



January 17, 2013

## APPEAL FILED IN THE OHIO SUPREME COURT IN THE SCOTT CASE

An appeal was filed in the Ohio Supreme Court today in *Ohio Neighborhood Finance, Inc. v. Scott*, C.A. No. 11CA010030 (9<sup>th</sup> Dist., Dec. 3, 2012). In December the Ninth District Court of Appeals affirmed the decision of the Elyria Municipal Court by holding that the Ohio Mortgage Loan Act does not apply to single installment loans.

The case involves a borrower who entered into a loan agreement with a lender holding a certificate of registration under the Mortgage Loan Act for a single installment loan of \$500 at an interest rate of 25% per annum calculated on the principal outstanding for the time outstanding. The agreement provided that it was governed by the Mortgage Loan Act. The borrower defaulted on the loan and a collection action was commenced in the Elyria Municipal Court. The lower court entered judgment in favor of the lender, but with interest accruing at 8% per annum as opposed to the 25% per annum provided for in the agreement and by the Mortgage Loan Act.

The Ohio Supreme Court has discretion to decide whether to hear the appeal. In connection with the filing of the appeal, briefs in support of the court taking jurisdiction were filed. These briefs focus on (i) how the lower court decision was contrary to the long-standing enforcement position of the Ohio Division of Financial Institutions and the understanding of the industry and (ii) how the lower court failed to properly read the Mortgage Loan Act. An Amicus Curiae brief was filed by Richard F. Keck, former Deputy Superintendent and Chief Examiner of the Ohio Division of Financial Institutions. Mr. Keck stated in his brief that during his over 20 years at the Ohio Division of Financial Institutions, the Division's enforcement position was that single installment loans were permitted to be made under the Mortgage Loan Act.

We have attached copies of the briefs. We will keep you informed of the Ohio Supreme Court's action in the Scott appeal. □

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