schemes and insurance schemes, and it's the poor who really bear the brunt of them," said New York Banking Superintendent Diana Taylor.

The Wilsons first ventured into the world of high-interest loans in 1996, paying $11,000 for a 1994 Chrysler Concorde from Master Motors, a "buy here, pay here" used-car dealer in Lancaster.

With no credit history, they paid 13 percent annual interest to a car finance company for three years. That was three points higher than the average – adding $600 to the cost.

It could have been worse. If no finance company loaned them the money, Master Motors would finance the car itself at 15.5 percent. Other lenders it uses charge 24 percent.

The state's usury cap, or interest rate limit, is 16 percent for consumer loans but 25 percent for business loans and loans under $50,000, such as car loans.

Master Motors Vice President Salvatore S. Trigilio said the rates are fair.

"They're people who have had serious credit issues in the past and they're high-risk buyers," he said.

The Wilsons couldn't keep up with their $371 monthly payment, though. The car was seized in 1999. While that harmed their credit, it didn't compare to their experience with a home.

Home buyer subsidy

After two years of housing counseling classes required to qualify for Buffalo's first-time home buyer subsidy program, the Wilsons felt prepared to buy a home. They chose their dream house on Waverly Street, on the East Side.

It would be a newly built 1,918-square-foot, two-story white home with maroon shutters, a one-car garage and a big yard. The house was almost $105,000, but with a $25,000 city subsidy for low-income first-time home buyers, they thought the $79,000 price was doable.

Given their income and poor credit, however, the Wilsons were repeatedly turned down for a traditional bank mortgage. Besides the car loan, they had credit card debt and medical bills for Wilson, who was disabled in a 1997 work accident.

So they turned to their builder, Rocco Termini of Burke Brothers Construction. He suggested National City Mortgage, a broker that finds lenders for clients.

National City, a Cleveland bank's subsidiary that had an office on Main Street in Amherst, contacted Fremont Investment & Loan of California. And Fremont, a mortgage company that lends to people with bad credit, loaned the Wilsons $78,600 in October 2001, with a $500 down payment.

The Wilsons didn't have their own attorney, so Termini and the real estate agent from Hunt/ERA recommended one they used before, Philip S. Chamot.

Chamot said his role was to review the property title and ensure the final documents matched the original agreement. He said he isn't paid to offer financial or credit advice.

"Maybe there should be some ombudsman out there," he said. "But that's not what I was hired for."

But a real estate attorney who teaches ethics for

See **Lending** Page 15

Charles Lewis/Buffalo News

The Wilsons didn't qualify for a traditional bank mortgage on their Waverly Street home, but a mortgage broker got them a loan with a 10.49 percent interest rate at a time when traditional mortgages carried 6.6 percent.

Crushed by high interest and fees

Mortgage rates averaged 6.6 percent in 2001, when the Wilsons got their house. But they paid considerably more, in addition to closing fees a local consumer lawyer called excessive.

Income	$38,450*
Loan amount	$78,600
Mortgage rate	10.49%
Monthly loan payment	$718
Refinancing fee	20% of prepayment in first 5 years
Late payment fee	6% of monthly payment
Loan origination fee to lender	$489
Mortgage broker fee	$2,200**
Processing fee to lender	$400
Credit report	$55
Homeowners insurance	$500

** Because half of the Wilsons' income comes from government payments, banks "gross up" amount to adjust for tax exemption when determining loan eligibility. The Wilsons' adjusted income was $44,600.*

*** Broker also got $1,512 commission from lender.*

Source: Buffalo News Research

LENDING • From Page 14

the New York Bar Association said lawyers have a responsibility to alert clients if loan terms, such as those on the Wilsons' loan, seem unusually burdensome.

"It's my business to point out things like prepayment penalties and things that are not typical in a usual residential loan," said Anne Copps, an Albany real estate lawyer who co-chairs the Bar Association's Real Property Section's Professionalism Committee. "... It would be something I would point out if I thought it was predatory."

Attorney Gregory J. Perla represented Fremont and National City at the closing.

But while Perla said he would have explained the terms to the couple, he said it's not his responsibility to question the terms or whether the clients can afford them.

"I have no love for these secondary lenders," he said. "They prey on these people and do everything they can to protect their interests and ensure they're paid back. But I don't think these people would be able to buy a house in any other way."

The interest rate

The Wilsons received an interest rate of 10.49 percent, four points above the national average of 6.6 percent at the time. With a $38,450 income, they had a $718 monthly loan payment.

Brokers are supposed to find the best rate for their customers, but anything over 9.6 percent was excessive at the time, even with bad credit, said Legal Aid Bureau attorney Athena McCrory, who examined the loan for The Buffalo News. She labels the loan the Wilsons received as predatory.

"That's kind of high for someone who went to a broker. They were not looking out for the buyer's interest," McCrory said of National City. "The lender knew what they were doing. The buyer had no idea."

The loan agreement carried a hefty prepayment penalty, making it cost-prohibitive to refinance in the first five years, as well as a 6 percent late fee – triple what McCrory said is normal but common in abusive lending.

Closing costs were also excessive and dubious, McCrory said.

They included a $489 loan origination fee to Fremont, a $2,200 broker's origination fee to National City and a $400 processing fee to Fremont. Fremont also paid a commission of $1,512 to National City – a reward for a high-cost loan.

Most other closing costs, for legal fees and recording taxes, were normal, although McCrory said a credit report costing $55 should have cost $10.

Even so, closing costs totaled more than $5,400, without insurance or property taxes. Half was for application or broker fees – higher than a standard loan for a good customer.

So why did Termini put them on this road?

Termini's defense

Termini defended his efforts, citing a push by the city and U.S. government to get more low-income people into homes. Many other families he worked with, who had good credit, obtained rates of 3.5 percent through a government program and had no problems, The News found.

Harry Scull Jr./Buffalo News

"The lender knew what they were doing. The buyer had no idea," said Legal Aid Bureau attorney Athena McCrory. She labeled a loan given to Dimitrius and Mona Lisa Wilson of Buffalo predatory.

Here are warning signs for a predatory loan

Things consumers need to watch out for

- Approving a loan for more than the borrower can pay or the home is worth.
- Charging excessive rates and fees or charging duplicative or unnecessary fees without lowering the rate.
- Requiring and financing the cost of credit life insurance.
- Imposing "balloon" payment so remaining debt is due at once after specified time.
- Penalizing borrowers for prepaying all or part of the loan after more than three years and charging a fee of six months' interest.
- Repetitively "flipping" or refinancing mortgages with no benefit to borrower.
- "Steering" borrowers into a high-cost loan when they could qualify for lower rate.

Consumers concerned they are being offered, or have, predatory loans can call Legal Aid Bureau at 853-9555 or Buffalo Urban League at 854-7625

Source: Buffalo News Research

"I want everyone to get a conventional mortgage. But some people can't," Termini said.

The loan should have been affordable for the Wilsons, Termini said, given that a chunk of the family's income is tax-exempt.

About half the family's $38,450 income comes from Wilson's Social Security disability and workers' compensation since his 1997 work accident.

Whatever portion of a borrower's income consists of nontaxed government benefits, mortgage lenders typically "gross it up," or inflate, when determining affordability. The "gross up" formula would raise the Wilsons' $38,450 income to nearly $44,600, The Buffalo News found.

But Termini claimed the income was even higher, about $51,000, based largely on $1,560 monthly Social Security payments he claims two of the Wilsons' children received because of their father's disability. Those payments would total $18,720 annually.

But such payments would appear to violate Social Security benefit limits. And Social Security documents obtained by The News show three Wilson children received $564 each for all of 2001 – totaling $1,692 annually, not $18,720. The $1,692 is in-

See **Lending** Page 17

STATE TO STUDY ILLEGAL CHECK FEES

Banking chief to talk to police, prosecutors

By Rod Watson
NEWS STAFF REPORTER

State Banking Superintendent Diana L. Taylor said Monday she will confer with police and prosecutors in Buffalo to see if action should be taken against corner stores charging illegally high fees to cash checks. But State Sen. Marc A. Coppola said Taylor shouldn't have to confer with anyone. Coppola ridiculed the Banking Department's contention that it cannot on its own go after stores charging up to 10 percent to cash checks and said that, if necessary, he will submit legislation that "specifically empowers" the Banking Department to enforce the law.

Both developments came amid a Buffalo News investigation that revealed neighborhood stores and gas minimarts cashing checks without a license and charging residents far more than the 99 cents state law allows. The News was quoted fees of up to $30 to cash a $305 federal income tax check - and lesser, but still illegal, fees for other checks - after visiting eight neighborhood stores cited by residents. The stores operate in plain sight. Some even have signs advertising their check-cashing services. Taylor said her department does not have enforcement authority and works with local police and prosecutors when it gets complaints, sometimes even going "undercover"to collect evidence. When it uncovers a legitimate complaint, the department sends out so-called "14-day letters" giving offenders two weeks to explain what they're doing and to stop breaking the law. Though the department reported looking into one complaint here last year, a spokesman said no such formal letters have been issued to stores in Buffalo.

Coppola, D-Buffalo, scoffed at the department's approach of seeking explanations from the stores that are cashing checks. "Why would they call and say, "I'm charging these exorbitant fees. Am I allowed to?'" Coppola said.

Coppola said his chief of staff, an attorney, researched banking law and concluded the department already is empowered to go after unlicensed check-cashers on its own. He pointed to language empowering the superintendent to "make such rulings, demands and findings as [s]he may deem necessary for the proper conduct of the business authorized and licensed under and for the enforcement of this article."

In a letter to Taylor, Coppola said that section and another that mandates a license in order to cash checks "clearly give your department the authority and the responsibility to take actions against those who cash checks without a license."

Derek Gee/Buffalo News

The Banking Department should be protecting people, many of whom are low-income and can't get bank accounts. As a result, they end up paying far more than most when they have to cash a check.
State Sen. Marc A. Coppola

But just in case there's any question, Coppola is drafting an amendment making clear that "enforcement of this provision shall be the obligation of the superintendent."

He said the Banking Department should be protecting people, many of whom are low-income and can't get bank accounts. As a result, they end up paying far more than most when they have to cash a check. "These are the people who can least afford it," Coppola said. Taylor wouldn't comment on the letter. "I do not respond to letters in the media. I will respond to him directly," she said.

But she and John Dinin, the department's director of criminal investigations, noted the department has only six investigators for the whole state and no office in Buffalo. Investigators located here might have noticed some of the "We Cash Checks" signs and launched a probe, they agreed, if the department had more staff. "We do absolutely go after unlicensed interests in the state, whenever and wherever we hear about them," Taylor said.

In light of The News' findings, she said, she will confer with police and prosecutors here "and take appropriate action if it is warranted." She and Dinin declined to be more specific for fear of compromising any possible probe.

Erie County District Attorney Frank J. Clark said that no one has complained to him about the illegal check-cashers and that he was surprised by The News' findings. Clark pointed to two potential problems in going after the corner stores: If a customer complained, he said, it could turn into a "he said, she said" case that could be hard to prove. Second, the amounts of money - $15 or $30 - in individual cases are so small that going after them might not be an efficient use of resources.

But, Clark said, if the Police Department decided this is a "quality of life" issue that merited an undercover operation in which officers could testify about widespread illegal fees that add up to big money, an undercover probe could be worth doing. "I would be willing to sit down with the [police] commissioner and say, "Is this something we want to target?'" Clark said.

Police Commissioner H. McCarthy Gipson did not return calls to comment Monday. Clark added that there also would have to be a commitment from judges to penalize the offenders if police build the case and his office prosecutes it. "The idea requires a commitment from three separate branches," he said. Currently, state law classifies the offense a misdemeanor punishable by up to a year in prison and fines on the stores of up to $500.

Coppola's proposal would hike the fines to "no less than $1,000 and no more than $5,000," in addition to putting clear responsibility on the Banking Department.

Coppola, a former Common Council member, said the City of Buffalo doesn't have the resources or expertise to send out inspectors to enforce the state law. He said neither does Niagara Falls, which he also represents in the Senate and which he said no doubt also has unlicensed stores cashing checks and charging illegal fees. There is only one licensed check casher - Buffalo Check Cashing on Jefferson Avenue - operating in Western New York. It's allowed to charge only 1.64 percent of the face value of the check. Any other store charging more than 99 cents to cash checks is breaking the law.

News reporter Jonathan D. Epstein contributed to this report.

e-mail: rwatson@buffnews.com

LENDING • From Page 15

cluded in the Wilson' $38,450 income.

Some of Termini's other figures for the Wilsons' income also don't add up, such as Mrs. Wilson's day care earnings and Wilson's government payments, The News found.

Termini refuses to allow The News to review his documents, saying he doesn't want to be in the middle, and referred questions to the lender and broker.

Officials for Fremont did not return calls to comment. But a spokesman for National City said the company "adheres to strict fair-lending principles."

Spokesman Chris Kemper wouldn't discuss the Wilsons' loan, citing privacy. But he said a loan's pricing and features depend on a borrower's credit history, debt level and loan size relative to the home's value.

More high-risk loans

Lending to borrowers with bad credit has grown sharply in recent years as companies learned to better measure and price risk.

Today, there are more than $516 billion in these high-rate, high-risk loans, up 1,000 percent in a decade, according to the Center for Responsive Lending, a North Carolina advocacy group that fights abuses. And it's very profitable.

That has attracted top names in the banking industry, such as Citigroup, Wells Fargo & Co., and HSBC Holdings Plc, parent of HSBC Bank USA. Citigroup owns the car lender the Wilsons previously used.

But the profits also draw smaller, less reputable players. They are less concerned if a borrower can repay, and they solicit loans by phone, mail or door-to-door.

Their brokers and officers get paid for high-rate loans, creating an incentive to make a deal, critics say. Since the loans are backed by property, or insured by government agencies such as the Federal Housing Administration, lenders have little risk.

No one knows how much of the high-risk loan market is predatory, but by some estimates, abusive practices increase costs for borrowers by as much as $9.1 billion annually.

"They prey on people who have poor credit. They prey on the seniors, "Johnson said. "They get paid regardless."

The Wilsons' struggle

For the Wilsons, the mortgage, taxes and insurance totaled more than $1,200 – or 37 percent of their monthly earnings. And that didn't include other debts or bills like utilities. Industry standards say mortgage and housing costs shouldn't exceed 28 percent of income.

The Wilsons struggled to make payments. They filed for Chapter 13 bankruptcy in October 2003 and made nearly $6,000 in back payments to save the house. They tried to refinance several times but were blocked by the prepayment fee.

"They were in over their head from the beginning," said Randy Gugino, the Wilsons' current bankruptcy attorney.

In 2004, Mrs. Wilson moved her day care because of problems in the Bailey Avenue building where it was located. She also was robbed. Getting recertified by the state in a new site – her home – took more than a year, disrupting their income and causing them to miss payments.

Foreclosure started last July. Members of their church tried to help, offering to buy the house and rent it to the Wilsons, but no agreement could be reached with the lender.

By December, the family was evicted and moved into a house owned by Wilson's sister, where they now pay rent.

Their eldest daughter, Latoya, lives on her own, and their 13- and 17-year-old daughters, Briana and Brittany, share a bedroom. Their 20-year-old son, Dimitrius Jr., lives with a friend because there isn't enough space.

After years of stress and angst that strained their health, the Wilsons say they are now more relaxed. They still hope to own a home but are now smarter.

"I think the opportunity will come again, but we'll know how to do it better," Mrs. Wilson said. "Through everything we've been through, I learned a lot. You can't get me now."

e-mail: jepstein@buffnews.com

"A credit check will always have a disproportionately negative effect on a low-income person..."

SCOTT W. GEHL, EXECUTIVE DIRECTOR OF HOUSING OPPORTUNITIES MADE EQUAL

Another cost of being poor – higher insurance rates

Harry Scull Jr./Buffalo News

Craig Willoughby, owner of Willoughby Insurance, serves consumers with bad driving records and credit history. He says insurance companies know which neighborhoods are at higher risk for car claims and therefore charge higher rates.

It's not just the car loan and mortgage that are more expensive for the poor. Insurance rates are sky-high, too.

Take Dimitrius and Mona Lisa Wilson. Not counting a $25,000 city subsidy, they paid about $79,000 for their new East Side home nearly five years ago, and that's what it was assessed at. But the insurance company, New York Central Mutual, pegged replacement cost at $160,000, and based the insurance policy accordingly.

The Wilsons paid $500 a year – not bad for a $160,000 home. But insurance on a $79,000 home would be $150 less. Making matters worse, the sad reality is that new homes, such as the one the Wilsons owned, don't maintain value on the crime-ridden, low-income East Side. So they were paying insurance for a $160,000 home that would eventually sell for far less than the $79,000 they paid.

A study by Rochester's Empire Justice Center found similar problems in the 50 households it reviewed in Rochester. Consumers in areas with more minority residents, lower incomes and lower housing values pay higher home insurance premiums and have less coverage than in other areas, according to the center's 2005 report.

The Wilsons' car insurance is also expensive. They bought a 1996 Chevrolet Lumina in 2004 and pay $1,136 a year to insure it through Lincoln General Insurance Co. of Long Island, even with no accidents on their record. They have just the required insurance under state law, without collision coverage.

That's nearly $400 more than the average rate for such coverage in

See **Insurance** Page 18

INSURANCE • From Page 17

Buffalo and $600 higher than in the suburbs.

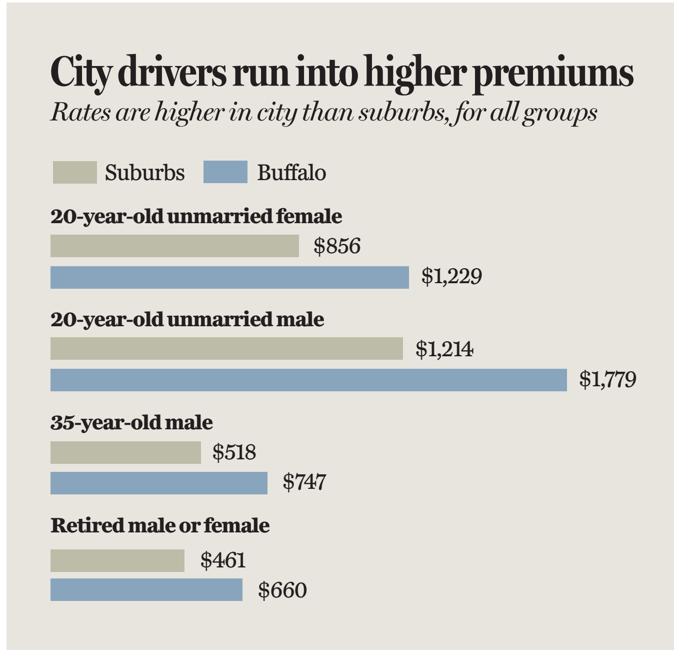
The difference in auto rates between the city and suburbs in the Buffalo area is well-documented, with gaps of several hundred dollars between the two, depending on the insurer.

Some insurers also charge different rates within the city. Allstate Corp., the state's biggest home and auto insurer, has eight auto territories in Erie County, including three in Buffalo, each with different rates.

In one Buffalo zone, the median household income averages $17,145. In the second, it's $23,679, and the third, $36,138.

The Buffalo News found that a driver with average credit and a good driving record would pay $240 less per year in the wealthier zone than in the others.

"Private carriers know that different ZIP codes have more or less police patrols and security," said Craig Willoughby, owner of Willoughby Insurance, an agency serving consumers with bad driving and credit records.



Source: New York State Insurance Department

Beyond geography, credit history also dictates auto insurance rates. The Wilsons had bad credit.

Insurers associate good credit with responsible consumers, and most states sanction this. Many homeowner insurers won't cover some consumers with bad credit, although the industry is backing off somewhat.

Allstate in early June settled a lawsuit accusing it of discrimination against minorities. The nation's No. 2 home and auto insurer agreed to use a new formula to set premiums, take unusual circumstances into account and reimburse black and Hispanic customers up to $150 if their premiums are lower under the new system.

"A credit check will always have a disproportionately negative effect on a low-income person who simply has had fewer resources over the years and has operated on a tighter margin," said Scott W. Gehl, executive director of Housing Opportunities Made Equal, a fair-housing group in Buffalo.

– Jonathan D. Epstein

"Nobody deserves to be taken advantage of."

BARRY WIDES, DEPUTY COMPTROLLER WITH THE AGENCY THAT REGULATES NATIONAL BANKS

Despite some stronger laws, lending abuses continue

Charles Lewis/Buffalo News

Household International, owner of HFC, paid $484 million to settle predatory lending allegations by 50 states. Household is now owned by HSBC Holdings.

State lawmakers and federal bank regulators are cracking down on "predatory" lending, but the finance industry says the actions go too far. Consumer advocates, meanwhile, say things are improving, but more needs to be done.

Congress in 1994 began to address the growing nationwide uproar over predatory lending, passing the Home Ownership and Equity Protection Act, or HOEPA.

The law bars or limits such things as prepayment penalties, balloon payments and excess interest penalties if a mortgage is "high cost" – where rates and fees exceed a threshold set by Congress. But critics say the threshold – eight points above the Treasury bond – is so high it's ineffective.

Treasury bond rates, currently at 5.14 percent for the 10-year bond, are used to set traditional mortgage rates. So regulators now plan to review the law and its limits.

But given past concerns, beginning with North Carolina in 1999, 28 states passed their own laws further restricting interest, fees, prepayment penalties, credit insurance and balloon payments on high-risk loans, according to the Center for Responsible Lending in Durham, N.C.

New York's law, enacted in 2003, is one of the strongest, the group says.

Indeed, Legal Aid Bureau attorney Athena McCrory said while lenders became more creative in structuring points and fees since the New York law took effect, there's also a lot fewer prepayment penalties and balloon payments, and less "flipping" of houses.

But abuses continue in New York and nationwide.

One reason was that nationally chartered banks no longer must comply with many state laws. Federal regulators recently enacted their own rules for their banks, but critics say the rules are weaker.

"Nobody deserves to be taken advantage of. We do everything in our power to make sure that doesn't happen," said Barry Wides, deputy comptroller of the currency for community affairs, whose agency regulates national banks.

See **Abuses** Page 19

History of abuse

Banks and mortgage companies charged with predatory and other abusive lending practices paid over $1 billion in fines to state and federal regulators in recent years

July 1999: Seven small mortgage lenders nationwide pay $572,500 to Federal Trade Commission.

September 1999: Delta Funding Corp., Woodbury, N.Y., pays $12.25 million to New York regulators. Later settled class-action lawsuit for $1.65 million in 2002.

March 2002: First Alliance Mortgage Co., Irvine, Calif., pays $60 million to federal and state agencies.

September 2002: Citigroup, New York City, pays $215 million to FTC related to Associates First Capital Corp., which it bought in 2000.

December 2002: Household International, Prospect Heights, Ill., pays $484 million to 50 states before HSBC Holdings Plc buys it.

November 2003: Fairbanks Capital Corp., Salt Lake City, pays $40 million to FTC.

May 2004: Citigroup pays $70 million fine to Federal Reserve.

February 2005: Capital City Mortgage Corp., Washington, D.C., pays more than $750,000 to FTC.

January 2006: Ameriquest Mortgage Co., Orange, Calif., and affiliates pay $325 million to federal and state agencies.

Source: State and Federal regulators

ABUSES • From Page 18

Consumer advocates, meanwhile, want more done, but lenders are pushing to reverse some measures already taken.

These state-by-state laws make it cumbersome, lenders say, for them to operate nationwide.

Also, they say, too many restrictions on these high-risk loans drive companies away, so borrowers with bad credit won't get loans at all.

The industry wants national legislation that would override conflicting state laws. Several bills are pending.

"We need one uniform national standard for the marketplace. That's the best way to protect consumers, and lenders can understand what the rules are," said Steve O'Connor, vice president of government affairs for the Mortgage Bankers Association of America.

But supporters of the state laws, including Eliot Spitzer, New York attorney general and gubernatorial candidate, say a single federal law would be weaker for consumers.

"The industry is trying to find ways to insulate themselves from liability, and government has been very complicit in that," said Stuart Rossman, litigation director at the National Consumer Law Center in Boston.

– Jonathan D. Epstein

"The changing economy ... makes it almost necessary for us to re-examine the rent-to- own and check-cashing industry."
Assembly Majority Leader Paul A. Tokasz

"These practices keep the poor and working poor forever in poverty."
Buffalo Assemblywoman Crystal D. Peoples

Assembly targets businesses that prey on working poor

BY JONATHAN D. EPSTEIN AND ROD WATSON
NEWS STAFF REPORTERS

DAY FOUR
THE HIGH COST OF BEING POOR

The Assembly will hold hearings in Buffalo this summer to find the best way to strengthen oversight over check cashers, rent-to-own stores, short-term lenders and "predatory" mortgage firms that prey on the working poor, legislative leaders said.

The call for action Tuesday came in response to The Buffalo News series "The High Cost of Being Poor." The News found the Buffalo region has a two-tiered economy in which those with the least pay the most just to get by – paying illegal or high fees for check cashing, food, appliances, insurance, mortgages and car loans because of where they live or because they have little upfront cash.

"These practices keep the poor and working poor forever in poverty," Assemblywoman Crystal D. Peoples, D-Buffalo, said by e-mail. "The business men and women who are comfortable with these tactics need oversight."

"The changing economy over the last 20 years makes it almost necessary for us to re-examine the rent-to-own and check-cashing industry, to make sure people have access to basic appliances and banking services," said Majority Leader Paul A. Tokasz, D-Cheektowaga, in announcing the hearings.

Tokasz, Peoples and other state lawmakers and regulators, as well as local officials, want to attack the problems on several fronts:

• Re-examine the state's 1986 rent-to-own law that, in effect, lets the industry set its own prices. Tokasz notes "many things have changed in society in the last 20 years," and that law may have to change, too.

• Increase the state Banking Department budget to beef up enforcement against stores running illegal check-cashing operations, and give the department clear authority to go after violators.

• Revisit the state's predatory lending law – enacted just three years ago – to see if stronger measures are needed to protect consumers from inordinately high mortgage interest and fees.

• Determine if Buffalo can regulate stores that cash checks. Common Council Majority Leader Dominic J. Bonifacio Jr. said such stores at least should be registered with the city. He said he plans to have the Law Department research whether Buffalo can create its own license "and put regulations on the city license as to what we feel is a fair charge to cash a check."

Bank services needed

While shutting down illegal check cashers is a necessary step, Masten Council Member Antoine M. Thompson said this will accomplish little unless there is a simultaneous push to make more banking services available. The inability to get bank accounts is why most people pay high fees to cash checks at corner stores in the first place, he noted.

"The crackdown has got to come when more financial institutions move into these neighborhoods and provide these services," Thompson said. "You can't have one without the other ... many of these areas are underbanked."

Assemblyman Darryl C. Towns, chairman of the Banking Committee, which will hold some of

See **Hearings** Page 20

All parties agree on the need to foster financial literacy

HEARINGS • From Page 19

the Buffalo hearings, agreed. Lawmakers are "working with the banks to get greater presence and decrease the number of New Yorkers who are unbanked," he said.

The hearings will deal with that and other problem areas.

"We're looking to definitely begin to address these issues. We want to find additional remedies," said Towns, D-Brooklyn. "Legitimate business in New York State is welcome, but we want to decrease the number of . . . ways that New Yorkers are taken advantage of."

For their part, banks say they are trying to help the working poor. As a result of state and federal laws – particularly the 1977 Community Reinvestment Act requiring banks to make investments and loans in low-income and minority areas in which they take deposits – banks have developed an array of offerings:

• Low-cost, low-balance checking accounts for low-income customers with good credit. For those with a history of bouncing checks, some banks offer remedial accounts. "These are people we wouldn't otherwise be able to open an account for," said Gary Quenneville, senior vice president and head of Western New York retail banking for KeyBank.

• A grant-funded savings account program, known as Individual Development Accounts, that puts up $3 for every $1 that low-income customers save – up to a total of $5,000 – toward purchasing a home, starting a business or attending college.

• Lower-cost mortgage and closing fees for borrowers at or below 80 percent of the area's median income, as well as programs to help customers rebuild their credit or qualify for a loan without traditional credit.

And the banks can cite success stories, like Gerldine Wilson's.

The longtime former Head Start teacher, who graduated from the University at Buffalo in 1985, lived with relatives in a rented house on Fillmore Avenue. She looked wistfully at a pretty home on Victoria Avenue but thought buying it was a pipe dream when it came up for sale. After all, she had no money and bad credit, had never owned a home and had opened a small account at Greater Buffalo Savings Bank only the year before.

Success story

Still, a friend persuaded her to ask the bank for a $10,000 mortgage. "I prayed that they would not escort me out of the bank because I had nothing to come to the table with," Wilson said. "We were probably the most unlikely candidate for a house."

To her surprise, the bank said yes. Today, the 49-year-old grandmother lives with her son, daughter and grandson in that single-family house. "I feel like I'm living in a huge dream," she said. "To be able to walk into a bank and be able to ask for a house was huge for me and very, very frightening."

Despite such success stories, critics say banks – and those who regulate them – can do more, and that many of the financial obstacles facing low-income workers start with lack of access to banking services. Of the 72 bank branches in Buffalo, 18 are on the East Side.

Critics say that's because regulators go too easy on banks, allowing them to close branches whenever and wherever they want. "If [banks have] been closing disproportionately in low-income neighborhoods and opening in upper-income neighborhoods, then someone's been sleeping on the job," said John Taylor, president and CEO of the National Community Reinvestment Coalition.

"If I were grading them, I'd give them an F," said former Rep. John J. LaFalce, who was a member of the House Banking Committee, adding that regulators should crack down on fees as well as practices. "They're not meeting minimum standards in protecting consumers," he said.

Bankers say some regulation goes too far, making it too expensive and burdensome to do business in low-income neighborhoods. They say lawmakers and regulators should specify what is acceptable lending to less credit-worthy borrowers, so banks couldn't be unfairly accused of abuses.

The state has tried to make it easier for banks to open branches in lower-income neighborhoods by subsidizing the operations – through government deposits – so the branches become profitable.

There are two such branches in the program in Buffalo, both at Greater Buffalo Savings Bank. A third is planned on the East Side, said bank president and CEO Andrew W. Dorn Jr.

Using the same program, First Niagara Bank also plans two branches in lower-income Buffalo

See **Hearings** Page 21

Banking on a little help

Banks offer low-income customers help with:

• **Deposits:** Free checking or basic banking accounts at all New York State banks. Remedial accounts or case-by-case help at some banks, such as KeyBank's Checkless Access, for those on ChexSystems because of past problems.

• **Individual development accounts:** Grant-funded program that puts up $3 for every $1 saved, up to $5,000, toward a home, business or college education. Available at M&T and HSBC, among others, and known as First Home Club.

• **Mortgages:** Discounted rates and subsidies for closing costs or downpayments at most banks, including M&T's Get Started and HSBC's Community Works programs. KeyBank HomeAssist also helps customers qualify for loans using utility, rent and other nontraditional payment histories.

• **Credit building:** Programs to borrow against savings to show ability to repay.

• **Specialized programs:** First Niagara Bank, through Child & Family Services, offers loans for appliances, child-care, past-due rent or mortgage, security deposits, home or car repairs.

• **Financial literacy:** Most banks sponsor financial education workshops, brochures and programs, usually in conjunction with nonprofit agencies.

Source: Buffalo area banks

Harry Scull Jr./Buffalo News

Gerldine Wilson, who never thought she'd own her own home, bought this Victoria Avenue house through a mortgage program at Greater Buffalo Savings Bank for those with credit problems.

HEARINGS • From Page 20

neighborhoods, while M&T Bank is replacing a branch on Jefferson Avenue.

Extending oversight

Bankers and consumer advocates also urge lawmakers and regulators to extend banking and community lending laws to other financial industries, such as credit unions, mortgage brokers and nonbank finance companies. Many are licensed but not actively regulated, or are subject to fewer rules.

"Banks have to meet very high standards that no one else has to meet," said Eugene Ludwig, the Clinton administration's top bank regulator. "It's wrong. We ought to be demanding much higher standards of all providers and supervising them in a much more aggressive fashion."

Tokasz, the Assembly majority leader, said lawmakers recognize that many of these businesses are serving people with poor financial histories.

"Certainly these businesses are at risk. You deserve some sort of a premium, but the question always becomes: Is this over and above what's fair?" he said. "That's the analysis that the Legislature needs to consider when it takes another look at these existing laws."

If there's one thing all sides can agree on, it's the need for greater consumer education and financial literacy for low-income people who are most subject to exploitation. Many such residents say they've never heard of the programs banks and community organizations offer.

Advocates say such consumers need to be told what's out there and what to avoid. "There are so many things that we need to tell people who are low-income," said East Side housing activist Michele Johnson. "There's no handbook for being poor."

e-mail: jepstein@buffnews.com
and rwatson@buffnews.com

THE RESPONSE: *State and local officials reacted quickly to The News series "The High Cost of Being Poor," some promising action even before the series concluded. Following are stories on the responses to the series from various public officials.*

CITY AGENCY TO BLOCK PREDATORY HOME LOANS

By Jonathan D. Epstein
NEWS STAFF REPORTER

The Buffalo Urban Renewal Agency today approved new rules designed to block abusive mortgage lending against the poor.

The city development agency unanimously adopted an anti-predatory lending policy specifying the maximum interest rate and terms acceptable on loans for homes built with city subsidies. Loans that do not pass muster will not be eligible for thousands of dollars in financial support for builders.

The goal is to protect low-income consumers from being trapped in unaffordable loans, with excessive rates and fees, and burdens such as prepayment penalties that prevent refinancing. "It's to prevent the types of mortgages that would have terms that are higher than we are requesting, which would define it as a predatory loan," Timothy E. Wanamaker, executive director of the Office of Strategic Planning, said before the meeting. "We've got to keep at it, because the need is out there."

"We send a very clear message that predatory lenders are not welcome in the city of Buffalo," Mayor Byron W. Brown said at the meeting.

Adoption of the policy follows this week's Buffalo News series "The High Cost of Being Poor," which examined how low-income consumers pay high costs for check-cashing, groceries, furniture and appliances, short-term loans, insurance and mortgages.

Predatory home lending, in particular, drains borrowers of needed cash and equity, and leaves them unable to repay loans. Many borrowers, such as Dimitrius and Mona Lisa Wilson, end up in foreclosure and lose their home. City officials say up to a third of Buffalo homes are seized because borrowers fall behind.

"Predatory lending was sort of under everyone's radar screen for a long time," said Kathleen Lynch, senior litigation attorney at Western New York Law Center and coordinator of the Western New York Community Reinvestment Coalition. "People have started to understand how detrimental it is to people and the neighborhood."

The new city policy limits the interest rate to 3 percentage points above the rate on Federal Housing Administration loans – but no more than 9.99 percent, except in special cases. That would have made the Wilsons' loan, at 10.49 percent, ineligible for the $25,000 subsidies their builder received.

That's stronger than both state law, which puts limits on loans priced 5 points over Treasury bonds, and federal law, which kicks in at 8 points. Treasury bonds are now at 5.15 percent.

Also, borrowers who get high-rate loans must document that they are unable to get standard loans from banks. Interest-only and other unusual mortgages will not be allowed, nor will "balloon" payments, single-premium credit insurance, or other "equity-stripping" features.

Taxes and insurance must be escrowed. Nonhousing debt, such as credit card loans, cannot be consolidated except with special permission. Broker fees cannot exceed 2 percent of the loan, and total fees cannot exceed 6 percent. Mortgage brokers must sign a statement that they are working on behalf of the borrower. And disclosures must be provided in the borrower's native language if requested.

Lynch, one of several advocates for the poor who worked with the city in developing the policy, was quick to praise it.

"This kind of policy is extremely beneficial to consumers and to the City of Buffalo because it's going to make it an unwelcome place for predatory lenders to operate," she said. She urges borrowers to seek out housing counseling programs such as HomeFront to avoid predatory lending, bank programs for cheaper loan alternatives, or legal help if they already are victims.

The Buffalo Urban Renewal Agency awards grants ranging from $5,000 to $70,000 on new homes sold to borrowers at or below 80 percent of the area's median income level. The agency already reviews all loan documents before closing to ensure they comply with its policies, so the new rules would be added to that, Wanamaker said.

In the agency's last fiscal year, it doled out $3 million in subsidies on about 90 homes, said Carla A. Kosmerl, director of administration and finance for the city's Office of Strategic Planning.

The agency also will "investigate and review" its files to see how many past loans would not meet this criteria, Wanamaker and Brown said, and will "take further action on it as necessary" if officials detect patterns. Brown said "all options are on the table," including lawsuits.

Wanamaker said the city also worked with banks in developing the policy to make sure that it would not block legitimate high-rate lending to borrowers with bad credit.

e-mail: jepstein@buffnews.com
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LICENSES SOUGHT IN CHECK-CASHING CRACKDOWN

Council plan would put city out front in targeting businesses that prey on poor

By Brian Meyer

NEWS STAFF REPORTER

Businesses that offer customers check-cashing services would have to get special licenses from City Hall under a proposal that is being reviewed by the Common Council.

Majority Leader Dominic J. Bonifacio Jr. of the Niagara District, the bill's sponsor, thinks the move would create a new hammer for cracking down on unscrupulous businesses that charge people illegally high fees to cash checks.

Bonifacio filed his proposal with the Council on Tuesday, a week after a Buffalo News investigation revealed neighborhood stores and gas minimarts cashing checks without a state license and charging people far more than the 99 cents that state law allows. Bonifacio thinks the city could be a more effective enforcer than the state, noting that Buffalo already has the power to pull a business' food store license.

"If businesses are going to be cashing checks, the city should know about it," he said before Tuesday's meeting.

Bonifacio said constituents have reported paying exorbitant fees to cash checks at stores. He added that perhaps the city could impose its own regulations defining what it feels a fair charge would be to cash a check. Currently, only state-licensed check-cashers can charge more than 99 cents, and their fees are capped at 1.64 percent of the check's value.

David J. State, the Council's chief legal adviser, said he will research the city's regulatory powers. But he said municipalities must be careful when venturing into territory where the state already has comprehensive rules. The bill has been sent to the Legislation Committee.

e-mail: bmeyer@buffnews.com

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SPITZER URGES MORE CONSUMER PROTECTIONS

Says banking, insurance agencies don't do enough

By Jonathan D. Epstein

NEWS STAFF REPORTER

New York attorney general and gubernatorial front-runner Eliot Spitzer said Friday the state's banking and insurance regulators aren't doing enough to protect residents, especially those with low income, from abusive financial practices.

The presumptive Democratic nominee for governor told The Buffalo News that the two state agencies already have significant authority to go after violators of state law, but they haven't been forceful enough. Instead, he said, it has taken the investigations of his agency to prod the others into action.

"The Banking Department and the Insurance Department can do more than they have been," Spitzer said. "The agencies have not been digging as aggressively as they should have been to protect consumers. I would like to see state agencies be more aggressive in those domains."

Meanwhile, the Republican candidate, former Assembly Minority Leader John J. Faso, said authorities must enforce the law. But he said the real solution to Buffalo's problems is an improved economy that helps the poor, not "more government."

Their comments came in response to last week's News series "The High Cost of Being Poor," which revealed several ways – some of them illegal – in which the poorest consumers end up paying more for goods and services.

Bill Wippert/Buffalo News

"You look at what people end up paying to get clear title to a home appliance or anything else, and you look at the underlying value, and they've been taken to the cleaners. It is horrific."

New York attorney general Eliot Spitzer

Where laws and regulatory authority aren't strong enough to curb such practices – such as the state's 20-year-old law governing the rent-to-own industry – Spitzer called for strengthening them to ensure protection.

"You look at what people end up paying to get clear title to a home appliance or anything else, and you look at the underlying value, and they've been taken to the cleaners," he said. "It is horrific, and it is very hard to justify. These are areas where consumer protections need to be beefed up."

State Insurance Superintendent Howard Mills said he was "very surprised" at Spitzer's remarks, noting that insurance regulators had worked "collaboratively" with the attorney general's office on "a number of investigations."

He cited as other accomplishments more than $400 million in auto insurance premium cuts, a new 15 percent cut in title insurance premiums, and efforts to ensure health insurance claims are paid promptly. "I don't think the Pataki adminis-

See **Spitzer** Page 23

SPITZER • From Page 22

tration has anything but pride in its pro-consumer accomplishments," he said.

Similarly, Banking Superintendent Diana L. Taylor, responding by e-mail, cited her department's history of working with Spitzer, its financial literacy and fair-lending efforts, and its lead role in recent multistate settlements that brought consumers restitution.

Faso said "it's incumbent on the authorities to take action" against violations of state law, such as illegal and high-priced check-cashing fees charged by corner grocers.

"There are always going to be people who violate the law, who seek to take advantage of others. That doesn't mean we should tolerate it," he said. But new laws and "better enforcement" won't be enough to solve the problem, he said. "Mere passage of laws doesn't necessarily mean that people will follow them," said Faso, a former member of Buffalo's control board. "The underlying solution to the problem is an improved economy in Buffalo. It is not more government."

The News series detailed the high fees low-income consumers without cash or credit must pay to cash checks, buy furniture or appliances, take out loans against their taxes, or borrow to purchase cars and houses.

In addition, the newspaper revealed that many corner stores were illegally cashing checks without a license and charging well over the state maximum, with no apparent repercussions from the Banking Department, which oversees check-cashers.

The series also showed the state's rent-to-own law lets stores like Rent-A-Center, Aaron's and Rentway set their own base "cash" prices, and then double them, charging well in excess of what a department store would. And it showed that predatory mortgages are still a problem here, despite efforts to combat them.

Assembly leaders called for hearings this summer in Buffalo to examine such issues and determine what changes are needed. However, a spokesman for the Senate's Republican majority said Friday that any action would likely wait until senators return in January. "The issues certainly merit discussion and review to see if more needs to be done," said GOP spokesman Mark Hansen.

Spitzer, whose crusades against deception in the investment banking, mutual fund and insurance industries earned him a national reputation, touted his past efforts to tackle abuses. He pointed to suits against "payday" lenders and efforts against deceptive credit card practices that resulted in millions of dollars in fines and restitution. Some of the practices were aimed at borrowers with bad credit.

"These people need protection. That is where people are most vulnerable and where loss of cash flow is most damaging," Spitzer said.

But his scope has limits, and other regulators have not been as active in using their own jurisdiction, he said. He added that the state Banking Department must be given clearer authority to go after illegal check-cashing on its own, without having to rely on local district attorneys who are already overburdened with "street crimes."

The rent-to-own law is too weak, he and others in his office say. Thomas Conway, chief of the Attorney General's Consumer Frauds Bureau, said the "cash" prices of items should be tied to prices at traditional merchants, not to prices at rent-to-own stores themselves, and the markup should be cut from the current 200 percent.

Spitzer also called for more disclosures on refund anticipation loans, which are pricey loans offered by tax preparers against an expected refund. And he said the state's 3-year-old law against predatory lending "could be strengthened" and bank regulators' enforcement "could be more rigorous."

But both he and Faso cautioned that too much regulation could backfire by cutting off the availability of credit. "We don't want to discourage some of the good companies that are playing by the rules from providing capital in the market," Spitzer said.

Faso cited the need to improve Buffalo's struggling economy, create more jobs and lower the tax burden to relieve pressure on low-income consumers. He also suggested a community effort to work with legitimate businesses to establish licensed check-cashers who would be regulated.

He said he wants to take a look at the rent-to-own law and refund anticipation loans, to see if action is needed. But he said the state can't interfere too much with the private sector.

"You're always going to have the situation where people who are poor credit risks will pay a higher rate or will find it more difficult to get credit," he said. "You have to balance the need for consumer protection against the degree to which government can micromanage the personal economic decisions of the individual."

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RENT-TO-OWN ON BORROWED TIME?

By Jonathan D. Epstein

NEWS STAFF REPORTER

The nation's rent-to-own industry is trying to block legislative or other action by Buffalo or the state that representatives say could "cripple" the business here.

Industry leaders reached out last month to Buffalo officials to head off a chance the city might rein in stores' practices and prices. The move comes just a few months after the industry prodded a state lawmaker to suspend a bill that would have sharply reduced the prices stores could charge.

Officials from the Association of Progressive Rental Organizations – a national trade group for a business that includes Rent-A-Center, Aaron Rents and Rentway – e-mailed Buffalo Mayor Byron W. Brown last week in response to concerns he expressed a day earlier about industry practices.

Brown spoke following The Buffalo News series, "The High Cost of Being Poor," which examined the high prices charged by inner-city check-cashers and grocers, rent-to-own stores and predatory auto and mortgage lenders that tend to serve low-income consumers with limited choices.

The series reported that rent-to-own stores charge consumers two to three times what an item would cost at a retailer like Sears, Best Buy or Orville's, but the costs are spread out over one to two years, so consumers don't notice it as much.

Brown called such businesses "a real problem" and said the city might take legal action. He said he has been looking at such problems afflicting low-income consumers since he took office, to try to improve quality of life for residents.

The rent-to-own trade group feels such comments "suggest the potential for policy changes," so it offered to provide more information to Brown about the business and suggested an "open dialogue" regarding his criticisms, according to a June 26 posting on the organization's Web site.

City officials have not responded, with a spokesman saying he was unaware of the e-mail.

"We hope he contacts us," Richard May, the trade group's spokesman, said.

The group also is worried about calls by Assembly leaders for hearings to look at strengthening regulation or enforcement over various businesses, including theirs. The organization is historically proactive when dealing with lawmakers and protecting its gains.

"We look forward to an open debate on the issues and have the utmost respect for the decision-makers," said Bill Keese, the group's executive director, and a former Texas lawmaker.

Rent-to-own stores allow consumers without cash or credit to purchase furniture, appliances, electronics and other items, with affordable weekly

See **Rent-to-own** Page 24

RENT-TO-OWN • From Page 23

or monthly payments.

But consumer advocates and others say the 20-year-old state law governing the industry allows stores to set their own "cash" or base price – well above that of major retailers – and charge twice that over time.

"It's clear on its face that that's a huge loophole," said Thomas Conway, chief of the Consumer Frauds Bureau of the New York Attorney General's office.

Instead, they say, those cash prices should be pegged to "real prices" that the items would sell for at regular merchants, not at other rent-to-own stores as allowed by current law. And they say the current 200 percent markup over the cash price should be cut sharply.

"Certainly these businesses are at risk," said Assembly Majority Leader Paul A. Tokasz, D-Cheektowaga. "You deserve some sort of a premium, but the question always becomes is this over and above what's fair."

In fact, new legislation is pending in the Assembly. Among other things, the bill, sponsored by Democratic Assemblyman J. Gary Pretlow of Westchester County, would:

Derek Gee/Buffalo News

Brown called rent-to-own stores "a real problem" and said the city might take legal action. He said he has been looking at such problems afflicting low-income consumers since he took office, to try to improve quality of life for residents.

• Make the cash price representative of what is available from a "reasonable number of merchants" in the local trade area.

• Cap the markup at 25 percent.

The proposed legislation passed the Assembly Judiciary Committee unanimously in late April and was sent to the floor. But Pretlow said he suspended it at the request of the industry, which wanted to talk to him. The trade group said on its Web site the "detrimental" bill would "cripple" the industry here.

No one has met with Pretlow, however, and the lawmaker said he will revive the bill in January. He expects it to pass.

"They would have to convince me that what I am trying to do isn't in the best interest of consumers," Pretlow said. "If they can't convince me, and I don't think they can, the bill will stay as it is."

Pretlow has been unable to find a Senate sponsor, however, making it unlikely to pass that chamber. That could change with a new governor.

"If it turns out that the governor is someone committed to consumer protection, then the chances of getting a good rent-to-own bill go up a great deal," said Bryan Hetherington, chief counsel for the Empire Justice Center in Rochester.

e-mail:jepstein@buffnews.com

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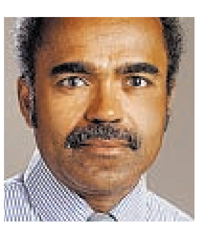
THE HIGH COST OF BEING POOR



Rod Watson is The News' Urban Affairs Editor. Watson, 52, has been with The Buffalo News for 23 years. He joined the staff as a general assignment reporter, and covered City Hall and County Hall before joining the editorial page staff in 1988, where he specialized in national and international affairs and served as deputy editorial page editor. In 1999, he won a first-place award from the New York State Associated Press Association for a series of editorials on managed care.

In addition to his editing duties, Watson writes a weekly column that often comments on issues of race and socioeconomics. In 2004, he won the New York Newspaper Publishers Association award for column writing. He is a native of Detroit and was graduated from the University of Michigan.

Jonathan D. Epstein is a financial reporter for The Buffalo News, covering banking, insurance and financial services. Prior to joining the News in January 2004, Epstein spent six years covering banking, credit cards and insurance for The News Journal in Wilmington, Del., a 150,000-circulation Gannett Co. daily newspaper. He began his career as a community banking reporter and deputy community banking section editor for The American Banker, a daily financial services newspaper owned by Thomson Corp., from 1994 to 1997.

A native of Schenectady, N.Y., Epstein earned his bachelor's degree in history and political science from the University of Rochester in 1993 and his master's in print journalism from Columbia University Graduate School of Journalism in 1994. He was also a journalism fellow at the Stonier Graduate School of Banking program at University of Delaware in 1997.