



ILLEGAL PAYDAY LOANS, DEBT COLLECTION, AND DEBT-TRAP TITLE LOANS ARE NOT ESSENTIAL SERVICES IN ARIZONA DURING THE COVID-19 CRISIS

ISSUE BRIEF

On March 23, 2020, Arizona Governor Doug Ducey issued Executive Order 2020-12 “Prohibiting the Closure of Essential Services,” defining an “essential service” as “one specifically identified as such or a function that promotes the public health, safety and welfare of the state or assists others in fulfilling such functions...” Included in this definition is Payday Lenders, a form of high cost, small dollar lending that Arizona borrowers rejected in 2008. A March 30th Stay-at-Home Executive Order confirmed that businesses listed as essential may continue to operate throughout the crisis.

Governor Ducey should amend the Essential Services order to protect Arizona families from predatory lending, financial stress and risks to key family assets during the Covid-19 crisis.

ACTION ITEM: DELETE ILLEGAL PAYDAY LENDING AS AN ESSENTIAL BUSINESS

Arizona Department of Financial Institutions Order, updated on June 9, 2016 requires former payday lenders as well as out-of-state online lenders to comply with the Consumer Lender law which caps rates on loans up to \$3,000 at 36% annual interest.¹ The Governor’s Executive Orders should reflect the law in the state, and ensure that predatory lenders cannot use the Covid-19 crisis to target and strip wealth from vulnerable Arizonans.

ACTION ITEM: EXCLUDE CAR TITLE LENDERS FROM THE “SALES FINANCE” LICENSEES DEFINED AS ESSENTIAL SERVICES AND PROHIBIT THE REPOSSESSION OF CARS BY CAR TITLE LENDERS

Car title loans are made by licensed sales finance companies under the “Secondary Motor Vehicle Finance Transaction” section of the law, charging between 120% and 204% APR,

¹ AZDFI Regulatory and Consumer Alert, CL/CO-16-01 at https://dfi.az.gov/sites/default/files/FE-AD-PO-Regulatory_and_Consumer_Alert_CL_CO_06%2009-16-2016.pdf

depending on the size of the loan.² Because borrowers use their car title as security, these loans put borrowers at risk of losing their vehicles if they are unable to repay their loan on time. In fact, nationally, about one-in-five car title loan borrowers will eventually lose their car to repossession. There is no limit on the size or duration of these loans. Repossession is particularly onerous during a financial crisis, and could possibly remove low-income essential workers, like grocery store clerks and certified nursing assistants, from the workforce at a time when they are most needed.

ACTION ITEM: CLARIFY THAT DEBT COLLECTION AGENCIES ARE NOT INCLUDED IN THE “ESSENTIAL” FINANCIAL SERVICES ORDER

The description of essential financial institutions in Executive Order 2020-12 includes “affiliates of financial institutions ...related financial institutions” which is being construed by the debt collection trade group to include state-licensed collection agencies.³ Attorney General Brnovich issued a letter to financial and lending institutions which called on lenders to waive payments for 90 days, stop repossessions, cease charging late fees and default interest for late payments, and cease negative reporting to credit bureaus.⁴ The Governor has issued a proclamation to protect renters from eviction. It is inconsistent for debt collection agencies licensed by the Arizona Department of Financial Institutions to continue business as usual during the Covid-19 crisis. Other states are excluding collection agencies from operation during the crisis, including the Nevada Financial Institution Division.⁵ Most recently the Illinois Department of Financial and Professional Regulation noted that debt collection is not listed as essential businesses under Governor Pritzker’s Order of March 20, 2020 and urges companies to suspend collection activity for a period of at least 60 days.⁶

² A.R.S. §§ 44-281 to 44-295 (Chapter 2.1). Motor Vehicle Time Sales Disclosure Act

³ <https://www.acainternational.org/news/licensing-guidance-from-state-agencies-in-response-to-coronavirus>
Scroll to Arizona.

⁴ https://www.azag.gov/sites/default/files/2020-03/Letter%20to%20Financial%20Institutions%20and%20Lending%20Institutions%20Serving%20Arizonans_3_19_2020.pdf

⁵ [http://business.nv.gov/uploadedFiles/businessnvgov/content/News_Media/NRS_649_COVID-19_03.20.2020%20\(1\).pdf](http://business.nv.gov/uploadedFiles/businessnvgov/content/News_Media/NRS_649_COVID-19_03.20.2020%20(1).pdf)

⁶ Illinois Department of Financial and Professional Regulation, Guidance, March 30, 2020 at <https://www.idfpr.com/News/2020/2020%2003%2030%20IDFPR%20financial%20guidance.pdf>