

ADOPTED BY THE
MAYOR AND COUNCIL

August 9, 2016

A MEMORIAL

RELATING TO PREDATORY LENDING; URGING THE CONSUMER FINANCIAL PROTECTION BUREAU TO ISSUE THE STRONGEST POSSIBLE RULE TO ADDRESS HIGH COST PREDATORY SMALL LOAN LENDING AND CAR TITLE LENDING TO BOLSTER, AND NOT UNDERMINE ARIZONA STATE LAW AND PROTECT THE CITIZENS OF TUCSON FROM UNFAIR, DECEPTIVE AND ABUSIVE LENDING PRACTICES.

TO RICHARD CORDAY, DIRECTOR, CONSUMER FINANCE PROTECTION BUREAU

YOUR MEMORIALIST RESPECTFULLY REPRESENTS AS FOLLOWS:

WHEREAS, Arizona currently has one of the strongest laws in the country to protect consumers from predatory payday loans, with a strict and reasonable thirty-six percent (36%) usury cap on interest that lenders may charge borrowers; but does not protect consumers from car title lending which has a statutory carve out from the consumer loan law; and

WHEREAS, predatory payday loans and car title loans carry extraordinarily high interest and fees and are made based on the lender's ability to collect the loan through access to the borrower's bank account on payday or the lender's ability to take title to a borrower's car, rather than the borrower's ability to repay the loan without experiencing further financial problems; and

WHEREAS, high cost, small dollar loans such as car title loans have devastating effects on borrowers, leading to delinquencies on other bills, overdrafts on bank accounts, and bankruptcy, as well as negative impacts on communities, draining the

economy of nearly \$316.5 million in consumer activity and increasing the need for food assistance and charitable relief services; and

WHEREAS, Arizona, New York, Pennsylvania, eleven (11) other states and the District of Columbia, altogether comprising a population of 90 million people, effectively prohibit payday lending and are much better off without this financial product. The Center for Responsible Lending estimates that states without payday and car title lending have saved nearly \$5 billion a year in fees annually – \$2.2 billion from payday lending, plus another \$2.8 from car title lending; and

WHEREAS, despite Arizona's strong usury cap, companies continue to facilitate illegal payday lending, whether by generating leads, advertising, or processing payments for payday lenders, exploiting loopholes in existing legislation offering unsecured registration car title loans and are engaging in unfair, deceptive, and abusive practices in our state that trap Arizona consumers into endless cycles of debt; and

WHEREAS, on June 2, 2016, the Consumer Financial Protection Bureau (CFPB) issued a proposed national rule, meant to eliminate abusive payday and car title lending. The rule, though a good start, includes loopholes that could undermine strong state usury caps and other consumer protection laws, like those in place in Arizona. The proposal gets the fundamentals right by establishing an ability-to-repay principle at the core of the rule, based on a consumer's income and expenses. However, the proposal exempts six high-cost payday loans from an ability-to-repay requirement altogether. It also fails to provide explicit reinforcement of debt trap prohibitions and bans in states like Arizona; and

WHEREAS, the public has until October 7, 2016 to write Bureau Director Richard Corday with comments on the proposed rule; and

WHEREAS, the danger of the CFPB's weak payday lending rule proposal is evident in the fact that the payday loan industry representatives are deliberately misrepresenting the meaning and intent of the rule to push for legalization in states that currently prohibit high-cost payday lending; and

WHEREAS, the CFPB cannot issue a national usury cap but can issue a strong payday rule free of loopholes that would bolster and not undermine Arizona law by requiring that for all loans, without exception, the lender must assess the potential borrower's ability to repay the loan based on the person's income, existing obligations, and living expenses. The CFPB can also declare any violation of state law, such as the marketing of illegal loans or applying usurious interest rates, as an unfair, deceptive, and abusive act or practice:

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, DECLARE AS FOLLOWS:

SECTION 1. That the Mayor and Council of the City of Tucson has historically supported efforts to protect City of Tucson consumers from unfair, deceptive, and abusive lending practices including enacting ordinances that limit the locations of high cost predatory small loan lending businesses.

SECTION 2. That the Mayor and Council of the City of Tucson urges the Consumer Financial Protection Bureau to issue the strongest possible rule to address predatory payday and car title lending that will bolster and not undermine Arizona state

law and protect the citizens of our City from unfair, deceptive, and abusive lending practices.

SECTION 3. That City staff is hereby authorized and directed to send a copy of this Memorial to the Consumer Finance Protection Bureau Director Richard Corday.

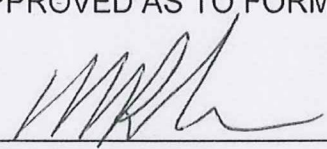
PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, August 9, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

REVIEWED BY:

CITY MANAGER

MR/dg
7/25/16