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April 3, 2020

To: Honorable Doug Ducey
Office of the Governor,
State of Arizona
1700 W Washington St.
Phoenix, AZ 85007

Cc: Christina Corieri
Interim Director, AZDFI
& Senior Policy Advisor to the Governor
100 N. 15th Avenue, Suite 261
Phoenix, AZ 85007

Re: Financial Protections for Consumers During COVID-19

Dear Governor Ducey,

The Center for Economic Integrity is an Arizona nonprofit organization that builds economically strong communities for all and opposes unfair corporate and government practices. As part of our mission we help coordinate a state-wide consumer coalition comprised of community groups, faith groups, nonprofit organizations, retired military groups and other associations here in Arizona.

The coronavirus poses many interconnected challenges and we applaud your office for recent actions designed to protect the health and safety of vulnerable Arizonans. In addition to your recent actions, we are asking you to provide guidance to the Department of Financial Institutions to ensure that licensee practices in this difficult time support the wellbeing of Arizona consumers and their families. Our coalition member nonprofit organizations, community groups, and our faith community networks are working on the frontlines of this crisis, supporting the needs of families with the resources and tools that are currently available, but a crisis of this magnitude is beyond our collective capacity to mitigate an avalanche of financial difficulty and harm.

Middle and low-income consumers must navigate myriad, potentially dangerous financial products and services designed to trap them in an unending cycle of debt. Corporations and industries are constantly evolving to circumvent common sense state and federal regulations enacted to prevent unfair, deceptive and unconscionable practices such as triple-digit small loans. Your leadership and guidance are essential in these times of unprecedented economic hardship. Decisive preemptive action will prevent the economic destabilization effects of loan defaults in mass, accruing penalty fees, and car repossessions. The long-term economic stability of Arizona families benefits our overall economy as well as the long-term financial viability of DFI licensees.

The Arizonans for Responsible Lending Coalition recommends that the Office of the Governor provide guidance and support to the Department of Financial Institutions, and where possible, mandate, the following:

Correct the “essential services” roster In Executive Order 2020-12 to remove illegal payday lending and to include only those Sales Finance licensees (including car title lenders) that charge no more than the Arizona usury rate of 36% annual interest for loans up to \$3,000 and 24% for larger loans. The Arizona law authorizing payday lending (deferred presentment) expired July 1, 2010 after voters rejected the payday loan industry’s Prop 200. The Arizona Department of Financial Institutions requires lenders to be licensed as Consumer Lenders and to comply with the usury and fee caps in the Consumer Lender law, including online lenders. No predatory lending is an “essential” service for Arizona consumers.

Require licensed lenders to charge no more than Arizona’s usury limit of 36% annual interest for new loans during the Covid-19 crisis and for 90 days following the end of the crisis.

“Secondary Motor Vehicle Finance Transactions” (car title loans) are permitted to cost up to 204 percent annual interest rates. These loans secured by consumers’ vehicles are asset-based lending, trap vulnerable borrowers in debt, and risk loss of a key family asset. During this crisis no lender should be permitted to charge exorbitant interest rates. Consider loans paid in full if borrowers have paid interest and fees equal to the original loan amount.

Direct licensees to work with borrowers impacted by the crisis by suspending payments and interest, waiving delinquency fees permitted by Arizona law, and develop affordable plans to catch up on obligations following the crisis. Prohibit charging late fees and default interest for late payments during the crisis and 90 days following.

Exclude collection agencies from the “essential services” roster. The description of “financial institutions” in Executive Order 2020-12 includes “affiliates of financial institutions...related financial institutions” which is highlighted by the trade association for collection agencies as apparently applying to their business.¹ The Nevada Financial Institution Division says that collection agencies are deemed a non-essential business due to the Governor’s policy that only services “essential to providing sustenance and for the everyday safety, health, and wellbeing of Nevadans” may stay open. The Arizona Attorney General has called for a halt to debt collection during this crisis. We urge you to clarify that collection agencies are not essential services.

Stop collection of debt for the duration of the crisis. Direct all licensed creditors to stop any negative credit reporting for the duration of the crisis and 90 days following. The Attorney General has called on creditors to provide loan forbearance. The Arizona Department of

¹ <https://www.acainternational.org/news/licensing-guidance-from-state-agencies-in-response-to-coronavirus>

Financial Institutions which regulates state-chartered banks, nonbank financial enterprises, and debt collectors should make this a requirement statewide.

Direct pawnbrokers that are licensed by County Sheriffs to provide a grace period at the end of pawn loan terms of 90 days and not take possession of borrowers' pawned possessions when consumers are unable to pay in full. Security for pawn loans should be held until the borrower can redeem the item without incurring additional interest or fees. This grace period should extend until at least 90 days following the crisis. Consumers who borrow via pawn loans are the most vulnerable borrowers in the economy since loans are based solely on the value of the pawned item with no credit check, no bank account required, and no ability to repay determination.

Stop repossessions. The Governor should direct the Motor Vehicle Department to freeze repossessions by lenders using the ELT system to secure loans with liens on borrowers' vehicles. This is especially important for protecting car title loan consumers who borrow a fraction of the vehicle's worth and risk losing the vehicle to repossession if unable to pay a loan in full at the end of loan terms as short as one month.

Safeguard bank accounts, income and benefits. Prompt action is necessary to safeguard deposited stimulus funds into Arizonans' bank accounts needed to support families in this emergency, not to be withdrawn to pay debt. Car title lenders exploit Arizona's lax law by making "registration" loans to consumers who do not own their vehicles free and clear. Instead of placing a lien on the vehicle title, title "registration" lenders typically require consumers to provide access to their bank accounts so that lenders can unilaterally withdraw payment in case the borrower does not pay off or renew the loan. During this crisis and for 90 days afterwards, no lender should be able to create a demand draft or use ACH or remotely created payment orders to withdraw payment for high-cost loans. The Department of Financial Institutions should instruct state-chartered banks and credit unions to promptly stop automatic payments from accounts when consumers request to stop those arrangements.

Stop bank overdraft fees. Direct banks and credit unions to stop charging overdraft or nonsufficient funds fees. Financial institutions should waive insufficient funds fees charged to their customers when checks are returned on insufficient funds during the crisis. When credit payments are set up through ACH or debit authorization, creditors should be prohibited from resubmitting if the initial payment is rejected due to nonsufficient funds.

Arizona families need your prompt action and leadership through Executive Orders and regulation by the Arizona Department of Financial Institutions to help consumers manage their stressed finances during the Covid-19 crisis. If you have any questions or need further information, please contact Kelly Griffith on (520) 250-4416.

[Signature page below]

Sincerely,

Kelly S Griffith

Kelly Griffith, Executive Director, for **Center for Economic Integrity**

Jay Young, Executive Director, for **Southwest Fair Housing Council**

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May Mgbolu, Economic Policy Analyst, for **Arizona Center for Economic Progress**

Randy Reynolds, Executive Director, for **Community Renewal**

Molly McGovern, Legislative Director, for **UFCW Local 99**

Ann Nichols, President, for **Southern Arizona Grandparent Ambassadors**

Catherine Nichols, individual signer, Southern Arizona Grandparent Ambassadors

M. Angelica Velez, individual signer, Dominican Sisters of Mission San Jose

Trish Muir, individual signer