

Payday lenders and small claims court cases in Utah: CORC

Overview

The purpose of this study was to determine whether or not payday lenders were using a sizable portion of Utah small claims court resources to obtain default judgments for the purpose of collecting overdue payday loans from Utah borrowers. To achieve this, all such records for the five and a half years through June of 2010 were reviewed.

Introduction

Predatory lending in general and payday loans in particular are problematic throughout Utah. Eleven years ago in Utah there were no regulations, no state regulatory oversight of the payday loan business, and no cap on interest rates being charged by payday lenders. The Coalition of Religious Communities (CORC), a statewide advocacy group, has tackled these issues at the Utah State Legislature each session for the past decade with mixed results. At this time the political climate is not conducive to running another bill addressing continuing payday loan problems, including the most egregious-- that of no statewide rate cap.

Last spring, at the CORC annual meeting, we decided that addressing the problem of payday lenders in Utah should be examined from a new angle. People have become so tired of hearing that interest rates need to be capped, that there is no way to drive payday lenders from the outlets they currently operate and the public has become apathetic about the issue. Our grassroots coalition needed a way to recharge members and get them motivated to work on the issue with renewed energy.

Our new approach began with figuring out a way to show EVERY taxpayer in the state that they should care about what the payday lenders are doing in our state despite the fact that they themselves have not taken out payday loans. The public should care about the number of loans payday lenders continue making to unqualified borrowers because it costs them in tax dollars used to fund small claims courts, tax dollars better spent on critical community services such as law enforcement.

Several years ago a local newspaper reporter did an article detailing the number of payday loan collection cases being handled by one local

Justice Court. The numbers were astounding. Almost one in three cases were for payday loan collections. CORC decided to expand the investigation and see what the numbers were in courts across the state. With the help of a student intern from the University of Utah and a dedicated volunteer all small claims cases from January 1, 2005 to June 30, 2010 were searched. That involved reviewing a total of 154,736 records of Utah Justice and District Court cases.

After compiling the data from those court cases filed over the past five and one half years, it became clear that taxpayers across Utah are paying heavily for the payday loan business to collect on default loans. Of the cases heard in Justice and District Courts during that time period, 58,585 or about 38% were payday loan collection cases. Most of those loans should never have been made due to the inability of the borrowers to pay back the loan. This data runs contrary to continued statements by payday lenders that 90-95% of borrowers pay back their loans within 14 days of taking out the initial loan.

Payday loan cases are filed in two types of courts in Utah, District Courts and Justice Courts. In the future such cases will only be handled, at least initially, in Justice Courts. District Courts are the state trial courts of general jurisdiction prosecuting many types of cases, primarily domestic case such as divorces, child custody and support, adoption, and probate. Justice Courts were established in 2002 to relieve the case burden of District Courts.

Several major hurdles were encountered when we tried to gather figures to determine the average cost of each payday loan collection case. District and Justice Courts are net revenue generators for the areas they serve but we have been told that these revenues are primarily from fines and penalties, not filing fees, which is all that payday lenders contribute towards court expenses.

There was no way to examine the budget of each court in an easy or thorough manner. First, court budgets are buried in city and county budgets and often not listed individually. We could not find electronic postings of most city budgets and to get any information on court income and expenses required calls to court administrators, among others. Even then figures were not easily given, if at all. Unfortunately we were unable to obtain written documents showing the breakdown of court revenues to determine what percentage came from filing fees. This could be a problem in other states when trying to show how much payday loan cases cost taxpayers.

All citizens using the Justice and District Court systems are also paying another price. Getting cases on important issues such as children's safety and well being settled could be delayed in a number of courts due to the high volume of payday loan cases filed.

Unable to reach our initial goal of showing costs to taxpayers from the payday loan cases filed, we still decided to process the data we obtained from each county and see what facts we could determine and what conclusions could be reached.

Four of the 29 counties in Utah do not have a District or Justice Court. They are Duchesne, Juab, Millard and Uintah. Eleven other counties, Daggett, Emery, Garfield, Kane, Millard, Morgan, Piute, Rich, Sevier, Summit and Wayne, have at least one court but did not have any payday lending collection cases during the time period covered by this report. One of these eleven counties, Sevier County, does have three payday lending stores; the other counties do not have any payday loan outlets, primarily due to a lack of population in general and any concentration of population in particular.

Only data from District and Justice Courts that have posted their information on the Utah State Courts XChange Case Look Up are included in this report. Consequently, information from Salt Lake County Justice Courts in Murray, Sandy, and Salt Lake is missing. Counties and courts with no payday loan cases are not included on the table at the end of this report. All other data collected is summarized in the table.

Of the 14 counties that processed payday loan collection cases the following are some of our observations:

Several cities whose average incomes were relatively high had little or no payday lending cases filed. Higher concentrations of payday lending cases, however, were in middle to lower income areas. It is important to note that one of the largest payday lenders in Utah, Check City, has not filed a small claims case in Salt Lake County since 2007 even though it has many outlets there. The majority of its cases since 2007 have been filed in the Provo District Court in adjacent Utah County.

The county with the highest percentage of payday loan collection cases filed is Utah County. Not only is that where Check City is now filing most if not all of their cases but BYU and Utah Valley State University

are also located there. The two courts serving the area containing BYU had the highest number of cases filed, 79.3% and 70.2%. The demographics of this area show that Utah County has the lowest mean age of Utah's 29 counties and the areas that these courts serve contain mostly young, married working students with children, a prime target for payday lenders.

Cache County had only one court, Logan City Justice Court, that heard payday cases; approximately one in four cases filed were by payday lenders. This court serves the area where Utah State University is located.

Two of the three courts in Davis County, those in Clearfield and Layton, saw few very high levels of payday loan cases over the period studied. Both are located in areas immediately adjacent to Hill Air Force Base. Targeting of military personnel was common before the Talent-Nelson amendment to the 2007 defense authorization bill and the DOD regulations following from it that restrict payday loans to military personnel after October 1, 2007. While the number of payday loan cases filed in the Clearfield Justice Court declined significantly after October 2007, there was little change in the frequency of payday loan cases in the Layton District Court. But given the fact that one in two Hill AFB employees is civilian, court records would lead one to conclude that targeting workers with steady federal paychecks is the next best thing.

We have yet to figure out why so many payday lending cases in Salt Lake County are filed in the West Jordan District Court. We do know from pulling Salt Lake City District Court individual case files that the majority of judges there do not grant payday lenders full judgments, citing excessive interest. That may have caused the lenders to prefer the West Jordan District Court.

A final assessment of this data leads us to think of new ways to approach the problem of payday lending in Utah. First, if we cannot pass legislation restricting to whom loans can be given, we should look at changing the law regarding collections. Perhaps something like binding arbitration for both payday lenders and the collection companies they hire should be required by state law.

Nationally we should take the Talent-Nelson amendment and expand it to employees of military installations.

Summary and Conclusions

A study was conducted to determine the burden placed on state courts in Utah by payday lenders who are trying to recover the principal and fees connected with loans they made to short-term borrowers. The original purpose of the study was to demonstrate some of the cost to taxpayers of the payday loan business. Unfortunately we were not able to get detailed information about average costs for debt collection activities in the Utah District and Justice Courts where these cases were heard.

Nevertheless, the information gathered revealed a staggering fact: From 2005 through the middle of 2010, the most recent period for which information was available, more than one third of all the cases in the courts that handled such cases were a result of payday lending activities. Over the study period over 150 thousand court cases were resolved in Utah's District and Justice Courts, so the conclusion that actions by payday lenders form a major burden on Utah's court system is robust. Furthermore, since debt collection cases do not pay fines to the entities that fund the courts, it can be implied that one aspect of that burden is financial.

THIS IS TABLE EXPLANATION.

The table provides information, Utah county by Utah county, for all courts that heard payday loan cases over the study period and totals for each county. Three sets of figures were compiled for this table. The left column of numbers indicates how many payday loan cases were filed in each court during the study period, with subtotals by county. The middle column shows the total number of cases filed in each court listed, again with subtotals by county. NOTE: County totals include all cases heard by all courts including those with NO payday lending cases. Breakout data on these courts is not shown. The right column shows the percent of cases filed in each court that considered such cases and in each county court system that were payday loan collection cases.

County	Court	Total pdl	Total cases	% pdls
Beaver	Milford Justice Court	6	22	27.70%
BEAVER Total		6	53	11.30%

Box Elder	Box Elder County Justice	185	2199	8.40%
Box Elder	Tremonton City Justice	151	808	18.69%
BOX ELDER Total		336	3105	10.80%
Cache	Logan City Justice Court	839	3251	25.80%
CACHE Total		839	4161	20.20%
Carbon	Carbon County Justice Court	111	4423	2.50%
CARBON Total		111	4617	2.40%
Davis	Bountiful District	2	2021	0.10%
Davis	Clearfield Justice Court	473	918	51.50%
Davis	Layton District	4584	9205	49.80%
DAVIS Total		5059	13281	38.10%
Iron	Iron County Justice Court	794	2175	36.50%
IRON Total		794	2175	34.90%
Salt Lake	Midvale Justice	148	1372	10.80%
Salt Lake	Riverton Justice Court	89	311	28.60%
Salt Lake	Salt Lake City District	4249	19535	21.70%
Salt Lake	South Jordan Justice Court	80	718	11.10%
Salt Lake	South Salt Lake Justice Court	75	1364	5.50%
Salt Lake	Taylorsville Justice Court	300	1625	18.50%
Salt Lake	West Jordan District	11199	13774	66.80%
Salt Lake	West Jordan Justice	29	579	5.00%
SALT LAKE Total		16169	53315	30.30%
San Juan	San Juan County Justice Court	1	26	3.80%
SAN JUAN Total		1	26	3.80%
Sanpete	Mt. Pleasant Justice Court	1	122	0.80%
SANPETE Total		1	451	0.20%
Tooele	Tooele District	427	2719	15.70%
TOOELE Total		427	2907	14.70%
Utah Co.	American Fork District	441	2952	14.90%
Utah Co.	Orem District	1878	6100	30.80%
Utah Co.	Provo City Justice Court	675	962	70.20%
Utah Co.	Provo District	19580	24707	79.30%
Utah Co.	Saratoga Springs Justice Court	75	108	69.40%
Utah Co.	Spanish Fork District	601	2349	25.60%
UTAH CO. Total		23250	37199	62.50%
Washington	Hurricane City Justice	78	340	22.90%
Washington	Washington Co Justice Court	1707	7201	23.70%
WASHINGTON Total		1785	7549	23.70%
Weber	Ogden District	9386	20412	46%
Weber	Ogden Justice Court	319	1610	19.80%
Weber	South Ogden Justice	102	335	30.50%
WEBER Total		9807	22590	43.40%
UTAH STATE Grand Total		58585	154736	37.90%