

## Small-Dollar Loans, Big Problems: How States Protect Consumers from Abuses and How the Federal Government Can Help

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### I. INTRODUCTION

Across America, drivers pass twice as many payday loan storefronts as Starbucks coffee shops.<sup>2</sup> In twenty-nine states, there are more payday lender stores than McDonald's restaurants.<sup>3</sup> Numerous research studies warn of the dangers associated with payday loans, including significantly higher rates of bankruptcies, evictions, utility shut-offs, and involuntary bank account closures.<sup>4</sup> Many states have recognized the dangers posed by payday and other

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The views expressed herein are those of the authors and do not necessarily reflect the position of NCLC.

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2. LESLIE PARRISH & URIAH KING, CTR. FOR RESPONSIBLE LENDING, PHANTOM DEMAND: SHORT-TERM DUE DATE GENERATES NEED FOR REPEAT PAYDAY LOANS, ACCOUNTING FOR 76% OF TOTAL VOLUME 6 (2009), available at <http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-final.pdf>.

3. *Id.*

4. See Michael S. Barr, *Financial Services, Saving, and Borrowing Among Low- and Moderate-Income Households: Evidence from the Detroit Area Household Financial Services Survey*, in INSUFFICIENT FUNDS: SAVINGS, ASSETS, CREDIT, AND BANKING AMONG LOW- AND MODERATE-INCOME HOUSEHOLDS 66, 66-69 (Michael S. Barr & Rebecca M. Blank eds., 2009) (finding that among low to moderate-income households in Detroit, payday loan users approximately three times more likely to file for bankruptcy). On average, payday loan borrowers were two times more likely to suffer evictions than individuals who did not take out payday loans. See *id.* On average, payday loan borrowers have their utilities completely shut off about three times more often than non-payday loan borrowers. See *id.*; see also Sumit Agarwal et al., *Payday Loans and Credit Cards: New Liquidity and Credit Scoring Puzzles?*, 99 AM. ECON. REV. 412, 412 (2009), available at

types of small-dollar loans with predatory features, prompting them to adopt laws to combat the abusive nature of these loans. These laws, however, offer consumers varying degrees of protection.

Historically, states have used their police powers to protect consumers from predatory lending. This Article discusses the extent to which each state's current laws protect consumers from lending abuses associated with four common small-dollar loans: payday loans, auto-title loans, six-month installment loans, and one-year installment loans.<sup>5</sup> Specifically, this Article highlights the findings from the 2010 *Small Dollar Loan Products Scorecard (Scorecard)*, which updated the original 2008 *Scorecard*.<sup>6</sup> Both the 2008 and 2010 *Scorecard* grade state laws based on the maximum annual percentage rate (APR) they allow for the four typical small-dollar loan products listed above. Since the 2008 *Scorecard*, there has been significant state legislative activity across the country related to small-dollar loans. Only a handful of states,

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[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1327125](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1327125) (reporting credit card users who took out payday loans nearly twice as likely to enter into "serious credit card delinquency"); Paige Marta Skiba & Jeremy Tobacman, *Payday Loans, Uncertainty, and Discounting: Explaining Patterns of Borrowing, Repayment, and Default* 1 (Vanderbilt Univ. Law School Law & Econ., Working Paper No. 08-33, 2008), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1319751](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1319751) [hereinafter Skiba & Tobacman, Payday Loans] (studying payday loan borrowers and finding over half defaulted within one year of taking out original payday loan); Dennis Campbell et al., Bouncing Out of the Banking System: An Empirical Analysis of Involuntary Bank Account Closures 25-26 (Dec. 3, 2008) (unpublished manuscript), available at <http://ssrn.com/abstract=1335873> (finding consumers with greater access to payday loans 10% more likely to experience involuntary bank account closures); Paige Marta Skiba & Jeremy Tobacman, Do Payday Loans Cause Bankruptcy? 14 (Nov. 9, 2009) (unpublished manuscript), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1266215](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1266215) [hereinafter Skiba & Tobacman, Payday Bankruptcy] (reporting payday loan borrowers approximately 88% more likely to file for Chapter 13 bankruptcy as compared to general population in Texas); Tim De Chant, *The Real Costs of Credit Access: Evidence from the Payday Lending Market*, KELLOGG INSIGHT, Dec. 2009, [http://insight.kellogg.northwestern.edu/index.php/Kellogg/article/the\\_real\\_costs\\_of\\_credit\\_access](http://insight.kellogg.northwestern.edu/index.php/Kellogg/article/the_real_costs_of_credit_access) (reporting on empirical study finding consumers with greater access to payday loans significantly more likely to experience difficulty paying bills and postpone medical treatment). On average, defaulting payday loan borrowers had "already repaid or serviced five payday loans, making interest payments of 90% of their original loan's principal." Skiba & Tobacman, Payday Loans, *supra*, at 1; see also Dan Feehan, Chief Exec. Officer, Cash Am., Remarks at the Jefferies Financial Services Conference (June 20, 2007) (transcript on file with the Center for Responsible Lending) (admitting payday lending industry thrives by "get[ting] that customer in, work[ing] to turn him into a repetitive [], long-term customer, because that's really where the profitability is"). Small-dollar loan lenders recognize and embrace the fact that their lending practices ensnare consumers into a debt trap, as this rakes in the profits. See Feehan, *supra*.

5. While the structures of typical payday and auto-title loan products are inherently abusive—due, inter alia, to their triple-digit APRs, lump sum repayment structures, and check, electronic account access, or title holding requirements—installment loan products need not be, if they are offered at reasonable rates and without other dangerous features.

6. See NAT'L CONSUMER LAW CTR., CONSUMER FED'N OF AM. & CONSUMERS UNION, SMALL DOLLAR LOAN PRODUCTS SCORECARD—UPDATED (2010) [hereinafter 2010 SCORECARD UPDATE REPORT], available at [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/payday\\_loans/cu-small-dollar-scorecard-2010.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-2010.pdf);

NAT'L CONSUMER LAW CTR., CONSUMER FED'N OF AM. & CONSUMERS UNION, SMALL DOLLAR LOAN PRODUCTS SCORECARD 2010: STATUTORY BACKUP (2010) [hereinafter 2010 SCORECARD UPDATE STATUTORY BACKUP], available at [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/payday\\_loans/cu-small-dollar-scorecard-backup-2010.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-backup-2010.pdf). The 2010 *Scorecard* is reprinted, with some revisions, at Appendices A and B, *infra*.

however, have enacted new measures that adequately protect consumers. This Article provides policy recommendations to guide ongoing reform efforts.

The Article highlights three key points. First, states should continue their longstanding good fight on behalf of American families against abusive, small-dollar lending, but they need help. Congress and the Consumer Financial Protection Bureau (CFPB), which President Obama established when he signed the Dodd-Frank Wall Street Reform and Consumer Protection Act into law on July 21, 2010, should join the battle.<sup>7</sup> Second, the states and Congress should focus their reform efforts on enacting an across-the-board usury cap of 36% APR on all small-dollar loans. Third, the states, CFPB, and Congress should impose several restrictions on high-cost (over 36% APR), small-dollar lending to help curb its abusive nature.

In this Article, Part II describes the methodology used by the 2010 *Scorecard*. Part III reports the major changes that have occurred in the two years since the *Scorecard*'s original 2008 publication. Finally, Part IV proposes several policy recommendations, at the state and federal level, with the focus in the latter category on opportunities for action by the newly created CFPB.

## II. METHODOLOGY USED FOR THE 2010 *SCORECARD*

### A. *The Small Loan Products Evaluated by the Scorecard*

The 2010 *Scorecard* evaluates all fifty states and the District of Columbia on four categories of small-dollar loan products and examines whether the states have criminal usury caps for these products.<sup>8</sup> This section describes the four loan products included in the 2010 *Scorecard*: payday loans, auto-title loans, six-month installment loans, and one-year installment loans.

#### 1. *Two-Week, \$250 Loan ("Payday" Loan)*

A payday loan is a short-term cash loan based on the borrower's personal check held for future deposit or electronic access to the borrower's bank account.<sup>9</sup> A borrower writes a personal check for the amount borrowed plus

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7. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, §§ 1011-1013, 124 Stat. 1376, 1964-74 (2010) (codified at 12 U.S.C. §§ 5491-5493 (Supp. 2010)) (creating CFPB as part of Consumer Financial Protection Act of 2010). The Consumer Financial Protection Act includes the following among the CFPB's several functions: "The Bureau is authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services[,] . . . consumers are protected from *unfair, deceptive, or abusive* acts and practices . . ." 12 U.S.C. § 5511 (emphasis added).

8. See 2010 SCORECARD UPDATE REPORT, *supra* note 6, at 5-7 (detailing 2010 *Scorecard*'s methodology and grading criteria).

9. See generally ELIZABETH RENUART ET AL., NAT'L CONSUMER LAW CTR., THE COST OF CREDIT: REGULATION, PREEMPTION, AND INDUSTRY ABUSES § 7.5.5 (4th ed. 2009 & Supp. 2010) (describing payday

the finance charge and receives cash. In some cases, instead of writing a check, the borrower signs over electronic access to his or her bank account to receive and repay the loan. Payday loans are made at stores and via the Internet.

The lender holds the check until the next payday when the total of the cash received and the finance charge must be paid in one lump sum. To pay a loan, the borrower can redeem the check for cash, allow the check to be deposited at the bank, or just pay a new finance charge to roll the loan over for another pay period. When state law prohibits rollovers, a sham in which the borrower redeems the check, immediately reborrows the same funds, and pays another loan fee may be used to accomplish what is, in effect, a rollover.

Unfortunately, even a borrower who is able to repay the loan when it is due may be left with inadequate funds to cover other expenses and may wind up taking out another payday loan immediately or shortly after repaying the prior one. This back-to-back borrowing is known as “churning.”<sup>10</sup> A study by the Center for Responsible Lending concluded that 76% of payday loans are the result of churning (defined as a borrower taking out a new loan within the same two-week period as closing out an old loan).<sup>11</sup>

To get a payday loan, a borrower needs to have an open bank account in relatively good standing, a steady source of income, and identification. Payday lenders do not conduct a full credit check, establish a debt-to-income ratio, or determine whether a borrower can afford to repay the loan when it comes due.

The typical duration for payday loans is two weeks. In 2009, the median payday loan amount in the country was \$350.<sup>12</sup> This represents an increase from as recently as 2005, when the typical payday loan amount was in the range of \$250 to \$300.<sup>13</sup> The maximum loan amount permitted depends on state law. Some states have a tiered pricing system and, for ease of calculation, the original *Scorecard* chose an amount (\$250) that would not trigger more than one tier.<sup>14</sup> For example, Colorado permits a fee of 20% on the first \$300 and 7.5% on the balance.<sup>15</sup>

The statutory backup to the *Scorecard* also tracks whether states permit lenders to hold borrowers' checks or to obtain authorization to debit borrowers' bank accounts. The practices of check holding and electronic debiting give lenders access to borrowers' bank accounts with no further action by borrowers after the loan is made. Internet lenders rely heavily on the ability to debit electronically from borrowers' bank accounts. Lenders may also include fine

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loans).

10. See PARRISH & KING, *supra* note 2, at 5.

11. See *id.* at 11.

12. See *id.* at 15.

13. Mark Flannery & Katherine Samolyk, *Payday Lending: Do the Costs Justify the Price?* 1 (FDIC Ctr. for Fin. Research, Working Paper No. 2005-09, 2005), available at [http://www.fdic.gov/bank/analytical/cfr/2005/wp2005/cfrwp\\_2005-09\\_flannery\\_samolyk.pdf](http://www.fdic.gov/bank/analytical/cfr/2005/wp2005/cfrwp_2005-09_flannery_samolyk.pdf).

14. For the sake of consistency between the 2008 and 2010 *Scorecard*, this amount has been retained.

15. See COLO. REV. STAT. § 5-3.1-105 (2010).

print in their loan contracts to permit them to create and submit an unsigned check for payment using a borrower's account information to collect funds from the borrower's account even if the borrower revokes debit authorization.

### 2. *One-Month, \$300 Auto-Title Loan*

To obtain an auto-title loan, a borrower signs over the title to a paid-for car and, in some states, provides the lender with a spare set of keys.<sup>16</sup> The loan is usually due within a month in one balloon payment. If the borrower fails to repay the loan, the lender can take possession of the car and sell it. In some states, title lenders are allowed to keep the surplus from the sale of the car, allowing them to reap a windfall from the borrower's default. The lenders typically perform no assessment of ability to repay.

Typically, a car title loan is due in one month and has a principal amount of approximately \$300. The *Scorecard* based its APR calculations on a \$300 loan. Auto-title lenders typically do not make large loans. The loan size is dependent on the value of the car and usually represents no more than 30% to 50% of the vehicle's value. This practice ensures negligible losses if the car is taken by the lender and sold in the event of default. In some states, such as South Carolina and California, lenders make larger loans secured by car titles to avoid limits on interest and fees for small loans.<sup>17</sup>

### 3. *Six-Month, \$500 Unsecured Installment Loan*

Short-term installment loans are offered by different types of lenders, but are most commonly made by finance companies. These lenders normally assess the ability of the borrower to repay the loan. Repayment is usually made in installments of equal amounts that cover both principal and interest. Interest rates and APRs can be lower for borrowers with better credit records or scores. If the borrower defaults, the lender can obtain a court judgment for repayment of the loan. The *Scorecard* uses a loan that is slightly larger than either a payday or auto-title loan to compare the cost of an installment loan as opposed to a single-payment loan.

### 4. *One-Year, \$1000 Unsecured Installment Loan*

The *Scorecard* uses an unsecured installment loan with a longer duration to provide another point of comparison to payday and auto-title loan products. The structure of this loan is similar to the six-month, \$500 unsecured installment loan.

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16. See generally RENUART ET AL., *supra* note 9 (describing auto-title loans).

17. See S.C. CODE ANN. § 37-3-201 (2002) (stating title loans over \$600 not subject to interest rate cap). However, even a \$300 title loan has a 117% APR. *Id.*; see also CAL. FIN. CODE § 22303 (West 1999) (stating title lenders do not offer \$300 product). California lenders will make loans of \$2500 and above because they can do so with no rate cap. FIN. § 22303.

### 5. *Criminal Usury Cap*

The *Scorecard* assesses whether a state maintains a criminal usury cap. Criminal usury caps can provide an outer limit to allowable interest rates. Three states have criminal usury laws that set maximum rates and apply regardless of other state laws. Twenty-eight jurisdictions have not enacted a criminal usury law. Twelve states set a cap in their criminal law that does not apply if another state law allows a higher rate. Five states have a general criminal usury law that makes it a crime to violate the usury caps in other state laws, but does not itself set a rate limit. Finally, three states make exceeding the criminal usury cap a crime only if the lender also threatens or uses violence; however, in one of these states, there is no criminal liability based on the rate cap violation if the rate charged is otherwise authorized by law.

#### B. *Grading Scale*

The four small loan products are graded on a pass (P) or fail (F) basis based on the APR for the loan product.<sup>18</sup> If the loan product's APR is less than or equal to 36%, the grade is a P.<sup>19</sup> If the state "prohibited" a payday or auto-title product, the grade is a P.<sup>20</sup> If the loan product's APR is greater than 36%, the grade is an F. If there is "no cap" on the loan product's APR, the grade is an F.

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18. See *infra* Appendix A. Grading is strict, and thus some states—including Massachusetts, Minnesota, North Carolina, and West Virginia—earn Fs for products that are not far over the 36% APR benchmark. In general, these near misses are the result of fees being permitted in addition to interest. APRs are rounded down or up to avoid decimals. They are rounded down to the nearest number without decimals if they are XX.50% or less and are rounded up to nearest full number without decimals if they are XX.51% or more. For purposes of the *Scorecard*, the APR is calculated pursuant to the requirements of the Federal Truth in Lending Act (TILA); thus, all references in this Article to the APR should be understood as applying TILA APR unless otherwise indicated. TILA APR is a uniform way to determine the true cost of a loan. It is based on the finance charge, defined as "the cost of consumer credit as a dollar amount," and is expressed as a percentage. 12 C.F.R. § 226.4(a) (2010). It includes some of the fees and charges associated with the loan, as well as the interest to be earned over the loan term. See 15 U.S.C. §§ 1605-1606 (2006). Some fees may be excluded from the finance charge if certain requirements are met, such as "[a]pplication fees charged to all applicants for credit, whether or not credit is actually extended." 12 C.F.R. § 226.4(c)(1). When applicable state law authorized an application fee for a product, we included the fee in the finance charge and resulting APR because this fee is an important component of the cost of credit. The state statutes we examined generally describe this fee as a loan fee rather than a fee applicable to both borrowers and rejected applicants. Lenders who charge application fees to both rejected and accepted applicants may legitimately exclude it from the APR they disclose to consumers; however, the *Scorecard* does not evaluate the practices of individual lenders, but the terms of state laws.

19. See *infra* Part IV.A.1 (explaining rationale for 36% APR standard).

20. 2010 SCORECARD UPDATE REPORT, *supra* note 6, at 7 n.32.

Where a payday or auto-title loan is "Prohibited," this means that either: a) state law bans payday or title lending because it prohibits the taking of the check or the car's title as security; or b) payday or title lenders would not make loans with APRs under the applicable usury cap due to their current business models. For example, the applicable state law may contain a low rate cap and/or the small loan law requires installment payments.

*Id.*

Criminal usury statutes are somewhat more complicated because of their interplay with other state laws. A handful of these laws set an absolute cap that applies to all loan products evaluated in this *Scorecard*. For these laws, the same basic grading rule applies as for the individual small loan products. If the criminal usury statute imposes an APR cap less than or equal to 36%, the grade is a P. If the criminal usury statute imposes an APR cap greater than 36%, the grade is an F.

Other criminal usury statutes set a rate cap, but the cap is inapplicable if another state law allows a higher interest rate. For example, a state criminal usury statute might cap interest rates at 24% except as otherwise authorized by law. If a separate payday loan statute authorizes interest rates of 300%, the criminal usury statute will have no effect on payday loans. But, if no other provision of state law allows a higher interest rate for payday loans, then the 24% cap will apply to them.

Taking these factors into account, if the rate cap in a state's criminal usury statute is inapplicable if another state law allows a higher rate, or if a state's criminal usury statute does not contain its own rate limit but simply references the limits in other state law, the *Scorecard* grades the state as follows. If no other state law allows a rate higher than 36% for any of the four loan products in the *Scorecard*, the criminal usury law is termed a "soft cap," and the grade is a P. If the criminal usury statute contains its own rate cap but another state law allows a rate higher than 36% for any of the four loan products in the *Scorecard*, the APR includes a plus sign (+) to indicate that the cap can be higher than the stated amount, and the grade is an F. If the criminal usury statute does not contain any limits on rates, but criminalizes making loans above the caps set forth in other state laws governing the four loan products, and any of these products can have a rate higher than 36%, the criminal usury law is deemed to have "no cap," and the grade is an F. And a final grading rule for the criminal usury cap category: if the state does not have a criminal usury law, the *Scorecard* states "None," and the grade is a NA (not applicable) because the *Scorecard* does not penalize for the lack of a law in this category.

### III. FINDINGS: STATE LAW DEVELOPMENTS SINCE THE 2008 *SCORECARD*

This section highlights the recent state law developments that affected the statutory maximum APR for any of the four products included in the *Scorecard*.<sup>21</sup> Currently, eight jurisdictions protect consumers against abusive lending for all four products, scoring Ps across the board: Arkansas,

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21. See *id.* at 8-13 (reporting legislative developments at state level since publication of 2008 *Scorecard*); *infra* Appendices A, B (reproducing 2010 *Scorecard* with minor changes). Developments through April 15, 2010, are reflected in this Article as well as both Appendices A and B, unless otherwise indicated. The 2010 *Scorecard* does not evaluate states' performance based on ballot initiatives or laws that will take effect after this Article was completed.

Connecticut, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, and Vermont.<sup>22</sup> Almost twice as many states fail to protect consumers in all four categories, earning all Fs: Delaware, Idaho, Illinois, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, South Carolina, South Dakota, Tennessee, Texas, Utah, and Wisconsin.<sup>23</sup>

This section also describes legislative changes that closed previous loopholes in relevant state laws or addressed the challenges posed by Internet payday lenders making loans to state residents without following the state's laws.<sup>24</sup>

#### A. Arizona

On July 1, 2010, the sun set on Arizona's law authorizing payday lending.<sup>25</sup> In 2008, voters rejected Arizona Proposition 200, a ballot initiative that would have allowed payday lenders to operate in the state permanently.<sup>26</sup> In 2010, legislation that would have had the same effect was killed in committee.<sup>27</sup> Since the sunset occurred as scheduled, Arizona law no longer authorizes single payment loans at high APRs and secured by checks. Therefore, Arizona now earns a P in the payday loan category and is no longer a state that fails to protect consumers against abuses for all four products.

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22. As of January 1, 2011, Montana will be part of this all Ps group. See *infra* Part III.K.

23. As of January 1, 2011, Montana and Wisconsin will no longer be part of this all Fs group. See *infra* Parts III.K, III.R.

24. See JEAN ANN FOX & ANNA PETRINI, CONSUMER FED'N OF AM., INTERNET PAYDAY LENDING: HOW HIGH-PRICED LENDERS USE THE INTERNET TO MIRE BORROWERS IN DEBT AND EVADE STATE CONSUMER PROTECTIONS 9, 13 (2004), available at [http://www.consumerfed.org/pdfs/Internet\\_Payday\\_Lending113004.pdf](http://www.consumerfed.org/pdfs/Internet_Payday_Lending113004.pdf) (discussing problems identifying and locating Internet payday lenders after loans made).

25. See ARIZ. REV. STAT. ANN. § 6-1263 (2010) (West) ("The . . . program established by this chapter ends on July 1, 2010 pursuant to § 41-3102."); see also Chris Casacchia, *Arizona Payday Lenders Hit End of the Road*, PHOENIX BUS. J., July 1, 2010, available at <http://phoenix.bizjournals.com/phoenix/stories/2010/06/28/daily66.html> (stating July 1, 2010, "marks the end of the payday loan industry in Arizona . . . [because] [a] law passed 10 years ago allowing lenders to charge interest rates as high as 460 percent annually[] expired at midnight"); Michelle Price, *Arizona Payday Lenders Leave State After Voters, Legislature Let High-Interest Loans Expire*, HUFFINGTON POST (July 9, 2010), [http://www.huffingtonpost.com/2010/07/09/arizona-payday-lenders-le\\_n\\_641676.html](http://www.huffingtonpost.com/2010/07/09/arizona-payday-lenders-le_n_641676.html) (explaining Arizona's law permitting payday lending expired on June 30, 2010).

26. See *Proposition 200: Payday Loan Reform Act* (PBS Channel 8 television broadcast Sept. 24, 2008) (revealing 60% of Arizonans voted "no" on Proposition 200). This consumer victory occurred over massive industry opposition; payday lenders spent almost fifteen times more than proponents of the initiative. TYLER EVILSIZER, NAT'L INST. ON MONEY IN STATE POLITICS, LENDERS COULDN'T BUY LAWS 1 (2009), available at <http://www.followthemoney.org/press/Reports/Payday.pdf>; see also CONSUMER FED'N OF AM., 2008 PAYDAY LOAN LEGISLATIVE UPDATE 1 (2008), available at <http://www.paydayloaninfo.org/pdfs/PDL%202008%20Payday%20Loan%20Legislative%20Update.pdf> (noting rejection of Proposition 200 will result in payday loan law authorizing triple-digit rates for payday loans to expire in 2010).

27. Cf. Price, *supra* note 25 (stating "lending companies unsuccessfully tried to persuade voters or the Legislature to extend [the law authorizing payday lending]").



### B. Arkansas

Although there is a usury cap in Arkansas's constitution, the state legislature enacted a payday loan law permitting "fees" (and avoiding the use of the word "interest") that exceed the constitutional usury cap.<sup>28</sup> In November 2008, the Arkansas Supreme Court resolved the issue, ruling that the transactions were loans and the state law was unconstitutional.<sup>29</sup> Because of the state supreme court's ruling, Arkansas retains its P in the payday loan category.<sup>30</sup>

### C. Colorado

On May 25, 2010, Colorado amended its payday loan law, effective August 11, 2010.<sup>31</sup> The law restructured payday lending by adding an annual interest rate of 45% and a monthly maintenance fee of up to \$7.50 per \$100 loaned to the finance charge already in place.<sup>32</sup> In addition, it established a six-month minimum loan term.<sup>33</sup> Repayment may be in a lump sum or installments.<sup>34</sup> Lenders can continue to hold checks or electronic debit authorization for either form of repayment; however, the instrument (or instruments, if using an installment plan) may only include the loan amount and finance charge and cannot include the interest rate or monthly maintenance fee.<sup>35</sup>

Under this new scheme, payday lending at triple-digit APRs remains legal in

28. See *McGhee v. Ark. State Bd. of Collection Agencies*, 289 S.W.3d 18, 26 (Ark. 2008).

29. *Id.* at 28. "On the basis of its constitutional usury cap, Arkansas earned a 'P' for payday loans in the original *Scorecard*, although the *McGhee* decision had not yet been issued." 2010 SCORECARD UPDATE REPORT, *supra* note 6, at 9 n.35.

30. See 2010 SCORECARD UPDATE REPORT, *supra* note 6, at 9.

31. See Act effective Aug. 11, 2010, 2010 Colo. Legis. Serv. ch. 267 (West) (codified as amended at COLO. REV. STAT. § 5-3.1-102 (2010)) (declaring payday lenders charging 300% interest rates could cause debt trap of repeat borrowing); see also Press Release, Office of Gov. Bill Ritter, Jr., Gov. Ritter Signs Consumer Protection, Election Transparency and School Safety Bills (May 25, 2010).

32. See COLO. REV. STAT. § 5-3.1-105.

A lender may charge a finance charge for each deferred deposit loan or payday loan that may not exceed twenty percent of the first three hundred dollars loaned plus seven and one-half percent of any amount loaned in excess of three hundred dollars. . . . The lender may . . . charge an interest rate of forty-five percent per annum for each deferred deposit loan or payday loan. . . . [T]he lender may charge a monthly maintenance fee for each outstanding deferred deposit loan, not to exceed seven dollars and fifty cents per one hundred dollars loaned, up to thirty dollars per month.

*Id.*

33. *Id.* § 5-3.1-103 (stating "The minimum loan term shall be six months from the loan transaction date").

34. See OFFICE OF THE ATTORNEY GEN., STATE OF COLO. DEP'T OF LAW, REVISED ADMINISTRATIVE INTERPRETATION—HOUSE BILL 10-1351 CONCERNING THE MAXIMUM AUTHORIZED INTEREST RATE FOR A PAYDAY LOAN 1-2 (2010) [hereinafter ADMINISTRATIVE INTERPRETATION]. The proposed rules would codify these repayment options. See OFFICE OF THE ATTORNEY GEN., STATE OF COLO. DEP'T OF LAW, NOTICE OF PROPOSED RULEMAKING 5 (2010), available at <http://www.coloradoattorneygeneral.gov/sites/default/files/uploads/uccc/NoticeProposedRules.pdf> [hereinafter PROPOSED RULEMAKING].

35. See ADMINISTRATIVE INTERPRETATION, *supra* note 34, at 2-3. The proposed rules would codify this requirement. See PROPOSED RULEMAKING, *supra* note 34, at 6.

Colorado, but the typical payday product evaluated by the *Scorecard* (lump sum repayment after a two-week term) does not.<sup>36</sup> Colorado thus now earns a P in the payday loan category, with the caveat that a \$250 lump-sum repayment payday loan with the minimum loan term permitted (six months) still has an APR of 145%—roughly four times as much as the target APR standard of 36%.

#### D. Delaware

On July 16, 2009, this state added statutory provisions that specifically authorize title loans without any mention of a cap on interest or fees.<sup>37</sup> Delaware retains its F in the title loan category.

#### E. Idaho

Since July 1, 2009, any loans made in Idaho by a payday lender that is not licensed by the state of Idaho are void, uncollectible, and unenforceable.<sup>38</sup> Not only can borrowers walk away from these loans, they can sue the unlicensed lenders to get their money back.<sup>39</sup> This statutory change addresses the problem of Internet payday lenders. However, as Idaho lacks any cap on fees or interest rates, borrowers' costs when borrowing, even from a licensed lender, remain high, so it retains its F in the payday loan category.

#### F. Illinois

On June 21, 2010, Illinois Governor Pat Quinn signed House Bill 537, which creates new protections for consumer lending.<sup>40</sup> Illinois currently does not cap the cost of small-dollar installment and auto-title loans.<sup>41</sup> Under the new law, effective March 21, 2011, installment loans of \$1500 or less will be capped at an interest rate of 99% APR plus an acquisition charge of 10% of the amount financed—a positive and noteworthy change.<sup>42</sup> It should be noted that

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36. See ADMINISTRATIVE INTERPRETATION, *supra* note 34, at 8 (calculating APRs of 135% and 179.94% for single payment and multiple installment payment, \$500 payday loans, respectively).

37. See DEL. CODE ANN. tit. 5, §§ 2250–2261 (2010).

38. See IDAHO CODE ANN. § 28-46-402(3) (2010).

39. See *id.*

40. See Act effective Mar. 21, 2010, secs. 5, 15, § 1-10, 2010 Ill. Legis. Serv. 96-936 (West) (amending 205 ILL. COMP. STAT. 670/1-24.5 (2000) and 815 ILL. COMP. STAT. 122/1-10).

41. See 205 ILL. COMP. STAT. 670/15(a) (2004); ILL. ADMIN. CODE tit. 38, § 110.300 (2009) (defining title loan as one charging interest at APR exceeding 36%, with no limit on interest or fees imposed); Monique Garcia, *Quinn Signs Law Limiting Payday Loan Interest Rates*, CLOUT STREET (June 21, 2010, 11:55 AM), [http://newsblogs.chicagotribune.com/clout\\_st/2010/06/quinn-to-sign-law-limiting-payday-loan-interest-rates.html](http://newsblogs.chicagotribune.com/clout_st/2010/06/quinn-to-sign-law-limiting-payday-loan-interest-rates.html) (stating Illinois law did not impose any APR limits before, so some lenders “smacked” consumers “with rates as high as 700 to 1,000 percent”).

42. See 205 ILL. COMP. STAT. 670/17.2(b)(3), (c) (2010). Small consumer loans greater than \$1500 are clearly capped at 99% APR, inclusive of all fees (except a reporting database service fee). See *id.* 670/17.2(b)(3). It is not clear that the same APR cap applies to loans less than or equal to \$1500, as that rate and fee scheme explicitly refers to lenders being allowed to charge “interest at an annual percentage rate of no

the law creates a 36% APR cap for installment loans over \$4000; however, no product evaluated by the *Scorecard* is over \$4000, so this cap does not affect any of Illinois's grades.<sup>43</sup>

Unfortunately, Illinois will continue to permit title lending without a cap.<sup>44</sup> Because the title and installment loan products evaluated by the *Scorecard* will continue to be offered at APRs well over 36%, even after the new law takes effect, Illinois's failing grades in these areas will remain past that date.<sup>45</sup>

The new law allows payday lenders to continue to charge \$15.50 per \$100 for the typical two-week payday product, as well as a new \$1 fee for the use of a consumer reporting service database.<sup>46</sup> In addition, payday lenders will be able to offer installment payday loans, but they will be prohibited from making non-payday installment loans.<sup>47</sup> Without a cap on typical installment loans, payday lenders are encouraged to classify themselves as installment lenders to avoid any limits on the interest rates they can charge.<sup>48</sup> As none of these changes affect the maximum statutory APR for the payday product evaluated by the *Scorecard*, Illinois's grade in this area does not change.<sup>49</sup>

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more than 99% calculated in accordance with the federal Truth in Lending Act" in addition to the acquisition charge, without additional language saying that the acquisition charge must be part of the APR calculation. *See id.* 670/17.2(a). Although the APR is defined as being calculated according to TILA elsewhere in the revised Consumer Installment Loan Act, the definition is limited to a section other than the one in which the rate and fee schemes appear. *See id.* 670/15(a). All small consumer loans, regardless of amount, must have a minimum term of 180 days. *Id.* 670/17.3(a).

43. *See id.* 670/15(a). (stating "[e]very licensee may lend a principal amount not exceeding \$40,000 and, except as to small consumer loans as defined in this Section, may charge . . . interest at an annual percentage rate of no more than 36%").

44. *See id.*

45. Illinois's failing grade for title lending already persisted despite regulatory reform in 2009. At that time, the Department of Financial and Professional Regulation imposed a regulatory requirement that borrowers be allowed to repay a title loan in substantially equal installments. ILL. ADMIN. CODE tit. 38, § 110.340(b). This should result in an end to one-month title loan products repayable in a lump sum; however, the regulations did not expressly ban one-month loan products repayable in installments. As the new measures did not include a cap on interest rates or fees, lenders in Illinois have been able to continue charging any amount they wish for one-month title loan products, as long as it is not repayable in a lump sum. Absent a rate and fee cap, the repayment requirement of substantially equal installments has not decreased the cost of any one-month title loan products that may remain available, so Illinois's grade for title lending has remained an F.

46. *See* Act effective Mar. 21, 2011, sec. 15, § 2-5(e), 2010 Ill. Legis. Serv. 96-936 (West) (amending 815 ILL. COMP. STAT. 122/2-5(e) (2005)).

47. *See* 815 ILL. COMP. STAT. 122/2-5(c) (defining installment payday loan as having a term "of not less than 112 days and not exceeding 180 days" and being "repayable in substantially equal and consecutive installments"); 815 ILL. COMP. STAT. 122/3-5(g) (prohibiting licensed payday lenders from offering loans under Consumer Installment Loan Act except for title loans).

48. *See, e.g.,* Monsignor John Egan Campaign for Payday Loan Reform, *Governor Quinn Signs Landmark Payday Loan Reforms*, WOODSTOCK INST. (June 21, 2010), <http://www.woodstockinst.org/blog/blog/governor-quinn-signs-landmark-payday-loan-reforms> (referring to closing loophole allowing payday lenders to operate essentially unregulated); David Ormsby, *Governor Pat Quinn Ends 1,000% Interest Pay Day Loans as Volume Sags*, HUFFINGTON POST (June 22, 2010), [http://www.huffingtonpost.com/david-ormsby/governor-pat-quinn-ends-1\\_b\\_621171.html](http://www.huffingtonpost.com/david-ormsby/governor-pat-quinn-ends-1_b_621171.html) (stating "[p]ayday loan predators have peddled consumer installment loans with interest rates which have averaged 341% in Illinois, but have also reached 1,000%").

49. The \$1 database fee will be added to the finance charge; however, such a small amount will have a

### G. Indiana

Indiana's 36% annual interest rate cap on small loans up to a certain amount dissuades title lenders from lending within the state. Therefore, Indiana does not have title lending. Indiana attempted to enforce its law against Illinois title lenders who made title loans to Indiana borrowers that came over the border to their Illinois stores. A federal trial court held this attempt to be unconstitutional, a decision that the United States Court of Appeals for the Seventh Circuit affirmed.<sup>50</sup> Nonetheless, Indiana retains its P for title lending because it has a rate cap on the books and enforces the cap within its borders.

### H. Kentucky

In 2009, Kentucky imposed new restrictions on payday lenders. If a payday lender is not licensed in Kentucky, any loans it makes in Kentucky are void, and it is not entitled to collect any monies from those borrowers.<sup>51</sup> In addition, if a lender violates any provision of the payday law, the Executive Director of the Office of Financial Institutions may void the loan and the lender may only recover the principal it paid to the borrower.<sup>52</sup> A ten-year moratorium on the issuance of new payday loan licenses became effective on July 1, 2009.<sup>53</sup>

Kentucky also created a database to track payday loan transactions; however, the \$1 per transaction fee for accessing the database may be passed along to the borrower, thereby increasing the allowable APR on a two-week, \$250 payday loan from 460% to 471%.<sup>54</sup> Consequently, Kentucky retains its F in the payday loan category.

### I. Maryland

Although Maryland does not permit payday lending, in recent years, online payday lenders have been issuing loans to Maryland residents by setting themselves up as credit services organizations and charging broker's fees to connect borrowers with loans. This practice has resulted in loans with triple-digit APRs due to the imposition of broker's fees on top of interest.<sup>55</sup> A bill to close this loophole passed both houses of the Maryland Legislature, and the Governor signed the bill on May 4, 2010. This new law, which became

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negligible effect on the resulting APR.

50. See *Midwest Title Loans, Inc. v. Ripley*, 616 F. Supp. 2d 897, 907 (S.D. Ind. 2009) (reasoning state may not regulate conduct beyond its borders), *aff'd sub nom.*, *Midwest Title Loans, Inc. v. Mills*, 593 F.3d 660 (7th Cir. 2010).

51. See KY. REV. STAT. ANN. § 286.9-035(1) (West 2009).

52. See *id.* § 286.9-035(2).

53. See *id.* § 286.9-071.

54. See *id.* § 286.9-140(1)-(2).

55. See Eileen Ambrose, *Payday Lenders Face Tougher Restrictions*, BALTIMORE SUN, Apr. 12, 2010, available at [http://articles.baltimoresun.com/2010-04-12/business/bs-bz-ambrose-payday-20100412\\_1\\_payday-lenders-lender-s-profit-rate-cap](http://articles.baltimoresun.com/2010-04-12/business/bs-bz-ambrose-payday-20100412_1_payday-lenders-lender-s-profit-rate-cap).

effective on October 1, 2010, prohibits broker's fees that, when added to the interest charged on a loan, exceed the applicable interest rate cap.<sup>56</sup> Although Maryland already has a rating of P in the payday loan category, this new law will make its prohibition more effective.

#### *J. Minnesota*

As of August 1, 2009, Minnesota's payday laws also apply to Internet payday lenders who issue loans to Minnesota residents while those residents are physically present in Minnesota.<sup>57</sup> Additional reforms also became effective at this time, such as prohibiting payday loan contracts from requiring that lender-borrower disputes be resolved outside of Minnesota when the borrower is a Minnesota resident.<sup>58</sup> These reforms did not include a rate cap, however, so Minnesota retained its F rating in the payday lending category.

#### *K. Montana*

On November 2, 2010, Montana voters approved a ballot initiative capping the interest, fees, and other charges on payday, auto-title loans, and loans made by consumer loan licensees at 36%.<sup>59</sup> Support for the initiative was very strong, with over 70% of voters casting their ballots in its favor.<sup>60</sup> When the new measures go into effect on January 1, 2011, Montana will go from receiving all Fs to all Ps, a tremendous accomplishment.<sup>61</sup>

#### *L. New Hampshire*

On January 1, 2009, the New Hampshire Legislature imposed a 36% APR cap on payday loans and a 36% yearly interest rate cap on auto-title loans.<sup>62</sup> It appears that these caps shut down the issuance of new payday and auto-title loans in this state. The amended auto-title statute permits lenders to charge

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56. See *id.*; H.D. 79, 2010 Gen. Assemb., 427th Sess. (Md. 2010), available at [http://mlis.state.md.us/2010rs/chapters\\_noln/ch\\_385\\_hb0079T.pdf](http://mlis.state.md.us/2010rs/chapters_noln/ch_385_hb0079T.pdf).

57. See MINN. STAT. § 47.601, subdiv. 5 (Supp. 2010).

58. See *id.* §47.601, subdiv. 2(a)(2).

59. See Montana Loan Interest Rate Limit, Initiative No. 164 (I-164) (2010) (effective January 1, 2011), available at <http://sos.mt.gov/Elections/archives/2010s/2010/initiatives/I-164.asp>; Sandra Block, *Montana Voters Cap Payday Short-Term Loans at 36%*, USA TODAY, Nov. 4, 2010, available at [http://www.usatoday.com/money/perfi/credit/2010-11-04-payday04\\_ST\\_N.htm](http://www.usatoday.com/money/perfi/credit/2010-11-04-payday04_ST_N.htm).

60. See Matt Volz, *Mont. Voters OK Measures on Loans, Real Estate Tax*, BLOOMBERG BUSINESSWEEK, Nov. 3, 2010, available at <http://www.businessweek.com/ap/financialnews/D9J8N3880.htm>.

61. Title lenders will continue to be allowed to charge borrowers for their "actual costs of recording liens on borrowers' certificates of title" in addition to 36% interest. See MONT. CODE ANN. § 31-1-817(2) (2009). These costs are limited to the fee payable to the Montana Motor Vehicle Division. Telephone Interview with Chris Romano, Mont. Div. of Banking and Fin. Insts. (Nov. 5, 2010). This fee is excludable from the TILA finance charge, so the APR after January 1, 2011, will be 36%, which earns a P. See 12 C.F.R. § 226.4(e)(1) (2010).

62. See N.H. REV. STAT. ANN. §§ 399-A:13(XX), -14(VI) (2006).

borrowers the actual cost of perfecting a security interest in title and recognizes that this fee may cause the true annualized cost for an auto-title loan to exceed 36%.<sup>63</sup> However, the only actual cost associated with perfecting lenders' security interest that the New Hampshire Legislature appears to have contemplated when passing this legislation was the fee lenders must pay to the Division of Motor Vehicles.<sup>64</sup> This fee is excludable from the finance charge definition under the Federal Truth in Lending Act (TILA)—with proper disclosure—because it is paid to a public official to perfect a security interest.<sup>65</sup> New Hampshire's auto-title law is thus properly understood as imposing a 36% APR cap. The *Scorecard* has changed New Hampshire's grades in the payday and auto-title loan categories from F in 2008 to P in 2010, a significant accomplishment in the span of two years.

In addition, on July 23, 2010, Governor Lynch signed Senate Bill 193, which imposed a 36% APR cap on all loans of \$10,000 or less in New Hampshire.<sup>66</sup> The APR is computed using the TILA definition of finance charge, but excludes "one application fee per borrower per year and one participation or membership fee per borrower per year" from the finance charge.<sup>67</sup> This leaves room for the TILA APR to exceed 36%.<sup>68</sup> There does not appear to be a cap on these fees. Although New Hampshire has taken a significant step toward reimposing its previous cap on some small-dollar installment loans, it continues to get an F for both installment loan products, even under this improved framework, because there is not a solid cap on APRs

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63. *Id.* § 399-A:14(VI).

64. See E-mail from Sarah Mattson, Attorney, N.H. Legal Assistance, to Leah A. Plunkett, Staff Attorney, Nat'l Consumer Law Ctr. (Apr. 8, 2010, 10:56 EST) (on file with NCLC). According to an attorney familiar with passage of the bill amending the auto-title statute, the New Hampshire Legislature only discussed passing to borrowers the \$25 fee lenders must pay to the Division of Motor Vehicles to perfect their security interest in a vehicle. *Id.*

65. See 12 C.F.R. § 226.4(e)(1).

66. See N.H. REV. STAT. ANN. § 399-A:12(I) (2010). The new law, effective July 23, 2010, states:

For any closed-end loan in the amount of \$10,000 or less, a lender may lend in money, goods, or things of value upon such security not forbidden by RSA 399-A:11, VIII as may be agreed upon, and in connection with any such loan, may contract for, exact, or receive, directly or indirectly, charges, whether for interest, compensation, brokerage, endorsement fees, consideration, expense, or otherwise, on the entire principal of the loan, for which the annual percentage rate (APR) shall not exceed 36 percent. The APR shall be calculated in accordance with Federal Reserve Board Regulation Z. Notwithstanding the federal definition of APR, for purposes of calculating APR, the finance charge shall exclude one application fee per borrower per year and one participation or membership fee per borrower per year.

*Id.*

67. See *id.*

68. See *id.* Although this language is close to that in Regulation Z, which permits the exclusion of certain application and participation fees from calculation of the APR under TILA, it does not track it exactly. Thus, the APR for the installment loan products offered in New Hampshire can exceed 36% APR if calculated according to TILA requirements. See 12 C.F.R. § 226.4(c)(1), (4) (2010).

under TILA.<sup>69</sup>

### M. Ohio

Ohio enacted a 28% annual interest rate cap for payday loans, effective September 1, 2008.<sup>70</sup> Previously, Ohio permitted payday loans with up to 391% APR, so this lower cap constituted a significant change.<sup>71</sup> Many payday lenders, however, have stayed in business through a loophole: they use licenses issued under Ohio's small loan and mortgage loan acts. The fees permitted by these laws, which were intended for longer-term installment loans and mortgage loans, result in triple-digit APRs when applied to two-week payday loans.<sup>72</sup>

To combat this problem, the Ohio Department of Commerce is leading an effort to revoke several lenders' licenses.<sup>73</sup> Also, the Ohio Legislature has proposed new legislation aimed to close this loophole.<sup>74</sup> Because it has a statutory rate cap of less than 36%, Ohio continues to earn a P in the payday loan category.

### N. Pennsylvania

On July 26, 2008, the Pennsylvania Banking Department changed its position on Internet payday lenders, requiring them to follow Pennsylvania law when making loans to Pennsylvania residents.<sup>75</sup> Pennsylvania gave existing lenders until February 1, 2009, to comply, but the state delayed enforcement past that date because of a pending lawsuit challenging the Banking Department's new position. The lawsuit was filed by Cash America Net of Nevada (Cash America), an Internet lender with no office in Pennsylvania, but

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69. See S. 99, 1999 Gen. Court (N.H. 1999). Until January 1, 2000, installment loans of \$1500 or less had a rate cap of 2% per month on the part of the loan principal up to and including \$600 and a rate cap of 1.5% per month on the part of the loan principal between \$600 and \$1500. See *id.* Loans between \$1500 and \$10,000, however, had no rate cap. See *id.*

70. See OHIO REV. CODE ANN. § 1321.40 (West 2010).

71. See §§ 1315.39-40 (repealed 2009).

72. See DAVID ROTHSTEIN, POL'Y MATTERS OHIO, NEW LAW, SAME OLD LOANS: PAYDAY LENDERS SIDESTEP OHIO LAW 2 (2009), available at <http://www.policymattersohio.org/pdf/NewLawSameOldLoans2009.pdf> (explaining APR for two-week payday loan of \$100 is 423% under small loan act and 680% under mortgage loan act).

73. See Sheryl Harris, *Ohio Department of Commerce Takes Steps to Revoke Payday Lenders' Licenses*, PLAIN DEALER (Cleveland), Feb. 2, 2010, [http://www.cleveland.com/consumeraffairs/index.ssf/2010/02/ohio\\_department\\_of\\_commerce\\_ta.html](http://www.cleveland.com/consumeraffairs/index.ssf/2010/02/ohio_department_of_commerce_ta.html).

74. See Thomas Suddes, Op-Ed., *A Bipartisan Stall Thwarts Ohioans' Will on Lending Rate*, PLAIN DEALER (Cleveland), Mar. 21, 2010, [http://www.cleveland.com/opinion/index.ssf/2010/03/a\\_bipartisan\\_stall\\_thwarts\\_ohi.html](http://www.cleveland.com/opinion/index.ssf/2010/03/a_bipartisan_stall_thwarts_ohi.html) (examining legislative delay in closing loopholes). In May 2010, House Bill 486, which would tighten the state's payday loan law, passed the House and will be taken up by a Senate committee when it reconvenes in fall 2010. See H.R. 486, 128th Gen. Assemb., Reg. Sess. (Ohio 2010), available at [http://www.legislature.state.oh.us/bills.cfm?ID=128\\_HB\\_486](http://www.legislature.state.oh.us/bills.cfm?ID=128_HB_486).

75. Notice to Those Engaging or Considering Engaging in Nonmortgage Consumer Lending to Pennsylvania Residents, 38 Pa. Bull. 3986 (July 26, 2008), available at [http://www.portal.state.pa.us/portal/server.pt/document/700921/internet\\_and\\_out\\_of\\_state\\_lending\\_cdca.pdf](http://www.portal.state.pa.us/portal/server.pt/document/700921/internet_and_out_of_state_lending_cdca.pdf).

that made loans to Pennsylvania residents.<sup>76</sup> The Commonwealth Court of Pennsylvania ruled in favor of the Department, declaring that Cash America was engaging in activities not authorized by state law because Cash America was lending to Pennsylvania residents at a higher annual rate than the 6% permitted by the state's general usury law.<sup>77</sup> With the appropriate license, under Pennsylvania's Consumer Discount Company Act, Cash America could have charged more.<sup>78</sup> Not only did Cash America not have such a license, it was also charging significantly beyond what a licensed lender could have lawfully charged.<sup>79</sup> Recently, the Pennsylvania Supreme Court affirmed the trial court's opinion.<sup>80</sup>

Pennsylvania's rate cap for licensed lenders remains sufficiently low to keep payday lenders from opening up shop in Pennsylvania. Now, the Supreme Court of Pennsylvania has made it clear that Internet lenders will face the same restrictions. Therefore, Pennsylvania continues to earn a P in the payday loan category.

#### *O. Rhode Island*

On June 25, 2010, in a measure that took effect without the Governor's signature, the maximum fee for payday loans decreased from 15% to 10% of the loan amount.<sup>81</sup> The APR for the payday loan products, however, remains in the triple digits (at 261%). Thus, Rhode Island continues to earn an F in this category.

#### *P. South Carolina*

In June 2009, South Carolina's Legislature overrode its Governor's veto to pass a bill imposing additional restrictions on payday loans. Under the new law, lenders must obtain a license from South Carolina before making loans to South Carolina residents.<sup>82</sup> The law also changed the maximum amount that lenders can charge for payday loans. Unfortunately, the law only decreased the APR on two-week, \$250 payday loans to 391%—not a very significant change from the previous APR of 460%. Therefore, South Carolina still receives an F for payday lending.

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76. See *Cash Am. Net of Nev., LLC v. Commonwealth*, 978 A.2d 1028, 1031-32 (Pa. Commw. Ct. 2009), *aff'd*, 8 A.3d 282 (Pa. 2010).

77. See *id.* at 1038.

78. See 7 PA. CONS. STAT. §§ 6203(a), 6213(e) (2010).

79. See *Cash Am. Net*, 978 A.2d at 1032.

80. *Cash Am. Net of Nev., LLC v. Commonwealth*, 8 A.3d 282, 284 (Pa. 2010).

81. H.R. 7330A, 2010 Gen. Assemb., Reg. Sess. (R.I. 2010) (amending R.I. GEN. LAWS § 19-14.4-4(4)).

82. See S.C. CODE ANN. § 34-39-130(C) (2009).



*Q. Virginia*

On January 1, 2009, changes to Virginia's Payday Loan Act went into effect, including a requirement that the state's payday loan laws apply to Internet lenders making loans to Virginia residents.<sup>83</sup> While the legislation imposed a 36% annual interest rate cap, it still permitted both a loan and verification fee.<sup>84</sup> With these two fees, the APR for a two-week, \$250 payday loan actually increased, from 390% APR to 610% APR. The number of people eligible for two-week payday loans has decreased, however, as lenders are now required to give borrowers a repayment period that is at least two times longer than the borrower's pay cycle.<sup>85</sup> To avoid this and other new legal requirements, many payday lenders switched to offering unregulated, open-end loan products under another statutory provision.<sup>86</sup> The legislature responded by amending this open-end loophole to provide payday lenders continued access to it only if they gave up their payday lending licenses or if they were making auto-title loans.<sup>87</sup>

As of October 1, 2010, however, payday lenders can no longer avail themselves of the loophole by offering title loans.<sup>88</sup> On that date, Senate Bill 606—a bill reforming title lending—became effective. Senate Bill 606 also includes limits on interest rates and imposes a minimum loan term of 120 days. These and other new requirements have been imposed on out-of-state lenders making loans to Virginia residents, as well as Virginia title lenders.<sup>89</sup>

The bill is a positive development because prior to its enactment, there was no cap on interest or fees for title lending. Unfortunately, the limits it sets continue to permit triple-digit APRs.<sup>90</sup> However, Senate Bill 606 bans the one-month, auto-title product evaluated by the 2010 *Scorecard*; thus, Virginia earns a P for title lending as of October 1, 2010. Virginia continues to rate an F for payday lending.

*R. Wisconsin*

On May 18, 2010, Governor Boyle approved Senate Bill 530, now

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83. See VA. CODE ANN. § 6.1-469.1 (2010).

84. See *id.* § 6.1-460.

85. See *id.* § 6.1-459.1(v).

86. See *id.* § 6.1-330.78.

87. See VA. CODE ANN. § 6.1-330.78; 10 VA. ADMIN. CODE § 5-200-100 (2010); Jay Speer, *Fool Me Once . . . Will the Loophole Lender Lobbyists Get Their Way Again?*, AUGUSTA FREE PRESS (Feb. 15, 2010), <http://augustafreepress.com/2010/02/15/fool-me-once-will-the-loophole-lender-lobbyists-get-their-way-again>.

88. See S. 606, 2010 Gen. Assemb., Reg. Sess. § 6.1-330.78(E) (Va. 2010) (codified as amended at VA. CODE ANN. § 6.2-312(C)); see also Dena Potter, *Virginia Lawmakers Pass Car Title Lending Reform*, ASSOCIATED PRESS, Mar. 11, 2010, <http://finance.yahoo.com/news/Virginia-lawmakers-pass-car-apf-2002875231.html?x=0>.

89. See S. 606, 2010 Gen. Assemb., Reg. Sess. §§ 6.1-481, -495, -496 (Va. 2010) (codified as amended at VA. CODE ANN. §§ 6.2-2201, -2215, -2216).

90. See VA. POVERTY LAW CTR., RESTRICTIONS ON CAR TITLE LENDING SIGNED INTO LAW (2010).

Wisconsin Act 405, with partial vetoes.<sup>91</sup> In particular, the Governor used his partial veto power to ban auto-title loans outright, a tremendous improvement over the current law, which allows title lending with no cap.<sup>92</sup> Thus, once the new law takes effect on January 1, 2011, Wisconsin will earn a P for title lending.<sup>93</sup>

Wisconsin Act 405 also explicitly recognizes payday lending for the first time in that state's laws.<sup>94</sup> Currently, Wisconsin permits payday lending—with no cap—under the state's general small loan law.<sup>95</sup> Wisconsin is the only state in the country to take this approach. Wisconsin Act 405 requires licensing for lenders making or servicing payday loans to Wisconsin residents.<sup>96</sup> Although Wisconsin Act 405 restricts payday lending in several ways, it imposes no rate or fee cap on payday loans.<sup>97</sup> Wisconsin will thus continue to receive an F in

91. See S. 530, 2009-2010 Leg., Reg. Sess. (Wis. 2009), available at <http://legis.wisconsin.gov/2009/data/acts/09Act405.pdf>. See generally Michael Burke, *Consumer Credit Companies Take Hit: New Auto-Title Provision in State Loan Law Will Hurt Them and Consumers, Lenders Say*, J. TIMES, May 29, 2010, available at [http://www.journaltimes.com/business/local/article\\_4a621056-6b6e-11df-89bd-001cc4c002e0.html](http://www.journaltimes.com/business/local/article_4a621056-6b6e-11df-89bd-001cc4c002e0.html) (stating Governor Doyle “struck 33 words from a sentence . . . [leaving] only the words, ‘No licensed lender may make a title loan’”).

92. See Wis. S. 530 (vetoing all proposed language except “[n]o licensed lender may make a title loan”); accord Sudeep Reddy, *States to Protect Borrowers Who Turn to Cars for Cash*, WALL ST. J., July 19, 2010, available at [http://online.wsj.com/article/NA\\_WSJ\\_PUB:SB10001424052748704746804575367250783943906.html](http://online.wsj.com/article/NA_WSJ_PUB:SB10001424052748704746804575367250783943906.html) (“In May, Wisconsin’s governor struck authorization for car-title loans from a broader bill that allowed payday lending with some restrictions, making car-title lending illegal starting in December.”); see also Burke, *supra* note 91 (discussing effects of Governor Doyle’s ban on auto-title lending). In Governor Doyle’s letter to his state’s senators, he explained why he banned auto-title loans:

[A]uto title loans are an example of some of the worst predatory lending practices [because] . . . [they] can result in individuals losing their vehicles due to failure to make timely payments on relatively small loan amounts, putting at high risk an asset that is essential to the well-being of working families.

Letter from Jim Doyle, Governor of Wis., to the Honorable Members of the Wis. Senate (May 18, 2010) [hereinafter Doyle Letter]. Title loans are currently made under WIS. STAT. §§ 138.09, 422.201 (2010), which impose no caps.

93. See Wis. S. 530 (“This act takes effect on the first day of the 7th month beginning after publication.”).

94. See WIS. STAT. § 138.14 (permitting both check holding and electronic debit authorization).

95. See *id.* §§ 138.09, 422.201.

96. See *id.* § 138.14(2).

97. See *id.* §§ 138.04, .14(10); Doyle Letter, *supra* note 92. Governor Doyle highlighted several restrictions in his letter to his state’s senators:

[The law] caps the maximum loan amount at \$1,500 or 35 percent of a customer’s gross monthly income; allows only one loan rollover per customer; establishes a rate cap of 2.75 percent per month on the outstanding balance after the maturity date of the loan; establishes a real-time database to prevent multiple loans at one time; . . . allows the customer to rescind a loan until close of business the next day; prohibits wage garnishments; . . . requires lenders to disclose . . . the [APR] charged; creates a new license . . . for payday lenders[.] . . . gives the Department of Financial Institutions (DFI) regulatory powers; . . . and prohibits lenders from locating within 1,500 feet of another lender and within 150 feet of certain residential areas.

that category even when the new law is in effect.<sup>98</sup>

#### IV. POLICY RECOMMENDATIONS FOR THE STATES, CONGRESS, AND THE CONSUMER FINANCIAL PROTECTION BUREAU

This section describes several measures that the states, Congress, and the CFPB should take to protect consumers from small-dollar lending abuses.<sup>99</sup>

##### A. Usury Caps on Small-Dollar Loans

###### 1. Congress and the States Should Create a 36% APR Cap for All Small-Dollar Loans

First, and most importantly, Congress and the states should pass legislation to cap the APR on small-dollar loans at 36%, including fees. In the first half of the twentieth century, a majority of the states adopted a usury cap on interest at or around 36% for small-dollar loans.<sup>100</sup> The tradition of usury caps in this country goes back even further.<sup>101</sup> Contemporary research suggests that a 36% APR cap is the most effective way to protect consumers from the debt spiral associated with abusive small-dollar loans.<sup>102</sup> Therefore, the states and Congress should prioritize their reform efforts by focusing on enacting a 36%

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Doyle Letter, *supra* note 92.

98. See generally Kelly J. Noyes, Comment, *Get Cash Until Payday! The Payday-Loan Problem in Wisconsin*, 2006 WIS. L. REV. 1627 (presenting arguments for need to protect consumers in Wisconsin from payday lenders).

99. See *supra* note 7 and accompanying text (discussing creation of CFPB and its functions).

100. See Elisabeth Anderson, Experts, Ideas, and Policy Change: The Russell Sage Foundation and Small Loan Reform, 1910-1940 4, 39 (Mar. 8, 2006) (unpublished manuscript), available at <http://www.yale.edu/scr/andersen.doc> (stating between 1914 and 1943, thirty-four states adopted usury cap near 36% for small-dollar loans); see also Benjamin D. Faller, Note, *Payday Loan Solutions: Slaying the Hydra (and Keeping it Dead)*, 59 CASE W. RES. L. REV. 125, 150 (2008) (recounting history of usury laws in United States, including passage of Uniform Small Loan Laws in early twentieth century). Note that an interest rate cap is not as comprehensive as an APR cap because it does not include the fees and charges in addition to interest that the APR captures. See generally 15 U.S.C. §§ 1605-1606 (2010).

101. See RENUART ET AL., *supra* note 9, at §§ 2.2.2, 2.3.3.2 (tracing origin of states' general usury laws to England's laws). See generally James M. Ackerman, *Interest Rates and the Law: A History of Usury*, 27 ARIZ. ST. L.J. 61 (1981) (providing in-depth history of usury laws, including those adopted in United States).

102. See URIAH KING & LESLIE PARRISH, CTR. FOR RESPONSIBLE LENDING, SPRINGING THE DEBT TRAP: RATE CAPS ARE ONLY PROVEN PAYDAY LENDING REFORM 9-18 (2007), available at <http://www.responsiblelending.org/payday-lending/research-analysis/springing-the-debt-trap.pdf>. In light of the findings, the 2007 study concluded:

Those states which enforce a comprehensive interest rate cap at or around 36 percent for small loans have solved their debt trap problem; realizing a savings of \$1.5 billion for their citizens while preserving a more responsible loan market. In sum, the only proven way for state policymakers to protect their citizens from predatory small loans is to enforce a comprehensive small loan law with an interest rate cap at or around 36 percent.

*Id.* at 4.

APR cap.

Congress has enacted usury cap legislation in the past, so it could choose to do so again. In 2007, Congress capped the APR to 36% on payday and title loans made to military families.<sup>103</sup> In doing so, the federal government publicly recognized the abusive nature of these small-dollar loans.<sup>104</sup> Congress should extend this protection to all Americans. Over the last two years, several legislative bills that would create a nationwide 36% APR cap have been introduced in both the Senate and House of Representatives, but none have passed yet.<sup>105</sup> Congress should ramp up its efforts to enact a bill that would place a 36% APR cap on all small-dollar loans. If successful, American families across all fifty states and the District of Columbia would enjoy the benefits associated with a meaningful usury cap.

When defining the 36% APR cap, Congress and the states should ensure that the APR calculation includes all fees.<sup>106</sup> This fee-inclusive APR cap would provide the greatest transparency for consumers because lenders would be unable to hide the true cost of their products by padding the interest rate with excessive fees.

Alternatively, if a usury cap is based on the APR as calculated under TILA, it is essential to correct for loopholes in the TILA APR.<sup>107</sup> TILA's methodology falls short of ideal because its calculations exclude some loan fees and charges, which lenders often exploit to understate the true cost of credit.<sup>108</sup>

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103. See 32 C.F.R. § 232.4 (2007); Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 Fed. Reg. 50,580, 50,581-83 (Aug. 31, 2007) (codified at 32 C.F.R. § 232.1).

104. See Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 Fed. Reg. at 50,582 (describing Department of Defense's "major concern" for financial well-being of military families due to "debt trap" or "cycle of debt" small-dollar loans may create).

105. Senator Dick Durbin of Illinois sponsored one such bill. See Protecting Consumers from Unreasonable Credit Rates Act of 2009, S. 500, 111th Cong. § 141(a) (2009) (stating, "[n]otwithstanding any other provision of law, no creditor may make an extension of credit to a consumer with respect to which the fee and interest rate . . . exceeds 36 percent"). Representative Jackie Speier of California introduced a nearly identical bill in the House of Representatives. See Protecting Consumers from Unreasonable Credit Rates Act of 2009, H.R. 1608, 111th Cong. § 140A(a) (2009) (stating, "[n]otwithstanding any other provision of law, no creditor may extend credit to a consumer which the fee and interest rate . . . exceeds 36 percent"). Additionally, Representative Gabrielle Giffords of Arizona introduced another bill. See Predatory Lending Sunset Act, H.R. 5689, 111th Cong. § 129B(a) (2010), available at <http://www.govtrack.us/congress/billtext.xpd?bill=h111-5689> (proposing amendment to TILA that would impose maximum APR of 36% on all loans covered).

106. The rate might include carefully crafted exclusions for modest application, annual, or late fees. See S. 500, § 141(b)(2). But it is essential to avoid loopholes that enable predatory lenders to use fees to avoid usury limits.

107. See 15 U.S.C. §§ 1601-1667 (2010). For example, states could prohibit lenders from using fees excluded from the APR to evade a usury cap, or could ban fees over certain amounts. *Id.* §§ 1605-1606.

108. See LAUREN K. SAUNDERS ET AL., NAT'L CONSUMER LAW CTR., STOPPING THE PAYDAY LOAN TRAP: ALTERNATIVES THAT WORK, ONES THAT DON'T 12-13 (2010), available at [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/payday\\_loans/report-stopping-payday-trap.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/report-stopping-payday-trap.pdf) (discussing how lenders can use these exclusions to obscure true cost of credit). See generally 15 U.S.C. §§ 1605-1606 (laying out methodology used to calculate APR); Elizabeth Renuart & Diane E. Thompson, *The Truth, the Whole Truth, and Nothing but the Truth: Fulfilling the Promise of Truth in Lending*, 25 YALE J. ON REG. 181 (2008) (explaining evolution of fee

The 2010 *Scorecard* used TILA's APR calculation methodology in its evaluation of state laws in order to maintain consistency because TILA is the current legal standard. TILA's flaws must be corrected, however, in order to achieve its promise of serving as the standardized method of calculating true credit cost.<sup>109</sup>

## 2. *The Consumer Financial Protection Bureau's Important Functions Concerning Usury Caps*

The Consumer Financial Protection Act (CFPA) does not give the CFPB the power to impose usury caps.<sup>110</sup> Nevertheless, the CFPB still has several important enforcement and supervisory functions concerning any usury caps imposed by state or federal law.

First, the CFPB should use its rulemaking authority under TILA to tighten the rules governing the calculation of APRs under Regulation Z, which implements TILA, by removing the exclusion of certain fees and charges from the definition of finance charge.<sup>111</sup> Lenders frequently hike up the true cost of their loans by using "junk" fees, which can include application fees, participation fees, and membership fees. Junk fees are typically structured—or attempted to be structured—so as to fall under the category of charges excluded from the finance charge under Regulation Z.<sup>112</sup> The exclusion of junk fees from the APR calculation obscures the actual amount a borrower must pay for the loan.

Second, the CFPB should issue a rule banning the use of excessive or inappropriate fees that manipulate the APR because it is an unfair, deceptive, and abusive practice.

Third, the CFPB should use its enforcement authority to ensure that lenders do not distort the APR to evade existing state and federal usury caps.<sup>113</sup> The

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exclusions from finance charge).

109. See Matthew A. Edwards, *Empirical and Behavioral Critiques of Mandatory Disclosure: Socio-Economics and the Quest for Truth in Lending*, 14 CORNELL J.L. & PUB. POL'Y 199, 211-15 (2005); Renuart & Thompson, *supra* note 108, at 185-91.

110. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 1027(o), 124 Stat. 1376, 2003 (2010) (to be codified at 12 U.S.C. § 5517) (stating "[n]o provision of this title shall be construed as conferring authority on the [CFPB] to establish a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, unless explicitly authorized by law").

111. See Dodd-Frank Wall Street Reform and Consumer Protection Act § 1002(12)(O) (to be codified at 12 U.S.C. § 5481) (including Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, as one of "enumerated consumer laws" over which CFPB has rulemaking, enforcement, and supervisory authority). Current exclusions permitted from the finance charge are set forth in Regulation Z. See 12 C.F.R. § 226.4(c)-(e) (2010) (codifying exemptions to finance charge). The CFPB's authority to eliminate exclusions is necessarily circumscribed by those exclusions found in TILA itself. See 15 U.S.C. § 1605(d)-(e) (listing items excluded from computation of finance charge).

112. See 12 C.F.R. § 226.4(c).

113. See Dodd-Frank Wall Street Reform and Consumer Protection Act § 1024(a) (to be codified at 12 U.S.C. § 5514) (listing payday lenders among nonbank entities over which CFPB has enforcement authority).

CFPB should be vigilant in ensuring that lenders are making loans under the proper statutory framework instead of taking advantage of loopholes and charging more than the legislature intended. If the CFPB fulfills its cop-on-the-beat function successfully, it will support and strengthen the consumer protection objective of usury cap laws.<sup>114</sup>

*B. Restrictions That Should Be Imposed on Small-Dollar Loans to Enhance Their Safety*

This section describes several non-usury cap restrictions that the states, the CFPB, and Congress should impose on high-cost, small-dollar lending—that is, loans over 36% APR—through legislation or rule-making.<sup>115</sup> These measures are not meant as a substitute for the imposition of usury rate caps. Even if implemented in the absence of usury caps, they will nonetheless address some of the predatory features of certain small-dollar loans.

*1. Ban Dangerous Forms of Security, Such as Title Holding and Check Holding and Electronic Access to Bank Accounts*

The states and the CFPB should prohibit lenders from using dangerous forms of security as a loan condition. Dangerous forms of security include holding paper or electronic checks, requiring wage assignments or demand drafts from borrowers, mandating electronic repayment or other forms of electronic access to borrowers' bank accounts, and making non-purchase money loans secured by title to the borrower's car.<sup>116</sup> These types of security pose several dangers: they put loan payments ahead of food and other necessities, evade protections for Social Security and other types of exempt funds, deprive borrowers of defenses to illegal loans or charges, coerce borrowers into rolling over the loan and incurring additional fees, subject borrowers to overdraft and returned item fees, and encourage lenders to extend

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114. It is a tough beat to patrol, however; lenders are constantly seeking to avail themselves of actual or perceived loopholes in state usury laws. See MONSIGNOR JOHN EGAN CAMPAIGN FOR PAYDAY LOAN REFORM, HUNTING DOWN THE PAYDAY LOAN CUSTOMER: THE DEBT COLLECTION PRACTICES OF TWO PAYDAY LOAN COMPANIES 4 (2006), available at <http://www.woodstockinst.org/document/Greed%2020%20FINAL10-10-2006.pdf> (recounting how payday lenders created loophole in 2005 Illinois usury cap law by offering expensive installment loans).

115. See SAUNDERS ET AL., *supra* note 108, at 8-18 (describing, in detail, several criteria that would remove or reduce some dangers of payday loans). The focus at the federal level is on measures the CFPB can take as it begins to exercise its rule-making powers. This is not to say that these measures should not also be extended to all small-dollar loans, regardless of their cost. They are reasonable measures across the board. However, as the focus of this Article is on combating predatory high-cost credit, such a discussion is beyond the scope of this piece.

116. The CFPB can ban these practices based on its authority to ban unfair, deceptive, or abusive conduct. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, §§ 1031(d), 1061(b)(5)(B)(ii), 124 Stat. 1376, 2006, 2037 (2010) (to be codified at 12 U.S.C. §§ 5531, 5581) (empowering CFPB to ban certain unfair, deceptive, or abusive financial products and services).

credit without considering a borrower's ability to repay.<sup>117</sup> Auto-title holding has greater risks and represents one of the most dangerous forms of loan security, potentially leading to the loss of a borrower's vehicle.<sup>118</sup>

Many states have already banned check and title holding, and more should do so. The CFPB can ban these practices nationwide based on the authority it has to ban unfair, deceptive, or abusive conduct.<sup>119</sup>

The states, the CFPB, and Congress should all act to prohibit lenders from mandating that borrowers turn over electronic access to their bank accounts as a condition of extending credit. The Electronic Funds Transfer Act (EFTA) already prohibits creditors from mandating that borrowers repay credit using "preauthorized electronic fund transfers" and allows borrowers to stop payment on these fund transfers.<sup>120</sup> However, the electronic repayment of loans due in a lump sum, such as payday loans, falls into a loophole that does not constitute a preauthorized transfer.<sup>121</sup> Many high-cost lenders avail themselves of this loophole to gain unfettered access to the borrower's account.<sup>122</sup> Closing this loophole by extending the same EFTA protections to all fund transfers will help ensure that lenders cannot hold checks or electronic authorization as security for high-cost, small-dollar loans.

EFTA does not preempt stronger state laws, so states can extend EFTA's protections to single-payment electronic transfers. Under the new preemption standard enacted as part of the Dodd-Frank Act, state consumer protection laws can apply not only to payday and auto-title lenders, but also to banks that engage in similar practices, as long as the laws do not substantially interfere with the business of banking.<sup>123</sup> The amount of latitude states will in fact have to regulate abusive practices by banks under this new standard remains to be seen.

The CFPB can also prevent predatory lenders from mandating electronic security by using its authority to ban unfair, deceptive, or abusive practices and

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117. See SAUNDERS ET AL., *supra* note 108, at 15-17 (detailing additional justifications behind banning coercive forms of security).

118. Cars are necessary for most people to get to essential activities, such as work, school, and medical appointments. See BUREAU OF TRANSP. STATISTICS, U.S. DEP'T OF TRANSP., HIGHLIGHTS OF THE 2001 NATIONAL HOUSEHOLD TRAVEL SURVEY (2003), available at [http://www.bts.gov/publications/highlights\\_of\\_the\\_2001\\_national\\_household\\_travel\\_survey/pdf/entire.pdf](http://www.bts.gov/publications/highlights_of_the_2001_national_household_travel_survey/pdf/entire.pdf) (finding 91.2% of adults surveyed rely on their personal vehicle to get to their jobs).

119. See Dodd-Frank Wall Street Reform and Consumer Protection Act §§ 1031(d), 1061(b)(5)(B)(ii) (to be codified at 12 U.S.C. §§ 5531, 5581).

120. See 15 U.S.C. § 1693e, k(1) (2010).

121. See *id.* § 1693a(9) (defining "preauthorized electronic fund transfer" as recurring "at substantially regular intervals," thus excluding single fund transfers).

122. This is accomplished contractually through a provision stating that the lender may convert a stopped paper check to an electronic debit. See MARK BUDNITZ ET AL., NAT'L CONSUMER LAW CTR., CONSUMER BANKING AND PAYMENTS LAW: CREDIT, DEBIT & STORED VALUE CARDS; CHECKS; MONEY ORDERS; E-SIGN; ELECTRONIC BANKING AND BENEFIT PAYMENTS § 4.11.4 (4th ed. 2009 & Supp. 2010).

123. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-123, §§ 1031(d), 1061(b)(5)(B)(ii), 124 Stat. 1376, 2006, 2037 (2010) (to be codified at 12 U.S.C. §§ 5531, 5581).

by tightening the regulations implementing EFTA. The CFPB rules will apply to all financial institutions that offer payday loan-type products.<sup>124</sup> Thus, a CFPB-imposed ban would apply not just to storefront, internet payday, and auto-title lenders, but also to banks, credit unions, and other financial institutions making loans that essentially amount to payday loans.<sup>125</sup>

Congress should also eliminate the single-payment loophole in EFTA and apply EFTA protections to all loans.

### *2. Implement Minimum Length Terms and Restrictions on Loan Repayment Structures for High-Cost, Small-Dollar Loans*

The CFPB and states should also address two other common abusive aspects of high-cost, small-dollar lending: the short repayment period and the lump sum or “balloon” payment structure of the loan. These features are integral to the debt trap occasioned by typical payday and auto-title loan products.<sup>126</sup>

Specifically, two changes should be implemented, through legislation or regulation, to protect small loan borrowers.<sup>127</sup> First, loans should have a minimum term of ninety days or one month per \$100 borrowed.<sup>128</sup> Second, balloon payments should be eliminated in favor of multiple amortizing installment payments.<sup>129</sup> If borrowers are able to pay off loans through manageable payments, over a reasonable period of time, they are in a better position to satisfy their financial obligations without becoming ensnared in a debt trap of repeat borrowing or sacrificing funds needed for essential expenses.

### *3. Require Consideration of Ability to Repay*

Finally, the states and CFPB should prohibit lenders, especially high-cost

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124. The CFPB has the authority to write rules for almost the entire financial services sector. *See id.* §§ 1002(6), (12), 1022.

125. *See SAUNDERS ET AL.*, *supra* note 108, at 2, 24-29 (describing predatory nature of many short-term loan products marketed as alternatives to payday loans). The authors report that “a number of credit unions, banks, and bank prepaid cards offer triple-digit, short-term products that are payday loans, plain and simple,” and name a few such products, including “direct deposit advances,” “fee harvester credit cards,” and “overdraft loans.” *Id.*

126. *See id.* at 8 (criticizing dangers of payday loans).

127. Depending on the structure of its statutory and regulatory scheme, a state may be able to use either or both avenues, while the CFPB can impose these requirements to put an end to short-term, balloon-payment loans under its authority to ban unfair, deceptive, or abusive practices. *See* Dodd-Frank Wall Street Reform and Consumer Protection Act §§ 1031(d), 1061(b)(5)(B)(ii) (to be codified at 12 U.S.C. §§ 5531, 5581).

128. *See SAUNDERS ET AL.*, *supra* note 108, at 13-14 (explaining minimum term “consistent with the FDIC’s Small Dollar Loan Guidelines” and providing additional justification for establishing such minimum).

129. *See id.* at 14-15 (explaining how lump sum repayment creates and perpetuates debt trap of predatory small-dollar loans); Letter from David Hamaker, Deputy Comptroller for Compliance, Office of the Comptroller of the Currency, to Chief Exec. Officers of All Nat’l Banks & Nat’l Bank Operating Subsidiaries, Dep’t & Div. Heads, & All Examining Pers. (Feb. 21, 2003), *available at* <http://www.occ.gov/static/news-issuances/memos-advisory-letters/2003/advisory-letter-2003-3.pdf> (identifying balloon payments as feature of predatory lending).



lenders, from issuing loans that borrowers are not likely to be able to repay. Such disregard for borrowers' circumstances is at the core of predatory lending schemes. The practice ensnares borrowers in debt traps and destabilizes credit markets.<sup>130</sup>

In part, responsible underwriting will flow naturally from our other recommendations. If loan APRs are capped at 36%, installment payments are spread over a reasonable period of time, and safer forms of security are relied on, lenders will have an incentive to ensure that borrowers are able to make payments, and borrowers are more likely to have the ability to do so.

A consideration of borrowers' ability to repay should also be an independent requirement. Congress, for example, recently enacted a statutory provision requiring credit card companies to consider borrowers' ability to repay before extending lines of credit or increasing credit limits.<sup>131</sup> Small-dollar lenders should also be required to verify that borrowers are able to repay loans rather than relying on tricks and traps to secure repayment.

## V. CONCLUSION

The 2010 *Scorecard* demonstrates that a number of states have taken steps to combat abusive small-dollar loan products. Most recent state law developments, however, fall short of the 36% APR caps or other significant restrictions—such as banning dangerous forms of security—and fail fully to protect borrowers. There is a need for additional, stronger reforms. Congress and the CFPB should take action against abusive small-dollar loans. In particular, the CFPB should assume a strong role early on to put an end to predatory small-dollar lending. Otherwise, unfair, deceptive, and abusive practices will continue to jeopardize the financial safety of our nation's families and the integrity of our consumer credit market.

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130. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 1411, 124 Stat. 1376, 2142-44 (2010) (requiring lenders to conduct ability to repay analysis for mortgage loans).

131. See 15 U.S.C. § 1665e (codifying requirement from Credit Card Accountability Responsibility and Disclosure Act of 2009, better known as Credit CARD Act).

APPENDIX A: SMALL DOLLAR LOAN PRODUCTS SCORECARD 2010<sup>132</sup>

STATE	LOAN TYPE	APR*	GRADE
Alabama	\$250, 2-week payday loan	456%	F
	\$300, 1-month auto-title loan	300	F
	\$500, 6-month loan	94	F
	\$1000, 1-year loan	20	P
	Criminal usury cap	None	NA
Alaska	\$250, 2-week payday loan	443	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Arizona	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	204	F
	\$500, 6-month loan	54	F
	\$1000, 1-year loan	46	F
	Criminal usury cap	No cap	F
Arkansas	\$250, 2-week payday loan	17	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	17	P
	\$1000, 1-year loan	17	P
	Criminal usury cap	None	NA
California	\$250, 2-week payday loan	460	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	45	F
	\$1000, 1-year loan	30	P
	Criminal usury cap	None	NA

132. Originally released by The National Consumer Law Center, Consumer Federation of America, and Consumers Union (updated November 17, 2010). Legislative developments through April 15, 2010, are reflected in this *Scorecard*, unless otherwise indicated. Arizona, Colorado, Louisiana, New Hampshire, Oklahoma, Rhode Island, and Virginia all reflect legislative or regulatory developments after May 7, 2010; however, not all of these developments have resulted in any changes to the products' APRs or the resulting grades. In addition, legislative developments after May 7, 2010, that have not yet taken effect are reflected in footnotes for Montana and Wisconsin.

\* If the APR includes a plus sign ("+"), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.

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STATE	LOAN TYPE	APR*	GRADE
Colorado	\$250, 2-week payday loan	Prohibited <sup>133</sup>	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	91	F
	\$1000, 1-year loan	58	F
	Criminal usury cap	45	F
Connecticut	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	29	P
	\$1000, 1-year loan	26	P
	Criminal usury cap	12	P
Delaware	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
District of Columbia	\$250, 2-week payday loan	24	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	24	P
	\$1000, 1-year loan	24	P
	Criminal usury cap	None	NA
Florida	\$250, 2-week payday loan	342	F
	\$300, 1-month auto-title loan	30	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	30	P
	Criminal usury cap	25+	F
Georgia	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	304	F
	\$500, 6-month loan	44	F
	\$1000, 1-year loan	31	P
	Criminal usury cap	60	F
Hawaii	\$250, 2-week payday loan	460	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	24	P
	\$1000, 1-year loan	25	P
	Criminal usury cap	No cap	F

133. Two-week payday loans are prohibited in Colorado; however, the APR for a \$250, six-month, lump sum repayment payday loan (the minimum length permitted by law) is 145%, which merits an F.

STATE	LOAN TYPE	APR*	GRADE
Idaho	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
Illinois	\$250, 2-week payday loan	404	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	20+	F
Indiana	\$250, 2-week payday loan	391	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	45	F
Iowa	\$250, 2-week payday loan	358	F
	\$300, 1-month auto-title loan	35	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Kansas	\$250, 2-week payday loan	391	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	35	P
	Criminal usury cap	None	NA
Kentucky	\$250, 2-week payday loan	471	F
	\$300, 1-month auto-title loan	36	P
	\$500, 6-month loan	42	F
	\$1000, 1-year loan	41	F
	Criminal usury cap	None	NA
Louisiana	\$250, 2-week payday loan	574	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	81	F
	\$1000, 1-year loan	47	F
	Criminal usury cap	None	NA
Maine	\$250, 2-week payday loan	261	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	30	P
	Criminal usury cap	None	NA

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STATE	LOAN TYPE	APR*	GRADE
Maryland	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	33	P
	\$1000, 1-year loan	33	P
	Criminal usury cap	None	NA
Massachusetts	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	37	F
	\$1000, 1-year loan	27	P
	Criminal usury cap	20+	F
Michigan	\$250, 2-week payday loan	375	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	43	F
	\$1000, 1-year loan	35	P
	Criminal usury cap	25+	F
Minnesota	\$250, 2-week payday loan	235	F
	\$300, 1-month auto-title loan	116	F
	\$500, 6-month loan	51	F
	\$1000, 1-year loan	38	F
	Criminal usury cap	None	NA
Mississippi	\$250, 2-week payday loan	572	F
	\$300, 1-month auto-title loan	300	F
	\$500, 6-month loan	52	F
	\$1000, 1-year loan	44	F
	Criminal usury cap	None	NA
Missouri	\$250, 2-week payday loan	1955	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	24+	F
Montana <sup>134</sup>	\$250, 2-week payday loan	652	F
	\$300, 1-month auto-title loan	300	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA

134. As of January 1, 2011, Montana will receive a P for all four loan products. See Montana Loan Interest Rate Limit, Initiative No. 164 (I-164) (2010) (effective Jan. 1, 2011), available at <http://sos.mt.gov/Elections/archives/2010s/2010/initiatives/I-164.asp>.

STATE	LOAN TYPE	APR*	GRADE
Nebraska	\$250, 2-week payday loan	460	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	47	F
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Nevada	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	40	F
	\$1000, 1-year loan	40	F
	Criminal usury cap	None	NA
New Hampshire	\$250, 2-week payday loan	36	P
	\$300, 1-month auto-title loan	36	P
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
New Jersey	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	30	P
	Criminal usury cap	30	P
New Mexico	\$250, 2-week payday loan	409	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	45	F
New York	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	25	P
	\$1000, 1-year loan	25	P
	Criminal usury cap	25	P
North Carolina	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	54	F
	\$1000, 1-year loan	37	F
	Criminal usury cap	None	NA
North Dakota	\$250, 2-week payday loan	520	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	28	P
	\$1000, 1-year loan	25	P
	Criminal usury cap	10.8+	F

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STATE	LOAN TYPE	APR*	GRADE
Ohio	\$250, 2-week payday loan	28	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	70	F
	\$1000, 1-year loan	54	F
	Criminal usury cap	25+	F
Oklahoma	\$250, 2-week payday loan	396	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	110	F
	\$1000, 1-year loan	63	F
	Criminal usury cap	45	F
Oregon	\$250, 2-week payday loan	Prohibited <sup>135</sup>	P
	\$300, 1-month auto-title loan	154	F
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Pennsylvania	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	26	P
	\$1000, 1-year loan	22	P
	Criminal usury cap	36	P
Rhode Island	\$250, 2-week payday loan	261	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	24	P
	Criminal usury cap	21+	F
South Carolina	\$250, 2-week payday loan	391	F
	\$300, 1-month auto-title loan	117	F
	\$500, 6-month loan	71	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
South Dakota	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA

135. Two-week payday loans are prohibited in Oregon; however, the APR for a \$250, thirty-one-day payday loan (the minimum length permitted by law) is 154%, which merits an F.

STATE	LOAN TYPE	APR*	GRADE
Tennessee	\$250, 2-week payday loan	313	F
	\$300, 1-month auto-title loan	264	F
	\$500, 6-month loan	87	F
	\$1000, 1-year loan	54	F
	Criminal usury cap	None	NA
Texas	\$250, 2-week payday loan	156 <sup>136</sup>	F
	\$300, 1-month auto-title loan	88	F
	\$500, 6-month loan	84	F
	\$1000, 1-year loan	81	F
	Criminal usury cap	None	NA
Utah	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	No cap	F
Vermont	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	18 or 20	P
	\$500, 6-month loan	24	P
	\$1000, 1-year loan	24	P
	Criminal usury cap	Soft cap	P
Virginia	\$250, 2-week payday loan	610	F
	\$300, 1-month auto-title loan	Prohibited	F <sup>137</sup>
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Washington	\$250, 2-week payday loan	390	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	39	F
	\$1000, 1-year loan	33	P
	Criminal usury cap	None	NA

136. Some lenders get around the rate cap on payday loans as well as on title loans by setting themselves up as credit service organizations and facilitating both these loans with no rate cap. *See* TEX. FIN. CODE ANN. § 393.201 (West 2009).

137. The title loan product evaluated by the *Scorecard* is prohibited in Virginia as of October 1, 2010. *See* S. 606, 2010 Gen. Assemb., Reg. Sess. § 6.1-495 (Va. 2010) (codified as amended at VA. CODE ANN. § 6.2-2215(1)(c)(viii)). However, title lending at triple digit APRs is still permitted for other title loan products in this state.



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STATE	LOAN TYPE	APR*	GRADE
West Virginia	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	38	F
	\$1000, 1-year loan	35	P
	Criminal usury cap	Soft cap	P
Wisconsin	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap <sup>138</sup>	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	20+	F
Wyoming	\$250, 2-week payday loan	313	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA

The 2010 *Scorecard*, in its original release form, is available at: [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/payday\\_loans/cu-small-dollar-scorecard-2010.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-2010.pdf).

138. Title lending will be prohibited in Wisconsin as of January 1, 2011; as of that date, Wisconsin will receive a P in this category. See WIS. STAT. § 138.16 (2010) (effective Jan. 1, 2011).

APPENDIX B: SMALL DOLLAR LOAN PRODUCTS SCORECARD 2010:  
STATUTORY BACKUP<sup>139</sup>

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
AL	17.5% of the amount advanced. ALA. CODE § 5-18A-12(a).  Check-holding and electronic debit authorization permitted. ALA. CODE § 5-18A-2.	25% of the principal amount, per month, advanced. ALA. CODE § 5-19A-7.	3% per month on that part of the unpaid principal balance not in excess of \$200, and 2% per month on that part of the unpaid principal balance in excess of \$200 but less than \$1000. Also may charge account maintenance fee of \$3 for each month of the scheduled period of repayment of the loan provided that the scheduled monthly payments are equal to or greater than \$30. ALA. CODE § 5-18-15.  Interest may be precomputed. ALA. CODE § 5-18-15(c).  AND  (a) In addition to other lawful charges under various state laws, and notwithstanding any restrictions thereunder, an interest surcharge of not more than 6% of the part of the amount	Except under open-end credit plans, the maximum finance charge for any credit transaction where the original amount financed is less than \$2000, finance charge may equal but may not exceed the total of the following: (1) \$15 per \$100 per year for the first \$750 of the original amount financed; and (2) \$10 per \$100 per year for that portion of the original amount financed over \$750 and less than \$2000. ALA. CODE § 5-19-3(a).  AND  (a) In addition to other lawful charges under various state laws, and notwithstanding any restrictions thereunder, an interest surcharge of not more than 6% of the part of the amount financed, which is not in excess of two thousand	None.

139. Originally released by The National Consumer Law Center, Consumer Federation of America, and Consumers Union (updated November 17, 2010). Legislative developments through April 15, 2010, are reflected in this *Backup*, unless otherwise indicated. Arizona, Colorado, Illinois, Louisiana, Montana, New Hampshire, Oklahoma, Rhode Island, Virginia, and Wisconsin all reflect legislative or regulatory developments after May 7, 2010.

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
			<p>financed, which is not in excess of two thousand dollars (\$2000). ALA. CODE § 8-8-14.</p> <p>Alternative rate structure for loans of less than \$1000. Acquisition charge not in excess of 10% of the amount of principal and installment account handling charge of \$16 per month on any loan amount in excess of \$400 but not more than \$500. For this rate structure to apply, scheduled payments must be in amounts equal to or greater than \$40 per month. Acquisition and installment handling charges may be calculated for term of contract and added to amount of principal. ALA. CODE § 5-18-15(m).</p>	dollars (\$2000). ALA. CODE § 8-8-14(a).	
AK	Nonrefundable origination fee not to exceed \$5; plus fee of \$15 per each \$100 of an advance, or 15% of the total amount, whichever is less. ALASKA STAT. § 06.50.460(a).	Not authorized. <sup>140</sup>	3% per month on that part of the unpaid principal balance of a loan not in excess of \$850. ALASKA STAT. § 06.20.230(a).	3% per month on that part of the unpaid principal balance of a loan not in excess of \$850. 2% per month on that part of the unpaid principal balance for amounts from \$850 to \$10,000. ALASKA STAT. §	None.

140. "Not authorized" means that no law expressly authorizes a given product. The product is effectively prohibited by one or more state laws; however, for the sake of brevity, these laws are not listed in the product's column on this statutory backup. Any laws that expressly authorize or prohibit a given product are listed in the appropriate column.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	Lender permitted to hold "the recipient's check that secures the advance." ALASKA STAT. § 06.50.530.  Electronic debiting permitted. ALASKA STAT. § 06.50.530.			06.20.230(a).	
AZ	Not authorized.  Payday loan law sunset on July 1, 2010. ARIZ. REV. STAT. ANN. § 6-1263.	17% per month. ARIZ. REV. STAT. ANN. §§ 44-281, -291G.	36% per year for loans \$1000 and less. ARIZ. REV. STAT. ANN. § 6-632A.  Loan origination fee of not more than 5% of loan but no more than \$75. ARIZ. REV. STAT. ANN. § 6-635A.	36% per year for loans \$1000 and less. ARIZ. REV. STAT. ANN. § 6-632A.  Loan origination fee of not more than 5% of loan but no more than \$75. ARIZ. REV. STAT. ANN. § 6-635A.	A person commits usury by knowingly engaging in or directly or indirectly providing financing for the business of making loans at a higher rate of interest or consideration than authorized by law. Usury is a class 1 misdemeanor. ARIZ. REV. STAT. ANN. § 13-2208.
AR	17% per year. ARK. CONST. art. XIX, § 13.	Not authorized.	17% per year. ARK. CONST. art. XIX, § 13.	17% per year. ARK. CONST. art. XIX, § 13.	None.
CA	15% of face amount of check. CAL. FIN. CODE § 23036(a) (West).  Check-holding permitted for up to thirty-one days. CAL. FIN. CODE § 23035(a) (West).  Regulator takes position that electronic debit also permitted under this provision.	Not authorized.	2.5% per month on that portion of the unpaid principal balance up to \$225; 2% per month on that portion of the unpaid principal balance over \$225 and up to \$900. CAL. FIN. CODE § 22303(a)-(b) (West).  AND  An administrative fee of 5% or \$50, whichever is less. CAL. FIN. CODE § 22305 (West).	2.5% per month on that portion of the unpaid principal balance up to \$225; 2% per month on that portion of the unpaid principal balance over \$225 and up to \$900; 1.5% per month on that portion of the unpaid principal balance over \$900 and up to \$1650. CAL. FIN. CODE § 22303(a)-(c) (West).  AND  An administrative fee of 5% or \$50, whichever is less.	None.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
				CAL. FIN. CODE § 22305 (West).	
CO	<p>20% of first \$300 plus 7.5% of amount in excess of \$300; 45% annual interest rate; monthly maintenance fee of \$7.50 per \$100 loaned, for each month loan is outstanding thirty days after loan transaction. COLO. REV. STAT. § 5-3.1-105.</p> <p>Check-holding permitted. COLO. REV. STAT. § 5-3.1-102(3)(b).</p> <p>Authorization to transfer or withdraw funds from customer's account is permitted. COLO. REV. STAT. § 5-3.1-102(4).</p> <p>Minimum loan term of six months. COLO. REV. STAT. § 5-3.1-103.</p>	Not authorized.	<p>For a supervised loan where the amount financed is \$1000 or less, 36% per year. COLO. REV. STAT. § 5-2-201(2)(a).</p> <p>OR</p> <p>For a consumer loan where the amount financed is not more than \$1000, a supervised lender may charge, in lieu of the loan finance charges permitted by section 5-2-201, the following finance charges:</p> <p>(1) An acquisition charge for making the original loan, not to exceed 10% of the amount financed;</p> <p>(2) An acquisition charge for making any refinanced loan, not to exceed 7.5% of the amount financed; and</p> <p>(3) A monthly installment account handling charge, not to exceed the following per month amounts:</p> <p>\$100.00— \$300.00— \$12.50; \$300.01— \$500.00— \$15.00; \$500.01— \$750.00— \$17.50; \$750.01— \$1000.00—</p>	<p>For a supervised loan where the amount financed is \$1000 or less, 36% per year. COLO. REV. STAT. § 5-2-201(2)(a).</p> <p>OR</p> <p>For a consumer loan where the amount financed is not more than \$1000, a supervised lender may charge, in lieu of the loan finance charges permitted by section 5-2-201, the following finance charges:</p> <p>(1) An acquisition charge for making the original loan, not to exceed 10% of the amount financed;</p> <p>(2) An acquisition charge for making any refinanced loan, not to exceed 7.5% of the amount financed; and</p> <p>(3) A monthly installment account handling charge, not to exceed the following per month amounts:</p> <p>\$100.00— \$300.00— \$12.50; \$300.01— \$500.00— \$15.00; \$500.01— \$750.00— \$17.50; \$750.01— \$1000.00—</p>	<p>45% unless otherwise permitted by law. Class 6 felony. COLO. REV. STAT. § 18-15-104(1).</p> <p>Separate crime for extortionate extension of credit using any means that involve the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person. Class 4 felony. COLO. REV. STAT. §§ 18-15-101(5), -102.</p>

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
			\$20.00. The minimum term of a loan made pursuant to this section shall be ninety days. The maximum term of a loan made pursuant to this section shall be twelve months. COLO. REV. STAT. § 5-2-214(1)-(2).	\$20.00. The minimum term of a loan made pursuant to this section shall be ninety days. The maximum term of a loan made pursuant to this section shall be twelve months. COLO. REV. STAT. § 5-2-214(1)-(2).	
CT	Not authorized.	Not authorized.	\$17 per \$100 per year on that part of the cash advance up to \$600, and \$11 per \$100 per year on any remainder when the loan is made payable over a period of one year, and proportionately at those rates over a longer or shorter term. CONN. GEN. STAT. § 36a-563(a).	\$17 per \$100 per year on that part of the cash advance up to \$600, and \$11 per \$100 per year on any remainder when the loan is made payable over a period of one year, and proportionately at those rates over a longer or shorter term. CONN. GEN. STAT. § 36a-563(a).	12% unless otherwise provided by law. CONN. GEN. STAT. § 37-4.  Fine of not more than \$1000 or imprisoned not more than six months or both. CONN. GEN. STAT. § 37-7.
DE	Any rate that "the agreement governing the loan provides." DEL. CODE ANN. tit. 5, § 2229.	No interest/fee cap specified. DEL. CODE ANN. tit. 5, §§ 2250-2261.	No rate limit. Established by agreement. DEL. CODE ANN. tit. 5, §§ 961-978 (banks), 2227-2238 (licensed lenders).	No rate limit. Established by agreement. DEL. CODE ANN. tit. 5, §§ 961-978 (banks), 2227-2238 (licensed lenders).	None.
D.C.	Amended law D.C. CODE §§ 26-301 to -323.  Section 28-3301(a) sets the rate cap at 24%.	Not authorized.	24% rate cap. D.C. CODE § 28-3301(a).	24% rate cap. D.C. CODE § 28-3301(a).	None.
FL	10% of the currency or payment instrument provided. May also charge verification fee. FLA. STAT. § 560.404(6).  Verification fee collected only	30% per year on the first \$2000 of the principal amount. FLA. STAT. § 537.011(1).	30% per year on the first \$2000 of the principal amount as computed from time to time. Computations utilized shall be simple interest and not add-on interest or any other	30% per year on the first \$2000 of the principal amount as computed from time to time. Computations utilized shall be simple interest and not add-on interest or any other	25% and up for different degrees of crime, unless otherwise provided by law. FLA. STAT. § 687.071(2).

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	when verification is conducted and cannot exceed \$5 per transaction. FLA. STAT. § 560.309(8); FLA. ADMIN. CODE ANN. r. 69V-560.801.  Check-holding permitted. FLA. STAT. § 560.402(3).		computations. FLA. STAT. § 516.031(1).	computations. FLA. STAT. § 516.031(1).	
GA	GA. CODE ANN. §§ 16-17-1 to -10 specifically prohibits payday lending and imposes penalties for doing so.	Pawnbroker Law. During first ninety days of loan, for each thirty-day period, interest and pawnshop charges which together equal no more than 25% of the principal amount. GA. CODE ANN. § 44-12-131(a)(4)(A).	10% per year. Interest may be discounted in advance on loan contracts repayable in eighteen months or less. May also charge a fee of 8% of the first \$600 of face amount of contract plus 4% of the excess. GA. CODE ANN. § 7-3-14(1)-(2).	10% per year. Interest may be discounted in advance on loan contracts repayable in eighteen months or less. May also charge a fee of 8% of the first \$600 of face amount of contract plus 4% of the excess. GA. CODE ANN. § 7-3-14(1)-(2).	Rate greater than 5% per month is prohibited, except prohibition does not apply to licensed pawnbrokers. Violation is a misdemeanor. GA. CODE ANN. § 7-4-18(1).
HI	15% of face amount of check. HAW. REV. STAT. § 480F-4(c).  Check-holding permitted. HAW. REV. STAT. § 480F-4.	Not authorized.	14% precomputed interest per year for the first eighteen months; or 24% per year. HAW. REV. STAT. § 412:9-302(b).	14% precomputed interest per year for the first eighteen months; or 24% per year. HAW. REV. STAT. § 412:9-302(b).	Receiving interest over rate permitted by law is usury punishable by fine of not more than \$250, or imprisonment of not more than one year, or both. HAW. REV. STAT. § 478-6.
ID	Any fee per \$100 that borrower agrees to pay. IDAHO CODE ANN. § 28-46-412.  Check-holding permitted. IDAHO CODE ANN. § 28-46-401.  Electronic debiting allowed. IDAHO CODE ANN. § 28-46-412(7).	No fee/interest rate cap specified. IDAHO CODE ANN. §§ 28-46-501 to -509.	Finance charge is that which is agreed upon between the parties. In addition, a creditor may contract for and receive any other charge, except to the extent expressly prohibited by law. IDAHO CODE ANN. § 28-42-201.	Finance charge is that which is agreed upon between the parties. In addition, a creditor may contract for and receive any other charge, except to the extent expressly prohibited by law. IDAHO CODE ANN. § 28-42-201.	None.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
IL	<p>\$15.50 per \$100.00 loaned. 815 ILL. COMP. STAT. § 122/2-5.</p> <p>Check-holding is allowed and authorization to debit a bank account is permitted. 815 ILL. COMP. STAT. § 122/1-10 (2008).</p> <p>\$1 database fee permitted as of March 21, 2011. 2010 Ill. Legis. Serv. 96-936 (West) (effective Mar. 21, 2011) (amending 815 ILL. COMP. STAT. 122/2-5(e) (2005)).</p>	<p>No fee or interest cap specified, but rate is, by definition, over 36%. "Title-secured loan" is a loan upon which interest is charged at an APR exceeding 36%. ILL. ADMIN. CODE tit. 38, § 110.300 (effective Apr. 1, 2009).</p> <p>Taking possession of title is required, but not keys, unless provided for in loan agreement. ILL. ADMIN. CODE tit. 38, §§ 110.350, .390 (effective Apr. 1, 2009).</p>	<p>Any rate agreed to by contract parties. 205 ILL. COMP. STAT. § 670/15 (2007).</p> <p>As of March 21, 2011, interest rate of 99% APR plus acquisition charge of 10% of amount financed. 205 ILL. COMP. STAT. 670/17.2(a) (2010) (effective Mar. 21, 2011).</p>	<p>Any rate agreed to by contract parties. 205 ILL. COMP. STAT. § 670/15 (2007).</p> <p>As of March 21, 2011, interest rate of 99% APR plus acquisition charge of 10% of amount financed. 205 ILL. COMP. STAT. 670/17.2(a) (2010) (effective Mar. 21, 2011).</p>	<p>20% per year unless otherwise permitted by law. Does not apply to loans made by licensees under the Consumer Installment Loan Act or to other specified loans. 720 ILL. COMP. STAT. §§ 5/39-1, -3 (2010).</p> <p>Criminal usury is a class 4 felony. 720 ILL. COMP. STAT. § 5/39-2 (2010).</p>
IN	<p>Finance charges on the first \$250 are limited to 15% of the principal. IND. CODE ANN. § 24-4.5-7-201 (2010).</p> <p>Check-holding and authorization to debit a bank account are permitted. IND. CODE ANN. § 24-4.5-7-104 (2010).</p>	Not authorized.	<p>36% per year on amounts financed up to \$1050. IND. CODE ANN. § 24-4.5-3-508; Ind. Dep't of Fin. Inst., LSA Document No. 08-119(E) (July 1, 2008) (emergency rule) (changing dollar amounts in Uniform Consumer Credit Code).</p>	<p>36% per year on amounts financed up to \$1050. IND. CODE ANN. § 24-4.5-3-508; Ind. Dep't of Fin. Inst., LSA Document No. 08-119 (E) (July 1, 2008) (emergency rule) (changing dollar amounts in Uniform Consumer Credit Code).</p>	<p>45% if the lender had a reputation for the use or threat of use of violence or other criminal means to cause harm when collecting the debt or punishing the non-payment thereof. IND. CODE § 24-4.5-5-107 (2006).</p>
IA	<p>\$15 on first \$100 of face amount of check; \$10 on subsequent \$100 increments or pro rata portion of \$100 face value. IOWA CODE § 533D.9.</p> <p>Check-holding permitted. IOWA CODE § 533D.2.</p>	<p>10% discounted in advance plus a service charge in excess of \$1 for each \$50 of the amount of the note, not to exceed a total of \$120. IOWA CODE §§ 536A.23, 537.2403.</p>	<p>36% on amounts up to \$1000. IOWA CODE § 536.13(4), (5); 2010 Ia. Legis. Serv. S.F. 2191 (West) (amending IOWA CODE § 536.13(d)); IOWA ADMIN. CODE r. 187-15.5.</p>	<p>36% on amounts up to \$1000. IOWA CODE § 536.13(4), (5); 2010 Ia. Legis. Serv. S.F. 2191 (West) (amending IOWA CODE § 536.13(d)); IOWA ADMIN. CODE r. 187-15.5.</p>	None.
KS	Cannot exceed 15% of the cash	Title lenders structure loans as	36% per annum on the portion of	36% per annum on the portion of	None.



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## SMALL-DOLLAR LOANS, BIG PROBLEMS

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	advance amount. KAN. STAT. ANN. § 16a-2- 404(1)(c).  Check-holding permitted. KAN. STAT. ANN. § 16a-2-404(7).	open-end credit that has no rate cap. KAN. STAT. ANN. § 16a-2-202(1).	the unpaid balance that is \$860 or less. KAN. STAT. ANN. § 16a-2-401(2).	the unpaid balance that is \$860 or less, and 21% on the portion of the unpaid balance that exceeds \$860. KAN. STAT. ANN. § 16a-2-401(2).	
KY	\$15 per \$100 on the face amount of the check. A licensee shall prorate any fee, based upon the maximum fee of \$15. KY. REV. STAT. ANN. § 286.9- 100(1) (West).  Check-holding permitted. KY. REV. STAT. ANN. § 286.9- 100 (West).	3% per month on that part of the unpaid principal balance not in excess of \$1000. KY. REV. STAT. ANN. §§ 286.10- 260, 286.4-530 (West).	3% per month on that part of the unpaid principal balance up to \$1000, plus charge for credit investigation of \$1.50 for each \$50 or fraction thereof on principal amount of the loan. KY. REV. STAT. ANN. §§ 286.4- 530, -533 (West).	3% per month on that part of the unpaid principal balance up to \$1000, plus charge for credit investigation of \$1.50 for each \$50 or fraction thereof on principal amount of the loan. KY. REV. STAT. ANN. §§ 286.4- 530, -533 (West).	None.
LA	16.75% of the face amount of the check but no more than \$45. LA. REV. STAT. ANN. § 9:3578.4.  Plus \$10 document fee. LA. REV. STAT. ANN. § 9:3530(C)(1), <i>as amended by 2010 La. Sess. Law Serv. 668</i> (West).  Check-holding permitted. LA. REV. STAT. ANN. § 9:3578.3.	“Title only” pawn transactions prohibited. LA. REV. STAT. ANN. § 37:1801.	36% per year on that portion of the unpaid principal amount of the loan not exceeding \$1400, unless made with a lender credit card. LA. REV. STAT. ANN. § 9:3519A (2009).  OR  A minimum loan finance charge of not more than \$25, in lieu of all other finance charges. LA. REV. STAT. ANN. § 9:3519E (2009).  AND in addition to either rate structure  Loan origination fee that does not exceed \$50. Documentation fee as	36% per year on that portion of the unpaid principal amount of the loan not exceeding \$1400, unless made with a lender credit card. LA. REV. STAT. ANN. § 9:3519A (2009).  OR  A minimum loan finance charge of not more than \$25, in lieu of all other finance charges. LA. REV. STAT. ANN. § 9:3519E (2009).  AND in addition to either rate structure  Loan origination fee that does not exceed \$50. Documentation fee as	None.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
			reimbursement for actual costs incurred not to exceed \$20. No limit on these fees for FDIC-insured institutions (which payday lenders and finance companies generally are not). LA. REV. STAT. ANN. §§ 9:3530(A)(1), (C)(4), (G), <i>as amended by 2010 La. Sess. Law Serv. 96 (West).</i>	reimbursement for actual costs incurred not to exceed \$20. No limit on these fees for FDIC-insured institutions (which payday lenders and finance companies generally are not). LA. REV. STAT. ANN. § 9:3530(A)(1), (C)(4), (G), <i>as amended by 2010 La. Sess. Law Serv. 96 (West).</i>	
ME	Minimum finance charge permitted of \$5 when the amount financed does not exceed \$75; \$15 when the amount financed exceeds \$75, but is less than \$250; or \$25 when the amount financed is \$250 or more. ME. REV. STAT. ANN. tit. 9-A, § 2-401 (2009).	Title pawns prohibited, as documents evidencing title to motor vehicles excluded from definition of tangible personal property that can be basis of pawn transaction. ME. REV. STAT. ANN. tit. 30-A, § 3960 (2009).	30% per year on that part of the unpaid balances of the amount financed that is \$2000 or less. ME. REV. STAT. ANN. tit. 9-A, § 2-401 (2009).	30% per year on that part of the unpaid balances of the amount financed that is \$2000 or less. ME. REV. STAT. ANN. tit. 9-A, § 2-401 (2009).	None.
MD	Not authorized.	Not authorized.	2.75% per month on that part of the unpaid principal balance not more than \$500. MD. CODE ANN., COM. LAW § 12-306 (West 2010).	2.75% per month on that part of the unpaid principal balance not more than \$500; 2% on that part of the unpaid principal balance that is more than \$500 but not more than \$700; and 1.25% on that part of the unpaid principal balance that is more than \$700. MD. CODE ANN., COM. LAW § 12-306 (West 2010).  OR  For loans made	None.

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## SMALL-DOLLAR LOANS, BIG PROBLEMS

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
				on or after July 1, 1982, 2.75% per month on that part of the unpaid principal balance not more than \$1000. MD. CODE ANN., COM. LAW § 12-306 (West 2010).	
MA	Not authorized.	Not authorized.	23% per year of the unpaid balances of the amount financed calculated according to the actuarial method plus an administrative fee of \$20. This fee cannot be assessed more than once during any twelve-month period. MASS. GEN. LAWS ANN. ch. 140, § 96 (West 2010); 209 MASS. CODE REGS. 26.01 (West 2010).	23% per year of the unpaid balances of the amount financed calculated according to the actuarial method plus an administrative fee of \$20. This fee cannot be assessed more than once during any twelve-month period. MASS. GEN. LAWS ANN. ch. 140, § 96 (West 2010); 209 MASS. CODE REGS. 26.01 (West 2010).	20% unless otherwise permitted by law. Criminal usury is punishable by imprisonment for not more than ten years or by a fine of not more than \$10,000, or by both. MASS. GEN. LAWS ANN. ch. 271, § 49 (West 2010).
MI	15% of the first \$100; 14% of the second \$100; 13% of the third \$100. Plus database verification fee of 45¢. MICH. COMP. LAWS § 487.2153 (2010).  Check-holding permitted. MICH. COMP. LAWS § 487.2122 (2010).	Not authorized.	25% per year; plus a loan processing fee not to exceed 5% of the principal, up to \$250, which may be included in the principal. MICH. COMP. LAWS §§ 493.13, 445.1854 (2010).	25% per year; plus a loan processing fee not to exceed 5% of the principal, up to \$250, which may be included in the principal. MICH. COMP. LAWS §§ 493.13, 445.1854 (2010).	A rate exceeding 25% at simple interest per year or the equivalent rate for a longer or shorter period. Any person guilty of criminal usury may be imprisoned for a term not to exceed five years or fined not more than \$10,000, or both. MICH. COMP. LAWS § 438.41 (2010).
MN	7% of loan proceeds with a minimum of \$10 plus an administrative fee of \$5. MINN. STAT. § 47.60 (2009).  Check-holding permitted.	3% per month of principal amount advanced plus storage/services fee of \$20. MINN. STAT. § 325J.07 (2009).  May hold title. MINN. STAT. § 325J.095 (2009).	APR not to exceed 21.75%  OR  33% per year on that part of the unpaid balance of the principal amount not exceeding \$1050.	APR not to exceed 21.75%  OR  33% per year on that part of the unpaid balance of the principal amount not exceeding \$1050.	None.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	MINN. STAT. § 47.60 (2009).		One-time loan administrative fee not exceeding \$25, which may be included in the principal balance upon which the finance charge (33% per year) is computed. MINN. STAT. § 47.59 (2009); Minn. Dep't of Commerce, Consumer Credit Code Adjustments (July 1, 2008) (changing some dollar amounts in Consumer Credit Code).	One-time loan administrative fee not exceeding \$25, which may be included in the principal balance upon which the finance charge (33% per year) is computed. MINN. STAT. § 47.59 (2009); Minn. Dep't of Commerce, Consumer Credit Code Adjustments (July 1, 2008) (changing some dollar amounts in Consumer Credit Code).	
MS	18% of the face amount of the check. MISS. CODE ANN. § 75-67-519 (West 2010).  Check-holding permitted. MISS. CODE ANN. § 75-67-519 (West 2010).  Payday loan law sunsets on July 1, 2012. MISS. CODE ANN. § 75-67-539 (West 2010).	25% of the principal amount per month. MISS. CODE ANN. § 75-67-413 (West 2010).  May hold title. MISS. CODE ANN. § 75-67-413 (West 2010).	36% per year on the unpaid balance of the amount financed plus the amount of the discount rate in excess of 8%, if any. Closing fee not exceeding 4% of total payments or \$25, whichever is greater. MISS. CODE ANN. § 75-17-21 (West 2010); Discount Rates, Op. Miss. Att'y Gen. (Aug. 22, 2003) (letter to Comm'r of Dep't of Banking & Consumer Finance) (authorizing Commissioner to establish index equivalent to discount rate due to Federal Reserve System discontinuing the issuance of this rate).	36% per year on the unpaid balance of the amount financed plus the amount of the discount rate in excess of 8%, if any. Closing fee not exceeding 4% of total payments or \$25, whichever is greater. MISS. CODE ANN. § 75-17-21 (West 2010); Discount Rates, Op. Miss. Att'y Gen. (Aug. 22, 2003) (letter to Comm'r of Dep't of Banking & Consumer Finance) (authorizing Commissioner to establish index equivalent to discount rate due to Federal Reserve System discontinuing the issuance of this rate).	None.
MO	Any rate agreed to by parties. Interest and fees on any single loan cannot exceed 75%.	Rate agreed to by parties. MO. REV. STAT. §§ 367.515, 408.100 (2010).	Rate agreed to by parties. MO. REV. STAT. § 408.100 (2010).	Rate agreed to by parties. MO. REV. STAT. § 408.100 (2010).	Every person or persons, company, corporation or firm, and every agent of any

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## SMALL-DOLLAR LOANS, BIG PROBLEMS

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	<p>MO. REV. STAT. §§ 408.100, .500, .505 (2010).</p> <p>Check-holding permitted. MO. REV. STAT. § 408.505 (2010).</p>	<p>May hold title. MO. REV. STAT. § 408.100 (2010).</p>			<p>person, persons, company, corporation or firm, who shall take or receive, or agree to take or receive, directly or indirectly, by means of commissions of brokerage charges, or otherwise, for the forbearance or use of money or other commodities, any interest at a rate greater than 2% per month, except as permitted by the laws of this state, shall be deemed guilty of a misdemeanor. Nothing herein contained shall be construed as authorizing a higher rate of interest than is now provided by law. MO. REV. STAT. § 408.095 (2010).</p>
MT	<p>25% of the principal amount. MONT. CODE ANN. § 31-1-722 (2010), as amended by Montana Loan Interest Rate Limit, Initiative No. 164 (I-164) (2010) (effective Jan. 1, 2011).</p> <p>Check-holding and authorization for electronic debiting permitted. MONT. CODE ANN. § 31-1-703 (2010).</p>	<p>25% per month. MONT. CODE ANN. § 31-1-817 (2010), as amended by Montana Loan Interest Rate Limit, Initiative No. 164 (I-164) (2010) (effective Jan. 1, 2011).</p> <p>Loan agreement must provide that lender may hold title. MONT. CODE ANN. § 31-1-816 (2010).</p>	<p>Rate set by contract. MONT. CODE ANN. §§ 31-1-112, 32-5-301 (2010), as amended by Montana Loan Interest Rate Limit, Initiative No. 164 (I-164) (2010) (effective Jan. 1, 2011).</p>	<p>Rate set by contract. MONT. CODE ANN. §§ 31-1-112, 32-5-301 (2010), as amended by Montana Loan Interest Rate Limit, Initiative No. 164 (I-164) (2010) (effective Jan. 1, 2011).</p>	None.
NE	<p>\$15 per \$100 or pro rata for any part thereof on the face amount</p>	Not authorized.	<p>24% per year on the unpaid principal balance. Loan origination</p>	<p>24% per year on the unpaid principal balance. Loan origination</p>	None.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	of a check. NEB. REV. STAT. § 45-918 (2010).  Check-holding permitted. NEB. REV. STAT. § 45-902 (2010).		fee not to exceed the lesser of \$500 or 7% of original principal balance of a loan not in excess of \$2000 if lender has not made another loan to borrower within previous twelve months. 2010 Neb. Laws 571 (repealing and establishing amended version of NEB. REV. STAT. § 45- 1024).	fee not to exceed the lesser of \$500 or 7% of original principal balance of a loan not in excess of \$2000 if lender has not made another loan to borrower within previous twelve months. 2010 Neb. Laws 571 (repealing and establishing amended version of NEB. REV. STAT. § 45- 1024).	
NV	No cap specified. NEV. REV. STAT. §§ 604A.010– .150 (2010).  Check-holding and electronic transfer of funds permitted. NEV. REV. STAT. §§ 604A.050, .060.	No cap specified, but “title loan” is defined as one that “charges an annual percentage rate of more than 35 percent,” and one in which borrower gives possession of title to licensee or noting licensee on title as lienholder. NEV. REV. STAT. § 604A.105 (2010).	Rate set by contract but cannot exceed 40% APR on installment loan lasting more than ninety days. NEV. REV. STAT. §§ 604A.0703, .408 (2010).  Definition of APR in Sec. 4: includes all fees except non- sufficient fund fees, late fees, over-limit or default fees, and premiums for credit insurance, even if the creditor requires the insurance as security for a loan. NEV. REV. STAT. § 604A.407 (2010).	Rate set by contract but cannot exceed 40% APR on installment loan lasting more than ninety days. NEV. REV. STAT. §§ 604A.0703, .408 (2010).  Definition of APR in Sec. 4: includes all fees except non- sufficient fund fees, late fees, over-limit or default fees, and premiums for credit insurance even if the creditor requires the insurance as security for a loan. NEV. REV. STAT. § 604A.407 (2010).	None.
NH	36% per year annual percentage rate. N.H. REV. STAT. ANN. § 399-A:13 (2010).	36% per year, but “actual costs incurred by the lender to perfect a security interest in the title may be passed through to the borrower, thus increasing the annual percentage rate above 36 percent.”	Charges not to exceed 36% APR calculated according to Reg. Z, except one application fee per borrower per year and one participation or membership fee per borrower per year excluded from finance charge.	Charges not to exceed 36% APR calculated according to Reg. Z, except one application fee per borrower per year and one participation or membership fee per borrower per year excluded from finance charge.	None.

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## SMALL-DOLLAR LOANS, BIG PROBLEMS

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
		N.H. REV. STAT. ANN. § 399-A:14 (2010).	N.H. REV. STAT. ANN. § 399-A:12 (2010).	N.H. REV. STAT. ANN. § 399-A:12 (2010).	
NJ	Applying criminal usury cap to define payday loans. N.J. ADMIN. CODE § 3:24-1.3 (2010).	Applying criminal usury cap to define title loans. N.J. ADMIN. CODE § 3:24-1.3 (2010).	Rate set by contract. N.J. REV. STAT. § 17:11C-32 (2010).	Rate set by contract. N.J. REV. STAT. § 17:11C-32 (2010).	30%. N.J. REV. STAT. § 2C:21-19.
NM	“Administrative fee” of \$15.50 per \$100.00 of the principal amount of the loan. Plus “additional administrative fee” of \$0.50 per new payday loan agreement as necessary to cover the cost to the licensee of verification. N.M. STAT. ANN. § 58-15-33 (2010).  Check-holding and debit authorization permitted. N.M. STAT. ANN. § 58-15-2 (2010).	No express title loan law.  Loans made under small loan law. No interest rate cap. N.M. STAT. ANN. §§ 58-15-23, 56-8-3 (2010).	No interest rate cap. N.M. STAT. ANN. §§ 58-15-23, 56-8-3 (2010).	No interest rate cap. N.M. STAT. ANN. §§ 58-15-23, 56-8-3 (2010).	45% cap if the loan was extortionate; made with the understanding at the time that delay in making payment could result in the use of violence or other non-petty criminal acts to cause harm to the person, reputation, or property of any person. N.M. STAT. ANN. §§ 30-43-1 to -5 (2010).
NY	Not authorized.	Not authorized.	Rate set by contract. N.Y. BANKING LAW § 351 (McKinney 2010).	Rate set by contract. N.Y. BANKING LAW § 351 (McKinney 2010).	25%. Criminal usury in the second degree is a class E felony. N.Y. PENAL LAW § 190.40 (McKinney 2010).
NC	Not authorized.	Not authorized.	36% per year up to principal balance of \$600. Plus 5% loan processing fee not to exceed \$25. N.C. GEN. STAT. § 53-173 (2009).  Alternate rate for loans not over \$7500 (term between six months and eighty-four months, inclusive):	36% per year on first \$600 and 15% on remainder of such unpaid principal balance. Plus 5% loan processing fee not to exceed \$25. N.C. GEN. STAT. § 53-173 (2009).  Alternate rate for loans not over \$7500 (term between six months and	None.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
			30% per year on that part of the unpaid principal balance not exceeding \$1000 and 18% per year on the remainder of the unpaid principal balance. Plus loan processing fee not to exceed \$25. N.C. GEN. STAT. § 53-176 (2009).	eighty-four months, inclusive): 30% per year on that part of the unpaid principal balance not exceeding \$1000 and 18% per year on the remainder of the unpaid principal balance. Plus loan processing fee not to exceed \$25. N.C. GEN. STAT. § 53-176 (2009).	
ND	20% of amount paid to customer plus database fee equal to cost to licensee (amount not specified). N.D. CENT. CODE § 13-08-12 (2009).  Check-holding and electronic debiting authorization permitted. N.D. CENT. CODE § 13-08-12 (2009).	Not authorized.	2.5% per month on unpaid balance of principal up to \$250; 2% per month on unpaid principal \$250–\$500. N.D. CENT. CODE § 13-04.1-09.2 (2009).	2.5% per month on unpaid balance of principal up to \$250; 2% per month on unpaid principal \$250–\$500; 1.75% on unpaid balance of \$500–\$750; and 1.5% on unpaid principal of \$750–\$1000. N.D. CENT. CODE § 13-04.1-09.2 (2009).	Except as otherwise provided by law, 5.5% per year higher than the current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in six months in effect for North Dakota for the six months immediately preceding the month in which the transaction occurs, but that in any event the maximum allowable interest rate ceiling may not be less than 7%, and in the computation of interest the same may not be compounded; provided, however, that a minimum interest charge of \$15 may be made. A contract may not provide for the payment of interest on interest overdue.  Notwithstanding



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## SMALL-DOLLAR LOANS, BIG PROBLEMS

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
					the interest rate limit set under this section, state-chartered banks and the Bank of North Dakota may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national banking associations or state or federally chartered savings and loan associations operating out of facilities located in state. N.D. CENT. CODE § 47-14-09 (2009).  Usury is class B misdemeanor. N.D. CENT. CODE § 47-14-11 (2009).
OH	28% per year annual percentage rate. OHIO REV. CODE ANN. § 1321.40 (West 2010) (effective Sept. 1, 2008).  Check-holding permitted. Electronic debiting prohibited. OHIO REV. CODE ANN. § 1321.41 (West 2010) (effective Sept. 1, 2008).	Not authorized.	28% per year (can be precomputed) on that portion of the unpaid principal balance of the loan not exceeding \$1000 plus a loan origination fee of the greater of \$15 or 1% of the principal. OHIO REV. CODE ANN. § 1321.13 (West 2010).	28% per year (can be precomputed) on that portion of the unpaid principal balance of the loan not exceeding \$1000 plus a loan origination fee of the greater of \$30 or 1% of the principal. OHIO REV. CODE ANN. § 1321.13 (West 2010).	25% unless otherwise authorized by law. OHIO REV. CODE ANN. § 2905.21 (West 2010).  Criminal usury is felony of fourth degree. OHIO REV. CODE ANN. § 2905.22 (West 2010).
OK	\$15 for every \$100 advanced up to the first \$300 of the amount advanced, plus database verification fee of 46¢.	Not authorized.	30% interest per year on unpaid balances of \$1350 or less. OKLA. STAT. tit. 14A, § 3-508A; OKLA. ADMIN. CODE. § 160:20 app. I (2010).	30% interest per year on unpaid balances of \$1350 or less. OKLA. STAT. tit. 14A, § 3-508A; OKLA. ADMIN. CODE. § 160:20 app. I (2010).	45% if the creditor had a reputation for the use or threat of use of violence or other criminal means to cause harm when collecting the

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	<p>OKLA. STAT. tit. 59, §§ 3108, 3109 (2010).</p> <p>Check-holding permitted. OKLA. STAT. tit. 59, § 3102 (2010).</p>		<p>OR</p> <p>For loans with principal amounts between \$450 and \$675, a fee of \$20.25 plus a 10% acquisition fee. OKLA. STAT. tit. 14A § 3-508B; OKLA. ADMIN. CODE. § 160:20 app. I (2010).</p>	<p>OR</p> <p>For loans with principal amounts between \$675 and \$1350, a fee of \$22.50 plus a 10% acquisition fee. OKLA. STAT. tit. 14A § 3-508B; OKLA. ADMIN. CODE. § 160:20 app. I (2010).</p>	<p>debt or punishing the non-payment thereof, unless such rate was otherwise lawful under any other law. OKLA. STAT. tit. 14A, § 5-107 (2010).</p>
OR	<p>36% interest rate, excluding a one-time origination fee of \$10 per \$100 of the loan amount, or \$30, whichever is less. OR. REV. STAT. § 725.622 (2010).</p> <p>Actual costs for using any loan tracking database set up may also be passed on to borrower. OR. REV. STAT. § 725.622 (2010).</p> <p>Check-holding and electronic debiting authorization permitted. Payday loan defined as one "usually evidenced by a check or electronic repayment agreement." OR. REV. STAT. § 725.600 (2010).</p> <p>Minimum loan term thirty-one days. OR. REV. STAT. § 725.622(1)(d) (2010).</p> <p>Note: Or. Laws Spec. Sess. ch. 23, § 34 (2010) repealed the</p>	<p>36% interest rate, excluding one-time origination fee of \$10 per \$100, or \$30, whichever is less. OR. REV. STAT. § 725.615 (2010).</p> <p>Actual costs for using any loan tracking database set up may also be passed on to borrower. OR. REV. STAT. § 725.615 (2010).</p> <p>May hold title. OR. REV. STAT. § 725.600 (2010).</p> <p>BUT</p> <p>Statute specifically states that lender may not require or accept from consumer a set of keys to the motor vehicle. OR. REV. STAT. § 725.615(1) (h) (2010).</p> <p>Minimum loan term thirty-one days. OR. REV. STAT. § 725.615(1) (c) (2010).</p> <p>Note: Or. Laws ch. 23, § 34 (2010) repealed</p>	<p>The greater of 36% APR or thirty percentage points above the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank of San Francisco. OR. REV. STAT. § 725.340 (2010).</p> <p>Note: Or. Laws ch. 23, § 32 (2010) amended the statute cited above. However, the amendment was not operative until approximately June 2, 2010, and the relevant provision remained unchanged even after that date.</p>	<p>The greater of 36% APR or thirty percentage points above the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank of San Francisco. OR. REV. STAT. § 725.340 (2010).</p> <p>Note: Or. Laws ch. 23, § 32 (2010) amended the statute cited above. However, the amendment was not operative until approximately June 2, 2010, and the relevant provision remained unchanged even after that date.</p>	None.

STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	<p>statutes cited above. However, the repeal was not operative until approximately June 2, 2010. The substance of all provisions cited above remained the same even after the repeal was operative; thus, for clarity, our citations remain to the statutes.</p>	<p>the statutes cited above. However, the repeal was not operative until approximately June 2, 2010. The substance of all provisions cited above remained the same even after the repeal was operative; thus, for clarity, our citations remain to the statutes.</p>			
PA	Not authorized.	Not authorized.	<p>\$9.50 per \$100.00 per year. Plus service charge of \$1.50 for each \$50.00, or fraction thereof. 7 PA. STAT. ANN. § 6213 (West 2010).</p>	<p>\$9.50 per \$100 per year. Plus service charge of \$1.50 for each \$50.00, or fraction thereof. 7 PA. STAT. ANN. § 6213 (West 2010).</p>	<p>Excessive interest need not be paid. 41 PA. STAT. ANN. § 501 (West 2010).</p> <p>Any person who knowingly and intentionally violates the provisions of this act shall be guilty of a misdemeanor of the third degree. 41 PA. STAT. ANN. § 505 (West 2010).</p> <p>ALSO</p> <p>“Criminal usury” is charging, taking or receiving any money, things in action or other property as interest on the loan or forbearance of any money, things in action or other property, at a rate exceeding 36% per annum or the equivalent rate for a longer or shorter period, when not otherwise authorized by law.</p>

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					<p>18 PA. STAT. ANN. § 4806.1(h) (West 2010).</p> <p>Whoever engages in criminal usury, or conspires to do so, is guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$5000 or to undergo imprisonment not exceeding ten years, or both.</p> <p>18 PA. STAT. ANN. § 4806.3 (West 2010).</p> <p>Note: It is a separate crime to commit extortionate extension of credit, which involves violence or threat of violence.</p> <p>18 PA. STAT. ANN. § 4806.2 (West 2010).</p>
RI	<p>10% of the amount of funds advanced.</p> <p>R.I. GEN. LAWS § 19-14.4-4 (2010).</p> <p>Check-holding and authorization to debit customer's account permitted.</p> <p>R.I. GEN. LAWS § 19-14.4-5.1 (2010).</p>	Not authorized.	Loans exceeding \$300 but not exceeding \$800, 2.5% per month. R.I. GEN. LAWS § 19-14.2-8 (2010).	Loans exceeding \$800 but not exceeding \$5000, 2% per month. R.I. GEN. LAWS § 19-14.2-8 (2010).	A crime to violate 21% per year or the alternate rate per year which is equal to nine percentage points (9%) plus an index which is the domestic prime rate as published in the Money Rates section of <i>The Wall Street Journal</i> or equivalent index. R.I. GEN. LAWS §§ 6-26-2, -3 (2010).
SC	15% of principal amount of transaction. S.C. CODE ANN. § 34-39-180 (2009).	S.C. CODE ANN. § 37-3-413 (2009) regulates auto-title loans, but does not specify any rate.	On loans with cash advance not exceeding \$600, maximum charge imposed by S.C. CODE ANN. § 34-29-140 (2009)	On loans with cash advance exceeding \$600, any rate filed and posted pursuant to S.C. CODE ANN. § 37-3-305	None.

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## SMALL-DOLLAR LOANS, BIG PROBLEMS

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STATE	PAYDAY: \$250 FOR 2 WEEKS	AUTO-TITLE: \$300 FOR 1 MONTH	SMALL LOAN: \$500 FOR 6 MONTHS	SMALL LOAN: \$1000 FOR 1 YEAR	CRIMINAL USURY CAP
	Check-holding permitted. S.C. CODE ANN. § 34-39-120 (2009).	Provisions for supervised lenders apply.  On loans with cash advance not exceeding \$600, maximum charge imposed by S.C. CODE ANN. § 34-29-140 (2009) applies. S.C. CODE ANN. § 37-3-201 (2009).  \$25 per \$100 when loan is payable over a year, and “proportionately” at this rate over “longer or shorter period of time.” Plus “initial charge,” which is the lesser of 7% of amount of cash advance or \$56. Plus maintenance fee of \$2 per month. S.C. CODE ANN. § 34-29-140, as modified by S.C. CODE ANN. REGS. § 15-63 (2010).	applies. S.C. CODE ANN. § 37-3-201 (2009).  \$25 per \$100 when loan is payable over a year, and “proportionately” at this rate over “longer or shorter period of time.” Plus “initial charge,” which is the lesser of 7% of amount of cash advance or \$56. Plus maintenance fee of \$2 per month. S.C. CODE ANN. § 34-29-140, as modified by S.C. CODE ANN. REGS. § 15-63 (2010).	(2009). S.C. CODE ANN. § 37-3-201 (2009).	
SD	Small loan law controls. No cap on fees. S.D. CODIFIED LAWS § 54-3-1.1.  Electronic debiting allowed. S.D. CODIFIED LAWS § 54-4-36.	Authorizing title lending without imposing rate or fee cap. S.D. CODIFIED LAWS §§ 54-4-36 to -72.	Rate set by contract. S.D. CODIFIED LAWS § 54-3-1.1.	Rate set by contract. S.D. CODIFIED LAWS § 54-3-1.1.	None.
TN	15% of face amount of check or \$30, whichever is less. TENN. CODE ANN. § 45-17-112(b).  Check-holding permitted. TENN. CODE ANN. § 45-17-	2% per month interest. Plus “customary fee to defray the ordinary costs of operating a title pledge office” of 1/5 of the original principal amount. TENN. CODE ANN. § 45-15-111.	24% on loans of \$100 or more. TENN. CODE ANN. § 45-5-301. Plus “service charge” of 4%, deducted in advance, or flat charge of \$10. Plus “installment maintenance fee” of \$3.50 per	24% on loans of \$100 or more. TENN. CODE ANN. § 45-5-301. Plus “service charge” of 4%, deducted in advance, or flat charge of \$10. Plus “installment maintenance fee” of \$3 per month.	None.

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	102(3)(B).		month. Maintenance fee applies only if loan term is over ninety days and monthly payment is at least \$15. TENN. CODE ANN. § 45-5-403.  OR, as alternative,  7.5% “acquisition charge” plus monthly “installment account handling charge” of \$16. TENN. CODE ANN. § 45-5-403(b)(1)(C).	Maintenance fee applies only if loan term is over ninety days and monthly payment is at least \$15. TENN. CODE ANN. § 45-5-403.  OR, as alternative,  7.5% “acquisition charge” plus monthly “installment account handling charge” of \$20. TENN. CODE ANN. § 45-5-403(b)(1)(E).	
TX	Acquisition charge of \$10 and an installment account handling charge that is not more than the ratio of \$4 a month for each \$100 of cash advance. TEX. FIN. CODE ANN. § 342.252(3) (West).  Maximum Interest Charge for Loan with Single Repayment: A loan contract that is payable in a single installment may provide for an acquisition charge and an interest charge on the cash advance that does not exceed a rate or amount that would produce the same effective return, determined as a true daily earnings rate, as allowed under	Not authorized.  For a cash advance between \$100–\$620, an acquisition charge of not more than \$10 and an installment account handling charge of not more than the ratio of \$4 a month for each \$100 of cash advance. TEX. FIN. CODE ANN. §§ 342.251-.252 (West); TEX. OFFICE CONSUMER CREDIT COMM’R, NOTICE OF RATE BRACKET ADJUSTMENT (Mar. 9, 2010).  No cap specified on charges by credit services organizations. TEX. FIN. CODE ANN. § 393.201 (West).	\$18 per \$100 per year on loans less than or equal to \$1860.  OR  Alternate simple interest rate of 30%.  PLUS administrative fee of \$20 with either rate structure. TEX. FIN. CODE ANN. § 342.201 (8) (West); TEX. OFFICE CONSUMER CREDIT COMM’R, NOTICE OF RATE BRACKET ADJUSTMENT (Mar. 9, 2010).  OR  For a cash advance between \$100–\$620, an acquisition charge of not more than \$10 and an installment account handling charge of not more than the	\$18 per \$100 per year on loans less than or equal to \$1860.  OR  Alternate simple interest rate of 30%.  PLUS administrative fee of \$20 with either rate structure. TEX. FIN. CODE ANN. § 342.201 (West); TEX. OFFICE CONSUMER CREDIT COMM’R, NOTICE OF RATE BRACKET ADJUSTMENT (Mar. 9, 2010).  OR  For a cash advance of \$1240 maximum, an acquisition charge of not more than \$10 and an installment account handling charge of not more than the	None.

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	<p>section 342.252 considering the amount and term of the loan. If a loan under this section has an initial term of less than one month, the lender may earn a minimum of the acquisition charge and an interest charge that produces the same effective return as the installment account handling charge computed at a daily rate for the term the loan is outstanding. TEX. FIN. CODE ANN. § 342.253 (West).</p> <p>Check-holding and electronic debit authorization permitted. 7 TEX. ADMIN. CODE § 83.604.</p> <p>No cap specified on charges by credit services organizations. TEX. FIN. CODE ANN. § 393.201 (West).</p>		<p>ratio of \$4 a month for each \$100 of cash advance. TEX. FIN. CODE ANN. §§ 342.251, .252 (West); TEX. OFFICE CONSUMER CREDIT COMM’R, NOTICE OF RATE BRACKET ADJUSTMENT (Mar. 9, 2010).</p>	<p>ratio of \$4 a month for each \$100 of cash advance. TEX. FIN. CODE ANN. §§ 342.251, .259 (West); TEX. OFFICE CONSUMER CREDIT COMM’R, NOTICE OF RATE BRACKET ADJUSTMENT (Mar. 9, 2010).</p>	
UT	<p>No caps specified. UTAH CODE ANN. §§ 7-23-101 to -504 (West).</p> <p>Check-holding and electronic debit authorization permitted. UTAH CODE ANN. § 7-23-102 (West).</p>	<p>No caps specified. UTAH CODE ANN. §§ 7-24-101 to -305 (West).</p>	<p>Rate set by contract. UTAH CODE ANN. § 70C-2-101 (West).</p>	<p>Rate set by contract. UTAH CODE ANN. § 70C-2-101 (West).</p>	<p>Criminal usury is making loans at rate higher than that authorized by law. Criminal usury is a felony of the third degree. UTAH CODE ANN. § 76-6-520 (West).</p>
VT	<p>18% per annum for single payment loans. VT. STAT. ANN.</p>	<p>18% per annum for loan secured by motor vehicle of current and</p>	<p>24% per year on the first \$1000 of the aggregate balance</p>	<p>24% per year on the first \$1000 of the aggregate balance</p>	<p>Collecting interest at rate over that authorized by law</p>

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	tit. 9, § 41a(b)(1).  Check-holding and cashing or advancing money on any postdated payment instrument prohibited. VT. STAT. ANN. tit. 8, § 2519(a)(13).	previous model year. 20% per annum for loan secured by motor vehicle older than current or previous model year. VT. STAT. ANN. tit. 9, § 41a(b)(4).	outstanding. VT. STAT. ANN. tit. 9, § 41a(b)(5), tit. 8, § 2230.	outstanding. VT. STAT. ANN. tit. 9, § 41a, tit. 8, § 2230.	is punishable by fine of not more than \$500 or imprisonment for not more than six months, or both. VT. STAT. ANN. tit. 9, § 50(c).
VA	Interest on loan at simple annual rate not to exceed 36%. Loan fee not to exceed 20% of amount of loan proceeds advanced. Verification fee not to exceed \$5. VA. CODE ANN. § 6.1-460.  Check-holding permitted. VA. CODE ANN. § 6.1-444.  Electronically debiting or otherwise obtaining any funds from a borrower by electronic means is prohibited. 10 VA. ADMIN. CODE § 5-200-20H.	Title loans must have minimum term of 120 days, maximum term of twelve months. VA. CODE ANN. § 6.1-495(1)(c)(viii).  Interest not to exceed 22% a month on principal up to \$700. Actual costs of perfecting security interest. VA. CODE ANN. §§ 6.2-2216(A)(1), (D)(i).  No cap if done through open-end loans. VA. CODE ANN. § 6.1-330.78.	Annual rate not to exceed 36% per year for loans of up to \$2500 plus "processing fee" (amount not specified), which shall be considered interest for purpose of determining whether 36% rate is exceeded. VA. CODE ANN. § 6.1-272.1.	Annual rate not to exceed 36% per year for loans of up to \$2500 plus "processing fee" (amount not specified), which shall be considered interest for purpose of determining whether 36% rate is exceeded. VA. CODE ANN. § 6.1-272.1.	None.
WA	Interest or fees not to exceed 15% of \$500. WASH. REV. CODE § 31.45.073(5).  Check-holding and electronic debit authorization permitted. WASH. REV. CODE §§ 31.45.010(4), .073(6).	Not authorized.	25% per year plus a 4% loan origination fee, which fee may be included in the principal balance of the loan. WASH. REV. CODE § 31.04.105 (2009).	25% per year plus a 4% loan origination fee, which fee may be included in the principal balance of the loan. WASH. REV. CODE § 31.04.105 (2009).	None.
WV	Not authorized.	Not authorized.	31% per year on the unpaid balance of the principal amount.	31% per year on the unpaid balance of the principal amount.	A regulated consumer lender who willfully makes charges in



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			<p>W. VA. CODE § 46A-4-107 (2001).</p> <p>OR</p> <p>31% per year on the unpaid balance of the principal amount together with a nonrefundable loan processing fee of not more than 2% of the amount financed, provided that no other finance charges are imposed on the loan. Processing fee shall be included in the calculation of the loan finance charge. Financing of the fee shall be permissible and may not constitute charging interest on interest. W. VA. CODE § 46A-4-107 (2001).</p>	<p>W. VA. CODE § 46A-4-107 (2001).</p> <p>OR</p> <p>31% per year on the unpaid balance of the principal amount together with a nonrefundable loan processing fee of not more than 2% of the amount financed, provided that no other finance charges are imposed on the loan. Processing fee shall be included in the calculation of the loan finance charge. Financing of the fee shall be permissible and may not constitute charging interest on interest. W. VA. CODE § 46A-4-107 (2001).</p>	<p>excess of those permitted by law is subject to fine of no more than \$5000 or imprisonment for not more than one year, or both. W. VA. CODE § 46A-5-103 (1996).</p>
WI	<p>No express payday law.</p> <p>Loans made with no cap under small loan laws.</p> <p>A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, is not subject to any maximum interest rate limit. Wis. STAT. § 138.09 (2009).</p> <p>A consumer credit transaction entered into after October 31, 1984, is not</p>	<p>No express title loan law.</p> <p>Loans made with no cap under small loan laws.</p> <p>A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, is not subject to any maximum interest rate limit. Wis. STAT. § 138.09 (2009).</p> <p>A consumer credit transaction entered into after October 31, 1984, is not</p>	<p>A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, is not subject to any maximum interest rate limit. Wis. STAT. § 138.09 (2009).</p> <p>A consumer credit transaction entered into after October 31, 1984, is not subject to any maximum limit on finance charges. Wis. STAT. § 422.201 (2005).</p>	<p>A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, is not subject to any maximum interest rate limit. Wis. STAT. § 138.09 (2009).</p> <p>A consumer credit transaction entered into after October 31, 1984, is not subject to any maximum limit on finance charges. Wis. STAT. § 422.201 (2005).</p>	<p>Any person who knowingly possesses any writing representing or constituting a record of a charge of, contract for, receipt of or demand for a rate of interest or consideration exceeding \$20 upon \$100 for one year computed upon the declining principal balance of the loan, use or forbearance of money, goods or things in action or upon the loan, use or sale of</p>

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	subject to any maximum limit on finance charges. Wis. STAT. § 422.201 (2005).  Check-holding and electronic debiting permitted by the regulator.	subject to any maximum limit on finance charges. Wis. STAT. § 422.201 (2005).  Prohibited as of January 1, 2011. Wis. STAT. § 138.16 (2010) (effective Jan. 1, 2011).			credit is, if the rate is prohibited by a law other than this section, guilty of a Class I felony. Wis. STAT. § 943.27 (2005).
WY	The greater of \$30 or 20% per month on the principal balance of the check. WYO. STAT. ANN. § 40-14-363 (West 2010).  Check-holding permitted. WYO. STAT. ANN. § 40-14-362 (West 2010).	Not authorized.	36% on loans of \$1000 or less. WYO. STAT. ANN. § 40-14-348 (West 2010).	36% on loans of \$1000 or less. WYO. STAT. ANN. § 40-14-348 (West 2010).	None.

The *2010 Statutory Backup*, in its original release form, is available at: [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/payday\\_loans/cu-small-dollar-scorecard-backup-2010.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-backup-2010.pdf)