



WISCONSIN LEGISLATURE

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September 30, 2016

The Honorable Richard Cordray
Director
Consumer Finance Protection Bureau
1700 G Street, NW
Washington, DC 20552

**Payday, Vehicle Title, and Certain High-Cost Installment Loans: 12 CFR Part 1041,
Docket No. CFPB-2016-0025, RIN 3170-AA40**

Dear Director Cordray,

We are writing to support your efforts and the efforts of the Consumer Financial Protection Bureau (CFPB) to establish rules that address the high costs and predatory lending practices of the short-term consumer loan industry. While there remains a patchwork of state financial regulations, it is important that anyone borrowing money from a financial institution in the United States is protected from the most abusive lending practices of the payday, auto title, and installment loan industries. The intent behind the proposed rule for lenders to verify their customers' income to ensure that a borrower can reasonably repay their loan while limiting the number of times people could roll over their loans into additional more expensive loans is crucial to protecting consumers. However, we believe it is important to strengthen the proposed rule to truly ensure the intent of these protections is carried out in the real world industry practices. This proposed rule presents an incredible opportunity to provide meaningful protections to borrowers that are most susceptible to being taken advantage of.

Many families in Wisconsin find themselves in need of money for a variety of day-to-day necessities and turn to short-term, high cost credit options to meet these needs. Like many other states, Wisconsin has a law providing regulations for short-term payday and auto title loans. And like many other states, Wisconsin has seen the short-term predatory lending industry alter its financial products to circumvent state regulations at the expense of hundreds of thousands of Wisconsin consumers. Our experience in Wisconsin is an important example of just why the CFPB rule needs to be strengthened beyond the current proposal.

Payday and Auto Title Lending Reform in Wisconsin

In 2010, then-Governor Jim Doyle signed the Predatory Lending Consumer Act into law, utilizing his partial veto to strengthen it. Before this time there was no statutory definition of payday or short-term loans. The volume of short-term loans registered with the Wisconsin Department of Financial Institutions prior to 2010 suggested there was a need for such loans. However, there were also horror stories of individuals who were stuck in the debt trap that both lost their apartment and paid thousands in fees and interest charges.

The intent of Wisconsin's law was to preserve access to credit for those with bad credit while reigning in the most abusive lending practices which set borrowers up to fail. 2009 Wisconsin Act 405 limited regulations to financial transactions that were 90 days or less. The law limited payday loans including interest and fees to \$1,500 or 35% of monthly income, whichever was less. For example, if someone earned \$2,000 a month, they could receive a loan plus interest and fees totaling \$700. There would be no more stories of people with thousands of dollars of debt from a \$500 loan. Any loan with a repayment term exceeding 90 days would also be required to be reported to credit bureaus as is standard practice for installment loans. Rollovers were limited to one. Auto title loans would be limited to half the value of a vehicle. Title lenders would be required to notify borrowers before seizing and selling their vehicles and could only charge borrowers a "reasonable" storage fee if they repossessed their vehicle. Governor Doyle's partial veto eliminated the 90 day definition, prohibited payday lenders charging interest on a loan after the maturity date, and banned auto title loans outright. Unfortunately, the 2011 budget under a new Governor and legislature repealed the partial veto changes made by Governor Doyle.

As has happened in many states that have passed short term lending regulations, the industry shifted their product to evade the intent of the law in Wisconsin. Instead of traditional short-term payday loans due in 90 days or less, the industry now provides installment loans of 91 days or more. In 2008, before Wisconsin's first payday law was passed, the Wisconsin Department of Financial Institutions reported that 1,686,734 "payday" loans were made in their Loan Company Annual Report. After the law was passed, the number of regulated payday loans dropped to just 201,461 in 2012. By 2015, just 93,740 regulated payday loans were made. However, the number of unregulated installment loans jumped from 353,870 in 2008, to 858,741 in 2012. There were 761,881 unregulated installment loans made in 2015.

The proposed CFPB rule needs to be stronger to protect consumers

The Wisconsin experience is a good example of how the predatory lending industry responds to regulation and why predictable loopholes in the proposed rule need to be closed. Under the proposed rule, the longer the duration of the loan, the fewer restrictions there are to comply with. We anticipate the proposed rule as is will lead to a dramatic shift to longer term installment loans. While longer term loans are a different lending model, there is more ability to take advantage of consumers. With no limit on length, lenders could extend loans for more than a year extracting several times the original principal in interest and fees. These longer term loans can offer lower individual payments that borrowers can often make, but not necessarily afford, especially when considering other expenses. In addition, the longer term loans allow lenders to hold checking accounts or vehicle titles for long periods of time, leaving consumers subject to continued collection despite their financial status. As highlighted by other consumer advocates, the proposed rule also places no restrictions on large fees charged upfront, which would be exempt from the rule's proposed ability-to-repay test. This is a dangerous precedent because these types of upfront fees often lead to refinancing, which is accompanied by new origination fees.

Here in Wisconsin, we know all too well the dangers of long-term payday and car title loans that carry excessive interest rates and are made with little regard for a borrower's ability to repay. While we appreciate the CFPB's coverage of these loans in the scope of the proposed rule, we are concerned the rule is not yet strong enough to prevent the repeat flipping of unaffordable long-term loans, nor strong enough to ensure the loans are actually affordable in light of a borrower's income and expenses. We recommend that the CFPB include stronger protections against the

harms of these longer-term loans by prohibiting more than one refinancing, by requiring a significant pay-down of the principal, and by establishing an objective low threshold of defaults. Setting an objective threshold of low defaults, which, if exceeded, serves as a sign of lenders' failure to properly underwrite their loans, is a far better measure than allowing lenders to compare their own rates of repeat borrowing, refinancing, and defaults to other lenders, as the rule currently proposes.

Unless the rule is significantly strengthened in these ways, we worry that lenders will simply continue business as usual, keeping Wisconsinites trapped in a cycle of unaffordable debt.

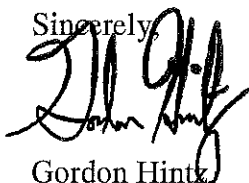
As stated before, there is a difference between being able to make a payment and being able to reasonably afford a payment. While it is critical that the ability-to-repay test apply to each and every loan, we also believe that origination fees charged on loans which are proposed to be exempt from the proposed ability-to-repay test during a refinancing, take advantage of borrowers and need to be limited.

Improvements to Auto Title Loan Provisions

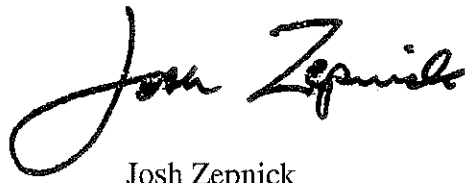
According to the Wisconsin Department of Transportation, 3,321 automobile titles were transferred to auto title lenders in our state in 2015. This number represents the number of people who actually lost their vehicle due to their inability to make timely payments and repay their auto title loan. It does not represent the people stuck in the debt trap paying exorbitant fees and interest. That is why it is important all auto title loans require the ability-to-repay determination, not just those within a 72 hour framework. Our experience in Wisconsin has demonstrated that lenders will exploit any loophole to increase their profits at the expense of consumers. Lenders will be able to avoid the ability to repay consideration by waiting until the 72 hour leveraged payment window has passed before seeking to secure a loan with the borrower's vehicle. It is too important to consumers in Wisconsin and around the country to allow loans made after 72 hours to evade consideration of the borrower's ability to repay. Too many people in Wisconsin have already lost their vehicle due to auto title loans that set them up to fail. It is important the new rules protect future consumers from the same outcome.

We appreciate the work the CFPB has put into the development of the proposed rule. The emphasis on the borrower's ability to repay a loan is a critical piece to ensuring consumers are not taken advantage of. However, we also believe the proposed rule needs to be stronger to ensure that consumers are truly protected from industry practices which have demonstrated time after time, the ability to morph into services that evade the intent of regulations. The most profitable loan products are also the ones that extract the highest payments from those who can afford them the least. Thank you for taking our feedback and suggestions into consideration as you finalize a CFPB rule that we hope will protect Wisconsin's consumers.

Sincerely,



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