



The Leadership Conference on Civil and Human Rights Resolution on Payday and Deposit Advance Lending,
Adopted December 12th, 2013

WHEREAS, The Leadership Conference on Civil and Human Rights believes that the ability to obtain and preserve economic security is an essential civil and human right of all Americans, and that strong consumer protection laws are a vital component of securing this right; and

WHEREAS, communities of color and other economically vulnerable populations have long been subjected to discriminatory and abusive financial services practices, including redlining and other forms of overt discrimination, as well as predatory and deceptive mortgage and consumer lending, which are disguised as “easy solutions” to credit needs, and have suffered particularly devastating consequences as a result of many of the lending practices that led to the 2007-08 financial crisis; and

WHEREAS, despite improvements to federal and state policies in the wake of the financial crisis, including the establishment of the Consumer Financial Protection Bureau (CFPB) and the recently increased attention by other financial industry regulators to the importance of adequate consumer protections, and despite the hope that most financial service providers would heed the lessons of the financial crisis, communities of color and other economically vulnerable populations are still being subjected, on a widespread basis, to predatory and deceptive lending practices, including in the market for small-dollar lending; and

WHEREAS, the practices of “payday” and “deposit advance” lending, in which storefront lenders, Internet lenders, and some banks make loans that must be repaid, often in full, through a deduction from the borrower’s next paycheck, continue to target communities of color and other economically vulnerable populations including older Americans who rely on Social Security for their source of income, with multiple studies showing that payday lenders are heavily concentrated in and market their loans to African-American and Latino-American communities, where access to banks and other mainstream financial service providers is limited, compared to other communities; and

WHEREAS, payday and deposit advance loans are marketed as easy and inexpensive solutions to financial emergencies, yet these loans rarely function as marketed and providers of these loans generally fail to use sound underwriting practices prior to making them, including taking into account the ability of individual borrowers to repay their loans while also meeting other expenses without having to reborrow or renew the loan; and

WHEREAS, because payday and deposit advance loans are aggressively marketed to customers with urgent financial shortfalls, yet lenders do not take ability to repay the loans into account, and borrowers frequently do not understand that the loans do not function as they are designed, or are too desperate to fully consider the consequences, cash-strapped consumers are often left with no choice at the end of the loan terms but to renew or quickly re-borrow (known as “churning”), with nearly half of payday loan customers having ten or more loans a year, and 14 percent of borrowers having twenty or more loans per year, according to the CFPB; and

WHEREAS, the fees for payday and deposit advance loans, especially when churned, are extremely expensive, with the CFPB finding that the fees for such loans generally range from \$10-\$20 per \$100 borrowed per pay period; so that a payday loan of \$350, for example, at the median fee of \$15 for each \$100 borrowed requires a borrower to come up with more than \$400 in just two weeks, translating to an Annual Percentage Rate (APR) of 391 percent while the fees for a typical deposit advance loan translate into an APR of 304 percent; and

WHEREAS, because the fees and structures of payday and deposit advance loans can easily cause borrowers to pay more in fees than the amount they borrowed, payday and deposit advance loans often trap borrowers in hopeless cycles of debt, enriching lenders while driving borrowers into even more dire financial situations and leaving them unable to meet their basic needs such as food, health care, clothing, and education, putting them at increased risk for poverty and bankruptcy; and

WHEREAS, regulations in 16 states including the District of Columbia and some Native nations that impose a two-digit interest rate cap on payday loans are already saving borrowers \$1.8 billion annually in predatory payday fees, and a 2007 federal law imposing a 36 percent interest rate cap on loans to military personnel and their families has stopped the worst payday lender abuses of those serving our country;

NOW THEREFORE BE IT RESOLVED, that The Leadership Conference on Civil and Human Rights calls upon Congress to enact a 36 percent APR limit applicable to all borrowers, similar to what it enacted for active-duty military and their families in the Military Lending Act; and

BE IT FURTHER RESOLVED, The Leadership Conference urges the CFPB to promulgate regulations that: a) require payday lenders to determine borrowers' ability to repay the loan and afford their regular expenses without taking out another payday loan; b) limit the length of time that payday lenders can keep borrowers in debt, consistent with the FDIC's 2005 payday loan guidelines, which limit payday loan indebtedness to a maximum of 90 days over a twelve-month period, the equivalent of six two-week loans or three 30-day loans; and c) prohibit lenders from requiring a post-dated check or electronic access to the borrower's checking account as a condition of extending credit; and

BE IT FURTHER RESOLVED, The Leadership Conference urges the Federal Reserve follow the actions of the OCC and FDIC to ensure that deposit advances do not function as debt trap products, as the recent FDIC and OCC guidances affirm the importance of requiring lenders to assess a borrower's ability to repay loans and establishes a clear limit on repeat loans; and

BE IT FURTHER RESOLVED, The Leadership Conference urges federal regulatory bodies such as the Federal Trade Commission and the CFPB, as well as the Department of Justice, to use their enforcement authority against payday lenders to address violations of law, including the illegal processing of payments from debtors' checking accounts; and

BE IT FURTHER RESOLVED, The Leadership Conference urges all states to follow the lead of 16 states including the District of Columbia, some Native nations, and the military by imposing a 36 percent interest rate cap on payday and deposit advance loans extended to borrowers within their jurisdictions; and to vigorously enforce their laws against unlicensed lenders and work in partnership with federal regulators to address attempts at subterfuge; and

BE IT FURTHER RESOLVED, The Leadership Conference urges the CFPB to, in addition to implementing substantive protections, continue to collect and make public its detailed data on payday loan use, and urges states that do not currently collect or make public such data to begin doing so.

The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. The Leadership Conference works toward an America as good as its ideals. For more information on The Leadership Conference and its 200-plus member organizations, visit www.civilrights.org.