

May 13, 2019

Director Kathleen Kraninger
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Comments on Proposal to Rescind Ability-to-Repay Requirements Governing Payday, Vehicle title, and Certain High-Cost Installment Loans, Docket No. CFPB-2019-0006; RIN 3170-AA80

Dear Director Kraninger:

We are writing on behalf of Arizona consumer and community organizations to oppose the proposal to rescind key protections in the CFPB rule governing payday, car title and some installment loans. Our organizations led the fight to sunset triple-digit-rate payday lending in Arizona that took effect in 2010. For almost ten years, Arizona borrowers have been protected from high-cost payday loans based on unfunded checks held for future deposit and due in full on the borrower's next payday. Arizona voters said no to payday lending by a vote of 60 to 40 percent in rejecting Prop 200 in the 2008 election.

We appreciated that the CFPB rule recognized that state usury laws provide greater consumer protections than the requirements of the final rule and are not inconsistent with the final rule. Arizona's Consumer Lender law caps annual rates for installment loans up to \$3,000 at 36% plus a 5% fee up to \$150, with rates tiered to 24% on higher balances up to \$10,000 loans. As a result of the sunset of payday lending and the Arizona usury cap for Consumer Lenders, our citizens have been protected from predatory payday lending for a decade.

Unfortunately, the No vote on Arizona Prop 200 did not repeal the separate law authorizing car title loans at rates up to 204% annual interest. These loans are authorized as "Secondary Motor Vehicle Finance Transaction" loans with rates capped based on the size of the loan, ranging from 204% for loans up to \$500 to 120% APR for loans over \$5,000. There are no limits on the size or duration of title loans in Arizona.

The Center for Economic Integrity and Consumer Federation of America issued a comprehensive survey report on title lending in Arizona in early 2016.¹ We are updating industry information in 2019. Our letter includes information from both sources.

Title lending is big business in Arizona. The Center for Economic Integrity has analyzed the rosters of licensed Sales Finance companies and identified those that offer car title loans. As of early 2019, the Arizona Department of Financial Institutions lists 73 unique license numbers for 67 companies with 444 licensed locations, down from 100 companies with 633 locations in late

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

2015. Most companies now have websites and many permit borrowers to apply online. One large online title lender lists 72 additional “service” outlets 62 of which are not separately licensed as lenders. State regulators provide no information on the volume or cost of loans made by licensed lenders. The Center for Responsible Lending estimates that Arizona borrowers annually pay \$254,024,519 for title loans.²

Title loans put borrowers at 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. Your own research documents the harm of repossession to title loan borrowers, however. CFPB found that 33% of title loan borrowers eventually default on a sequence of single-payment loans (Rule at 76). One in five single-payment title loan borrowers have their vehicle repossessed by the lender (Rule at 76).

Default is expensive. Defaulters face court costs and attorneys’ fees if sued. In Arizona lenders can both sell a repossessed vehicle and sue to collect any deficiency balance while borrowers can be charged a “reasonable amount” for the cost of collection and attorney’s fees if nonemployees as well as court costs. For example, the CEI/CFA report found that the judgment entered in Maricopa County Justice Court on a title loan debt included \$500 for the loan principal, plus \$384 in costs, \$500 for the lender’s attorney fee, and \$257 in interest owed for a total of \$784 to collect \$757 in loan and interest.³

Title loans are asset-based lending. The CFPB rule is especially important given that Arizona has no state-based protections against title loans becoming debt traps. Permitting triple-digit rates for cash loans secured by the borrower’s vehicle facilitates asset-based lending based on the lender’s ability to collect, not the borrower’s ability to repay the loan on its terms and still meet other financial obligations.

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.”⁴
- 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.”⁵

² Center for Responsible Lending, “Payday and Car title Lenders Drain \$8 Billion in Fees Every Year, January 2017 at www.responsiblelending.org

³ Report at 27.

⁴ <https://www.1stoptitleloans.com/how-do-title-loans-in-phoenix-work/> viewed 4/24/2019

⁵ <http://autotitleloansandmore.com> viewed 4/9/2019

- 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.”⁶
- 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!”⁷
- LoanMax states “At LoanMax, we believe owning your own vehicle free and clear proves your creditworthiness.”⁸
- 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.”⁹
- Tio Rico Te Ayuda says “Your credit history is not an important part of our customer evaluation.”¹⁰

The CFPB rule will stop Arizona title lenders from making short term loans up to 45 days that are secured by vehicles without determining the borrower’s ability to repay. While title loans are also offered as longer-term installment loans outside the coverage of the rule, the CFPB ability-to-repay rule for short-term loans will be an important protection in the Arizona market.

Title loans can be made as balloon payment loans in Arizona. The CFPB rule requiring ability to repay determination for balloon payment loans is also an important protection since title loans can be offered with balloon payment terms. 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 (Rule at 403). 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.¹¹ While the current Cash Time website provides only an example of an amortizing installment loan,¹² the lender states that “You may

⁶ www.titlemax.com/faqs viewed 4/26/2019

⁷ <https://www.titlebucks.com/title-loans/> viewed 12/10/2018

⁸ <https://www.loanmaxtitleloans.net/Faq> viewed 12/10/2018

⁹ <https://phoenixtitleloans.com/how-do-title-loans-work/> viewed 4/29/2019

¹⁰ <https://www.mytiorico.com/products/auto-title-loans/auto-title-loans-faqs/> viewed 4/29/2019

¹¹ CEI/CFA Report at 35.

¹² <https://cashtime.com/personal-loans> click on “Examples of Fully Amortized Loan Terms and Costs,” viewed 4/10/2019

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.”¹³

The lack of protections in Arizona law makes CFPB’s rule on payday and title lending important to Arizona consumers.

Arizona consumers are especially vulnerable to the risks of title loan borrowing due to the geography of the state. Arizona is predominantly rural which is typical of many Western states. Arizona citizens rely on personal transportation, with 76 percent reporting that they drive alone to commute to work in a car, van or truck. With no public transportation services in many rural communities, getting to work, to the hospital or to shop requires a personal vehicle. For many low-income working families, their vehicle is their most valuable asset.

We have backed state legislation to repeal the state law that provides title lenders a special carve-out from Arizona’s usury law, but legislation to protect consumers has not advanced in the state legislature. We need strong federal rules to provide a floor of protections for loans.

Arizona consumer and community organizations support the CFPB payday/title loan rule because it provides a common sense requirement for responsible lending: Title lenders would have to assess whether potential borrowers can afford to pay them back the amount borrowed with the finance charges given the customers’ income and other expenses, without repossessing the vehicle used to secure the loan. The CFPB rule adds protections to a very weak state title loan law that would help prevent our citizens from being trapped in high-cost repeat borrowing or debt-trap balloon payment loans that they cannot afford.

We oppose the CFPB proposal to tear the heart out of the rule to benefit the title loan industry and harm consumers in our state. We strongly urge you to withdraw this proposal and implement the rule as written without delay.

Sincerely,

Kelly S. Griffith, *Executive Director*, Center for Economic Integrity (Tucson, AZ)

Randy Reynolds, *Pastor*, Community Renewal Congregation (Tucson, AZ)

Stephany Brown, *Council President*, Society of St. Vincent de Paul (Tucson Diocesan Council)

James J. McLaughlin, *President*, UFCW Local 99 (Tucson and Phoenix, AZ)

Tony Penn, *CEO*, United Way of Tucson and Southern AZ

Laura Jasso, *Founder*, Southern Arizona Grandparent Ambassadors

Julie Douglas, *Voices for the Poor* (Phoenix, AZ)

Danny Knee, *Executive Director*, Community Investment Corporation (Southern AZ)

¹³ <https://cashtime.com/title-loans> viewed 4/26/2019