I'll Gladly Pay You Tuesday...

by Richard Bist

A joint study conducted by the Florida Public Interest Research Group (FPIRG) and the Consumer Federation of America (CFA) has found that high-cost payday lending establishments are spreading rapidly across the State of Florida—the result of weak state laws that allow triple digit interest rates for short term loans.

The typical targets for these businesses are cash-strapped consumers, such as students and low-income families, who sometimes have a need for quick cash to pay bills and may not have the collateral or the forethought to establish a larger line of credit.

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The payday loan works like this: a consumer writes a check to the lender for $115 and receives $100 in cash. The lender agrees to hold the check, for not more than 14 days, until the next payday. The lender thereby "earns" $15 on the transaction. On the deposit date the borrower may ask the lender to "roll" it over—holding the check for another two weeks— by paying an additional fee. This fee is normally another $15.

While this sounds fair enough, it actually results in an Annual Percentage Rate (APR) of 391%. With a loan that gets "rolled over" three times, the finance charge would be $60 to borrow $100.

Payday lenders are able to get away with these exorbitant fees in thirty-one states because they are either exempt from state usury laws and small loan interest rate caps or such laws don't exist.

Florida's check cashing law, which sets a 10% cap on check cashing fees, has been applied to payday lending, but only as long as the loan is not renewed. However, a telephone survey of nineteen Florida payday lenders, conducted by the CFA, found:

- Rates quoted exceeded the 10% cap in ten of nineteen instances.
- None of the lenders surveyed would disclose the APRs for the loans offered, in violation of federal laws that require such disclosure.
- Calculated APRs ranged from 261% to 573%, with the average APR for the nineteen lenders surveyed at 350%.
- The longest loan term was 15 days.
- Ten of the lenders allowed the loan to be rolled over.
- The highest APRs in the state were charged by two lenders in Tallahassee: Cash Cow and EZ Cash. Consumers who borrow $100 for 15 days are charged $22, which is an effective APR of 573%.

Because of the lack of legislation, not much has been done to stop unscrupulous lenders from fleecing unprotected consumers, although this past summer a cease and desist order was brought against Treasure Coast Cash, Inc. by the Department of Banking and Finance. The Stuart, Florida business was cited for unlicensed lending. They were also cited for deceptive debt collection practices. It seems that collection statements sent to borrowers used, without authority, letterhead from the Martin County Sheriff's Office.

Despite the fact that checks are used as the basis for payday loans, they are merely a smoke screen. The lenders use the excuse of loans based on checks in order to foster the cost comparison between bank bounced check charges and the payday loan fee. A more accurate model for payday loan costs would be other forms of short-term credit, like credit card cash advances, small loan rates, or pawn loans.

Deceptive practices, however, can result in large profits. Ace Cash Express, the largest payday lender, brought in $10 million in small loan revenue in 1997, which is double their previous year's profit. Because of this, business is booming. Check Into Cash has filed an S-1 form at the Securities and Exchange Commission to go public, this after boasting $21.4 million in earnings for 1997. And on a nationwide scale, Eagle National Bank made over 200 thousand loans in 1997 worth $31 million.

Jean Ann Fox, Director of Consumer Protection for the CFA has called for states to enforce usury laws and small loan rate caps to protect consumers. She also believes that interest rate caps should be reinstated for small loans in those states that repealed their usury limits.

The CFA and PIRG have also called on the Treasury Department to adopt consumer protection rules requiring that federal checks be deposited electronically into the accounts of the recipient. This would protect Social Security and SSI beneficiaries from unregulated fringe bankers and check cashing establishments.

"Check cashers want the ten million unbanked federal check recipients to come to them for their monthly checks," Ms. Fox explained. "Treasury's silence on consumer protections for these accounts invites the marketing of abusive payday loans secured by future federal benefit deposits to vulnerable consumers."

Until regulations are put in place to protect consumers, these payday lenders will continue to take advantage of the unwary and oftentimes desperate public. The only recourse is for borrowers to shop around for the lowest credit cards available, budget carefully, and try to set aside a nest egg of savings for emergencies. Those who do use payday loans should only borrow as much as they can afford to pay off with their next paycheck.

Be careful out there, the sharks are circling.

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