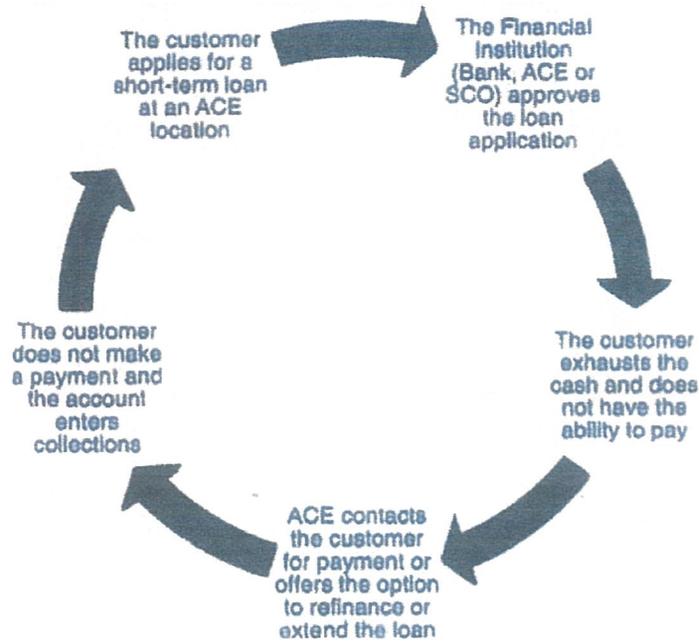


**OFFICE OF THE ATTORNEY
GENERAL**

High Cost Lending in NM

OCTOBER 2014

The Loan Process, Continued



EMPLOYEE
TRAINING
DOCUMENT
TITLED:
LOAN PROCESS
FROM
LENDER'S FILES
PRODUCED TO
CONSUMER
FINANCIAL
PROTECTION
BUREAU

The CEO of one lender stated in a training vehicle that the value of a \$300 loan is not the single loan, it is the \$7,500 paid to the company by keeping the lender “on the hook” for 10 years.

- Payday and high cost lending industry's profitability "relies on repeated usage. Industry analysts estimate that customers do not become profitable to lenders until they have borrowed four or five times."

Source: Stephens Inc. 2011

- "Researchers at the Kansas City Federal Reserve found that the "profitability of payday lenders depends on repeat borrowing."

Source: Federal Reserve Bank of Kansas, February 2009

REPEAT
BORROWING AND
ROLLOVERS.....
CYCLE OF DEBT



FAMILY ECONOMIC
INSECURITY

DEPARTMENT OF DEFENSE FOUND THAT
HIGH COST LOANS LEAD TO FINANCIAL INSECURITY
FOR MILITARY FAMILIES.

THESE LOANS DO NOT PROVIDE “HELP” TO THESE
FAMILIES.... CONTRARY TO WHAT LENDERS CLAIM

U.S. Department of Defense

2007 adopted **36% interest rate** cap for military personnel and families

Lenders used loopholes in the law to continue high cost loans to military by structuring loans that fell just outside of the DOD protections

September 26, 2014, DOD proposed new regulations expanding the protections limiting **interest rates at 36% in the extension of credit for small dollar loans to the military**

In New Mexico in 2012

- 396, 000 high cost loans for a total of \$216 million
- \$99 million in interest and fees paid by New Mexicans
- Average APRs about 350%
- Total stores 656

80% of lenders are OUT OF STATE companies

<u>Types of loans and rates of interest (2012)</u>	<u>High APR %</u>	<u>Average APR %</u>
Installment Loans	1517%	433%
Title Loans	652%	270%
Unsecured loans	825%	359%
Household Goods Loan	547.50%	548%
Consumer Loans/ secured by car title	616.44%	287%
Tax Refund Loans	2738.18%	393%
Installment Title Loans	450%	314%
Payday loans		330%

Financial Institutions Reporting for 2012 on Loans Made With Interest Rates of 175% or More

Types Of Consumer Loans in NM

- **Payday loan** – 2007 “reform act”. Intended to limit costs and rollover; did not work; # of rollovers per year have continued to increase – average of 6.6 loans per year – and lenders avoid fee cap by rolling over loans
- **Installment Loan**- 8 months to 12 months; imported payday features; rates of 100% to 1,500% APR; loan churning and chain debt common
- **Car Title Loan** – rates of 270% to 652% APR; secured by title of car; no underwriting of ability to repay; use threats of repossession; rollovers common because cannot repay
- **Refund Anticipation Loan** – loan taken against tax refund with high interest and fees

Loans with High rates of interest

- Lenders encourage refinancing, increasing amount borrowed, extending indebtedness
- Consumer's need to borrow repeatedly and refinance loans is indicia of inability to repay and lax underwriting
- No meaningful underwriting or consideration of ability to repay - FOCUS IS ON ABILITY TO *COLLECT*
- PUSHES BORROWER INTO **DEBT CYCLE**

Consumer Loan Files show:

- rollovers and refinancing
- loan churning
- long term indebtedness
- cycle of debt

LOAN APPLICATION FOR THIS BORROWER SHOWS
Repeat Borrowing Is Also Problem in Installment Loan
With APRs of 106 % - 85%

Loan application:

retired – 2 dependents

fixed income of \$1,388 per month (net)

Debts of \$12,550 on credit union loan and World Finance

Car payment \$232 per month

Monthly scheduled debt: \$862

DTI = 62%

Consumer took out loan for \$556.82 for a term of 7 months. She could not pay it back so she took out a second loan in 3 months to pay off the first and lender increased the principal amount loaned. Over a period of 3 years, consumer took out a total of 14 loans – rolling over the loans 13 times, paying interest and origination fees each time and still not being able to retire the debt.

Consumer paid \$4,813 in payments. Still owed \$2,400 at final default. SEE CHART FOR LOAN SUMMARY ON NEXT SLIDE.

Consumer GK: World Finance Loan

Loan Date	Maturity Date	Loan Term	Amount Financed	APR	Finance Charge	Payment Amount	Origination Charge	ROLL OVER Y/N
4/8/10	12/8/10	8 mo	\$556.82	106.06%	\$243.18	\$100.00	\$25.00	N
7/16/10	4/16/11	9 mo	\$709.56	99.50%	\$325.44	\$115.00	\$25.00	Y
11/23/10	8/23/11	9 mo	\$709.56	99.50%	\$325.44	\$115.00	\$25.00	Y
3/14/11	2/14/12	11 mo	\$1,090.28	91.57%	\$559.72	\$150.00	\$25.00	Y
10/31/11	8/1/12	9 mo	\$709.56	98.79%	\$325.44	\$115.00	\$25.00	Y
1/10/12	10/10/12	9 mo	\$875.01	95.85%	\$384.99	\$140.00	\$25.00	Y
4/5/12	1/5/13	9 mo	\$875.01	95.85%	\$384.99	\$140.00	\$25.00	Y
6/5/12	3/5/13	9 mo	\$875.01	95.85%	\$384.99	\$140.00	\$25.00	Y
8/27/12	7/27/13	11 mo	\$1,090.28	91.57%	\$559.72	\$150.00	\$25.00	Y
10/4/12	9/4/13	11 mo	\$1,090.28	91.57%	\$559.72	\$150.00	\$25.00	Y
12/3/12	11/3/13	11 mo	\$1,090.28	91.57%	\$559.72	\$150.00	\$25.00	Y
3/15/13	2/15/14	11 mo	\$1,090.28	91.57%	\$559.72	\$150.00	\$25.00	Y
5/3/13	4/5/14	11 mo	\$1,090.28	91.57%	\$559.72	\$150.00	\$25.00	Y
6/21/13	10/21/14	16 mo	\$1,496.96	85.75%	\$1,063.04	\$160.00	\$25.00	Y

Security interest in personal property valued at \$2,700.00

\$350.00

Car Title Rollover Example

Consumer took out loan for \$1,050, rolled over loan 8 times, increasing principal loaned each rollover until defaulted on loan and car repossessed.

Maestas loan-
same car for all
loans

Date of Contract	amount financed	amount of loan paid on prior account	finance charge	APR%	loan term
4/29/10	\$1,070.50	0	\$263.96	300%	30 days
5/24/10	\$1,027.46	1,027.46	\$261.79	300%	30 days
7/16/10	\$2,022.97	\$1,022.97	\$183.50	106.80%	30 days
8/17/10	\$2,522.38	\$2,022.38	\$228.80	106.80%	30 days
8/26/10	\$3,522.38	\$2,522.38	\$319.50	106.80%	30 days
10/26/10	\$3,501.96	\$3,501.96	\$285.53	96%	30 days
12/14/10	\$3,997.05	\$3,497.05	\$325.90	96%	30 days
3/14/11	\$3,971.16	\$3,971.16	\$323.79	96%	30 days
4/14/11	\$4,970.94	\$3,970.94	\$392.23	96%	30 days

Loan rolled over **8 times**

Debt increased from \$1,070.50 to \$4,970.94

All payments made go primarily to interest

Consumer defaults 2011

Interest on debt continues to accrue

Car repossessed June 2012

Car sold at auction for \$8,100. Lender claims deficiency owed on debt of \$3,122.57

Consumer takes out five sequential payday loans in 2007. Consumer is shifted to installment loan product at the end of 2007. Consumer takes out seven sequential installment loans – four loans of these loans are refinance/rollovers. Consumer defaults on the last loan.

TYPE OF LOAN	CONSUMER NAME	LOAN DATE	PRINCIPAL LOAN AMOUNT	PAYMENTS COLLECTED	PAYMENTS COLLECTED LESS PRINCIPAL AMOUNT OF LOAN	PAYMENT DATE for LAST PAYMENT MADE	# OF PAYMENTS MADE /TOTAL PAYMENTS DUE
payday	Thompson Y	7/28/07	\$ 200.00				
payday	Thompson Y	8/11/07	\$ 200.00	\$85.71		8/28/07	
payday	Thompson Y	8/28/07	\$ 175.00				
payday	Thompson Y	9/8/07	\$ 175.00	\$43.75		9/22/07	
payday	Thompson Y	9/22/07	\$ 175.00	\$218.75		10/6/07	
	Thompson Y	10/6/07	\$ 175.00	\$218.75		10/20/07	
installment	Thompson Y	10/20/07	\$ 200.00	\$370.03	\$ 170.03	12/22/07	4/10
installment	Thompson Y	12/22/07	\$ 300.00	\$616.73	\$ 316.73	4/5/08	1/10
installment	Thompson Y	5/23/08	\$ 300.00	\$639.89	\$ 339.89	8/26/08	8/10
installment	Thompson Y	8/26/08	\$ 500.00	\$962.23	\$ 462.23	11/8/08	6/10
installment	Thompson Y	11/8/08	\$ 500.00	\$1,050.35	\$ 550.35	1/21/09	
installment	Thompson Y	2/24/09	\$ 500.00	\$678.59	\$ 178.59	3/21/09	2/12
installment	Thompson Y	3/21/09	\$ 498.59	\$117.52	\$ (381.07)	5/21/09	bad debt
Thompson Y Count Installment Loans 7							
Thompson Y Total Installment L			\$ 2,798.59	\$4,435.34	\$ 1,636.75		

Consumer takes out four payday loans – rolling over 50% of the loans. Consumer then takes out six sequential installment loans, each with a term of 12 months. Five of the six loans are refinanced on the same day the next loan is taken out. Total principal amount of all loans is \$4,206; interest paid is \$5,548.

TYPE OF LOAN	CONSUMER NAME	LOAN DATE	PRINCIPAL LOAN AMOUNT	PAYMENTS COLLECTED	PAYMENTS COLLECTED LESS PRINCIPAL AMOUNT OF LOAN	PAYMENT DATE for LAST PAYMENT MADE	# OF PAYMENTS MADE /TOTAL PAYMENTS DUE
payday	Dixon M	2/12/09	\$ 500.00	\$578.00		2/20/09	
payday	Dixon M	2/26/09	\$ 500.00	\$578.00		3/21/09	
payday	Dixon M	3/21/09	\$ 500.00	\$578.00		4/3/09	
payday	Dixon M	4/3/09	\$ 500.00	\$578.00		4/17/09	
installment	Dixon M	4/30/09	\$ 700.00	\$1,254.21	\$ 554.21	6/27/09	4/10
installment	Dixon M	6/27/09	\$ 629.32	\$1,452.35	\$ 823.03	10/30/09	10/10
installment	Dixon M	10/30/09	\$ 800.00	\$1,938.67	\$ 1,138.67	3/19/10	9/10
installment	Dixon M	3/19/10	\$ 800.00	\$2,202.90	\$ 1,402.90	8/7/10	10/10
installment	Dixon M	8/7/10	\$ 476.76	\$963.11	\$ 486.35	10/29/10	6/10
installment	Dixon M	10/29/10	\$ 800.00	\$1,943.13	\$ 1,143.13	2/4/10	6/10
Dixon M Count Installment Loans 6							
Dixon M Total Installment Loan			\$ 4,206.08	\$9,754.37	\$ 5,548.29		

Consumer makes \$10.04 per hour – works 37 hours per week with Bi-weekly net pay of \$448.55. Her paycheck shows an automatic loan repayment deduction from wages of \$150.

Consumer takes out 8 installment loans over a period of 2 years and 2 months. The principal amount is increased by the lender and consumer refinances the 3rd, 5th, 6th and 7th loan. Consumer defaults on the 8th loan. Consumer has paid \$2,141 in interest.

TYPE OF LOAN	CONSUMER NAME	LOAN DATE	PRINCIPAL LOAN AMOUNT	PAYMENTS COLLECTED	PAYMENTS COLLECTED LESS PRINCIPAL AMOUNT OF LOAN	PAYMENT DATE for LAST PAYMENT MADE	# OF PAYMENTS MADE /TOTAL PAYMENTS DUE
installment	Hildreth	11/30/07	\$ 200.00	\$242.25	\$ 42.25	12/6/07	1/10
						12/21/07	2/10
installment	Hildreth	1/8/08	\$ 400.00	\$892.89	\$ 492.89	4/24/08	8/8
installment	Hildreth	4/26/08	\$ 500.00	\$1,219.68	\$ 719.68	7/29/08	8/10
installment	Hidreth	7/29/08	\$ 500.00	\$1,220.00	\$ 720.00	11/6/08	bad debt
installment	Hildreth	9/26/09	\$ 200.00	\$291.56	\$ 91.56	10/30/09	3/10
installment	Hildreth	10/30/09	\$ 300.00	\$387.62	\$ 87.62	11/21/09	3/10
	Hildreth	11/21/09	\$ 400.00	\$692.40	\$ 292.40	1/15/10	5/10
	Hildreth	1/15/10	\$ 400.00	\$95.00	\$ (305.00)	1/30/10	1/10
Hildreth Count Installment Loans 8							
Hildreth H Total Installment Loan			\$ 2,900.00	\$5,041.40	\$ 2,141.40		

What Consumers say:

“It made it even worse thinking that I was being helped, but yet, they were taking more of my money than helping me.”...every payday – I would have to pay them, and I keep thinking, I have to keep paying them...and its never going to go away, and it just made it harder. “ H. Charley

After borrowing \$100 at 1147% with 12 month term:

“I paid their \$100 back plus, I would think, interest. And then when I look at down the road and then down three months or six months from here...am I ever going to pay this off, or am I stuck with this for the rest of my life?...how am I going to get out of this?” O. Wellito

Sean, a New Mexico borrower, received a \$1,500 car title loan. He renewed it over 40 times – paying over \$11,500 before receiving help from his family to pay off the principal owed.

Source: Martin & Adams, 2012

Myths About Storefront Loans

Myth:

Payday and installment loans help consumers avoid expensive bank overdrafts.

Fact:

-27% of payday borrowers nationally face overdraft charges created by automatic bank account withdrawals by lenders.

-Independent surveys show the majority of borrowers wind up paying both loan and overdraft fees.

Myths About Storefront Loans

Myth:

Storefront loans provide useful “emergency” money for low income folks.

Fact:

-Independent studies show 70% of these loans are used for discretionary purchases or regular living expenses.

-Independent studies show high cost storefront debt creates otherwise avoidable financial emergencies, including overdrafts, lost vehicles, and lost homes.

State of New Mexico, ex rel. Gary K. King, Attorney General v. B&B Investment Group d/b/a Cash Loans Now and American Cash Loans, New Mexico Supreme Court, June 26, 2014, No. 34,266

Lawsuit challenged loans of 1,147% to 1,500% APR and loan practices that targeted borrowers to repeatedly re-finance or re-borrow – resulting in chain debt

Supreme Court decision:

Unfair Practices Act prohibits the economic exploitation of others.

These high cost loans are: extremely expensive; of low value to the borrower; have a small amount of principal and an enormous amount of risk; and are grossly disproportionate to their price

Supreme Court:

Struck the quadruple interest rate provision as unconscionable under New Mexico law and applied the default rate of 15% per year

Granted restitution to all borrowers with these loans and ordered refunds of all fees and charges paid in excess of 15% of the loan principal and remanded back to the District Court for action consistent with the Supreme Court's ruling.

- Supreme Court also, affirmed trial court's finding that loan origination and marketing was deceptive and unconscionable and took advantage of the borrowers to a grossly unfair degree to the borrowers' detriment
- Companies enjoined from:
 - Targeting borrowers to try to increase the amount of their principal debt obligation until the borrower's file had become inactive for at least 60 days;
 - Quoting the cost of the loan in terms of a daily or other nominal amount or in any amount other than mandated by federal law
 - Engaging in any practice that focuses the borrower's attention on the loans' installment payment obligation without also clearly, conspicuously and fully disclosing and explaining the cost of the loan if repaid over the course of the full repayment term
 - Representing that the loans will be in any way "easy" to repay.

Where Does the Public Stand?

- Unaware of the size of the Problem
- 86% Support Interest & Fee Caps of 36%
- Organizational Support from
 - Catholic Bishops/Catholic Charities/Religious groups
 - AARP
 - AFSCME / Unions
 - Navajo Human Rights Commission
 - Most major legal, social, and credit counseling non-profit services in New Mexico (if not restricted from taking a position)

**20 STATES AND
THE US MILITARY
HAVE
INTEREST AND FEE CAPS
EQUAL TO OR LESS THAN 36%**