
Small Loans That Create **BIG**
Problems: How State &
Federal Legislatures Are
Addressing Payday & Auto
Title Lending

Leah A. Plunkett, Esq.
Staff Attorney
National Consumer Law Center

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Payday Loan Borrowers

- “I felt like I was in a stranglehold each payday. After awhile, I thought, 'I'm never going to get off this merry-go-round.' I wish I'd never gotten these loans.”
 - Anita Monti, Advance America Borrower, as reported to the Center for Responsible Lending,
<http://www.responsiblelending.org/payday-lending/tools-resources/borrowers.html#>
 - Borrowed to get money for Christmas gifts for her grandchildren.

Payday Loan Borrowers

- “At the time it seems like a way out, but this is not a quick fix. It’s like a ton of bricks.”
 - Sandra Harris, payday loan borrower, as reported to the Center for Responsible Lending,
<http://www.responsiblelending.org/payday-lending/tools-resources/borrowers.html#>
 - Borrowed to catch up on bills. Wound up with six payday loans open at the same time.
 - Paying more than \$600/month in fees.
 - None of the \$600 was reducing the principal owed.
 - Car repossessed.
 - Evicted.

In the U.S., Is It Easier to Find...

- A Payday Lender OR A Starbucks?

– Payday Lender!

- Across the country, payday loan stores outnumber Starbucks locations more than 2 to 1.

- Source: Leslie Parrish & Uriah King, Phantom Demand: Short-Term Due Date Generates Need for Repeat Payday Loans, Accounting for 76% of Total Volume, Center for Responsible Lending (July 9, 2009), <http://www.responsiblelending.org/payday-lending/research-analysis/>.

And What About...

- A Payday Lender OR A McDonald's?
 - Depends where you are.
 - 29 states have more payday loan stores than McDonald's locations.

- Source: Leslie Parrish & Uriah King, Phantom Demand: Short-Term Due Date Generates Need for Repeat Payday Loans, Accounting for 76% of Total Volume, Center for Responsible Lending (July 9, 2009), <http://www.responsiblelending.org/payday-lending/research-analysis/>.

SMALL DOLLAR LOAN PRODUCTS SCORECARD—UPDATED

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Scorecard Methodology

- Four products
 - Payday Loan (\$250, two weeks)
 - Auto Title Loan (\$300, one month)
 - Installment Loan (\$500, six months)
 - Installment Loan (\$1,000, one year)
- Evaluated based on state laws
 - Statutory maximum APRs
 - APR calculated using Truth In Lending Act and Reg. Z requirements.
 - Use APRs rather than interest rate to capture one-time fees.
 - Fees may look small, but can cause cost of small, short-term loans to skyrocket.
 - Whether APRs for these products are limited by the state's criminal usury cap.

Scorecard

Methodology, continued

- 36% APR cap.
 - Traditional small loan interest rate cap.
 - Emerged in first half of twentieth century.
 - Interest rate cap in the 36% range passed by thirty-four states from 1914 to 1943.
 - Federal Military Lending Act (2006).
- If the loan product's APR is less than or equal to 36%, the grade is a P;
- If the state prohibits a payday or title product, the grade is a P;
 - Explicit ban or lenders wouldn't make loans with APRs under the applicable usury cap.
- 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.

Scorecard

Methodology, continued

- Criminal usury cap
 - If the criminal usury statute imposes an APR cap less than or equal to 36%, the grade is a P.
 - If it imposes an APR cap greater than 36%, the grade is an F.
 - If the state doesn't have a criminal usury law, the grade is NA (not applicable).

Scorecard

Methodology, continued

- Special rules for criminal usury cap grading
 - If the criminal usury cap is inapplicable if another state law allows a higher rate or if a state’s criminal usury statute doesn’t contain its own rate cap but references limits in other state law, grades are as follows:
 - If no other state law permits an APR higher than 36% for any of the four products, the grade is a P.
 - If the criminal usury statute contains its own cap but other state law allows a rate higher than 36% for any of the four products, the grade is an F.
 - If the criminal usury statute doesn’t contain its own limit but criminalizes making loans above caps in other state law, and any of the laws governing the four products permit an APR higher than 36%, the grade is an F.

SMALL DOLLAR LOAN PRODUCTS SCORECARD 2010

The National Consumer Law Center,
Consumer Federation of America, and Consumers Union
(Updated 5/7/10)⁷²

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	460	F ⁷³
	\$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
Colorado	\$250, 2-week payday loan	521	F
	\$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

⁷² Legislative developments through April 15, 2010, are reflected in this Scorecard, unless otherwise indicated.

⁷³ Due to the sunset provision in Arizona's payday loan law, Arizona will have a P in this category as of July 1, 2010. Ariz. Rev. Stat. Ann. § 6-1263.

* 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.

STATE	LOAN TYPE	APR*	GRADE
<i>Delaware</i>	\$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
<i>District Of Columbia</i>	\$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
<i>Florida</i>	\$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
<i>Georgia</i>	\$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
<i>Hawaii</i>	\$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
<i>Idaho</i>	\$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
<i>Illinois</i>	\$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
<i>Indiana</i>	\$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

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STATE	LOAN TYPE	APR*	GRADE
<i>Iowa</i>	\$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
<i>Kansas</i>	\$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
<i>Kentucky</i>	\$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
<i>Louisiana</i>	\$250, 2-week payday loan	521	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
<i>Maine</i>	\$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
<i>Maryland</i>	\$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
<i>Massachusetts</i>	\$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
<i>Michigan</i>	\$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

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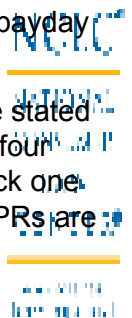
STATE	LOAN TYPE	APR*	GRADE
<i>Minnesota</i>	\$250, 2-week payday loan	235	F
	\$300, 1-month auto-title loan	116	F
	\$500, 6-month loan	51	F
	\$1000, 1-year loan	38	F
	Criminal usury cap	None	NA
<i>Mississippi</i>	\$250, 2-week payday loan	572	F
	\$300, 1-month auto-title loan	300	F
	\$500, 6-month loan	52	F
	\$1000, 1-year loan	44	F
	Criminal usury cap	None	NA
<i>Missouri</i>	\$250, 2-week payday loan	1,955	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
<i>Montana</i>	\$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
<i>Nebraska</i>	\$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
<i>Nevada</i>	\$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
<i>New Hampshire</i>	\$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
<i>New Jersey</i>	\$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

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STATE	LOAN TYPE	APR*	GRADE
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
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	46	F
	\$1000, 1-year loan	30	P
	Criminal usury cap	45	F
Oregon	\$250, 2-week payday loan	Prohibited ⁷⁴	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

⁷⁴ 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 a F.

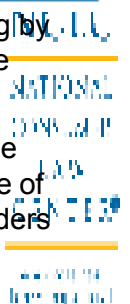
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STATE	LOAN TYPE	APR*	GRADE
<i>Rhode Island</i>	\$250, 2-week payday loan	390	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	24	P
	Criminal usury cap	21+	F
<i>South Carolina</i>	\$250, 2-week payday loan	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
<i>South Dakota</i>	\$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
<i>Tennessee</i>	\$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
<i>Texas</i>	\$250, 2-week payday loan	156 ⁷⁵	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	84	F
	\$1000, 1-year loan	81	F
	Criminal usury cap	None	NA
<i>Utah</i>	\$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
<i>Vermont</i>	\$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
<i>Virginia</i>	\$250, 2-week payday loan	610	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA

⁷⁵ Some lenders get around the rate cap on payday loans as well as the prohibition on title lending by setting themselves up as credit service organizations and facilitating both these loans with no rate cap. Tex. Fin. Code Ann. § 393.201 (Vernon).

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STATE	LOAN TYPE	APR*	GRADE
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
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	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

Website link to this document available at:

<http://www.nclc.org/reports/content/cu-small-dollar-scorecard-2010.pdf>

Website link to the statutory backup available at:

http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/cu-small-dollar-scorecard-backup-2010.pdf

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All Ps 😊😊😊😊

- Arkansas
- Connecticut
- District of Columbia
- Maryland
- New Jersey
- New York
- Pennsylvania
- Vermont

All Fs ☹️☹️☹️☹️

- Delaware
- Idaho
- Illinois
- Minnesota
- Mississippi
- Missouri
- Montana
- Nevada
- New Mexico
- South Carolina
- South Dakota
- Tennessee
- Utah

–But some good news...

Recent Developments

- Since the Updated Scorecard was released in May 2010, one state has moved OUT of the all F category:
 - Arizona: sunset of payday loan law as of July 1, 2010
 - Operation Sunset by AZ Attorney General
 - Advance America is closing all 47 of its stores in AZ.
- And another state should move OUT as of December 1, 2010:
 - Wisconsin: ban on auto title lending by licensed lenders
 - Implemented through partial veto by Governor
 - Wisconsin also passed new legislation that will regulate payday lenders, ending state's status as only one in country where payday lending operates without any statutory framework.

Some Noteworthy Developments between 2008-2010

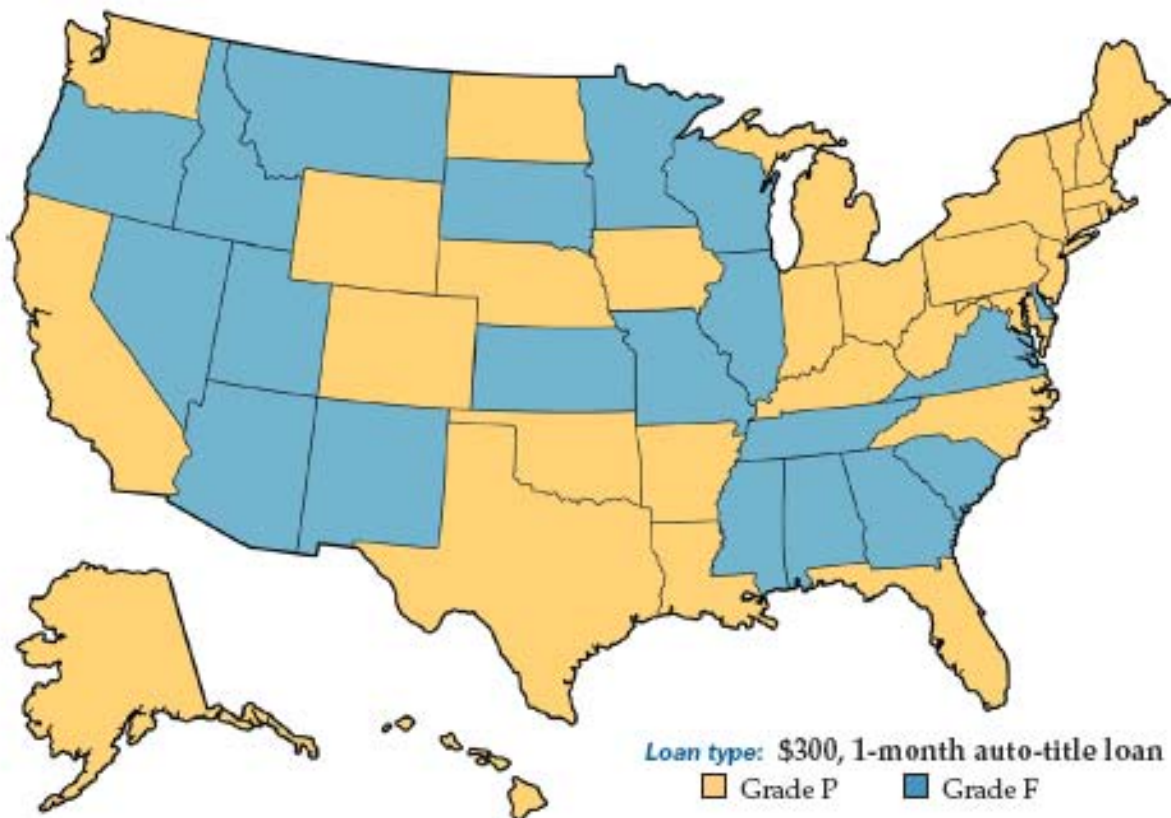
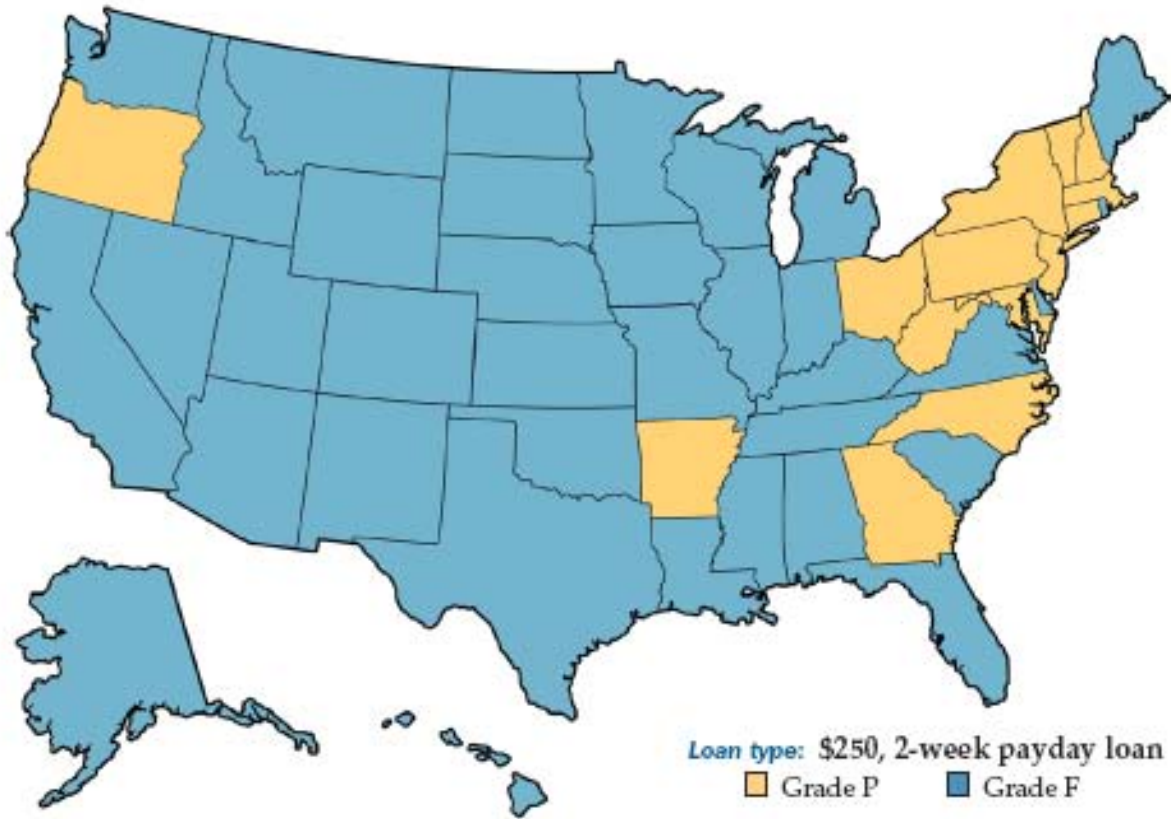
- Arkansas: Supreme Court held state's payday loan law unconstitutional.
 - *McGhee v. Arkansas Board of Collection Agencies*, 289 S.W.3d 18 (Ark. 2008).
- Idaho: loans by unlicensed lenders are void, uncollectible, and unenforceable.
- Indiana: litigation to enforce its 36% annual interest rate cap on title loans over out-of-state lenders who make loans to IN residents.
 - *Midwest Title Loans v. Mills*, 593 F.3d 660 (7th Cir. 2010).

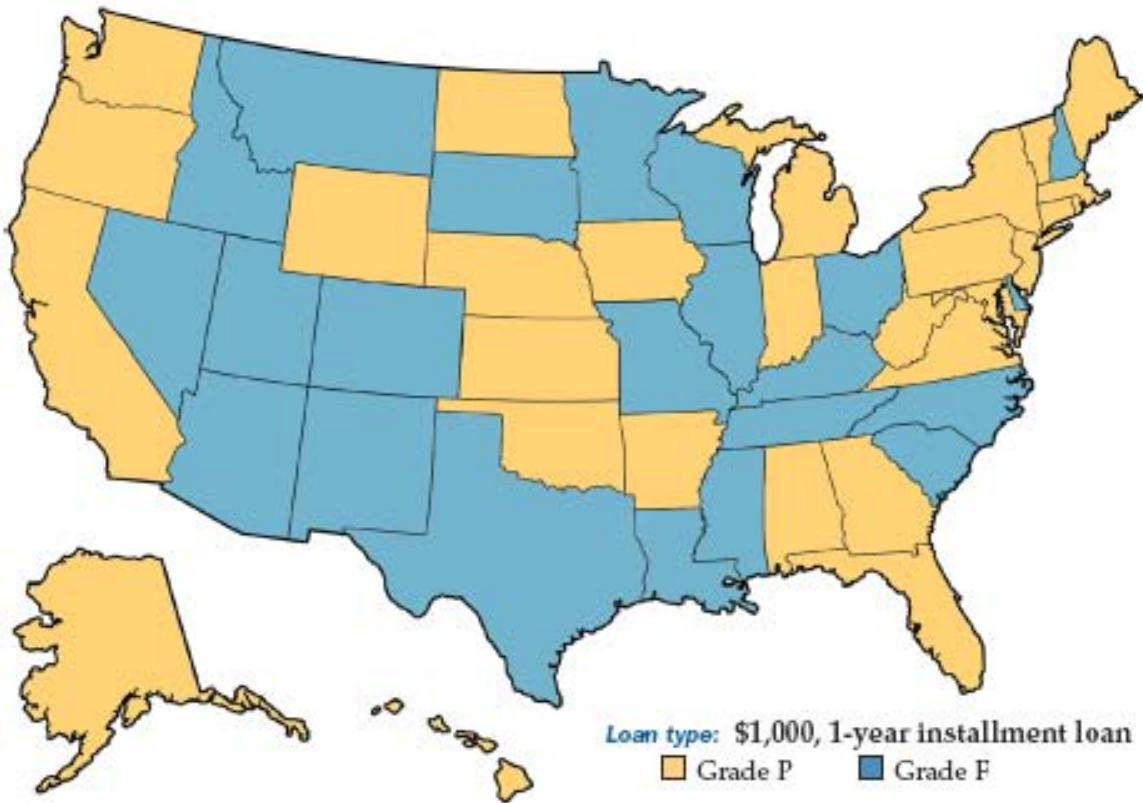
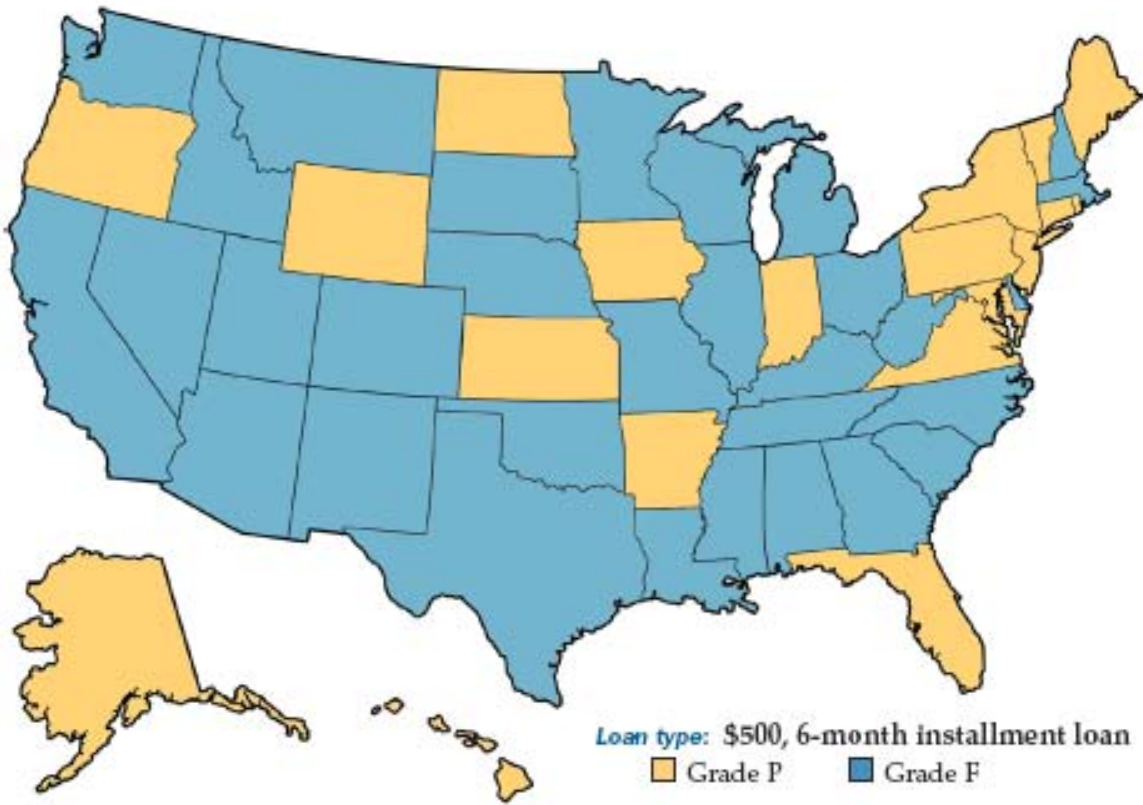
Some Noteworthy Developments between 2008-2010

- Minnesota: payday loan law applies to Internet lenders who make loans to MN residents while residents present in MN.
- New Hampshire: imposed 36% APR cap on payday loans and 36% yearly interest rate cap on auto-title loans.
 - 36% APR cap for loans of \$10,000 or less passed both chambers, waiting for Governor's signature.
- Ohio: 28% annual interest rate cap for payday loans.
 - Addressing problems of lenders using licenses issued under state's small loan and mortgage loan acts.

Some Noteworthy Developments between 2008-2010

- Pennsylvania: Banking Department changed position on Internet payday lenders to require them to follow PA law when lending to PA residents.
- Virginia: payday loan law applies to Internet lenders making loans to VA residents.
 - 36% annual interest rate cap for payday, but APR much higher due to fees.
 - One month auto-title product will be banned as of October 1, 2010.
 - VA will get a P in the title loan category.





36% APR Caps or Bans on Products in Scorecard Since 2008

- Arizona
- New Hampshire
- Ohio
- Wisconsin
- Virginia

What Else Are States Doing?

- Limits on number of loans.
- Income-based caps on loan amounts.
- Databases.
- Payment plans.
- Roll-over bans.
- Cooling-off periods.
 - For further information: Uriah King and Leslie Parrish, Springing the Debt Trap: Rate Caps Are Only Proven Payday Lending Reform, Center for Responsible Lending (Dec. 2007), <http://www.responsiblelending.org/payday-lending/research-analysis/>.

David vs. Goliath...

- Over \$35 million of payday industry lending money in 2008 was spent in how many states?
 - TWO!!
 - Arizona and Ohio.
 - Ballot initiatives.
- Payday lenders outspent opponents by
 - Arizona: almost 15-to-1.
 - Ohio: 38-to-1.
- Lenders still LOST.
 - Tyler Evilsizer, Lenders Couldn't Buy Laws, National Institute on Money in State Politics (Aug. 18, 2009), <http://www.followthemoney.org/Research/index.phtml>.

Rate Caps: CFPB

- Consumer Financial Protection Bureau can't impose a rate cap.
- Can and should impose other criteria on small dollar loans.
 - Term of at least 90 days or one month per \$100 borrowed.
 - Require multiple installment payments, rather than a single balloon payment.
 - Not require that the borrower turn over a post-dated check or electronic access to a bank account.

Rate Caps: Some Other Federal Legislation

- Rep. Gabrielle Giffords (AZ): Predatory Lending Sunset Act (2010)
 - Ban loans with an APR over 36%
 - Ban non-purchase money loans secured by title to borrower's car
 - Close single payment loophole in EFTA (Electronic Funds Transfer Act) which permits online lenders to access consumers' bank accounts
 - Also hope to see states and CFPB take action on this point. EFTA not preemptive.
 - Ban use of remotely created checks or demand drafts
- Sen. Richard Durbin (IL): Protecting Consumers from Unreasonable Credit Rates Act (2009)
 - 36% APR cap, pretty fee-inclusive

Payday Loan Alternatives: CFPB

- Loan loss reserve fund for responsible small dollar lenders within the CDFI (Community Development Financial Institution) Fund at the Treasury Department (Title XII, Improving Access to Mainstream Financial Institutions)
 - Grants to CDFIs that provide safe and affordable small dollar loans
 - To attract private sector capital by offsetting a portion of losses from loans, not to make loans themselves
 - Grantee must match 50% of grant monies with own investment
 - Loans up to \$2,500; repayable in installments

Payday Loan Alternatives: State Authority

- Within the realm of payday loan “alternatives” that are just as bad as typical payday loans, CUSOs (Credit Union Service Organizations) are often responsible.
- Often subsidiaries of state credit unions.
- CUSOs are subject to state law whether they are subsidiaries of state or federal credit unions.
 - National Credit Union Administration has never extended CU preemption to CUSOs.

Payday Loan Alternatives: State Authority

- E-Access Loan offers triple digit APR small dollar loans in the name of federal credit unions, including:
 - America First (Utah)
 - Chemcel (Texas)
 - County Federal (Maine)
 - Community One (Nevada)
 - Crossroads Financial (Indiana)
 - Heritage Trust (South Carolina)
 - Huntington County (Pennsylvania)
 - LAMPCO (Indiana)
- CU on Payday also offers triple digit APR small dollar loans, primarily with state credit unions in:
 - Colorado
 - Oregon
 - Utah
 - Washington

CUSO Payday Loan Alternatives: More Information

- NCLC Report, Stopping the Payday Loan Trap: Alternatives That Work, Ones That Don't (June 2010), *available at* http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/report-stopping-payday-trap.pdf.
- NCLC Statement in Response to NCUA's Guidance to CUs Regarding Payday Loans (July 2009), *available at* http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/statement-ncua-0709.pdf.

Preemption: CFPB

- States can go beyond CFPB regulations.
- But OCC (Office of the Comptroller of the Currency) can still issue regulations preempting state law.
 - If state law “prevents or substantially interferes with the national bank’s [or federal savings association’s] exercise of its powers.”
 - In accordance with *Barnett Bank v. Nelson*, 517 U.S. 25 (1996).
 - Only on case-by-case basis.
 - *Skidmore* rather than *Chevron* deference.
 - This effectively reverses OCC’s broad preemption authority but unclear how OCC will proceed and what judicial interpretations will be.

Questions/Feedback

- Leah A. Plunkett
 - lplunkett@nclc.org
 - (617) 542-8010
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- Thanks for having me, and thank you for all the work that you do!