Written Testimony to the United States Senate Special Committee on Aging

Maria Walden, Director of Legislation and Policy

Public School and Education Employee Retirement Systems of Missouri (PSRS/PEERS), Jefferson City, Missouri

Chairman Collins, Ranking Member McCaskill, and other distinguished members of the Senate Aging Committee;

My name is Maria Walden. I am the director of legislation and policy for the Public School and Education Employee Retirement Systems of Missouri (PSRS/PEERS). There are over 575,000 Missouri members of public defined benefit plans that are covered by the only statewide law that bans pension advances to individuals receiving a public pension.

Since 1946, The Public School and Education Employee Retirement Systems of Missouri (PSRS/PEERS) have worked in partnership with our member school districts to provide strong, stable and secure retirement benefits to over 250,000 Missouri public school teachers and education employees. This guaranteed retirement income for public school employees helps attract and retain talented education professionals for Missouri's public schools and the communities they serve.

As of June 30, 2015, PSRS/PEERS paid more than $2.5 billion annually in benefits to over 82,000 retirees and beneficiaries. Nearly 90% of those benefits went to retirees residing in Missouri.

For the past 69 years, PSRS/PEERS continue to be a strong, financially stable, defined benefit plan for its members and beneficiaries. As of June 30, 2014, the Systems are actuarially pre-funded at 82.8% and 85.1%, respectively (the actuarial funded ratio of PSRS and PEERS is expected to improve as of June 30, 2015) and currently have over $37.4 billion in invested assets. It is the largest public retirement plan in the state, the 44th largest public pension plan in the nation, and 110th largest institutional investor in the world. The quality of PSRS/PEERS' plan design and administration has been nationally recognized by the Public Pension Coordinating Council.

PSRS/PEERS is governed by a seven-member board of trustees. Board members include: 3 elected PSRS members, one elected PEERS member and three gubernatorial appointees (one of whom must be a PSRS or PEERS retiree.) The Systems are independent trust funds and the Board is charged by law with the administration of the Systems. The Board has the fiduciary responsibility to act in the exclusive interest of the members of the Systems, to maximize the total return on investments within prudent risk parameters and to impartially administer the plans in accordance with applicable law.

Due to the independent nature of the trust fund, staff is limited in the ability to testify in support of matters in which the Board has not yet taken an official position. The comments made today are made solely for informational purposes and require that the Systems remain neutral on this issue.

During the fall of 2013, there were several national media reports on the predatory practice of pension advance lenders across the nation. Pension advances are a financial instrument where an individual with a pension receives an up-front, lump-sum payment in exchange for contracting away a portion of that individual's pension payment.

The news reports during that time stated the monthly payments made by the borrower can be subject to effective interest rates of 27 to 106 percent. In some cases, borrowers are required to take out a life insurance policy and name the pension advance company as the sole beneficiary to ensure payment of the advance.

In September of 2013, State Treasurer Clint Zweifel went on record as being concerned about the predatory practice of pension advance companies in Missouri. In an effort to protect Missourians, State Treasurer Zweifel established the Pension Advance Portal on his website to allow public pensioners the ability to report any concerns or problems.

In September 2013, the Systems held several internal meetings to discuss the impact of these pension advance companies on our members. Any time PSRS/PEERS see firms or organizations that might attempt to take advantage of our members, we become concerned and work to ensure that our members are aware of these potential challenges. In light of the media reports on these types of services, PSRS/PEERS took a proactive stance and updated the website to educate members about pension advances and the current statutory protections that were in place.

In addition, PSRS/PEERS management notified staff regarding pension advances to ensure that retirees would be informed of this type practice. (PSRS/PEERS meets with various retiree groups around the state in 14 different regions at least 24 times a year to educate members and beneficiaries about the System, the benefit of their pension and potential challenges and threats that are facing the Systems and members.) Teachers and educators work extremely hard to serve the children of Missouri. In addition, they contribute a great deal of their personal income to save and fund their retirement plan (14.5% contribution rate for members; 14.5% contribution rate for employers covered by PSRS).

One of the challenges the System faced was educating the members and public on the statutory protections that were already in place. PSRS and PEERS are governed by sections 169.010, et seq. and 169.600, et seq. PSRS and PEERS members are covered by anti-alienation and anti-assignment provisions in Section 169.090 and Section 169.690, respectively. As you are aware, an anti-alienation clause is a provision in the governing documents for an arrangement such as a trust that specifies that the beneficial or equitable owner of the property held in that arrangement cannot transfer the interest to a third party. Those provisions prevent PSRS/PEERS from paying benefit payments to anyone other than the retiree and from accepting an “assignment” of the retiree’s benefit payment. Therefore, PSRS/PEERS by statute is prohibited from paying benefit payments directly to a pension advance company. Many of the statewide Missouri plans provide similar protection in their statutes.

However, after receipt of the benefit payment from PSRS or PEERS, the retiree can use his or her pension benefit in any manner. Therefore, a PSRS or PEERS retiree would be able to enter into a contract with a pension advance service as long as that contract did not require PSRS or PEERS to make a payment to anyone other than the retiree.

In October 2013, PSRS/PEERS received a request from the Secretary of State’s Missouri Securities Division asking for clarification on pension advances and whether the Systems had any knowledge of a member being impacted by such an arrangement. The Systems’ general counsel provided a detailed response (see attachment) to the Secretary of State’s office, which explained the statutory protections that were already in place in section 169.090, RSMo and 169.690, RSMo.

On January 7, 2014, at the request of State Treasurer Clint Zweifel, Representative Tony Dugger (R-141) and Senator Mike Cunningham (R- 33) sponsored HB 1217, which would prohibit pension advances from being sold in Missouri to public pensioners.

HB 1217 specified that the right of a person to a public employment retirement benefit cannot be transferred or assigned, at law or in equity. It further required that none of the moneys paid or payable or rights existing under a plan can be subject to execution, levy, attachment, garnishment, or other legal process, unless expressly authorized by the law that establishes the plan or that is specifically applicable to the plan.

A pension assignee is prohibited from using any device, scheme, transfer, or other artifice to evade the applicability and prohibition of these provisions. Any contract or agreement made in violation of these provisions is considered void and all sums paid or collected by an assignee must be returned. This bill also allowed for the Attorney General to bring an action to enforce the restitution authorized under these provisions within five years after a violation.

During the legislative process, proponents of HB 1217 testified that the bill served as a good consumer protection provision for all Missouri’s public pension retirees. Proponents testified that the bill prohibited a person's Missouri public employment retirement benefit from being transferred or assigned to a pension advance service and would keep the benefit for what it is meant to be, a retirement benefit. The bill created a ban on pension advance lenders and would ensure that pensions earned by teachers, firefighters, police officers and other public servants are protected from such a practice.

One of the reasons cited for the need for this legislation was to protect all of Missouri’s public pensioners especially any of those members whose plan might not have an anti-assignment provision.

Testifying for the bill were Representative Dugger; Clint Zweifel, Missouri State Treasurer; Missouri Bankers Association; Missouri Credit Union Association; Office of the Missouri Attorney General.

There were no groups that opposed the legislation.

SCS HCS HB 1217 was truly agreed to and finally passed on May 14, 2014. It was approved by Governor Jay Nixon on July 9, 2014 and went into effect on August 28, 2014.

Since implementation of this law, PSRS/PEERS is not aware of any retiree who has sold an income stream from all or part of his or her pension. PSRS/PEERS has also not received a request from a retiree to make a payment to a pension advance service or into an escrow account.

Thank you for the opportunity to testify today. I look forward to answering any questions you may have.

PSRS/PEERS
PUBLIC SCHOOL & EDUCATION EMPLOYEE
RETIREMENT SYSTEMS OF MISSOURI

M. Steve Yoakum
Executive Director
Ext. 1099

Dearld Snider
Assistant Executive
Director, Operations
Ext. 1041

Alan Thompson
General Counsel
Ext. 1097

Nicole Hamler
Director of
Administrative
Planning and Design
Ext. 1095

VIA U.S. MAIL
and
EMAIL (mark.baker@sos.mo.gov)

October 23, 2013

Mark Baker
State Information Center
600 W. Main St.
Jefferson City, Missouri 65101

Re: Sale of Pension Benefits
File No. I2013-65

Dear Mr. Baker:

This letter is in response to your letter to Steve Yoakum dated October 7, 2013 (enclosed). Our responses to the questions enumerated in your letter are set forth below. I retained the original numbering of the questions included in your letter.

4. May a participant in your pension plan ("Pensioner") enter into an arrangement to sell an income stream from all or part of their pension to a third party?[2]

The Public School Retirement System of Missouri ("PSRS") is governed by Sections 169.010 et seq. and The Public Education Employee Retirement System of Missouri ("PEERS") is governed by Sections 169.600 et seq. Both PSRS and PEERS are subject to "anti-alienation" provisions in Section 169.090 and Section 169.690, respectively. Those provisions prevent PSRS and PEERS from paying benefit payments to anyone other than the retiree and prevent PSRS and PEERS from accepting an "assignment" of the retiree's benefit payments. Therefore, PSRS and PEERS are prohibited from paying benefit payments directly to a pension advance entity or an "escrow fund" as described in the example in your letter.

However, after receipt of the benefit payment from PSRS or PEERS, the retiree is free to use his or her pension benefit payments in any manner. Therefore, a PSRS or PEERS retiree is free to enter into a contract with a pension advance service as long as that contract does not require PSRS or PEERS to make a payment to anyone other than the retiree.

Location 3210 W. Truman Blvd. / Jefferson City, MO 65109 **Mail** P.O. Box 268 / Jefferson City, MO 65102
Phone (573) 634-5290 **Toll Free** (800) 392-6848 **FAX** (573) 634-5375

5. Are you aware of any Pensioner who has sold an income stream from all or part of their pension? If so:

   c. provide the name and contact information for each Pensioner; and

   d. the name and contact information for any company that provided Pension Advance Services to the Pensioner.

Neither PSRS nor PEERS is aware of any retiree who has sold an income stream from all or part of his or her pension. Neither PSRS nor PEERS has received a request from a retiree to make a payment to a pension advance service or into an "escrow" account as described in your letter.

6. Have you provided any information to Pensioners relating to these Pension Advance Services? If so, provide a copy of this information.

I have enclosed information that PSRS and PEERS have provided to their members.

Please feel free to call me at (573) 638-1097 if you have any questions.

Regards,

Alan C. Thompson
General Counsel

Enclosures

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

SECURITIES
(573) 751-4136

October 7, 2013

Steve Yoakum
Public School & Education Employee Retirement Systems of Missouri
3210 West Truman Blvd.
Jefferson City, MO 65109

RE: Sale of Pension Benefits
File No.: I2013-65

ATTENTION: WRITTEN RESPONSE DUE ON OR BEFORE October 24, 2013

Dear Mr. Yoakum:

The Missouri Securities Division (the "Division") is investigating firms and individuals who provide pension advance services to pension recipients and/or facilitate, market, structure, leverage, and/or factor income streams for sale to investors ("Pension Advance Services"). The Division is concerned that in many instances, the pensioner receives a lump-sum amount significantly less than the value of the future income payments while incurring fees and costs associated with these transactions.

Request for a Written Response

The Missouri Commissioner of Securities (the "Commissioner"), through the Enforcement Section of the Securities Division ("Enforcement Section"), and pursuant to Section 409.6-602(b), RSMo. (Cum. Supp. 2012), may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the Commissioner considers relevant or material to the investigation. Under this authority, the Enforcement Section requests that you provide the following information:

4. May a participant in your pension plan ("Pensioner") enter into an arrangement to sell an income stream from all or part of their pension to a third party?[2]

5. Are you aware of any Pensioner who has sold an income stream from all or part of their pension? If so:

   c. provide the name and contact information for each Pensioner; and

   d. the name and contact information for any company that provided Pension Advance Services to the Pensioner.

6. Have you provided any information to Pensioners relating to these Pension Advance Services? If so, provide a copy of this information.

Impeding this Investigation

You are hereby notified that it is a felony for any person in an investigation or other proceeding under Missouri securities laws to alter, destroy, mutilate, conceal, make a false entry in, or by any means falsify, remove from any place or withhold any record, document, or tangible, electronic or physical evidence with the intent to impede, obstruct, avoid, evade or influence the official investigation or administration of any proceeding authorized under Chapter 409. See Section 409.108, RSMo. (Cum. Supp. 2012).

Sincerely,

THE ENFORCEMENT SECTION OF THE MISSOURI SECURITIES DIVISION

Mark Baker, Investigator
Telephone: (573) 751-4704
Fax: (573) 526-3124
Email: mark.baker@sos.mo.gov

[2] To better help you understand our request, such an arrangement may be set up as follows: the pensioner agrees to sell an income stream from all or part of the pension for a designated period of time in exchange for an upfront lump-sum payment from a third party (provider of pension advance services). Under the arrangement, the pensioner diverts the pension benefits immediately after the benefits are received to an escrow fund. From the escrow fund, the money is then directed to the third party. The third party does not become the designated beneficiary of the pension plan, and the rights and title to the pension benefits remain with the pensioner. To ensure the third party's receipt of the future income stream, the pensioner is required to have a collaterally assigned life insurance policy that designates the third party as the beneficiary.

PUBLIC SCHOOL & EDUCATION EMPLOYEE
RETIREMENT SYSTEMS OF MISSOURI

- **What are Pension Advances?**

Pension advances loans against defined benefit pensions, such as military or public sector (government) pensions. These loans offer retirees a chance to "convert tomorrow's pension checks into today's hard cash." However, many of the true costs of these advances are hidden from borrowers, such as the true interest rates, which typically range from27% to 106%. This information is not disclosed in the advertisements or in the loan contracts themselves. Like any other high-interest predatory loan, pension advances can lead to a cycle of indebtedness that is impossible to escape. Other types of predatory loans include title loans, payday loans and certain types of credit cards.

According to *The New York Times*, the companies offering these loans are getting their payments in a variety of ways. One is by encouraging the retiree to set up a separate bank account, controlled by the company, into which the retiree's pension payments are deposited Another condition of this type of predatory loan may be to require borrowers to take out a life insurance policy naming the lender as the sole beneficiary.

- **Are PSRS/PEERS retirees vulnerable?**

Unfortunately, PSRS/PEERS retirees are not immune from being targeted by companies who deal in predatory loans and pension advances. As a retiree, you can get a loan based solely on your retirement benefit without PSRS/PEERS being made aware of the transaction.

- **How are PSRS/PEERS retirees protected?**

Retirees are protected by Missouri law which prohibits the assignment of a retirement benefit to someone other than yourself, including people or companies.

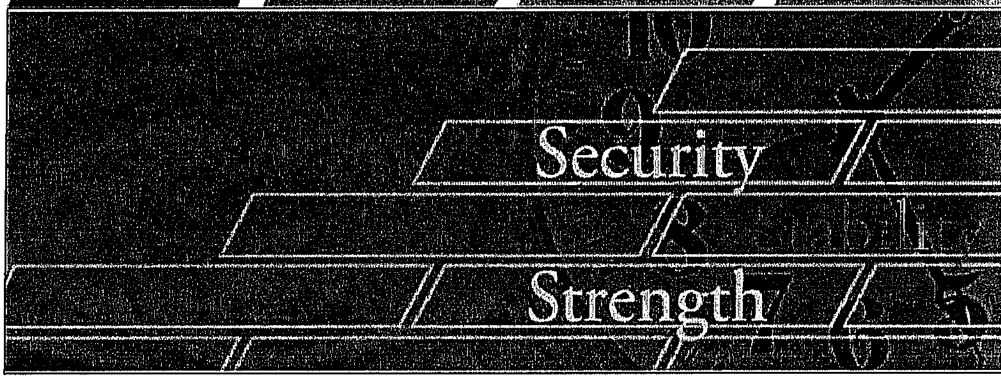
In addition, PSRS/PEERS retirement benefits may be protected from creditors in a bankruptcy proceeding. PSRS and PEERS are "tax-qualified" public pension plans under the Internal Revenue Code. That means, PSRS/PEERS benefits may be exempt from creditor attachment under the United States Bankruptcy Code. However, you should consult with a bankruptcy attorney if you are considering filing for bankruptcy protection. Filing for bankruptcy may not relieve you from existing obligations to creditors.

Another way to protect our retirees is through education. PSRS/PEERS has put an article on our website and may also put something in the next retiree newsletter warning our membership of the scam of pension advances. We also plan to verbally warn our retirees when we speak to the different groups throughout Missouri.

- **What do we tell a retiree that is currently in a pension advance loan arrangement?**

It is recommended they contact a lawyer or the Missouri Attorney General's office for help and to a file a complaint with the Consumer Finance Protection Bureau. Treasurer Zweifel is asking Missourians to let him know if they have been approached by businesses promoting this type of offer. To do this, they go to treasurer.mo.gov and click on the Pension Advance Portal.

- Missouri Attorney General's office
  573-751-3321 or attorney.general@ago.mo.gov
- Consumer Finance Protection Bureau
  855-411-CFPB (2372) or http://www.consumerfinance.gov/contact-us/



News

Retirees Beware: Pension Advance Fraud

9-19-2013

A relatively new phenomenon is taking place, not only in Missouri but across the country, known as pension advances. Tuesday, State Treasurer Clint Zweifel issued a warning to Missourians about this practice. The Public School and Education Employee Retirement Systems of Missouri (PSRS/PEERS) want to make sure you are aware of the scam. Below is a short Q&A to help inform you on the topic.

Question: What are Pension Advances?

Answer: In essence, pension advances are loans against defined benefit pensions, such as military or public sector (government) pensions. These loans offer retirees a chance to "convert tomorrow's pension checks into today's hard cash." However, many of the true costs of these advances are hidden from borrowers, such as the true interest rates, which typically range from 27% to 106%. This information is not disclosed in the advertisements or in the loan contracts themselves. Like any other high-interest predatory loan, pension advances can lead to a cycle of indebtedness that is impossible to escape. Other types of predatory loans include title loans, payday loans and certain types of credit cards.

According to The New York Times, the companies offering these loans are getting their payments in a variety of ways. One is by encouraging the retiree to set up a separate bank account, controlled by the company, into which the retiree's pension payments are deposited. Another condition of this type of predatory loan may be to require borrowers to take out a life insurance policy naming the lender as the sole beneficiary.

(A link to the full story issued April 27, 2013 in The New York Times can be found here: http://www.nytimes.com/2013/04/28/business/economy/pension-loans-drive-retirees-into-more-debt.html?pagewanted=all&_r=0)

Question: As a PSRS/PEERS retiree, am I vulnerable?

Answer: Unfortunately, you are not immune from being targeted by companies who deal in predatory loans and pension advances. As a retiree, you can get a loan based solely on your retirement benefit without PSRS/PEERS being made aware of the transaction. It is critical that you understand the terms of any loan you take out.

Question: As a PSRS/PEERS retiree, how am I protected?

Answer: First, you are protected by Missouri law which prohibits the assignment of a retirement benefit to someone other than yourself, including people or companies.

[illegible] Seminars are held throughout the year at various locations across the state. Check the schedule to see when we'll be in your area!

PSRS Pre-Retirement Seminar Schedule

PEERS Pre-Retirement Seminar Schedule

In addition, PSRS/PEERS retirement benefits may be protected from creditors in a bankruptcy proceeding. PSRS and PEERS are "tax-qualified" public pension plans under the Internal Revenue Code. That means PSRS/PEERS benefits may be exempt from creditor attachment under the United States Bankruptcy Code. However, you should consult with a bankruptcy attorney if you are considering filing for bankruptcy protection. Filing for bankruptcy may not relieve you from existing obligations to creditors.

Question: What should I do if I am already in a pension advance loan arrangement?

Answer: Contact the Missouri Attorney General's office for help and to file a complaint with the Consumer Finance Protection Bureau. Treasurer Zweifel is asking Missourians to let him know if they have been approached by businesses promoting this type of offer. To do this, go to treasurer.mo.gov and click on the Pension Advance Portal.

Missouri Attorney General's office
(573) 751-3321 or attorney.general@ago.mo.gov

Consumer Finance Protection Bureau
(855) 411-CFPB (2372) or http://www.consumerfinance.gov/contact-us/

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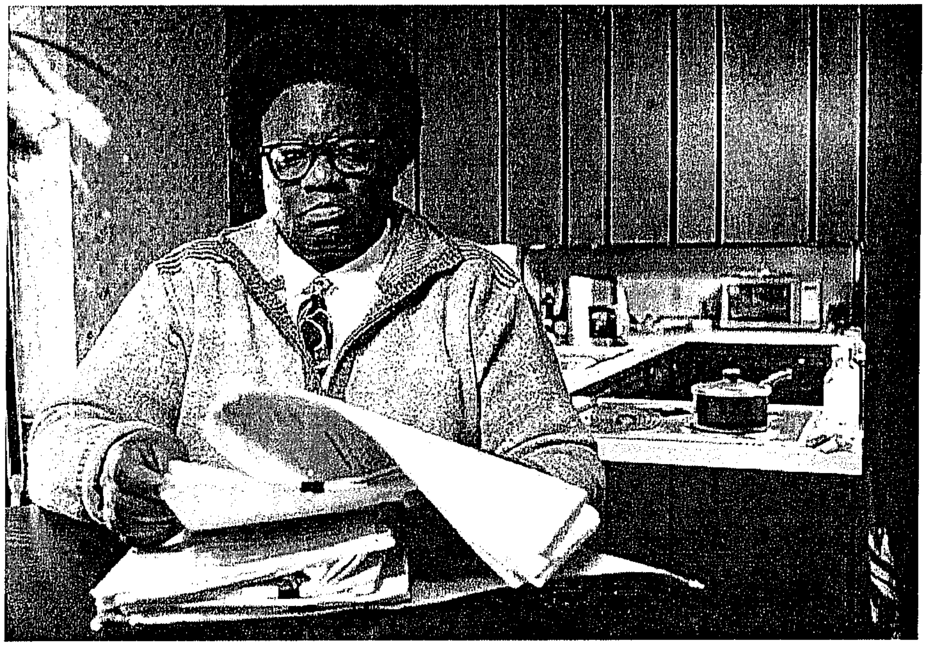
A VULNERABLE AGE

Loans Borrowed Against Pensions Squeeze Retirees



Tami Chappell for The New York Times

Ronald E. Govan, a retired veteran in Snellville, Ga., filed a federal suit in February that raises concerns about the costs of a loan.

By JESSICA SILVER-GREENBERG
Published: April 27, 2013 | 406 Comments

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To retirees, the offers can sound like the answer to every money worry: convert tomorrow's pension checks into today's hard cash.

But these offers, known as pension advances, are having devastating financial consequences for a growing number of older Americans, threatening their retirement savings and plunging them further into debt. The advances, federal and state authorities say, are not advances at all, but carefully disguised loans that require borrowers to sign over all or part of their monthly pension checks. They carry interest rates that are often many times higher than those on credit cards.

In lean economic times, people with public pensions — military veterans, teachers, firefighters, police officers and others — are being courted particularly aggressively by

A Vulnerable Age

Articles in this series are examining financial challenges and pitfalls faced by older Americans in lean economic times.

Breakdown of a Loan's Terms

Ronald E. Govan, a disabled military veteran, took out a loan from Pension, Annuities & Settlements in September 2012.

Upfront loan against his pension:	$10,000
Monthly payment for a term of 60 months:	$353
Total cost over the life of the loan:	$21,180
Translates to an interest rate of:	36.4%

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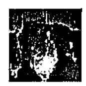
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pension-advance companies, which operate largely outside of state and federal banking regulations, but are now drawing scrutiny from Congress and the Consumer Financial Protection Bureau.

The pitches come mostly via the Web or ads in local circulars.

"Convert your pension into CASH," LumpSum Pension Advance, of Irvine, Calif., says on its Web site. "Banks are hiding," says Pension Funding L.L.C., of Huntington Beach, Calif., on its Web site, signaling the paucity of credit. "But you do have your pension benefits."

Another ad on that Web site is directed at military veterans: "You've put your life on the line for Americans to protect our way of life. You deserve to do something important for yourself."

A review by The New York Times of more than two dozen contracts for pension-based loans found that after factoring in various fees, the effective interest rates ranged from 27 percent to 106 percent — information not disclosed in the ads or in the contracts themselves. Furthermore, to qualify for one of the loans, borrowers are sometimes required to take out a life insurance policy that names the lender as the sole beneficiary.

LumpSum Pension Advance and Pension Funding did not return calls and e-mails for comment.

While it is difficult to say precisely how many financially struggling people have taken out pension loans, legal aid offices in Arizona, California, Florida and New York say they have recently encountered a surge in complaints from retirees who have run into trouble with the loans.

Ronald E. Govan, a Marine Corps veteran in Snellville, Ga., paid an interest rate of more than 36 percent on a pension-based loan. He said he was enraged that veterans were being targeted by the firm, Pensions, Annuities & Settlements, which did not return calls for comment.

"I served for this country," said Mr. Govan, a Vietnam veteran, "and this is what I get in return."

The allure of borrowing against pensions underscores an abrupt reversal in the financial fortunes of many retirees in recent years, as well as the efforts by a number of financial firms, including payday lenders and debt collectors, to market directly to them.

The pension-advance firms geared up before the financial crisis to woo a vast and wealthy generation of Americans heading for retirement. Before the housing bust and recession forced many people to defer retirement and to run up debt, lenders marketed the pension-based loan largely to military members as a risk-free option for older Americans looking to take a dream vacation or even buy a yacht. "Splurge," one advertisement in 2004 suggested.

Now, pension-advance firms are repositioning themselves to appeal to people in and out of the military who need cash to cover basic living expenses, according to interviews with borrowers, lawyers, regulators and advocates for the elderly.

"The cost of these pension transactions can be astronomically high," said Stuart Rossman, a lawyer with the National Consumer Law Center, an advocacy group that works on issues of economic justice for low-income people.

"But there is profit to be made on older Americans' financial pain."

The oldest members of the baby boom generation became eligible for Social Security during the recent housing bust and recession, and many nearing retirement age watched their investments plummet in value. Some are now sliding deep into debt to make ends meet.

The pitches for pension loans emphasize how difficult it can be for retirees with scant savings and checkered credit histories to borrow money, especially because banks typically do not count pension income when considering loan applications.

"The result often leaves retired pensioners viewed like other unqualified borrowers," one of the lenders, DFR Pension Funding, says on its Web site. That, the firm says, "can make the 'golden years' not so golden."

The combined debt of Americans from the ages of 65 to 74 is rising faster than that of any other age group, according to data from the Federal Reserve. For households led by people 65 and older, median debt levels have surged more than 50 percent, rising from $12,000 in 2000 to $26,000 in 2011, according to the latest data available from the Census Bureau.

While American adults of all ages ran up debt in good times, older Americans today are shouldering unusually heavy burdens. According to a 2012 study by Demos, a liberal-leaning public policy organization, households headed by people 50 and older have an average balance of more than $8,000 on their credit cards.

Meanwhile, households headed by people age 75 and older devoted 7.1 percent of their total income to debt payments in 2010, up from 4.5 percent in 2007, according to the Employee Benefit Research Institute.

Financial products like pension advances, which promise quick cash, appear especially enticing because their long-term costs are largely hidden from the borrowers.

Federal and state regulators are spotting fresh examples of abuse, and both the Consumer Financial Protection Bureau and the Senate's Committee on Health, Education, Labor and Pensions are examining these loans, according to people with knowledge of the matter.

Though the firms are not directly regulated by states, officials from the California Department of Corporations, the state's top financial services regulator, filed a desist-and-refrain order against a pension-advance firm in 2011 for failing to disclose critical information to investors.

That firm has since filed for bankruptcy, but a department spokesman said it remained watchful of pension-advance products.

"As the state regulator charged with protecting investors, we are aware of this type of offer and are very concerned with the companies that abuse it to defraud people," said the spokesman, Mark Leyes.

Borrowing against pensions can help some retirees, elder-care lawyers say. But, like payday loans, which are commonly aimed at lower-income borrowers, pension loans can turn ruinous for people who are already financially vulnerable, because of the loans' high costs.

Some of the concern on abuse focuses on service members. Last year, more than 2.1 million military retirees received pensions, along with roughly 2.6 million federal employees, according to the Congressional Budget Office.

Lawyers for service members argue that pension lending flouts federal laws that restrict how military pensions can be used.

Mr. Govan, the retired Marine, considered himself a credit "outcast" after his credit score was battered by a foreclosure in 2008 and a personal bankruptcy in 2010.

Unable to get a bank loan or credit card to supplement his pension income, Mr. Govan, now 59, applied for a payday loan online to pay for repairs to his truck.

Days later, he received a solicitation by e-mail from Pensions, Annuities & Settlements, based in Wilmington, Del.

Mr. Govan said the offer of quick, seemingly easy cash sounded too good to refuse. He said he agreed to sign over $353 a month of his $1,033 monthly disability pension for five years in exchange for $10,000 in cash up front. Those terms, including fees and finance charges, work out to an effective annual interest rate of more than 36 percent. After Mr. Govan belatedly did the math, he was shocked.

"It's just wrong," said Mr. Govan, who filed a federal lawsuit in February that raises questions about the costs of the loan.

Pitches to military members must sidestep a federal law that prevents veterans from automatically turning over pension payments to third parties. Pension-advance firms encourage veterans to establish separate bank accounts controlled by the firms where pension payments are deposited first and then sent to the lenders. Lawyers for retirees have challenged the pension-advance firms in courts across the United States, claiming that they illegally seize military members' pensions and violate state limits on interest rates.

To circumvent state usury laws that cap loan rates, some pension advance firms insist their products are advances, not loans, according to the firms' Web sites and federal and state lawsuits. On its Web site, Pension Funding asks, "Is this a loan against my pension?" The answer, it says, is no. "It is an advance, not a loan," the site says.

The advance firms have evolved from a range of different lenders; some made loans against class-action settlements, while others were subprime lenders that made installment and other short-term loans.

The bankrupt firm in California, Structured Investments, has been dogged by legal challenges virtually from the start. The firm was founded in 1996 by Ronald P. Steinberg and Steven P. Covey, an Army veteran who had been convicted of felony bank fraud in 1994, according to court records.

To attract investors, the firm promised an 8 percent return and "an opportunity to own a cash stream of payments generated from U.S. military service persons," according to the California Department of Corporations. Mr. Covey, according to company registration records, is also associated with Pension Funding L.L.C. Neither Mr. Covey nor Mr. Steinberg returned calls for comment. In 2011, a California judge ordered Structured Investments to pay $2.9 million to 61 veterans who had filed a class action.

But the veterans, among them Daryl Henry, retired Navy disbursing clerk, first class, in Laurel, Md., who received a $42,131 pension loan at a rate of 26.8 percent, have not received any relief.

Robert Bramson, a lawyer who represented Mr. Henry in the class-action lawsuit, said that pensioners too often failed to contemplate the long-term costs of the advances.

"It's simply a terrible deal," he said.

FOR IMMEDIATE RELEASE

Tuesday, September 17, 2013

State Treasurer Clint Zweifel warns Missourians about pension advances and seeks legislative restrictions on practice

Treasurer Zweifel calls on public to share experiences with this practice in Missouri

JEFFERSON CITY - **State Treasurer Clint Zweifel** (ZWY-ful) today issued a warning to Missourians about an increasingly common practice called a pension advance, an agreement that promises fast access to cash but can ultimately cost retirees thousands in interest and fees. Treasurer Zweifel is asking the public to let him know if they have been approached by businesses promoting this offer and has asked Attorney General Chris Koster to join him in an investigation of the practice in Missouri.

"Missourians are known for being hard-working and our retirees deserve every protection they can get," Treasurer Zweifel said. "Unfortunately, there are businesses that prey on those retirees in difficult situations. Retirees are faced with medical bills, bills for aging parents and their own long-term care. Financial decisions can be difficult. Pension advance contracts are unregulated and often do not fully disclose the effective interest rate and other fees associated with them. These businesses are not held to the same standards as banks and life insurance companies. I want Missourians to be aware of this and to ask questions before making decisions that could impact them and their families for years to come."

Pension advances are a financial instrument where an individual with a pension receives an up-front, lump-sum payment in exchange for contracting away a portion of that individual's pension payment. Media reports indicate that monthly payments made by the borrower can be subject to effective interest rates of 27 to 106 percent.

Treasurer Zweifel is asking Missourians to let him know if they have been approached by businesses promoting this offer. To share your experience, go to his website treasurer.mo.gov and click on the Pension Advance Portal.

Treasurer Zweifel will be working with members of the General Assembly to propose legislation that will prohibit any company from offering this product in exchange for public pensions in the state of Missouri. This includes city, fire, police, state and teacher pensions. The federal government has already passed similar legislation prohibiting these agreements with regard to military pensions.

"Congress did the right thing when they protected veterans' pensions from this unscrupulous practice and we need to take it one step further here in Missouri," Treasurer Zweifel said. "Pension advances are wrong. We should and can prevent these businesses from operating in Missouri. We do not need bad actors preying on our retirees and their hard-earned retirement benefits."

This is an ongoing issue nationwide. In May, New York Governor Anthony Cuomo directed his Department of Financial Services to launch an investigation into pension advances. The United States Senate Health, Education, Labor and Pensions (HELP) Committee has created a bipartisan subcommittee to investigate this practice and pension sales.

A copy of the letter Treasurer Zweifel sent to Attorney General Koster is available here.

"I appreciate Treasurer Zweifel bringing the issue of pension advances to our attention," Attorney General Koster said. "After years of public service, no one should be taken advantage of in their retirement years. I look forward to working with Treasurer Zweifel to protect Missouri consumers by investigating how pension advances are being conducted in our state."