

Payday Lenders Burden Working Families and the U.S. Armed Forces



On September 15th of 2001, Mrs. B., a 64 year old San Antonio widow of a Vietnam Vet signed six checks totaling \$626.90 for a \$500 loan due in two weeks. When she was unable to pay back the full \$500 plus fees, the lender charged her \$126.90 to renew the loan. She paid these renewal fees every two weeks until November 15th, at which point she could no longer pay. Although she begged them not to, the lender cashed her six checks, and they all bounced, costing her significant check fees.

Two weeks later, when her widow's benefit V.A. check arrived, the lender deducted her checks again electronically. This time they went through. In less than three months, this \$500 loan cost her \$1263.80. Although the loan had been paid at the time of her complaint to the OCCC, it was still listed as "unpaid" at the local check monitoring service.¹

Unfortunately, this borrower's experience is a common one for many Texas consumers dealing with payday lenders. Like many other payday stores operating in the state, we did not find this company in the licensing database,² and most lenders surveyed use significantly higher rates than those set out in Texas law. Many try to mask their high interest loans as "internet service" contracts to avoid the application of state interest rate caps.

Texas has a strong tradition of preventing lenders from exploiting cash strapped families and has prohibited usury since its founding. The state's finance code currently caps the allowable rate for payday loans at \$4 per month per hundred borrowed plus an up-front \$10 fee to cover processing costs, which together totals 135% to 300% APR interest on most two week loans. But the 450-880% interest actually charged by payday lenders in our survey dwarfs even these generous legal rates.³ As Mrs. B. said

in her complaint to the OCCC, "these people have NO RESPECT for the law."

Consumers Union helped defeat the payday loan industry's model state legislation in Texas (**HB 3505/SB 1177**). This legislation would have licensed payday lenders and authorized them to charge rates of **over 900% APR**. Similar "safe harbor" legislation, authorizing payday lenders to charge higher rates, has been proposed all over the country, and adopted in many states, most recently in Oklahoma.

The industry wants such legislation because federal regulators have been cracking down on "rent-a-banks"—banks in states without usury caps who rent their charters to payday lenders in states with usury laws. Federal law allows a bank to charge in every state the interest rates allowed in its home state. But the OCC, the Federal Reserve, and most recently the FDIC, have indicated that such practices should be curtailed because they are bad for banks as well as consumers.

Consumers Union Study

Consumers Union conducted a survey of 31 payday lenders in Austin, Dallas, Lubbock, Fort Worth, Houston, and San Antonio. This is the third payday loan survey conducted by Consumers Union to track the growth of payday lending, the loan fees, and loan requirements. We used both the Yellow Pages in all of these areas and the *Greensheet* and *Austin Thrifty Nickel* in Austin.

When calling the phone numbers listed Texas phone books or newspapers, we found that many of the lenders were located out of state. For those lenders located in the state of Texas, we checked the OCCC website to see which were licensed as required by Texas law. Finally, we reviewed both written and oral consumer complaints filed with the OCCC on payday lenders. While this analysis does not provide

A report of the Southwest
Regional Office of
Consumers Union

by Mark Muecke

Senior Staff Attorney, Rob
Schneider

Edited by Kathy Mitchell,
Research Director

July 2003

Consumers Union

Publisher of Consumer Reports

statistical information about the entire payday loan industry, it shows how the process works and the affects it often has on the real lives of Texas consumers.



Findings

- None of the companies in our survey came close to meeting the fee caps set out in Texas law. For the \$200 loan of 14 days used in our survey, their rates ranged from \$35.28 to \$67.76, which is the equivalent of 450% - 880% APR. The Texas Credit Code only allows a charge of \$13.73, which is the equivalent of 178.98% APR.⁴

- Of the 31 payday lenders we surveyed, we only found four in the licensing database of the OCCC⁸, although payday lenders are required to be licensed by statute.⁹

- We continue to find efforts to disguise lending as some other activity. Two lenders surveyed offered “internet service” in return for a “cash rebate” as a new subterfuge, and we found additional examples among the free ad papers. Fastbucks offered us a straight payday loan when we called its out-of-state branches, but when we called its Dallas office, the sales representative pitched us their “internet service” for a fee, and said it didn’t matter whether we used the service. Consumers also complained to the OCCC about loans disguised as “internet service.”¹⁰

- Most of the companies we surveyed allowed unlimited renewals of the loan every two weeks as long as the renewal fee on the loan was paid. Three companies even encouraged rollovers by offering the “first loan free,” and one of these refused to provide rate information for subsequent periods over the phone.⁵ Although payday lenders argue their high fees are necessary to compensate for risk, the lenders appear eager to renew loans with customers who cannot repay after the initial period.

- The Texas Credit Code allows for loan renewals, but after the first one, the loan balance must decline with each payment: “a lender and a borrower may renew a loan, but the loan must be converted from a single payment balloon loan to a declining balance installment note.”⁶ Of all the companies we surveyed, however, only one company did not allow renewals and two others mentioned requiring a declining balance as a condition for renewing the loan on the fifth renewal.⁷

- The loans all worked basically the same way. The borrower must provide several items, which can include: driver’s license,

checking account, minimum monthly income, recent utility bill, paycheck stubs, and references from others. If the basic requirements are met, the lender gives the borrower cash in return for a signed check totaling the loan plus a fee.

- Almost all lenders required at least some form of identification and proof of minimum income ranging from \$800-\$1500 per month, depending on the lender. Lenders sometimes noted that people with lower incomes could qualify if they collect a social security check. These businesses target the “working poor”—including the social security dependent elderly—a population desperate enough to agree to these high rates, but who are also deriving a steady income to ensure repayment. Payday lenders argue that their excessive rates are necessary because they don’t conduct credit checks, but these income verifications, combined with electronic funds transfer agreements, ensure the borrower has a steady cash flow available directly to the payday lender--in essence, a credit check.

Affects of Payday Loans on Texas’ Consumers

People applying for these loans have a checking account necessary to obtain the loan, but may be struggling to get by paycheck to paycheck. The spiraling cycle of debt into which they fall has long term repercussions. One unexpected car repair or medical bill can leave a family in serious straights. As the payday lender extracts all their available cash, they are often forced to choose between rent, medicine, food or childcare, as one borrower told the OCCC.¹¹

A recent Iowa study found that consumer typically roll over a payday loan 12 times before paying it off, ensuring that desparate families pay hundreds of dollars they can’t afford in fees to keep these loans afloat.¹²

High cost payday loans yield great profits for the lender. Eager to profit from the cycle of debt, they sometimes resort to subterfuge, or simply ignore the state’s lending rules. Two years ago, the Texas Legislature prohibited “sale leaseback” transactions and other forms of subterfuge,¹³ but lenders remain creative.

Some lenders now sell “internet service”, a new twist on the old “catalogue” and “ad” sales we previously reported.¹⁴ The ad to the left describes “Internet Access with High Speed Cash Rebates” using “local dial-up from store exchange.” If this transaction is not a loan then lending laws would not apply. (see also sidebar and advertisement, p. 4)

Other violations fill the complaint files. A Houston consumer who took a payday loan from Cash America Pawn stated they wouldn’t let him make a payment early (in one week rather than two). When he questioned this, Cash America told him that their partner, First National Bank is only set up to accept payments every two weeks, costing this consumer significantly more money.¹⁵ This clearly



Consumers Union Payday Lender Survey Results, 2003

Name of Company	Fee	Location	Phone	Rollovers Allowed?	Source
Instant Cash	\$33.88/\$100 per 2 weeks	Austin	(512) 447-2274	unlimited per 1 year	Austin phone book
Planet Cash	\$20/\$100 per 2 weeks	Austin	(512) 458-6688	unlimited per 1 year	Green Sheet
Cash Back Payday	\$25/\$100 per next payday (1st loan free)	Nevada	1-866-643-2274	up to 4 times	Austin Thrifty Nickel
County Bank (not listed in add)	\$30/\$100 per 2 weeks	Colorado Springs, Co.	1-800-397-2579	4 times	Austin Thrifty Nickel & Dallas Yellow Pages
Cash Advance Now	\$25/100 per 2 weeks	Portland, Oregon	1-877-645-2274	unlimited	Austin Thrifty Nickel
A1 Premium Budget	\$35/\$100 per 30 days	Willmington, De	1-800-445-0680	unlimited	Austin Thrifty Nickel
Advance Finance	\$25/\$100 per next payday	Atlanta, Georgia	1-800-540-8435	after 5th, must pay at least \$50 towards balance	Austin Thrifty Nickel & Greensheet
Cash in Advance	\$25/\$100/ 2 weeks or \$15/\$100/ 1 week	based in Delaware	888-547-2152	unlimited	Green Sheet
Fast Bucks	\$12.50/\$100 per week	headquarters Dallas	1-877-645-2274	unlimited	Austin Thrifty Nickel
Money mart Express or Cash till Payday	\$20/\$100 per 2 weeks	Salt Lake City, Utah	866-572-9329	after 5th, must pay at least \$50 towards balance	Lubbock Yellow Pages
Speedy Cash	\$34/\$100 per payday up to \$1000	Dallas, TX	972-228-2274	unlimited in one year	Dallas Yellow Pages
Cash Time	\$25/\$100 per 2 weeks	Dallas, TX	214-341-5554	unlimited	Dallas Yellow Pages
Extra Cash	\$33/\$100 per 2 weeks	Dallas, TX	214- 309-1900	unlimited	Dallas Yellow Pages
EZ Cash or Americash	\$30/\$100 per 2 weeks	Dallas, TX	214-637-2300	unlimited	Dallas Yellow Pages
Cash Net	\$30/\$100 per payday	"worldwide"	877-951-5800	unlimited	Fort Worth Yellow Pages
Money Works	\$20/\$100 per 2 weeks	Arlington, TX	817-459-4433	unlimited	Fort Worth Yellow Pages
Atlas Financial Quick Cash	\$30/\$100 per 15 days	Fort Worth, TX	817-923-5933	unlimited	Fort Worth Yellow Pages
A & B	\$30/\$100 per 14 days	Fort Worth, TX	817-268-0528	unlimited	Fort Worth Yellow Pages
ACE America's Cash Express	\$17.64/\$100 per 14 days	Houston, TX	888-753-2384	no	Houston Yellow Pages
Fastcash	\$33/\$100 per 2 weeks	Houston, TX	713-738-1000	unlimited	Houston Yellow Pages
Mainstreet Cash Services Inc.	\$30/\$100 per payday	Houston, TX	281-363-2274	unlimited	Houston Yellow Pages
Global Finance	\$30/\$100 per 2 weeks (1st loan free)	Houston, TX	713-468-2274	unlimited	Houston Yellow Pages
Fastcom.net	\$34/\$100 per 2 weeks	San Antonio, TX	210-946-2274	unlimited	San Antonio Yellow Pages
Marpast of Texas/ The Money Store	\$2/\$100 per day "membership fees"	Austin, TX	(512) 441-5888	unlimited	OSCC complaint
Sterling Financial	first loan free/ wouldn't tell later rates	San Antonio, TX	210-366-2274	unlimited	OSCC complaint
Payday Financial	\$30/\$100 per 14 days	San Antonio, TX	210-732-3678	up to 10 renewals	OSCC complaint
Xtra Cash	wouldn't say over phone	San Antonio, TX	210-223-5177	wouldn't say over phone	San Antonio Yellow Pages
American Credit Services	wouldn't say over phone	Fort Worth, TX	866-251-9933	wouldn't say over phone	Fort Worth Yellow Pages
Cash Reserve	wouldn't say over phone	Philadelphia	800-884-4001	don't disclose	Houston Yellow Pages
Tele-Cash	wouldn't say over phone	Philadelphia	800-992-9200	wouldn't say over phone	Houston Yellow Pages
Fastcash or Fastloans to Go	wouldn't say over phone	Kansas City, Kansas	888-900-5626	wouldn't say over phone	Houston Yellow Pages

The new "dot coms"

Marpast of Texas started out last year as a high cost payday lender partnered with County Bank, at least according to some who borrowed there. Not everyone really understood their agreements even then. In February 2002, an Austin woman borrowed \$500--providing five checks in the amount of \$150 each for deposit at two week intervals until the loan was repaid. Each check cleared without a problem, and she thought her loan was paid off.

Two months later, Marpast withdrew an additional \$650 directly from her account, and her other checks bounced. When she called Marpast to find out what the problem was, they told her the bi-weekly payments of \$150 only covered the interest on the loan. She had signed an agreement allowing them to withdraw the money she still owed directly from her account, and she eventually paid \$1400 for a \$500 loan that lasted approximately nine weeks.

When she explained that she knew the interest was very high, but believed the \$750 would cover the full cost of the loan, "I was told by the store representative, 'we don't expect most people to realize how much they actually will be paying.'"

Borrowing from Marpast would soon become even more confusing. In October 2002, a grandmother contacted the OCCC to get her grandson out of a different kind of agreement with Marpast of Texas. The Marpast "Rebate Agreement" offered cash back for joining a web site as a "Gold" member. The "Gold Level Membership Agreement" cost \$6.00 per day, or more than \$180 per month. "Most legitimate internet providers cost only \$20 to \$40," she wrote to the OCCC. "The membership rebate was the original amount of \$300 that he wanted to borrow." Her grandson, who walked out with a rebate in cash, left three checks and signed an electronic funds transfer agreement.

When the OCCC investigated Marpast, the sales representative stated that they did make loans, but later when the investigator contacted the company president, he insisted that Marpast only provided "internet service," although of a peculiar type. "As we discussed, we are not an ISP internet provider," he wrote. "Instead, we are a "dot com" service provider as can easily be seen." He directed the agency to the Marpast website.

The web site is cryptic about the benefits that might be available to those who join. Advertising only "internet memberships," the site directs the browser to a toll free telephone number. At the bottom of the home page, the company notes that a checking account and current employment are required.

Marpast continues to advertise "cash in your hands today" web memberships (see ad right), and has offices in several Texas cities. When Consumers Union called a Marpast office in February 2003, we asked for a \$200 loan. The customer service representative said they charge "membership fees" of \$2/\$100 per day in return for an "instant rebate". These prices are about the same as other payday lenders we surveyed.

The advertisement is a rectangular flyer with a decorative border of dollar signs and a central star. The text is bold and centered. It reads: "\$100 - \$1000 INSTANT CASH CASH IN YOUR HANDS TODAY NO CREDIT CHECK HASSLE FREE FAST AND EASY APPROVAL CHECKING ACCOUNT REQUIRED". Below this, it lists two Austin locations: "AUSTIN 7701 North Lamar Ste. 209 512-300-2274" and "AUSTIN 6301 Manchaca Ste. E 512-441-5888". A small "Se Habla Español" logo is also present.

violates the Texas Credit Code which gives borrowers the right to prepay in full at any time.¹⁶

Once a consumer falls into the debt trap, lenders will use various methods of ensuring repayment. Most lenders threaten to cash the check that secures the loan. Since these borrowers may not have sufficient money in their account, the check will bounce, cause overdraft fees, and prevent them from using their checking account to pay other bills. Lenders also report borrowers to check reporting agencies, thus effectively barring them from writing checks at local stores.¹⁷

The Penal Code prohibits these lenders from filing "theft by check" charges for payday loans—and lenders should not threaten such an action, but they sometimes do.¹⁸ A Ft. Worth borrower reported that after she fell behind on payments to ACE Cash Express, she started receiving threatening calls from Federal Check Restitution in Denver, CO saying they had a bench warrant from the Ft. Worth District Attorney. Fearful someone would come to her job and arrest her, she contacted the Ft. Worth D.A. and found out there were no prosecutions for payday loans.¹⁹

Payday loans clearly hit the working poor the hardest as they fall into a cycle of debt, but legitimate Texas' lenders are indirectly affected also. As payday lenders drain remaining funds from people living paycheck to paycheck, these borrowers default on their other consumer debts or destroy their checking account.

Targeting the United States Armed Forces

Admiral J. L. Johnson, former member of the Joint Chiefs of Staff states the issue clearly in a recent discussion paper on payday lending: "There can be no question that military families are among the 'targeted group.' A preponderance of payday lenders and cash advance offices are located in the immediate vicinity of our military bases. Several lenders have contracts...for military clients that debit the Credit Union account of a service member and threaten prosecution as a Violation of UCMJ Art 123a and Art 134, punishable by confinement and a Bad Conduct Discharge for failure to provide repayment funds. Military commanders are "deeply concerned with the problem associated with our Sailors and Marines obtaining payday loans... This practice effects not only the Sailor and the family, but also operational readiness of the command."²⁰

Military personnel present an attractive target for the following reasons:

- Many are young and financially inexperienced not aware of

the true costs of these loans.

- Junior officers' low incomes and young families often leave them desperate for cash.

- The steady income they do receive provides a steady cash flow that ensures repayment.

Petty Officer Andrew Purchase told Inside Edition about his experience with payday lending: "At one point, I thought about just running from it all and trying to find a way to disappear... to become another person and just start over... At one point I considered suicide."²¹

In 1999, Congress considered the serious concerns expressed by people in military about payday lending. Petty Officer 2nd Class Stewart A. Wilson testified about his own experience: "These companies seem grounded--in my case, in my area, seem grounded in surviving on the backs of those who can least afford it. Military members are prime targets... we have trouble making ends meet with a family." According to Wilson, "The industry targets the military members through direct advertising in military papers and by placing their storefronts next to or close to military bases--at least this is in my area."²²

Captain Robert W. Andersen, the commanding officer of the Navy's largest aviation squadron in Jacksonville, FL, concurred with the victims, but added that such pressure on military families also affects the military as a whole. "Family financial mismanagement is a military readiness issue. The number one cause of domestic discord is money. There's no doubt about it. We must never lose sight of the fact that people are our nation and military's number one resource. When mentally distracted with financial and marriage problems, servicemen become a safety risk to themselves and others, let alone very disheartened and ineffective at work, or especially in the line of battle."

"You know it's very disturbing to me that there are companies feeding off the poor," Anderson concluded at this Congressional Forum. "The people who can least afford these loans are the ones who are falling prey. It is critical for this nation that we focus on making ethical decisions based on what's best for America and not what is best for lining our pockets. Isn't it ironic that the men and women most hurt by this practice are the very ones whose blood will be spilled on the world's beaches to give these companies the freedom to continue operating?"²³

Out of State Lenders

Although we only called ads listed in Texas yellow pages or Texas newspapers, many lenders were actually located out of state. One company, Cashnet, even said they were located "worldwide."²⁴ Companies often put us on hold to wait for a customer representative. When they did come on the line they would often start the conversation by asking for our state of origin. At least eight companies had their own website. As long as a consumer has

access to fax or sometimes just e-mail, the entire transaction can take place long distance.²⁵

Most out of state lenders do not list their location. One didn't even list its name. Calls from different market listings using different phone numbers, often ended up leading to the same company. Several companies had at least two different names.²⁶

One company, Fastbucks, claimed different locations each time we called. On our first call the phone representative said he was answering calls from Las Cruces, NM but the company's actual headquarters was in Dallas, TX. When we called back a few weeks later, the representatives said they were located in Portland, Oregon.

Frequently these companies said their loan actually came from a bank partner. For at least five different lenders (Moneymart Express, Fastcash, Telecash, Cash Reserves, and American Credit Services), the partner was County Bank of Delaware. In addition to partnering with numerous other lenders, County Bank had its own payday loan phone and internet service listed under at least seven different phone numbers. County Bank, which has been involved in payday lending since 1995, and has a profit margin twice the national average, plans to create a national business.²⁷

Lenders who broker loans from out of state banks may now represent a significant share payday lending in Texas. Of the payday loans reported to the OCC, 13,178 were made in by registered in state lenders (totaling \$2,753,374), but another 353,903 were payday loans made through out of state banks. We expect that this is only a fraction of the actual volume of payday lending in Texas because so many in state lenders are not registered, nearly all those we surveyed.²⁸

Loan Brokering Evades State Usury Law

Many payday lenders avoid Texas interest rate caps by partnering with a handful of national banks, thrifts, or state banks which may be able to exploit a loophole from the states' usury laws under Section 85 of the National Bank Act.²⁹ Fewer than a dozen of the nation's approximately 9,400 banks and thrifts participate in payday lending.³⁰

The FDIC, Office of Thrift and Supervision, and Office of the Comptroller of the Currency (OCC) are responsible for regulating national banks and thrifts respectively. For years nothing was done to address payday lending by banks, but recently federal regulators have increased efforts to close "rent-a-bank" loopholes.

Last October, the OCC ordered Goleta National Bank of California to end its partnership with the payday lender Ace Cash Express Inc. after hundreds of customer records were discovered in a trash bin behind an Ace outlet in Virginia.³¹ The FDIC also launched an effort to regulate state bank payday lending when it ordered Brickyard Bank of Lincolnwood, Ill., to keep \$1 of capital in reserve for every dollar of payday loans outstanding. After this directive, Brickyard terminated its partnership with payday lender Check 'n Go of Mason, Ohio.³²

The orders against pay day lending banks continued this year when, on January 20, 2003, the OTS ordered First Place Bank in



Ohio, the \$1.6 billion-asset thrift renting its charter to Check'n Go, to sever its ties to payday lending.³³ The very next day, the OCC told First National Bank of Brookings, S.D., to terminate its payday lending partnership with Cash America and First American Holdings business within three months. According to the OCC, Brookings had violated the Truth in Lending Act, among other things.

Comptroller of Currency John D. Hawke, Jr. stated, "It is a matter of great concern to us when a national bank essentially rents out its charter to a third-party vendor who originates loans in the bank's name and then relinquishes responsibility for how these loans are made. We are particularly concerned where an underlying purpose of the relationship is to afford the vendor an escape from state and local laws that would otherwise apply to it."³⁴

After hearing the OCC's decision, Cash America said it would seek a partnership with a state bank, but the FDIC has continued to pressure its state banks to—at a minimum—reform such partnerships. On January 29, 2003, the FDIC issued draft guidelines requiring state banks to:

- establish a "cooling off" period to prevent borrowers from having more than one payday loan outstanding at a time;
- limit the number of loans made to a single customer in a year; and
- classify payday loans as "substandard," because they are riskier than other loans.³⁵

On January 31, Comptroller John D. Hawke Jr. told payday lenders, "Stay the hell away from national banks." The Comptroller announced a new settlement with \$102 million-asset Peoples National Bank, of Paris, Texas, which agreed to pay \$175,000 in penalties and end its payday lending partnership with Advance America Cash Advance Centers Inc.³⁶

Finally, the FDIC recently announced that its new regulations will significantly "raise the bar" for its banks who conduct payday lending. "I don't think when this guidance is issued, institutions will see it as an encouragement to enter this business," George French, the deputy director for policy and examination, told the American Banker. "In fact, quite the opposite. ... We recognize this business is a risky business for banks to get involved with. It raises substantial safety and soundness issues, and because of the third-party relationship, there are substantial legal and reputational risks. There are also substantial consumer protection issues. We believe it is appropriate to take a very strong stance in our written guidance."³⁷

Payday Loan Alternatives

Signature loans, pawn loans, and some credit unions that offer small loans, can serve as a more affordable alternative for short term borrowing.

Credit Unions sometimes offer small loans as a service to members at a reasonable rate. For consumers with any available funds on a credit card, even the much higher cash advance rate is preferable to a payday loan.

Signature loans—loans up to \$500 that can be repaid in a few months—are much less expensive than payday loans, but easy to obtain. The minimal credit check only takes a short time and can be done over the phone or in person, and lenders will give loans to people with credit problems.

Signature loans are also a big business. According to the Texas OCC's *Annual Report of Regulated Lender Activity For Calendar Year 2000*, there were more than 4.7 million signature loans made that year totaling \$1.3 billion.³⁸ Unlike many other states, Texas' thriving signature loan industry provides a clearly safer and more affordable alternative to high-risk, high-cost payday loans.

Pawn loans also remain a reasonable alternative to payday lending. There are currently 1,238 active pawn shops licensed in the state of Texas. For our test loan of \$200, a pawn shop would charge a 15 percent fee (\$30) once a month, or about a quarter of the typical payday loan charge.³⁹ These loans cost less than payday loans and are also very easy to obtain, although the borrower must leave some collateral with the pawn shop (an item for pawn). Pawning an item of personal property provides much less risk for the borrower than "pawning" a personal check. A borrower can walk away from a true pawn loan--losing property, but ending the transaction. A payday loan-- the customer tries to walk away, the lender deposits the check, leading to fees,

bounced rent, destroyed accounts.

Recommendations

Current Payday lenders consistently violate almost every condition of Texas payday lending law ranging from rate requirements, to renewal requirements, to licensing. During good times, this behavior has already burdened many Texas families under a cloud of debt. Now, with the state facing tough economic times, their effects are even more devastating.

We therefore urge:

Consumers to avoid payday lenders at all costs and seek alternatives:

- Take small loans from your Credit Union, if available, or take a cash advance on a credit card if available under the credit limit;
 - Go to a pawn shop with items you can temporarily live without;
 - Seek a signature loan before going to a payday lender.
- These loans are still expensive, but they are far less expensive than payday loans.

The Attorney General to take an aggressive stance to end deceptive practices and enforce existing payday loan laws—

- Enforce existing registration laws so that the state can more effectively monitor payday lenders;

You know it's very disturbing to me that there are companies feeding off the poor. The people who can least afford these loans are the ones who are falling prey. It is critical for this nation that we focus on making ethical decisions based on what's best for America and not what is best for lining our pockets. Isn't it ironic that the men and women most hurt by this practice are the very ones whose blood will be spilled on the world's beaches to give these companies the freedom to continue operating?

--Captain Robert W. Anderson,
1999 testimony before Congress

● Enforce deceptive trade laws and 2001 prohibition (Finance Code Art. 342.008) against “subterfuge” businesses like the “internet service” providers identified in this report.

The Texas Legislature to aggressively stop the eportation into Texas of rates through “rent-a-bank” partnerships and return Texas to its long tradition of strong usury protection. Recent actions by federal agencies have prohibited national banks and thrifts renting out their charters, but until the FDIC follows the lead of the OCC and the OTS, it seems likely other payday lenders will follow Cash America and seek out partnerships with state chartered banks.

● Prohibit any person from helping an out of state bank make a payday loan (brokering).

● Create stringent advertising standards for payday loan ads, requiring them to state their actual name, location, and true APR.

Notes

¹ Office of Consumer Credit Commissioner, Consumer Complaint File, Date 1/30/2002.

² <http://www.occ.state.tx.us/pages/searches.htm>, and then <http://168.39.159.59/default.asp>, February, 2003.

³ Office of Consumer Credit Commissioner, Texas Finance Code, Chapter 342, Subchapter F Rate Charts, July 1, 2002 - June 30, 2003, for example of \$200.

⁴ Title 7, Texas Administrative Code, Part 1, Chapter 1, Subchapter F, Section 1.605(c).

⁵ Survey interview, Cash Back Payday, January 21, 2003. Survey interview, Sterling Financial, February 18, 2003. Survey interview, Global Finance, February 18, 2003.

⁶ Title 7, Texas Administrative Code, Part 1, Chapter 1, Subchapter F, Section 1.605(f)(1).

⁷ Survey interview, Ace America, January 23, 2003. Survey interview, Advance Finance, January 21, 2003. Survey interview, Moneymart Express, January 21, 2003. A few companies refused to describe the renewal process over the phone.

⁸ <http://www.occ.state.tx.us/pages/searches.htm>, and then <http://168.39.159.59/default.asp>

⁹ Title 7, Texas Administrative Code, Part 1, Chapter 1, Subchapter F, Section 1.605(b).

¹⁰ Survey interview, Fastbucks, Dallas, February 6, 2003.

¹¹ Written Complaint to Office of Consumer Credit Commissioner, January 2, 2003.

¹² Iowa Banking Division, “DD Survey Summary,” Survey of Payday Lenders, April 13, 2003.

¹³ Title 4, Texas Finance Code, Chapter 342, Article 342.008, effective September 1, 2001.

¹⁴ Cardella, Ruth, Wolf in Sheep’s Clothing: Payday Lenders Disguise Illegal Lending, February, 1999.

¹⁵ Oral Complaint to Office of Consumer Credit Commission June 13, 2002.

¹⁶ Title 7, Texas Administrative Code, Part 1, Chapter 1, Subchapter F, Section 1.605(e)(3).

¹⁷ Oral Complaint to Office of Consumer Credit Commission June 21, 2002.

¹⁸ Texas Penal Code, Chapter 31.06 allows prosecution for theft by check only if goods are purchased, the check is not “held,” and an actual check is cashed and bounces.

¹⁹ Oral Complaint to Office of Consumer Credit Commission June 11, 2002.

²⁰ Navy-Marine Corps Relief Society, “Payday Lender Discussion Paper,” April 8, 2003, p. 1.

²¹ Inside Edition transcript, “Are servicemen, who are fighting the war on terrorism, targeted by high priced loan companies at home?” July 22, 2002.

²² Senate Forum on Short-Term, High-Interest Paycheck Advances, December 15, 1999, testimony of Petty Officer 2nd Class Stewart A. Wilson.

²³ Senate Forum on Short-Term, High-Interest Paycheck Advances, December 15, 1999, testimony of Captain Robert W. Anderson.

²⁴ Survey interview, Cashnet, February 6, 2003

²⁵ A-1 Premium Budget, <http://www.a1prembudg.com/>; Cash Advance Now, <http://www.cashadvancenow.com/html/extension.php3>; Advance Finance, <http://www.shorttermloan.net/>; Fast Cash, <http://www.fastcashonline.com/>; Fast Bucks, <http://www.fastbucks.com/>; Moneymart Express, <http://www.moneymarketexpress.com/>; Xtra Cash, <http://www.500xtracash.com/>

²⁶ Office of Consumer Credit Commissioner, Annual Report of Regulated Lender Activity for Calendar Year 2000.

²⁷ Jackson, Ben, “FDIC Issues Draft Guidelines for Payday Practices” The American Banker, January 30, 2003. Epstein, Jonathan, “Delaware Payday Partners Thrive,” Delaware Online.Com, March 13, 2003.

²⁸ There were also an additional 353,903 loans made from out-of-state lenders totaling \$105,679,918.

²⁹ The Cost of Credit, Regulation and Legal Challenges, National Consumer Law Center, 2nd Edition, 2000, Sec. 3.4.5, Interstate Banking: National Banks and Rate Exportation.

³⁰ Jackson, Ben, “FDIC Issues Draft Guidelines for Payday Practices” The American Banker, January 30, 2003.

³¹ Jackson, Ben, “FDIC Issues Draft Guidelines for Payday Practices”, The American Banker, January 30, 2003.

³² Jackson, Ben, “FDIC Issues Draft Guidelines for Payday Practices”, The American Banker, January 30, 2003.

³³ Jackson, Ben, “FDIC Issues Draft Guidelines for Payday Practices”, The American Banker, January 30, 2003, Jackson, Ben, “OCC Payday Purge Done; Lenders Eye State Banks; FDIC only agency to recognize ‘legitimate’ market, a lender says”, The American Banker, February 3, 2003.

³⁴ “OCC Concludes Case Against First National Bank in Brookings Involving Payday Lending, Unsafe Merchant Processing, and Deceptive Marketing of Credit Cards”, News Release from Comptroller of the Currency Administrator of National Banks, January 21, 2003, Office of the Comptroller of the Currency, Consent Order In the Matter of: First National Bank in Brookings, Brookings, South Dakota, January 17, 2003, Jackson, Ben, “FDIC Issues Draft Guidelines for Payday Practices”, The American Banker, January 30, 2003.

³⁵ Jackson, Ben, “FDIC Issues Draft Guidelines for Payday Practices”, The American Banker, January 30, 2003.

³⁶ Jackson, Ben, “OCC Payday Purge Done; Lenders Eye State Banks; FDIC only agency to recognize ‘legitimate’ market, a lender says”, The American Banker, February 3, 2003.

³⁷ Blackwell, Rob, “FDIC Hints at a Crackdown on Payday Partnerships”, The American Banker, June 30, 2003.

³⁸ Office of consumer Credit Commissioner, Annual Report of Regulated Lender Activity for Calendar Year 2000

³⁹ Texas Finance Code 371.159.

Consumers Union

Publisher of Consumer Reports

Southwest Regional Office
1300 Guadalupe, Suite 100
Austin, Texas 78701
512-477-4431 (voice) 512-477-8934 (fax)

www.consumersunion.org