Driven to Disaster:
Car-Title Lending and Its Impact on Consumers

Jean Ann Fox and Tom Feltner, Consumer Federation of America
Delvin Davis and Uriah King, Center for Responsible Lending

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CENTER FOR RESPONSIBLE LENDING

www.responsiblelending.org

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EXECUTIVE SUMMARY

This report serves as an update to *Car Title Lending: Driving Borrowers to Financial Ruin,* a joint 2005 publication of the Consumer Federation of America (CFA) and the Center for Responsible Lending (CRL). In this paper, we describe the structure of car-title loans; provide an overview and estimate of the size of the national car-title loan market; discuss the typical borrower's experience with car-title loans; and analyze newly acquired borrower-level data. We conclude with state and federal policy recommendations.

Our key findings include:

- Approximately 7,730 car-title lenders operate in at least 21 states costing borrowers $3.6 billion each year in interest on $1.6 billion in loans.
- The average car-title borrower renews their loan eight times, paying $2,142 in interest for $951 in credit.
- Car-title loans' annualized percentage rates (APR) are especially excessive considering the value of the collateral and the relatively low amount of the loan. In our borrower-level data set, the median loan-to-value ratio was 26 percent, yet the APR was 300 percent.
- One in six borrowers in our data set also faced repossession, with repossession fees averaging half of the borrower's outstanding loan balance.

These findings lead to the following policy recommendations:

- States should not grant exemptions to their existing annual interest rate limits on car-title loans. Car-title lenders often argue that their loans are short-term, making annualized limits inappropriate. According to our findings, most loans are renewed multiple times and last nearly a year. There is little direct evidence that access to high-cost, long-term debt is beneficial to the borrower.
- Like any consumer loan, car-title loans should be structured and priced based on an evaluation of the borrower's ability to repay the loan. Some lenders appear to underwrite based solely on the value of the asset—in this case a car—which is a well-established indicator of predatory lending.
- Borrowers should have adequate protections in the event of a default. Such protections include notice prior to repossession or sale of the vehicle, a right to redeem the vehicle, and a ban on deficiency balances.
- Policymakers must remain vigilant in enforcing their state lending laws. Like payday lenders, car-title lenders are often aggressive in exploiting any legal ambiguity to push their defective product into the market.

BACKGROUND

As their name makes clear, car-title loans are secured by a borrower's title to a vehicle owned outright. While there are variations, this paper focuses primarily on 30-day car-title loans with balloon payments due at the end of the term (hereafter "car-title loans").[1] These loans average $951 and are underwritten primarily based on the value of the vehicle that secures the loan.[2] The majority of state car-title loan laws either directly authorize 300 percent APR loans or set no interest rate caps at all. Car-title loans are commonly advertised with interest of 25 percent *per month*, which equates to an APR of 300 percent.

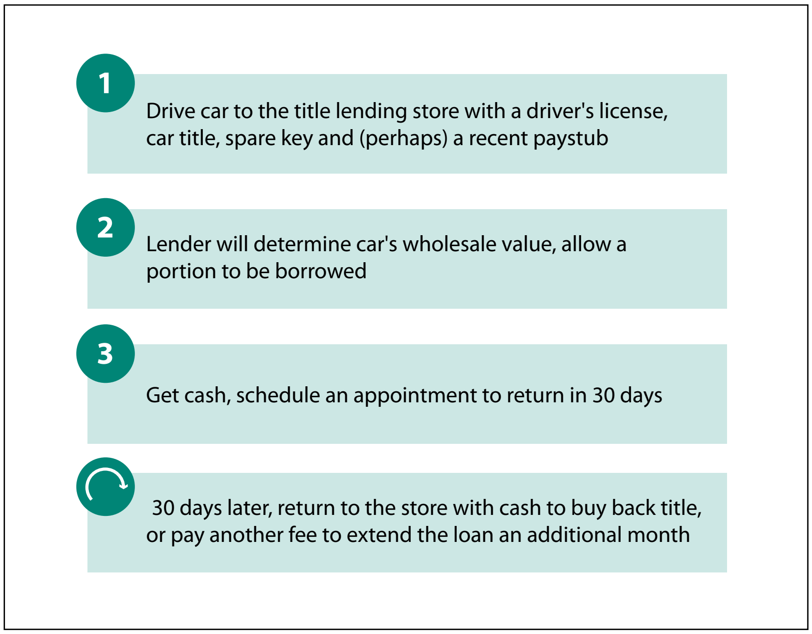
Car-title loans have many similarities to payday loans, as the chart below demonstrates. Just as most payday borrowers cannot afford to repay their loan in full and cover their living expenses for the next pay period, neither can most car-title borrowers.[3] Car-title lenders also often offer a "free" or heavily-discounted first loan.[4] These borrowers are likely to renew their loan multiple times, incurring several rounds of fees, allowing lenders to more than make up for the initial discount. Car-title lenders rely on the threat of repossession to ensure that the majority of borrowers repeatedly renew their loans when they cannot repay the full amount of the loan in just 30 days. As a result, short-term car-title loans turn into long-term, high-cost debt with borrowers paying more than twice in interest what they receive in credit.

Table 1: Comparison of Typical Payday and Car-Title Loan Features

Features	Payday Loans	Title Loans
Typical loan size	$350	$951
Fee/interest	$16 per $100 borrowed	$25 per $100 borrowed
Typical loan term	Two weeks	30 days
Typical APR	416 percent	300 percent
Loan term	Full payment due on next payday (usually in about two weeks)	Full payment due in one month
Collateral	Secured by personal check or access to bank account	Secured by car title

A typical car-title loan requires no credit check.[5] Unlike payday lending, car-title loan borrowers can qualify without having a bank account, and some car-title lenders do not even require proof of income or employment.[6] Lenders simply assess the car's wholesale value and offer to lend up to a certain percentage of that value. Car-title borrowers retain use of their car during the loan term but relinquish a copy of the keys and the title. Once the loan comes due, the borrower can either repay the entire amount borrowed (plus interest) or extend the loan by paying only the monthly interest.[7]

Figure A: The Car-Title Loan Borrowing Process



Characteristics of Car-Title Borrowers

For many households, a car is not just a financial asset; it is necessary to get to work, school or child care. The very nature of car-title lending poses a significant risk to borrowers' financial well-being and their livelihood, particularly given the typical characteristics of car-title borrowers.

Based on trade association data, Professor Todd Zywicki notes that about half of all car-title borrowers are unbanked. A recent FDIC report notes that the unbanked, which make up about eight percent of the U.S. population, are more likely than the U.S. population as a whole to earn less than $30,000 per year, be non-white, be unmarried, have less than a high school degree and be a foreign-born Spanish speaker.[8]

This income information for unbanked individuals is consistent with car-title borrower income reported by regulators in Illinois and New Mexico, who found that borrowers make less than $25,000 on average ($24,200 and $24,493, respectively).[9] Additionally, most car-title loan borrowers appear to be renters. The most recent data available finds 80 percent of these borrowers rent their homes.[10]

ANALYSIS

The Long-Term Debt Trap of Car-Title Loans

The combination of characteristics that define car-title loans make the product very risky for borrowers and are likely to trap them into long-term debt. As previously discussed, these features include high-cost, short-term balloon payments, lack of underwriting, and collateralizing ownership of the borrower's car.

The combination of short-term balloon payments and minimal underwriting is particularly harmful to borrowers. Our analysis (see Appendix I) suggests that the typical borrower is unlikely to repay a car-title loan (both principal and interest) in just one month. If they do, they generally will not have enough money left to pay the next month of their regularly occurring expenses. For example, taking into account residual income after paying for only their most basic living expenses, borrowers making $25,000 or $35,000 a year are unable to retire their car-title loan debt when due in 30 days.[11] Even for borrowers who earn more, paying off a car-title loan in one month likely consumes a substantial portion of residual income that may be needed for other debt payments, child care, clothing, or other needs.[12]

Borrowers without sufficient disposable income are likely to end up renewing their loan multiple times—that is, paying the monthly interest only and repeatedly extending the loan for another 30 days. Many borrowers remain indebted until a windfall, such as a tax refund, allows them to finally pay off the balance.[13] As we discuss later in this report, other borrowers eventually go into default and face additional repossession fees even after paying two times more in fees and interest than they originally borrowed.

The president of TitleMax, one of the nation's largest car-title lending chains with locations in many states, notes that "loans are typically renewed at the end of each month and thereby generate significant additional interest payments."[14] In fact, the average TitleMax customer renews his or her loan eight times.[15]

In order to assess the borrower impact of renewals, we must estimate the average loan amount. Using the most recent state regulator data, we estimate a weighted average car-title loan amount of $951 nationally, as shown in Table 2 below.

Table 2: Weighted Average Car-Title Loan Amount

	Average Car-title Loan Amount	Number of Car-title Stores
Illinois	$785	491
New Mexico	$855	194
Texas	$990	1,776
Virginia	$976	378
Weighted Average Car-title Loan	$951	

Assuming a consumer will renew their loan eight times as in the TitleMax example, that consumer will be charged over $2,100 in interest in order to borrow $951 (see Table 3).

Table 3: Total Cost to Car-Title Loan Borrower for a $951 Loan, 25 Percent per Month Interest (300% APR)

Loan principal	$951
Interest ($951*25%)	$238
8 additional renewal fees ($238*8)	$1,904
Total interest paid	$2,142
Total amount paid by borrower in both interest and principal for $951 car-title loan	$3,093

Our estimate of the costs of the typical car-title loan is similar to publicly-available data provided by state consumer credit regulators.

From October 2009 to November 2010, Illinois borrowers took an average of about 10 months to complete a loan of $785.[16] During this time, they paid an average of $1,531 in fees in addition to the principal. Put another way, the typical Illinois borrower faced the threat of auto repossession—of a vehicle already owned outright—and paid two times in interest the amount borrowed.

Additionally, CFA and CRL analyzed transaction-level data ("CFA/CRL dataset") made by a Delaware lender and found that data consistent with the long-term, high-cost nature of car-title loans presented in this report.[17]

In the CFA/CRL dataset, the average borrower was in debt fully half the year. Around one in six borrowers (16 percent) is in continuous debt for at least one year.

In addition—and supporting our overall finding—the average borrower repaid $2,462 in interest to borrow $1,249 in principal—or nearly twice the amount initially borrowed. Among the 419 loans in our sample that were fully paid off, more than 96 percent paid at least as much in interest as they received in principal. Forty percent of borrowers paid back at least two times as much in interest as they received in principal.

Overview of the High-Cost Car-Title Loan Market

Twenty-one states currently have car-title lenders operating in their borders. With the exception of Arizona, New Hampshire and Georgia, every state with car-title lending also allows triple-digit APR payday lending. Most of these 21 states have laws specifically authorizing the car-title loan product, but in some, lenders exploit loopholes in other parts of the law to make these loans.

Table 4: The 21 States with Car-Title Lending

Alabama	(defined as a pawn transaction)
Arizona	
California	(>$2,500)
Delaware	
Georgia	(defined as a pawn transaction)
Kansas	(open-ended)
Louisiana	(>$350, loan term of over two months)
Idaho	
Illinois	
Mississippi	
Missouri	
Nevada	
New Hampshire	
New Mexico	
South Carolina	(>$600)
South Dakota	
Tennessee	
Texas	
Utah	
Virginia	
Wisconsin	

Of the 21 states that have car-title lending, 17 have explicitly authorized it at triple-digit rates or set no rate caps. Over half of these 17 states have no limits on the interest or fees that lenders may charge.

In four other states (California, Kansas, Louisiana, and South Carolina), lenders exploit loopholes or definitional weaknesses in state laws to make these loans at triple-digit rates.[18] Examples of loopholes include the following:

- Car-title lenders in Kansas avoid a 36 percent annual rate cap that applies to closed-end small loans by making open-ended car-title loans at 264 to 360 percent.[19]
- In South Carolina, car-title loans are typically made for $601 or more to avoid the small loan rate cap that covers loans of $600 or less. Similarly, in California, small loan rate caps apply only to loans of $2,500 or under, resulting in uncapped car-title loans made for larger amounts.[20]
- Although Louisiana specifically rejected an attempt to authorize car-title lending, car-title lenders operate under the terms of the Louisiana Consumer Credit Law. Licensed lenders make car-title loans for more than $350 and have a duration exceeding two months in order to avoid the state's restrictions.[21]

Even where states allow car-title loans at triple-digit rates, car-title lenders sometimes charge even higher rates through a loophole or another statute not intended for their product. For example, even though the Missouri Title Loan law allows unlimited interest rate charges, it requires a 10% principal reduction for car-title loans upon the third refinancing. To avoid even this modest minimal principal reduction requirement, car-title lenders offer title loans under the state's installment loan law.[22]

Appendix III provides our estimates for the number of car-title locations operating in these states.[23] We estimate that there are approximately 7,730 car-title locations across the 21 states in which they operate.[24]

Although many states do not publish data on the operations of car-title lenders, five state regulators—in Illinois, Mississippi, New Mexico, Virginia and Tennessee—provide sufficient information to allow us to estimate the number of car-title loans per location, as shown in the table below:

Table 5: Average Number of Loans Originated Per Licensee Annually

	Number of Car-Title Stores*	Total Loans	Average Number of Loans per Store
Illinois[25]	491	84,742	173
Mississippi[26]	355	73,867	208
New Mexico[27]	190	12,607	66
Tennessee[28]	700	161,417	231
Virginia[29]	378	128,446	340
Weighted Average			218[30]

*Note: The reported number of licensees in this table may be different from in Appendix III, as the figures in this table come from annual reports rather than real-time, updated lists of active licensees.

As shown in the table above, we expect each car-title location on average originates 218 loans per year. Since there are a total of 7,730 car-title lenders throughout the 21 states with car-title lending, we estimate that about 1.7 million high-cost car-title loans are made each year (7,730 lenders * 218 loans per lender).

Nationally, this means the total car-title loan market generates $3.6 billion in interest payments while only generating of $1.6 billion of actual loan volume (not including renewed principal).

Table 6: National Car-Title Loan Market Size

Total Car-Title Loans Nationally	1.7 Million
Average Loan Amount	$951
Total Loan Volume Originated	$1.6 Billion
Average Interest Paid Per Loan	$2,142
Total Interest Paid	$3.6 Billion

Some car-title lenders also use a high-cost installment loan model.[31] Like 30-day balloon payment car-title loans, some of these installment loans feature triple-digit APRs and are not underwritten for the borrower's ability to repay the loan. Essentially, these lenders build high-cost renewals into the loans up-front.[32] For example, recently-released data from Texas show that for installment car-title loans, the average fee charged per $100 was $131.67.[33]

The remaining 29 states and the District of Columbia do not have a noticeable presence of high-cost car-title lenders, likely because they do not sanction the product or because their legal rates are not high enough to attract high-cost car-title lenders.[34] More than half of American adults—53 percent—live where car-title loans are not offered.

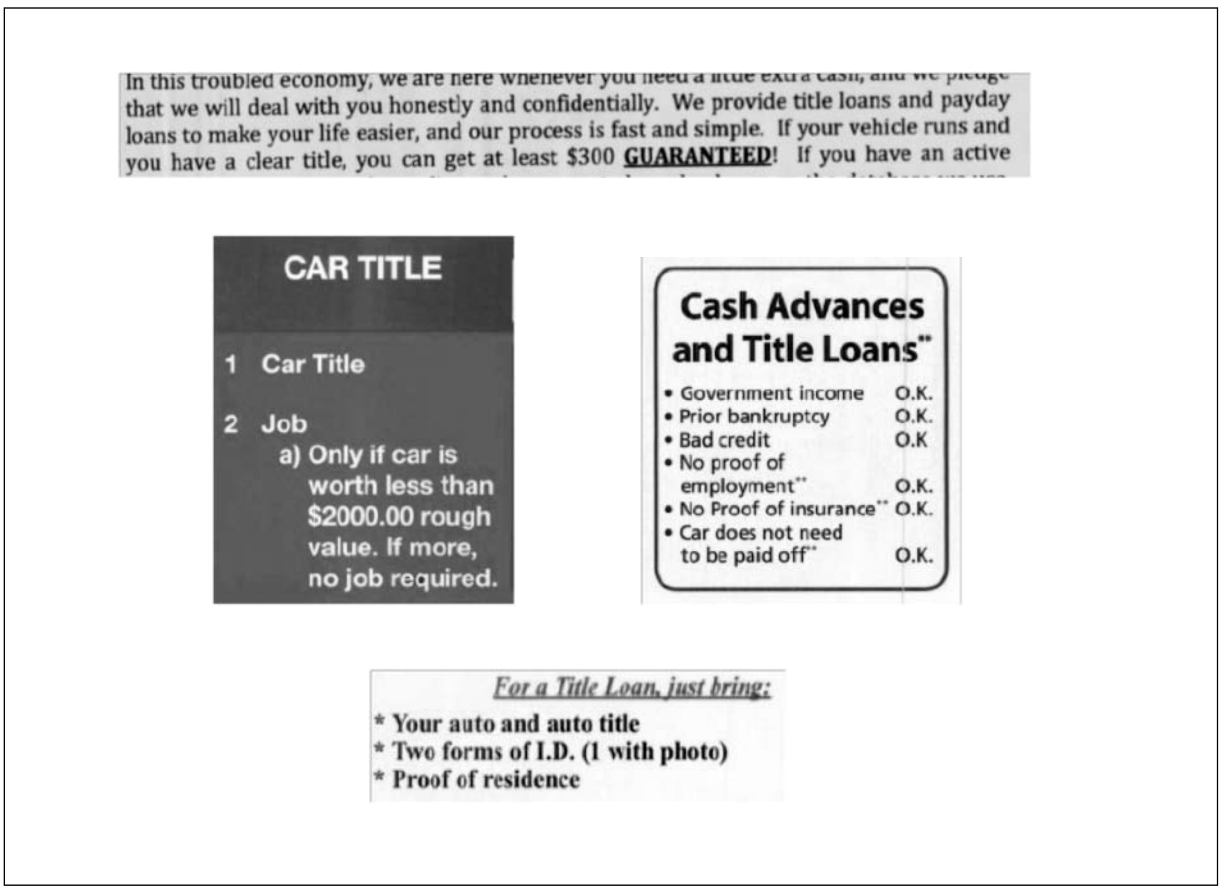
Additionally, as a result of the 2006 Military Lending Act, car-title loans cannot legally be made to active duty service members or their dependents, regardless of where they live.[35] This protection was enacted after the Department of Defense grew concerned about active-duty service members becoming deeply indebted to high-cost lenders, putting their security clearances—and their financial well-being—at risk.[36]

Asset-Based Lending in the Car-Title Loan Market

Asset-based lending generally refers to making loans without regard to a borrower's ability to repay the loan. Instead, lenders base the decision to lend on the value of the collateral or with the expectation the borrower will have multiple transactions. A classic example of asset-based lending were subprime mortgage loans made in the height of the mortgage bubble of the 2000s, when lenders often did not even ask for proof of borrower income. Borrowers who could not afford their loans had no choice but to continually refinance their loans based on the value of their homes. Eventually, many faced foreclosure as housing values plummeted.

Joint guidance by three federal banking regulators stated that "[l]oans to borrowers who do not demonstrate the capacity to repay the loan, as structured, from sources other than the collateral pledged are generally considered unsafe and unsound." Notably, these provisions applied to all types of bank-originated credit, not simply mortgages.[37] The collapse of the mortgage market led Congress and several states to prohibit this practice for all home loans in the Wall Street Reform and Consumer Protection Act of 2010.[38]

There is ample evidence suggesting that car-title lenders perform little or no underwriting to determine whether a borrower can repay the loan.[39] Many lenders advertise that they will guarantee a certain amount of credit to the borrower without any regard to the borrower's income, as the advertisements below illustrate:



Source: Mintel Comperemedia direct mail database, accessed June 2010.

Even lenders who ask for income verification generally do not perform an "ability to repay" analysis to ensure that the loan can be repaid in the initial one-month term in light of other obligations that the borrower faces. As Zywicki has noted, for car-title lenders "[m]ost scrutiny focuses on the value of the car rather than the borrower."[40] A letter from a title-lender trade association to the Consumer Financial Protection Bureau also contrasts their product from other lenders by noting they make loans "…based on an appraisal of the value of the car" while other lenders make loans primarily "based on an evaluation of the consumer's credit."[41] Consequently, borrowers with multiple obligations often cannot afford to repay the loan in the short time frame and cover other debts and expenses.[42]

Asset-based lending in the auto-title loan market is as abusive as in the mortgage lending context, especially since for many car-title loan borrowers their car is their most important asset. As mentioned earlier, a car is often more than just an asset; it is also necessary for employment, particularly in areas ill-served by public transportation.

In the absence of meaningful underwriting, lenders protect themselves from losses on car-title loans by lending a relatively small percentage of the car value and threatening repossession to ensure that the borrower decides to prioritize servicing their car-title debt over other obligations. Looking at borrowers in the CFA/CRL dataset, the median loan-to-value (LTV) ratio for car-title borrowers was 26.4 percent.[43]

Table 7: Summary of CFA/CRL Dataset used in LTV Calculations

Median Loan Size	$845
Median Car Value	$3,150
Median Loan-to-Value Ratio	26.4%
Median APR	300%

Our analysis of the CFA/CRL dataset further found that one out of every six loans (17 percent) incurred a repossession fee. The repossession fee—most typically between $350 and $400—is added to the borrower's running balance, causing the borrower to become even more indebted despite also losing the collateral.[44] These fees and others, despite the low loan-to-value ratio, mean nearly all proceeds of the repossession sale go directly to the lender.[45]

Essentially, the lender receives more than twice the principal loaned in interest charges despite the ability to repossess and sell the borrower's car in the event of default.

CONCLUSION AND POLICY RECOMMENDATIONS

Car-title loans carry inherently unsuitable terms that cause already vulnerable borrowers to pay more in fees than they receive in credit while putting one of their most important assets at risk. Other than assessing the resale value of the borrower's car, lenders do little, if any, meaningful analysis of the borrower's ability to repay the loan. As a result, most car-title loans—though structured as short-term—repeatedly generate new interest and origination fees for the lender upon each renewal.

Non-purchase loans secured by ownership of a vehicle should be strictly regulated. Protections are necessary to prevent vulnerable consumers from losing their most valuable asset and means of transportation. Any loan secured by an important asset—such as a household's means of transportation to work—must come with significant safeguards, as is now standard in home mortgage lending. Lenders should not be permitted to make high-cost loans underwritten primarily by the borrower's equity in a vehicle and without evaluating a borrower's ability to repay.[46] A good starting point for these protections are the Federal Deposit Insurance Corporation (FDIC) Affordable Small Dollar Loan Guidelines, which suggest that small loans be made under the following parameters to be sustainable for borrowers:

FDIC Small Loan Guidelines

- Loan amount: $2,500 or less
- Minimum 90-day loan term
- 36% APR or lower
- Approval: Generally within 24 hours; streamlined underwriting, including proof of identity, address, income, and credit report (while a minimum credit score is not required, the report can shed light on repayment ability based on other obligations)

Policymakers and regulators at either the state or federal levels, including the Consumer Financial Protection Bureau, can enact the following protections related to loan terms and underwriting processes.

- States should not grant exemptions to their existing interest rate limits for car-title loans. In addition, many states with car-title lending have caps of around 36 percent on the annual interest rates that may be charged for small loans. Car-title lenders, along with their payday counterparts, have persuaded some state legislatures to exempt them from this limit, arguing that their loans are very short-term and, therefore, an annual interest rate limit is inappropriate to apply. Yet as we have seen, most loans are renewed multiple times and are therefore not short term. In addition, although many of these lenders argue that they cannot make loans at less than triple-digit rates, other lenders continue to make small loans within limits of around 36 percent, with or without a car title as collateral.[47]

- Car-title loans should be structured as installment loan products with reasonable limits on interest and an evaluation of the borrower's ability to repay the loan. An installment product should include equal monthly payments that amortize the loan over the term, giving borrowers the chance to pay down their debt gradually, and should not include a final balloon payment. As the FDIC's report on its small-loan pilot program notes, "a longer loan term was critical to loan performance because it gave consumers more time to recover from a financial emergency than a single pay cycle…."[48]

  Extending the minimum loan term is not enough. As demonstrated in Illinois and New Mexico—two states with longer-term installment car-title loans—this protection is not effective in the absence of reasonable limits on interest rates and a full consideration of the borrower's ability to repay the loan when due. Pairing a longer loan term having equal amortizing payments with solid underwriting standards was found to be the key to success in the FDIC's small loan pilot program.

- Borrowers should have adequate protections in the event of a default. Such protections include notice prior to repossession or sale of the vehicle, a right to redeem the vehicle, and a ban on deficiency balances (in which the borrower owes principal plus accrued interest and fees to the lender if the sale of their car does not cover the outstanding debt owed). Sales of repossessed vehicles should be commercially reasonable with any surplus returned to the borrower.

- Policymakers must remain vigilant in enforcing their state lending laws. Car-title lenders should not be able to evade small-loan rate caps and other protections. Car-title loan companies in several states have taken advantage of narrow definitions in laws, or loopholes or gaps in the law, to charge higher rates than their state legislatures intended.

APPENDIX I:

Share of residual funds (after basic expenses) committed to repayment of title loan

Annual Salary	$25,000	$35,000	$45,000	$55,000
Monthly Pre-Tax Income	$2,083.33	$2,916.67	$3,750.00	$4,583.33
Minus pensions/ Social Security*	$111.92	$182.08	$272.75	$383.75
Minus Federal, State, and Local Taxes*	($16.75)	$24.08	$66.08	$116.58
Total take home pay	$1,988.17	$2,710.50	$3,411.17	$4,083.00
Basic Obligations				
Food*	$367.92	$394.75	$448.67	$535.00
Housing (including utilities)*	$953.33	$1,082.17	$1,192.42	$1,399.00
Transportation*	$233.92	$ 313.42	$313.58	$403.25
Healthcare*	$211.33	$ 223.67	$244.75	$287.83
Total basic obligations	$1,766.50	$2,014.00	$2,199.42	$2,625.08
Funds remaining to service title loan	$221.67	$696.50	$1,211.75	$1,457.92
$700 loan plus 22% ($175) fee	875	875	875	875
Amount due as a percent of funds remaining	395%	126%	72%	60%

*Source: 2009 Survey of Consumer Expenditures (Bureau of Labor Statistics), annual figures converted to monthly payments

APPENDIX II: CASE STUDY LOAN-TO-VALUE METHODOLOGY

In order to estimate loan-to-value ratios, car values are taken from the online version of NADA Used Car Guides and values were estimated between November and December of 2012. We selected NADA over other used car valuation sites because it required us to make fewer assumptions about the vehicles, which we deemed important given the limited information available. Loan documents provided the year, make and model of the vehicle, as well as the date the loan was originated. Using these factors, we calculated an estimated mileage figure based on the age the car would be at the month of origination, and an average mileage per year of 13,476 according to the U.S. Department of Transportation Federal Highway Administration. By using car values 2-7 years after the loan was made, our findings are very conservative, because they lead to higher loan-to-value ratios (LTVs) than were present at origination due to depreciation over the course of the loan.

Below is a table of the assumptions we made in estimating car values and calculating loan-to-value ratios.

Category	Assumption	Categorization of Assumption
Mileage	13,476 miles/year between model year and origination month (U.S. DOT)	Average
Optional Equipment	None	Conservative
Model	Base four-door Model (except where loan docs include specifics)	Conservative (Precise)
Pricing Option	Average trade-in	Average
Other	Valuation as of December 2012	Conservative—values will reflect two-seven additional years of depreciation

Once vehicle values were collected using NADA data, we collected valuation on a sample of data from Kelley BlueBook as a quality control check on our choice of value source. We found that the difference in loan-to-value ratios between the two sources was not statistically significant ($p=.28$).

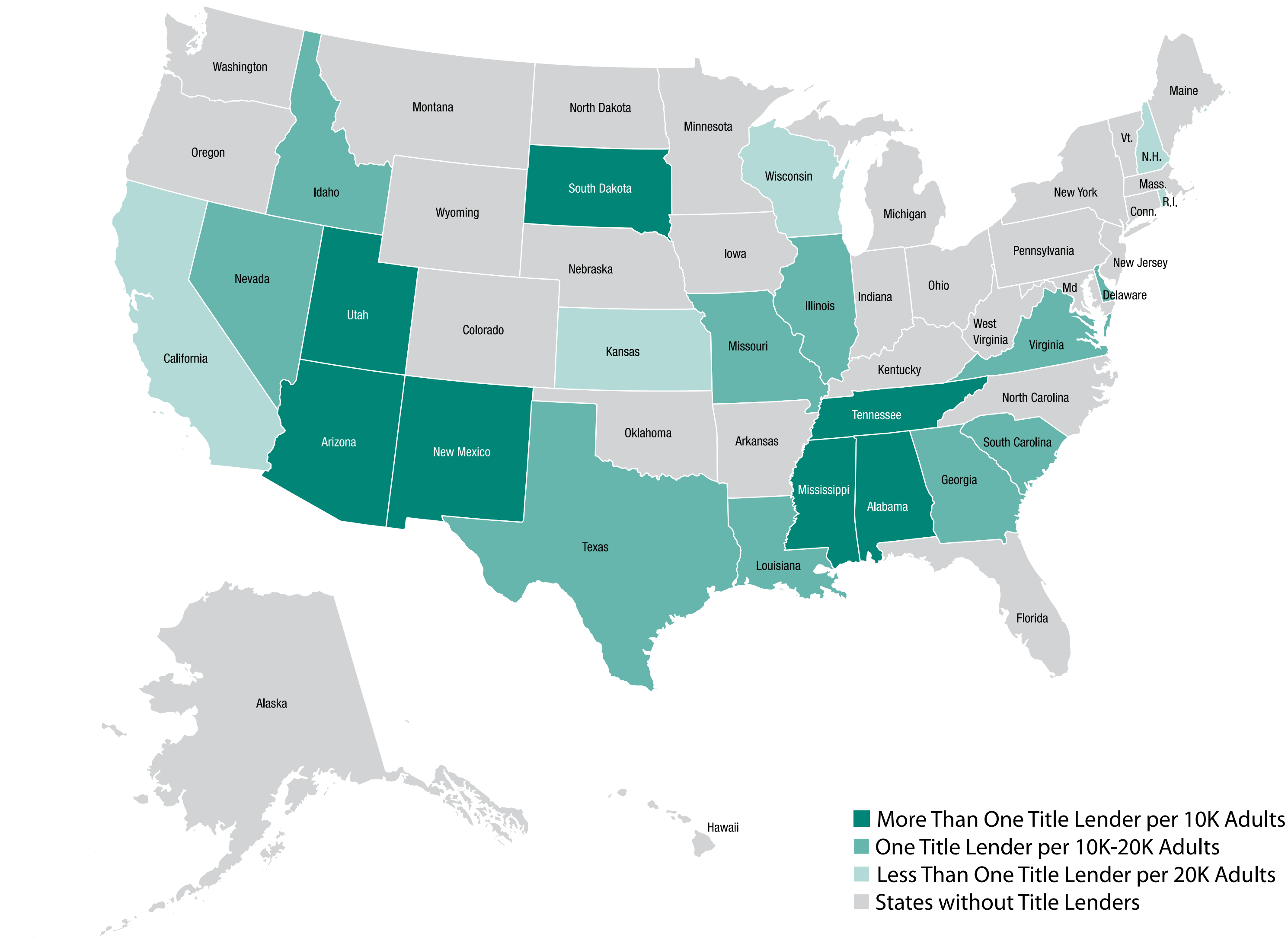
In calculating loan-to-value, the median value was chosen to report as a protection against the influence of outliers on our estimates. The range of LTV for the dataset was 4.5 percent to 176.3 percent.

APPENDIX III: NUMBER OF LICENSEES AND RELATIVE CONCENTRATION PER STATE

Rank	State	Car-title Lenders	Adult Population (age 18+)	Concentration (Adult Population per Licensee)
1	Alabama	672	3,647,277	5,427
2	Tennessee	835	4,850,104	5,809
3	Mississippi	355	2,211,742	6,230
4	South Dakota	89	611,383	6,869
5	Utah	251	1,892,858	7,541
6	New Mexico	194	1,540,507	7,941
7	Arizona	479	4,763,003	9,944
8	South Carolina	352	3,544,890	10,071
9	Texas	1,776	18,279,737	10,293
10	Nevada	197	2,035,543	10,333
11	Idaho	108	1,138,510	10,542
12	Delaware	56	692,169	12,360
13	Missouri	343	4,563,491	13,305
14	Virginia	378	6,147,347	16,262
15	Illinois	518	9,701,453	18,729
16	Louisiana	180	3,415,357	18,974
17	Georgia	375	7,196,101	19,190
18	New Hampshire	43	1,037,380	24,125
19	Kansas	86	2,126,179	24,723
20	Wisconsin	162	4,347,494	26,836
21	California	281	27,958,916	99,498
	U.S. TOTAL	7,730	111,701,441	
	AVERAGE CONCENTRATION			14,450

APPENDIX IV: CAR-TITLE LOAN MARKET BY STATE

Car-Title Lending Concentrations by State



**CA and SC only cap APRs up to loan amounts of $2,500 and $600 respectively.
LA's payday loan restrictions only include loans up to 2 months and $350.
GA and AL title lenders define their loans as pawn transactions.
KS allows CTL as an open-ended line of credit, while TX allows CTL to use a "Credit Services Organization" model.

ENDNOTES

1 CFA Survey of Car-Title Loan Laws, see: www.consumerfed.org/pdfs/Resources.CTL.StateLawTermChart12.2.12.pdf Over half of authorization laws require 30 day terms. Additionally, the CEO of Title Max (the largest car-title lender in the country) stated that 83 percent of their outstanding loans have a term of 30 days. Affidavit of John Robinson, President of Titlemax Holdings LLC, U.S. Bankruptcy Court for the Southern District of Georgia, Savannah Division (April 20, 2009).

2 *See* Table 2.

3 *See* Appendix I.

4 For example, a search for title loan advertisements on the Mintel Comperemedia direct mail database found loans offered interest free for the first month by MoneyStore and QuickPawn, as well as loans offered with $100 off interest charges at Allied Cash. Database accessed by authors June 2010.

5 For example, TitleMax, in response to the "Frequently Asked Question" "What if I have bad credit? Am I still eligible for a title loan" responds: "Absolutely! Your credit score doesn't matter. TitleMax can give you a title loan whether you have good credit, bad credit, or no credit. And your credit score isn't affected by applying/obtaining a title loan with TitleMax." In the next FAQ, it states: "You do not need good credit. TitleMax does not check your credit or use your credit history in any way during the approval process." *See* http://www.titlemax.biz/faqs/, URL visited 9/13/12.

6 "No proof of employment." *See* direct mail database, Comperemedia, assessed June 2010. "Lenders may [emphasis added] verify employment, income, and perform a credit check, but practice is not uniform. Most scrutiny focuses on the value of the car rather than the borrower." Todd Zywicki's *Consumer Use and Government Regulation of Title Pledge Lending,* George Mason University School of Law Mercatus Center (2010), pg 13.

7 For an overview of the car-title loan origination process see Nathalie Martin and Ozymandias Adams, Grand Theft Auto Loans: Repossession and Demographic Realities In Title Lending (April 17, 2012). Missouri Law Review, Vol. 77; UNM School of Law Research Paper No. 2012-03. Available at SSRN: http://ssrn.com/abstract=2041575 and Todd J. Zywicki, *Consumer Use and Government Regulation of Title Pledge Lending,* 22 LOY. CONSUMER L. REV. 425, 433 (2010).

8 The FDIC's *National Survey of Unbanked and Underbanked Households* found that eight percent of U.S. households are unbanked. However, 21.7 percent of African Americans, 19.3 percent of Latinos, and 15.6 percent of Native Americans are unbanked. In addition, the unbanked are more likely to be unmarried, have incomes of less then $30,000, less than a high school education, and a foreign born Spanish speaker than the U.S. population as a whole. *See* http://www.fdic.gov/householdsurvey/.

9 Veritec report to the Illinois Regulator, Title Lending Activity from December 2009-November 2010. Data on file with authors. The regulator reports borrower monthly income for each loan occurring in a given month. We have taken the average of that monthly income and computed an annual income. Summary of Title Loans, Calendar Year 2009, Financial Institutions Division, New Mexico Regulation and Licensing Department (2010). The median incomes for car-title borrowers in these states are less than half of the states' household median incomes. The New Mexico regulator reported the average income of New Mexico title loan borrowers is $24,493, compared to a median household income in that state of $44,631. Similarly, the Illinois regulator reports an average income of title loan borrowers of $24,200, compared to a median household income of $56,576. State median household incomes are the Census Bureau's 2007-2011 state-level estimates.

10 Illinois Department of Financial Institutions, *Short-Term Lending 1999 Final Report,* available at http://www.idfpr.com/dfi/ccd/pdfs/Shorterm.pdf.

11 *See* Appendix I

12 *Id.*

13 For example, a report from TMX (TitleMax) notes that "we have historically experienced a reduction of 9% to 14% in our title loans receivable in the first quarter of each fiscal year, primarily associated with our customers' receipts of tax refund checks." *See Management's Discussion and Analysis of Financial Condition and Result of Operations,* TMX Finance LLC and Affiliates (2010). On file with authors. Payday borrowers similarly rely on irregular cash infusions to truly break the cycle of repeat borrowing. According to a recent study by Pew, forty-one percent need an outside cash infusion to eliminate payday loan debt– including getting help from friends or family, selling or pawning personal possessions, taking out another type of loan, or using a tax refund. *See Payday Lending in America: How Borrowers Choose and Repay Payday Loans* at http://www.pewstates.org/research/reports/how-borrowers-choose-and-repay-payday-loans-85899452131.

14 Affidavit of John Robinson, President of Titlemax Holdings LLC, U.S. Bankruptcy Court for the Southern District of Georgia, Savannah Division (April 20, 2009).

15 *Id.*

16 Veritec report to the Illinois Regulator, Title Lending Activity from December 2009-November 2010. Data on file with authors.

17 We gained access to records made public during litigation against a large title loan company. Records were made available to the authors of this study by Robert F. Salvin, Esq., Community Justice Project, made public through *Salvatico v. Carbucks of Delaware, Inc.* On file with the authors.

18 Recent developments in Ohio suggest that auto-lenders are using the state Credit Services Organization (CSO) Act to act as "brokers" for third-party entities licensed under other statutes. The legality of these transactions are dubious as state law counts broker fees towards the small loan rate cap of 28% and further precludes the actual lender from acting as CSO in order to circumvent state law. Legal analysis on file with the authors. At the time of the writing of this paper, insufficient information was available to quantify Ohio's auto-title loan market. *See* http://www.policymattersohio.org/popular-auto-title-loans-offer-fast-cash-at-steep-price.

19 Leah A. Plunkett & Ana Lucia Hurtado, "Small-Dollar Loans, Big Problems: How States Protect Consumers From Abuses and How the Federal Government Can Help," Suffolk University Law Review, Vol. XLIV, NO. 1, 2011, p. 70-71.

20 S.C. Code Ann. §37-3-201 (2002); CA, CAL. FIN. Code § 22303.

21 La. Rev. Stat. Ann. Section 9: 3519, 3530. Title lenders in Louisiana can charge 36% interest or a $25 finance charge, plus a $50 loan origination fee and a $20 documentation fee. A $351 loan with a term of 61 days could therefore carry an APR of 162%.

22 *See* Matthew Hathaway, "Missouri lenders find ways to avoid title-loan regulations," *St. Louis Post-Dispatch* (Aug. 2, 2010), available at http://www.stltoday.com/business/article_bb9ee593-ca73-5a62-aa1a-115824889903.html (reporting that 20 percent of Missouri's 298 licensed title lending stores are also licensed under Missouri's small loan law, while a third are also licensed under the installment loan law, and that lenders market and sell loans under these laws as "title loans"). The practice of state law-shopping is the subject of a class action lawsuit pending in Missouri.

23 In a few states where these lenders obtain licenses specifically for car title lending, we have a high degree of confidence that we have captured each lending location accurately. In states where title lenders obtain a more general consumer finance license, we have attempted to identify which lenders offer these loans and thus may be modestly understating the true number of locations. Finally, in some cases, there is either no statewide licensing for car title lenders (as in the case of Georgia) or it is otherwise hard to identify which entities are making these loans (as in the case of Louisiana). Because of this, our estimates of the total number of title lenders in these states are most likely conservative. We estimated the number of title lenders in these states by calling small loan licensees to inquire whether they make title loans, looking at websites of these licensees, and/or reviewing advertisements.

24 In California, Idaho, Illinois, Kansas, Mississippi, New Mexico, Tennessee, Utah, and Virginia, the state regulator has provided a list of locations licensed to provide title loans. In Missouri, our estimate accounts for both the regulator's reported number of title loan licensees as well as title lenders operating under separate small loan licenses. *See* Matthew Hathaway, "Missouri Lenders Find Ways to Avoid Title-Loan Regulations," *St. Louis Post-Dispatch* (August 2, 2010). Title lenders in Alabama, Arizona, Delaware, Louisiana, Nevada, South Carolina, South Dakota, and Texas do not obtain specific title loan licenses but instead are part of a larger group of small loan licensees (or in the case of Texas, CSO licensees). In this case, we attempted to identify which of this larger group of lenders provide title loans through internet searches and phone calls to these companies. Finally, title lenders in Georgia are not licensed by the state, so we estimated the number of locations through Yellow Pages and web searches.

25 Veritec report to the Illinois Regulator, Title Lending Activity from December 2009-November 2010. Data on file with authors. Because the number of licensees varies by month, we take an average throughout this time period.

26 *Annual Report: January 1, 2009-December 31,2009,* Mississippi Department of Banking and Consumer Finance (2010).

27 To estimate the number of loans originated annually in New Mexico, we divided the total loan volume originated in 2009 ($10,785,123.44) by the average loan size in that year ($855.52). *See Summary of Title Loans, Calendar Year 2009,* Financial Institutions Division, New Mexico Regulation and Licensing Department (2010).

28 To estimate the number of loans originated annually in Tennessee per licensee, we divided the total reported loans originated in 2008 (the most recent year available) by the number of licensees which reported activity in that year. *See The 2010 Report on the Title Pledge Industry,* Tennessee Department of Financial Institutions (March 2010).

29 Virginia Bureau of Financial Institutions, *The 2011 Annual Report of the Bureau of Financial Institutions: Payday Lender Licensees, Check Cashers, Motor Vehicle Title Lender Licensees Operating in Virginia at the Close of Business December 31, 2011,* available at http://www.scc.virginia.gov/bfi/annual/ar04-11.pdf.

30 We use a weighted average because the New Mexico numbers, which are significantly smaller than all other states, unnecessarily skew the average downward.

31 More robust data is necessary for a refined analysis of the various permutations of car-title loans.

32 The Cash Store, a Texas-based car-title lender charges 577% APR for a $1,000, 154-day installment loan (versus its 365% APR for its one-month single payment auto). Interestingly, in Texas cities that have passed the ordinances with the limitations on refinancing, Cash Store only offers the installment product. *See* http://www.cashstore.com/images/Texas%20Title%20Loan%20APR%20and%20Rate%20Card.pdf. For another example of a high-cost installment loan see http://www.autoequitycash.com/docs/Texas%20Auto%20Title%20Multi%20Pay%20Discl%20Source%20Doc%205000.pdf.

33 Texas Office of the Consumer Credit Commissioner data on Q2 2011 published 9/7/12, available at http://www.occc.state.tx.us/pages/publications/090712%202Q%20CAB%20Data%20Report.pdf, last viewed 9/14/12.

34 Seven states permit relatively low-cost loans to be secured by the borrower's vehicle title. Florida caps rates at 30 percent APR and Iowa's Uniform Consumer Credit Code limits rates to either 21 percent or 36 percent APR. Kentucky caps rates for title loans at 36 percent APR, as does New Hampshire. Montana voters passed a ballot initiative November 2, 2010 to cap rates for payday and car title loans at 36 percent annual interest. Minnesota's Pawnbroker Law permits loans at three percent a month plus $20 per month in fees, making a $500 title loan cost $35 per month or 84 percent APR. Oregon caps one-month title loans at 36 percent per year plus an initial $10 per $100 up to $30 loaned as a one-time fee. A title loan in Oregon can be renewed two times at only 36 percent APR. Consequently, Oregon title loans average only $267 with total volume of only $3.6 million (2011 Payday and Title Loan Report, Oregon Department of Consumer and Business Services). In the remaining states, small loan rate caps, usury laws, or title regimes that do not permit loans or pawn transactions based on a title to function. For example, Colorado's small loan law was amended to preclude any collateral for high cost small loans. While lenders could make loans secured by vehicles under Colorado's Uniform Consumer Credit Code, in fact no lenders are licensed to do so.

35 John Warner National Defense Authorization Act for Fiscal Year 2007, Sec. 987. *See*, also, Department of Defense, 32 CFR Part 232, "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents; Final Rule, effective date October 1, 2007. Title loans covered by this cap are closed-end loans secured by the title to a vehicle, having terms of 181 days or less. *See* 32 CFR Part 232.3 (ii). In some states, title loans do not meet the Defense Department's definitions and therefore could be made in excess of 36% annual interest. For example, loans of longer than 181 days are made in Illinois and California, and open-end title loans are made in Kansas.

36 *See Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents,* Department of Defense (August 9, 2006).

37 *See* 2001 Interagency Expanded Guidance for Subprime Lending Programs (Feb. 2, 2001), available at http://www.occ.gov/news-issuances/bulletins/2001/bulletin-2001-6a.pdf.

38 *See* e.g., 2008 "Highlights of Final Rule Amending Home Mortgage Provisions of Regulation Z (Truth in Lending)" "http://www.federalreserve.gov/newsevents/press/bcreg/regz20080714.htm. For higher-priced loans, these amendments "prohibit a lender from making a loan without regard to borrowers' ability to repay the loan from income and assets other than the home's value." *See*, also, underwriting standards for all residential mortgage loans enacted in 2010 by the Title XIV of Dodd-Frank Wall Street Reform and Consumer Protection Act, at 15 USC §1639c (a)(3) "A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources *other than the consumer's equity in the dwelling or real property that secures repayment of the loan...*" (emphasis added).

39 Loan Max, generally considered the second largest car-title lender in the country specifically states on their website: "Many lenders require several proofs of income, a proof of employment, numerous utility bills, proofs of insurance, and even tax returns or business licenses. At LoanMax, we require your title, your vehicle, and a photo ID.* It's that easy!" *See* https://www.loanmaxtitleloans.net/BenefitsOfTitleLoan. Retrieved February 23, 2013.

40 Zywicki, *op. cit., Title Pledge Lending at 13.*

41 American Association of Responsible Auto Lenders written response to the Consumer Protection Financial Bureau's proposed "larger participants" rule. August 15, 2011. On file with the authors.

42 *See* Appendix I for full analysis.

43 *See* Appendix II for more details.

44 This is comparable to other available sources on annualized default or repossession rates. *See* Affidavit of John Robinson, President of Titlemax Holdings LLC, U.S. Bankruptcy Court for the Southern District of Georgia, Savannah Division (April 20, 2009) and Robert Reich, President of Community Loans of America and Texas Car Title Loans Services, Testimony before the Texas Senate Committee on Business and Commerce (February 22, 2011) reporting a charge-off rate of 11% of loan volume and 15 percent default rate respectively.

45 Interviews by the authors with Professor Nathalie Martin of the University of New Mexico and Jay Speer, Executive Director of the Virginia Poverty Law Center. Despite low LTV ratios, borrowers rarely see any surplus proceeds of the auto sale. First is the problem of compounding, default interest. The typical car-title loan rate is 20 percent rate per month and continues to accrue. Additionally, there is a repossession fee that averages around $300-$400 and storage fees can be up to $25 per day for the period between repossession and sale.

46 *See* FTC's Credit Practices Rule. 16 CFR §444.2(a)(4)

47 Calls to each New Hampshire branch of Loan Max, New England Auto Finance and OneMain Financial branches found that all three make loans with auto as collateral for 36% annually or less. October 10, 2011. Loan Max charges 35.9 percent annually with "no other fees." New England Auto Finance charges 3% a month and charges an application fee of $50 and a $25 title check fee. Loan terms are for 12 months. OneMain Financial (which is affiliated with or spun off from CitiFinancial) charges 18 to 36 percent annually, with no additional fees. Loan terms range from 12 to 60 months. New Hampshire subsequently repealed its 36 percent rate cap at the request of some lenders who argued that credit was not otherwise available.

48 http://www.fdic.gov/bank/analytical/quarterly/2010_vol4_2/FDIC_Quarterly_Vol4No2_SmallDollar.pdf.

NOTES

About the Center for Responsible Lending

The Center for Responsible Lending is a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is affiliated with Self-Help, one of the nation's largest community development financial institutions.

Visit our website at **www.responsiblelending.org.**

North Carolina
302 West Main Street
Durham, NC 27701
Ph (919) 313-8500
Fax (919) 313-8595

California
1330 Broadway
Suite 604
Oakland, CA 94612
Ph (510) 379-5500
Fax (510) 893-9300

District of Columbia
910 17th Street NW
Suite 500
Washington, DC 20006
Ph (202) 349-1850
Fax (202) 289-9009