

HOW MISSISSIPPI MUNICIPALITIES CAN PROTECT THEIR RESIDENTS FROM PAYDAY LENDING

By Leah A. Plunkett, Staff Attorney

10/27/10

Payday lenders make high-cost, short-term loans of relatively small dollar amounts to borrowers. A two-week payday loan for \$250 in Mississippi has an Annual Percentage Rate (APR) of 572%.¹ These loans capture borrowers in a debt trap from which it is difficult to escape.

The Mississippi Check Cashers Act (“Act”) authorizes payday lenders to do business if they have a valid license and follow state laws and regulations. But the state is not the only governmental unit with the *ability* and *responsibility* to regulate payday lenders. Municipalities also have an important role to play in ensuring that lenders within their borders are doing business in a manner that comports with the health, safety, and welfare of residents and the needs of other local businesses and institutions.

ZONING

As part of keeping their license, the Act requires payday lenders to follow local zoning requirements.² Zoning is how municipalities establish rules for the use of land. Typically, a municipality is divided into different districts—such as residential and commercial—with rules set for each district. These ordinances may address such matters as building size or signage.

¹ See National Consumer Law Center, Consumer Federation of America, and Consumers Union, [Small Dollar Loan Products Scorecard—Updated 17](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-2010.pdf) (May 2010), available at http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-2010.pdf.

² Miss. Code Ann. § 75-67-505(1)(b)(ii).

Municipalities across the country have zoning ordinances in place that govern payday lenders. These ordinances include measures:

- Restricting hours of operation;
- Placing limits on the number of storefronts in a given district;
- Requiring storefronts to be a certain distance from each other;
- Requiring lenders to obtain special or conditional use permits to open storefronts (often involving a hearing);
- Restricting lenders to a certain zoning district(s); or
- A combination of these methods.

Note that any new zoning, moratorium, or other type of ordinance needs to grandfather in existing payday lenders, so there are distinct advantages to acting quickly.

Municipalities in Mississippi with zoning ordinances addressing payday lenders include: Ridgeland.

MORATORIA

A moratorium is a ban on new payday lenders in a municipality. The best practice is to put a moratorium in place only for a defined period of time. During this time, the municipality studies the issues surrounding payday lending in the community and comes up with a comprehensive plan for addressing them going forward. The comprehensive plan could, for example, involve a zoning ordinance to address concerns about the concentration or number of payday lenders in a particular area.

Municipalities in Mississippi with moratoria on payday lenders include:

- Byram
- Canton
- Clinton
- Jackson
- Pearl
- Starkville
- West Point

RESOLUTIONS

Municipalities can take a strong stand on payday lending without passing ordinances. Resolutions—official statements of a municipality’s stance on an issue—can be passed to ask the state legislature to protect residents from predatory payday lending. Resolutions typically explain the need for action (in this case, the detriment to individuals and communities caused by payday lending)³ and articulate a specific desired action. Because the Check Cashers Act contains a sunset provision of July 1, 2012,⁴ the requested action could simply be asking the legislature to let the sunset occur as scheduled.

Resolutions have been used by municipalities in Virginia and Texas to influence their state legislatures. Note that a municipality can pass both ordinances and resolutions regarding payday lending; it does not have to be one or the other.

³ See Jennifer Johnson, Center for Responsible Lending, High-Cost Payday Lending Traps Mississippi Borrowers (July 2010), available at <http://www.responsiblelending.org/payday-lending/policy-legislation/states/high-cost-payday-lending-in-Mississippi.html> (detailing harm to Mississippi borrowers and communities from payday lending).

⁴ Miss. Code Ann. § 75-67-539.

Municipalities in Mississippi with resolutions regarding payday lending include:

- Crystal Springs
- Greenville
- Gulfport
- Harrison County
- Moss Point
- Mound Bayou

FINDING THE RIGHT APPROACH

Advocates and municipal officials looking to pass an ordinance and/or resolution should carefully assess the needs of their communities. Close attention should be paid to local requirements, such as procedures for passage as well as any comprehensive zoning plans that might already be in place.

Additional reading:

Lynn Drysdale, Kelly Griffith, and Linda Hilton, Controlling the Growth of Payday Lending Through Local Ordinances and Resolutions: A Guide for Advocacy Groups and Government Officials (Nov. 2007, updated Sept. 2010), available at <http://www.consumerfed.org/pdfs/PDL-Local-Ord-final-master9-10.pdf>.

For assistance with drafting and other legal issues:

Mississippi Center for Justice
5 Old River Place, Suite 203 (39202)
P. O. Box 1023
Jackson, MS 39215-1023
Phone: (601) 352-2269
Fax: (601) 352-4769

© Copyright 2010, National Consumer Law Center, Inc. All rights reserved.

NCLC[®]

NATIONAL CONSUMER LAW CENTER[®]

Boston Headquarters:
7 Winthrop Square
Boston, MA 02110-1245
Phone: 617/542-8010
Fax: 617/542-8028
www.nclc.org

Advancing Fairness
in the Marketplace for All

Washington Office:
1001 Connecticut Ave, NW
Suite 510
Washington, DC, 20036
Phone: 202/452-6252
Fax: 202/463-9462