PREDATORY LENDING: PROFILE & ANALYSIS

ARIZONA RURAL POLICY INSTITUTE

NORTHERN ARIZONA UNIVERSITY

Prepared by:

Jeff Peterson, MBA
Research Assistant

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Executive Summary

Payday loans are considered by many to be a form of predatory lending, preying on people when they are most vulnerable. Along with title loans, these transactions are criticized for their high fees, extension policies, and availability among people with low rates of financial literacy. Customers are able to obtain payday loans quickly and easily, without a credit check. With proof of steady income and a post-dated check, a customer can borrow an average of $300 for about two weeks. Depending on state law, the loans cost between $10 and $22 for every $100 borrowed. The annual percentage rates of these loans are usually in excess of 400%. In some states customers have the option of paying another fee to extend their loan for another short period of time.

Analysts claim that the payday loan industry made around $40 billion in loans, and received $6 billion in fees, in 2005. There were approximately 24,000 payday loan outlets during that time. That same year, Arizona had 738 outlets, making loans of over $877 million. New Mexico had a reported 285 outlets making $140 million worth of loans. The numbers of these outlets have been growing, especially in rural New Mexico.

As of 2005, 14 states prohibited extremely high interest short-term loans, while ten states placed no limits on interest rates. Payday lending laws differ between states. Georgia made payday lending a felony. North Carolina lets its law allowing the practice expire. In 2006, the United States government signed a bill into law limiting interest rates on loans to members of the military to 36%. Some credit unions have tried to help by offering similar loans with much lower interest rates and credit counseling.

Policies that are aimed at reducing the predatory aspects of payday loans include limits to the number of outstanding loans, industry-wide customer databases, cooling-off periods, loan amount limits, rollover limits, repayment loans, interest rate caps, and credit counseling.

Arizona allows payday lending under a law that will expire in 2010. State law allows maximum fees of 15% of the face value of the postdated check, which can be written for any amount between $50 and $500. Loans can only be rolled over three times and borrowers can have only one outstanding loan at a time. Arizona politicians have proposed several payday loan-related bills so far in 2007.

New Mexico has no laws prohibiting payday lending. Laws proposed in 2006 were defeated; new laws are being proposed in the 2007 legislature. The governor and attorney general attempted to create laws in 2006 that would regulate the industry, but a judge ruled that they did not have the authority to do so.

Much has been written about payday lending, and there are many groups involved with the issue.

Industry Overview

Predatory lending is recognized as a growing problem throughout the country. Although there is no one universally accepted definition of predatory lending, most observers have similar opinions of what it means. The term encompasses a variety of transactions that critics see as having negative financial consequences for one party involved. A brief, yet precise, definition from a Federal Reserve-commissioned study is "a welfare-reducing provision of credit."[1] This conveys the idea that while two parties are involved in a lending transaction, the terms place one side at a clear disadvantage.

Predatory lending takes many forms, and a debate exists as to whether certain practice are actually "predatory." This document will focus on the practice of payday lending, and touch upon vehicle title loans, while briefly mentioning other practices considered by some to be predatory.

Payday Loan

Payday loans, also called deferred presentment loans, are typically short-term, small-dollar loans that can be quickly acquired by individuals with steady employment. The dollar amounts rarely exceed $500, with the average loan being about $300. Lenders attach a fee to the loan, which varies from state-to-state, according to applicable law. These fees are set by law or competition, and tend to be between $12 and $22 per $100. The borrower agrees to repay the loan in the near future, typically upon receiving his next paycheck. When the agreed-upon pay date arrives, the borrower has the option of extending the loan for a small amount of time. These loan extensions are known as "rollovers" and usually require a fee equal to the initial fee. Rollovers simply postpone the due date of the loan. In some states, the number of rollovers allowed is limited by law; in others the process can continue indefinitely.

Payday lenders usually do not use credit checks to determine borrower eligibility. Rather, they accept a post-dated check for the total amount owed. By doing so, they can provide loan opportunities to people with poor credit histories and few assets. Most people will qualify for a loan with no more than a bank account and proof of steady income. Ideally, when the due date arrives, either the borrower can pay his obligation with cash, or the lender can withdraw it using the check.

Critics of the payday loan industry tend to take two approaches. The broadest complaints are issues with the business model that are present in nearly every state that allows the practice. Other criticisms are based on policies in certain areas that may not affect others. For example, some states, such as Arizona, require that a borrower has only one outstanding payday loan at any one time. Others, such as New Mexico, have no such law. Some accuse payday loan companies in New Mexico of encouraging more severe debt cycles by passively encouraging consumers to take out new loans to pay off loans they already have. Arizona has seemingly outlawed such actions.

[1] Hanson, Samuel, Morgan, Donald P. "Predatory Lending?" May 4, 2005.

Fees
A major criticism of nearly all payday loans centers on the fee schedule. A borrower paying a $15 fee for a $100 loan is paying an annual percentage rate (APR) of 390%. If the fee is taken out initially, and the borrower receives only $85 at the signing, the APR rises to 459%. While most critics recognize that the nature of short-term lending necessitates a higher rate of interest, many consider these rates to be unreasonably high. A study of payday loan rates in 2005 showed average fees ranging between $10.77 and $22 per $100.[2]

Table 1 below compares the average fee per $100 charged in Arizona, New Mexico, the highest state average, the lowest state average, and the average of the 41 state and the District of Columbia. It also lists the APR that corresponds with each rate.

Table 1 – Fees per $100 and Corresponding APRs

	Average	APR
Maximum	22.0%	572%
New Mexico	21.6%	562%
Arizona	17.7%	459%
Average	17.0%	442%
Minimum	10.8%	280%

(Information derived from "Financial Quicksand…"[3])

Rollovers
Rollovers are cited as a common reason for the debt-traps many civil protection groups accuse the industry of perpetuating. States that do not limit rollovers see some borrowers continuously paying the minimum fees during each pay cycle, extending the due date but coming no closer to paying off the principal. Industry critics claim that this is the primary income source for lenders.[4] Defenders of the practice deny this claim, pointing to the fact that 22 of the 38 states that allow payday lending outlaw rollovers.[5]

Rural Issues
Native American and rural communities are said to be prime targets of predatory lending partially because of imperfect market conditions. The availability of banks and other opportunities for loans is limited in such places. Additionally, financial literacy may be somewhat less prevalent in smaller and more isolated communities. With fewer options, and less financial knowledge, consumers are more likely to take loans from higher-cost

[2] King, Uriah; Parrish, Leslie; Tanik, Ozlem. "Financial Quicksand…" Center for Responsible Lending. November 30, 2006.
[3] See Footnote 1
[4] Ernst, Keith; Farris, John; King, Uriah. "Quantifying the Economic Cost of Predatory Payday Lending." Center for Responsible Lending. December 18, 2003.
[5] "FiSCA press release blasts CRL study critical of payday loan industry." *Yahoo! Finance*. December 4, 2006.

and readily available sources. The abundance of payday lending shops in such areas is said to be proof of such claims.[6]

Other problems

Opponents accuse payday lenders of many other deceptive tactics. While these practices are implemented by some companies, they are not necessarily applied by the industry as a whole. Potential customers are often advised to be wary of these practices, which include:

- Hidden finance charges
- Prepayment penalties
- Minimum payments toward the principal
- Special offers to borrow mores
- Excessive late fees and NSF Fees

Deception

Opponents of predatory lending provide countless anecdotes illustrating deception and lies among payday lenders. While many of these stories are difficult to independently verify, studies do exist that suggest deception is a regular practice. One verifiable example involves violations of the Federal Truth in Lending Act.

The Federal Truth in Lending Act requires payday lenders to quote the cost of a loan as an interest rate. A 2006 survey by the Consumer Federation of America (CFA) found that only 17% of payday lending shop clerks did so. The rest either reported the cost in a dollar amount, reported dollar cost per 100 dollars loaned, or refused to disclose the cost at all. In states where it is required to post the APR, similar avoidances were noted; only 26% of postings accurately posted the rate.[7]

Title Loan

Similar to payday loans, title loans use a borrower's vehicle as collateral. The borrower continues to use her vehicle for the loan period, but the vehicle title is held by the lender. Upon default, the lender has the legal right to repossess the vehicle and sell it to recover the loan amount. Title loans can often be rolled-over in the same manner as payday loans. Some critics consider title loans more damaging than payday loans because borrowers who cannot pay the required fees lose their transportation to and from work.

Laws that regulate payday loans often apply to title loans as well. Because the APR on the average title loan is 300%, rate caps will often prohibit the practice. Rollover limits will also apply in many cases.

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[6] "Predatory Lending in Native American Communities." Native Assets Research Center. First Nations Development Institute. May, 2003.

[7] Fox, Jean Ann; Woodall, Patrick. "Cashed out: Consumers Pay Steep Premium to 'Bank' at Check Cashing Outlets." Consumer Federation of America. November, 2006.

Title loans are usually offered by companies that also offer payday loans. A quick online search of title loans offered in Flagstaff and Gallup[8] revealed that all advertised brick-and-mortar title loan shops also offered payday loans. Many parallel issues exist between these types of loans.

Other Predatory Tactics

While this scan focuses on payday and title loans, other forms of alleged predatory lending exist. To briefly note several of these:

Refund Anticipation Loans

These loans are a high-cost way for taxpayers to receive their income tax refunds immediately upon filing. Taking such a loan generally provides the return 7-14 days sooner than normal, at interest rates ranging between 40% and 500%. These loans are often offered by tax preparers. It was reported that in 2005, nearly 10 million taxpayers used a refund anticipation loan. Critics point at the high rates of interest and the fact that filing electronically with direct deposit will often yield a refund in a similar amount of time.[9]

Sub-prime Mortgage

Predatory lending in the sub-prime mortgage industry is a problem all over the country. The scope of this problem is easily as large as payday lending. In brief, predatory sub-prime lenders strip equity from victims' homes by offering refinancing accompanied by unreasonably high rate and/or hidden fees. States and consumer protection groups are very active in containing this practice.

Check Cashing

Check cashing outlets are often accused of charging unreasonably high rates of interest. In 2006, the average check cashing outlet charged 2.44% to cash a social security check. This works out to nearly $25 per $1,000, an amount 53% higher than would have been charged in 1987.[10]

Business Volume

National Statistics

Exact numbers of payday lending and title loan outlets, along with their associated finances, cannot be made with absolute certainty. In states that allow the practice, new stores open continuously. When prohibitive laws are passed, shops close their doors or enter new fields. However, estimates of store volume are easy to come by and are fairly consistent among analyses.

The most recent report by the Center for Responsible Lending, published on November 30, 2006, makes estimates based on available data from 2005. At that point in time, there

[8] http://www.dexonine.com/detailssearch.ds. Search Conducted January 23, 2007.
[9] "Down, But Not Gone…" Consumer Federation of America Press Release. January 16, 2007.
[10] See Footnote 6

were approximately 24,803 payday loan stores among 41 states and the District of Columbia. By multiplying the average fee in each state by the corresponding loan volume and adding all 42 products together, the study arrived at a total nationwide fee amount of over $4.6 billion.[11]

According to www.paydayloaninfo.org, loan volume at the end of 2005 was $40 billion, with $6 billion in fees paid by customers. There were between 23,000 and 25,000 outlets at this time.[12]

Rates of Borrowing

Like the number of payday lending stores, the borrowing habits of customers is difficult to accurately define. Studies do exist, however. The Center for Responsible Lending's 2003 study reported the following findings:

- 91% of all payday loans are made to borrowers with 5 or more payday loans per year
- 56% of loans are made to borrowers who take out 13 or more loans per year
- 66% of borrowers incur 5 or more loans per year
- 31% receive 12 or more per year
- Borrowers on average receive 8 to 13 loans per year[13]

Arizona Statistics

According to the Center for Responsible Lending (2006), 738 payday lenders operated in the state in 2005. These outlets reported an average loan amount of $325. Aggregate statewide loan volume was estimated at just over $877 million. The average fee of 17.65% yielded a total fee amount of around $155 million.[14]

Rural Arizona

A search on the Arizona Department of Financial Institutions' web page revealed that as of January 22, 2007, Arizona had 819 active licenses for deferred presentment companies.[15]

A scan of licensees revealed the following numbers of shops in these select rural Arizona cities:

[11] See Footnote 1
[12] http://www.paydayloaninfo.org/facts.cfm. Retrieved January 22, 2007.

[13] See Footnote 3
[14] See Footnote 1
[15] http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/6/01251.htm&Title=6&DocType=ARS. Search Conducted January 22, 2007.

- Yuma – 13
- Flagstaff – 13
- Kingman – 10
- Sierra Vista – 10
- Bullhead City – 9
- Lake Havasu City – 6

New Mexico Statistics
Due to changing laws and climate, the number of payday lending stores in operation in New Mexico can change on almost a day-to-day basis. New shops appear regularly, and diverse data-gathering techniques reveal differing results. As a result, estimates on how many exist at one time vary.

According to the Center for Responsible Lending, New Mexico had 285 payday lending shops in 2005. These outlets reported an average loan amount of $309. Total loan volume among these shops was just under $140 million. The average loan fee in New Mexico was estimated at 21.63%. The corresponding APR to this fee is 564%, second only to Wisconsin and Mississippi in this study. The estimated total fee amount was over $30 million. [16]

A press release from the New Mexico Regulation and Licensing Department dated March 31, 2006, listed the 12 cities with the highest numbers of payday loan shops. These were:

- Albuquerque -107
- Las Cruces - 21
- Farmington - 20
- Gallup -17
- Alamogordo - 13
- Roswell - 13
- Clovis -11
- Los Lunas - 10
- Santa Fe - 9
- Hobbs - 8
- Rio Rancho - 8
- Carlsbad -5[17]

The proliferation of these shops in rural New Mexico gained national attention late last month. A *New York Times* article dated December 24, 2006, reported that Gallup alone had at least 40 lending shops. [18]

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[16] See Footnote 1
[17] Press Release. New Mexico Regulation and Licensing Department. March 31, 2006.
[18] Eckholm, Erik. "Seductively Easy, Payday Loans Often Snowball." *The New York Times.* December 23, 2006.

The *Albuquerque Tribune*, on July 13, 2006, claimed there were 700 payday loan and title loan shops in the state. The article claimed concentrations of 1 to every 500 people in Gallup, compared to a state average of 1 to 7,000.[19]

Policy Review

State law dictates payday lending practices. In most cases, usury laws limit extremely high interest rates. However, many states have passed specific laws allowing payday lending that shield the practice from these limits.

As of November, 2005, 14 states prohibited extremely high interest short-term loans. According to the National Conference of State Legislators, they include the following:

- Connecticut
- Georgia
- Maine
- Maryland
- Massachusetts
- Michigan
- New Jersey
- New York
- North Carolina
- Oregon
- Pennsylvania
- Texas
- Vermont
- West Virginia

The laws are unique from state-to-state. Some, like Georgia, make payday lending a crime. Others, like North Carolina, simply allowed their laws permitting payday lending to expire. Of course, prohibitive laws are constantly being appealed by the industry, and may change unexpectedly.

Ten states did not limit interest on small loans as of November, 2005. These include:

- Delaware
- Idaho
- Nevada
- New Hampshire
- New Mexico

[19] Reed, Ollie Jr. "Lawmakers work to make payday loans more manageable" *The Albuquerque Tribune.* July 13, 2006.

- Oregon
- South Dakota
- Tennessee
- Utah
- Wisconsin

Government and community groups in each of these states are actively fighting to install rules and regulations. They face multiple challenges that include strong lobbying by the industry, difficulty in defining terms, and concerns about leaving high-risk borrowers with no options.

Noteworthy Examples

Regulation of payday lending is a complicated issue. Experts differ as to the effects of regulation. While some want tighter controls, some want to outlaw the practice altogether. Many approaches have been tried, with mixed results.

Military

A well-publicized bill recently passed by both houses of congress and signed by the president is intended to protect military personnel from predatory lenders. When the new laws go into effect later this year, interest rates on loans to active service members and their dependents will be capped at 36%. The law also prohibits using vehicles and post-dated checks as collateral for loans. This will essentially deny title loan and payday loan companies from serving members of the military. [20]

Georgia

In May of 2004, Georgia passed the Payday Lending Act of 2004, which made payday lending a criminal offense. An 8% usury limit is now enforced for all unlicensed lending in the state. The Georgia attorney general now brings felony and racketeering charges against violators of the act. Conviction carries fines of up to $25,000 per violation and up to 25 years in prison.[21]

North Carolina

North Carolina had allowed laws permitting payday lending to expire on August 31, 2001. Lenders, however, used a variety of methods to continue the practice. The attorney general spent nearly five years in court before the last of the payday lenders agreed to cease operations in March of 2006.

[20] "Congress Poised to Enact Historic Predatory Lending Protections for Military Families." Press Release from the Consumer Federation of America. September 29, 2006.

[21] http://www.responsiblelending.org/policy/state/georgia/page.jsp?itemID=28010186
http://www.georgia.gov/00/article/0,2086,5426814_39039081_39271654,00.html. Retrieved January 20, 2007.

Current North Carolina law limits interest rates to 16 percent on loans under $16,000. Licensed consumer finance lenders can charge up to 36 percent on loans under $600.[22]

Credit Union Solutions

First Financial, a New Mexico-chartered credit union, began offering a payday loan alternative in January of 2006. The Redi-Cash Loan program is designed to provide individuals who need a small, short-term loan get the cash they need, and to help those with payday loan debt loads of up to $5,000 get out of debt.

The credit union makes short-term loans with fees of $12 for every $100 borrowed. Borrowers must agree not to visit a payday loan company for the duration of their participation in the program. They must also agree to attend credit counseling with a company called Balance.

Eighty percent of the fees for the loan is deposited into a savings account at First Financial. If, after a year, the customer has abided by the rules of the program, he gains access to the account.

This program benefits members in many ways. They receive a loan at rates significantly lower than through a payday lender. The accompanying credit counseling provides financial education and budgeting skills. Customers have strong incentives to avoid payday lenders. At the end of the year, 80% of their fees are returned to them, with interest.

First Financial is actively encouraging other credit unions in New Mexico and Arizona to follow its example.[23]

Another credit union solution is being developed by MariSol Federal Credit Union in conjunction with the Mesa Community Action Network (MesaCAN), in Mesa. The program offers customers loans based, like payday loans, on whether the customer has a steady income. However, unlike payday loans, MariSol loans will have a maximum interest rate of 18%. Depending on a customer's credit rating, the interest rate might be as low as 9.25%.[24]

Best Practices

Anti-predatory lending groups tend to agree on certain practices that reduce the perceived negative effects of payday lending. These are often the focus of legislative and private efforts to help those targeted by payday lenders.

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[22] "Payday lending on the way out in NC." Press Release from Roy Cooper, North Carolina Attorney General. March 1, 2006.
[23] Donovan, Bill. "Program aims to curb payday loan cycle." *The Navajo Times.* January 4, 2006.
[24] Cronin, Mike. "MesaCAN offers option to payday loan stores." *The Arizona Republic.* October 26, 2006.

Limit to the number of outstanding loans
If the number of loans a consumer is allowed at any one time is restricted to very few, or only one, the chances of him becoming trapped in a debt cycle is greatly reduced. Many states have implemented such limits. This practice discourages borrowers from taking out new loans in order to pay for current ones.

Databases
Databases are necessary in order for loan limits to work effectively. Communication between the many hundreds of payday lenders in imperfect, and determining if a customer has a current outstanding loan is often difficult.

Cooling off periods
Another method of preventing multiple loans, cooling off periods require a period of time – often a week – between one loan and the next. This also helps prevent using one loan to pay another. Some states require a cooling-off period only if a borrower has had an outstanding loan for a specified period of time, usually 60 days.

Loan Amount Limits
Some states limit the amount a person can borrow from a payday lender to a certain percentage of the customer's gross monthly pay. This practice attempts to overcome the perceived problem that lenders do not consider borrowers' ability to pay off the debt.

Rollover Limits
Because the process of rolling-over a loan is often seen as the most destructive element of payday loans, it is a commonly –prohibited practice. In fact, a majority of the states that allow payday loans prohibit rollovers.[25]

Repayment Plans
The goal of repayment plans is to provide an affordable way for borrowers to pay off their loans if they cannot do so under the initial time period. Most repayment plans allow the borrower to make periodic installments over a long period of time, with reduced interest rates.

Interest Rate Caps
Interest rate caps are a common solution to payday lending. Implementing them often causes lenders to leave the area. However, debate exists as to the efficacy of these caps. Defenders of the industry claim that their customers are forced to bounce checks and miss bill payments when interest rate caps force them out of business.

Credit Counseling/Education
Credit counseling educates people about budgeting, money handling, and the basics of financial literacy. The skills people learn from credit counseling can enable them to make educated decisions regarding their finances. There is a growing effort among cities, counties, states, and tribes to improve the financial education of their citizens.

[25] See Footnote 4

Arizona Policies & Regulations
Arizona began its deferred presentation licensing program in 2000. Legislation enabled payday lenders and required they be licensed by the Department of Financial Institutions. The program will terminate on July 1, 2010, under current law.

Arizona has already implemented many of the best practices, and more are pending, having been proposed in the 2007 legislature.

The present regulations limit checks issued on deferred loans to a face value of no less than $50 and no more than $500. The fees attached to the loan cannot exceed $15 for every $100 loaned. Rollover fees, too, cannot exceed 15% of the face value of the check, and a loan can only be rolled over three times. Each rollover must accompany termination of the original agreement and drafting of a new document.[26] A borrower is allowed only one outstanding loan at any one time. If a check is returned for non-sufficient funds, a charge of $25 may be attached by the lender.[27]

Payday Loan offices must post their fees in a conspicuous location. They must also, by law, attempt to confirm that the borrower has no other outstanding loans with an in-state company.[28]

Amidst a surge of outrage against the payday loan industry, the following legislation has been introduced in the 2007 session of the Arizona State Legislature:

- H.B. 2224 – Prohibits the extension of payday loans
- H.B. 2539 – Introduced by Regulates payday lending and loans to military members
- S.B. 1051 – Enacts a 36 percent interest rate cap and prohibits loan extensions
- S.B. 1052 – Causes the payday loan licensing program to terminate on January 1, 2008, rather than the previous day of July 1st, 2010
- S.B. 1101 – Caps interest rates at 36 percent[29]

See the appendix for sponsors of each individual bill.

[26] http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=6. Retrieved January 18, 2007.
[27] http://www.paydayloaninfo.org/state_detail.cfm?id=AZ. Retrieved January 18, 2007.

[28] "2005 Summary of State Payday Loan Acts." Retrieved January 18, 2007, from http://www.consumerlaw.org/action_agenda/payday_loans/content/NCLC_SUMMARY.pdf
[29] http://www.ncsl.org/programs/banking/PaydayLending_2007Pending.htm. Retrieved January 19, 2007.

New Mexico Policies & Regulations

In New Mexico no law prohibits or allows payday loans. The Small Loan Act and the Installment Loan Act are generally used to justify the operations.

Interest rates
New Mexico's Small Loan Act of 1955 originally regulated the small loan industry with a maximum interest rate of 36% for the first $150, 30% for amounts between $150 and $300, and 12% for amounts from $300 to $1,000. However, when interest rates skyrocketed in the early 1980s, these limits, along with rate caps associated with New Mexico's usury laws, were repealed. Current law allows for any interest rate agreed upon in writing by all parties involved. The New Mexico Financial Industries Division estimates that payday loans in New Mexico now hold an average interest rate of 560%. Title loans carry an average interest rate of 322%.

This state is one of the least-regulated in the union, in terms of payday lending. Law specifies no maximum loan amount, no term limits, no maximum finance rates or fees, no maximum charges for two-week loans, and no limits on APRs. Borrowers may have any number of loans outstanding, and may rollover loans as often as they need. If the lender must go to court in order to recover its fees, it also has the right to recover attorney's fees, court costs, and filing fees.[30]

Recent Proposals
In response to public outcry against an apparent lack of government protection, lawmakers, the governor, and the attorney general have made attempts to place controls on the payday loan industry.

On Feb 22, 2006, a moratorium on new payday lending licenses was signed by Governor Bill Richardson. It was hoped that no new lenders would enter the state until anticipated rules were implemented.

On May 18, Richardson and Attorney General Patricia Madrid proposed regulations on that would install regulations on the nearly unregulated industry. The notable aspects of these rules, which were to go into effect on August 31, were as follows:

- Maximum fee of $15.50 per $100 borrowed
- No interest charges or late charges
- Two 14-day rollovers allowed at the maximum $15.50 each
- After two rollovers, the borrower can enter a payment plan with no more fees.
    - Borrower can make payments on the principal for a minimum of 130 days.
- The total amount of all loans outstanding, including applicable fees, cannot exceed 25% of the customer's gross income

[30] http://www.paydayloaninfo.org/state_detail.cfm?id=NM. Retrieved January 19, 2007.

- Only one NSF fee is allowed, and it cannot exceed $15.00
- Lenders can redeposit a check only once, and only if the borrower agrees.[31]

Just prior to the new regulations going into effect, a district judge ruled that they exceeded the authority of the governor and attorney general. The opinion of the judge was that such regulations must be enacted by the legislature, rather than by executive decision. The offices of both the governor and attorney general are appealing the ruling.[32]

Active Proposals

Representative Patricia A. Lundstrom of Gallup has introduced payday loan a reform bill in the fist session of the 2007 legislature. House Bill 92 would limit fees and provide regulation of the industry by amending, repealing, and adding to various aspects of the Small Loan Act of 1955. Some notable highlights of the bill are:

- Limiting all outstanding loans and fees to no more than 25% of the borrower's gross income
- A fee limit of $15.50 for every $100 borrowed
- A rollover limit of $15.50 for every $100 borrowed
- Lenders may charge a one-time NSF fee of $15
- Only one rollover is allowed
- After the rollover term is up, the lender must provide the borrower with a payment plan over a minimum of 98 days

Full text of the proposed bill can be found on-line at:

http://legis.state.nm.us/Sessions/07%20Regular/bills/house/HB0092.pdf

Review and summary of literature and public opinion

Following is a very limited list of some of the articles referenced in this document.

"Predatory Lending?" By Samuel Hanson and Donald P. Morgan.
This article is an objective study questioning whether payday loans fit into the category of predatory lending. The authors take a scientific approach to their analysis and determine how economic forces influence the actions of payday lenders.

"Unsafe and Unsound: Payday Lender Hide behind FDIC Bank Charters to Peddle Usury." By Jean Ann Fox.
This article examines the near-extinct practice of using banks chartered in different states to circumvent anti-payday lending laws. While laws have nearly succeeded in ending

[31] Reed, Ollie Jr. "New Mexico Rules to Cap Payday Role Fees." *The Albuquerque Tribune.* May 18, 2006.
[32] "Court Whacks Payday Loan Rules." http://www.pliwatch.org/new_article_060831A.html. Retrieved January 19, 2007.

this practice, it is an informative example of how lenders attempt to continue after their trade has been outlawed.

"Predatory Lending in Native American Communities." From the native Assets Research Center of the First Nations Development Institute.
This document discusses how predatory lenders target Native American communities around the country, attracted by imperfect competition and a lack of financial education. It discusses the ways some tribes have tried to combat this problem, and ways to prevent it in the future.

"Quantifying the Economic Cost of Predatory Payday Lending." By Keith Ernst, John Farris, and Uriah King.
This article analyses the volume of payday loans in the United States in 2003 and attempts to distinguish the costs on a macro level. The authors use a simple analysis to claim roughly how much payday lending fee volume is actually "predatory."

"Financial Quicksand: Payday lending sinks borrowers in debt with $4.2 billion in predatory fees every year." By Uriah King, Leslie Parrish, and Ozlem Tanik.
Another report from the Center for Responsible Lending, Financial Quicksand has been heavily criticized by the payday loan industry. It covers how borrowers become debt-trapped. It takes a close look at individual states' rates of spending, and the savings realized by states that have outlawed payday loans.

List of resources and organizations

Office of the Comptroller of the Currency
http://www.occ.treas.gov/

Federal Reserve Board
http://www.federalreserve.gov/

Office of Thrift Supervision
http://www.ots.treas.gov/

Federal Deposit Insurance Corporation
http://www.fdic.gov/

The Annie E. Casey Foundation
http://www.aecf.org

Arizona Department of Financial Institutions
www.azdfi.gov

The Community Financial Services Association of America
www.cfsa.net

National Conference of State Legislatures
www.ncsl.org

The New Mexico Economic Development Department
www.goNM.biz

The American Indian Chamber of Commerce NM
www.aiccnm.com

Enterprise Community Partners
www.enterprisecommunity.org

Payday Lone Industry Watch
www.pliwatch.org

Center for Responsible Lending
www.responsiblelending.org

US Public Interest Research Groups Payday Lending Page
http://www.uspirg.org/financial-privacy-security/predatory-lending

Appendix – Sponsors of 2007 Proposed Legislation in Arizona

H.B. 2224	Introduced by Representatives McClure, Nelson, Senators Bee, Gray C: Representatives Alvarez, Crandall, Rios P
H.B. 2539	Introduced by Representatives Ableser, Cajero Bedford, Hershberger, Kirkpatrick, Lopez, Lujan, Prezelski, Saradnik, Sinema, Senators McCune Davis, O'Halleran: Representatives Alvarez, Anderson, Bradley, Burns J, Clark, Farley, Gallardo, Lopes, McClure, Meza, Pancrazi, Schapira, Tobin, Tom, Senators Burton Cahill, Rios, Soltero
S.B. 1051	Introduced by Senators Gray C, Garcia; Representatives McClure: Barto
S.B. 1052	Introduced by Senators Gray C, Garcia; Representatives McClure: Barto
S.B. 1101	Introduced by Senators Garcia, Aguirre, Pesquiera, Rios