Consumer Federation of America

Center for Economic Integrity

Wrong Way: Wrecked by Debt

Auto Title Lending in Arizona

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Full Report - http://bit.ly/wrongwayreport

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Executive Summary and Findings

Five years after payday lending sunset in Arizona, the Consumer Federation of America (CFA)[1] and the Southwest Center for Economic Integrity (CEI)[2] conducted an examination of the title loan market in Arizona. Title loans are consumer loans secured by the borrower's vehicle and are made by lenders licensed by the Arizona Department of Financial Institutions (AZDFI). Arizona compiles no information on licensees or the title loan industry.

The Secondary Motor Vehicle Finance Transaction law enacted in 2000 permits triple-digit rates for secured loans, ranging from 204 percent to 120 percent annual rates. There are no limits on the size of loans, the duration of loans, or lenders' ability to collect on deficiency balances.
Under Arizona's tiered rate cap, a $500 loan costing 204 percent APR and repaid in one month, costs $85 for a total payment of $585. The average borrower renews a one-month title loan eight times. A $500 loan renewed eight times costs $765 in finance charges for a total payment of $1,265 for a loan lasting nine months.

A $1,248 installment title loan, costing 180 percent APR and repaid in 52 bi-weekly installments, has a finance charge of $3,228 for total payment of $4,476.

A $5,106 loan costing 108 percent APR and repaid in 24 monthly installments has a $7,551 finance charge for totally payment of $12,657.

CFA and CEI compiled a master list of companies and their licensed locations offering title-secured loans, surveyed lenders' websites and a sample of stores for loan terms, and compared the licensee list to companies with electronic title and lien access to MVD. We mapped the location of title loan outlets in 2015 with the location of payday lenders before the Prop 200 ballot vote terminated that product and compared the demographic characteristics for census tracts with a concentration of title lenders. We examined the aspects of title loans that create a debt trap for vulnerable consumers and make recommendations for improved consumer protections, enforcement and supervision.

[1] The **Consumer Federation of America** is a national organization of more than 250 nonprofit consumer groups that was founded in 1968 to advance the consumer interest through research, advocacy and education. www.consumerfed.org

[2] The **Southwest Center for Economic Integrity** (CEI) is a nonprofit organization based in Tucson, Arizona, founded in 2001 with a mission to build economically strong communities for all and oppose unfair corporate practices. CEI conducts research that illuminates the practices and impacts of specific companies or industries in communities of concern and acts as a facilitator for systemic economic change. www.economicintegrity.org

Major Findings:

- One hundred companies operated 633 licensed title lender locations in Arizona mid-2015. This is a conservative count since we identified several unlicensed title lenders that have Electronic Lien and Title numbers to access records at the Arizona Motor Vehicle Department or that advertise in Arizona.

- Arizona has the seventh most concentrated title loan market in the country, with one outlet for every 8,072 adults. The number of title loan outlets grew from just 159 locations for current companies in 2008 to over 630 in 2015 and now exceeds the number of payday lenders that surrendered their licenses in 2010.

- Mapping of title lender locations in Phoenix and Tucson illustrate that title lenders are concentrated in vulnerable communities and overlap former payday lender outlets.

- If Arizona is typical of the other 24 states where title lending operates legally, 190,000 to 285,000 Arizona consumers use title loans per year, or 4 to 5.5 percent of adults.

- If Arizona is similar to Virginia, title lenders take in $316.5 million in revenue per year.

- Lenders make both title-secured loans to consumers who own their vehicles free and clear and “registration” loans to borrowers who do not hold clear titles. These loans have many similarities to now-defunct payday loans.

- Risks to title loan borrowers include repossession of vehicles, deficiency judgments when sale of repossessed property does not cover the amount owed plus costs, and lawsuits when borrowers default and lenders sue instead of repossess vehicles.

- If Arizona repossession rates are similar to those reported by regulators in Virginia, it is likely that 25,320 borrowers lost their vehicles to repossession last year, based on 633 title loan locations in Arizona and 40 repossessions per store. Currently, the AZDFI does not report repossession data.

- Several lenders require borrowers to provide access to their bank accounts as back-up payment, a feature of payday lending.

Recommendations include:

- Arizona lawmakers should honor voters' Prop 200 wishes and place all consumer lenders under the Consumer Lender law which caps rates at 36 percent annual interest plus a 5% fee up to $150. The Secondary Motor Vehicle Finance Transaction law should be repealed.

- The Consumer Financial Protection Bureau (CFPB) should strengthen its proposed regulatory framework for payday and title loans to cover all title loans offered in Arizona.

- CFPB should apply an ability-to-repay requirement to the first and every loan made by title lenders.

- The Arizona Attorney General and Department of Financial Institutions should examine the title loan market and take action against unlicensed, illegal lending. State and federal regulators should investigate practices of Arizona lenders to enforce requirements of the federal Truth in Lending Act and the Electronic Fund Transfer Act.

Introduction

On June 30, 2010 advocates celebrated the "sunset" of legal payday lending in Arizona. Following rejection of the payday loan industry's Prop 200 ballot initiative in 2008, the sunset clause in the law authorizing "deferred presentment" or payday loans took effect. Licensed lenders turned in their licenses and many payday lenders closed up and left the state, ending a decade of triple-digit rate small dollar loans secured by the borrower's personal check held for deposit until the loan was due on the next payday.

Title lending was not included in the original payday loan law, also enacted in 2000, and was not subject to payday lending's sunset provision so it was not covered by the Prop 200 ballot vote in 2008 that shut down payday lending in 2010 when the law expired. Loans secured by the title to the borrower's vehicle are authorized by A.R.S. 44-281, enacted in 2000, which allows lenders to charge tiered annual rates up to 204 percent for loans. This product, officially termed a "Secondary Motor Vehicle Finance Transaction" in the Motor Vehicle Time Sales Disclosure Act (A.R.S. Chap. 2.1 at 44-281), is more popularly called a "title loan." Lenders make two different loans under this Code section, loans secured by clear titles and loans "secured" by borrowers' registration of vehicles they do not own free and clear. Despite making cash loans, title and registration lenders are not regulated under the Arizona Consumer Lender law which caps small loan rates at 36% annual interest plus a 5 percent administrative fee, but are regulated as Sales Finance lenders separately from all other small loan lenders in Arizona.

Five years after the payday lending sunset, our organizations launched an inquiry into the title loan market in Arizona and compiled a master list of licensed lenders, matched the Electronic Lien and Title number to each licensee, examined the loan terms for the ten largest lenders for both title and registration loans, and reviewed licensing, supervision and enforcement by the Arizona Department of Financial Institutions. We collected loan contracts, surveyed websites for licensed lenders and called or visited stores for some of the larger lenders.

What are title loans?

Title loans are consumer cash loans secured by the borrower's title to a vehicle. Pew Charitable Trusts reports that the typical loan is for $1,000 and is due in a single payment after one month or repaid in installments over time. The trade association for the industry in Arizona defines a title loan as "a short term loan secured by a certificate of title for a motor vehicle."[3] In the states where available, Pew reports that title loan customers spend about $1,200 in fees per year for loans that

[3] http://aztla.com/applications/FAQsManager/inc_faqsmanager.asp?ItemID=138 viewed 9/28/15

average $1,000, with title loan customers paying a total of about $3 billion in fees annually at a typical 300 percent annual percentage rate. [4]

Two loan products are offered in Arizona under terms of the Secondary Motor Vehicle Finance Transaction law: a traditional "title" loan secured by clear title to the borrower's vehicle and a unique "registration" loan made to borrowers who do not hold clear title to their vehicles but can show an auto registration card.

Title loan legal status and rates

Title loans are available in only half the states, including Arizona**,** although only twenty-one states explicitly permit high-cost title lending.[5] Lenders have found loopholes in state small loan laws that permit title lending in states without specific authorizing legislation. The states with title lending are concentrated in the South and the Western part of the country with states in New England and the Upper Mid-West generally prohibiting the product.[6] Title lending has been authorized in Arizona since SB 1244 was enacted in 2000.

Due to lax laws, title lending in Arizona is classed, along with New Mexico, as "authorized but effectively unregulated" by law professor Jim Hawkins.[7] The Arizona law defines the product, caps the rate, and prohibits charging fees not specifically authorized by law. Otherwise the Uniform Commercial Code applies to title loans as secured transactions.

The Secondary Motor Vehicle Finance Transaction law caps title loans with a monthly rate cap, tiered to the size of the loan. We added the resulting annual rate in parentheses.

1. Five hundred dollars or less, a monthly finance rate of seventeen per cent (204 percent annual rate).

2. More than five hundred dollars but not more than two thousand five hundred dollars, a monthly finance rate of fifteen per cent (180 percent annual rate).

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[4] Pew Charitable Trusts, Auto Title Loans Key Findings, www.pewtrusts.org/en/research-and-analysis/reports/2015/03/auto-title-loans viewed 9/28/15

[5] Pew Charitable Trusts, "Auto title Loans," p. 4, http://www.pewtrusts.org/~/media/assets/2015/03/autotitleloansreport.pdf?la=en last viewed 1/12/16

[6] Pew lists as states where title loans are not offered: WA, MT, WY, CO, ND, NE, OK, IA, AR, MI, IN, KY, WV, PA, NY, ME, VT, MA, MD, NC, RI, CT, NJ, AK, and DC. Loans are typically not offered due to state usury laws or restrictive small loan rate caps. In other states, title lenders exploit loopholes in state small loan laws to make high-cost loans, such as loans for more than $2,600 in California, above the threshold for small loan rate caps.

[7] Jim Hawkins, "Credit on Wheels: The Law and Business of Auto-Title Lending," 69 Wash. & Lee L. Rev. 535 (2012), https://scholarlycommons.law.wlu.edu/wlulr/vol69/iss2/5 page 580.

3. More than two thousand five hundred dollars but not more than five thousand dollars, a monthly finance rate of thirteen per cent (156 percent annual rate).

4. More than five thousand dollars, a monthly finance rate of ten per cent (120 percent annual rate).[8]

Prohibited fees

As of July 1, 2013, licensees were prohibited from charging document preparation fees for title loans.[9] An example is the $70 Document preparation fee added to a $3,000 loan by CarCashUSA by Roma USA on a 2013 three-month loan which along with the $14 Title lien filing fee was financed as part of the loan at an Annual Percentage Rate of 145 percent.[10] The Department noted that lenders may only charge fees “expressly permitted” by statute, such as those permitted by law which include a late payment or delinquency charge not to exceed five percent of the unpaid balance of the installment when past due 10 days (A.R.S. § 44-291 (C), and the cost of insurance to protect the lender’s interest in collateral (A.R.S. § 44-288(A)) with the premium rate set by the Director of Insurance of the Arizona Corporation Commission.

Registration loan legal status

Arizona is the only state where title lenders make loans to consumers who do not own their vehicles free and clear and are merely required to show that they have a registered vehicle in the state. This “registration loan” product operates with uncertain legal status. The 2000 amendment that created title loans defines the product as a contract that either obtains a security interest in or lien on a motor vehicle other than in connection with the sale of that motor vehicle. It does not specify that the lien be a first lien on a title without other encumbrances.

There is no Arizona Attorney General’s opinion or Arizona Department of Financial Institutions regulation or guidance that defines what constitutes a security interest in a vehicle or that authorizes loans secured by an encumbered vehicle. On the other hand, there have been no enforcement or regulatory actions by the Attorney General to challenge lenders that charge up to 204 percent annual rates for “secured” loans for which the lender holds neither a lien (first, second or third) or the clear title. Without a first lien, a loan is not “secured” for all practical purposes, since the lender cannot repossess the vehicle for sale when a borrower defaults on the loan, but we know of no legal challenges to this tactic.

[8] A.R.S. § 44-291 G.

[9] Arizona Department of Financial Institutions, Regulatory Alert SF-13-01, Re: Allowable Charges for Auto Title Lenders and Document Preparation Fee Charges,” Issued May 24, 2013, at http://www.azdfi.gov/LawsRulesPolicy/Forms/DFI-FE-AD-Final%20Regulatory_Alert%20_Secondary_Motor_Vehicle_Dealers_SF13-01-%20052413.pdf

[10] CarCashUSA by Roma USA contract, dated June 17, 2013, on file with CFA.

Officials and advocates warned that payday lenders would exploit title lending

Advocates warned state regulators that payday lenders would morph into title lenders to stay in business making high-cost loans after payday lending was prohibited in 2010. State lawmakers and advocates wrote to the Attorney General in May 2010 to warn about subterfuges used by the payday loan industry, including the migration of payday lenders into the auto title lending business, stating "It is important to ensure that auto title lending does not become a shelter for subterfuge…"[11] Consumer Federation of America reported the practice by ACE Cash Express of requiring a "pre-printed check" to get a title loan which, according to a store clerk, would be used to create an electronic withdrawal from the borrower's checking account to collect payment after six monthly loan renewals if the loan were not paid in person.[12]

Prior to the July 1, 2010 sunset date when legal authorization for payday loans was to expire, the Attorney General of Arizona issued a letter to payday loan licensees on compliance with the law. He noted as a "red flag" for illegal post-sunset payday lending activity "reports that payday lenders are telling consumers they 'must' come in and convert their payday loans to auto title loans" and warned about business models that perpetuate payday lending practices in another guise.[13] The Attorney General's Operation Sunset FAQ noted that title loans are generally given only to consumers who own the vehicle securing the loan and advised consumers to report any lender that said ownership of the vehicle or its value didn't really matter in getting loans.[14]

Title loan outlets have replaced payday lenders in Arizona

Title lenders increased exponentially in Arizona after voters rejected payday lending. In 2008, of the title loan companies still licensed in 2015, there were only 159 sales finance licensees making title loans. By mid-2015, we identified 633 locations licensed to make title loans in Arizona. This is a conservative number and does not include title lenders we identified that are not on state licensing rosters. That's approximately 470 new high interest loan outlets, an increase of nearly 300% in less than a decade. But in reality, it's a return to the situation the voters judged to be undesirable. Many of the payday loan companies simply became licensed to make title loans and those companies account for about 40 percent of title loan locations in 2015. Large numbers of them are in the same building as they were before. In addition, large chains of title loan companies,

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[11] Letter to Attorney General Goddard from Senators McCune Davis, Gray, Aboud, Landrum Taylor, Bunch and Rep. Russelle L. Jones, the Southwest Center for Economic Integrity, Consumer Federation of America and others, May 14, 2010. On file with CFA.

[12] Jean Ann Fox, Consumer Federation of America, Letter to Office of Attorney General and Department of Financial Institutions, November 2, 2010. On file with CFA.

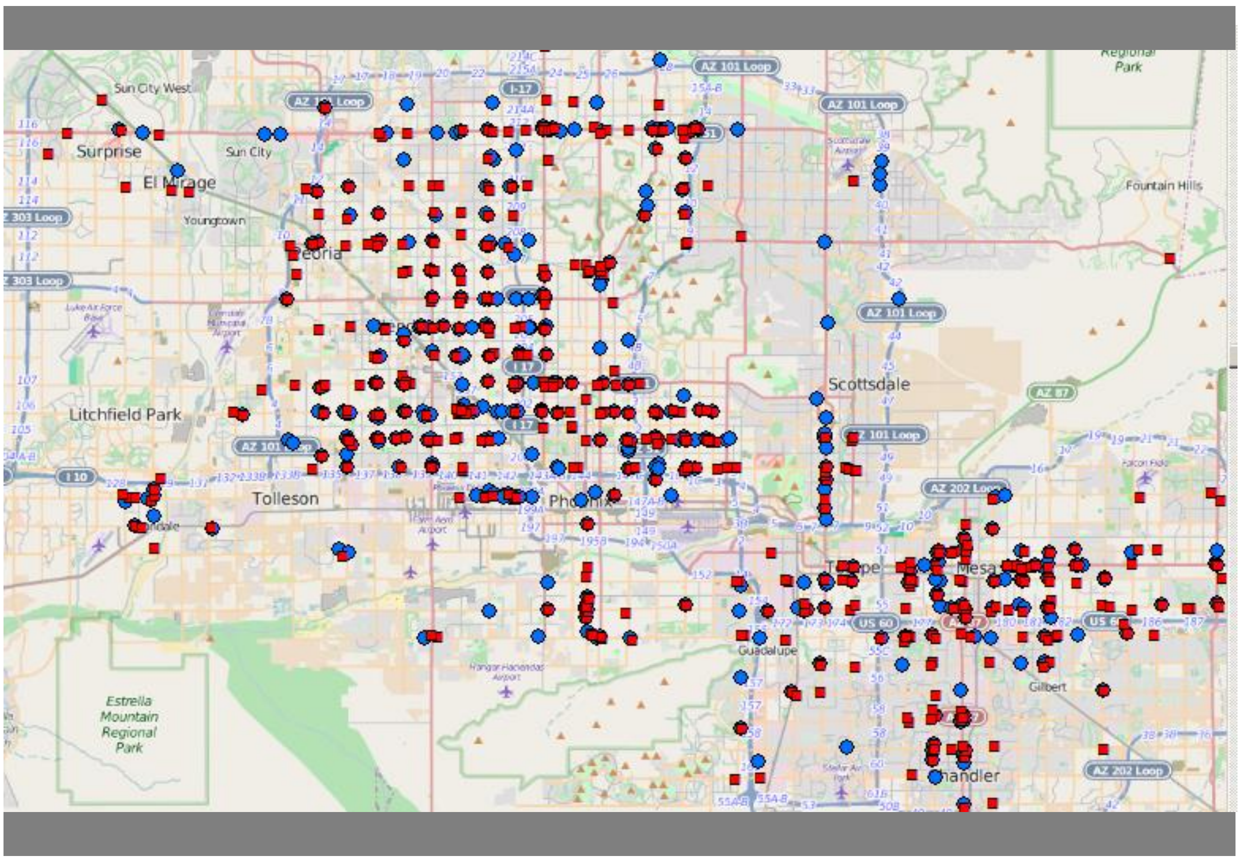
[13] Terry Goddard, Office of the Attorney General, Letter to Lenders, June 9, 2010. Press Release with attached letter posted at https://www.azag.gov/press-release/goddard-aggressively-enforce-payday-loan-ban-operation-sunset last viewed 1/12/16.

[14] Arizona Attorney General's Office Operation Sunset FAQ, June 9, 2010. https://www.azag.gov/sites/default/files/sites/all/docs/consumer/op-sunset-FAQ.pdf last viewed 1/12/16.

such as TitleMax, opened stores in Arizona or obtained licenses to extend credit to Arizona consumers via the Internet, such as LoanMart.

A map showing the location of payday lenders in 2007, the year prior to the Prop 200 vote, and the location of licensed title lenders in mid-2015 illustrate the substitution of title/registration lenders. The map, prepared by California State University Northridge professor Steven Graves, shows the location of payday loan outlets in Phoenix in red and the location of title lender licensees for mid-2015 in blue. Figure 1 shows that Phoenix is basically back where it started with a similar saturation of lenders.

Figure 1. Map of Phoenix Payday Loan Stores in 2007 and Title Loan Stores in 2015

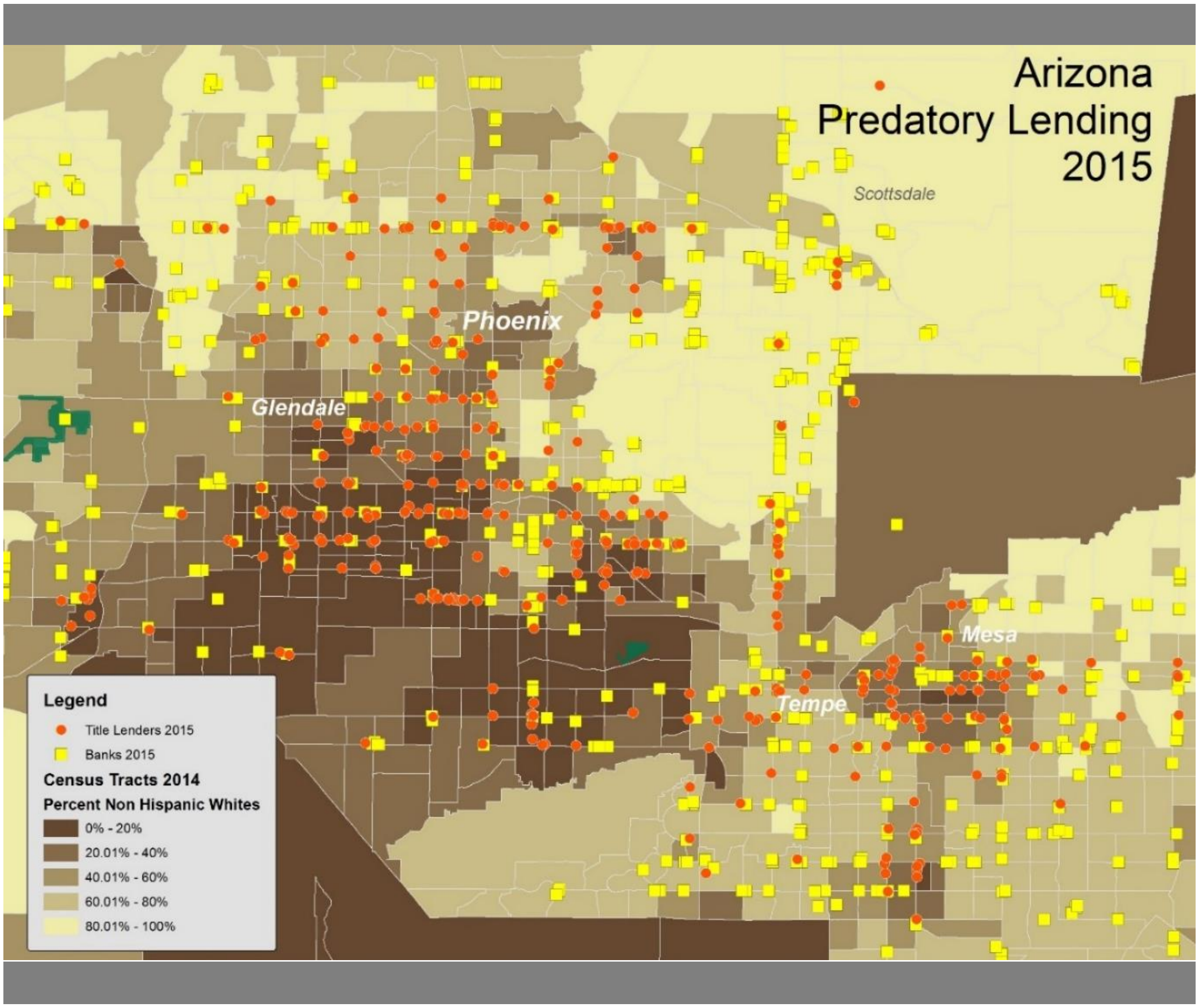


Source: Prof. Steven Graves, California State University Northridge

Title lenders are concentrated in low-income neighborhoods and communities of color

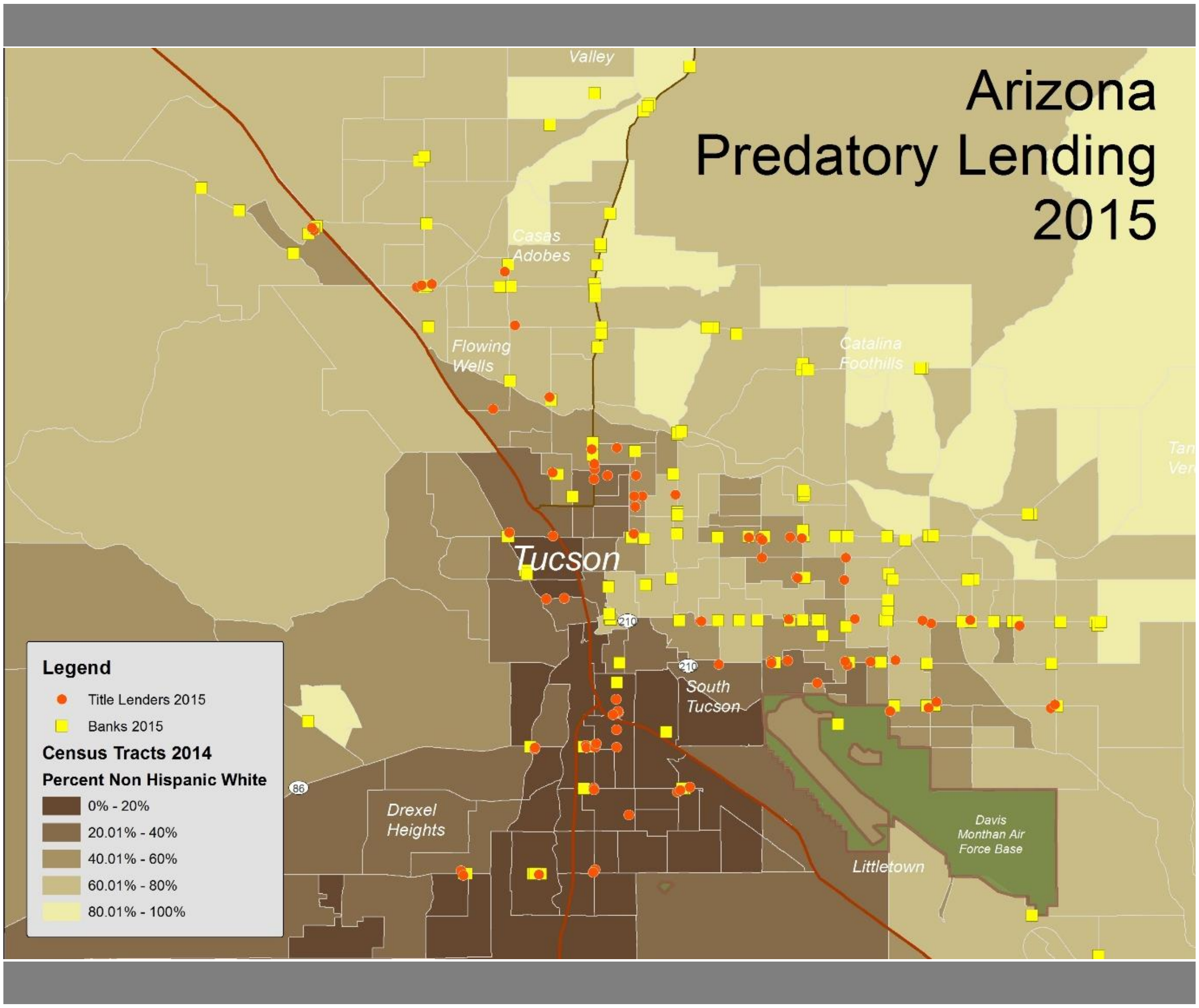
Like payday lenders before them, title lenders have continued to target vulnerable communities. An analysis of the location of title lenders finds that borrowers living in low-income neighborhoods or communities of color are much more likely to have a title lending operation in their neighborhood. Borrowers living in low-income neighborhoods and communities of color are also less likely to have access to mainstream credit from banks. This is especially evident in Arizona's largest cities. As Figures 2 and 3 demonstrates, communities of color in the central sections of Phoenix and on the southern margins of the Tucson metro area are saturated with title lenders, while the northern regions of the metro area have many banks and relatively few title lenders.

Figure 2. Title Loan Locations in Greater Phoenix communities of color



Source: Professor Steven Graves, California State University Northridge

Figure 3. Title loan locations in Tucson region communities of color



Source: Professor Steven Graves, California State University Northridge

Of the 1427 Census Tracts in Arizona with more than 100 residents, 385 tracts had at least one title lender in 2015. In those tracts, the unemployment rate was 10.53 percent, 53 percent of the population are people of color (on average), and the average Median Household Income was $42,165. In those same neighborhoods, 43 percent of households live on less than $35,000 per year compared to 37.3 percent of the state as a whole, and 79.3 percent of households in title loan tracts live on less than $50,000 per year, compared to 56.9 percent of the state as a whole.

There are 135 census tracts with at least one title lender but no bank branches. In those neighborhoods, the unemployment rate is higher still, at 11.6 percent, 57.5 percent of the people come from minority groups, and the average Median Household Income is $37,589. In tracts with title lenders but no bank branches, 38.2 percent of households live on less than $35,000 per year and 72.5 percent of households live on less than $50,000 per year.[15]

Who uses title loans?

Pew Charitable Trusts estimates that more than two million people or about one percent of American adults use title loans every year. Consumers who use title loans are similar to those who borrow from payday lenders, with a national telephone poll by Pew finding gross annual median income of under $30,000 for users of both products. Pew notes that half of title loan borrowers have trouble meeting expenses at least half of the time and use loans to cover regular expenses with only 1 in 4 borrowing a first loan for an unexpected expense.[16]

Other studies find that title loans are used by the most at-risk consumers. The Center for Financial Services Innovation reports that 29 million Americans are "Financially At-Risk" and are most likely to have taken out a payday loan, auto title loan, or pawn loan.[17] Regulators in New Mexico and Illinois report that title loan borrowers in their states have average gross incomes of under $25,000, and another study shows that half of these borrowers are unbanked.[18]

Arizona consumers are especially vulnerable to the risks of title loan borrowing due to the geography of the state. Arizona is predominantly rural which is typical of many Western states. Ninety-eight percent of Arizona's total area is considered rural and almost 11 percent of Arizonans live in rural areas.[19] Arizona citizens rely on personal transportation, with 76 percent of Arizonans reporting that they drive alone to commute to work in a car, van or truck. With no public transportation services in many rural communities, getting to work, to the hospital or to shop requires a personal vehicle. For many low-income working families, their vehicle is their most valuable asset.[20]

Almost 18 percent of all Arizonans are living below the poverty level and 20.5 percent of Arizona families with children under 18 years old are living below the poverty level. The situation is worse

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[15] Demographic maps and analysis of Census Tract data by Steven M. Graves, PhD, Department of Geography, California State University Northridge. October 5, 2015.

[16] Pew Charitable Trusts, "Auto Title Loans," March 2015, p. 5-6, http://www.pewtrusts.org/~/media/assets/2015/03/autotitleloansreport.pdf?la=en

[17] CFSI, "The Financially At Risk," March 2015, download at http://www.cfsinnovation.com/Document-Library/Understanding-Consumer-Financial-Health

[18] Cited in Susanna Montezemolo, "Car-Title Lending: The State of Lending in America & Its Impact on U.S. Households," Center for Responsible Lending, July 2013, p. 5. At http://www.responsiblelending.org/state-of-lending/reports/7-Car-Title-Loans.pdf

[19] See Urban and Rural population by State 2010 at http://cber.cba.ua.edu/

[20] CFA/CRL, "Car Title Lending: Driving Borrowers to Financial Ruin," April 14, 2005, p. 7. Report quotes Community Loans of America acknowledgment that for most title loan customers, the vehicle is the customer's largest asset.

for households headed by females who have children under five with 42 percent of these families living below the poverty level.[21]

Many Arizona families are financially vulnerable with little or no savings to tide them over when faced with unemployment, seasonal employment or under-employment situations.

Exponential growth of title lending in Arizona

Arizona was the seventh most concentrated title loan market in the nation when CFA and CRL issued the report "Driven to Disaster: Car-Title Lending and Its Impact on Consumers" in early 2013. At that time, Arizona had one licensed location for every 9,944 adults.[22] By 2015, Arizona has one licensed location for every 8,072 adults.[23] The only states with heavier concentrations of title lenders in 2013 were Alabama, Tennessee, Mississippi, South Dakota, Utah, and New Mexico. Arizona regulators do not compile or report information on the size of the title loan market.

National title loan data from Pew Charitable Trust when applied to the store count in Arizona indicates that from 190,000 to 285,000 Arizona borrowers use title loans per year, based on a range of 300 to 450 borrowers per store multiplied by the 633 licensed locations we identified in Arizona. Another way to project borrower information is based on the percentage of adult population that uses these loans from states that report that data. Using the conservative 300 borrowers per store metric, almost four percent of adults in Arizona are title loan borrowers. Since Arizona does not have separate payday loan stores, it is likely that a higher number of borrowers use title/registration loans, up to 5.5 percent of Arizona's adult population.

Virginia regulators report title lender revenue of a little over $500,000 per store. If Arizona stores have similar revenue, the 633 title loan locations in Arizona bring in $316.5 million per year. With no reporting requirement, officials and the public do not know the volume of loans made, the number of Arizona consumers who use title or registration loans, the number of loans per year, or the price paid to borrow from title lenders. Even with very limited data, it is obvious that title lending is a thriving, growing business in Arizona.

[21] U.S. Census Bureau, 2009-2013 5-Year American Community Survey, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk

[22] CFA/CRL, "Driven to Disaster: Car-Title Lending and Its Impact on Consumers," February 23, 2013, p. 15, at http://www.responsiblelending.org/other-consumer-loans/car-title-loans/research-analysis/CRL-Car-Title-Report-FINAL.pdf

[23] 2014 Adult Population for Arizona was 5,109,792 (See Annie E. Casey Foundation KIDS Count data center at http://datacenter.kidscount.org/data/tables/99-total-population-by-child-and-adult viewed 9/31/15

Title lenders in Arizona

According to our review, Arizona licenses 633 locations for 100 companies to make "title" and/or "registration" loans in Arizona. Most are licensed as Sales Finance companies, but a few are licensed as Consumer Lenders or Advance Fee Loan Brokers. For example, A Speedy Cash, the DBA designation for Todd Car Title Loan companies, are both licensed as Sales Finance and Advance Fee Loan Brokers to make or broker title loans at over-lapping locations. In some cases, licenses are held by more than one entity of a parent company. For example, TMX separately licenses TitleMax and TitleBucks. Wheels Financial/800LoanMart/LoanMart holds several licenses but offers one loan product. Buckeye in Ohio is licensed under two names but makes the same loans under both names in Arizona. This study counts multiple entities for the same company as one company.
Of the total 633 licensed title lender locations, the 10 largest lenders account for 393 locations, or about two-thirds of the market. This total does not reflect the market share of Wheels Financial which operates as 1-800LoanMart or LoanMart and offers loans online and via other licensed lender locations. For example, LoanMart loans are available at Allied Cash Express, Cashway Auto Title Loans, and Flores Enterprises Corp stores.

Seven of the top ten lenders by store location are headquartered out of state, in addition to LoanMart which lends from California. Half of these largest companies were licensed as payday lenders in 2007, prior to the ballot vote that led to termination of payday lending in 2010 (Figure 4).

Figure 4. 2015 Largest Arizona licensees by number of locations, headquarters and if previously licensed as payday lender

Licensee	SFI SF License #	License Count	Headquarters	Payday Lender in 2007
TitleMax of Arizona	917582, 920145	96	Savanah, GA	No
ACE Cash Express, Inc.	911038, 911039	61	Irving, TX	Yes
Fast Auto Loans, Inc.	904877	50	Atlanta, GA	Yes
Check into Cash of Arizona, Inc.	910897	32	Cleveland, TN	Yes
Buckeye Title Loans, Inc./Buckeye Check Cashing of Arizona, Inc.	914026, 908001	38	Dublin, OH	Yes
Cash Time Title Loans, Inc.	903593	27	Scottsdale, AZ	No
Allied Cash Advance Arizona LLC	909493	25	Cincinnati, OH	Yes
Checkmate Express Corporation	910900	23	Phoenix, AZ	No
Auto Now Financial Services, Inc. d/b/a Tio Rico Te Ayuda	910321	21	Phoenix, AZ	No
LoanMax, LLC	908734	20	Alpharetta, GA	No
Wheels Financial Group, LLC d/b/a 1-800LoanMart, 800LoanMart, LoanMart	910582, 924928, 924933		Encino, CA	No
Total		**393**		

Source: AZDFI Sales Finance License List July 2015, Company websites, AZDFI Deferred Presentment Licensee list 2007.

Many current title lenders operated as payday lenders prior to 2010

Comparing the AZ DFI list of licensed payday lenders for 2007, the year before the Prop 200 ballot vote, with the 2015 AZ DFI list of licensed sales finance companies that make title loans, we were able to identify thirteen companies on both lists. In some cases the names vary, but are affiliated with the same parent company and licensed locations overlap. Despite voters' rejection of triple-digit consumer lending, these companies found a way to continue operating in Arizona by making title and/or registration loans. Of the former payday lenders, the same or affiliated companies license 268 locations that offer title loans in 2015, which accounts for about 40 percent of title loan licensed locations (Figure 5).

Figure 5. Former payday loan licensed lenders now make title loans in Arizona

Payday Loan Licensee (2007)	Licensee Name Offering Title Loans (2015)	# of Car Title Locations
ACE Cash Express, Inc.	ACE Cash Express Inc. #1	61
Fast Payday Loans, Inc.	Fast Auto Loans, Inc.	50
Buckeye Check Cashing II, Inc. #1 Buckeye Checking Cashing of Arizona, Inc. #1	Buckeye Title Loans Inc./Buckeye Check Cashing of Arizona	38
Check Into Cash of Arizona, Inc.	Check Into Cash of Arizona, Inc.	32
Allied Cash Advance Arizona LLC	Allied Cash Advance Arizona LLC	25
1 Stop Check Cashing $ Payday & Title Loans, LLC	1 Stop Money Centers LLC	17
Payday Loan Store of Arizona, Inc. (The)	PLS Loan Store of Arizona	13
Galt Ventures d/b/a Speedy Cash	A Speedy Cash Car Title Loans, LLC	11
QC Financial Services, Inc.	QC Financial Services Inc. #1	7
Arizona Smart Cash Inc. #2	Arizona Smart Cash Inc. #1	4
Todd Financial Inc.	Todd Car Title, Inc. #1	3
Xpress Cash Financial Services of Arizona, LLC	Xpress Cash Financial Services of Arizona, LLC	3
Kathleen Mason d/b/a Advance Cash	Kathleen Mason d/b/a Advance Cash	2
National Cash & Credit, LLC #2	National Cash & Credit, LLC #1	2
Total		**268**

Source: AZDFI Deferred Presentment Licensee list, 2007 and AZDFI Sales Finance Licensee list 2015

Title lenders in 2015 outnumber payday lenders at sunset

When payday lending sunset on June 30, 2010, the remaining licensed "deferred deposit" lenders surrendered their licenses. The Arizona Department of Financial Institutions report for July 2010 lists 41 deferred deposit companies that closed 518 branch stores, compared to the 100 companies with 633 title loan licensed locations we identified in mid-2015. The largest of the payday lenders that closed and departed the state or did not convert to title lending include Advance America (47 branches), Money Mart, Inc. d/b/a LoanMart (34), and Southwestern & Pacific Specialty Finance, Inc. d/b/a Check 'n Go. Other large payday loan chains switched to operate title loan stores, including ACE Cash Express I and II (72 and 27 branches respectively), Buckeye Check Cashing of Arizona, Inc. #1 d/b/a Buckeye CheckSmart (39 branches), and Check Into Cash of Arizona, Inc. d/b/a Check Into Cash (39 branches.)[24]

[24] Arizona Department of Financial Institutions, "Summary of Actions Report," July 2010. http://azmemory.azlibrary.gov/cdm/ref/collection/statepubs/id/4605nb

Industry trade groups

The major trade association to which title lender licensees belong is the Arizona Title Loan Association (ATLA) which lists 24 member companies.[25] Six companies list on their websites membership in the Community Financial Services Association (CFSA), the trade organization for payday lenders; while two belong to the Financial Service Centers of America (FiSCA) which includes check cashers and payday lenders in its membership. TitleMax is a member of the Online Lenders Alliance. One pawn shop that makes title loans is a member of the National Pawn Association.

Title loans made by a variety of companies in Arizona

Several types of companies are licensed to make title loans in Arizona, based on a review of their websites and store visits:

Loan Companies: Making loans is the primary business of most of the licensees in Arizona. All but one licensee makes loans secured by the borrower's clear title while twenty companies offer "registration" loans purportedly secured by vehicles consumers do not own free and clear.

Fee-based financial services: Title loans are offered by companies that also cash checks for a fee, sell money orders and prepaid debit cards, and provide other fee-based services. These include Check Into Cash, Ace Cash Express, Globe Quick Cash, Checkmate Express Corporation, Flores Enterprises Corporation, and PLS Loan Store of Arizona, Inc.

Pawn: Pawn shops that sell title loans include April Dishman/Easy Money Pawn, Biltmore Loan and Jewelry LLC, Buy It Cheap, Inc./Mo Money Pawn, Ellertson's Dobson Ranch Mobil, Inc./Easy Picken' Pawn, Gold Star Pawn and Loan LLC, National Cash & Credit, LLC #1, Pawn 1st, LLC, and Sterling Holding Co. LLC/Maricopa Jewelry & Pawn and Scottsdale Pawn Shop.

Gold buyers: Gold Buyers of Arizona, LLC; Title Loan Guy LLC (The) at www.thegoldguy-sw.com; and SW Money Express, LLC buy gold and/or silver along with making title loans.

Used car dealers: Downtown Motors in Prescott also makes title loans.

Online lead generators: Lead generators are websites that collect completed loan applications and sell them to the highest bidder but are not lenders themselves. Two lead generators are licensed as Sales Finance companies in Arizona including CarTitleLoans.net and TLP Finance Arizona LLC/Title Loans Pro at https://maxcashtitleloans.com.

[25] http://aztla.com/members.asp viewed 9/25/2015

Online-only lenders: A few online-only lenders based outside Arizona are licensed as title lenders, although all companies that offer small dollar loans should be licensed here. Online-only title lenders licensed in Arizona include City Title Loan LLC at www.cityloan.com/az-title-loans; Manor Resource, LLC at www.turbotitleloan.com; and Wilshire Commercial Capital LLC at www.loancenter.com.

Hybrid online/local agents: California-based Wheels Financial/ LoanMart/800LoanMart offers loans online and via other lenders' stores. For example, Allied Cash Advance, which offers its own title and registration loans, also markets larger title loans made by LoanMart.

How lenders secure loans with vehicle titles in Arizona

In order to use a vehicle as security for a loan, the lender must place a lien on the title to the borrower's vehicle or hold a Power of Attorney agreement that permits the lender to later file a lien. Financial institutions are required to use the ADOT Electronic Lien and Title system in order to file liens on vehicles that secure loans and there are four state-approved Service Providers, with support of the program provided by the Arizona Automobile Dealers' Association. On January 4, 2010, the ADOT Motor Vehicle Division sent a letter to service providers and financial institutions, notifying them that Senate Bill 1293 became effective on May 31, 2010, requiring liens to be released electronically except for mobile homes. ADOT stated that all lenders conducting business will be required to transmit lien information through an approved Service Provider.[26]

Five years after electronic lien and title filing was mandated for all financial institutions, CFA compared the list of licensed title lenders that we compiled from the Department of Financial Institution's licensee lists with the almost 7,000 entities listed on the Arizona ELT registry managed by the Arizona Automobile Dealers Association.[27] Of the hundred companies licensed to make title loans, we could not identify an ELT number for fourteen of them. It is possible that parent company names or names other than those licensed for title lending handle the lien work for lenders. Most notably, ACE Cash Express, does not have an ELT number in its name, raising the question of whether this licensee files liens for its loans.

Lenders can file for a repossession lien if borrowers default. When a vehicle is repossessed, Sales Finance licensees are required to comply with title 47, chapter 9, Article 6 and to conduct sales of repossessed vehicles in a commercially reasonable manner.[28] If proceeds from the sale of the

[26] http://www.allabouttitles.com/docs/AZ_1st_Notification_100111.pdf

[27] www.edealersvcs.com/resources/lienholders?keywords=&page=1

[28] A.R.S. § 44-289 B

vehicle at a wholesale auction do not cover the loan balance and costs, the lender can sue borrowers for the deficiency balance.[29]

Title loan paperwork and requirements case study: Oasis Title Loans

Oasis Insurance offers the American First Financial Auto Title Loan program in Arizona. Loans are for a minimum $200 secured by vehicles worth at least $2,000. Loan payment terms depend on the size of the loan and ability to make the payments, and can be as short as three months or as long as four years.[30] Oasis charges the legal maximum rates of 17 percent per month for loans up to $500 up to 10 percent per month for loans of $5,001 and higher. The webpage that displays the monthly rate does not also disclose the Annual Percentage Rate which would be 204 percent and 120 percent, respectively.[31]

On its website, Oasis Title Loans, LLC provides forms used to make loans and a checklist for lenders, which illustrates the steps borrowers take to obtain credit secured by their vehicles.[32] The ADOT Title and Registration Application form is completed along with the ADOT Motor Vehicle Division Power of Attorney form which permits the lender as "Attorney-In-Fact" to sign all papers and documents to secure the title and transfer title for the specified vehicle. Instructions require the lender to inspect the vehicle and take pictures of the rear and front plus the VIN number and inquire at MVD if there are any liens on the title. The value of the vehicle is evaluated using the Manheim market report and the amount of the loan is based on that value.

Information required from the borrower includes a completed loan application, proof of residency using a utility bill, lease, etc., clear Arizona auto title, current vehicle registration and insurance, current pay stub or bank statement, current phone bill, and an Arizona or out-of-state government issued driver's license. Conducting a credit check with Teletrack or Experian is not required, but if done should identify any bankruptcies. Lenders are to verify phone numbers, addresses, employment, references, and the amount of the loan before the contract is prepared for signature. Oasis executes a lien on the title before funding the loan using a company check. Borrowers are required to sign a Privacy Notice, the Agreement Addendum, the Power of Attorney, and the Title Application. The lender holds all documents including the title, contract, and keys to the vehicle.

A title loan borrower at Oasis Title Loans initials an agreement to notify of any changes in name, address or employment; agreement to garage the collateral vehicle at her home address listed on the loan application (must have written consent to move and garage the vehicle elsewhere); agree not to change or alter the vehicle that would reduce its value; and agree to maintain auto insurance

[29] "Debt Collection, Garnishment, Repossession," AZLawHelp.org, http://azlawhelp.org/viewquestions.cfm?sc=29&mc=4&qid=7065 viewed 12/30/15

[30] www.oaisisinsurance.com/loans-how-to.html last viewed 1/6/16

[31] www.oasisinsurance.com/loans-infor-auto.html last viewed 1/6/16

[32] www.oasisinsurance.com/loans-info-auto.html last viewed 1/6/16

coverage and name Oasis Title Loans as the loss payee until the loan is paid in full. Auto insurance is required for loans of more than $1,500.[33] The borrower agrees to pay a minimum $50 administrative fee for personal property to be released if the vehicle is repossessed. Failure to provide a working set of keys adds a minimum fee of $250 to the loan amount. Borrower has to agree that she does not intend to file for bankruptcy while the loan is outstanding or within 121 days after repayment, that she has not consulted with an attorney in the last two months about bankruptcy; that she will not use her title loan to pay a bankruptcy attorney; and that she will not use her loan to pay a non-dischargeable debt in bankruptcy.

Oasis also requires borrowers to agree that failure to return a vehicle or defrauding a secured creditor is a class 6 felony and that fraudulently removing, selling or concealing creditor property with intent to defraud is guilty of a class 2 misdemeanor. The Oasis Title Loan website does not provide a copy of the contract.

Lenders require bank account access from borrowers

The Motor Vehicle Time Sales Disclosure Act definition of the Secondary Motor Vehicle Finance Transaction loan does not authorize title lenders to secure loans with direct access to the borrower's bank account or to hold a check, but does not directly prohibit that practice, either. Check-holding as security for a loan was a key feature of payday loans prior to sunset of the Arizona law. The deferred presentment law that authorized check-holding to secure small loans defined the Deferred Presentment Services product as "a transaction pursuant to a written agreement in which the licensee accepts a check and agrees to hold the check for at least five days before presentment for payment or deposit."[34] That law expired on June 30, 2010.

Title lenders use bank account access in a variety of ways. Arizona title lenders in the survey that require borrowers to provide a blank check, a debit card, or an ACH authorization which presumably can later be used to withdraw payment from the borrower's bank account include: The Leading Lender, LLC which requires a blank check or a Direct Deposit form and an open checking account;[35] MooLoans LLC;[36] and Xpress Cash Financial Services of Arizona.[37] According to store personnel, Checkmate Express Corp. permits loans for a larger percentage of fair market value of

[33] www.oasisinsurance.com/loans-how-to.html, last viewed 1/6/16.

[34] A.R.S. Chapter 12.1 Deferred Presentment Companies, Definitions 6-1251(3).

[35] www.theleadinglender.com viewed 7/9/15, list of required documents includes "Blank Check or Direct Deposit form from open and active checking account."

[36] www.mooloans.com/faqs.html viewed 10/12/15. "A personal check from your bank account" is a required document to get a title loan.

[37] www.xpresscashnow.com/title-loan viewed 10/12/15. "How It Works" page "To apply for your loan you will need to bring with you your most recent pay stub, your driver's license or state identification, and a check from your checking account."

the vehicle (65 percent) if the borrower provides a bank statement and debit card.[38] Contracts for A Speedy Cash Car Title Loans LLC state that the lender will use ACH to withdraw payment from the borrower's bank account if she fails to pay in person by the appointment time on each due date; however, this lender's contract also states that electronic payments are voluntary and can be cancelled.[39] 1 Stop Money Centers answers the question "Why do they ask to see my debit card?" with "Sometimes your debit card will be used for collecting the total refinance payment or an outstanding balance. Since most banks are now paperless, we will need to perform this transaction as a debit."[40] 1 Stop also informs borrowers that they will use the borrower's debit card to withdraw payment if it is not made in person at the appointed time.[41]

Some lenders in the survey making "registration" loans also require blank checks or say they directly take funds from the borrower's bank account via ACH. For example, Allied Cash Advance[42] and ACE Cash Express[43] require borrowers to provide blank checks or bank account access to obtain "registration" loans. Auto Now Financial/Tio Rico Te Ayuda requires borrowers of its "Personal Loan" up to $1,000 to have a bank account or payroll debit card.[44] A surveyor in Phoenix was told that a voided check or a debit card was required for a loan[45] as was a surveyor in Tucson who was told that a bank statement, blank check and debit card were required to get a "registration" loan at Tio Rico.

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[38] Store survey, Tucson. Title loans up to 50% of fair market value of the vehicle or 65% if using a checking account. A bank statement and debit card required for the 65% rate. Survey on file with CFA. See, also, https://www.callcheckmate.com/en/checkmate-products/titleloans viewed 10/12/15.

[39] Contract, A Speedy Cash Car Title Loans, LLC, dated 1/9/15, page 2 of 8, "If you do not appear in person to pay by 3pm CST, then we will submit your payment due by the EFT/ACH Authorization set out below." On file with CFA.

[40] 1 Stop Money Centers, LLC customer information packet, page 2, on file with CFA.

[41] 1 Stop Money Centers, LLC customer information packet, page 2, on file with CFA.

[42] Flyer from Allied Cash Advance store in Prescott, AZ lists required documents for Choice Loan up to $5,000, includes "voided Check or Direct Deposit form." Obtained 7/15/15. On file with CFA.

[43] ACE Cash Express brochure for "Motor Vehicle Secured Loan" includes "pre-printed check" in list of items to bring to borrow up to $1,500. Obtained January, 2015. On file with CFA.

[44] www.mytiorico.com/personal-loans/ list on items needed to qualify for a personal loan, "You have a bank checking Account or Debit Card from your employer." Viewed 6/2/15

[45] Store visit, Tio Rico, Phoenix, 10/14/15.

Risks for Borrowers: What Makes Title/Registration Loans a Debt Trap?

Title loans trap borrowers in long-term debt due to unaffordable loan terms and lack of ability to repay without selling the asset. The risk of losing the family's most valuable asset and transportation leads borrowers to go to great lengths to avoid repossession. While registration loans usually do not involve a lien on a vehicle, lenders may require blank checks or debit cards to enable withdrawing payment from bank accounts and use debt collectors and lawsuits to collect. Loan payment structures can lead to repeat or continuous payments. Title loans are either single payment loans, longer-term installment loans, or balloon payment loans where consumers pay only the finance charge for several payments until a final payment that includes the loan principal.

For many borrowers, there simply is not enough money left from a paycheck after paying necessary living expenses to repay a title loan when due. Pew notes that consumers with lump-sum title loans are obligated for half of a typical borrower's gross monthly income. Despite being presented as "easy credit" with short terms, about 16 percent of borrowers stay in continuous debt for a year or more at triple-digit rates.[46] TitleMax, the largest lender by number of licensed locations in Arizona, disclosed in a 2009 deposition that a 30-day loan is "typically renewed eight (8) times." A borrower who takes out the typical nine loans in a year (original plus eight renewals) pays back over three times the amount borrowed.[47]

Title lenders often "renew" or extend loans when consumers fall behind, keeping borrowers in continuous debt. An Arizona consumer reported this account:

> "In August 2012, I obtained a $2,000 six-month title loan from Cash Time Title Loans with my paid for 2007 vehicle as collateral. I had just been offered a job with the County after being unemployed for several months. I found myself unemployed yet again and in November, 2012, Cash Time repossessed the car and advised me that I needed $1,100 in five days or else the vehicle would be auctioned off. I was able to get the funds necessary to have the vehicle returned to me. I continued to make payments to Cash Time. In March, 2013, I met with Cash Time in person to discuss the terms of my contract and was convinced to "re-write" the original loan of $2,000.00. I had already paid Cash Time $1,920 but it was as if I paid them nothing. I was advised they were waiving all the interest I had accumulated. None of the payments I had already given them mattered. Therefore, I, under duress, agreed to this re-writing of the original loan. I was back at owing them $2,000. It has now been 1 year and I have given Cash Time over $2,300 on this re-written contract. I have met with Cash Time, in person, twice to try and settle this nightmare. I have given them close to $5,000.00 however, I am advised by Cash Time that I owe them over $2,900!

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[46] CFA/CRL "Driven to Disaster: Car-Title Lending and Its Impact on Consumers," Feb. 28, 2013, p.6. http://www.responsiblelending.org/other-consumer-loans/car-title-loans/research-analysis/CRL-Car-Title-Report-FINAL.pdf

[47] Susanna Montezemolo, CRL, "The State of Lending: Car-Title Loans," July 2013, p. 6. http://www.responsiblelending.org/sites/default/files/uploads/7-car-title-loans.pdf

> Cash Time's solution to this is for me to come into their office and they will re-write the loan again – for the 3rd time!"[48]

Title loans are unaffordable asset-based lending

Car title loans are based on the value of the vehicle owned by the borrower, not the ability of borrowers to repay while meeting their other obligations. Many lenders claim "No credit, no problem." Title lenders advertise that credit is easy to obtain. For example, TitleMax claims "Your car is your credit" in store brochures and that no credit checks are performed on its website.[49] Phoenix Title Loans LLC says "No Credit Check. Good Credit, Bad Credit, Slow or No Credit is NO PROBLEM at Phoenix title Loans since your loan is based entirely on the equity and value of your vehicle."[50] Lenders may ensure that they will get paid but do not realistically determine that borrowers can repay the loan as written.

To make sure lenders can collect on loans, a few of them install GPS devices to locate cars if borrowers default. Cash Time Title Loans, Inc.'s contract states: "GPS Installation: You authorize us to install a GPS (global positioning system) electronic device (the "Device") on your Vehicle at anytime (sic) prior to the payoff of this Agreement without notice to you. The Device includes a GPS tracking unit that can determine where your Vehicle is located at anytime (sic). This Device will not be used to determine your driving habits or practices (e.g. speeding) but may be randomly activated to ensure the Device is still functioning. We will not provide any access to a record of the tracking unless required to do so by law or to enforce any rights we may have. The Device can be used to assist us in tracking and locating the Vehicle so that we may take possession of the Vehicle without notice to you as provided for in this Agreement."[51]

ACE Cash Express tells customers "Just bring in valid Photo ID, vehicle, clear title."[52] LoanMax notes that "Owning car proves credit worthiness."[53] Check Into Cash says "There's no credit check required, and you could be eligible for a maximum of $25,000 on a first lien loan and $500 on a

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[48] Complaint on file with the Southwest Center for Economic Integrity. The loan had a balloon payment structure with interest only installments and the loan principal included in the final installment, see, Maria Polletta, "Quick loans, or quicksand? Title lenders spread across SEV," *Arizona Republic*, 6/20/14 . http://www.azcentral.com/story/news/local/mesa/2014/06/20/auto-title-lenders-give-additional-high-risk-option/11061451/

[49] TitleMax brochure "Turn Your Car Title Into Cash! Your car title is your credit. Instant approval process. Keep driving your car. Get cash today." Obtained 7/15/15. On file with CFA. See, also, www.titlebucks.com last viewed 6/15/15. "Your car is your credit and is used as your collateral, so it doesn't matter if you have good credit, bad credit, or not credit at all, you can keep driving your car and turn your title into bucks with TitleBucks!"

[50] https://www.phoenixtitleloans.com/ last viewed 1/6/16.

[51] Contract, Cash Time Title Loans, Inc., March, 2013, page 2. On file with CFA.

[52] ACE Cash Express brochure, on file with CFA.

[53] www.loanmaxtitleloans.net/Benefits, viewed 6/2/15. LoanMax states that lenders do not look at credit scores.

second lien loan."[54] "If you have bad credit, no credit, or you simply need a cash loan now, Cash Time will work with you to provide you with the cash you need."[55] Tio Rico tells borrowers "Your credit history is not an important part of our customer evaluation."[56]

LoanMart discloses "Determining factors for eligibility are vehicle value, gross income, and status of the title." LoanMart does not have a credit score requirement and lends to borrowers with a previous bankruptcy or repossession. The LoanMart FAQ states: "A previous bankruptcy or a derogatory credit history will not hurt your chances of qualifying for an auto title loan, since title loans are based more on the value of your vehicle."[57]

Payments structured to keep borrowers in debt

Many lenders offer one month or 30 day loans, but permit interest-only payments with automatic loan renewals. The Federal Trade Commission described this industry practice in a complaint against First American Title Lending of Georgia, LLC: "Car title loans can be short term loans and are often advertised as 30 day loans. Title loans have high interest rates and short repayment periods, with payments due every month. In many instances, however, the loans can be longer-term, high cost installment loans with payments due over several months. The typical APR of a car title loan can be over 300%. Each additional payment after the first month is termed a 'renewal.' The average consumer does not repay the loan in 30 days, instead "renewing" the loan an average of eight times. Loan amounts differ but typically are $1,000 and up to $10,000. The lender takes possession of the consumer's car title and charges a monthly fee, sometimes as much as 25% of the amount borrowed per month. For example, the amount of fees would be $250 per month and after eight renewals, a consumer taking out the average loan amount of $1,000 would pay approximately $2,000 in fees."[58]

Under the Arizona fee schedule that permits 204 percent annual interest, a consumer borrowing $500 for one month and renewing the loan eight times would pay a total of $765 in finance charges while in debt nine months (original loan and eight renewals) for a total payment of $1,265.

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[54] https://checkintocash.com/arizona-title-secured-loans/ viewed 8/4/15.

[55] http://cashtime.com/about-us viewed 6/5/15.

[56] www.mytiorico.com/title-loan-faqs/ viewed 6/2/15.

[57] www.800loanmart.com/Faq.aspx viewed 9/9/15

[58] Federal Trade Commission, Complaint, In the Matter of First American Title Lending of Georgia, LLC, Docket No. C-3429, p. 2 at https://www.ftc.gov/system/files/documents/cases/1506firstamericancmpt.pdf

Loss of vehicle via repossession

Borrowers who can't keep up with installment payments or don't have enough funds to repay a one-month loan risk repossession. Arizona ranks second for repossession of purchase money auto loans, just behind Nevada. Based on information tracking by Experian, about one in 66 auto loans resulted in repossession in the first quarter of 2014, a rate of 1.52 percent.[59] The rate of repossession in Arizona caused by title loans is not known but can be estimated based on other state regulators' reports.

Sixty percent of New Mexico borrowers lost their cars to repossession in 2008.[60] New Mexico's regulator currently collects information from licensees for title loans costing 175 percent APR or more. Of that segment of the market, 41,000 title loans were written and 10,000 vehicles were repossessed in 2014.[61]

An analysis of litigation records by CFA and CRL found that one in six borrowers (17%) incurred a repossession fee, typically $350 to $400 which averaged half of the borrower's outstanding balance.[62] Pew reports that between six and eleven percent of title loan borrowers have a car repossessed annually and that a third of all title loan borrowers do not have another working vehicle in their household.[63]

According to state regulators, Arizona's largest storefront lender, TitleMax, repossessed 8,960 cars in Missouri in 2014 of which they sold 7,481, repossessing more vehicles than the other lenders that had at least ten storefronts in Missouri. That year, TitleMax made 49,000 loans in Missouri but that does not reflect the total number of individual borrowers or vehicles at risk since some borrowers have more than one loan per year.[64]

Virginia regulators reported that 12.5 percent of title loans in 2014 resulted in repossession (19,368 loans).[65] If Arizona lenders repossess at the same rate per store as they do in Virginia,

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[59] Russ Wiles, "Auto Repossessions: Only 1 state worse than Arizona," August 3, 2014 at www.azcentral.com/story/money/business/2014/08/01/arizona-is-second-worst-state-for-vehcile-repossession viewed 6/1/15.

[60] CRL, "Car-Title Lending: A Road to Nowhere," www.responsiblelending.org/state-of-lending/car-title-loans/Car-Title-Infographic viewed 9/28/15.

[61] Ona Porter and Steve Fischmann, "It's time to stop the grand theft auto of title loan companies," NM Politics.net, December 23, 2015 at http://nmpolitics.net/index/2015/12/its-time-to-stop-the-grand-theft-auto-of-title-loan-companies/ viewed 12/28/15

[62] CFA/CRL "Driven to Disaster: Car-Title Lending and Its Impact on Consumers," Feb. 28, 2013, p.10. http://www.responsiblelending.org/other-consumer-loans/car-title-loans/research-analysis/CRL-Car-Title-Report-FINAL.pdf

[63] www.pewtrusts.org/en/research-and-analysis/reports/2015/03/auto-title-loans viewed 9/28/15

[64] Walker Moskop, "TitleMax is thriving in Missouri --- and repossessing thousands of cars in the process," St. Louis Post-Dispatch, 9/21/15, at http://www.stltoday.com/business/local/titlemax-is-thriving-in-missouri-and-repossessing-thousands-of-cars/article_d8ea72b3-f687-5be4-8172-9d537ac94123.html

[65] Virginia State Corporation Commission, Bureau of Financial Institutions, 2014 Annual Report, p. 71 at https://www.scc.virginia.gov/SCC-INTERNET/bfi/annual/ar04-14.pdf .

25,320 Arizona vehicles may have been repossessed last year. This is based on 40 repossessions per store in Virginia multiplied by the 633 licensed title lender locations in Arizona.

Collection fees, court and repossession costs

In addition to losing the borrower's vehicle, repossession or default also adds to a borrower's financial burdens. If contracts or refinancing agreements provide for it, Arizona permits lenders to collect a "reasonable amount" for the cost of collection and attorney's fees if they are nonemployees as well as court costs.[66] Court dockets routinely show the extra costs added to title loans when lenders sue. For example, the judgment entered in Maricopa County Justice Court on a title loan debt included $500 for the loan principal, plus $384 in costs, $400 for the lender's attorney fee, and $257 in interest owed. The costs totaled $784 to collect $757 in loan and interest.[67]

Deficiency balances

Arizona permits creditors to collect deficiency balances if sale of the repossessed vehicle does not cover the amount owed on the loan plus the cost of repossession and other fees. Lenders can sue borrowers who fail to pay the deficiency balance. For example, A Speedy Cash contract states: "If you default, we may repossess and sell your Vehicle. If we sell your Vehicle, you may not receive any proceeds from the sale because of the costs incurred, AND you may be liable to pay additional funds if the proceeds from the sale of your Vehicle are not sufficient to cover your debt plus the costs of repossession and sale."[68] Advocates recommend that title lenders be banned from both repossessing a vehicle and collecting deficiency balances. States with that protection include Delaware, Idaho, Mississippi, Nevada, South Dakota, Tennessee, Utah, Virginia, and Wisconsin.[69]

Threat of criminal sanctions

Some title lenders include language in their contracts from the Arizona criminal code that warns about the penalties for failing to surrender a vehicle used to secure a loan after default. "Under A.R.S. 13-1813 it is unlawful to fail to return a motor vehicle subject to a security interest within (30) days after receiving notice of default… Unlawful failure to return a motor vehicle subject to a security interest is a stolen vehicle for purposes of A.R.S. 28-4845 and is a Class 6 felony which

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[66] A.R.S. § 44-289 A.

[67] Justice Courts Case Information, Case Number CC2013-200420, filed 11/8/2013, at http://justicecourts.maricopa.gov/FindACase/caseInfo.asp?caseNumber=CC2013200420000 viewed 1/11/16

[68] Agreement & Disclosure Statement Secondary Motor Vehicle Finance Transaction, A Speedy Cash, signed 1/9/15, page 8. On file with CFA.

[69] Consumer Federation of America, "Car-Title Loan Regulation as of December 2012," at http://consumerfed.org/pdfs/Resources.CTL.StateLawTermChart12.2.12.pdf viewed 1/11/16.

carries a maximum penalty of a $150,000 fine and 1.5 years imprisonment for a first offense."[70] Apparently no distinction is made between purchase money auto loans and smaller title loans. These risks and added expenses likely contribute to borrowers only making minimal payments and staying in high-cost debt to avoid losing their vehicles to repossession and incurring added costs for collections and deficiencies.

[70] 1 Stop Money Centers, LLC contract, dated 1/08/15, on file with CFA. Similar language in Cash Time Title Loans, Inc. contract signed 3/14/13, on file with CFA.

Arizona Title/Registration Loan Survey and Findings

Method

CFA constructed a list of lenders licensed to offer title loans in Arizona. The Arizona Department of Financial Institutions does not post a list of car title loan licensees, but includes companies that make title loans in the larger "Sales Finance" licensing list that also includes car dealers and car loan acceptance companies. While most title lenders are licensed as sales finance companies, there are a few that operate under the Consumer Lender law and the Advance Fee Loan Broker law. Since there is no official list of licensed title lenders, surveyors compiled a master list of Arizona licensees from sales finance, consumer lender, and advance fee loan broker licensee lists. We reviewed websites for licensees that have them and surveyed 17 stores. CFA collected loan contracts and reviewed court cases against lenders and scanned press stories to learn about loan terms and consumer experiences.

In addition to the master list of licensed loan locations (total 633), CFA compared the payday lender licensees from 2007 with our list of car title loan licensees as of mid-2015. CFA compared the list of title lender licensed locations with the Electronic Lien and Title list to identify which licensees are able to file and release liens at the Motor Vehicle Department. In the process we identified several companies that have ELT numbers, offer title loans in Arizona, but are not listed on any DFI licensee lists. The licensee list we used was current as of mid-2015, and we recognize that stores open and close and that our list may not have captured all open and operating title loan stores. We did not compare the licensee list with all marketing and listings of loan operations and do not include unlicensed lenders in this study.

Types of loans offered

All but one licensee offers loans secured by clear title to the borrower's vehicle. Some lenders offer loans to consumers who still have a small balance on their car purchase loans. In those cases, the lender pays off the original loan and extends additional credit to the borrower, thereby obtaining a first lien on the title to secure the loan.

Twenty companies also make registration loans to consumers who do not hold clear title to vehicles. These companies account for almost half of the total title loan stores in Arizona. Of these twenty companies, Best Choice Loan Solutions located in Yuma, only makes registration loans while the others offer both title and registration loans.

Size of title loans offered

Title loans offered in Arizona range from $100 to $5 million.[71] According to Pew, the typical title loan nationally is $1,000. Arizona does not require licensees to report on title lending operations and provides no data on the average size loan or range of loans made. The maximum loan size offered by the single payment lenders ranges from $2,500 (ACE Cash Express) to $25,000 (Buckeye/CheckSmart). Checkmate Express does not disclose a maximum loan size but loans up to 65 percent of the fair market value of the borrower's vehicle.

Title loans appear to be for larger amounts than "registration" loans, since those loans are not secured by a first lien on a vehicle.

Arizona loan costs and disclosures

Lenders tend to charge the legal maximum for title and registration loans, although some market refinancing of existing loans from competitors to get a lower rate. A few licensees advertise that they charge less than the maximum legal rate. Manor Resources' TurboTitleLoan website posts a 36 percent APR rate for online title loans in Arizona.[72] Goldcrest Financial[73] says it charges 50 percent less than the competition as does Mo Money Pawn[74], while Downtown Title Loans[75] says its rates are the lowest in the quad cities. Presto Auto Loans, Inc.[76] advertises loans at ½ the legal rate.

Some lenders advertise a monthly rate without also disclosing the Annual Percentage Rate. Presto Title Loans displays a 5 percent MPR in several locations on its website with no mention of the Annual Percentage Rate.[77] Phoenix Title Loans posts a 5 percent rate on its webpage titled "Getting the Lowest Interest Rates."[78] Auto Cash Leasing, LLC in Tucson posts a large sign in its window promoting "Low Rates! As Low As 7%. No Document Fees!" (Figure 6).[79]

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[71] Blackford Financial Group at www.blackfordfinancialgroup.com/rates-fees-terms last viewed 1/13/16. Lender claims to be endorsed by the Barrett-Jackson Auction Company and to lend on collector vehicles.

[72] www.turbotitleloan.com/rates?s=Arizona viewed 6/8/15

[73] http://www.nocredittitleloans.com/ last viewed 1/13/16 "We offer loans at rates 50% less than our competitors"

[74] http://www.momoneytitleloans.com/faq last viewed 1/13/16 "While some title lenders do charge high interest rates, Mo Money Title Loans charges up to 50% less than our competition."

[75] http://downtowntitleloans.com/ last viewed 1/13/16 "Our title loan interest rates are the lowest in the quad-city area…"

[76] http://www.prestoautoloans.com/ last viewed 1/13/16

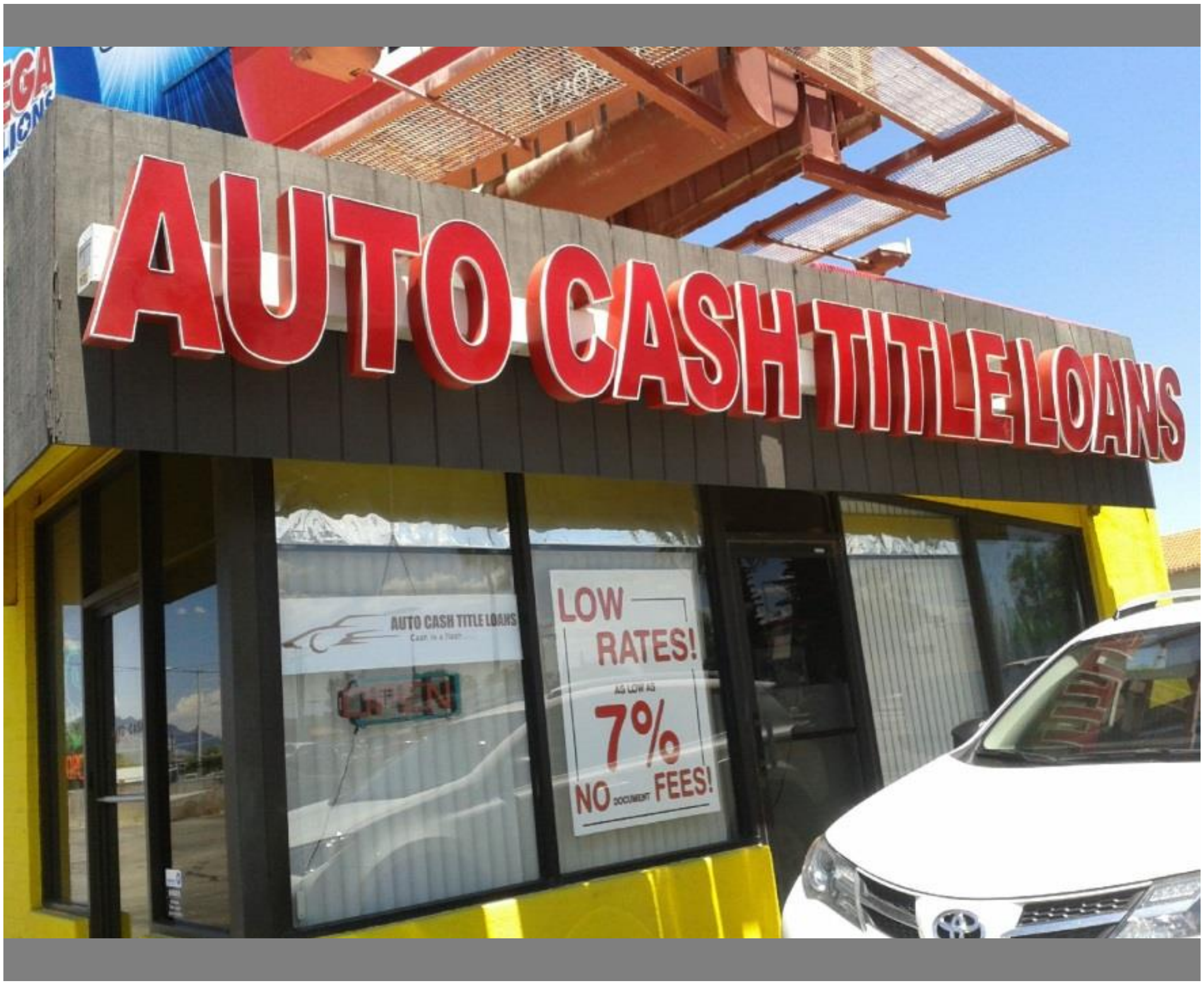
[77] http://www.prestoautoloans.com/ last viewed, 1/6/16

[78] https://www.phoenixtitleloans.com/lowest-interest-rates/ viewed 1/6/16

[79] Surveyor visit to Auto Cash Leasing LLC store at 4551 E. Speedway, Tucson, August 2015.

Other title lenders that advertise or post a monthly percentage rate without equal billing for the APR include Title Loan Guy LLC/The Gold Guy,[80] Gold Star Pawn & Loan,[81] Interstate Lending, LLC,[82] Arizona EZ-Pawn (licensee National Cash & Credit),[83] and Oasis Title Loans.[84]

Figure 6. Auto Cash Title Loans advertises a monthly rate



Source: CEI Photo of Auto Cash Leasing, LLC, Tucson, AZ 8/13/15.

[80] http://www.thegoldguy-sw.com/car-title-loans-phoenix-mesa-chandler/ last viewed 1/13/16 "The Gold Guy" FAQ page states "The interest rates are usually between 7% - 10% monthly." Sales Finance License 0920548

[81] http://pawnscottsdale.com/title-loans-scottsdale/ last viewed 1/13/16 Title loan rate chart only quotes "Interest Rate (per month)."

[82] http://www.interstatelending.net/ last viewed 1/13/16

[83]http://www.azezpawn.com/title-loan-application.aspx last viewed 1/13/16 Title loans cost 8% to 17% monthly while their "EZ-Loan" up to $1,000 costs 17% monthly.

[84] http://www.oasisinsurance.com/loans-info-auto.html last viewed 1/13/16. Loan cost chart displays only monthly rate for "Interest Percentage Rate Charged on Loan."

Some lenders make it difficult to determine the total cost of the loan before consumers apply. ACE Cash Express hides its title loan rate schedule on a messy bulletin board, unlike their big-print sign posting fees for other products and check cashing. Loan fees are in small type on a sheet of paper tacked to the bulletin board (Figure 7).

Figure 7. ACE Cash Express store signs for title loan rates

Source: CFA Photos of ACE Cash Express signs, Prescott, AZ, 8/13/15.

Allied Cash Advance refuses to state loan costs prior to a completed application. The Allied hand-out on requirements to get a loan spells this out: "Loan application must be processed before quote can be givin (sec)."[85]

Figure 8. Allied Cash Advance brochures

[85] Allied Cash Advance brochures and list of requirements obtained from store, 11/17/15. On file with CFA

Source: CFA Photo of Allied Cash Express Brochures, Prescott, AZ, 11/17/15.

Few lenders provide brochures or other consumer information on the cost of loans available prior to a decision to apply. A Fast Auto Loans clerk in Prescott refused to divulge the cost of loans although the company's website lists that information. Visitors saw no loan price information posted at TitleMax loan stores. The only disclosure we found of Tio Rico's rates was in the fine print on their website's Disclosure page.[86] Quik Cash is one of the few lenders to display prominent cost disclosure posters in stores showing the Annual Percentage Rate for loans. [87]

Extra fees and add-on products

Arizona law permits some fees to be added to the cost of loans. Prior to 2013 when the Arizona Department of Financial Institutions issued guidance prohibiting them, some lenders charged a "document preparation" fee that added to the cost of loans. We did not detect any lenders currently charging for document fees.

Some lenders charge the $4 ADOT lien fee, such as Manor Resource, LLC.[88] Oasis Title Loans LLC charges a minimum $50 fee to release personal property in a repossessed car.[89] 1st Money Center charges a 5 percent loan origination fee as a Consumer Lender, providing an example for a $1,000 loan repaid in two monthly installments with a $95 finance charge and 76 percent APR.[90]

We found that some title lenders sell other products or services with loans. Oasis Title Loans LLC offers Driver Club Roadside Assistance with its loans.[91] Fast Auto Loans, Inc. sells the Continental Club Roadside Assistance program.[92] A clerk told our surveyor in Tucson that the Continental Club program costs $17 per month and can be dropped after the first month.[93]

Duration and payment schedules for title loans

Title loans have traditionally been one-month loans, but longer-term installment schedules are now offered by some lenders (Figure 9). At least one Arizona licensee offers balloon payment loans. Examples for each type:

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[86] www.mytiorico.com/products/auto-title-loans/ viewed 12/29/15. Page includes disclosures for loans in CA, NM, and AZ.

[87] Survey, Tucson Quik Cash Store. August 2015

[88] www.turbotitleloan.com/rates/?s=Arizona viewed 6/8/15

[89] Oasis Title Loans Agreement Addendum, linked from www.oasisinsurance.com/loans-info-auto.html, viewed 1/6/16.

[90] https://1stmoneycenter.com/images/RateAndTermDetails/AZ.jpg viewed 6/4/15

[91] www.oasisinsurance.com/loans-how-to.html viewed 1/6/16

[92] CFA, "Driven Into Debt: CFA Car Title Loan Store and Online Survey," November 2005. http://www.consumerfed.org/pdfs/Car_Title_Loan_Report_111705.pdf p. 23

[93] Survey, Fast Auto Loans, Tucson, August 2015

Installment Payment Loans: Five of the largest lenders offer larger loans that are repaid in installments, with loan terms up to two years for TitleMax/TitleBucks, Check Into Cash, and Tio Rico and loan terms up to four years from Cash Time Title Loans and LoanMart. The maximum loan size for the installment title lenders ranges from $10,000 (TitleMax/TitleBucks) to $100,000 (Cash Time Title Loans and Tio Rico.) The largest loan from online lender LoanMart is $50,000. Long durations for large loans at triple-digit rates result in very large total payments. A $1,248 loan costing 179.5 percent APR and repaid in 52 bi-weekly installments cost an Arizona borrower total payments of $4,476.31.[94] A loan of $5,105 with a 108.4 percent APR and repaid in 24 monthly installments costs a total $12,657 to repay.[95]

Single Payment Loans: Half of the ten largest title lenders in Arizona included in the survey offer loans due in a month or 30 days. A Buckeye Check Cashing of Arizona, Inc. loan for $970 due in one month included a $95 finance charge and cost 118.8 percent APR.[96] All of the single-payment lenders permit borrowers to make interest only payments and extend the loan. Check Into Cash and 1 Stop Money Centers require that five percent of the loan principle be reduced after three interest-only renewals.

Balloon Payment Loans:_One of the large Arizona title lenders discloses a balloon payment structure in addition to installment payments. Cash Time Title Loans makes loans up to $100,000 with terms of six months to four years. On its website, Cash Time provides an example of a balloon payment schedule, linked from the Disclosure page under the heading "APR." For loans paid bi-weekly, a $500 loan has 12 interest-only payments of $39 with a final $539 payment that includes interest and the total loan principle. For that scenario, Cash Time posts a 203.944% APR and $509.86 interest for total payments of $1,009.86 for credit extended less than six months.

A Cash Time $500 loan repaid on a monthly schedule has three $85.94 payments, two $83.17 payments and a final $585.94 payment. That loan costs 204% APR, $510 interest and total payments of $1,010. The $2,500 loan example paid bi-weekly includes 12 payments of $173 and a final $2,673 payment, with the APR 180%, a $16 fee, $2,250 in interest for total payments $4,750.[97] A Cash Time contract also illustrates the cost of a balloon payment structure. After twelve bi-weekly interest and fee-only payments and a final payment of principal and interest, a Mesa consumer paid almost twice the amount borrowed for a loan costing 182 percent APR.[98]

Figure 9. Loan terms at the largest title Arizona title lenders by licensee

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[94] Contract, Todd Car Title, Inc., DBA A Speedy Cash, on file with CFA.

[95] Contract, TitleMax of Arizona Inc. DBA TitleMax, 5/8/15, on file with CFA.

[96] Buckeye Check Cashing of Arizona, Inc. title loan contract 2/25/15, on file with CFA.

[97]Cash Time Disclosures at http://cashtime.com/disclosures links to examples of payment schedules for Title Loans and Personal Loans at https://cashtimecmstest.blob.core.windows.net/imagecontainer/Documents/APR%20Fees%20Interest%2008.11.15.pdf last viewed 12/30/15.

[98] Contract, Cash Time Title Loans, Inc., August 2012, on file with CFA.

Licensee	Min/Max Loan	Min/Max Term	Cost	Schedule
TitleMax/TitleBucks	$250-$10,000	2 years	Up to 204%[99]	Monthly installments
ACE Cash Express	$100-$2,500	30 days	Up to 204%	Single
Fast Auto Loans	$50-$15,000	30 days	Up to 204%	Single
Check Into Cash	Up to $25,000	18-24 months	Up to 204%[100]	Installments
Buckeye/CheckSmart	$100-$25,000	One month	Up to 204%	Single
Cash Time Title Loans	$100-$100,000	6 mon. – 4 years	Up to 204%	Balloon or installments
Allied Cash Express	$100-$5,000	30 days	Up to 185%[101]	Single
Checkmate Express	Up to 65% of FMV of vehicle	One month	Up to 204%	Single
Auto Now/Tio Rico	$100-$100,000	6 to 24 months	Up to 204%	Bi-weekly or Semi-monthly Installments
LoanMax	$100-$10,000	30 days	180% for a $2,500 loan, quote	Single
800LoanMart/Wheels Financial	$1,500-$50,000	24-48 months	Up to 180%	Monthly Installments

Source: CFA review of lender websites, store surveys and contracts.

Requirements to get title loans

The typical requirements to qualify for a title loan are clear title to a vehicle, registration in the borrower's name, government identification such as a driver's license, proof of income such as bank statements or pay stubs, proof of address, and age 18 years or older. Some lenders require a

[99] TitleMax/TitleBucks posts no cost information on its website or in stores. Clerks quoted a monthly 16.99% rate (which is 204% annual rate) at a TitleBucks store and 179.88% APR at a TitleMax store in Tucson in August 2015. Contract for a $5,105.95 TitleMax loan, 24 monthly installments, 108.4% APR, $7,551.19 finance charge, total repaid $12,657.14. Contract dated 5/8/15, on file with CFA.

[100] Check Into Cash posts no cost information on its website or in stores. Clerk in Tucson store during August 2015 quoted monthly rates per loan size and also quoted a rate of $2.50 per day.

[101] Allied Cash Express posts no cost information in stores, and an Allied brochure states that cost information is provided only after a completed loan application. Clerk in Tucson quoted a range of rates up to 185% but did not specify the size loan.

duplicate set of car keys. Larger loans may require a showing of insurance coverage. For example, Tio Rico requires full coverage insurance for loans over $2,500.[102]

Marketing Inducements

Several title lenders we visited at stores or online offer money to their customers who refer new borrowers who then obtain loans. Arizona Auto Lenders/MaxCash Loan Center offers a $20 gift card for successful referrals.[103] Car Finance LLC[104] and 1 Stop Money Centers[105] pay $25; Cash-N-Go, LLC[106] offers $50; and Auto Title Loans USA Inc.[107] offers $100 off the first payment for referrals capped at $500.

Advertisements from title loan companies promote quick and easy credit and low risk of borrowing. Tio Rico Te Ayuda has billboards across Phoenix that promote "Big Cash, Little Payments" for its Title Loans and Personal Loans with the tag line "Tio Rico Says Yes." (Figure 10). TitleMax runs TV ads showing happy customers touting how much money they got and claiming "I got my title back with Titlemax."[108]

Figure10. Tio Rico Billboard advertises title and personal loans

[102] www.mytiorico.com/get-personal-title-loans/ viewed 11/16/15.

[103] MaxCash Loan Center business card, obtained at Prescott Valley store, 7/14/15. On file with CFA.

[104] http://downtowntitleloans.com viewed 1/13/16

[105] 1 Stop Money Centers, LLC payment receipt, 1/15/15, "Refer a friend for a title loan and both of you receive $25." On file with CFA

[106] www.azcashngo.com/apply-online/ viewed 6/2/15.

[107] www.phoenixtitleloan.com/ viewed 6/2/15. "Refer a friend or family member to our auto title loan services and receive discounts up to $500 off your current, or future auto title loan payment from Auto Title Loans USA."

[108] https://www.youtube.com/watch?v=bLCbWNimwe8 YouTube example of TitleMax television advertising.

Source: Photo of Tio Rico Billboard, Phoenix, AZ 10/2/15.

Registration loan terms

Our survey identified twenty companies with almost half of the title loan licensee locations (310) that offer "registration" loans at triple-digit rates authorized for Secondary Motor Vehicle Finance Transaction loans (title loans.) Several of the large national chains of title lenders do not offer the uniquely Arizona "registration" loan product, including TitleMax/TitleBucks; Fast Auto Loans; and Wheels Financial/800LoanMart.

Many of the "registration" lenders are former payday lenders, such as ACE Cash Express and Allied Cash Advance. Some lenders use product names to convey a loan secured by a vehicle, such as AAA Auto Title/Cash1 "Title Equity Loan," Check Into Cash's "Second Lien Title Secured Loan," and Checkmate Express's "Arizona Auto Equity Loan." A Speedy Cash contract refers to "Second Security Interest Transaction" loans. Other licensees' names for "registration" loan products sound like Consumer Lender loans: "Express Loan" at Buckeye/CheckSmart; "Personal Loans" at Tio Rico and at 1 Stop Money Centers; "Choice Loan" at Allied Cash Advance.

Requirements to obtain a "registration" loan typically include registration for a vehicle, identification, and proof of residency and income. Lenders do not ask for or retain a title to the vehicle. In answer to the FAQ for title and registration loans, "What is used as collateral to receive a loan?" 1 Stop Money Centers states "Your car registration and/or title are the collateral for the loan."[109]

It is not clear that licensees offering "registration" loans typically seek to perfect a second or third lien on the borrower's vehicle. However, Check Into Cash used a letter in 2010 to ask the first lienholder for permission to add a second lien to the title. The letter addressed to the Primary Lien Holder states "In order to meet the requirements of Arizona law and to allow us to perfect our subordinate lien, please sign below indicating your consent that Check into Cash (either directly or through VINtek or some other agent) may take all steps necessary to note our subordinate lien on this vehicle title."[110] A Check Into Cash clerk told our surveyor in 2015 that their only legal requirement is to ask the lienholder for permission to add a second lien, but that loans are made as Secondary Motor Vehicle Finance Transaction loans before the letter is sent and regardless of the response.[111]

Consumers who obtain a registration loan sign contracts that may result in the loan being transformed into a first lien title loan. For example, a 1 Stop Money Centers, LLC contract states: "SECOND LIEN TRANSACTION: If BORROWER obtains a Second Lien loan from LENDER, BORROWER will not default on BORROWER'S first lien loan. BORROWER shall timely make each and every payment owed to the first lien holder and perform every other term under that loan. BORROWER'S signature below authorizes LENDER to communicate with the first lien holder and obtain the status and other information concerning that loan. BORROWER further authorizes LENDER, at its sole discretion, to purchase or pay off BORROWER'S first lien and direct that lender to forward BORROWER'S title certificate to LENDER. BORROWER further certifies that any agreement BORROWER has with the first lien holder or anyone else does not preclude BORROWER from granting LENDER a lien on BORROWER's Motor Vehicle."[112] A Speedy Cash contract includes similar language, adding "As condition of your loan, you agree to sign and abide by our Vehicle Storage and Towing Agreement, which terms are incorporated herein by reference and are subject to the Arbitration Agreement set out below."[113]

Terms for "registration" loans for the ten largest providers in Arizona show the minimum and maximum size loans, the term for payment of the loan, cost and payment schedule (Figure 11). Information was collected from lenders' websites, store visits, and advertisements.

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[109] Consumer information materials, 1 Stop Money Centers, LLC, initialed by borrower 1/8/2015, on file with CFA.

[110] Check Into Cash of Arizona, Inc. "Important Customer Lien Document, Your Immediate Attention is Requested" form letter, sent 6/11/10. On file with CFA.

[111] Check Into Cash store visit, 7/15/15.

[112] Contract, 1 Stop Money Centers, LLC, signed 1/8/2015, on file with CFA.

[113] "Agreement & Disclosure Statement, Secondary Motor Vehicle Finance Transaction," Todd Car Title, Inc., DBA A Speedy Cash, on file with CFA.

Figure 11. Ten largest registration lenders in Arizona loan terms

Licensee	Min/Max Loan	Min/Max Term	Cost	Schedule
ACE Cash Express	$100 to $1,500	14 to 30 days	Up to 204%	Single pay, Renew, IO[114]
Buckeye Check Cashing of Arizona/CheckSmart	"Based on income and equity"[115]	14 days, due on payday	167%	Single pay, Renew, IO. Install. if $1,000
Check Into Cash of Arizona, Inc.	Up to $500	30 days	167%[116]	Single pay, Renew int. + 5% of loan
Cash Time Title Loans, Inc.	$100 to $1,500	12 months or less[117]	Up to 204%	Install pay on pay dates
Allied Cash Advance Arizona LLC	$250 to $5,000	30 days to 18 mon.	-	Single/install. on pay dates
Checkmate Express Corporation	$100 to $1,000	Month	Up to 204%	Corporation
Auto Now Financial Services, Inc. d/b/a Tio Rico Te Ayuda	$100 to $1,000 or 30% monthly income post tax	6 to 9 months	204%	Installment on pay dates
1 Stop Money Centers, LLC	Up to $1,500	1 to 45 days	Up to 204%	Monthly or Bi-monthly Renew, IO
A Speedy Cash Car Title Loans, LLC	$100 to $1,500	18 months	Up to 204%	Installment on pay dates
AAA Auto Title Loans LLC d/b/a Cash1	$50 to $2,500 "Based on income and equity"	90 days	Up to 204%	Installment

Source: CFA review of lender websites, store surveys and sample of contracts.

[114] Borrower can pay interest only and renew the loan. Store visit, Prescott, AZ, 1/19/15.

[115] Survey, CheckSmart store, Tucson, August 2015

[116] Store clerk in Tucson quote. No cost information posted in store. Max loan $300 in Tucson, $500 in Prescott.

[117] Store clerk in Tucson stated max term 6 months, can renew

Registration loans similar to payday loans per Proposition 200

"Registration" loans are very similar to payday loans which are no longer authorized in Arizona. Features of both products:

- **Cost Triple-Digit Rates**: Lenders quoted the maximum rate permitted for title and registration loans, ranging from 204 percent annual finance rate to as low as 167 percent quoted by some store clerks. Payday loans per Prop 200 would have been capped at $15 per $100, compared to the $17 per $100 permitted for title/registration loans up to $500 and $15 per $100 for loans up to $2,500. The resulting APR differs, based on the term of the loan, but the dollar cost is higher for small title/registration loans up to $500 and the payday loan rate of $15 per $100 is charged for title and registration loans five times the size of a Prop 200 payday loan.[118]

- **Small Dollar Loan:** Loan size range for registration loans is from $50 to $5,000, with seven of the ten largest lenders offering loans of $1,500 or less. The maximum "registration" loan at Check Into Cash is $500.[119] Loans secured by vehicle titles are generally for larger amounts, with the national average title loan at $1,000 according to Pew research. The maximum Prop 200 payday loan would have been $500.

- **Payments Due on Pay Dates**: Five of the ten largest registration lenders require payment in a single payment on the borrower's next payday or within a month or two. These lenders generally permit borrowers to pay only the finance charge and renew the loan indefinitely. Check Into Cash requires a 5 percent reduction in the loan each time it is renewed.[120] The other "registration" lenders have installment payment schedules, but require payment on the borrower's pay date, whether bi-weekly, semi-month, or monthly. Prop 200 loans would have had terms of five to 35 days, with payment typically on the borrower's next payday.

- **Lend without Ability to Repay Determination**: "Registration" lenders claim "Your income is your credit," "Credit history not important." Allied Cash Advance does not check borrowers' credit reports, for example. Payday loans have been widely criticized for failure to determine ability to repay.[121]

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[118] Ballotpedia, "Arizona Payday Loan Reform, Proposition 200 (2008)," link to text of initiative, https://ballotpedia.org/Arizona_Payday_Loan_Reform_Proposition_200_(2008) viewed 1/4/16.

[119] https://checkintocash.com/arizona-title-secured-loans/ viewed 8/4/15.

[120] Check Into Cash store visit, Prescott, Arizona, 7/15/15.

[121] Consumer Financial Protection Bureau, Press Release, "The CFPB Finds Payday and Deposit Advance Loans Can Trap Consumers in Debt," 4/2/13, http://www.consumerfinance.gov/newsroom/the-cfpb-finds-payday-and-deposit-advance-loans-can-trap-consumers-in-debt/ last viewed 1/20/16.

- **Secure Loans with Borrower's Bank Account**: Nine of the ten largest "registration" lenders require borrowers to provide a blank or void check, a debit card, an employer's prepaid debit card, or an Automated Clearing House (ACH) authorization form to permit the lender to directly withdraw funds if not paid on the due date. These lenders include: ACE Cash Express, Buckeye/CheckSmart, Cash Time, Allied Cash Advance, Auto Now/Tio Rico; Checkmate, A Speedy Cash, 1 Stop Money Centers, and AAA Auto/Cash1. Prop 200 would have permitted payday loans secured by checks held until payday or authorization to debit borrowers' bank accounts while the Secondary Motor Vehicle Finance Transaction law is silent on securing loans with direct access to the borrower's bank account or stream of income. (See "Lenders Require Bank Account Access from Borrowers," page 21.)

"Registration" loans are the same product as consumer lenders loans, but at much higher rates and with fewer protections. A comparison of the provisions of Arizona's Secondary Motor Vehicle Finance Transaction section of the Sales Finance law with the Consumer Lender law illustrates the weaknesses of the current legal status of title loans (Figure 12).

Figure 12. Comparison on Arizona Consumer Lender and Title Loan Laws

Term	Consumer Lenders Act	Title Loan Provision
Code	A.R.S. § 6-601 to 6-638	A.R.S. § 44-281(13), 289, 291(G)
License	AZ DFI Consumer Lender	AZ DFI Sales Finance
Definition	Consumer loans, open or closed-end, secured or unsecured	Loan secured by equity in or lien on borrower's vehicle, non-purchase credit
Maximum Loan Amount	$10,000	No limit.
Maximum Interest Rate	36% on first $3,000 24% on remainder	17%/mon., 204% yr. to$500 15%/mon., 180% yr. to $2,500 13%/mon., 156% yr. to $5,000 10%/mon., 120% yr. over $5,000
Fees	Orig. Fee 5% of loan to $150 Recording fees or non-file insurance Prohibits other fees	Late pay fee 5% unpaid balance after ten days Prohibits other fees, i.e. loan documentation fees
Maximum Term	24 mon. + 15 days, to $1,000 36 mon. + 15 days, to $2,500 48 mon. + 15 days, to $4,000 60 mon. + 15 days, to $6,000 Any agreed term, over $6,000	No term limits
APR Example	6-mon. $500 Loan =54% APR 2-yr. $2,000 Loan = 41% APR	30-day $2,000 Loan = 179.95% APR 13 bi-weekly $465 loan = 206.28% APR 24 mon. $5,105.95 Loan = 108.3% APR
Disclosure	TILA	Annual Finance Rate, monthly rate times 12, TILA
If Overcharge:	Void, loans up to $5,000 No finance charge, loans over $5,000	Void
Extra Products	Property insurance on collateral; Credit life, disability, unemployment insurance per regulated rates	Insurance on vehicle
Refinance Limits	Prohibits loan origination fee if loan refinanced within 1 yr.	No limits
Payment Schedule	Prohibits balloon payments, irregular installments. Requires approximately equal periodic installments.	No protections
Prepayment Penalty	Prepayment allowed at any time. Use actuarial rate. Prepaid finance charges prohibited.	
Underwriting	Silent	Silent
Report Requirements	Annual report per DFI form; APRs for sample loans, public. Detailed annual report to DFI	None. License renewal requires financial reports filed with DFI. No public info.
Anti-evasion	Yes	No
Referral Fees	Prohibited	No protections
Collections		Collection costs, attorney's fees, court costs per contract.
Unlicensed	Loans void	Loans void
Electronic	Loans can be made electronically	

Source: Consumer Federation of America review of A.R.S. § 6-601 to 6-638 and A.R.S. § 44-281(13), 289, 291(G)

Arizona Title Lender Licensing and Supervision

Sales finance companies making loans under the Secondary Motor Vehicle Financial Transaction section are licensed per A. R. S. 6-122(7)(D) by the Arizona Department of Financial Institutions which also licenses Consumer Lenders and registers Advanced Fee Loan Brokers. Title lenders are licensed under the same statute as car dealers, retail installment sales contract buyers, and holders of motor vehicle retail installment contracts as Sales Finance Companies for licensing purposes by DFI which notes: "This License is required of any person who is engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers. This License is also required of any person whom is engaged, in whole or in part, in the business of creating or holding motor vehicle retail installment contracts exceeding a total aggregate outstanding indebtedness of $50,000. The License also includes any company commonly known as a title lender that allows consumers to borrow money based on the equity in their automobiles."[122]

Arizona regulators do not have a total list of licensees who make title loans.[123] Although they ask in the application process,[124] DFI does not require Sales Finance licensees to disclose that they offer title loans and does not provide a public list of licensed title lenders.

The Arizona Department of Financial Institutions charges $800 for a new application filed for a Sales Finance Company license and $250 for Sales Finance Company Branch Office Applications. Renewals cost $500 plus $200 per branch.[125]

Since the statute authorizing title loans has no mandatory supervision provision, DFI does not routinely examine licensed title lenders nor does it supervise those entities, according to the Superintendent.[126] DFI has examined Sales Finance companies as a result of complaints, and has brought several enforcement actions involving licensees that make title loans. By comparison, DFI is required to examine Consumer Lender licensees at least every five years (A.R.S. 6-122(B)(3) as well as Advance Fee Loan Brokers (A.R.S. 6-122(B)(3).

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[122] Arizona Department of Financial Institutions, "Motor Vehicle Dealers & Sales Finance Companies," at www.azdfi.gov/Licensing/Licensing-FinServ/SF/SF.html viewed 6/3/15.

[123] Erica Lang, "Arizona auto title loans offer quick holiday cash but mounting debt could be side effect," Cronkite News, KTAR, http://ktar.com/story/809581/arizona-auto-title-loans-offer-quick-holiday-cash-but-mounting-debt-could-be-side-effect/ last viewed 1/14/16

[124] Arizona Department of Financial Institutions, DFI License Application Sales Finance Companies, Item 5 Business Conduct, D, "Will you engage in secondary motor vehicle finance transactions i.e., title loans or sale lease-backs.?" At http://www.azdfi.gov/Licensing/Licensing-FinServ/Forms/FE-LC-AP-SF-Application.pdf?sfvrsn=0 The same question is asked on license renewal forms.

[125] Id.

[126] Maria Polletta, "Quick loans, or quicksand? Title lenders spread across SEV," Arizona Republic, 6/20/15. http://www.azcentral.com/story/news/local/mesa/2014/06/20/auto-title-lenders-give-additional-high-risk-option/11061451/ last viewed 1/14/16

When Sales Finance licensees seek to renew their licenses, DFI requires a current annual financial report to include a balance statement and income & loss statement and a written explanation for a negative net worth. There is no requirement that Sales Finance licensees file annual reports on the conduct of title lending business as some other states require. DFI issues no aggregate annual report to inform the public or policymakers about the operation of title lending in Arizona. The quarterly public report required for Consumer Lenders that shows the rates being charged for sample loans is not required for title lenders under the Sales Finance licensing program.

By comparison, Consumer Lender licensees file extensive annual reports with DFI[127] which include annual information on the size and duration and security used for Consumer Lender loans as well as information on defaults, judgments, repossessions and wage assignments. AZDFI does not publish an annual aggregate report for Consumer Lenders providing this information to the public or policymakers.

Title lenders hold multiple Arizona licenses

While most companies offering title loans in Arizona are licensed as Sales Finance companies, several companies hold more than one license with the Department of Financial Institutions. For example, ACE Cash Express is also licensed as a Consumer Lender with 61 locations licensed on November 10, 2010. We have not found any loan products currently being offered by ACE that fit the terms of the Consumer Lender law, although ACE reported to DFI that it made loans at 36 percent.[128] Check Into Cash of Arizona, Inc. licensed 32 locations as Consumer Lenders starting on March 11, 2014.

Todd Car Title, Inc./Speedy Cash licenses 13 locations as Consumer Lenders and 14 locations as Advance Fee Loan Brokers at the same addresses on the Sales Finance licensee list for A Speedy Cash or Todd Title Loans.[129]

DWK Enterprises, LLC/American Title Loans #1017 makes loans as a Consumer Lender licensee, with loans of $750 to $25,000 for 30 day terms that can be renewed with payment of only the interest. However, DWK reports to AZDFI that it charges title loan rates of 17 percent for a $500 unsecured consumer loan, payable in twelve equal monthly installments and 15 percent for a

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[127] AZDFI Consumer Lender Annual Report Instructions, at http://www.azdfi.gov/Licensing/Licensing-FinServ/Forms/FE-LC-FM-CL-Annual_Report_and_Instructions.pdf viewed 10/7/15

[128] AZDFI Consumer Loan Standard Rate of Charge Report, Quarterly Report as of 9 30 15 at http://www.azdfi.gov/Consumers/PublicRecords/Forms/CLSROC/FE-EX-RP-CL-2015%20AMENDED%20Consumer%20Loan%20Standard%20Rate%20of%20Charge%20Report%203rdqtr2015.pdf

[129] AZDFI Advance Fee Loan Brokers licensee list at http://www.azdfi.gov/Consumers/Licensees/licenses.asp?list=ALB&name=Advanced%20Fee%20Loan%20Brokers last viewed 1/20/16. AZDFI Consumer Lenders licensee list at http://www.azdfi.gov/Consumers/Licensees/licenses.asp?list=CL&name=Consumer%20Lenders last viewed 1/20/16. AZDFI Sale Finance Companies licensee list at http://www.azdfi.gov/Consumers/Licensees/licenses.asp?list=SF&name=Sales%20Finance%20Companies last viewed 1/20/16.

$2,500 consumer loan secured by a motor vehicle, payable in thirty-six equal monthly installments, according the AZDFI's Consumer Loan Standard Rate of Chart Report as of Sept. 30, 2015.[130] The American Title Loans website describes a typical title loan product, with a one-month term that can be extended by paying the interest due.[131]

Buckeye Lending Solutions of Arizona, LLC at its headquarters address in Dublin, Ohio, obtained an Advanced Fee Loan Broker license on November 20, 2009. Buckeye is also licensed as a Sales Finance company under the names Buckeye Check Cashing of Arizona, Inc. and Buckeye Title Loans, Inc.

[130] Arizona Department of Financial Institutions, "Consumer Loan Standard Rate of Charge Report Quarterly Report as of 9/30/2015, http://www.azdfi.gov/Consumers/PublicRecords/Forms/CLSROC/FE-EX-RP-CL-2015%20AMENDED%20Consumer%20Loan%20Standard%20Rate%20of%20Charge%20Report%203rdqtr2015.pdf

[131] https://americantitleloans.com/faqs/ viewed 7/6/15.

Arizona Car Title/Registration Loan Policy Discussion and Recommendations

Arizona should repeal the Title Loan Law and regulate all consumer lenders under the Consumer Lender Law which caps rates at 36 percent annual interest

Arizona voters in 2008 strongly supported the 36% annual rate cap and treating all small dollar lenders equally when they voted against Prop 200 which would have permanently authorized triple-digit rate payday loans. Arizona's Consumer Lender law caps rates at up to 36% annual interest plus a 5% administrative fee, with tiered rates for larger loans up to $10,000. The only exception to that generous rate cap is the 204 to 120% annual cap for title/registration loans. With the growth of "registration" or "personal loans" made by title lenders under terms of the Secondary Motor Vehicle Finance Transaction provision, more small loans are being made at triple-digit rates. This results in extremely high-cost credit for vulnerable borrowers and unfair competition between sales finance licensees and consumer lender licensees making essentially the same loan.

Since the Consumer Financial Protection Bureau is prohibited from setting a federal usury cap, only the Arizona legislature can reduce the cost of title/registration loans by either lowering the rate cap or by requiring title/registration loans to comply with the Consumer Lender law. Since a loan "secured" by an unencumbered vehicle should be safer than an unsecured small loan, Arizona lenders should not be permitted to charge five times the rate for a title/registration loan as for all other consumer loans.

We recommend that the Arizona Secondary Motor Vehicle Finance Transaction section of the Code be repealed and all small dollar lenders be licensed as and subject to the Consumer Lender law.[132] The Consumer Lender law permits loans to be secured and unsecured, closed-end and open-end and applies to loans up to $10,000. Rates are capped at tiered rates, with loans up to $3,000 capped at 36 percent plus a 5 percent administrative fee which maxes out at $150.
In addition to making loans more affordable for borrowers, consolidation of small loan regulation under one program would provide improvements in licensing and supervision. It would also eliminate duplicate licensing now held by some lenders. Repeal of the Secondary Motor Vehicle Finance Transaction law would put all small dollar lenders on a level legal status and simplify licensing and regulation.

Repealing the Secondary Motor Vehicle Finance Transaction law will also eliminate the conflicting and confusing Arizona Annual Finance Rate disclosure requirement which has to be computed by multiplying the monthly rate by 12.[133] As a result of this requirement, Arizona loan contracts include both the federally-required Truth in Lending Act annual percentage rate (APR) disclosure

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[132] A.R.S. § 6:601 to 639

[133] A.R.S. § 44-291G

box and the Arizona annual finance rate disclosures which are often different numbers. For example, CARCASH USA by Roma USA posts a 145.03607% APR and a 144.00000% Annual Finance Rate for a $3,084 loan repaid in three monthly installments.[134] A Speedy Cash Car Title Loan discloses 177.994% APR and 180 percent annual finance rate on a contract for a $1,482 loan repaid in 24 monthly installments with total payments of $5,635.96.[135] A Cash Time Title Loans contract discloses both the 182.47 percent APR as well as 180.00 percent annual finance rate.[136] The contradictory annual cost disclosures deprive consumers of a clear price tag for loans and add to the compliance requirements for lenders.

Regulating all small dollar cash loans under the consumer lender law will:

- **Treat lenders equally** and provide fair competition among licensed small loan companies in Arizona.

- **Streamline regulation**. Arizona now has two different laws with two different sets of protections and loan term limits for similar products. Some lenders, such as Ace Cash Express, have two types of licenses. Repeal of the title loan carve-out will simplify licensing and supervision by the Department of Financial Institutions.

- **Improve consumer protections and lower rates** by applying the Consumer Lender law to all small dollar loans. Sales finance Secondary Motor Vehicle Finance Transaction law permits triple-digit rates for "secured" small loans while the Consumer Lender law caps rates at up to 36% annual interest plus a 5% fee for secured and unsecured loans. The Consumer Lender law has a more robust set of protections than the sales finance section of the Code.

- **Recognize that the title loan product** has changed since 2000 and is not a single payment one-month small loan secured by a clear title. Surveyed lenders offer long-term installment payments and/or automatic renewals with interest-only payments that make these "one month" loans long-term relatively large debts and should be subject to the same requirements as equivalent consumer loans.

- **Improve supervision of title lenders and information for policymakers**. Sales Finance licensees are not inspected except on the basis of complaints and file no annual report information with regulators other than their financial reports. No public information is compiled for title lender licensees. Consumer Lenders are inspected and have extensive reporting requirements, including the number of vehicles repossessed each year. Policymakers and the public should receive aggregated annual reports based on information submitted by all licensees.

[134] Contract, CARCASH USA by Roma USA, 6/17/13, on file with CFA.

[135] A Speedy Cash Car title Loans, LLC, contract, 1/9/15, on file with CFA.

[136] Cash Time Title Loans, Inc. contract, 8/12/12, on file with CFA.

- **Honor voters' decision** in the 2008 Prop 200 vote to prohibit triple-digit rates for small loans and to require all small loan companies to play by the same rules.

Consumer Financial Protection Bureau should issue strong small dollar lending rules that cover title and "registration" loans

In 2016, the Consumer Financial Protection Bureau is expected to issue a proposed rule to eliminate the worst abuses in the payday lending and car title loan industry. An outline of possible interventions was released in March 2015 and would apply to short-term and long-term payday loans, as well as the longer-term car title loans and "registration" loans discussed in this report.

In the outline of possible interventions, the CFPB is considering applying an ability to repay standard to short-term payday loans, as well as longer-term payday and car title loans. The outline also includes several possible exemptions to that ability to repay standard that would allow lenders to make high-cost loans without considering a borrower's income and expenses. While the proposal will address many of the most abusive practices common in the high-cost credit market, the proposal should be strengthened in a number of ways to ensure that borrowers in states that authorize payday lending are protected from a long-term cycle of debt at triple digit interest rates and that similar, strong protections apply to longer-term payday and title loans.

CFPB should strengthen its initial framework by including the following changes in its proposed rule:

1. **The CFPB should require lenders to determine a borrower's ability to repay a loan in full and on time without financial hardship or additional borrowing.** This ability to repay determination should apply to a borrower's first loan and all subsequent loans without exception.

2. **The CFPB should strengthen the underwriting requirements for longer-term loans**, such as the long-term auto title and "registration" loans discussed in this report. At the very high rates permitted for title loans, drawn out repayment schedules at triple digit interest rates result in burdensome total costs to borrow. Some lenders permit extremely long payment terms, up to four years in our survey, which keep borrowers in debt with very slow reduction in principal.

3. **The CFPB should not create any safe harbors that exempt lenders from the ability to repay requirement or restrictions on back-to-back loans and should reaffirm the importance of state rate caps in the final rule.** A safe harbor would permit abusive lending made without consideration of a borrower's ability to repay and would undermine existing consumer protections in Arizona, including the current rate cap that applies to consumer loans which prevents high-rate payday loans in Arizona. The CFPB should reaffirm the importance of

state rate caps and should make clear in the final rule that loans made or offered in violation of state usury laws is itself an unfair, deceptive, and abusive act or practice.

4. **For short-term payday loans with terms of 45 days or less, establish a maximum period of indebtedness of no more than 90 days in a 12 month period**: In Arizona, some lenders set up nominal 30-day loan terms but permit interest-only payments, and allow for unlimited loan renewals that keep consumers in perpetual triple-digit debt. Under the proposed rule short-term auto title loans such as these would be prohibited. While an ability to repay requirement will largely protect consumers from unaffordable, short-term payday loans authorized in other states, a 90 day maximum period of indebtedness will ensure that consumers are not trapped in a repeated series of short-term loans throughout the year if their financial circumstances change.

Regulators should investigate and take action on practices that harm consumers

The Arizona Attorney General, the Arizona Department of Financial Institutions and/or the Consumer Financial Protection Bureau should investigate and rectify several practices identified in this survey.

Truth in Lending Act annual percentage rate disclosure requirements

Some lenders appear to be violating the Truth in Lending Act by advertising and quoting the monthly percentage rate (MPR) instead of the TILA-required Annual Percentage Rate (APR) while some clerks reply to questions about the cost of loan by quoting a monthly or daily rate for title loans.

Section 144 of the Truth in Lending Act requires disclosure of the APR if any rate is advertised.[137] Only the APR can be quoted verbally by clerks.[138] CFPB issued a Consent Order against one licensed Arizona title lender, Wilshire Consumer Credit, in part for violating the Truth in Lending Act by advertising title loans with a rate of 4.9 percent which was not the annual percentage rate and by posting Facebook comments and tweets claiming that “loans start at just 2.1% per month.”[139] Consumer protection officials should systematically review websites and advertisements by Arizona licensees to ensure uniform compliance with Truth in Lending requirements so that consumers are not misled about the cost of title loans.

[137] 12 C.F.R. § 1026.24(c)

[138] 15 U.S.C. § 1665a and 12 C.F.R. § 1026.26(b)

[139] Consent Order, Consumer Financial Protection Bureau, In the Matter of Westlake Services, LLC, …and Wilshire Consumer Credit, LLC, Administrative Proceeding File No. 2015-CFPB-0026,September 30, 2015, p. 18. http://files.consumerfinance.gov/f/201509_cfpb_consent-order-westlake-services-llc.pdf viewed 10/1/2015.

Electronic Fund Transfer Act prohibition on mandatory electronic payment

Some Arizona licensees require borrowers to provide a blank personal check, debit card or ACH authorization in order to obtain loans. This form of security is not specifically authorized under the Secondary Motor Vehicle Finance Transaction law. Prior to sunset, payday lenders conditioned loans on holding borrowers' personal checks for future deposit but that authorization expired with the Deferred Presentment law in mid-2010 (A.R.S. Chapter 12.1 Deferred Presentment Companies, Definitions 6-1251(3).

Today's lenders use bank account numbers to access borrowers' accounts to collect payment. While the Electronic Fund Transfer Act prohibits conditioning the extension of credit on a requirement to pay electronically, this protection may not apply to one-time single payment loans. However, if the loan automatically rolls over, the prohibition on compulsory use of electronic repayment (even as a back-up collection method) applies.

The CFPB recently issued a compliance bulletin[140] to lenders on requirements of the Electronic Fund Transfer Act and its implementing Reg E and noted that many short-term, small-dollar lenders solicit borrowers' authorization for payment by preauthorized electronic fund transfers defined as "electronic fund transfer authorized in advance to recur at substantially regular intervals."[141] Lenders are required to provide clear disclosures and obtain authorization from borrowers before electronically withdrawing payments from accounts. Authorizations must be easily identifiable, clear and understandable to the consumer and a copy of the terms of authorization must be provided in paper form or electronically, including the timing and amount of the recurring transfers from the consumer's account. Lenders violate Reg E if the authorizations fail to disclose the recurring nature of preauthorized EFTs or the amount and timing of all payments consumers agree to make.[142]

The Federal Trade Commission and the Consumer Financial Protection Bureau should examine Arizona title lenders that take authorization for payment by ACH, debit card or remotely created check payments to determine if lenders are in compliance with the Electronic Fund Transfer Act.

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[140] Consumer Financial Protection Bureau, "CFPB Compliance Bulletin 2015-06," November 23, 2015, www.consumerfinance.gov/f/201511_cfpb_compliance-bulleting-2015-06-requirements-for-consumer-authorizations-for-preauthorized-electronic-fund-transfers.pdf viewed 12/7/15

[141] 12 CFR § 1005.2(k).

[142] CFPB Compliance Bulletin 2015-06, p. 4. Consumers have the option of authorizing payments within a range of amounts.

Identify Unlicensed Lenders and Require Compliance

Arizona DFI should do a systematic investigation of online lenders and storefront operations that advertise loans in Arizona to take action on unlicensed lenders and should compare licensee lists to the Electronic Lien and Title list to identify lenders that are able to place liens on titles but are not licensed to make these loans. Regulators should periodically review advertisements and Yellow Pages listings to verify that all lenders offering title-secured loans in Arizona are licensed and supervised.