

SB 1273 ¹

A Trojan Horse to legalize predatory payday lending in Arizona

Arizona Voters Said No to Payday Lending and Yes to a 36% Usury Limit	The Arizona Legislature Has Said No to High-cost Lending Since Prop 200 Failed
<p>“Payday loans” are small dollar cash loans due on the borrower’s next payday and paid via cash, the check held for future deposit, or a debit from the borrower’s bank account.</p> <p>Payday loans cost triple-digit rates, trap consumers in repeat borrowing, and target vulnerable families struggling to make ends meet.</p> <p>Arizona granted payday loans a carve-out from the Consumer Lender law in 2000, with a sunset provision. Due to widespread opposition, the legislature refused to remove the sunset date or to renew the law. The industry turned to a ballot proposition to enshrine payday lending in Arizona’s constitution.</p> <p>Arizona voters rejected the payday loan industry’s Prop 200 in 2008, leading to the sunset of Arizona’s payday loan law in 2010.²</p> <p>Cash loans from nonbanks, including those made by former payday lenders, are subject to Arizona’s 36% usury cap and protections in the Consumer Lender law.³</p> <p>Arizona voters strongly support the state 36% rate cap, according to polling.⁴</p>	<p>The predatory lending industry has tried and failed to win legislation to reenter the Arizona market since 2010.⁵</p> <p>This year’s tactic is to disguise payday loans as a “consumer-directed early wage access service” (EWA) in SB 1273 which purportedly deals with employer-integrated wage access services.</p> <p>Fake EWAs are made by lenders with no connection to the borrower’s employer, no information on actual wages earned, payment <i>not</i> by deduction from wages paid on payday.</p> <p>Just as with payday loans, a borrower applies directly to the lender, provides information on finances, receives the loan deposited to a bank account, and is charged triple-digit rates. The loan is paid on payday when the lender debits the borrower’s bank account for the advance and fees.</p> <p>At the advent of modern payday lending, providers claimed the transaction was not credit, that they were charging a “check cashing” fee, not interest, making it hard for consumers to know the comparable cost of borrowing. Payday lenders were soon required to comply with Truth in Lending.</p> <p>Today EWA providers claim their fees are not interest but are subscription fees, per transaction fees, expedite fees, or “voluntary” tips. EWA lenders do not quote a finance charge or Annual Percentage Rate as required by the Truth in Lending Act.</p>

¹ SB 1273 as introduced: <https://www.azleg.gov/legtext/56leg/2R/bills/SB1273P.pdf>

² CEI Brief, “Arizona Voters Said No To Predatory Payday Lending” January 2022 at: <https://nomoreloansharksaz.org/gallery/2022%20AZ%20Factsheet%20Brief%201%20Prop%20200.pdf>

³ DIFI, Regulatory and Consumer Alert, CL/CO-16-01, updated June 9, 2016 at: https://difi.az.gov/sites/default/files/2021-08/FE-AD-PO-Regulatory_and_Consumer_Alert_CL_CO_06%2009-16-2016.pdf

⁴ CRL/CEI, “Arizona Voters Overwhelmingly Support 36% Rate Cap” Poll conducted in 2020 at: <https://nomoreloansharksaz.org/gallery/2020-02-26%20crl%20cei%20az%20polling%20on%20rate%20cap.pdf>

⁵ CEI Brief, “Arizona Lawmakers Said NO To Usury Since Prop 200 Vote In 2008”, December 2021 at: <https://nomoreloansharksaz.org/gallery/2021%20AZ%20Factsheet%20No%20on%20Usury%20since%202008.pdf>

Earned Wage Advances are “Payday Loans on Steroids” ⁶

Terms used by EWA providers are like loan terms that would have been authorized by Prop 200 rejected by Arizona voters. **Prop 200** authorized payday loans of \$50 to \$500, for terms of 5 to 35 days, at a maximum cost of \$15 per \$100 or 390% APR for a 14-day loan. Prop 200 permitted loans to be secured by a paper check, defined to include electronic debit from the borrower’s bank account.

Comparison of EWA product terms from research by the CA DFPI summarized by the National Consumer Law Center with limits on payday loans in Prop 200 rejected by Arizona voters in 2008, and limits on EWAs in SB 1273 introduced in the Arizona Legislature 2024.			
	EWA Terms from NCLC summary⁷ of CA data⁸	Prop 200 Payday Loans rejected by AZ ⁹	SB 1273
High APRs	334% APR tip EWAs 331% APR non-tip EWA	390% APR two-week loan (\$15/\$100)	No cap
Debt Trap	36 advances/yr. on average	24-hr. between loans	No Limit
Little Credit	Range \$40 to \$100	\$50 to \$500 loans	No Limit
Short Terms	Average 10 days	5-to-35-day term	No Limit
Repayment almost certain	Repaid 97% of time by payroll deduction or bank account debit	Secured by held check or EFT authorization	Payroll deduction or bank account debit

⁶ Greg Iacurci, “Workers are paying to get part of their paychecks early. It’s ‘payday lending on steroids,’ one expert says”, CNBC, January 28, 2024 at: <https://www.cnbc.com/2024/01/28/why-one-expert-called-earned-wage-access-payday-lending-on-steroids.html>

⁷ National Consumer Law Center, “Data on Earned Wage Advance and Fintech Payday Loan “Tips” Show High Costs for Low-Wage Workers,” April 20, 2023 at: <https://www.nclc.org/resources/data-on-earned-wage-advances-and-fintech-payday-loan-tips-show-high-costs-for-low-wage-workers/>

⁸ California DFPI, “2021 Earned Wage Access Data Findings” Analysis completed Q1 2023, at: <https://dfpi.ca.gov/wp-content/uploads/sites/337/2023/03/2021-Earned-Wage-Access-Data-Findings-Cited-in-ISOR.pdf?emrc=08148f>

⁹ Arizona Secretary of State, 2008 Ballot Proposition Guide Prop 200 at: https://apps.azsos.gov/election/2008/info/PubPamphlet/Sun_Sounds/english/prop200.htm