The Buckeye Burden: An Analysis of Payday and Car Title Lending in Ohio

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This brief analyzes the payday and car title loan market in Ohio, where millions of dollars are drained out of low-income Ohioans' pockets and communities in the form of predatory loan fees. Key findings include:

- There are 836 storefronts in Ohio that make payday or car title loans, **the majority of which (59%) offer both forms of high-cost loans**.
- Payday and car title loans drain more than $502 million in predatory loan fees from Ohioans annually, **twice as much as what payday loans drained in 2005**.
- **Larger, longer-term payday and car title loans with triple-digit interest rates** further expose Ohioans to the harms of unaffordable loans secured by their bank accounts and cars.

Payday loans are marketed as a quick financial fix, but in reality create a long-term debt trap. Long-term, repeat borrowing is the business model of these lenders. Data from the Consumer Financial Protection Bureau (CFPB) found that 75% of all payday loan fees are generated by borrowers with more than 10 loans a year.[1] These loans are typically taken in rapid succession. Data show that over 76% of all loans are made within two weeks of a borrower paying off a previous loan.[2] Car title loans, similar products where the loan is secured by the borrower's title to his or her car instead of by a check, have many of the same debt trap features as payday loans.

While marketed as small, short-term loans, payday and car title loans often lead to significant, long-lasting consequences. Payday loans are associated with increased likelihood on delinquency on other bills, such as medical bills and utilities, increased overdraft fees, involuntary bank account closures, and even bankruptcy.[3] Both payday and car title loans put current assets at risk, and erect barriers to building assets for the future.

Background on Payday Lending in Ohio

The Ohio legislature first legalized payday loans in 1995, allowing payday lenders to charge up to 391% annual percentage rate (APR). For years, Ohioans experienced the harm of the debt trap lending practices. By 2005, payday lenders were draining an estimated $230 million in fees from Ohioans annually.[4] The Ohio legislature responded to calls for relief by enacting a 28% APR cap, known as the Short-Term Lender Law.[5] Then-Speaker of the House Jon Husted defended this effort to "cap the interest rate at a level that created a reasonable expectation that the borrower could pay it back, that they wouldn't be stuck in a cycle of debt."[6]

Rather than complying with this measure, payday lenders spent over $20 million on a ballot initiative during the 2008 election, asking voters to reject this rate cap.[7] However, over 64% of Ohio voters overwhelmingly approved the 28% APR cap.[8]

Ever since 2008, predatory payday lenders have been subverting Ohioans' mandate to cap interest rates, continuing to charge triple-digit interest rates. Some lenders charge higher rates than the triple-digit rates allowed under the state's original payday loan law. Additionally, although not explicitly permitted under Ohio, lenders now offer car title loans. Like payday loans, these car title loans are extended with no regard for a borrower's ability to repay them and form the core of a business model that relies on trapping people in long-term cycles of debt.

Rather than operating under the intended regulatory structures, payday and car title lenders exploit Ohio's Second Mortgage Loan Act and Ohio's Credit Services Organization (CSO) Act to continue their debt trap lending, with no limits on charges. Under the Second Mortgage Loan Act, these lenders make loans directly; while those operating under the CSO Act pose as brokers for loans originated by third-party lenders, such as Ohio-based NCP Finance, and still carry triple-digit APRs.[9] This use of the CSO Act is a well-documented form of subterfuge in other states as a means for evading consumer protections.[10] While an Ohio Supreme Court ruling in 2014 affirmed payday and car title lenders' use of the Second Mortgage Loan Act, it did not address the use of the CSO brokering scheme.[11] Ohio's legislature and regulators have the authority to enforce the voter-mandated 28% rate cap, but over the last seven years have not done so.

Meanwhile, the federal Consumer Financial Protection Bureau (CFPB), the federal watchdog agency established in 2011 to prevent unfair and abusive financial practices, is in the process of writing new regulations that, if done correctly, could rein in the payday and car title lending nationally. The CFPB's regulations have the ability to address payday and car title loans in Ohio regardless of the scheme through which they are made, such as the CSO loophole and Second Mortgage Loan Act. These rules follow other actions by the CFPB, such as a 2013 enforcement action against Cash America (dba Cashland in Ohio) for abusive debt collection tactics and violations of the Military Lending Act in its Ohio lending practices.[12]

In the sections that follow, we describe the Ohio payday and car title loan market, quantify the fees drained from Ohioans by these lenders, and conclude with policy recommendations for state and federal regulators.

Findings

Finding 1: There are 836 storefronts in Ohio that make payday or car title loans, the majority of which (59%) offer both forms of high-cost loans.

In Ohio, payday and car title lenders make loans either as Second Mortgage Loan Lenders, or posing as brokers by registering as Credit Service Organizations (CSO). Not every storefront registered under the Second Mortgage Loan Act is a payday lender, nor is every entity licensed as a CSO. In addition, there are several payday lenders licensed as a CSO that operate only online, without a storefront presence in the state.[13] The following analysis looks at companies operating under either of these statutory regimes, based on the lists of Second Mortgage Lenders and CSOs of June, 2014.[14]

Today, as shown in Figure 1, there are 735 storefronts which make payday loans in Ohio. The five largest payday lenders own 77.5% of the payday loan storefronts.

Figure 1: Ohio Payday Loan Storefronts

Company	Storefronts	Percent	Cumulative Percent
Grupo Elektra (dba Advance America, Purpose Money, First American Loans, National Cash Advance)	240	32.6%	32.6%
Cash America (dba Cashland)	120	16.3%	48.9%
Community Choice Financial (dba CheckSmart)	111	15.1%	64.0%
Check Into Cash	50	6.8%	70.8%
Ace Cash Express	50	6.8%	77.6%
Remaining companies	164	22.3%	100%
Total	**735**		

Close to 600 storefronts in the state make car title loans, as shown below in Figure 2, with the top five lenders making up 83% of locations.[15]

Figure 2: Ohio Car Title Loan Storefronts

Company	Storefronts	Percent	Cumulative Percent
Grupo Elektra	240	40.1%	40.1%
Cash America (dba Cashland)	120	20.1%	60.2%
Check Into Cash	50	8.4%	68.6%
Ace Cash Express	50	8.4%	76.9%
CashMax	37	6.2%	83.1%
TMX Credit (dba TitleMax)	21	3.5%	86.6%
LoanMax	75	12.5%	99.2%
Remaining companies	5	0.8%	100%
Total	**598**		

Of these storefronts that make car title loans, 83% also make payday loans (Advance America, Cash America, Check Into Cash, Ace Cash Express, and CashMax). Figure 3 summarizes the combined landscape of payday and car title loan storefronts.

Figure 3: Payday and Car Title Loan Storefronts

High Cost Loans Offered	Total Storefronts	Percent of Storefronts
Payday Loans and Car Title Loans	497	59.4%
Payday Loans Only	238	28.5%
Car Title Loans Only	101	12.1%
Total	**836**	**100%**

Finding 2: Payday and car title loans drain more than $502 million in predatory loan fees from Ohioans.

Payday loans drain over $184 million a year in payday loan fees.

To estimate the amount of fees drained by payday loans, we apply the methodology used in our 2013 State of Lending report for states without any rate cap.[16] In that report, for states like Ohio, we estimated an average loan size of $350, an average loan fee of $20.25 per $100, and that the average payday loan store made 3,541 loans annually.[17] Figure 4 applies that methodology to the Ohio market, capturing both volume of storefront and online lending activity.

Figure 4: Estimated fees drained by payday loans

Total # stores	735
Average # loans/store	3,541
Average loan size	$350
Average fee/$100 borrowed	$20.25
Total # loans	2,602,635
Total loan volume	$910,922,250
Total fees	**$184,461,756**

The assumption of a fee of $20.25 per $100 (which is equivalent to a 521% APR on a two-week loan) is in between the APRs reported to be charged at storefronts and online in Ohio. As shown in Figure 5, this falls between the advertised costs of the storefront and online loans that payday lenders offer in Ohio.

Figure 5: Advertised rates for short-term loans offered by top five payday lenders in Ohio

Payday Lender	APR for $300, Short-Term storefront loan	APR for $300, Short-Term online loan
Advance America	228%	683%
Cash America	244%	683%
Community Choice Financial	387%	NA
Check Into Cash	APR not available.	683%
Ace Cash Express	718%	763%

See Notes for Figure 5 in the Appendix

Car title loans drain over $318 million dollars annually, more than payday loans.

Car title loans, like payday loans, are marketed as a quick financial fix, but also lead to a long-term debt cycle. The typical car title loan carries a 300% APR, is due in 30 days, and takes access to a borrower's car title as collateral for the loan. Also like payday lenders, car title lenders extend these loans with no regard to a borrower's ability to repay the loan, and instead rely on the ability to repossess or threaten repossession of the borrower's car to ensure a pattern of repeat reborrowing. Ohio has never passed enabling legislation for car title lending; however, just as with payday loans, car title loans are now offered by payday lenders posing as brokers, exploiting the CSO loophole to charge triple-digit rates.[18]

To estimate the amount of fees charged to obtain car title loans in Ohio, we use the same methodology as our 2013 State of Lending report. In that report, we estimated the average loan size at $1,042, an average loan fee of $25 per $100, and that the average car title loan store made 227 loans per year. According to TitleMax, the typical car title loan is refinanced eight times, meaning a typical car title borrower will pay the car title loan fees nine times on a single car title loan.[19] Figure 6 applies this methodology to the Ohio market.

Figure 6: Estimated fees drained by car title loans

Total # stores	599
Average # loans/store	227
Average loan size	$1,042
Average fee/$100 borrowed	$25
Total # loans	135,746
Total loan volume (not assuming refinancings)	$141,447,332
Total fees on original loans	$35,361,833
Total Fees (reflecting refinancings)	**$318,256,497**

Finding 3: Larger, longer-term payday and car title loans with triple-digit interest rates further expose Ohioans to the harms of unaffordable loans secured by their bank accounts and cars.

In recent years, throughout the country and in Ohio, payday and car title lenders have begun offering loans structured with multi-payments, rather than a single balloon payment, and for terms longer than the typical 14-day or 30-day loan. For some lenders, they offer these triple-digit loans secured by access to a borrower's bank account and or car for terms lasting up to two years. Despite being structured with multi-payments, the fundamental harm of making an unaffordable loan remains.

A recent letter to the CFPB by more than 100 Ohio groups focused on evidence of this trend in the Ohio market and the growing concern. The letter noted: "These loans – long-term, very high-cost loans with coercive repayment mechanisms leveraging either the borrower's bank account or the borrower's car title – cause substantial harm to the people of Ohio and are potentially more damaging than shorter-term loans as they tend be larger and ultimately cost more."[20] Figure 7 below, adapted from that letter, highlights examples of these longer-term, high cost loans.

Figure 7: Examples of Longer-Term Payday and Car Title Loans Offered in Ohio

Lender	Loan Type	Example Advertised Loan Terms	Cost	Total Payback Amount
Grupo Elektra dba Purpose Financial	Payday	$1,000, 6 months	318% APR	$1,959
Grupo Elektra dba Advance America	Car Title	$5,000, 60 days	127% APR	$6,047
Enova International dba CashNetUSA	Payday	$2,400, 7.5 months	229% APR	$4,407
Ace Cash Express	Payday	$2,000, 112 days	496% APR	$4,014
Cash America dba Cashland	Car Title	$1,500, 6 months	290% APR	$2,794

There is currently insufficient data to assess the overall total loan volume and fees paid due to longer-term installment loans offered by payday and car title lenders in Ohio. As such, our estimates of the fees drained by payday and car title loans are conservative, as there is some volume of additional payday and car title lending activity occurring in the state for which the costs are not reflected in our estimates.

For example, in 2013, Cash America, derived 34% of its domestic loan volume and 20% of its domestic fee revenue from installment products.[21] While interest and fees from short-term loan products declined only slightly from 2012 to 2013 (from roughly $312 million to $285 million), its fees and interest on installment loans increased significantly more, up from $68 million to over $103 million during that time.[22] In Texas, in 2013, where payday lenders also use the CSO scheme to make loans at unlimited rates, 23% of loan volume comes from installment loans and yet 43% of fee revenue is attributed to installment lending.[23] In addition, third-party lender NCP Finance, which originates loans brokered by payday and car title loan companies in Texas and Ohio, notes that the majority of its portfolio are not installment loans.[24]

Conclusion and Recommendations

Even using conservative estimates, payday and car title loans drain over $502 million a year from Ohio pocketbooks, which is more than double what payday loans alone drained from Ohioans in 2005. These results clearly run contrary to the intent of millions of Ohio voters who went to the polls to affirm a 28% rate cap and to prevent such high-cost loans that can not reasonably be repaid. The payday lenders promptly circumvented the law by taking advantage of other legal loopholes, overriding the will of the voters.

The CFPB, though its rulemaking process, has the ability to address the harms of this debt trap lending, for both short and long-term loans. While the CFPB cannot enact a rate cap, it can establish regulations to ensure lenders assess a borrower's ability to repay the loan without re-borrowing or defaulting on other obligations. In moving forward with proposed regulations, it must do so in a way to prevent debt trap loans, and to prevent further loopholes for evasion.

State and federal lawmakers can end these lending abuses by doing the following:

- The Consumer Financial Protection Bureau should enact strong regulations that end the payday and car title debt traps. Specifically, strong regulations by the CFPB should:
    - Require the lender to determine the borrower's ability to repay the loan, including consideration of income and expense, on the first loan and every loan.
    - For short-term loans, limit the amount of time that lenders can keep borrowers in payday loan debt to no more than 90 days in a 12-month period.
    - For longer-term loans, address re-borrowing for loans that become debt traps, and discourage new or refinanced loans when there is evidence that the borrower is not making significant progress toward paying off the debt.
    - Not allow a safe harbor for poorly underwritten loans.

- State regulators, including the Attorney General and the Department of Commerce, should enforce the CSO Act to prevent exploitation of the CSO loophole.

- State legislators should enact regulations to ensure payday lenders and car title lenders can no longer evade the 28% rate cap.

Appendix - Notes for Figure 5

Advance America only advertises a select number of pre-set loan values for the purposes of advertised APRs made via its store fronts. It does not show $300, but rather shows a $322.58 loan. Advance America's online loans are made via the CSO loophole, using NCP Finance as the third-party lender, and makes its online loans as 60-day loans payable in two 30-day installments. For Cash America, its storefront and online loans are made via the CSO loophole. For storefronts in Lorain, Medina, Summit, and Wayne Counties (Judicial District 9), a different fee is advertised, resulting in 312% APR.

According to mystery shopping calls in February 2015, customer service representatives at Check Into Cash storefronts stated, "they no longer make payday loans, they are similar to payday loans but are held out longer." When asked about the cost of $300 14-day loan, the response was that the loan would be an installment loan with three payments due each payday. The first two payments will be the minimum payment of approximately $47 each, and then a final payment of $317. These loans are made through the CSO loophole, with NCP Finance as the third-party lender.
http://checkintocash.com/payday-loan-information-by-state/

Community Choice Financial, dba CheckSmart, advertises short-term consumer installment loans from $100 to $1,000. According to the CheckSmart website, these loans are secured by a postdated check or check(s) left by the customer at the time of the loan origination. The loans have at least two payments and contain a credit investigation fee along with a loan origination fee that varies based on the amount of the loan. Repayment can be made on a weekly, bi-weekly, or semi-monthly basis. The typical loan is for less than 31 days. http://www.checksmartstores.com/ohio/loan-options/

According to mystery shopping calls in February 2015 Checksmart no longer offers the single payment payday loan. For someone paid bi-weekly, it is a "two pay loan" with payments tied to the borrower's pay day. The first payment is about $44-48, and the second between $344-$348. The 387% APR is the rate for the cost of a $300 loan for someone paid bi-weekly for 28 days. CheckSmart also offers a "signature installment loan" of $1,500 - $5,000 with terms of 6 month, 12 month, or 24 months depending on loan size, and payments still tied to payday. A $1,500 signature installment loan would carry a 277% APR with a one month term.

Ace Cash Express makes its online and storefront loans via the CSO loophole, with NCP Finance as the third-party lender. Fee schedules are available on line:
https://www.acecashexpress.com/~/media/Files/Products/Payday/Internet/Rates/OH_FeeSchedule.pdf
https://www.acecashexpress.com/in-store-rates?state=Ohio
https://www.acecashexpress.com/~/media/files/products/title/store/rates/oh_feeschedule.ashx

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[1] Consumer Financial Protection Bureau, "Payday Loans and Direct Deposit Advance Products: White Paper of Initial Findings," at 23 (2013), http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf

[2] Leslie Parrish, Center for Responsible Lending, "Phantom Demand," (2009), http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-final.pdf; See also Consumer Financial Protection Bureau, "CFPB Data Point: Payday Lending," (2014), http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf

[3] See e.g., Melzer, B. (2011). The real costs of credit access: Evidence from the payday lending market. Oxford University Press, http://bit.ly/10M01tZ; Skiba, P. M. & Tobacman, J. (2008a). Do payday loans cause bankruptcy? SSRN working paper, http://bit.ly/UhdRNJ; Campbell, D., Jerez, A.S., & Tufano, P. (2011). Bouncing out of the banking system: An empirical analysis of involuntary bank account closures. Harvard Business School, http://bit.ly/VWJGk9

[4] Leslie Parrish, Uriah King, and Ozlem Tanik, Center for Responsible Lending, "Financial Quicksand," (2005), http://www.responsiblelending.org/payday-lending/research-analysis/rr012-Financial_Quicksand-1106.pdf

[5] Ohio HB 545 (2008), http://archives.legislature.state.oh.us/bills.cfm?ID=127_HB_545; see also, Ohio HB 545 Fiscal Analysis (2008), http://www.lsc.state.oh.us/fiscal/fiscalnotes/127ga/hb0545in.htm

[6] Remarks of Ohio Speaker John Husted, August 7, 2008, available at https://www.youtube.com/watch?v=ztZSLmzRyIo

[7] Tyler Evilsizer, National Institute on Money in State Politics, "Lenders Couldn't By Laws, " (August 18, 2009), http://classic.followthemoney.org/press/Reports/Payday.pdf

[8] Id.

[9] For further discussion, see David Rothstein, Policy Matters Ohio, "New Law, Same Old Loans: Payday Lenders Sidestep Ohio," (2009) http://www.policymattersohio.org/wp-content/uploads/2011/09/NewLawSameOldLoans2009.pdf

[10] See, e.g., Diane Standaert and Sara Weed, Center for Responsible Lending, "Payday Lenders Pose as Brokers to Evade Interest Rate Caps The next chapter in payday lender subterfuge," (2010) http://www.responsiblelending.org/payday-lending/policy-legislation/states/CRL-CSO-Issue-Brief-FINAL.pdf

[11] Ohio Neighborhood Fin., Inc. v. Scott, 139 Ohio St.3d 536, 2014-Ohio-2440, See also, "Consumer Advocates Respond with Disappointment to Supreme Court Decision," https://www.cohhio.org/files/advocate%20responses%20to%20OSC%20payday%20decision.pdf

[12] See, "Consumer Financial Protection Bureau Takes Action Against Payday Lender For Robo-Signing," (2013), http://www.consumerfinance.gov/newsroom/consumer-financial-protection-bureau-takes-action-against-payday-lender-for-robo-signing/

[13] Payday lenders registered as CSOs in Ohio an have an online presence only: KCSO of Ohio (dba Kickstand Lending, owned by Grupo Elektra), Loan By Phone, Rise Credit, Speedy Cash, PLS Store of Ohio, NC FINANCIAL SOLUTIONS OF OHIO, LLC (dbs NetCredit, owned by Enova), MONEYKEY - OH INC., MONEYLION OF OHIO LLC, OHIO CONSUMER FINANCIAL SOLUTIONS, LLC (DBA CASHNETUSA, owned by Enova International), CASH CENTRAL OF OHIO, LLC, Zestcash, Inc, Opportunity Financial LLC

[14] The Ohio Department of Financial Regulation maintains a list of every storefront licensed as a Second Mortgage Loan (SML) Lenders, of which there are more than 1,000. CRL analyzed this list to identify which of which these were payday lenders and which were not. In addition, the Ohio Department of Financial Regulation maintains a list of every company registered as a CSO, but it does not maintain a list of CSO storefronts. CRL identified which CSOs are car title lenders or payday lenders, and then used company specific information to estimate the number of CSO storefronts. This analysis is based on the list of SML storefronts and registered CSOs as of June 2014.

[15] See footnote 15 for explanation of methodology.

[16] See Susanna Montezomolo, Center for Responsible Lending, "Payday Lending Abuses and Predatory Practices," (2013), http://www.responsiblelending.org/state-of-lending/reports/10-Payday-Loans.pdf

[17] Id at 26.

[18] See generally, David Rothstein, Policy Matters Ohio, "Keys for Collateral How auto-title loans have become another vehicle for payday lending in Ohio," (2012) http://www.policymattersohio.org/wp-content/uploads/2012/12/AutoTitleES-Dec2012.pdf

[19] Affidavit of John Robinson, President of Titlemax Holdings LLC, U.S. Bankruptcy Court for the Southern District of Georgia, Savannah Division (April 20, 2009).
[20] Letter from 100+ Ohio groups to Director Richard Cordray, Consumer Financial Protection Bureau, http://www.cohhio.org/files/Cordray%20letter%20stronger%20rules.pdf
[21] Cash America 2014, 10-K Sec Filing, http://hsprod.investis.com/site/irwizard/csh/ir.jsp?page=sec_item_new&cik=807884&ipage=9435821&DSEQ=&SEQ=&SQDESC=
[22] Id.
[23] Texas Office of the Consumer Credit Commissioner, CAB Annual Report, http://occc.texas.gov/publications/activity-reports
[24] Moody's Investor Service, "Credit Opinion: NCP Finance, L.P." (April 2015), on file with author