



Consumer Federation of America



May 2, 2006

Senator Edwin R. Murray
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Representative Mickey Frith
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Via E-Mail and U.S. Mail

Dear Senator Murray and Representative Frith:

We write to express our serious concerns about the bills that you have introduced that would authorize high-cost title loans in Louisiana. Car title loans are marketed as small, short-term emergency loans, but in reality these loans trap borrowers in a cycle of debt. Car title loans put at high risk an asset that is essential to the well-being of working families—their vehicle. We urge you to withdraw S.B. 319, S.B. 600 and its substitute S.B. 743, H.B. 924, and H.B. 1050 because these bills would permit title lenders and payday lenders operating as title lenders to abuse Louisiana consumers in the same way that they have abused consumers in other states.

Research conducted by Consumer Federation of America (CFA) and the Center for Responsible Lending (CRL) indicates that the typical car title loan has a triple-digit annual interest rate, requires repayment within one month, and is made for much less than the value of the car.¹ Title loans are typically made without regard to borrowers' ability to repay. Because the loans are generally structured to be repaid as a single balloon payment after a very short term, borrowers frequently cannot pay the full amount due on the maturity date and instead find themselves extending or "rolling over" the loan

¹ See CFA, *Driven Into Debt: CFA Car Title Loan Store and Online Survey* (Nov. 17, 2005), available at http://www.consumerfed.org/pdfs/Car_Title_Loan_Report_111705.pdf; CRL & CFA, *Car Title Lending: Driving Borrowers to Financial Ruin* (April 14, 2005), available at http://www.responsiblelending.org/pdfs/rr008-Car_Title_Lending-0405.pdf. Speaking of Florida's 1995 law, which permitted annual rates of 264% on title loans, then-Attorney General Bob Butterworth stated, "We've legalized loan sharking. We even made the Mafia look good." "Need Cash?," 60 Minutes (CBS Television Broadcast, Jan. 2, 2000).

repeatedly.² In this way, many borrowers pay fees well in excess of the amount they originally borrowed. For example, at 300% APR, a \$400 loan would accrue \$100 in finance charges in just the first month.

If the borrower fails to keep up with these recurring payments, the lender may summarily repossess the car, stripping borrowers of what is often their most valuable possession and only means of transportation. Tennessee title pledge lenders reported over 17,000 repossessions related to the title loan business in 2004.³ Lack of transportation is widely recognized as one of the most significant barriers to obtaining and maintaining employment, and for many title loan borrowers, public transportation is simply not available or not an acceptable substitute for a private vehicle.⁴ For borrowers of limited means, losing a car can make it impossible to keep a job, attend school, or obtain health care.

Newspapers across the country have recounted borrowers' wrenching experiences with these high-cost balloon loans, including the following:

- Gregory Dotson, a Tennessee sanitation worker, took out a \$200 loan from Golden Title Loans secured by his 1989 Chrysler New Yorker in order to make a downpayment on a house. Mr. Dotson paid \$329 over seven months and then lost the car to Golden Title Loans.⁵
- Amparo Lopez borrowed \$1,500 from a title lender in New Mexico in August 2003, using her 1996 Chevrolet Tahoe as security. By January 2005, she had paid \$5,000 in interest – over three times the amount borrowed – and still owed the full \$1,500.⁶
- Felicia Scrubb, a 26-year-old single mother, obtained a \$450 loan from Atlanta Title Loans in July 2004 to pay rent and utilities. Each month, she had to pay

² A review by the Tennessee Department of Financial Institutions found that title loans were renewed in Tennessee an average of 7 times, and the maximum number of times a single loan was renewed was 105. Tennessee Department of Financial Institutions, Report to the Tennessee General Assembly, Pursuant to Public Chapter 440, Acts of 2005, Section 7(e) (“Tennessee Department of Financial Institutions Report”), at 6 (Feb. 1, 2006).

³ Tennessee Department of Financial Institutions Report, at 6.

⁴ In 2001, only about half of all Americans reported that they had public transportation service. Linda Bailey, Surface Transportation Policy Project, Aging Americans: Stranded Without Options at 5 (Apr. 2004) (citing the 2001 U.S. Census Bureau American Housing Survey); *see also* Most Americans Want Improved Public Transportation and Roadways, Research Alert, Jul. 16, 2004, at 1 (noting that 91% of working Americans drive to work). Moreover, as Congress has recognized, “two-thirds of all new jobs are in the suburbs, whereas three-quarters of welfare recipients live in rural areas or central cities,” and “even in metropolitan areas with excellent public transit systems, less than half of the jobs are accessible by transit.” Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, § 3037(a), 112 Stat. 107 (1998).

⁵ Marc Perrusquia, *Last-Resort Loans*, THE COMMERCIAL APPEAL, Jul. 11, 2004, at A1. In addition to charging the maximum rate allowed by law, Golden Title Loans also charged Mr. Dotson extra fees when he paid late, even though his loan contract did not mention any such fees. *Id.*

⁶ Andrew Webb, *Payday Loans in Lawmakers' Cross Hairs Again*, ALBUQUERQUE J., Jan. 18, 2005, at A1.

\$112.50 in interest on the loan. When she was unable to pay the full interest amount in November 2004, her car was repossessed in the middle of the night. Without her own vehicle, she was unable to make it to work. Ms. Scrubb finally got her car back in January, but not until a reporter from the Atlanta Journal-Constitution contacted the title lender.⁷

The title lending industry has grown tremendously in recent years in a number of states that have failed to take adequate steps to protect borrowers. Low-income individuals are frequent borrowers of title loans. Title and payday lenders surveyed in a 2001 Missouri audit estimated that 70% of their borrowers earned less than \$25,000 per year.⁸ This is consistent with an earlier study by the Illinois Department of Financial Institutions, which found that the average salary for title loan customers in that state was \$19,808.⁹

Current Louisiana law protects borrowers from title lending abuses. The Louisiana pawn statute explicitly prohibits the “pawn” of a title, which prevents title lenders from pretending that their loans are pawns.¹⁰ Louisiana’s Consumer Credit Law also limits the rates that lenders may charge in consumer loan transactions and provides other protections. Under La. Rev. Stat. Ann. § 9:3519, the maximum loan finance charge that can generally be charged in consumer loan transactions is 36% percent per year, which applies to loans of \$1,400 or less; for larger loans, lower rates generally apply to the amount of the loan that exceeds \$1,400. Licensed lenders can make loans secured by vehicles at 36% per year or less.

The proposed bills would dramatically change existing law to consumers’ disadvantage. Under the bills, title lenders, either as payday lenders or as a new class of motor vehicle lenders, would be allowed to charge nearly *ten* times the maximum rates permitted for consumer loan transactions, yielding a 300% APR. There is no justification for permitting such sky-high rates on fully secured loans, when the rates generally permitted on unsecured loans are so much lower. In comparison to the rate caps that apply to unsecured small loans, equivalent-sized loans secured by the title to a paid-for vehicle should be less expensive, not more, since the security protects the lender in the event of default.¹¹

⁷ Alan Judd, Carrie Teegardin, & Ann Hardie, *Borrower Beware: Why Georgia is a Bad Place to Borrow Money: AN AJC SPECIAL REPORT: The Cost Is So High and So Is the Risk for Borrowers Who Post Car Titles as Collateral for Quick Cash*, THE ATLANTA JOURNAL-CONSTITUTION, Jan. 31, 2005, at A1.

⁸ Missouri Office of the State Auditor, Report No. 2001-36: Division of Finance and Regulation of the Instant Loan Industry (May 9, 2001), at 3, available at <http://www.auditor.state.mo.us/press/2001-36.htm>.

⁹ Illinois Department of Financial Institutions, Short Term Lending: Final Report at 26, available at <http://www.state.il.us/dfi/ccd/pdfs/Shortterm.pdf> (hereinafter “Illinois DFI 1999 Short Term Lending Report”).

¹⁰ La. Rev. Stat. Ann. § 37:1801.D. (“Under no circumstances shall the practice commonly referred to as motor vehicle ‘title only’ pawn transactions be allowed in this state. Every motor vehicle subject to a pawn transaction shall be stored at the business location at which the transaction occurred or at any other location in this state secured or maintained by the pawnbroker.”).

¹¹ Despite the greater risk, the current average annual interest rate charged by credit card companies is about 13%, which is at least *20 times* lower than the average rates that surveys have found for car title loans. Compare Federal Reserve Statistical Release: G.19 Consumer Credit (April 7, 2006), available at <http://www.federalreserve.gov/releases/g19/>; with Illinois DFI 1999 Short Term Lending Report at 4, 26;

All of the bills would permit title lenders to roll a loan over from month to month at their sole discretion. S.B. 743, S.B. 600, and H.B. 1050 expressly permit title lenders to roll loans over without even documenting the extension in writing, making it difficult for borrowers to know or prove the status of their loans. The bills also require title loans to mature within thirty days, which guarantees that many borrowers will not be ready to pay the loan off at maturity and will instead have to pay additional finance charges as lenders roll their loans over from month to month.

The proposed legislation also would not protect borrowers from abuses in the event of default. If a borrower fails to pay a title loan off in full by the maturity date of the loan or extension *for any reason*, S.B. 743 would permit the lender to demand possession of the vehicle and to repossess the vehicle if the borrower does not turn it over within 15 days of the date the demand was mailed. S.B. 600 and H.B. 1050 contain similar provisions, although they would provide even less notice to the borrower. None of the bills appears to require that the borrower be given notice of default prior to the lender's demand that the vehicle be turned over.

Instead of adequate monitoring or enforcement provisions, the bills contain a number of provisions that appear to be designed to protect title lenders. For example, S.B. 743 contains a provision that appears to be designed to parry borrower challenges based on the unconscionability of the title loan contracts. Although S.B. 743 would permit civil penalties in limited circumstances, it also makes it extremely difficult for borrowers to obtain the remedy – by, for instance, requiring that the borrower bring an action within 60 days of his or her final loan payment and providing safe harbors for lenders who act based on “good faith” errors of law or fact or pursuant to even erroneous opinions or interpretations of the Office of Financial Regulation. Title lenders operating under S.B. 600 and H.B. 1050 would also inexplicably be regulated by the Louisiana Motor Vehicle Commission, rather than the Office of Financial Institutions.

We urge you to withdraw S.B. 743, S.B. 600, S.B. 319, H.B. 924, and H.B. 1050 because the bills would expose Louisiana borrowers to the abusive practices that have made car title loans so dangerous for borrowers in other states. Particularly in view of the displacement caused by last year's hurricane season, putting further financial strains on working people and placing at risk their means of transportation to work or to visit still displaced family members is precisely the wrong direction for the legislature to move. We have enclosed a copy of our recent reports, which are available on the web at http://www.consumerfed.org/pdfs/Car_Title_Loan_Report_111705.pdf and http://www.responsiblelending.org/pdfs/rr008-Car_Title_Lending-0405.pdf, and would

Florida PIRG, *New Survey Shows Outrageous Interest Rates Charged By Florida Title Loan Companies* (Mar. 31, 1998), available at <http://floridapirg.org> (accessed Dec. 1, 2004); Missouri Auditor Report No. 2001-36, at 5; *see also* Tennessee Department of Financial Institutions Report at 6 (finding that some Tennessee lenders charged as much as 30% per month for title loans, substantially more than the 22% per month allowed by Tennessee law, and that most other title lenders charged 22% per month, which is 264% APR).

be happy to discuss these issues with you further. Thank you in advance for your consideration of our concerns regarding this important issue.

Sincerely,

Jean Ann Fox, Director of Consumer Protection
Consumer Federation of America

Reggie James, Director, Southwest Office
Consumers Union

Keith Corbett, Senior Vice President
Center for Responsible Lending

Enclosures

CC (via email): Senate of Louisiana
 Louisiana House Commerce Committee