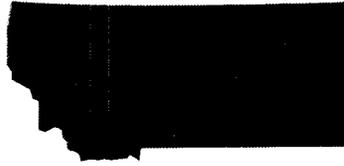
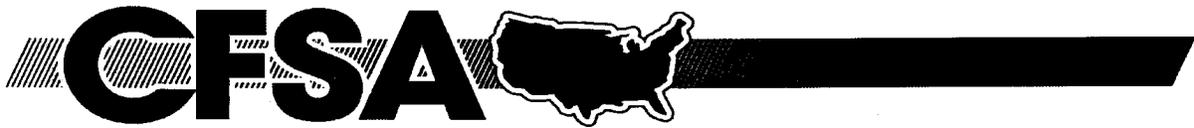


REGULATED PAYDAY LENDING IN MONTANA SB 397

The Community Financial Services Association of America (CFSA) is the only national organization dedicated solely to promoting responsible regulation of the payday advance industry and consumer protections through CFSA's Best Practices. As such, we are committed to working with policymakers, consumer advocates and CFSA member companies to ensure that the payday advance is a safe and viable credit option for consumers.

Current Payday Lending Regulations in Montana

Permissible Maximum Fee:	25% of face amount of check
Example of Fee on \$100 Advance:	\$33.33
Maximum Number of Rollovers Allowed:	None allowed
Maximum Advance Amount:	\$300; Cannot exceed 25% of customer's monthly net income
Maximum Term:	31 days
Extended Payment Plan:	Licensee may, without charge, extend the term of the loan beyond the due date
Additional Regulations:	Right to rescind; No criminal prosecution; Arbitration provision allowed; Consumer pamphlet prior to each advance



CFSA Best Practices for Extended Payment Plans

Subject to applicable state laws, each member shall provide an Extended Payment Plan (“EPP”) for customers who are unable to repay a loan. The member shall adopt a plan that offers the customer at least the following provisions:

1. You [the customer] may opt into an EPP to pay an outstanding loan if you are unable to repay your loan when due.
2. You must invoke the EPP by close of business on the last business day before the loan due date by returning to the office where you obtained the loan or by using whatever method you used to obtain the loan. To invoke the EPP, you must sign an amendment to your loan agreement reflecting the new payment schedule.
3. You may pay the transaction balance in four equal payments coinciding with your periodic pay dates.
4. We will not begin collection activities while you are under an EPP as long as you meet all obligations under the EPP.
5. There is no charge for you to enter into an EPP. However, if you default on an EPP, we may charge you an EPP fee and accelerate payment on the balance remaining, as authorized by applicable law.



Community Financial Services Association of America (CFSA)

The Community Financial Services Association of America (CFSA) was established in 1999 to help ensure consumer confidence in, and long-term success of, the payday advance industry—one of the fastest-growing financial service industries in the United States. Today, CFSA's member companies represent more than half of the nearly 24 thousand payday advance locations nationally.

CFSA's mission is to promote laws and regulations that protect consumers, while preserving their access to credit options, and to support and encourage responsible industry practices.

CFSA works aggressively at the local, state and national levels to educate legislators and regulators about the role of payday advance in the broader financial service arena. The majority of states have considered and enacted balanced and responsible legislation, with 34 states currently regulating payday advance services.

To help self-govern the membership and encourage responsible industry practices, CFSA introduced a set of mandatory "Best Practices" in early 2000. To be a member of CFSA, a payday advance provider must abide by these practices. Among the *Best Practices* are requirements to display fees in large type on posters in all store locations and offer customers the option of an Extended Payment Plan, at no additional charge, if they cannot repay their loan when due. CFSA's *Best Practices* ensure our member companies hold themselves to a higher standard of responsible service and help our customers make better financial decisions.

Since its founding, CFSA has demonstrated its member companies' commitment to listening to emerging concerns of consumers and policymakers and taking action to address their needs.

➤ **What is a payday advance?**

Payday advances are small, unsecured, short-term loans, usually due on the borrower's next payday. The average loan is \$300 and the typical fee is \$15 per \$100 borrowed.

➤ **Who uses payday advances?**

Payday advance customers are hard-working middle-class Americans who face unbudgeted or unexpected expenses between paychecks. Analysts estimate payday advances were used by 19 million households in 2006. Payday advance customers are not the "un-banked", as 100% have a checking account at a credit union or bank.

➤ **Why would someone use a payday advance?**

Customers use payday advances to cover small, unexpected expenses between paydays. They are people who have a bill to pay today and choose between: bounced-check fees; overdraft protection fees; incurring late fees; borrowing from friends or family; or taking out a payday loan.

Consider the fees: \$100 payday advance= \$15; overdraft protection= \$29; late fee on credit card bill= \$37; bounced check and NSF/Merchant fee= \$55. Source:

http://www.cfsa.net/csa_comparison.html

➤ **Is the payday advance industry regulated?**

Yes, payday lending is highly regulated at the state level. Regulations typically include provisions capping the amount customers can borrow and the fees lenders can charge. States also generally either prohibit loans from being "rolled-over" (i.e., extended with another fee being charged) or limit such rollovers to one or two times. We have worked with policymakers in 34 states to provide responsible regulation that protects consumers and their access to credit.

In addition, CFSA members must abide by a set of Best Practices, including the requirement to offer an extended payment plan at no charge to customers who cannot payback the loan when due.

➤ **How do annual interest caps impact the industry?**

There have been efforts to cap the annual interest rates on payday loans at 28% or 36% APR. While this sounds reasonable, payday loans are two-week loans and cannot be offered at the same APRs as longer-term credit products. The pricing structure of payday loans is reasonable and justified based on the costs to deliver the service.

For example, Goodwill, a non-profit, tax-exempt charity, charges customers almost \$10 per \$100 borrowed (i.e., 252% APR) for their "Good Money" payday loan. For-profit payday lenders charge an average of \$15 per \$100 borrowed while also paying taxes, commercial-level employee salaries and health care, rent and overhead costs.



Best Practices for the Payday Advance Industry

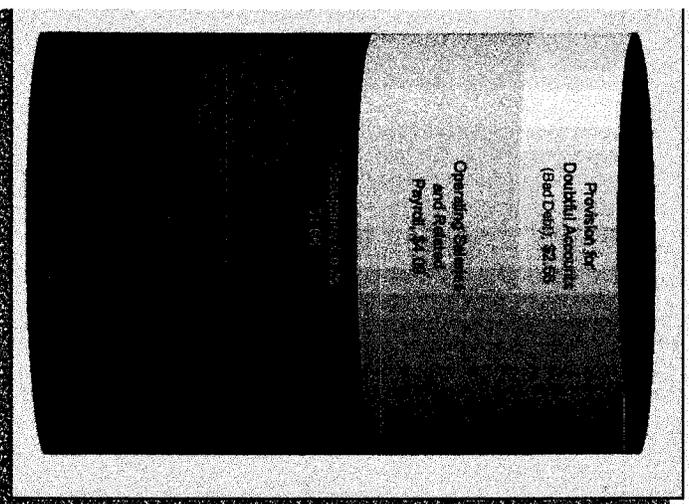
CFSA Members must abide by the following Best Practices:

- 1. Full disclosure.** A member will comply with the disclosure requirements of the state in which the payday advance office is located and with federal disclosure requirements including the Federal Truth in Lending Act. A contract between a member and the customer must fully outline the terms of the payday advance transaction. Members agree to disclose the cost of the service fee both as a dollar amount and as an annual percentage rate ("APR"). A member, in compliance with CFSA guidelines where they do not conflict with applicable federal, state or local requirements, will further ensure full disclosure by making rates clearly visible to customers before they enter into the transaction process.
- 2. Compliance.** A member will comply with all applicable laws. A member will not charge a fee or rate for a payday advance that is not authorized by state or federal law.
- 3. Truthful advertising.** A member will not advertise the payday advance service in any false, misleading, or deceptive manner, and will promote only the responsible use of the payday advance service.
- 4. Encourage consumer responsibility.** A member will implement procedures to inform consumers of the intended use of the payday advance service. These procedures will include the placement of a "Customer Notice" on all marketing materials, including all television, print, radio and on-line advertising, direct mail and in-store promotional materials.
- 5. Rollovers.** Members shall not allow customers to rollover a payday advance (the extension of an outstanding advance by payment of only a fee) unless expressly authorized by state law, but in such cases where authorized the member will limit rollovers to four (4) or the state limit, whichever is less.
- 6. Right to rescind.** A member will give its customers the right to rescind, at no cost, a payday advance transaction on or before the close of the following business day.
- 7. Appropriate collection practices.** A member must collect past due accounts in a professional, fair and lawful manner. A member will not use unlawful threats, intimidation, or harassment to collect accounts. CFSA believes that the collection limitations contained in the Fair Debt Collection Practices Act (FDCPA) should guide a member's practice in this area.
- 8. No criminal action.** A member will not threaten or pursue criminal action against a customer as a result of the customer's check being returned unpaid or the customer's account not being paid.
- 9. Enforcement.** A member will participate in self-policing of the industry. A member will be expected to report violations of these Best Practices to CFSA, which will investigate the matter and take appropriate action. Each member company agrees to maintain and post its own toll-free consumer hotline number in each of its outlets.
- 10. Support balanced legislation.** A member will work with state legislators and regulators to support responsible legislation of the payday advance industry that incorporates these Best Practices.
- 11. Extended Payment Plan*.** Each member will provide customers who are unable to repay a payday advance according to their original contract the option of repaying the advance over a longer period of time. Such an extended payment plan will be offered in compliance with any requirement in state law to provide an extended payment plan or, in the absence of such a requirement in state law, in compliance with the Best Practice "Guidelines for Extended Payment Plans." A member will adequately disclose the availability of the Extended Payment Plan to its customers in compliance with any requirement in state law for such a disclosure or, in the absence of such a requirement in state law, in compliance with the Best Practice "Guidelines for Extended Payment Plans."
- 12. Internet lending.** A member that offers payday advances through the Internet shall be licensed in each state where its payday advance customers reside and shall comply with the disclosure, rollover, rate, and other requirements imposed by each such state, unless such state does not require the lender to be licensed or to comply with such provisions, or the state licensing requirements and other applicable laws are preempted by federal law.
- 13. Display of the CFSA Membership Seal.** A member company shall prominently display the CFSA Membership Seal in all stores to alert customers to the store's affiliation with the association and adherence to the association's Best Practices.

* Laws in some states do not permit implementation of CFSA's Extended Payment Plan (EPP). CFSA is working with regulators in these states to obtain approval of CFSA's EPP and with legislators to promote its adoption into state law.

Myth: Payday Advance Companies Make Excessive Profits

A \$15.00 fee is charged for the first \$100 check face value with an industry average net revenue of only \$0.99 per \$100 transaction.



Provision for Doubtful Accounts (Bad Debt), \$2.55
Operating Expenses and Returns Payable, \$1.00

Applying a "credit card" type of annual percentage rate, i.e. 36% would yield a maximum gross revenue of \$1.36 on a 14-day payday loan/cash advance. This fee would not cover the costs associated with providing the service.

THE WALL STREET JOURNAL.

MONDAY, APRIL 2, 2007

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Mayday for Payday Loans

In the wake of the subprime loan meltdown, Congress and many state legislatures are now promising a crack-down on the "payday" loan industry. This looks like another illustration of how to hurt working Americans in the name of helping them.

Payday lenders offer short term loans, typically of between \$100 to \$500, to workers who need cash in advance of their next paycheck. Consumer groups and banking industry critics complain that the fees charged on payday loans are "predatory" and ensnare the poor in a "debt trap." The Center for Responsible Lending, a liberal activist group, claims the industry costs Americans \$4.2 billion a year by charging exorbitant fees.

Several dozen U.S. Congressmen recently signed a letter excoriating payday lenders as "unscrupulous." Last year, Missouri Republican Jim Talent was looking for a populist issue to save his Senate seat, so he led the fight in Congress to enact legislation chasing payday lenders from military bases. Mr. Talent still lost, but he helped set a precedent that Democrats are pursuing with more onerous measures now.

But if payday lending is such a consumer rip off, no one has explained why these stores have become so popular. There are some 25,000 payday stores across America, and in many small towns the payday loan store is now as commonplace as the local post office. It has become something like a \$6 billion industry serving 15 million people every month.

Consumers seem to like the convenience of instant cash in advance of their paycheck and prefer this to pawnshops or borrowing money from family members. Payday lenders have grown in size, customer base and profitability by discovering an unserved niche in the loan market for convenient, short term micro-loans. More to the "populist" point, payday loans offer a valuable service to moderate income workers. Most

borrowers have incomes between \$25,000 and \$50,000, and payday loans are cheaper than most alternatives for those facing short-term financial distress.

Critics complain that the annual percentage rate (APR) on a two-week loan of \$100 with a \$15 fee amounts to a predatory 390%. But the equivalent APR cost to the borrower of writing a bounced check can exceed 1,300%, while a credit card late fee charge can reach 700%. Some borrowers will also go to loan sharks as an alternative, and we know how high their "fees" can be.

Georgia outlawed payday loans in 2004, and thousands of workers have since taken to traveling over the border to find payday stores in Tennessee, Florida and South Carolina. So the effect of the ban has been to increase consumer credit costs and inconvenience for Georgia consumers.

The most common proposals in Congress would cap payday loan interest rates at 36% APR. This would cut the fee to \$1.38 for a \$100 loan, less than the charge for a typical \$100 ATM fee, and far below the check transaction cost. This could shut down much of the industry. But to what end? This debate is much like the controversy over bank ATM fees a few years ago. Consumer advocates demanded laws capping fees, and where those took effect the result was not so much lower charges but fewer ATMs and thus less convenience.

A 2007 New York Federal Reserve Bank study rejects the notion of payday as predatory and concludes that high prices "may reflect too few payday lenders, rather than too many." It adds that more regulation could reduce market entry and "the lack of competition could drive rates higher." Banning payday loans might please competing banks, credit unions and so-called consumer advocates, but it's hard to see how actual consumers would benefit.

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18 Section 1

Friday, August 13, 1999

Payday lending fills a need

The payday loan business is booming in Illinois and the reason is that these niche lenders focus on a market ignored by just about everyone else—working people who find themselves needing a couple of hundred dollars in a hurry.

Payday loan companies generally lend up to \$500 for a couple of weeks for a fee—for example, \$30 for \$200—usually on the spot. Customers leave as collateral post-dated checks for the amount of the loan plus the fee.

A pay check and a checking account are the prime requirements for potential borrowers. There are no time-consuming credit checks, as there would be if these borrowers went to most banks, thrifts or credit unions. Most of those more traditional lending outfits also aren't interested in lending less than a minimum of, say, \$500 or \$1,000.

State Rep. Thomas Dart (D-Chicago) is chairing an Illinois House task force that is looking into the industry's practices to determine if there are problem areas that need more regulatory scrutiny. Critics argue payday lenders charge exorbitant interest rates, particularly when loans are repeatedly rolled over.

One such critic is Chicago Ald. Toni Preckwinkle (4th). Testifying before Dart's task force, she called

payday loan companies "predatory businesses" that at "its foundation is loan sharking."

The problems come when customers who may have borrowed that \$200 for two weeks find they can't make good on that check at the end of that two weeks. So they roll it over for another two weeks and add on another \$30 fee—and so on and so on. If such loans are extended week after week for a year, the effective annual interest rate does become exorbitant. But as Robert Wolfberg, general counsel of PayDay Loan Store of Illinois, pointed out, "We don't make annual loans."

Owen Cope, a customer at a Hyde Park payday loan office, put it best. "If you don't get there in time and do what you are supposed to do, there can be problems." That is absolutely true. Responsible adults must meet their obligations.

But provided customers are adequately informed about what those obligations are, they and these companies should be free to go about their business. People need money quickly for a short period of time for all kinds of reasons—and there should be a way for them to get it. It would be a travesty if, to protect those who aren't responsible, the do-gooders closed off this source of cash for the rest.



MISCELLANEOUS FEE SCHEDULE CHANGE
Effective December 1, 2008
(For Business and Personal accounts)

The following fees may be assessed against your account:

Overdraft
(each check or debit paid) \$25.00

Overdraft
(maximum charge per day) \$250.00

Returned checks-NSF
(each check or debit) \$25.00

Returned checks-NSF
(maximum charge per day) \$250.00

Account balancing assistance
(per hour, \$10.00 minimum) \$25.00

Research
(per hour, \$10.00 minimum) \$25.00

Stop payment (per item) \$25.00

Additional fees that may apply:
(Beginning December 1, 2008)

Account closure
(within 90 days of opening) \$15.00

Dormant account (per month) \$5.00



Thank You

Dear Senators:

I greatly appreciate your service to our State. I am a lifelong resident and businessman and I owe much to the people who work for me, and who have been faithful customers for more than 19 years. This session, you are going to be debating additional reforms to our laws relative to an important financial option many residents depend on to survive in these economic times of hardship--Deferred Deposit Loans. This product is perhaps the most misunderstood and unfairly maligned product you will ever encounter as a lawmaker. My hope is that you will take a few moments of your valuable time to understand it and what it does to help Montana residents.

Deferred Deposit Loans are maligned out of hand because they carry an annual percentage rate of more than 300%. That seems an outrageous sum until you consider that the loans are very small and short term, lasting just 2 weeks. During that 2 week period, the lender has to recoup its costs, plus make enough profit to be in business. The charge is about \$15 for each \$100 loaned. National studies show that most of that \$15 is the cost of doing business and in the public company SEC filings, the net income from these loans is about 7%, which is about what IHOP makes, and which is hardly predatory.

The \$15 per \$100 borrowed is really 15%, however, federal law requires it to be posted as an annual percentage rate, which requires the false assumption that the loan could actually earn interest for an entire year. However, it cannot under state law, but it has to be disclosed as if it could. We liken this product to a taxi service. A taxi ride will cost a lot more per mile than your rental car. Imagine a federal law requiring a \$5 per mile taxi charge to be disclosed as though the trip would be 300 miles, the average weekly mileage of a rental car. It would show that the taxi cost for a week would be \$1,500 compared to a \$100 per week rental car charge, when no one takes a cab on a 300 trip. This is a ridiculous, but very accurate example. Under the law, no one in Montana can use a deferred deposit loan for a year. This is a one time fee for service and there is no accrual of interest. A Deferred Deposit Loan in Montana cannot exceed 31 days, by law.

The 36% rate cap proposed by Senator Gillan would cap charges on a 2 week \$100 loan at \$1.36. No one can loan money at that rate. If national companies make a 7% net income at 400% APR, no one will be in business if Senator Gillan's bill passes, and the losers will be the residents of Montana, who need to borrow \$150 to make a car payment, and the hundreds of people who will lose their jobs. Drying up credit and eliminating jobs is the last thing Montana needs right now.

As a final note, I'd like for you to consider some of the documents I have enclosed. One is a synopsis of a study done in 2007 by the Federal Reserve Bank of New York, which studied the impact of high-interest short term credit on consumers. It found that in the few states where the loans had been banned, consumers were more likely to pay higher bank fees, lose their homes, file bankruptcy and file complaints. In other words, it concluded that people were better off having credit options. The other point I want to make is that the FDIC last December came out with a report saying that bank alternatives to these loans, such as check protection programs, actually cost much more than deferred deposit loans—some reaching rates as high as 3,500 % A.P.R.!

Thank you for your review of these materials and for your service. We have worked with the legislature since 1999 on sensible regulation, which has resulted in our industry having the fewest complaints of any industry dealing with consumer lending. I'm sure that you would agree, that given the opportunity, Montana residents make intelligent financial decisions and we hope you will continue to work with us to allow Montana residents to make their own financial choices.

Bernie Harrington, President
Montana Financial Service Centers Association

**Federal Reserve Bank of New York Staff Study:
Payday loans do not meet the definition of "predatory".**

A forthcoming study, "*Defining and Detecting Predatory Lending*," by Donald P. Morgan, Research Officer, Federal Reserve Bank of New York, and Samuel G. Hanson, Graduate Student, Harvard Business School, concludes that payday loans are not a "welfare reducing" form of credit. To the contrary, the authors suggest that payday lenders enhance the welfare of households by increasing the supply of credit.

Noting the difficulty in defining "predatory," the authors set out to distinguish predatory lending from "the kind that helps households maintain consumption even as their incomes fluctuate." They examined differences in household debt and delinquency across states that allow payday lending and those that do not and compared the change in those differences before and after the advent of payday lending. Particular attention was paid to households that seem more vulnerable to predation (those with income uncertainty or less education).

Noted in the report:

Payday loans are not welfare reducing, or "predatory"

"We define predatory lending as a welfare reducing provision of credit."

"Our findings seem mostly inconsistent with the hypothesis that payday lenders prey on, i.e., lower the welfare of, households with uncertain income or households with less education."

"On the whole, our results seem consistent with the hypothesis that payday lending represents a legitimate increase in the supply of credit, not a contrived increase in credit demand."

Payday loans may enhance the welfare of households

"Credit delinquency rates are not higher for households in states with higher payday loan limits."

"Households with uncertain income who live in states with unlimited payday loans are less likely to have missed a debt payment over the previous year...consistent with claims by defenders of payday lending that some households borrow from payday lenders to avoid missing other payments on debt."

"Those types of households who happen to live in states that allow unlimited payday loans are less likely to report being turned down for credit, but are not more likely, by and large, to report higher debt levels..."

Price does not make payday loans "predatory": limiting access raises prices

"Higher prices are neither necessary nor sufficient to conclude that a certain class of credit is predatory."

"We find somewhat lower payday prices in cities with more payday stores per capita, consistent with the hypothesis that competition limits payday loan prices...The problem of high prices may reflect too few payday lenders, rather than too many."

"Before payday lending...very small, short-term loans may not have been worthwhile for banks. Payday lending technology may have lowered those fixed costs, thus increasing the supply of credit...That suggests the payday innovation was welfare improving, not predatory."

First-of-its-kind FDIC Study Looks at Fees and Customer Usage of Bank Overdraft Programs

FDIC Study of Bank Overdraft Programs analyzes the types, characteristics and use of overdraft programs offered by FDIC-supervised banks. The study looks at these programs, their features, the fees imposed, and consumer usage patterns, including the characteristics of customer accounts that tend to incur the highest volume of overdraft fees.

Full results of the study available at <http://www.fdic.gov/bank/analytical/overdraft/>.

Noted in the analysis of micro-level data from 39 banks:

➤ **Overdraft fees have APRs ranging from 1067% to 3520%**

"Assuming a \$27 overdraft fee (the survey median), a customer repaying a \$20 POS/debit overdraft in two weeks would incur an APR of 3,520%; a customer repaying a \$60 ATM overdraft in two weeks would incur an APR of 1,173%; and a customer repaying a \$66 check overdraft in two weeks would incur an APR of 1,067%... rapid repayment of the overdraft amount results in higher APRs, and slower repayment results in lower APRs."

➤ **Banks operating automated overdraft programs reported a median transaction of \$36**

"The median dollar amount of all 22.5 million transactions processed by the [28] micro-data banks with automated overdraft programs was \$36. POS/debit NSF transactions were not only the most frequent, but also the smallest, with a median dollar value of \$20. The median transaction size of an ATM withdrawal and a check that resulted in an NSF transaction were \$60 and \$66, respectively."

"Almost half (48.8%) of all reported NSF transactions took place at POS/debit (41%) and ATM (7.85) terminals. Checks accounted for 30.2% of the reported NSF transactions."

➤ **Customers with 5 or more NSF transactions accrued 93.4% of the total NSF fees reported**

"Customers with 5 or more NSF transactions accrued 93.4% of the total NSF fees reported for the 12-month period. Customers with 10 or more NSF transactions accrued 84% of the reported fees. Customer accounts with 20 or more NSF transactions accrued over 68% of the reported fees."

"Almost 12% of consumer accounts had 1 to 4 NSF transactions, 5% had 5 to 9 NSF transactions, 4% had 10 to 19 NSF transactions, and 4.9% had 20 or more NSF transactions. Almost 9% of consumer accounts of banks reporting data had at least 10 NSF transactions during the 12-month period of analysis."

Customers with 1 to 4 NSF transactions were charged \$64 per year in NSF fees; Customers with 5 to 9 NSF transactions were charged \$215 per year in NFS fee; Customers with 10 to 19 NSF transactions were charged \$451 per year in NFS fees; Customers with 20 or more NSF transactions were charged \$1,610 per year in NSF fees.

➤ **Young adults paid the most in overdraft fees; responsible for the most NSF transactions**

"Accounts held by young adults (ages 18 to 25) were the most likely among all age groups to have automated overdraft NSF activity... 46.4% incurred NSF activity, compared with 12.2% of accounts held by seniors (over age 62) and 31.9% of accounts held by other adults. Nearly 15% of accounts held by young adults recorded more than ten NSF transactions during the year, compared with 12.1% of adult accounts and 3% of senior accounts. Most NSF transactions made by young adult accounts (61.7%) originated at a POS/debit terminal."

Highlights prepared by:



➤ **Customers in low-income areas were more likely to pay recurrent overdraft charges**

“Accounts held by customers in low-income areas (in some areas, median annual income of less than \$30,000) were more likely than accounts in higher-income areas to incur overdraft charges...More than 38% of low-income accounts had at least one NSF transaction, compared with 22% of upper-income accounts.”

“Recurrent overdrafts were also more likely the lower the income group. Among low-income customers, 16.7% of accounts had 1 to 4 NSF transactions, and 7.5% had 20 or more NSF transactions. By comparison, 13.9% of accounts held by moderate-income consumers had 1 to 4 NSF transactions, and 6.4% had 20 or more NSF transactions. Consumers in upper-income areas had 1 to 4 NSF transactions in 10.5% of accounts and 20 or more NSF transactions in 3.8% of accounts.”

Key findings from the survey of 462 FDIC-supervised banks:

➤ **The median overdraft fee, per transaction, was \$27**

“Automated overdraft usage fees assessed by banks ranged from \$10 to \$38, and the median fee assessed was \$27...About one-fourth of the surveyed banks (24.6%) also assessed additional fees on accounts that remained in negative balance status in the form of flat fees or interest charged on a percentage basis.”

➤ **Customers were automatically enrolled in overdraft protection programs**

“Most banks (75%) automatically enrolled customers in automated overdraft programs, although customers were usually permitted to affirmatively opt out of the program. Survey comments indicated that in some cases, customers were not given the choice to opt in or out of the automated program.”

➤ **Overdraft protection programs are widespread, with most programs starting after 2001**

“The majority (86%) of banks operated at least one formal overdraft program—either automated, linked accounts, or lines of credit (LOC)...The number of FDIC-supervised institutions providing automated programs has grown rapidly over the past several years. Most banks (69.4%) initiated their automated overdraft programs after 2001.”

➤ **Banks process large debits first; making overdrafts more frequent**

“A significant share of banks (24.7% of all surveyed banks and 53.7% of large banks) batched processed overdraft transactions by size, from largest to smallest, which can increase the number of overdrafts.”

➤ **Banks allow ATMs and debit card overdrafts, but do not alert customers in advance**

“The majority (81%) of banks operating automated programs allowed overdrafts to take place at automated teller machines (ATMs) and point-of-sale (POS)/debit transactions. However, most banks whose automated overdraft programs covered ATM and POS/debit transactions informed customers of an NSF only after the transaction had been completed (88.8% of banks for POS/debit transactions and 70.7% of banks for ATM transactions). A minority of banks (7.9% for POS/debit and 23.5% for ATMs) did inform consumers that funds were insufficient before transactions were completed at these locations, offering the customers an opportunity to cancel the NSF transaction and avoid a fee.”

Payday Lending Does not Lead to Bankruptcy; No evidence of "Cycle of Debt"

In "Restriction on Credit: A Public Policy Analysis of Payday Lending," Petru S. Stoianovici of The Brattle Group and Michael T. Maloney, PhD of Clemson University use data from 2000 to 2006 to investigate the relationship between payday lending and personal bankruptcy filings. They find "no empirical evidence that payday lending leads to more bankruptcy filings," and cast further doubt on the so-called "cycle of debt" argument used by industry critics. In sum, they conclude that restrictions on the industry hurt consumers by driving up fees and that banning the industry entirely reduces access to much needed credit.

Read study at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1291273

Noted in the study:

➤ **Payday lending does not lead to more bankruptcy filings**

"Using state-level data between 1990 and 2006, we find no empirical evidence that payday lending leads to more bankruptcy filings."

"If anything, the presence of payday stores in a state is associated with a smaller number of chapter 7 bankruptcy filings."

"The presence of payday stores does not seem to have any significant effect on chapter 13 and total personal bankruptcy filings."

➤ **The "cycle of debt" argument against payday lending is not supported by evidence**

"There is no statistical evidence to support the 'cycle of debt' argument often used in passing legislation against payday lending."

"The 'cycle of debt' argument works only if the costs that the default borrower has to bear are hidden and disproportionately high, and if the lenders would impose a high minimum amount loan that would make the borrower less likely to be able to repay it, which is not supported by the evidence."

"It is hard to make a principled argument that the consumer is deceived in a payday lending contract because it is very simple in terms of the costs and structure: there are no hidden costs."

"The very small default rate for these small, unsecured loans would suggest that borrowers value the option to come back."

➤ **Restricting payday loans harms consumer welfare, reduces access, increases cost**

"Restrictions on credit diminish the ability of individuals to smooth their consumption in the presence of income or expenditure shocks (like loss of employment, medical emergency)."

"The likely outcome of state restrictions placed on payday lenders is an increase in costs of doing business which will lead to higher prices than otherwise, leaving consumers worse off. In addition, especially if the restrictions are as extreme as in Georgia (where payday lending is explicitly banned), they are likely to reduce the access to credit."

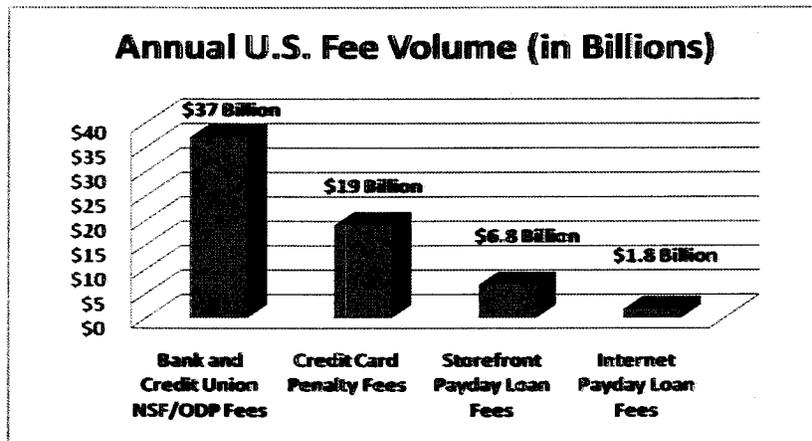
Payday Loans: One Option for Unsecured, Short-Term Credit

Consumer Demand for Unsecured, Short-Term Credit is Undeniable

Millions of Americans are struggling to make ends meet, with nearly half living paycheck to paycheck. Rising unemployment rates have caused more families to transition from two-income to one-income households and hourly jobs and overtime payments are being scaled back significantly.

Market Alternatives

Consumers facing a necessary expense and caught short between paydays must often choose between costly and undesirable options: pay the bill now and face bounced check or overdraft protection fees; pay the bill late and incur late penalties; borrow from friends and family; or take out a loan from an unknown Internet lender. Removing one option in today's environment will only force consumers into more expensive, less desirable and unregulated alternatives.



- **Bank and Credit Union Non-Sufficient Funds (NSF) and Overdraft Protection (ODP) Fees**
An estimated 1.28 billion separate check and electronic non-sufficient funds transactions occur annually¹. With an average fee of \$28.95² per transaction, consumers pay an estimated \$37 billion annually in NSF/ODP fees. If a check is “bounced” and not covered by the bank or credit union, consumers pay an additional average merchant returned check fee of \$26.64³
- **Credit Card Penalty Fees (Late fees, over-the-limit fees)**
Credit card companies broke all records in 2008 for late fees, over-limit charges, and other penalties, pulling in more than \$19 billion.⁴
- **Storefront Payday Loans**
With an average loan of \$300 and a typical fee of \$15 to \$17 per \$100, storefront payday lenders collected an estimated \$6.8 billion in fees in 2007.⁵
- **Internet Payday Loans**
Internet payday lenders collected an estimated \$1.8 billion in fees in 2007.⁶ Unregulated off-shore lenders have access to consumers’ bank accounts and charge up to \$30 per \$100 borrowed.⁷

¹ 2008 NSF/ODP Fee Analysis. Bretton Woods Inc. 1/9/2009

² 2008 Checking Study. BankRate.com, 10/2008

³ 2006 CFSA fee survey

⁴ Press Release from Student Nonviolent Coordinating Committee, Sept. 23, 2008

⁵ Present and Future of the Payday Advance Industry Stephens Inc. Mar. 6, 2008

⁶ Ibid

⁷ www.getpaydayloan.com

Payday Advance Customers

An estimated 19 million U.S. households used a payday advance in 2007. Who are they?

Payday lending customers are average, middle-income, banked and educated Americans. Most are married with young children at home.

"The "typical" payday loan customer does not differ greatly from the average American consumer, and almost always has a legitimate reason for using payday loans..."¹

"A popular myth is that customers of payday lenders are either low-income or desperate people in need of a quick financial fix... a closer look at the customer profile serves to dispel the stereotype."²

"Payday loan customers represent every demographic in the American loan market, even those individuals who have an established relationship with a financial institution."³

➤ Middle Income

- Patrons of payday lenders come from all income levels.⁴
- More than two-thirds (69 percent) of customers have annual household incomes of more than \$25,000.⁵
- Payday advance customers are less likely than the general population to have either low or higher incomes.⁶
- Payday lenders locate in middle-income neighborhoods, usually near shopping malls.⁷

➤ Young Families

- Payday advance customers are disproportionately young. Two-thirds of payday advance customers are under 45 years of age, and 36.4% are under 35 years of age. One in ten payday advance customers is age 55 or older.⁸
- The majority of payday advance customers are married or living with a partner.⁹

¹ "Payday Lending and Public Policy: What Elected Officials Should

Know," http://www.inpolicy.org/index.php?option=com_content&task=view&id=211&Itemid=26

² "Credit Union Payday Loan Alternatives." http://www.nacuu.org/white_papers.html

³ Ibid

⁴ Ibid

⁵ Cypress Research Group, http://www.cfsa.net/downloads/customer_satisfaction_study.pdf

⁶ Credit Research Center, Georgetown University, http://www.cfsa.net/downloads/analysis_customer_demand.pdf

⁷ Virginia-Pilot, <http://hamptonroads.com/2008/01/who-uses-payday-loans-not-who-you-might-think>

⁸ Credit Research Center, Georgetown University, http://www.cfsa.net/downloads/analysis_customer_demand.pdf

⁹ Ibid



- Almost half (49 percent) of households have children under 18; parents are more likely to be married than single.¹⁰

➤ **Banked**

- As a requirement of obtaining a payday advance, customers must have proof of an active checking account with a bank or credit union.
- The requirement that customers have a checking account likely reduces the number of low-income consumers who are potential customers.¹¹

➤ **Educated**

- Payday advance customers are concentrated in the middle levels of educational achievement.
- More than half (58 percent) of customers have attended college, and one in five (22 percent) has a bachelor's degree or above.¹²
- Nearly 94 percent have a high school diploma or better; with 56 percent having some college or a degree.¹³

➤ **Home Owners**

- Forty-two percent of customers own homes¹⁴

➤ **Credit Options**

- Two-thirds of customers have at least one other option that offers quick access to money. *(That rises to 85 percent if savings accounts are included.)*¹⁵
- Half of customers have overdraft protection on their checking accounts.¹⁶
- Fifty percent of customers have a major credit card(s), 35 percent have credit card(s) with credit available.¹⁷

¹⁰ Cypress Research Group, http://www.cfssa.net/downloads/customer_satisfaction_study.pdf

¹¹ Credit Research Center, Georgetown University, http://www.cfssa.net/downloads/analysis_customer_demand.pdf

¹² Cypress Research Group, http://www.cfssa.net/downloads/customer_satisfaction_study.pdf

¹³ Credit Research Center, Georgetown University, http://www.cfssa.net/downloads/analysis_customer_demand.pdf

¹⁴ Ibid

¹⁵ Cypress Research Group, http://www.cfssa.net/downloads/customer_satisfaction_study.pdf

¹⁶ Ibid

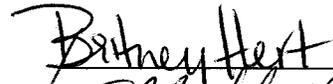
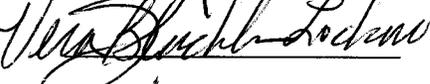
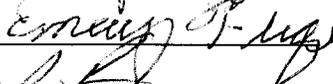
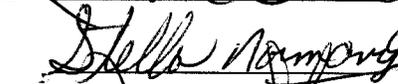
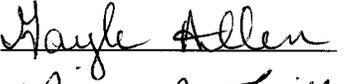
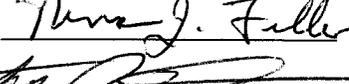
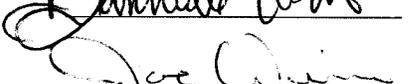
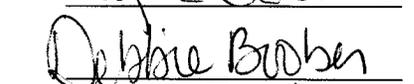
¹⁷ Ibid

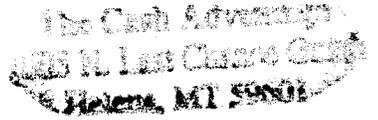


SENATE BILL #397

I am a resident of Montana. I oppose Senate Bill #397 limiting APR rate to 36% per annum, which would close virtually all deferred deposit lenders. I use this service, I like this service and I do not want it to disappear. Passing of this Bill will take away my small short-term loan options.

Respectfully submitted by the following Montana consumers:

Signature	Print	Address	Date
	Britney Hert		2/16/09
	VERA F. BLACKBURN-LOCKWOOD	1539 CONCORD	2/10/09
	Mike Doss	1616 Cannon St #23	2/10/09
	NANCY FUQUA	2765 Wylie Dr. #1	2/11/09
	EMERY FUQUA	" " "	2-11-09
	DAN SAMMONS	3295 BK RD	2-11-09
	Helen Tafts	716 N Jackson, Helena	2-11-09
	Kenneth Asford	2034 9602 Helena	02-11-09
	KERSTAL ORTOFF	820 GETCHEL	2-11-09
	STELLA NAMANDY	6594 RADEN RD	2-11-09
	DAN STONE	2499 Beltview #A	2-11-09
	Gayle Allen	#4 Hill Bros Ed Clarey	2-11-09
	Nina J. Filler	815 Pollux Rd. Helena	2/11/09
	Thomas P. Filler	815 Pollux Rd. Helena	2/11/09
	Dannielle Curtin	3200 Nancy Rd. Helena	2/11/09
	Joe Winn	520 Logan #107	2/11/09
	Debbie Barber	2765 Wylie Dr #81 Helena	2/11/09
	Leon Richmond	1618 Livingston Ave.	2/11/09



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Respectfully submitted by the following Montana consumers:

Signature	Print	Address	Date
	Duane Geyer	2765 Wylie Dr #	2/12/09
	Peggy Knopf	3624 Wylie Dr.	2/11/09
	Laura Smith	6945 Miners Trailer Dr	2-11-09
	Brenda A.	2001 Prospect Ave	2-11-09
	Ulrich S Wood	2938 Roger Lane	2-11-08
	Lori Ingram	1105 Ligan	2-11-09
	Dorel A. Graves	P.O. Box 7072 59604	2-11-09
	Leo J Mathies	1616 Cannon #20	2-12-09
	Terry Swensen	403 S. Montauk Ave	2-12-09
	Janice White	2450 E Wing	2-12-09
	Steve Bennett	605 E Clark	2-12-09
	PAT LIECKERT	1631 Winder	2-12-09
	P Dayenbach	211 W. Main St	2-12-09
	Chrissa Powers	932 N. Cooke St #323	2-12-09
	Heidi Gorn	506 Hty 60 Ave	2-12-09
	Christy Bassell	1626 Walnut	2-12-09
	Nytae L. Linn	1914 Billings	2-12-09
	Brooke Atsup	211 Village rd Helena 59602	2-12-09

