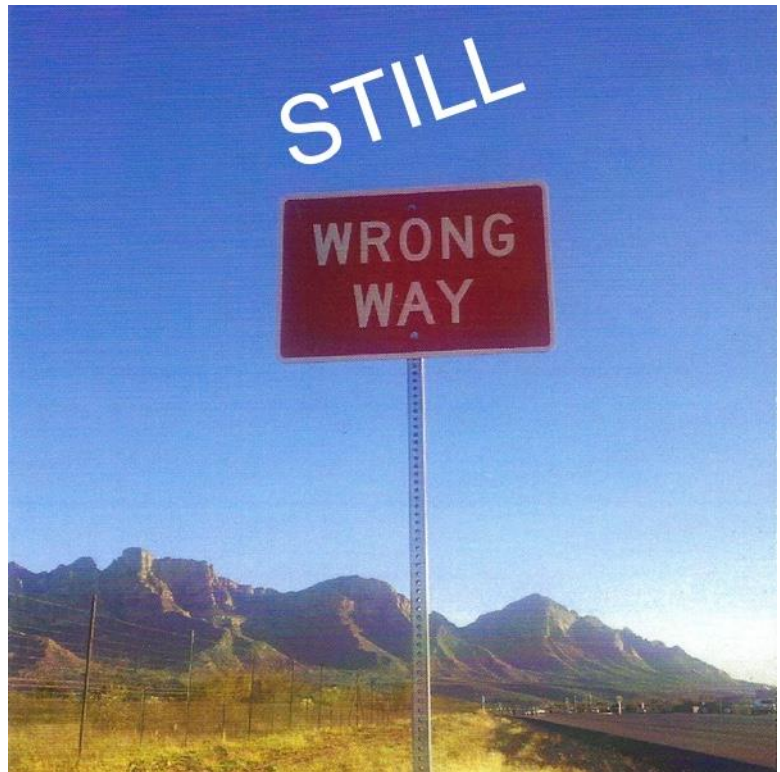


# STILL WRONG: WRECKED BY DEBT / TITLE LENDING IN ARIZONA 2019

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## Acknowledgments

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# STILL WRONG: WRECKED BY DEBT / TITLE LENDING IN ARIZONA 2019

In 2016, the Center for Economic Integrity and Consumer Federation of America issued a survey report on title lending in Arizona, "Wrong Way: Wrecked by Debt/Auto Title Lending in Arizona,"<sup>1</sup> which was based on 2015 licensing information from the Arizona Department of Financial Institutions and a survey of licensed lenders' websites supplemented by store visits. This report updates key information from that report and documents three major trends in the market. It compares provisions of the title loan law with protections offered by the Arizona Fair Lending Act, ballot initiative 16-2020.

## KEY FINDINGS

- In 2019, five of the ten largest title lenders --- and 37 percent of all title lender licensed locations --- were licensed as payday lenders 12 years ago.
- The Center for Responsible Lending (CRL) estimates that Arizona borrowers annually pay \$254,924,519 in interest charges for title loans.
- In 2019, 73 companies hold 80 unique licenses from AZDFI to make title loans. These companies have 476 licensed locations, not counting unlicensed service locations.
- Arizona permits lenders to charge title loan rates to consumers who do not hold a clear title to the vehicle used to "secure" the loan. Twenty-five licensed lenders with 359 licensed locations or 75 percent make "registration loans." This is up from 2015 when 20 companies with almost 50 percent of locations made these loans.
- Arizona title loan law authorizes annual rates of 204 percent for loans up to \$500 with the lowest tiered rate of 120 percent annual rate for loans over \$5,000. Examples:
  - The maximum cost of a \$1,000 title loan in Arizona is \$150 per month or 180 percent annual rate. If repaid after nine months, a \$1,000 loan would incur \$1,350 in finance charges for a total repayment of \$2,350.
  - A Speedy Cash posts an example of a \$500 title loan repaid in 39 bi-weekly payments of \$40.97 each for total payments of \$1,597.83 at the maximum 204 percent annual rate permitted in Arizona.

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<sup>1</sup> CFA/CEI, "Wrong Way: Wrecked by Debt/Auto Title Lending in Arizona," January 2016 at <http://bit.ly/wrongwayreport>

## METHODOLOGY

CEI staff compiled the list of licensed car title lenders in Arizona by reviewing the total roster of Sales Finance licensees obtained by Public Records request to the Arizona Department of Financial Institutions in May 2019 compared to title loan licensees identified for the 2016 CEI report on the title loan industry. Surveyors reviewed the master list of Sales Finance licensees for additional title lenders and reviewed websites and called licensees to identify those making loans under the Secondary Motor Vehicle Finance Transaction law. CEI obtained borrower contracts from legal services offices, visited some lenders to ask questions and collect loan information, examined websites for lenders and called branches to ask for information missing from websites. Loan terms were collected for the 10 largest title and registration lenders based on the number of licensed locations plus Wheels Financial/800LoanMart which lends online and via service centers across the state. CEI staff collected information from state regulators that collect and report industry and borrower data and reviewed data collected by the Consumer Financial Protection Bureau. CEI appreciates the assistance of the Department of Financial Institutions in identifying licensed lenders and active branches.

### Who Bears the Burden of Title Loans?

Consumers who borrow via title loans tend to be lower income. The most recent FDIC National Survey of Unbanked and Underbanked Households found that households using “alternative financial services” for credit, which include payday loans, refund anticipation loans, rent-to-own services, pawn shop loans, and auto title loans, tend to be lower-income, less-educated, younger, black and Hispanic, working-age disabled, and households with volatile income.<sup>2</sup>

The Consumer Financial Protection Bureau national study of 3.5 million title loans in 20 states found that less than a third of title loan borrowers have individual income above \$2,500 a month (\$30,000). Illinois, one of the few states to collect information about borrowers, reports that 72 percent of title loan consumers earn \$30,000 or less per year.<sup>3</sup> CFPB found that borrowers are disproportionately African-American or Hispanic and are more likely to live in unmarried female-headed families.<sup>4</sup>

CEI mapped the location of title loan licensees in 2015 and found that borrowers living in low-income neighborhoods or communities of color are much more likely to have a title lending

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<sup>2</sup> Federal Deposit Insurance Corporation, “2017 FDIC National survey of Unbanked and Underbanked Households,” p. 39. At <https://www.fdic.gov/householdsurvey/2017/2017report.pdf> viewed 7/8/19

<sup>3</sup> Illinois Department of Financial & Professional Regulation, “Illinois Trends Report Select Consumer Loan Products Through December 2017,” 6/19/18, p. 30 at [https://www.idfpr.com/DFI/CCD/pdfs/IL\\_Trends\\_Report%202017.pdf](https://www.idfpr.com/DFI/CCD/pdfs/IL_Trends_Report%202017.pdf) viewed 5/23/19

<sup>4</sup> CFPB Payday/Title Loan Rule Supplemental Research Report, page 316 at [https://files.consumerfinance.gov/f/documents/Supplemental\\_Report\\_060116.pdf](https://files.consumerfinance.gov/f/documents/Supplemental_Report_060116.pdf)

operation in their neighborhood.<sup>5</sup> CEI did not repeat the location analysis based on the 2019 licensee roster of title lenders, but title loan stores continue to be concentrated in these same neighborhoods.

About one percent of American adults use title loans every year, according to a study by Pew Charitable Trusts in 2015 and confirmed by the FDIC National Survey of Unbanked and Underbanked Households which found that 1.4 percent of all households used auto title loans in 2017.<sup>6</sup>

## PRIMER ON TITLE LOANS

Title loans are non-purchase cash loans secured by the borrower's vehicle authorized by A.R.S. 44-281 "Secondary Motor Vehicle Finance Transaction" loans in the Motor Vehicle Time Sales Disclosure Act (A.R.S. Chap. 2.1) under a law enacted in 2000 to authorize these loans outside of the Arizona usury cap set by the Consumer Lender law. At the time of passage, lenders made title loans as unregulated "sale-leaseback" transactions. In the Arizona Court of Appeals case, *SAL Leasing*,<sup>7</sup> the Attorney General challenged these sale-leaseback transactions for violating the Consumer Lender law, arguing that these lease-purchase contracts were often devices used to disguise usurious loans. The Arizona legislature enacted SB 1244 to legalize title loans prior to the Appeals Court ruling that Arizona's Consumer Lender usury law applied to sale-leaseback transactions.<sup>8</sup> After the sunset of payday loans in 2010, payday lenders then migrated to the title loan law in force, making a new type of faux title loans --- registration loans --- as described below.

### Two Types of Title Loans On the Market In Arizona

Two types of loans are made under A.R.S. 44-281: **Title loans** secured by clear titles to borrowers' vehicles and "**registration**" loans available to consumers who hold a vehicle registration but do not own the vehicle outright. The Secondary Motor Vehicle Finance

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<sup>5</sup> CFA/CEI Report at 10. <http://bit.ly/wrongwayreport>

<sup>6</sup> FDIC 2017 FDIC National Survey of Unbanked and Underbanked Households, p. 40, <https://www.fdic.gov/householdsurvey/2017/2017report.pdf>

<sup>7</sup> *Sal Leasing, Inc. v. State ex rel. Napolitano*, 10 P.3d 1221 (Arizona. 2000) (reversing dismissal of UDAP claims and holding that sale-leaseback auto scheme created loans which violated state usury law.) <https://cite.case.law/ariz/198/434/>

<sup>8</sup> Arizona State Senate, Final Revised Fact Sheet for SB 1244, [https://www.azleg.gov/legtext/44/leg/2r/summary/s.1244fir\\_final.doc.htm](https://www.azleg.gov/legtext/44/leg/2r/summary/s.1244fir_final.doc.htm) <https://cite.case.law/ariz/198/434/>

Transaction law defines an authorized loan as a contract that either obtains a security interest in or lien on a motor vehicle other than in connection with sale of that motor vehicle.<sup>9</sup>

Arizona, unlike other states that explicitly authorize title loans, does not require a clear title to make loans “secured” by the borrower’s vehicle at title loan rates.<sup>10</sup> As a result, lenders can profit from the triple-digit rates permitted for vehicle-secured loans even when consumers do not own their vehicles. That said, the legal status of “registration” loans is dubious. Regulators do not require licensees to hold the title to a vehicle used to secure the loan, to obtain a Power of Attorney from a borrower to later file a lien on the title, or to seek agreement from the first lienholder to permit the licensee to add a second or third lien to the title. There is no published guidance from the Arizona Attorney General or from the Arizona Department of Financial Institutions (AZDFI) --- the regulatory agency requiring title lenders to obtain a license if operating in the state --- that permits loans to be secured by encumbered vehicles. However, there have been no enforcement actions to challenge that interpretation, either. In addition, the Arizona Attorney General’s office has not brought a suit to affirm or deny the legal status of registration loans.

### **A No Vote on Prop 200 in 2008 Did Not Impact Title Loans**

Arizona voters rejected triple-digit interest rate consumer lending when they voted NO on the payday loan industry’s Prop 200 in 2008 by a margin of 60 to 40 percent. As a result, the Arizona law authorizing single payment “deferred presentment” payday loans at over 450 percent APR sunset on June 30, 2010. Payday loans became subject to the same rate cap as all other lenders under the Consumer Lender Act, a 36% rate cap for loans up to \$3,000 and 24% for loans over \$3,000 up to \$10,000.<sup>11</sup>

However, the Prop 200 vote in 2008 did not end car title lending at triple-digit rates because the Secondary Motor Vehicle Finance Transaction law authorizing car title lending at up to 204 percent APR is a separate law, not affected by the Prop 200 vote. The title loan law had no sunset date and repeated attempts to repeal or reform the law in succeeding sessions of the Arizona legislature have failed.

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<sup>9</sup> A.R.S. § 44-281(12)(a)(i). Definition of Secondary Motor Vehicle Finance Transaction provision in the Motor Vehicle Time Sales Disclosure Act.

<sup>10</sup> Consumer Federation of America, “CFA Title Loan Regulation as of November 16, 2016,” at [https://consumerfed.org/wp-content/uploads/2017/01/11-16-16-Car-Title-Loan-Regulation\\_Chart.pdf](https://consumerfed.org/wp-content/uploads/2017/01/11-16-16-Car-Title-Loan-Regulation_Chart.pdf) last viewed 7/20/19

<sup>11</sup> AZDFI Regulatory and Consumer Alert, C>/CO-16-01, updated from CL/CO-13-01, June 9, 2016 at [https://dfi.az.gov/sites/default/files/FE-AD-PO-Regulatory\\_and\\_Consumer\\_Alert\\_CL\\_CO\\_06%2009-16-2016.pdf](https://dfi.az.gov/sites/default/files/FE-AD-PO-Regulatory_and_Consumer_Alert_CL_CO_06%2009-16-2016.pdf)

## **Payday Lenders Switched to Title Loan Licenses**

The primary tactic used by payday lenders to continue operations after the payday loan law sunset was to become title loan lenders. When the payday loan law expired in mid-2010, many companies previously licensed as “deferred presentment” lenders simply changed licenses to continue making high-cost loans. In 2015, half of the largest title lenders based on the number of licensed locations had been licensed as payday lenders in 2007.<sup>12</sup> In 2019, five of the ten largest title lenders --- and 37 percent of all title lender licensed locations --- were licensed as payday lenders 12 years ago. These former payday lenders now making title loans include ACE Cash Express, Fast Auto Loans, Buckeye/CheckSmart, Allied Cash Advance, and Check Into Cash.

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<sup>12</sup> CEI/CFA, “Wrong Way Report,” p. 9. <https://bit.ly/wrongwayreport>

## FORMER PAYDAY LENDERS STILL LICENSED TO MAKE TITLE LOANS IN 2019

Payday Loan Licensee (2007)	Title Loan Licensee (2019)	# Title Loan Locations
ACE Cash Express, Inc.	ACE Cash Express, Inc. #1 and #2	39
Fast Payday Loans, Inc.	Fast Auto Loans, Inc.	30
Buckeye Check Cashing II, Inc. #1, Buckeye Checking Cashing of Arizona, Inc. #1	Buckeye Check Cashing of Arizona, Inc.	28
Allied Cash Advance Arizona LLC	Allied Cash Advance Arizona LLC	25
Check Into Cash of Arizona, Inc.	Check Into Cash of Arizona, Inc.	24
1 Stop Check Cashing \$ Payday & Title Loans, LLC	1 Stop Money Centers	8
Galt Ventures d/b/a Speedy Cash	A Speedy Cash Car Title Loans, LLC	12
Arizona Smart Cash Inc. #2	Arizona Smart Cash, Inc. #1	4
Todd Financial Inc.	Todd Car Title, Inc.	4
Total =		174

Source: AZDFI Deferred Presentment Licensee list, 2007 and AZDFI Sales Finance Licensee list May 2019



## **Title Loans Not Permitted in All States**

Title loans at triple-digit rates are authorized by state law in 16 states and are made via loopholes in state laws in another four states.<sup>13</sup> Ohio closed a loophole used by car title lenders to make high-cost loans “secured” by borrowers’ vehicle registrations.<sup>14</sup>

At the federal level, high cost title loans are prohibited for active duty service members under the Military Lending Act and rules adopted by the Department of Defense. Title loans and loans “secured” by borrowers’ vehicles are subject to rules adopted by the Consumer Financial Protection Bureau, scheduled to take effect in part August 2019. Those rules would require lenders to determine borrowers’ ability to repay before making payday and title loans of 45 days or less in duration or longer-term loans structured with balloon payments.

The CFPB protections effective in August 2019 govern preauthorized payment from deposit accounts, a typical feature of “registration” loans in Arizona. Starting in August, title/registration lenders that obtain authorization to collect payment via electronic fund transfer or demand drafts from borrowers’ deposit accounts will be limited to two attempts to withdraw funds that fail due to insufficient funds.<sup>15</sup> However, the ability to repay requirements are suspended until late 2020.

## **Title Loans Are Big Business in Arizona**

The Center for Responsible Lending (CRL) estimates that Arizona borrowers annually pay \$254,924,519 in interest charges for title loans.<sup>16</sup> Late payment penalties and insufficient funds fees permitted to be charged are not included in this sum. Only four states (Alabama, Mississippi, Ohio, and Texas) had a larger title loan charge drain than Arizona, according to CRL’s analysis.

## **Regulation of Title Lenders**

Title loan companies are licensed by the AZDFI as Sales Finance companies. Unlike some other states, Arizona does not require licensed Sales Finance companies, including those making

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<sup>13</sup> Consumer Federation of America, “Car Title Loan Regulation,” 11/16/2016, viewed 5/16/19

<sup>14</sup> Ohio HB 123, 132<sup>nd</sup> General Assembly, Sec. 1321.41(H), implemented 4/27/19, [https://www.com.ohio.gov/documents/fiin\\_HB123\\_Guidance.pdf](https://www.com.ohio.gov/documents/fiin_HB123_Guidance.pdf) viewed 7/8/19

<sup>15</sup> Consumer Financial Protection Bureau, “Payday, Vehicle Title, and High-Cost Installment Lending rule: Payment Related Requirements,” Small Entity Compliance Guide, July 1, 2019 at [https://files.consumerfinance.gov/f/documents/cfpb\\_payday\\_small-entity-compliance-guide.pdf](https://files.consumerfinance.gov/f/documents/cfpb_payday_small-entity-compliance-guide.pdf)

<sup>16</sup> Center for Responsible Lending, “Payday and Car title Lenders Drain Nearly \$8 Billion in Fees Every Year,” Updated April 2019 at [www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-statebystate-fee-drain-apr2019.pdf](http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-statebystate-fee-drain-apr2019.pdf)

title loans, to report loan volume, rates charged, or repossession data. Therefore, there is no official state-specific information on this industry. AZDFI does not publish the roster of Sales Finance licensees that make loans under the Secondary Motor Vehicle Finance Transaction law.

Title lenders are also eligible to enter the Regulatory Sandbox Program in the Office of Attorney General.<sup>17</sup> Lenders testing “innovations” can operate for a limited period of time without a license but are subject to the same product requirements as licensees for title loans. One sandbox participant has been admitted to make title loans, but the product is not currently offered to consumers on the Sweetbridge website. The Office of Attorney General confirmed that title loans have yet to be provided by Sweetbridge.<sup>18</sup> As a result, the sandbox title lender participant is not included in this count of licensed/authorized lenders in Arizona.

### **Title loan rates permitted in Arizona**

Title loans, called “secondary motor vehicle finance transactions” in Arizona law, have tiered rate limits based on a monthly finance rate. The state law also requires lenders to state an annual rate calculated by multiplying the monthly rate times 12 months. Arizona lenders are also subject to the federal Truth in Lending law. Maximum title loan rates tiered based on size of the loan:

- \$500 or less, a monthly finance rate of 17% (204% annual rate)
- \$501 up to \$2,500 dollars, a monthly finance rate of 15% (180% annual rate)
- \$2,501 to \$5,000, a monthly finance rate of 13% (156% annual rate)
- More than \$5,000, a monthly finance rate of 10% (120% annual rate)

No additional fees, including a title fee, are permitted by the law and AZDFI ruling.<sup>19</sup> There are no limits on the size or duration of loans that can be made, no requirement for equal installment payments, no cooling-off period between loans, and no incentive for lenders to determine borrowers’ ability to repay loans while still meeting other financial obligations.

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<sup>17</sup> <https://www.azag.gov/fintech>

<sup>18</sup> <https://sweetbridge.com> viewed 7/10/19. Electronic communication from the Office of Attorney General, “At this time, this Office’s understanding is that Sweetbridge has not provided any loans.” 7/16/19, on file with CEI.

<sup>19</sup> Regulatory Alert, Arizona Department of Financial Institutions, SF-13-01 “Allowable Charges for Auto Title Lenders and Document Preparation Fee Charges,” May 24, 2013. [https://dfi.az.gov/sites/default/files/DFI-FE-AD-Final%20Regulatory\\_Alert%20\\_Secundary\\_Motor\\_Vehicle\\_Dealers\\_SF13-01-%20052413.pdf](https://dfi.az.gov/sites/default/files/DFI-FE-AD-Final%20Regulatory_Alert%20_Secundary_Motor_Vehicle_Dealers_SF13-01-%20052413.pdf)

## Security for Title Loans

Although registration loans are permitted, as discussed above, title lenders typically require borrowers to provide their clear titles to obtain a title loan. Lenders may file a lien on the title when the loan is made or retain the right to later file a lien on the vehicle in order to collect on the loan through repossession. Some lenders include claims on the proceeds of insurance policies on vehicles, accessories added to the vehicle, and anything left in the vehicle when it is towed away. For example:

- TitleMax contract: "To secure the amount owing and performance of your other obligations under this Loan Agreement, you grant us a security interest in the Motor Vehicle listed above, including all accessories and parts now or later attached, all insurance proceeds from any policy insuring the Motor Vehicle, and other proceeds received for the Motor Vehicle." The contract also forbids the borrower from removing any accessory: "Any accessory, equipment, or replacement parts stay with the Motor Vehicle."<sup>20</sup>
- Tio Rico Te Ayuda contract: "To Protect us if you do not pay as promised or if you break some other promise on this contract, you give us a security interest in the vehicle, all accessions thereto, and any proceeds of the vehicle. This security interest also covers eqlupment (sic), accessories, and parts (other than accessories) added to the vehicle within 10 days of this contract. You also give us a security interest in the proceeds of any physical damage insurance policy on the vehicle and in any insuance (sic) premiums which are refunded."<sup>21</sup>

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<sup>20</sup> TitleMax of Arizona, Inc. contract, signed 5/19/17, on file with CEI.

<sup>21</sup> Tio Rico Te Ayuda of Arizona, Inc. contract, signed 10/06/18, on file with CEI.

## TRENDS IN TITLE LOAN MARKET IN ARIZONA SINCE 2015

### TREND: CONSOLIDATION OF LICENSEES AND GROWTH OF OUT-OF-STATE LENDERS

As of May, 2019, AZDFI licenses 73 companies under 80 unique license numbers<sup>22</sup> to make loans under the Sales Finance law authorizing “secondary motor vehicle finance transaction” loans. These companies have 476 licensed locations which include headquarters and branches. In addition to licensed branches, some online title lenders list multiple unlicensed “service” locations where consumers can get help to submit loan applications and send required documentation. We also found several online loan sites offering loans to Arizona consumers that are not on the AZDFI licensee roster. As a result, the tally of title loan lenders and locations in Arizona is a conservative estimate of the size of the industry.

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<sup>22</sup> Some companies hold more than one license to make title loans. For example, TitleMax/TitleBucks holds AZDFI SF-0917582 and SF-0920145. Wheels Financial holds four different SF license numbers.

## 2019 ARIZONA CAR TITLE LENDER FACTS

### 15 LARGEST TITLE LENDERS BY NUMBER OF LICENSED LOCATIONS

Rank	Name / DBA	AZDFI SF License #	Licensed Locations
#1	TitleMax / TitleBucks	SF-0917582, SF-0920145	82
#2	ACE Cash Express	SF-0911038, SF-0911039	39
#3	Fast Auto Loans, Inc.	SF-0904877	30
#4	Buckeye Check Cashing of AZ / CheckSmart	SF-0914026	28
#5	Allied Cash Advance	SF-0909493	25
#6	Cash Time Title Loans, Inc.	SF-0903593	24
#7	Check Into Cash of Arizona	SF-0910897	24
#8	Checkmate Express Corp.	SF-0910900	23
#9	LoanMax, LLC	SF-0908734	19
#10	SMART Pawn 1 <sup>st</sup>	SF-0945245	17
#11	A Speedy Cash Car Title Loans / Todd Car Title, Inc.	SF-0904074, SF-0906262	16
#12	AAA Auto Title Loans / Cash 1	SF-0907852	14
#13	Tio Rico Te Ayuda of Arizona Inc.	SF-0946935	11
#14	Phoenix Title Loans L.L.C.	SF-0907496	10

**Plus:** Wheels Financial Group/LoanMart Online lenders with 97 Arizona locations for servicing loans; SF-0910582, SF-0924928, SF-0924933, SF-0931438 plus five licensed branch locations.

Updated with AZDFI branch list 5/30/19, count of 800 LoanMart service centers in Arizona list.

CEI Analysis of 2019 Arizona Department of Financial Institutions' Sales Finance licensee list and supplemental information. As of May 30, 2019.

[www.economicintegrity.org](http://www.economicintegrity.org)

The total number of title lenders is down in Arizona, compared to late 2015 when CEI identified 100 companies operating 633 licensed title lender locations in Arizona. Large chain lenders license fewer locations and many small lenders are no longer licensed to make title loans. For example, in 2015, ACE Cash Express licensed 61 locations; in 2019, ACE has 39 locations licensed in Arizona. TitleMax/TitleBucks is down from 96 locations in 2015 to 81 in 2019. Fast Auto Loans, Inc. went from 50 to 30 licensed locations from 2015 to 2019. QC Financial withdrew altogether from the Arizona market. Single location local operations account for most of the reduction in licensed lenders in Arizona.

This shrinkage of title lenders is also seen in states where regulators collect industry-wide information on licensed lending. In California, where title loans are made by licensees under the California Finance Law that does not cap interest rates for consumer loans over \$2,500, the combined principal amount of auto title-secured loans in 2017 fell 3.15 percent, to \$419.5 million from \$433.2 million while the number of such loans increased 4.5 percent to 112,983 in 2017 over 108,000 in 2016.<sup>23</sup> Car title lending numbers in Virginia,<sup>24</sup> Tennessee,<sup>25</sup> and Illinois<sup>26</sup> mirror this trend.

Sixteen of the 73 total Arizona licensed companies or 22 percent do not have websites or Facebook pages while 57 companies or 78 percent do. Consumers can use online application forms to start the credit process at 32 company websites while the entire loan transaction can be conducted via the website for at least a dozen companies.

One trend contributing to the reduction in local companies licensed to make title loans in Arizona is the use of local outlets to assist borrowers by online lenders. California-based Wheels Financial/800LoanMart offers title loans online with a roster of 97 "Arizona Participating Title Loan Stores" as of the end of May, 2019.<sup>27</sup> These locations range from jewelry stores, insurance agents, pawn shops, auto dealers, title lenders to gold-buyers.

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<sup>23</sup> Press release, "Installment Consumer Lending by California Non-Banks Declined 9.9% in 2017," Department of Business Oversight, June 18, 2018 at <https://dbo.ca.gov/2018/06/18/5627/>

<sup>24</sup> Virginia State Corporation Commission, "The 2017 Annual Report of the Bureau of Financial Institutions," <https://www.scc.virginia.gov/bfi/annual/aro2-17.pdf> In 2017, 25 licensed lenders with 405 locations, down from 29 lenders with 473 locations in 2015. Number of loans 160,073 in 2015 fell to 145,627 in 2017.

<sup>25</sup> Tennessee Department of Financial Institutions, "2018 Report on the Title Pledge Industry," April 2018, <https://www.tn.gov/content/dam/tn/financialinstitutions/new-docs/TP%20Annual%20Report%202018.pdf> 1071 licensed title pledge locations in 2014 fell 830 end of 2017. 181,367 new agreements in 2016 down from 250,257 in 2014.

<sup>26</sup> Illinois Department of Financial & Professional Regulation, "Illinois Trends Report Select Consumer Loan Products Through December 2017," 6/19/18 [https://www.idfpr.com/DFI/CCD/pdfs/IL\\_Trends\\_Report%202017.pdf](https://www.idfpr.com/DFI/CCD/pdfs/IL_Trends_Report%202017.pdf) 100,386 loan transactions in 2013 fell to 68,537 in 2017.

<sup>27</sup> <https://www.800loanmart.com/title-loans-arizona/>

Twenty-five of LoanMart's 97 locations are separately licensed in Arizona as title lenders in 2019, either because they make smaller loans in addition to offering LoanMart's larger loans or because they provide lending assistance that requires a state license. Three participating title loan stores for LoanMart were licensed as title lenders in 2015 but no longer show up on the AZDFI roster of licensed Sales Finance companies. SmartPawn1st recently surrendered some of its Sales Finance licenses and as of late May has 23 locations listed as "Participating Title Loan Stores" for LoanMart.<sup>28</sup>

### **Lenders Expand Registration Loans in Arizona**

Licensed lenders make two variations of loans under the secondary motor vehicle finance transaction law: title loans secured by a clear title to the borrower's vehicle and "registration" loans made to borrowers who are still paying on their vehicles and do not hold a clear title.

Twenty-five licensed lenders with 359 licensed locations or 75 percent make "registration loans." This is up from 2015 when 20 companies with almost 50 percent of locations made these loans. In 2019 national title loan chain TitleMax started making registration loans called "Personal Loans" in Arizona.

Allied Cash Advance is the only licensee that makes only registration loans under the Secondary Motor Vehicle Finance Transaction law. In 2015, Allied made both title and "registration" loans. A new entrant in Arizona, Simple Fast Loans makes online registration loans to customers of Southwest Title Loans as a "sister" company.<sup>29</sup> Both companies are affiliates of Community Loans of America based in Georgia.

Many of the large title lenders that previously made payday loans in Arizona and that presently offer payday loans at triple-digit rates in states that authorize the product make registration loans in Arizona to consumers who do not hold clear title to their vehicles. These include ACE Cash Express, Fast Auto Loans, Buckeye/CheckSmart, Allied Cash Advance, Check Into Cash, and A Speedy Cash Title Loans.

### **Title Lenders Headquartered Out-of-State**

Eighteen licensed title lenders are headquartered outside Arizona, accounting for 25 percent of companies and 59 percent of the licensed locations offering loans in Arizona. At least six out-of-state licensed companies offer loans online without providing physical locations in Arizona with the complete transaction handled electronically. In some cases, consumers apply for loans online, transmit documents, then close loans with local agents.

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<sup>28</sup> <https://www.800loanmart.com/title-loans-arizona/> 7/3/19

<sup>29</sup> <https://www.southwesttitleloans.com/personal-loans/> click on "Proceed" to see link to Simple Fast Loans website. "These loans are now funded through our sister company Simple Fast Loans."

For example, Finova Financial d/b/a NFH Arizona, LLC, based in Florida, offers an online “Finova CLOC,” or “Consumer Loan on Car” as a licensed lender in Arizona (SF-0936922). Loans are obtained online and payments can be made at Moneygram locations.<sup>30</sup> Loans are for 12 to 24 months and cost the maximum rates permitted in Arizona, 204 percent annual rates for loans of \$500 or less and maximum rates for larger loan brackets to 120 percent annual rates for more than \$5,000. Finova also discloses a Filing Fee of \$8 which should not be permitted according to a directive from the Arizona Department of Financial Institutions.<sup>31</sup> To obtain a CLOC from Finova, Arizona consumers must provide proof of comprehensive and collision insurance on the vehicle, with a deductible of \$500 or less with Finova named as the loss payee through the maturity date of the loan. Borrowers that do not have satisfactory insurance coverage must buy Finova’s Voluntary Debt Cancellation Addendum which the company elsewhere notes is not an obligation, suggesting that borrowers can purchase similar coverage elsewhere.<sup>32</sup>

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<sup>30</sup> <https://www.finovafinancial.com/> viewed 1/31/19

<sup>31</sup> Regulatory Alert, Arizona Department of Financial Institutions, SF-13-01 “Allowable Charges for Auto Title Lenders and Document Preparation Fee Charges,” May 24, 2013.  
[https://dfi.az.gov/sites/default/files/DFI-FE-AD-Final%20Regulatory\\_Alert%20\\_Secondary\\_Motor\\_Vehicle\\_Dealers\\_SF13-01-%20052413.pdf](https://dfi.az.gov/sites/default/files/DFI-FE-AD-Final%20Regulatory_Alert%20_Secondary_Motor_Vehicle_Dealers_SF13-01-%20052413.pdf)

<sup>32</sup> <https://www.finovafinancial.com/ratesandlegal> viewed 7/11/19



## AZDFI-LICENSED TITLE LENDERS HEADQUARTERED OUTSIDE ARIZONA

Licensee	AZDFI #	Headquarters	#lic.
TitleMax of Arizona, Inc. / TitleBucks	SF-0917582, SF-0920145	Georgia	81
ACE Cash Express, Inc. #2	SF-0911038, SF-0911039	Texas	39
Fast Auto Loans, Inc.	SF-0904877	Georgia	30
Buckeye Check Cashing of Arizona, Inc.	SF-0914026	Ohio	28
Allied Cash Advance Arizona LLC	SF-0909493	Ohio	25
Check Into Cash of Arizona, Inc.	SF-0910897	Tennessee	24
LoanMax, LLC	SF-0908734	Georgia	19
A Speedy Cash Title Loans, LLC / Todd Car Title, Inc.	SF-0904074, SF-0906262	Kansas	16
Southwest Title Loans, Inc.	SF-0950286	Georgia	7
Wheels Financial Group, LLC	SF-0910582, SF-0924928, SF-0924933, SF-0931438	California	4*
MLJD, LLC	SF-0910631	Delaware	2
USA Cash Services of Arizona Inc. #2	SF-0918028	Utah	2
Moo Loans	SF-0922904	California	1
Westlake Services, LLC	SF-0917316	California	1
Wilshire Commercial Capital LLC	SF-0911158	California	1
Simple Fast Loans	SF-1001084	Georgia	1
NFH Arizona, LLC	SF-0936922	Florida	1
ASAP Title Loans, Inc.	SF-0950156	California	1

**\*Plus Wheels Financial lists 97 "Arizona Participating Title Loan Stores," most of which are not separately licensed as Sales Finance lenders by AZDFI.**

## **Title Lenders Sell Other Products and Offer Online/Mobile Access**

Most companies licensed as title lenders offer other products or services in addition to loans subject to the Secondary Motor Vehicle Finance Transaction law. Most lenders sell other financial services, such as check-cashing, pawn loans, gold-buying, auto sales, money order sales, and prepaid debit cards.

Licensee Tradition One Media/MaxCash Title Loans is a lead generator or referral service and says it works with title lenders nationwide to match borrowers to lenders.<sup>33</sup>

Four licensed title lenders are also Motor Vehicle Department third-party service providers for ADOT, handling citizens' title and tag services for a fee while also making loans secured by the title to consumers' vehicles. These include 1Stop Money Centers, AAA Auto Title Loans/Cash 1, Arizona Loan Solutions, and Sonoran Financial Services. ADOT does not post a complete roster of 3<sup>rd</sup> party service providers that are authorized to process titles and liens, so there may be additional lenders offering this service.

## **TREND: INCREASED RISK OF TITLE LOAN DEBT TRAP**

Car title loan terms from the ten largest lenders plus the largest online licensee illustrate the factors that make title loans a debt trap for borrowers. The risk of losing the family's vehicle to repossession for failure to keep current on a title loan is the main reason title loan borrowers are trapped in debt.

Features of car title lending that create a debt-trap for borrowers include the extreme high cost of loans exacerbated by difficulty comparing the cost of loans prior to application; lending based on the value of the asset, not the ability of the borrower to repay the loan without repossessing the asset; payment terms that keep borrowers on a debt treadmill, including balloon payment loans and interest-only payments with continuous renewal of the loan; and the threat of repossession of the family vehicle or high-costs of being sued for nonpayment.

### **Risk of Repossession**

Arizona regulators do not collect information on licensed title lending, so we do not have state-specific statistics on the number of vehicles repossessed by licensed lenders or the economic loss to families when loans default. CFPB research documents the harm of repossession to title loan borrowers, however. CFPB found that 33% of title loan borrowers eventually default on a

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<sup>33</sup> <https://www.maxcashtitleloans.com/faq/> viewed 12/10/18

sequence of single-payment loans. One in five single-payment title loan borrowers have their vehicle repossessed by the lender (Rule at 54494).<sup>34</sup>

Other state regulators report the repossession experience of their borrowers. The Virginia Bureau of Financial Institutions reports 14,621 repossessions in 2017 with 145,627 loans made to 122,555 individuals. This equates to 36 repossessions per title lender location and 12 percent of borrowers losing their vehicles used to secure title loans in 2017.<sup>35</sup> California regulators report that 20,280 repossessions were conducted in connection with auto title loans in 2017 on 112,983 loans (not unique borrowers) or 18 percent repossession rate based on volume of loans.<sup>36</sup>

### **High Cost of Default Pressures Borrowers to Keep Paying**

If a borrower defaults on a title loan secured by a clear title to the vehicle, the lender can repossess the vehicle and sell it to settle the debt. If the proceeds of the sale are not sufficient to cover the loan, interest and collection costs, lenders in Arizona can sue borrowers to collect the deficiency balance. Lenders can choose to sue for nonpayment rather than repossess the vehicle. Either way, the high cost of default is a factor incentivizing the borrower to keep paying on a predatory title loan.

Default on a title loan is expensive. Defaulters face court costs and attorneys' fees if sued. In addition, borrowers can be charged a "reasonable amount" for the cost of collection and attorney's fees if nonemployees represent the lender in court as well as court costs. For example, the judgment entered in Maricopa County Justice Court on a title loan debt included \$486.35 for the loan principal and \$421.52 in interest owed, plus \$437.35 in costs and \$400 for the lender's attorney fee, for a total of \$837.35 in costs to collect \$907.87 in loan principal and interest.<sup>37</sup>

### **Debt Treadmill**

Repeat borrowing at triple-digit rates to avoid repossession of the vehicle used to secure the loan traps title loan borrowers in debt. Arizona does not collect information on repeat borrowing. Tennessee reported that 51 percent of loans that were renewed during calendar

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<sup>34</sup> CFPB Payday, Vehicle Title, and Certain High-Cost Installment Loans, Final Rule, 12 CFR Part 1041 Federal Register 11/17/17 at <https://www.govinfo.gov/content/pkg/FR-2017-11-17/pdf/2017-21808.pdf>

<sup>35</sup> Virginia State Corporation Commission, "2017 Annual Report of the Bureau of Financial Institutions, p. 57, <https://www.scc.virginia.gov/bfi/annual/aro4-17.pdf> viewed 5/22/19

<sup>36</sup> California Department of Business Oversight, "California Department of Business Oversight Annual Report 2017," June 2018, p. 2, 31 at <https://dbo.ca.gov/wp-content/uploads/sites/296/2018/11/2017-Annual-Report-CRMLA-Final.pdf> viewed 5/20/19

<sup>37</sup> <http://www.superiorcourt.maricopa.gov/docket/CivilCourtCases/caseInfo.asp?caseNumber=CC2018-072883> viewed 7/23/19

year 2016 were renewed eight times or less. Of the total number of agreements entered into in calendar year 2016 in Tennessee, 89 percent were not paid in full after 30 days without renewing.<sup>38</sup> New Mexico regulators reported that 55.87 percent of high-cost title loans were renewed, refinanced or extended in 2017.<sup>39</sup>

TitleMax is the largest lender in Arizona, based on the number of licensed locations. The former CEO of TitleMax stated in a deposition that a typical 30-day loan is “typically renewed eight (8) times,<sup>40</sup>” for a total of nine one-month loans. The maximum cost of a \$1,000 title loan in Arizona is \$150 per month or 180% APR. If repaid after nine months, a \$1,000 loan would incur \$1,350 in finance charges for a total repayment of \$2,350.

The Consumer Financial Protection Bureau documented the debt trap caused by single payment and installment payment title loans. CFPB found that 56 percent of all single-payment 30-day title loans are in sequences (initial loan and any subsequent loans) of four loans or more; 36 percent contained seven or more loans; and 23 percent had 10 or more loans.<sup>41</sup> CFPB found that 83 percent of single-payment title loans are reborrowed on the same day and 85 percent are borrowed within a month of the prior loan payment.<sup>42</sup> CFPB also found that one-in-five or 20 percent of vehicle title installment loans are refinanced.<sup>43</sup>

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<sup>38</sup> Tennessee Department of Financial Institutions, “2018 Report on the Title Pledge Industry,” April 2018, p. 8 <https://www.tn.gov/content/dam/tn/financialinstitutions/new-docs/TP%20Annual%20Report%202018.pdf> viewed 5/22/19

<sup>39</sup> New Mexico Regulation and Licensing Department Financial Institutions Department, “2017 New Mexico Installment Loan Product Annual Report, Oct. 1, 2018, p.4 [http://www.rld.state.nm.us/uploads/files/FID\\_2017\\_SL\\_Annual\\_Report\(2\).pdf](http://www.rld.state.nm.us/uploads/files/FID_2017_SL_Annual_Report(2).pdf) viewed 6/4/19

<sup>40</sup> Robinson III, J.W. (2009). Affidavit of John W. Robinson III, President of TitleMax Holdings LLC, U.S. Bankruptcy Court for the Southern district of Georgia, Savannah Division.

<sup>41</sup> CFPB Final Rule at Federal Register p. 54494.

<sup>42</sup> CFPB, “Single-Payment Vehicle Title Lending,” May 2016, p. 10.

[https://files.consumerfinance.gov/f/documents/201605\\_cfpb\\_single-payment-vehicle-title-lending.pdf](https://files.consumerfinance.gov/f/documents/201605_cfpb_single-payment-vehicle-title-lending.pdf)

<sup>43</sup> CFPB, Supplemental Findings on Payday, Payday Installment, and Vehicle title Loans, and Deposit Advance Products, June 2016, p. 14.

[https://files.consumerfinance.gov/f/documents/Supplemental\\_Report\\_060116.pdf](https://files.consumerfinance.gov/f/documents/Supplemental_Report_060116.pdf)

## TITLE LOAN TERMS LARGEST LENDERS

Licensee	Min/Max Loan	Min/Max Term	Cost	Schedule
TitleMax	\$250-\$10,000	Most paid in 8 to 9 months	No Info on website or posted in store	Monthly installments
ACE Cash Express	\$100-\$2,500	One-month example	204-180%	Single payment
Fast Auto Loans	\$300-\$15,000	3, 6, or 12 months	No Info	Monthly, interest only payments OK
Buckeye/CheckSmart	\$150-\$25,000	One month	No Info	Monthly, interest only payments OK
Check Into Cash	\$100-\$25,000	12-36 months	168% for \$2,000 example	Monthly Installments
Cash Time Title Loan	\$100 - \$100,000	"Depends on payment Schedule"	203.434% to 131.638% examples on website	Monthly or bi-weekly installments. Balloon loans.
Checkmate Express	Up to 65% of car	Indefinitely	No Info, clerk quoted max rate	Monthly, interest only payments OK
LoanMax LLC	\$100-\$10,000	One month or more	No Info, clerk quoted max rate	Single payment Monthly
A Speedy Cash Car Title/Todd Car Title	Up to \$25,000		Up to 204%	Installments
AAA Auto Title Loan/Cash 1	Up to \$50,000	Up to 18 months	120-204%	Installments due on paydays
Wheels Financial Group/800LoanMart	\$1,000 and up based on value of vehicle	12-48 months	No AZ Info on website. Utah rates to 204%	Monthly Installments

## Extreme high-cost to borrow

Loans secured by the borrower's vehicle cost triple-digit rates under Arizona law. Most lenders charge up to the legal maximum rates for loans. To visualize loan costs based on these rate caps, see one lender's disclosure: "Examples of Fully Amortized Loan Terms and Costs."<sup>44</sup>

- \$500 loan, 13 bi-weekly payments, \$314.51 Finance Charge, \$814.51 Total Payments 203.446% APR
- \$2,000 loan, 18 monthly payments, \$3,831.64 Finance Charge, \$5,831.64 Total Payments, 178.330% APR

A few title lenders in Arizona make loans at less than the legal maximum. Presto Auto Loans charges 60.83 percent APR for title loans and loans are repaid in equal installments.<sup>45</sup>

## Longer Term Debt

Arizona sets **no limit on the duration of a title loan** made under the Secondary Motor Vehicle Finance Transaction law. As a result, relatively small loans at triple-digit rates can have very long terms with resulting hefty finance charge costs to pay.

Two of the ten largest lenders offer longer maximum loan terms in 2019 compared to 2015. Fast Auto Loans are now for up to twelve months while Check Into Cash title loans have terms as long as thirty-six months.

An extended repayment period for a relatively small loan adds up.

- A Speedy Cash posts an example of a \$500 title loan repaid in 39 bi-weekly payments of \$40.97 each for a total of payments \$1,597.83 at the maximum APR of 204 percent permitted in Arizona. An example with 18 monthly installment payments for a \$500 loan at 204 percent APR results in total repayment of \$1,626.35.<sup>46</sup>
- A \$2,000 loan by Tio Rico Te Ayuda at 178.4433 percent APR repaid over 49 bi-weekly payments resulted in a \$5,007.01 finance charge and total of payments \$7,007.01.<sup>47</sup>
- TitleMax title loan contract for \$1,200 at 144.41 percent APR repaid over 24 months had a finance charge of \$2,508.10, more than double the loan amount, and total of payments of \$3,708.10.<sup>48</sup>

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<sup>44</sup> See one lender's disclosures to visualize loan costs based on these rate caps:

<https://cashtime.com/wp-content/uploads/2018/01/APR-Fees-Interest-01.31.2018.pdf> 5/8/19

<sup>45</sup> <https://prestoauto loans.com/questions/> viewed 4/10/19

<sup>46</sup> <https://www.speedycash.com/rates-and-terms/arizona?g=1> viewed 5/1/19

<sup>47</sup> Tio Rico Te Ayuda of Arizona, Inc. contract, signed 9/20/18, on file with CEI.

<sup>48</sup> TitleMax contract, signed 5/19/17, on file with CEI.

## Large Loans at Triple-Digit Rates

Arizona's title loan law sets **no maximum loan amount** that can be charged 120 percent APR, so larger loans repaid over years can be made at these triple-digit rates. One licensee told a surveyor that loans up to \$100,000 cost the max 120% annual rate. The minimum/maximum loan sizes offered by the largest lenders in Arizona are similar to those found in 2015 for the same companies. Fast Auto Loans has a higher minimum loan in 2019 of \$300 compared to \$50 in 2015. Buckeye/Checksmart's minimum loan is up \$50 to \$150 in 2019.

Salome/d/b/a Don Dinero posts a cost illustration for a six-installment \$5,100 loan at 120 percent APR which is the rate permitted in Arizona for loans of \$5,000 or more. The finance charge comes to \$1408.43 for a total of payments of \$6,508.43 for just a six-month loan.<sup>49</sup>

Even a very small \$300 loan from Allied Cash Advance illustrates the high cost of drawn out payment schedules. The loan costs 138.79 percent APR, below the maximum 204 percent annual rate for loans up to \$500, and was scheduled to be repaid in 37 bi-weekly payments over a five-month period with a finance charge of \$398.76 and total of payments \$698.76.<sup>50</sup>

Examples of larger title loan costs:

- NoCreditTitleLoans.com posts an example of the loan costs for loans up to \$5,000 with two years of monthly payments at an APR of 60 percent, half the legal maximum of 156 percent. Total interest is \$3,675.52, with total payment \$8,675.52 (total not shown).<sup>51</sup>
- Choice Motor Credit offers loans up to \$500,000, with loan terms from 30 days to 36 months. Loans for vehicle restoration or customizing of vehicles top out at \$50,000.<sup>52</sup>
- Biltmore Loan and Jewelry's auto title loans can be as much as \$175,000.<sup>53</sup>
- Cash Time loan of \$4,100, repaid in 24 monthly installments of 460.58 at 121.48% APR, incurred a finance charge of \$6,953.94 and total of payments \$11,053.94.<sup>54</sup>
- MaxCash Loan Center offers title loans up to \$50,000 and charges 120 percent APR for loans over \$5,000 up to the maximum size loan.<sup>55</sup>

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<sup>49</sup> <https://dondinerofinancial.com/rates-notice/> viewed 12/12/18

<sup>50</sup> Allied Cash Advance Arizona LLC Contract, signed 5/16/18, on file with CEI.

<sup>51</sup> <https://www.nocredittitleloans.com/> viewed 4/9/19

<sup>52</sup> <https://www.choicemotorcredit.com/loan-products/restoration-equity-title-loans/> viewed 1/30/19

<sup>53</sup> <https://www.biltmoreloanandjewelry.com/collateral-loans-in-phoenix/title-loans-in-arizona/> 12/10/18

<sup>54</sup> Cash Time Title Loans, Inc. contract, signed 9/4/13, on file with CEI.

<sup>55</sup> <https://www.maxcashaz.com> viewed 5/7/19

## Hidden Cost of Title Loans prior to Signing Contracts

Arizona's law does not require title lenders to post their rates in stores or on websites or to provide cost information to aid comparison shopping for borrowers. Only some licensees post loan cost examples in stores or on websites. For example, the only information about loan terms on the Buckeye/CheckSmart website for loans in Arizona is the size of an Express (Registration) Loan of \$150 to \$5,000; a Motorcycle Title Loan from \$750 to \$5,000, and a Vehicle Title Loan from \$150 to \$25,000.<sup>56</sup> The only online CheckSmart cost disclosures are provided for title loans in California.<sup>57</sup> By comparison, AAA Auto Title Loans d/b/a Cash 1 provides a "Know Before You Owe" disclosure form on its website that shows the APR for various loans, a cost comparison chart for a \$1,000 loan, and a chart showing the total interest paid for shorter vs. longer loan terms.<sup>58</sup>

## Title Loans Subject to Federal Truth in Lending Act

State-licensed lenders are subject to federal credit laws that govern the advertisement of the cost of credit including the Annual Percentage Rate (APR). Arizona law caps rates as a monthly percentage and requires lenders to multiply the monthly cap by twelve to disclose the Annual Rate in addition to the federally-required APR. Some lenders in the past advertised only the monthly rate without including the Arizona annual rate or the APR. CEI filed complaints in 2016 with the Consumer Financial Protection Bureau about Arizona title lenders that advertised only a monthly percentage rate. CFPB filed enforcement actions against five Arizona title lenders. CFPB settled Truth in Lending Act cases against Auto Cash Leasing, LLC;<sup>59</sup> Interstate Lending, LLC;<sup>60</sup> Oasis Title Loans, LLC;<sup>61</sup> Phoenix Title Loans, LLC;<sup>62</sup> and Presto Auto Loans, Inc.<sup>63</sup> The consent orders required lenders to pay a civil money penalty and to comply with Truth in Lending requirements.

As of 2019, two of the five companies cited by CFPB are no longer in the title loan business (Interstate Lending, LLC and Oasis Title Loans). Auto Cash Leasing has a single website page

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<sup>56</sup> <https://www.ccfi.com/checksmart/> select Arizona from drop down box, viewed 6/27/2019

<sup>57</sup> <https://www.ccfi.com/california-retail-rates-and-terms/> viewed 6/27/2019

<sup>58</sup> <https://www.cash1loans.com/loan-rates-fees-financial-fundamentals.aspx> click on Arizona "Know Before You Owe." Viewed 7/1/19

<sup>59</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/auto-cash-leasing-llc/>

<sup>60</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/interstate-lending-llc/>

<sup>61</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/oasis-title-loans-llc/>

<sup>62</sup> <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/phoenix-title-loans-llc/>

<sup>63</sup> <https://www.consumerfinance.gov/administrative-adjudication-proceedings/administrative-adjudication-docket/presto-auto-loans-inc/>



which does not disclose the cost of its title loans.<sup>64</sup> Phoenix Title Loans displays the APR for certain loans and does not advertise a monthly percentage rate on its website.<sup>65</sup> Presto Auto Loans, Inc. answers the online question “What will it cost me?” with “5% per month on the principal unpaid balance. All of our loans are at 60.83% APR.”<sup>66</sup> By disclosing the APR in the same size type and in proximity to the monthly rate quote, Presto does not violate TILA advertising rules. A store clerk at the Prescott Valley Presto store also quoted the APR without being prompted. The only title lender in the 2019 survey that advertised a “Monthly Percentage Rate” without an Annual Percentage Rate disclosure was Cheap Title Loans in the Tucson market.<sup>67</sup>

### Lenders Sell “See How Much You Can Get for Your Car” Debt

Many online short loan application forms ask for the make and model and year of the borrower’s vehicle to provide information on how much credit is available, instead of asking borrowers how much they need to borrow. For example, Better Title Loans says “How Much Cash Can I Get?” and provides a form that asks for contact information plus the make, model and year of the borrower’s vehicle.<sup>68</sup> This marketing tactic pushes borrowers to take out more debt than they may have needed. For example, an Allied Cash Advance loan packet included a loan contract for a \$300 loan and a sheet headed “Your Maximum Approved Transaction Amount” for \$2,925 offered to the borrower.<sup>69</sup>

TitleMax runs television ads showing excited borrowers waiving cash and saying “I got \$XXX from TitleMax!”<sup>70</sup> The TitleBucks website shows a man with a fistful of cash with the question “How Much Cash Can I Get!” with a form asking about the vehicle year.<sup>71</sup>

Check Into Cash’s website asks consumers to submit information on their car, including the year, make, model and series, plus name, cell phone number, ZIP and email address to find out

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<sup>64</sup> <https://www.autocashtitleloans.com/> viewed 6/14/19

<sup>65</sup> <https://www.phoenixtitleloans.com/how-do-title-loans-work/> viewed 4/29/19. “If you decide to take less than half of the cash offer we’ve given you, then we will instantly and automatically lower your interest rate to 60% APR!” Also discloses APR for “preferred title loans.”

<sup>66</sup> <https://prestoautoloans.com/questions/> viewed 4/10/19.

<sup>67</sup> <https://cheaptitleloans.com/> viewed 6/4/19. “Current Rate: 6% MPR!”

<sup>68</sup> <https://www.bettertitleloans.com/arizona-car-title-loan/> viewed 4/10/19

<sup>69</sup> Allied Cash Advance Arizona LLC contract dated April 9, 2018, obtained from Southern Arizona Legal Aid, on file with CEI.

<sup>70</sup> <https://www.ispot.tv/ad/woR3/titlemax-need-it-now> viewed 7/25/19

<sup>71</sup> <https://www.titlebucks.com/faws/> viewed 12/10/18

“What’s My Car Worth? There is no obligation. This is not an application.”<sup>72</sup> Borrowers then bring their documents to a store to obtain a loan.

### **Title Loans are Asset-based Lending**

Many Arizona title lenders promote their loans based on the value of the borrower’s vehicle, not on the borrower’s creditworthiness. For example:

- 1Stop Title Loan says “First, we do not check your credit. Do you have bad credit? That is not a problem...Don’t forget, your credit history is not even taken into account when applying for a title loan in Phoenix.”<sup>73</sup>
- Auto Title Loans and More says “The amount of that loan is not estimated by the borrower’s credit score but is estimated by the vehicle’s value.”<sup>74</sup>
- TitleMax advertises “At TitleMax, the value of your car title replaces the need for a good credit history; therefore, we can put the money you need in your hand regardless of your credit score.”<sup>75</sup>
- TitleBucks says “Your car is your credit and is used as your collateral, so it doesn’t matter if you have good credit, bad credit, or no credit at all, you can keep driving your car and turn your title into bucks with TitleBucks!”<sup>76</sup>
- LoanMax states “At LoanMax, we believe owning your own vehicle free and clear proves your creditworthiness.”<sup>77</sup> Also, LoanMax proclaims “Loans up to \$10,000 in 20 minutes or less! No credit check required!”<sup>78</sup>
- Phoenix Title Loans: “Does My Income Matter? Your income...does not matter whatsoever to us. Your vehicle is the collateral, you’re simply responsible for the interest that accrues until you pay it back...The beauty of an auto title loans is that we do not check credit at all.”<sup>79</sup>
- Tio Rico Te Ayuda says “Your credit history is not an important part of our customer evaluation.”<sup>80</sup>

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<sup>72</sup> <https://checkintocash.com/title-loans/> viewed 1/31/19

<sup>73</sup> <https://www.1stoptitleloans.com/how-do-title-loans-in-phoenix-work/> viewed 4/24/19

<sup>74</sup> <http://autotitleloansandmore.com> viewed 4/9/19

<sup>75</sup> <https://www.titlemax.com/faqs/> viewed 4/26/19

<sup>76</sup> <https://www.titlebucks.com/title-loans/> viewed 12/10/18

<sup>77</sup> <https://www.loanmaxtitleloans.net/Faq> viewed 12/10/18

<sup>78</sup> <https://www.loanmaxtitleloans.net/Benefits> viewed 12/10/18

<sup>79</sup> <https://phoenixtitleloans.com/how-do-title-loans-work/> viewed 4/29/19

<sup>80</sup> <https://www.mytorico.com/products/auto-title-loans/auto-title-loans-faqs/> viewed 4/29/19

- SpotMeLoans says “We don’t need to do a credit check.”<sup>81</sup>
- CarCash Title Loans proclaims “We offer auto title loans with NO CREDIT CHECK. Don’t worry if you have bad credit when you apply for an auto title loan with us: we NEVER check your credit.”<sup>82</sup>
- Phoenix Title Loan states “Our title loans are based strictly on the value of your vehicle, and your title is held as collateral. Bank accounts and credit scores are not important...we don’t even ask for income verification.”<sup>83</sup>
- Goldcrest Financial product is even called a “No Credit Title Loan.”
- Maximum Title Loans: “No credit is needed, and we don’t report to creditors! Creditors HATE Title Loans so we don’t check OR report to credit bureaus.”<sup>84</sup>
- Fast Auto Loans: “Good credit, bad credit or no credit. For most title loan amounts, any credit is welcome. Fast Auto Loans, Inc. is committed to helping you get the cash you need. We will work with you under any credit situation.”<sup>85</sup>

A few lenders claim to evaluate borrowers’ ability to repay, not just the value of the vehicle, in making loan decisions. The Presto Auto Loans “Fair Lending Policy” states: “It is the policy of Presto Auto Loans, Inc., before a loan is extended to an applicant, to consider the applicant’s ability to repay the loan, taking into consideration the applicant’s current and expected income, credit history, current obligations and employment status and to not base the decision on whether to extend credit to an applicant based on the applicants collateral or equity in the collateral without determining the applicants ability to repay the loan.”<sup>86</sup>

A program designed to help Arizona borrowers trapped in title loan debt provides an indication that lenders are not making loan decisions based on the borrower’s ability to repay the loan without financial hardship. TakeChargeAmerica and MariSol Federal Credit Union’s “Lend a Hand” loan program offers an alternative to Maricopa County residents who owe up to \$4,000 to a title loan company. Consumers get free credit counseling to develop a budget and action plan to pay off the debt. MariSol Federal Credit Union provides a lower-interest loan paid in 12 to 36-month installments after paying off the title loan. Loan payments include modest deposits into a savings account. The majority of applicants fail to qualify for rescue loans from the credit union, due to excessive obligations defined as a debt to income ratio greater than 50 percent. The average annual income for denied Lend a Hand applicants is less than \$29,000 per

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<sup>81</sup> <https://spotmetitleloans.com/how-it-works/> viewed 4/10/19

<sup>82</sup> <https://www.carcashtucson.com/online-title-loans-bad-credit/> viewed 4/10/19

<sup>83</sup> <https://phoenixtitleloan.com/how-it-owrksfrequently-asked-questions/> viewed 4/10/19

<sup>84</sup> <https://maximumtitleloans.com/how-it-works>. Viewed 4/10/19

<sup>85</sup> <https://fastautoloansinc.com/title-loan-fazs> viewed 5/13/19

<sup>86</sup> <https://prestoautoloans.com/presto-fair-lending-policy/> viewed 7/3/19

year.<sup>87</sup> If title loan borrowers are unable to qualify for a low-cost installment loan from a credit union, it is unlikely that the original title loan was extended based on the borrowers' ability to repay without hardship.

### **Continuous Debt Loan Payment Options Trap Borrowers in Never-Ending Debt**

Loans can be due in one payment, typically in one month. Some lenders offer bi-weekly payment schedules to coincide with borrowers' paydays. Other title loans have equal installment schedules or balloon payment loan terms. Arizona sets no limits on loan payment terms and permits balloon payment title/registration loans. Arizona does not prohibit back-to-back loans or set any cooling off period between loans.

With **balloon installment loan** contracts, consumers can pay just the finance charge every month and owe the full loan principal plus interest on the final payment. Loans can be structured as one-month or single payment contracts with interest-only payments permitted for an indefinite period of time. For example, one licensee told a surveyor that loans were in "good standing" as long as the interest was paid.

The CFPB examination of a large title lender that offers loans with smaller payments followed by a large balloon installment payment found that 60% of balloon-payment installment loans resulted in refinancing, reborrowing or default.<sup>88</sup> CFPB found that the default rate on balloon-payment vehicle title installment loans is about three times higher than the default rate for comparable fully-amortizing vehicle title installment loans offered by the same lenders.

The CEI/CFA report included an example of a balloon payment loan from Cash Time Title Loans from the lender's website in 2015. For loans paid bi-weekly, a \$500 loan had 12 interest-only payments of \$39 with a final \$539 payment that included interest and the total loan principle. For that scenario, Cash Time posted a 203.944% APR and \$509.86 interest for total payments of \$1,009.86 for credit extended less than six months.<sup>89</sup> While the current Cash Time website provides only an example of an amortizing installment loan,<sup>90</sup> the lender states for loan renewals that "You may choose your loan renewal to be structured as either a Balloon Loan with no principal reductions or as a Fully Amortized Loan with principal reductions."<sup>91</sup>

Some Arizona title lenders make single payment loans that can be renewed just by paying the interest due without reducing the loan amount. It is not always clear from lenders' websites

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<sup>87</sup> See <https://www.takechargeamerica.org/lendahand> for information on the Lend a Hand program. Information on applicants provided by MariSol Federal Credit Union. On file with CEI.

<sup>88</sup> CFPB Supplemental Findings, at p. 31.

<sup>89</sup> CEI/CFA Report at 35.

<sup>90</sup> <https://cashtime.com/personal-loans> click on "Examples of Fully Amortized Loan Terms and Costs," viewed 4/10/19

<sup>91</sup> <https://cashtime.com/title-loans> viewed 4/26/19

that interest-only payments are permitted. Many lenders tout “flexible” payment schedules to “fit your budget,” implying that loans are repeat renewal or interest-only payments. In the 1Stop Title Loan disclosure for payment of registration loans: “1 Stop Title Loans offer (sic) short term loans design (sic) specifically to help consumers pay their loan off at their own pace. 1Stop Title Loans always suggest paying even the slightest amount toward principal to help lower your loan amount.”<sup>92</sup>

For example:

- Checkmate structures title loans with monthly interest-only payments, with borrowers allowed to pay down loan principle at any time. There is apparently no set duration for the loan.<sup>93</sup>
- Apex-Eagle/Goldcrest offers title loans with six-month interest only payments with the option to pay off at any time without penalty and the right to renew the contract without being charged extra fees.<sup>94</sup>
- SonAriz Financial says it offers both precomputed and interest only title loans.<sup>95</sup>
- Car Cash Title Loans explains “Our title loans are set up for 30 days but at the end of that 30 days you can either pay off the loan or you have the option to pay the minimum interest and extend your auto title loan for another 30 days. You can extend your car title loan as many times as you need to.”<sup>96</sup>
- Apex-Eagle/Goldcrest Financial: “We offer six (6) month interest only Title Loans with the option to payoff at anytime without penalty, and the right to renew the contract!”<sup>97</sup>
- 5Minutes Title Loan offers “INDEFINITE CONTRACT WITHOUT TIME PRESSURES.” The FAQ states: There is no timed contract, only weekly payments until you finish paying.”<sup>98</sup>
- Gold Star Pawn and Loan states: “The (title) loans run for 30-days and you can pay it off at any time or keep it for however long you want...We only require you to pay at least the interest every month (although we encourage you to pay more so that you pay down the principal balance.)...You will receive a new 30-day loan contract after every payment you make.”<sup>99</sup>

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<sup>92</sup> [https://www.1stoptitleloans.com/registration-loans/#loan\\_payment](https://www.1stoptitleloans.com/registration-loans/#loan_payment) viewed 6/21/19

<sup>93</sup> Checkmate store inquiries, 6/4/19

<sup>94</sup> <https://www.nocredittitleloans.com/titleloans> viewed 4/9/19

<sup>95</sup> <https://www.sonariz.com/title-loans/> viewed 1/31/19

<sup>96</sup> <https://www.carcashtucson.com/faqs-2/> viewed 4/10/19

<sup>97</sup> <https://www.nocredittitleloans.com/titleloans> viewed 4/9/19

<sup>98</sup> <http://5minutestitleloan.com/> viewed 5/14/19

<sup>99</sup> <https://pawncottsdale.com/title-loans-scottsdale/> viewed 6/21/19

## TREND: EXPANSION OF CAR TITLE LENDERS INTO “REGISTRATION” LOANS, PAYDAY LOAN LOOK-ALIKES

### **Registration Loans are Payday Loans by Another Name**

“Registration” loans are strikingly similar to the payday loans that would have been authorized by Prop 200 which was rejected by Arizona voters in 2008. In fact, Speedy Cash describes their “Express Title Loans” as an alternative to payday loans. “When you need to get cash fast and your pay day isn’t near, Speedy Cash is here for you. While Speedy Cash does not offer payday loans in Arizona, we offer Express Title loans to help you cover your day-to-day and emergency expenses when you’re tight on cash.”<sup>100</sup>

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<sup>100</sup> <https://www.speedycash.com/loans/arizona/express-title-loans> viewed 12/19/18

## REGISTRATION LOAN TERMS LARGEST LENDERS

Licensee	Min/Max Loan	Min/Max Term	Cost	Schedule
TitleMax of Arizona, Inc. / TitleBucks	\$50 - \$2,500 \$500 max 1 <sup>st</sup> loan	---	No Info.	Installments
Ace Cash Express, Inc.	Up to \$1,500	30-day term	180% - 204%	Single payment cash at store
Fast Auto Loans, Inc.	Up to \$1,000	Indefinitely	Up to 204%	Semi-monthly
Buckeye Check Cashing of Arizona, Inc. / CheckSmart	\$150 - \$5,000	Indefinitely	Up to 204%	Interest only due on paydays
Allied Cash Advance Arizona LLC	\$250 - \$5,000	6-24 months	No Info.	Installments
Cash Time Title Loans, Inc.	\$200 - \$4,000	12 months typical	Up to 204%	Installments on paydays. Balloon OK
Check Into Cash of Arizona, Inc.	\$100 - \$800	1 month term	Up to 204%	Single payment cash at store
Checkmate Express Corporation	Up to \$1,000	Indefinitely	Up to 204%	Due on payday, interest-only if request to renew
A Speedy Cash Car Title Loans, LLC / Todd Car Title, Inc.	Up to \$5,000		Up to 204%	Installments on paydays
Tio Rico Te Ayuda of Arizona, Inc.	\$100 - \$1,000	Depends on Schedule	No Info.	Installments on paydays

Features of both payday loans and “registration” loans:

- **Cost triple-digit rates:** 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 at \$15 per \$100 for title loans up to \$2,500. The resulting APR depends on the length of the loan, but for loans of one month, title loan rates can be as high as 204 percent APR while a payday loan at \$15 per \$100 would have cost 180 percent APR. Prop 200 payday loans were limited to \$500 at the \$15 per \$100 rate while title/registration loans at \$15 per \$100 can be as low as \$501 and as large as \$2,500. For the same length of loan, today’s registration loan costs more than Prop 200 would have permitted for payday loans.
- **Small dollar Loan:** Loan size range for registration loans at the ten largest lenders in 2019 is \$50 to \$5,000. Very small registration loans are available at TitleMax (\$50), Tio Rico Te Ayuda and Check Into Cash (\$100), Buckeye Check Cashing/CheckSmart (\$150), and Cash Time Title Loans (\$200). The maximum Prop 200 payday loan was \$500.
- **Payments Due on Pay Dates:** Three of the ten largest registration lenders require payment in a single payment in one month. Three lenders permit borrowers to pay only the finance charge and renew the loan indefinitely. Some lenders offer installment terms that require payment on the borrower’s pay date, whether bi-weekly, semi-monthly, or monthly. Prop 200 loans had terms of five to 35 days, with payment typically on the borrower’s next payday. Some licensees offering “registration loans” set up repayment schedules with fully amortizing installments so that the loan is paid in full at the end of the contract term. Cash Time states that its Personal Loans are paid in full in 12 months or less.<sup>101</sup> The “Examples of Fully Amortized Loan Terms and Costs” click-through document shows bi-weekly installment payments for loans of \$200 up to \$4,000. To repay a \$4,000 loan, a consumer makes 52 bi-weekly payments of \$219.34 (final \$218.43) at 131.638 percent APR for a finance charge of \$7,404.77 and total of payments \$11,404.77.<sup>102</sup>
- **Lend with Ability to Repay Determination:** Payday lending is widely criticized for failing to determine borrowers’ ability to repay. The CFPB rule to require that responsible lending requirement has been postponed another year and may never take effect under strong industry opposition. While some licensed lenders in Arizona claim to evaluate ability to repay, it is not clear that a full evaluation as envisioned by the CFPB rule is being done.

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<sup>101</sup> <https://cashtime.com/personal-loans> viewed 4/10/19

<sup>102</sup> <https://cashtime.com/personal-loans> viewed 4/10/19  
click on “Examples of Fully Amortized Loan Terms and Costs.”



- **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, a 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. The exception is Check Into Cash which requires cash payment at the store. 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 **Registration Loans are "Secured" by Borrowers' Bank Accounts, Not Their Vehicles** below.)

### Registration Loans Offered in Arizona are Payday Loans in Other States

Loans that are "payday loans" in other states are made as "registration loans" in Arizona. Community Loans of America now licenses its online payday loan product as a "registration" loan in Arizona. The Simple Fast Loans website notes that loans made in Arizona are registration loans but does not list on its website that a vehicle registration is a requirement to obtain the loan.<sup>103</sup> According to the company, borrowers are only asked about vehicle registration during the loan process.<sup>104</sup> The loan cost disclosures for some states where Simple Fast Loans operates are the required payday loan or consumer loan rates. In Missouri, Simple Fast Loans posts rates up to 730.00%. In Delaware, Simple Fast Loans charges up to 360% APR. For Texas, the lender posts disclosures for installment payday loans at 307.76% APR for a \$500 loan repaid in 12 bi-weekly payments.<sup>105</sup> The only apparent factor that qualifies this lender to charge Arizona borrowers title loan triple-digit rates rather than comply with Arizona's Consumer Lender usury cap is the claim that loans are "registration" loans. CEI filed an inquiry with AZDFI to verify that Simple Fast Loans is licensed under the appropriate law. AZDFI closed the complaint/inquiry with no action, implying that Arizona's title loan requirements are viewed as met by this lender.<sup>106</sup>

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<sup>103</sup> <https://simplefastloans.com/required-items> viewed 5/29/19

<sup>104</sup> Simple Fast Loans, Inc. response to complaint filed with AZDFI, dated June 19, 2019, on file with CEI.

<sup>105</sup> <https://simplefastloans.com/consumer-disclosures> select state from menu.

<sup>106</sup> AZDFI response to Complaint #2019-DFI-0223-Fox, July 18, 2019. "We have ... examined the corresponding documentation from the licensee concerning their "Secondary Motor Vehicle Finance Agreement and Security Agreement" loan contract and all other applicable documentation concerning this agreement...At this time, we are not initiating any administrative enforcement action; however, we reserve the opportunity to revisit the information you provided at a future date." On file with CEI.

## How registration loans are “secured” by vehicles

Without a clear title to the vehicle used to secure a loan, the lender cannot file a first lien on the vehicle to protect its security. A lender can request a first lienholder to permit a second lien to be filed on the title. But without a clear title, it is unclear how a registration loan can be “secured” by the borrower’s vehicle. Cash Time states that “If you default on your loan, Cash Time may attempt to place a lien on your title and recover your vehicle” although a clear title is not required to obtain the loan. The company explains it: “A Personal Loan is technically the same as an Auto Title Loan but your vehicle does not need to be free and clear. However, your loan is secured by your Motor Vehicle.”<sup>107</sup>

## Registration Loans are “Secured” by Borrowers’ Bank Accounts, Not Their Vehicles

Title lenders in Arizona generally do not require borrowers to have a bank account to qualify for a title loan. Typically, registration lenders do require a bank account with borrowers required to bring in bank statements to demonstrate receipt of income as well as bank account and routing numbers, a void check and/or a debit card. For example, the store hand-out/customer information form for an ACE Cash Express title loan does not ask for bank account information while the “registration” loan form asks for “proof of checking account - preprinted check or debit card” on the front and the customer information form on the back requests bank name and bank telephone number.<sup>108</sup>

While loans made under the terms of the Secondary Motor Vehicle Finance Transaction law are supposedly “secured” by borrowers’ vehicles, even on encumbered titles, registration loans are really secured by direct access to the borrower’s bank account to unilaterally collect payment.

Examples of lenders that require borrowers to bring in a voided check or their debit card or bank account and routing numbers to qualify for a loan:

- A 2018 Allied Cash Advance contract provides two options for loan payment: cash only or cash and electronic funds transfer from the borrower’s bank account. The latter requires authorizing Allied to initiate ACH withdrawals, use remotely created checks, remotely created payment orders, demand drafts, bank checks, bank drafts, or similar payment devices. Borrowers can revoke authorization for electronic funds transfers.<sup>109</sup>
- 1Stop Title Loans requires both recent bank statements and a bank account number and a debit card to be approved for a registration loan.<sup>110</sup>

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<sup>107</sup> <https://cashtime.com/personal-loans> viewed 4/10/19

<sup>108</sup> ACE Cash Express store information, on file with CEI.

<sup>109</sup> Allied Cash Advance Arizona LLC Contract, signed 5/16/19. On file with CEI.

<sup>110</sup> <https://www.1stoptitleloans.com/are-registration-loans-in-az-safe?> viewed 4/24/19

- Allied Cash Advance requires proof of active checking account to qualify for a “registration loan” in stores in Arizona.<sup>111</sup> Installment loans are paid via electronic withdrawal from the borrower’s bank account.<sup>112</sup>
- Cash Time requires a checking account or prepaid debit card with online banking enabled.<sup>113</sup>
- Store personnel at MaxCash Loan Center in Prescott Valley said borrowers must give information on their bank accounts and debit card and that payment by drafted pay is required for a registration loan.
- TitleMax requires both a bank statement dated within past 45 days and a voided check to obtain a “Personal Loan.” For larger loans, proof of direct deposit is required. The TitleMax website states that electronically debited payment from borrowers’ bank accounts is a payment option. A store clerk stated that auto debit is required.<sup>114</sup>
- Fast Auto Loans makes registration loans for up to \$1,000 and requires a bank account number and routing number to set up automatic withdrawal of payments on the borrower’s paydays from the account. Clerk noted that borrowers can later write a letter and revoke authorization for ACH payments.<sup>115</sup>
- SpotMeTitleLoans requires both 60 days of bank account transaction history and bank routing and account numbers and debit card to get loans.<sup>116</sup>

A Cash Time contract includes this agreement to permit the lender to access the borrower’s bank account to withdraw payments: “You agree to pay us in accordance with the payment schedule set for ... by voluntarily authorizing us to debit from your bank account and/or debit card or by making arrangements with us to pay by another method.” If the borrower defaults on the loan, Cash Time actions to collect include creating unsigned checks (demand drafts) to withdraw funds unilaterally from the borrower’s bank account. The authorization form borrowers sign obtains account and routing numbers for bank accounts and/or the debit card issuer, billing address for the debit card, account number and 3-digit security code on the back of the debit card to enable Cash Time to withdraw funds.<sup>117</sup>

Bank statements as a requirement to apply for a loan may be used to determine income and the receipt of regular benefits. But when lenders go beyond asking for a bank statement as one

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<sup>111</sup> <https://locations.alliedcash.com/arizona> viewed 12/19/18

<sup>112</sup> <https://www.alliedcash.com/products/installment-loans/> viewed 12/19/18

<sup>113</sup> <https://cashtime.com/online-loans> viewed 4/20/19

<sup>114</sup> [www.titlemax.com/personal-loans](http://www.titlemax.com/personal-loans) viewed 4/16/2019 Store visit, Prescott, 5/10/19.

<sup>115</sup> Fast Auto Loans store visit and calls to stores. No literature in store

<sup>116</sup> <http://spotmetitleloans.com/how-it-works/> viewed 4/10/19

<sup>117</sup> Cash Time Secondary Motor Vehicle Finance Transaction Agreement, signed 3/28/17, on file with CEI.

option for determining income and ask for direct access to bank accounts, consumers are at risk of unexpected withdrawals, overdraft or insufficient funds fees and NSF fees charged by the lender.

## POLICY RECOMMENDATIONS

Reform efforts in the title loan market have hit repeated roadblocks in the Arizona legislature. While Arizona has not enacted laws creating flex loans and other new forms of high-cost credit since voters resoundingly rejected payday lending in 2008,<sup>118</sup> the legislature has also refused to consider all bills to cap title loan rates or repeal the title loan carve-out from the Consumer Lender law usury cap and protections. These reform bills include:

- 2019: HB 2214, introduced by Rep. Teran and seven House members, no action.
- 2017: HB 2278, introduced by Rep. Salman and 18 other House members and two Senators, no action.
- 2016: HB 2396, introduced by Rep. McCune Davis and ten members, no action.
- 2015: HB 2257, introduced by Rep. McCune Davis and 4 members, no action.
- 2014: HB 2211, introduced by Rep. McCune Davis and one member. Hearing in House Transportation Committee cancelled due to industry opposition. No action.
- 2013: HB 2538, introduced by Rep. McCune Davis. No action.

In addition, bills sponsored by Rep. Debbie McCune Davis during her tenure of service in the Arizona House of Representatives and Senate to empower Arizona regulators to enforce the federal Military Lending Act protecting active-duty service members and their families from high-cost title loans failed to become law. These bills were 2012: HB 2684; 2011, HB 2381; and 2010, SB 1354.

In 2018, the legislature created a Regulatory Sandbox Program via HB 2434, sponsored by Rep. Weninger, which was amended to include title loans at triple-digit rates over the persistent objections of consumer and community voices. Title lenders can apply to enter the Attorney General's sandbox to test "innovations" for a two-year period without obtaining a Sales Finance license from the Arizona Department of Financial Institutions. These consumer and community groups urged the Attorney General to require any title lender admitted to the "sandbox" to comply with the usury cap and protections of the Consumer Lender law, not the

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<sup>118</sup> CEI Fact Sheet, "Arizona Lawmakers Said No to Usury Since Prop 200 Vote in 2008," February, 2018 <https://nomoreloansharksaz.org/gallery/2019%20az%20factsheet%20no%20on%20usury%20since%202008.pdf>

Secondary Motor Vehicle Finance Transaction law that permits rates up to 204 percent and permits asset-based lending with balloon payment terms.<sup>119</sup>

Arizona cannot wait for the federal Consumer Financial Protection Bureau (CFPB) to bring reforms to the title loan market under the current administration. Enforcement of the long-awaited CFPB nationwide rule to curb abuses in the payday and title loan market has been postponed by CFPB until at least November 19, 2020. This rule would require title lenders making loans of 45 days or less to determine the borrower's ability to repay and would apply those requirements for longer-term balloon payment title loans. This rule would benefit Arizona borrowers but would not impose a usury cap or add other title-loan specific protections needed to protect consumers' assets and family finances.<sup>120</sup>

## RECOMMENDATION: SUPPORT ARIZONA FAIR LENDING ACT ON THE 2020 BALLOT

As a result of the failure of the Arizona legislature to take action to protect the public from predatory title loan terms and lender practices, a coalition of Arizona organizations is sponsoring ballot initiative #16 for the 2020 General Election to enact the Arizona Fair Lending Act. Voters should take action to get this initiative on the ballot and vote "Yes" to stop predatory, triple-digit rate title loans, including registration loans.

## KEY PROVISIONS OF THE ARIZONA FAIR LENDING ACT, PROP #16-2020:

### Caps Rates at Arizona's Consumer Lender Usury Limit

Cash loans of up to \$5,000 secured by borrowers' vehicles should comply with the 36% or lower usury cap set by the Consumer Lender law. Title lenders should play by the same set of rules as other consumer lenders, as intended by the No vote on Prop 200 in 2008 to prohibit carving out a triple-digit rate exemption for payday lenders.<sup>121</sup> Since the Arizona legislature has failed to repeal the title loan carve-out that permits annual rates up to 204%, voters should complete the job started by rejecting payday lending by enacting the Arizona Fair Lending Act to cap

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<sup>119</sup> Coalition Letter to Attorney General Brnovich re Implementation of the Sandbox law, July 24, 2018 at <https://nomoreloansharksaz.org/gallery/2018-07-24%20ag%20letter%20-%20re%20az%20regulatory%20sandbox%20implementation.pdf>

<sup>120</sup> Coalition Letter to CFPB opposing delay in enforcing the payday/title loan rule, May 13, 2019 at <https://nomoreloansharksaz.org/gallery/2019-05-13%20az%20letter%20to%20cfpb%20oppose%20repeal%20of%20title%20loan%20rule.pdf>

<sup>121</sup> CEI Fact Sheet, "Title Lenders and Consumer Lenders Should Play by the Same Rules in AZ," March 2019 at <https://nomoreloansharksaz.org/gallery/2019%20az%20factsheet%20ohb%202177%20oct1%20vs%20cl.pdf>

vehicle-secured small loans at 36% annual rates including fees, ancillary products and other charges associated with the loan.

Capping rates for secured loans at a relatively high 36% permits lending to borrowers with less than perfect credit while providing lenders with a financial incentive to determine borrower ability-to-repay before making loans. This is the rate cap set by the federal Military Lending Act and the rate cap used in many states' small loan laws.<sup>122</sup>

### **Stops Title Loans from Trapping Borrowers in Never-Ending Debt**

Loans secured by the borrower's vehicle should be repaid in equal installments over a limited period of time to enable borrowers to successfully repay loans on a predictable schedule. Interest-only payments for short-term loans that can be renewed indefinitely and balloon payment contracts that trap borrowers in perpetual debt should be prohibited for title loans as they are for Consumer Lender loans.

### **Clearly Defines Title Loans to Protect Lenders and Borrowers**

Borrowers should only be able to secure loans with clear titles to their vehicles. Currently Arizona is the only state to permit loans to be "secured" by vehicles for which borrowers do not hold the title and for which lenders cannot obtain a first lien. Lenders should be required to file a lien on titles used to secure loans so that only one loan per vehicle can be obtained. A lien provides a public record that can warn other lenders that the vehicle being offered to secure a loan is encumbered. Defining a title loan as secured by a clear title stops lenders from claiming that loans are secured even though consumers don't own their vehicles outright and lenders cannot repossess the vehicle on default. Unsecured small loans are made under the protections and usury cap of the Arizona Consumer Lender law.

### **Prohibits Other Forms of Security for Title Loans**

Arizona lenders that make "registration" loans to borrowers who do not hold the title to their vehicles often secure payment with access to borrower bank accounts as a form of collateral. If a consumer fails to return monthly to at least pay the interest on a loan, lenders can and do use bank account and routing numbers to withdraw payment from the borrower's bank account. The ability to unilaterally withdraw payment from a deposit account makes "registration" loans function as payday loans, a product rejected by Arizona voters. The only security for a title loan should be the clear title to the vehicle, not bank account access or other personal property of the borrower.

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<sup>122</sup> National Consumer Law Center, "Why 36% The History, Use, and Purpose of the 36% Interest Rate Cap," April 2013 at <http://www.nclc.org/images/pdf/pr-reports/why36pct.pdf>

### **Prevents Evasion of Title Loan Protections**

High-cost lenders have a record of exploiting loopholes and gaps in law to continue making predatory loans. To prevent that, the Arizona Fair Lending Act ballot initiative prohibits title lenders from using tactics such as sale-leaseback arrangements or retail sales pretexts to evade the usury cap. It also prohibits title lenders from claiming to be loan brokers or credit services companies to tack on additional fees that drive up the cost of loans.

### **Enacts Strong Supervision and Enforcement Tools**

Title lenders should continue to be licensed and supervised by the Arizona Department of Financial Institutions or covered by the same product term protections if admitted to the Regulatory Sandbox Program in the Office of Attorney General. The rules should continue to apply to loans made at stores in Arizona or online from any jurisdiction to consumers located in Arizona. The Attorney General should be authorized to enforce the Consumer Fraud Act with title lenders that violate the law. Loans made by unlicensed lenders or in violation of the Arizona Fair Lending Act should be null and void, with lenders not permitted to collect on the loan principle, interest or fees. Consumers should have a private right of action to seek justice.

### **Simplifies loan cost disclosures**

Under current law, Arizona title lenders must disclose both a state-specific annual rate computed by multiplying the monthly rate cap by twelve as well as disclose the federally-required Truth in Lending cost of loans, including the Annual Percentage Rate. By repealing the current monthly rate cap and requiring lenders to comply with federal law, Arizona title lenders will only be required to comply with Truth in Lending cost disclosures. This both improves price signals to consumers and reduces paperwork and compliance costs for lenders.

# COMPARISON OF ARIZONA TITLE LOAN LAW AND AZ FAIR LENDING BALLOT

Term	Title Loan Law	2020 Fair Lending Ballot Initiative
Code	A.R.S. §44-281(13), 289, 291(G)	Ballot #: Prop 16-2020
License	AZDFI, Sales Finance or OAG RSP	AZDFI, Sales Finance or OAG RSP
Security	Loan secured by borrower's vehicle, clear title not required	Loan secured by clear title to vehicle, lien must be filed on title.
Maximum Loan Size	No Limit	\$5,000
Maximum Interest Rate	204% yr. to \$500 180% yr. to \$2,500 156% yr. to \$5,000 120% yr. over \$5,000	36% annual rate inclusive of fees, interest and charges for ancillary products
Fees	Loan doc. fees prohibited	No additional fees beyond 36% inclusive rate
Max Term	No term limits	4 years
Disclosures	Annual finance rate, TILA	TILA (Truth In Lending Act)
If over-charge	Void	Void
Refinance Limits	No limits	No limits, No interest-only payments to extend loan.
Payment Schedule	No protections. Balloon loans, interest-only payments not prohibited	Prohibits balloon payments, irregular installments
Prepayment Penalties	Prohibited	Prohibited
Anti-evasion	None	Required. No sale-leaseback, cash rebate on pretextual sale, or broker/arranger deals.
Unlicensed	Loans void	Loans void

[Center for Economic Integrity](#)

7/11/19