



Consumer Federation of America



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**PAYDAY LENDERS EVADE STATE CONSUMER PROTECTIONS
BY “RENTING” BANK CHARTERS
National Survey Shows Consumers Charged Triple Digit Interest Rates**

Washington, DC --- Payday lenders, thwarted by state regulators and the courts, are expanding their use of partnerships with banks to make loans that violate state usury laws, small loan rate caps, and even payday loan state legislation. Rent-a-bank payday lenders seek to benefit from bank privileges despite warnings from federal regulators and enforcement actions by state Attorneys General, according to a new report by Consumer Federation of America and the U. S. Public Interest Research Group.

“Big payday lenders don’t want to comply with state laws designed to limit their triple-digit interest rates, so they are renting bank charters in a cynical attempt to avoid state consumer protections,” said Jean Ann Fox, Director of Consumer Protection for CFA. “Check cashers, pawnshops, and payday lenders are attempting the biggest bank powers heist of all time.”

In a typical payday loan, a consumer writes a personal check for \$230 to borrow \$200 for two weeks (“until payday”). The Annual Percentage Rate (APR) on this loan is 390%. At the end of the two-week period, the consumer often extends the loan by paying the \$30 fee to carry it for two more weeks. Consumers who cannot cover the deposited check are faced with bounced check fees from both the lender and the bank, added Ms. Fox.

“Predatory triple-digit payday loans threaten vulnerable consumers in this economic downturn,” said Edmund Mierzwinski, Consumer Program Director for U.S. PIRG. “We urge Congress and the states to ban predatory financial practices such as holding checks as ransom for fast loans.”

The new report, “**Rent-A-Bank Payday Lending**,” surveys 235 payday lenders in 20 states and the District of Columbia. It also analyses the status of payday lending laws around the country and reports on the growing use of bank partnerships by lenders.

Key Survey Findings

- Payday lending is now a booming business, with 65 million transactions being made by up to 24,000 large and small payday loan outlets. The industry estimates that up to 10 million American households will pay \$2.4 billion in fees this year for two-week loans.
- Nineteen states and two territories have laws that do not authorize loans based on checks at triple-digit interest, while 25 states and the District of Columbia have authorized payday loans. Another six states have no cap on charges for credit, permitting payday lending without any state law limits on fees or loan terms.

- The national average APR for surveyed loans was 470%, with an average fee of \$18.28 to borrow \$100 for two weeks. APRs quoted ranged from 182% to 910% and fees ranged from \$10 to \$35 per \$100 borrowed.

“It is obvious that competition and state limits are failing to protect payday loan borrowers,” Ed Mierzwinski said. “Over half the surveyed lenders in states that cap rates are charging at or above the legal maximum.”

- The most common APR found was 390%, charged by 30% of all stores, followed by 520% charged by 18% of all stores. Another 21% of stores charged APRs clustered between 442-459%.
- Consumers have a hard time shopping for payday loans by price, since only 32% of lenders disclosed a nominally accurate Annual Percentage Rate on charts or brochures in their stores. Only 22% of stores disclosed both fees and APRs in their stores.
- Over three quarters of surveyed stores allow a consumer to renew or rollover unpaid loans, either by paying the finance charge to extend the loan or accepting a new check for another loan as soon as the old check was redeemed for cash.

State Legislative Status

The report summarizes state legislative activity in 2000 and 2001. States are showing greater reluctance to authorize payday loans with North Carolina allowing its payday loan law to sunset in August. Other states that refused to pass industry-friendly authorizing legislation this year include Alabama, Virginia, Maryland, Oklahoma, New York, Georgia, Texas, and California. Only Florida and North Dakota legalized payday lending in 2001. In the last two years, Maryland and Colorado adopted anti-broker or loan arranger laws in order to keep control over local companies that broker loans for out of state banks.

Rent-a-Bank Payday Lending

Pawn shops, check cashers and payday lenders are attempting to claim the rights of banks to charge rates permitted in the bank’s home state. Despite warnings from federal bank regulators, bank involvement in payday lending is growing both in states that retain usury limits, such as Virginia and Indiana, and in states that authorize payday lending such as Colorado and California. Lenders that partner with banks usually charge higher rates, make larger loans, or make repeat loans in violation of state laws. Rent-a-bank payday lenders are facing state enforcement or class action litigation in Colorado, Ohio, Maryland, Florida and Texas. The report details bank and payday loan connections (See attached chart.)

Policy Recommendations and Advice to Consumers

The groups urged the following reforms:

- States should enforce existing usury laws and small loan laws and enact anti-broker provisions to keep state control over non-bank local companies. States that have already adopted industry-friendly laws should amend their payday loan laws to lower costs, prevent

debt traps, and protect borrowers from coercive collection tactics made possible by the holding of checks as the basis for loans.

- Congress and federal bank regulators should stop rent-a-bank arrangements and outlaw the holding of checks drawn on federally insured depository institutions as the basis for small loans.
- Banks, thrifts, and credit unions should serve their account customers with fairly priced overdraft protection and credit arrangements.

The groups urged consumers in need of short-term cash to avoid extremely expensive payday loans and instead build up a savings next-egg to cover financial emergencies, seek budgeting and debt management assistance from non-profit consumer credit counseling services, and shop for credit based on both the dollar finance charge and the Annual Percentage Rate.

“Consumers with too much month at the end of the paycheck deserve better legal protection against predatory lenders,” Jean Ann Fox concluded. “Lenders who misuse bank charters and who devise tricks and ruses to evade state consumer protections must be stopped.”

Copies of Rent-a-Bank Payday Lending are available from CFA and USPIRG. The report will be posted at the groups’ web sites, www.consumerfed.org and www.pirg.org.

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The Consumer Federation of America is a non-profit association of over 280 groups, with a combined membership of over 50 million people. CFA was founded in 1968 to advance consumers’ interests through advocacy, research, and education.

U. S. Public Interest Research Group serves as the national lobbying office for state Public Interest Research Groups. PIRGs are non-profit, non-partisan consumer, environmental and good government research and advocacy organizations with members around the country.

Banks That Rent Their Charters to Payday Lenders	
National Banks, supervised by the Comptroller of the Currency	
Eagle National Bank	Dollar Financial Group Urgent Money Service (NC) Express Money Service (NC) Fast Loan (NM)
Goleta National Bank	Ace Cash Express
People's National Bank-Paris, TX	National Cash Advance (PA, NC) Advance America (PA, NC)
First National Bank in Brookings, SD	First American Cash Advance Cash America pawn shops First Southern Cash Advance (NC) Nationwide Budget Finance (NC) Express Check Advance (NC) Doc Holliday's (TX)
State chartered banks, FDIC insured	
BankWest, Inc., Pierre, SD	Advance America (VA)
Brickyard Bank, Lincolnwood, IL	Check 'n Go (NC)
County Bank of Rehoboth Beach, DE <i>also see below (Internet)</i>	Check 'n Go (IN) EZPAWN (TX) Cash In Advance, Inc. (NC) Cash Today (PA) Servicing agents and web sites (<i>See below: Internet</i>)
First Bank of Delaware	National Cash Advance (IN) Advance America (IN) Check Into Cash (NC)
First Community Bank of Washington	Advance America (AL, AR) National Cash Advance (AL, AR)
National thrifts (S&Ls) Regulated By Office of Thrift Supervision (OTS)	
BANK PAYDAY LENDING OVER THE INTERNET	
County Bank of Rehoboth Beach, DE The largest network of payday loans offered over the Internet and through fax and toll-free numbers come from County Bank of Rehoboth Beach, Delaware and its agents such as Fast Funding East and Cash Reserve. This combination of companies makes loans through dozens of web sites and several trade names advertising in Yellow Pages directories.	Multiple web sites, including Bad Credit Banks.com, eFastCashLoans.com, Fast AutoCash.com, FastCash2go.com, FastLoans2Go.com, FastCashHassleFree.com, FastCashNoQuestions.com, Fast LoanCash.com, FreewayCash.com, LoanFastCash.com, MoneyByPhone.com, MyFastCashLoans.com, MrSpeedyCash.com, Quickoans2Go.com, SspeedwayCash.com, Webfastcash.com, 500fastcash.com, 500CashNow.com, 500Cash.com, 500CashHotline.com, 500EmergencyCash.com, 500quickcash.com, 911EmergencyCash.com, 911CashFast.com, 911CashMoney.com.

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¹ See Cash America International, Inc. Second Quarter 2001. Of the 392 Cash America locations making payday loans, 310 are third party financial institution arrangements

² Crusader Bank in Philadelphia made payday loans for National Cash Advance in Pennsylvania from 1999 until early 2001 when the bank changed hands and withdrew from this line of business. According to the OTS, no federally chartered thrifts are currently making payday loans in partnership with non-bank entities.