

Montana State Senate



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To: Hon. Richard Cordray
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From: State Senator Christine Kaufmann
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Re: Docket No. CFPB-2016-0025

Director Cordray,

I applaud the Consumer Financial Protection Bureau (CFPB) for releasing the proposed payday and car title lending rule to rein in the worst abusive practices of this industry. This is a critical step forward for millions of Americans caught in the debt cycle and those living in states with strong payday protections. However, the rule must be made stronger to ensure that it ends the debt trap once and for all.

In Montana, we have taken action to stop predatory payday lending. Many of my constituents worked hard to ensure that families in our state have access to safe, affordable lending, not a debt trap. We have seen the enormous positive impact of ending the cycle of payday and car title debt and desperation. Despite industry claims, low-income families are better off financially and the bans haven't reduced access to credit. Since 2010 when Montana capped interest rates, we've saved over \$20 million in payday fees and over \$16 million in car title fees every year. That is \$36 million that stays in the pockets of hard-working families and grows our local economy.

We have fought off countless attempts by the industry to weaken our protections and target our citizens with their high-cost predatory loans. I strongly support the inclusion of explicit support for state usury limits within the preamble of the proposed rule. The Bureau's acknowledgement that state rate caps are the most effective tool for protecting consumers will be important in halting industry efforts to roll back protections by arguing a CFPB stamp of approval on high interest rates.

At the heart of the proposed rule is a common sense principle – lenders must determine whether or not a consumer has the ability to repay the loan without hardship or re-borrowing. This principle should be applied to every covered loan with no exceptions. Anything less allows a business model that depends on

coercion and re-borrowing to continue. Applying the ability to repay standard to every covered loan levels the playing field for payday lenders, online lenders and banks alike.

As written, the proposed rule contains several troubling exceptions to this standard. Currently, up to six high-cost payday loans could be exempted from the ability to repay standard, leaving borrowers in debt for much of the year. The rule also creates exemptions for some longer-term loans with high origination fees. Even a single unaffordable loan can have a devastating financial impact on borrowers.

When borrowers are unable to make ends meet after a balloon payment, they are often forced to open a new loan or refinance an existing loan, allowing debt to mount ever higher. The proposed rule does not go far enough to prevent this cycle of loan flipping. The waiting period between loans should be extended from 30 days to at least 60 days. In addition, a provision should be added that caps total indebtedness to 90 days per year for short-term loans. These additions will help the rule stay consistent with the FDIC's 2005 guidelines on payday lending and strengthen the protections against repeat refinancing of longer-term loans.

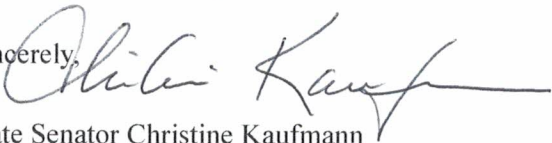
The rule also does not ensure that borrowers can meet their basic needs after repaying their loan. Requirements for determining ability to repay must be realistic and lenders must not be allowed to use low default rates as evidence that a loan is affordable. Payday and car title loans are built on coercion – borrowers give up access to their accounts or their car titles and payday lenders can snatch payments directly or take a borrower's car if a payment is not made. Families have gone hungry, or paid hundreds in overdraft fees after a loan payment was taken out of their account. Low default rates in the payday and car title industry are evidence of coercion – not evidence that loans are affordable.

The payday, installment, and car title loan industries have proven adept at exploiting loopholes and continuing to use deceptive and abusive lending practices. It is important that the Bureau issues a strong nationwide rule to help us defend the predatory lending protections my community fought to enact.

The harm caused by these exploitative and abusive loan products in other states is clear. More than half of payday borrowers today end up paying more in fees and interest than they originally borrowed. They are more likely to file for bankruptcy more likely to become delinquent on their credit cards. The Bureau's own data found that one in five car title borrowers lose their car – often even after having paid the original principal back. In Montana, we've succeeded in ending the debt trap and we are counting on the CFPB to stand strong and keep industry lobbyists from eroding those protections.

A strong federal rule on payday and car title lending is essential to ensure that our protections remain in place. The current proposal is a good start, but it must be strengthened to be effective. As a nation, we must put people over profits and protect vulnerable families from deception, coercion and abuse by poor-quality lending products. I urge the CFPB to enact the strong rule our families deserve.

Sincerely,



State Senator Christine Kaufmann