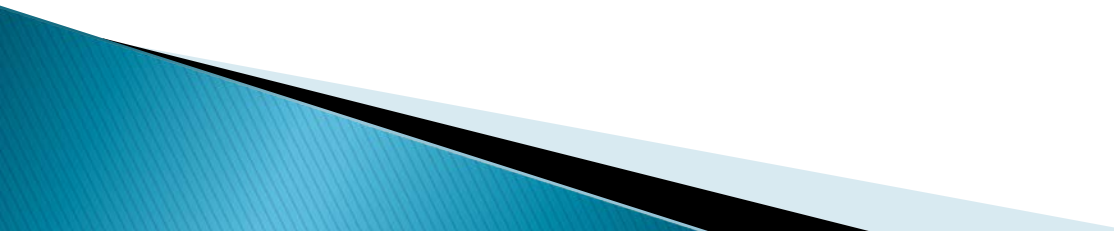


Combating Predatory Lending Practices in Louisiana

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Consumer Federation of America
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Louisiana Family Impact Seminar

What makes credit predatory?

Terms that create a debt trap for the unwary

- ▶ Extreme high price
 - ▶ Credit extended not based on ability to repay
 - ▶ Unaffordable repayment terms, balloon payments due in full on next payday
 - ▶ Asset-based lending with key family asset at risk
 - ▶ Fraud, deception, complex terms
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Louisiana Grades on 50-State NCLC/CFA/CU Scorecard

- ▶ \$250, 2 week payday loan at 574% APR = F
- ▶ \$300, 1-month auto-title loan prohibited = P
(But longer term high cost title loans permitted)
- ▶ \$500, 6-month install. loan at 81% APR = F
- ▶ \$1,000, 1-year install. loan 47% APR = F
- ▶ Criminal usury cap- None = NA

Source: Consumers Union, National Consumer Law Center, Consumer Federation of America
50 State Scorecard. States graded on whether small dollar loans can cost more than 36%
APR under state law. See:

http://www.consumerfed.org/elements/www.consumerfed.org/file/Updated_Scorecard.pdf

Who Uses Fringe Lenders?

- ▶ Payday loan borrowers must have a bank account to get loans based on check holding.
- ▶ Portrait of payday borrowers:
 - \$25,000 to \$50,000 income, typically low end
 - Up to a third of borrowers make less than \$25,000
 - Median income is below the U.S. average
 - African Americans and Latinos disproportionate share of borrowers
 - Average age in 30's, majority are women, 90% have high school diploma, less than 1 in 5 have college degree, most have children under 18, rent homes.

Who Uses Refund Anticipation Loans?

- ▶ RALs are loans based on expected tax refunds, made by banks and sold by tax preparers.
- ▶ 92% of RAL applicants are low income: IRS
- ▶ 1 in 4 taxpayers who earn \$10,000 to \$25,000
- ▶ \$223 million drained from EITC by RALs + \$32 million in add on fees.
- ▶ EITC recipients: in 2010 41% of RAL/RAC users got EITC (EITC recipients 20% of taxpayers) while only 7% of non-EITC recipients did.

<http://www.consumerfed.org/pdfs/RALReport2012.pdf>

Payday Loans Harm Consumers

- ▶ Access to payday loans increases chances of financial hardship, difficulty paying bills, delay getting medical care
- ▶ Detroit study found payday borrowers had double rate of evictions and phone cut-offs, three times the rate of having utilities shut off
- ▶ Twice as likely to become delinquent on credit cards
- ▶ Half of payday borrowers default in the first year of use
- ▶ More likely to file for bankruptcy
- ▶ Higher risk of involuntary bank account closure if near a state that allows payday lending

See:

http://www.consumerfed.org/elements/www.consumerfed.org/file/CFA_Fringe_Loan_Product_Harm_Research%281%29.pdf

Payday Loans are a Debt Trap

- ▶ Center for Responsible Lending studies show that:
 - In first year of loan use, borrowers are indebted average 212 days.
 - Over two-year period, borrowers are indebted a total of 372 days.
 - Borrowers average 9 loans per year in first year. If take out loans in second year, average 12 loans in second year.
 - Loan size increases. Average initial loan \$279, but average of all OK loans \$466.
 - Over first two years of payday loan use, 44% of borrowers default, which triggers bounced check fees from the lender and the consumer's bank. Loans due on payday, lender has direct access to funds in borrower's account. Payday lender paid first.
 - Borrowers take out loans consecutively.

See: <http://www.responsiblelending.org/payday-lending/research-analysis/payday-loan-inc.pdf>

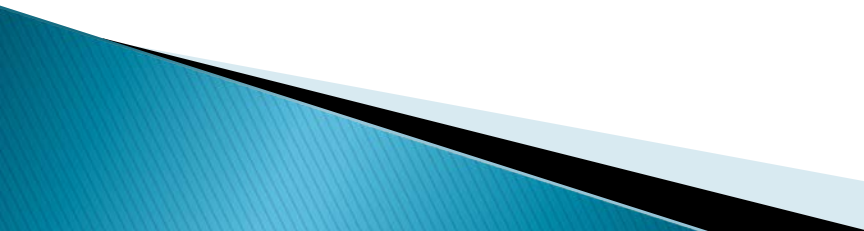
High-Cost Small Dollar Loans

- ▶ Refund anticipation loans(RAL)
 - RAL: Borrow from bank, repaid by IRS refund.
 - 2012 RALs made by Republic Bank and Trust at Jackson Hewitt and Liberty Tax Services.
 - 2012 RAL costs 149% APR. \$1,500 loan costs \$61.22 plus \$29.95 to refund rest as a check.
 - RALs cost consumers \$338 million in 2010 plus \$48 million in add-on fees. Down from high in 2004 of \$1.24 billion paid for RALs.

See: “The Party’s over for Quickie Tax Loans,”
NCLC/CFA 2012 RAL Report,

<http://www.consumerfed.org/pdfs/RALReport2012.pdf>

Payday Loans at Stores and Online

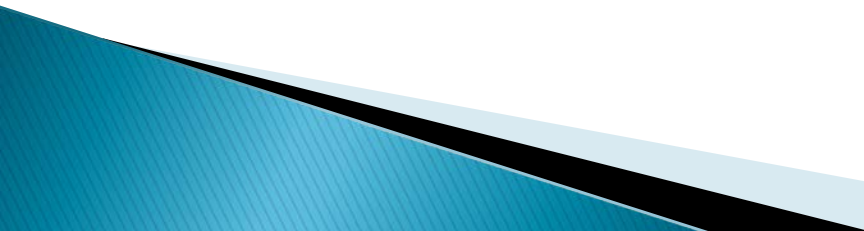
- ▶ Single payment loan due on next payday, or finance charge-only payments every payday
 - ▶ Secured by check held for future deposit or electronic access to borrower's bank account
 - ▶ Costs 400% APR or more
 - ▶ Failure to pay results in NSF fees from bank and payday lender, adverse credit report, loss of bank account, debt collection tactics
 - ▶ Online loans add security and privacy risks
- 

Bank Payday Loans

- ▶ Direct Deposit Advance loans made by Wells Fargo, US Bank, Regions, Fifth Third Bank, spreading to small banks
- ▶ Average 365% APR for typical 10-day term if computed as a closed-end payday loan
- ▶ On average, bank payday borrowers in debt 175 days of the year
- ▶ Almost 1 / 4th of bank payday borrowers are Social Security recipients who are 2.6 times as likely to have used DDA as bank customers
- ▶ Terms permit indebtedness 11 months of the year
- ▶ DDA can be up to 50% of paycheck or benefits deposited
- ▶ Claimed to be open end, but must be paid in about a month

See: <http://www.responsiblelending.org/payday-lending/research-analysis/big-bank-payday-loans.pdf>

Car Title Loans


- ▶ Cash loan secured by title to the borrower's paid for vehicle (except in AZ, registration)
 - ▶ Operate in at least 20 states, including LA
 - ▶ Cost @300% APR in most states, balloon payment loan due in one month typical.
 - ▶ Pay finance charge and renew loan, no reduction in loan
 - ▶ Risk repossession of vehicle
- 

Bank Overdraft Loans

- ▶ Typical big bank overdraft fee is \$35, charged when bank pays a transaction on insufficient funds
- ▶ Repaid by set off of next deposit to account
- ▶ 60% of big banks charge sustained OD fees
- ▶ OD can be triggered by debit card POS or ATM, checks, electronic payments, recurring debits
- ▶ Whether to pay OD is up to the bank
- ▶ Banks must get consent to charge OD fees on debit cards at POS and ATM


See: <http://www.consumerfed.org/pdfs/OD-14BankSurvey-ChartAugust2011.pdf>

Key Assets at Risk from Predatory Small Loans

- ▶ Bank account and ability to write checks
 - ▶ Vehicle needed by family to get to work
 - ▶ Federal anti-poverty benefits via EITC
 - ▶ Family paychecks and tax refunds
 - ▶ Federal exempt funds, Social Security, SSI especially now that all federal benefits will be delivered by direct deposit in one year
 - ▶ Financial identity, military security clearance
 - ▶ Credit score needed to get job, rent apartment or buy insurance
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Reform Agenda

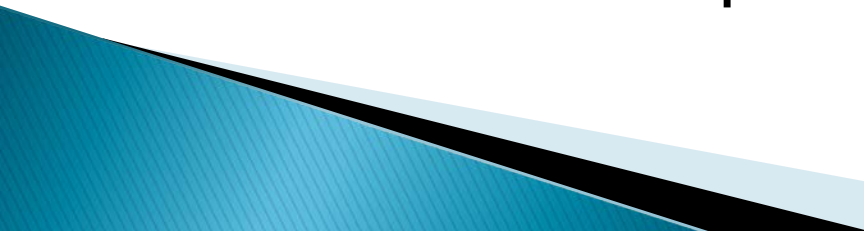
- ▶ Louisiana:
 - Repeal or cap rates for payday loans.
 - Prohibit short term cash loans secured by title to vehicle without protections.
 - Lower cost of installment loans.

 - ▶ Congress: Extend Military Lending Act protections to all Americans
 - 36% rate cap including fees
 - Ban on securing loans with checks, debit access, vehicle titles, wage assignments
 - RALs, PDLs, CTLs subject to MLA per DOD rules.
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Reforms, cont.

- ▶ Consumer Financial Protection Bureau
 - Supervise, examine payday lenders of any size
 - Write rules for federal laws that apply to credit
 - Define unfair, deceptive, or abusive practices by rule
- ▶ CFPB supervises non-bank entities and large bank payday lenders, using same examination manual.
- ▶ CFPB requests consumer stories about payday loan use. Go to www.consumerfinance.gov

Curb Abusive Overdraft Fees and Practices

- ▶ Stop banks from processing payments largest first, resulting in more OD fees
 - ▶ Require banks to comply with Truth in Lending Act and quote cost of OD loans as APR
 - ▶ Require banks to get consent for all forms of OD.
 - ▶ Prohibit OD at ATM and POS since these are declined at no cost
 - ▶ Limit fees to 1 per month, based on cost
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RALs stop after 2012, RACS Remain

- ▶ Banks stopped by regulators from making RALs via tax preparers. FDIC settled with Republic Bank and Trust to halt after 2012 tax season. May see nonbank tax loans.
- ▶ RACs are a very expensive way to borrow the tax preparation fee. Pay \$30 to borrow \$189 = 414% APR.
- ▶ Urge consumers to use electronic tax filing and direct deposit of refund to taxpayer's bank account or payroll card.
- ▶ States can prohibit tax preparers from tacking on extra fees for financial products they sell.
- ▶ Encourage taxpayers to open savings accounts to get tax refunds via direct deposit.

Curb Usury

- ▶ States can stop many forms of very high cost lending that trap families in unaffordable debt with usury laws or rate caps.
- ▶ CFPB cannot set a national usury cap.
- ▶ Therefore Congress and/or states must put a limit on abusive loan cost.
- ▶ The traditional state small loan rate cap is 36% APR.
- ▶ FDIC Responsible Small Dollar Lending Guidelines use 36% cap as does Military Lending Act enacted by Congress in 2006.

For more information, see:

- ▶ www.consumerfed.org, click on Financial, then Credit and Debt for Consumer Federation of America studies and testimony
 - ▶ www.paydayloaninfo.org is CFA's mini-site
 - ▶ www.responsiblelending.org, click on Payday Loans, Bank Payday, Overdraft tabs
 - ▶ www.nclc.org, to see reports from the National Consumer Law Center
 - ▶ www.consumerfinance.gov for CFPB resources
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