# Study Report

# Payday & Auto Title Loans in Texas

**A Study by the League of Women Voters of Texas Education Fund** **August 2015**

## Table of Contents


| | | Page |
|---|---|---|
| Credits | | 3 |
| List of Tables | | 4 |
| List of Figures | | 5 |
| Study Focus and Scope | | 7 |
| Glossary | | 8 |
| I. | Historical Background | 11 |
| | A. The Origin of Payday & Auto Title Loans | 11 |
| | B. Development of the Payday and Auto Title Loan Industry Since 2000 | 12 |
| II. | Obtaining a Payday or Auto Title Loan | 13 |
| | A. The Application Process | 13 |
| | B. Denial of Application | 13 |
| III. | The Stakeholders & Their Perspectives | 14 |
| | A. The Borrowers | 14 |
| | B. The Lenders | 24 |
| | C. The Opposition | 31 |
| IV. | Accessibility and Demand for Payday and Auto Title Loans in Texas | 34 |
| | A. Accessibility: Number and Distribution of Credit Access Businesses in Texas | 34 |
| | B. Demand: Number of Consumers and Loans in Texas | 36 |
| V. | The Economics of Payday and Auto Title Loans in Texas | 44 |
| | A. The Economic Context of Payday and Title Loans in Texas | 44 |
| | B. The Impact of Payday and Auto Title Loans on Consumers in Texas | 46 |
| | C. The Impact of Payday and Auto Title Loans on the Texas Economy | 54 |
| VI. | State and National Comparisons | 60 |
| | A. Accessibility | 60 |
| | B. Demand | 65 |
| | C. Economics | 72 |
| VII. | Regulation of the Payday and Auto Title Loan Industry | 79 |
| | A. Texas Law | 79 |
| | B. Local Ordinances in Texas | 85 |
| | C. Federal Law | 88 |
| | D. State and Federal Oversight | 91 |
| | E. Other State Payday and Auto Title Loan Regulations | 94 |
| VIII. | The Big Question: Do Payday & Auto Title Loans Help or Harm Consumers? | 97 |
| | A. Do Payday & Auto Title Loans Ultimately Help or Harm Consumers? | 97 |
| | B. Empirical Research on the Effect of Payday Loans on the Welfare of Borrowers | 97 |
| | C. Critique of Studies Examining the Impact of Payday Loans on Consumer Financial Health | 99 |

| | | |
|---|---|---|
| IX. | Policy Options | 100 |
| | A. The Issue | 100 |
| | B. What Financial Products are Available to Consumers Needing Immediate Cash? | 100 |
| | C. Policy Considerations | 102 |
| | D. A Range of Policy Options | 102 |
| X. | Related Policy Issues | 103 |
| | A. Governance of Small Dollar Loans | 103 |
| | B. Criminal Penalties for Loan Default | 103 |
| XI. | Approaches to Reform | 104 |
| | A. Loan Rationing | 104 |
| | B. Loan Restructuring | 104 |
| | C. Long-Term Debt Prevention | 105 |
| XII. | Conclusion | 106 |
| | A. Summary | 106 |
| | B. The Issue | 106 |
| | C. The Role of the League | 106 |
| XIII. | Other League Positions on Payday and Auto Title Lending | 107 |
| | A. League Positions | 107 |
| | B. League Studies | 108 |
| | C. League Actions | 108 |
| | References | 110 |

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|---|---|
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# List of Tables


| Table | | Page |
|---|---|---|
| II-B-1. | Percent Payday Loan Denials, by Reason, Illinois, Feb 2006-Dec 2008 | 13 |
| IV-B-1. | Refinance-to-New Loan Ratio, by Type Loan, 2014 | 43 |
| V-B-1. | Average Credit Access Business Fee Charged per Transaction ($/$100), by Type Loan, Texas, 2014 | 47 |
| V-B-2. | Estimated Initial Cost ($) of a $500 Single Payment Payday or Auto Title Loan, Texas, 2015 | 48 |
| V-B-3. | % Jobs That Paid Less Than the Hourly Wage Needed for a Single Parent With One child to Pay for Basic Household Expenses, by Metropolitan Statistical Area, Texas, 2014 | 50 |
| V-B-4. | Vehicle Repossession Rate (%) for Auto Title Loans, Texas, 2012-2014 | 53 |
| V-C-1. | % Change in No. New/Refinanced Payday/Auto Title Loans and Total Amount Fees ($) Charged, Texas, 2012-2014 | 56 |
| V-C-2. | Estimated Net Economic Impact of the Payday and Auto Title Lending Industry, Texas, 2014 | 59 |
| VI-A-1. | Rank and Concentration of Payday/Auto Title Loan Stores and Associated Population Characteristics, Selected States, 2013 | 64 |
| VI-B-1. | No. and % Adult (18+ Years) Payday and Auto Title Loan Consumers, United States and Texas, 2013 | 67 |
| VI-B-2. | Degree of State Payday Lending Regulation, by State, 2014 | 69 |
| VI-B-3. | Degree of State Auto Title Lending Regulation, by State, 2014 | 71 |
| VI-C-1. | Payday and Auto Title New Loan Volume, by Type, U.S. and Texas, 2012 | 72 |
| VI-C-2. | Change in New-Loan Volume, United States and Texas, 2012-2013 | 73 |
| VI-C-3. | Cost of a $500 Short-Term Loan, by Type, Maximum Charge, & State, 2015 | 74 |
| VI-C-4. | Estimated Net Economic Impact of the Payday and Auto Title Lending Industry, United States, 2012 | 78 |
| VII-A-1. | Cost of a $500 Single Payment, Payday & Auto Title Loan, by Type Loan, Type Charge, & Allowable Charges by Texas Statute, 2015 | 84 |
| VII-E-1. | States Without Rate or Fee Restrictions on Payday and Auto Title Loans, United States, 2015 | 94 |
| VII-E-2. | Degree of State Payday Lending Regulation, by State, 2014 | 95 |
| VII-E-3. | Degree of State Auto Title Lending Regulation, by State, 2014 | 96 |

# List of Figures


| Figure | | Page |
|---|---|---|
| III-A-1. | Percent Households Using Payday & Auto Title Loans, by Recency of Use & Geographic Area, 2013 | **14** |
| III-A-2. | Percent Households Ever Used Payday & Auto Title Loans, by Age Group, Texas, 2013 | **15** |
| III-A-3. | Percent Households Ever Used Payday Loans, by Type Loan & Age Group, Texas & United States, 2013 | **16** |
| III-A-4. | Percent Households Ever Used Auto Title Loans, by Type Loan & Age Group, Texas & United States, 2013 | **17** |
| III-A-5. | Percent Households Ever Used Payday or Auto Title Loans, by Metropolitan Status, Texas & United States, 2013 | **18** |
| III-A-6. | Percent Households Ever Used Payday or Auto Title Loans, by Race & Ethnicity, Texas & United States, 2013 | **19** |
| III-A-7. | Percent Households Ever Used Payday or Auto Title Loans, by Education, Texas & United States, 2013 | **20** |
| III-A-8. | Percent Households Ever Used Payday or Auto Title Loans, by Family Income, Texas & United States, 2013 | **21** |
| III-A-9. | Percent Households Ever Used Payday or Auto Title Loans, by Employment Status, Texas & United States, 2013 | **22** |
| III-A-10. | Percent Households Ever Used Payday or Auto Title Loans, by Disability Status, Texas & United States, 2013 | **22** |
| III-A-11. | Percent Payday Loan Borrowers (*N*=451), by Reason for 1st Loan, August 2011-April 2012 | **24** |
| III-B-1. | Estimated Annualized Cost (APR) of Options to Cover $100 Cash Shortfall for 2 weeks, Texas, 2014 | **27** |
| III-B-2. | The Illogic of Short-Term Loan Annual Percentage Rate (APR) | **28** |
| IV-A. | Texas Payday & Auto Title Storefronts, 2014 | **35** |
| IV-B-1. | No. Payday & Auto Title Loan Consumers, by Type Loan, 2012-2014 | **36** |
| IV-B-2. | % Payday & Auto Title Loan Consumers, by Type Loan, Texas, 2014 | **37** |
| IV-B-3. | Number Payday & Auto Title Loans, by Type Loan, Texas, 2012-2014 | **38** |
| IV-B-4. | Number Payday & Auto Title Loans, by Payment Arrangement, Texas, 2012-2014 | **39** |
| IV-B-5. | Market Share (%) of Payday & Auto Title Loans, by Type, Texas, 2012-2014 | **40** |
| IV-B-6. | % Refinanced Payday & Auto Title Loans, by Frequency of Refinancing, Texas, 2014 | **41** |
| IV-B-7. | Number of Payday & Auto Title Loan Refinancing Transactions, by Type Loan, Texas, 2012-2014 | **42** |
| V-A-1. | New Payday & Auto Title Loans, by Size ($), Texas, 2014 | **44** |
| V-A-2. | % Payday & Auto Title Loans, by Type & Size ($), Texas, 2014 | **45** |
| V-A-3. | Change in Average Term (Months) of New Installment Payday & Auto Title Loans, Texas, 2012-2014 | **46** |
| V-B-1. | Estimated Cost ($) of Refinancing a $500, 2-Week Payday Loan, Texas 2015 | **48** |
| V-B-2. | Estimated Cost ($) of Refinancing a $500, 30-Day Auto Title Loan, Texas 2015 | **49** |
| V-B-3. | Estimated Biweekly Household Income & Expenditures for a Single-Parent/One-Child Family, Dallas-Fort Worth-Arlington Metropolitan Area, 2014 | **51** |
| V-B-4. | Default Rate (%) Among Payday Loan Consumers, Selected Samples | **52** |

V-C-1. No. Payday & Auto title Loan Consumers and Amount New Consumer Credit ($) Extended, by Type Loan, Texas, 2014 **54**

V-C-2. Dollar Amount of Consumer Credit Extended & Total Fees Charged by Credit Access Businesses, Texas, 2014 **55**

V-C-3. No. New/Refinanced Payday/Auto Title Loans and Total Fees, Texas, 2012-2014 **56**

V-C-4. Estimated Impact of Payday & Auto Title Lending Activity on Value Added to Economy, Texas, 2013 **58**

V-C-5. Estimated Impact of Payday & Auto Title Lending Activity on Jobs, Texas, 2014 **58**

VI-A-1. No. Payday Loan Storefronts and % Annual Change, United States, 2004-2013 **61**

VI-A-2. Estimated No. Payday & Auto Title Lending Stores, by State, 2013 **62**

VI-A-3. Concentration of Payday & Auto Title Loan Stores per No. Adults (18 Years & Older), by State, 2013. **63**

VI-B-1. % Households, by Type of Alternative Financial Service Used, U.S., 2013 **65**

VI-B-2. Percent Households Using Any Alternative Financial Service, by Recency of Use & Geographic Area, 2013 **66**

VI-B-3. Percent Households Using Payday & Auto Title Loans, by Recency of Use & Geographic Area, 2013 **67**

VI-B-4. Self-Reported Users of Payday Loans in Past 5 Years, by Lending Site, 2011 **68**

VI-B-5. % Households Who Used a Payday Loan in Last 12 Months, by State, 2013 **68**

VI-B-6. % Households Who Used an Auto Title Loan in Last 12 Months, by State, 2013 **69**

VI-B-7. Degree of State Payday Loan Regulation, by State, 2012 **70**

VI-B-8. % Adults (18 Years & Older) Who Used a Payday Loan Within the Last 5 Years, by Degree of State Regulation and Loan Source, 2011 **70**

VI-B-9. Degree of State Auto Title Loan Regulation, by State, 2012 **71**

VI-B-10. % Households That Have Ever Used an Auto Title Loan, by Degree of State Regulation, 2013 **72**

VI-C-1. Dollar Amount of Consumer Credit Extended & Total Fees Charged by Credit Access Businesses, U.S., 2012 **75**

VI-C-2. Estimated Impact of Payday & Auto Title Lending Activity on Value Added to Economy, United States, 2012 **76**

VI-C-3. Estimated Impact of Payday & Auto Title Lending Activity on Jobs, United States, 2012 **77**

VII-E-1. Maximum Annual Percentage Rate for a $500, 2-Week Payday Loan, by State, 2015 **95**

VII-E-2. Maximum Annual Percentage Rate for a $500, 30-Day Auto Title Loan, by State, 2015 **96**

## Study Focus and Scope

| | |
|---|---|
| ***Focus*** | Explore the current regulations on payday and auto title lenders in Texas and the accessibility and impact of these loans in the community |
| ***Scope*** | Define a payday loan, an auto title loan, and the typical borrower. Investigate the history of the payday and auto title industry in Texas over the past decade and describe the impact of regulations on the industry. Determine the current demand for loans in Texas and the economic impact of these loans on communities. Determine the typical interest rate charged and the usual length of time that it takes to repay loans. |

***Additional issues for consideration:***

***Loan details***. What documents are required to take out a loan? What approval process do potential borrowers go through to get accepted? How frequently are customers denied a loan? How many loans are paid within the original term of the loan?

***Accessibility of loans***. How many loans are made over a year? How many companies are currently operating in Texas and how many sites are generally set up?

***Oversight of lenders***. Which organizations or agencies regulate the practices of the lenders? What reporting is required? How frequently are loan agencies and/or sites inspected to ensure compliance? What are the penalties for noncompliance? When there is a dispute, where can consumers make a report or file a complaint?

***How does Texas compare?*** Compare loan products and regulations in Texas to those in other states.

***Consequences of increased regulation***. What would be the impact on payday and title loan consumers in Texas if such loans were restricted or banned?

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# Glossary

## A. The Loans

1. Auto title loan
   a. "A loan in which an unencumbered motor vehicle is given as security for the loan" (5 TEX. FIN. CODE § 393.601[5]).[1]
   b. The amount of a title loan is based on an appraisal value of the vehicle, for example, a percentage of the vehicle's consumer retail value. When the loan principal, administrative fee, and lender interest are repaid, the lien is removed, and the title is returned to its owner. If a borrower is unable to repay when due, a refinance fee is charged. This fee is typically the same amount as the initial administrative fee. If the loan is not repaid, the lender may claim ownership, including the right to sell the vehicle.[2][pp. 47-48]
2. Payday loan

   A deferred presentment transaction (5 TEX. FIN. CODE § 393.221[2]).[3]
3. Deferred presentment transaction

   > A transaction in which: (A) a cash advance in whole or part is made in exchange for a personal check or authorization to debit a deposit account; (B) the amount of the check or authorized debit equals the amount of the advance plus a fee; and (C) the person making the advance agrees that the check will not be cashed or deposited or the authorized debit will not be made until a designated future date (4 TEX. FIN. CODE § 341.001[6]).[4]
4. Affordable loan
   a. A loan is affordable if the borrower can repay the loan and cover basic expenses without borrowing again or obtaining money from another source. A loan is generally unaffordable if payments exceed 5% of gross periodic income.[5][p. 17, ¶5]
   b. An affordability threshold means that the loan payment cannot exceed a given percentage of a borrower's periodic income. Colorado law effectively established a threshold of approximately 4%. The Pew Charitable Trusts recommends a 5% threshold.[6][pp. 32, 44]
   c. Innovative lenders are already using a wealth of data on creditworthiness of millions of consumers with poor or no credit scores.[7][¶¶8-10]

## B. Payment Arrangements

1. Cash advance

   > The total of the amount of cash or its equivalent that the borrower receives and the amount that is paid at the borrower's direction or request, on the borrower's behalf, or for the borrower's benefit (4 TEX. FIN. CODE § 341.001[3]).[4]
2. Single payment loan (or balloon payment)

   The principal, fee, and interest are due in full on the next payday, typically in 2 to 4 weeks.
3. Installment loan (or multipayment loan)

   The principal, fee, and interest are repaid in multiple payments coinciding with upcoming paydays.
4. Default

   To fail to pay.

## C. Lending Organizations

1. Credit access business

   A credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan (5 TEX. FIN. CODE § 393.601[2]).[1]

2. Consumer services organization

   A person who provides, or represents that the person can or will provide, for the payment of valuable consideration any of the following services with respect to the extension of consumer credit by others: (A) improving a consumer's credit history or rating; (B) obtaining an extension of consumer credit for a consumer; or (C) providing advice or assistance to a consumer with regard to Paragraph (A) or (B) (5 TEX. FIN. CODE § 393.001[3]).[8]

## D. Regulatory Terms

1. Disclosure

   The act of making information known. Credit access businesses are required by law to provide the consumer with a disclosure statement and post it at the business site and on its website that includes a schedule of fees to be charged, interest, and APR in comparison to alternative forms of consumer debt; accumulated fees to be incurred by refinancing the loan, and the typical pattern of loan repayment (5 TEX. FIN. CODE § 393.221-223).[3]

2. Fee

   A charge allowed by law for a service.

3. Interest

   A charge for borrowing money; expressed as a percentage of money borrowed to be paid over a given period, usually 1 year, i.e., annual percentage rate (APR).

4. Law

   A formal decision by a legislature or Congress expressed in a statute.

5. Ordinance

   A formal decision by a local governmental body expressed in a legal code.

6. Oversight

   Review, monitoring, and supervision of agencies, programs, activities, and policy implementation. The Texas Office of Consumer Credit Commissioner is responsible for oversight of credit access businesses.[9] This agency is overseen by the Finance Commission of Texas, a policy-making, 11-member board of private citizens appointed by the Governor, subject to Senate confirmation.[10]

7. Regulation

   The act of making information known. 5 TEX. FIN. CODE §§ 393.221-223 requires credit access businesses to provide consumers with a disclosure statement and post it at the business site and on its website. It must include a schedule of fees, interest, and APR. The disclosure must compare these rates to alternative forms of consumer debt, include information on accumulated fees to be incurred from refinancing the loan, and state the typical pattern of loan repayment.[3, 11]

## E. Approaches to Reform

1. Loan rationing

   Measures that increase restrictions on issuing and refinancing loans and their fees in order to lessen consumer harm from the lump-sum payment structure of short-term loans. This approach requires a statewide database to track loan use by consumers.[6]p. 11

2. Loan restructuring

   Measures that convert loans from lump-sum repayment to installment payments over time, making each payment affordable and amortizing the loan to a zero balance. This approach requires that lenders offer more affordable loans.[6]p. 11

3. Long-term debt prevention

   Measures taken prior to the borrowing experience to avert accumulation of insurmountable debt

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# I. Historical Background

## A. The Origin of Payday and Auto Title Loans

1. Short-term lending is centuries old. In the late 1800s, workers in financial distress commonly borrowed from unlicensed lenders, promising repayment when wages were obtained.[12]¶4
2. 1912−article published in *The Proceedings of the Academy of Political Science*[13]:
    a. Described the prevalence of loan sharks and the "small loan evil" in Washington, DC, along with the failure of Congress to pass a bill that had been introduced that "provides for the licensing and supervision of all money-lenders in the District and allows them to charge a monthly interest rate of 2%."[13]p. 109
    b. Despite the prohibition of an annual percentage rate (APR) greater than 6% in Pennsylvania, loan sharks were found to charge as high as 700% APR. [13]p. 110
    c. The newly created Massachusetts state supervisor of loan agencies was authorized to regulate the small loan interest rate up to 3% per month. [13]p. 110
    d. Some employers, annoyed with garnishment of wages by short-term lenders, fired employees when notified that their salaries had been attached. [13]p. 113
3. 1910-1950−The Russell Sage Foundation−a driver of progressive social policy−aggressively promoted regulation of small dollar loans by developing a model Uniform Small Loan Law (USLL) and lobbying state legislatures for its passage; effort spearheaded by Arthur H. Ham.[14]
    a. 1914−First legislation passed based on the model USLL: Egan Act in New Jersey
    b. 1917−12 states had passed a USLL
    c. 1940−34 states and Washington DC, the Territory of Hawaii, and the Dominion of Canada had comprehensive small loan laws.[15]pp. 113, 123
4. Through 1950s–Cities and states continued to impose strict interest rate limitations on small dollar loans that drove the market into black market status
    a. Cities, for example, 6% in Chicago and New York [12]
    b. Eventually two-thirds of states enacted some version of the USLL [14]
5. 1950s−Mass market consumer financial market emerged, including home mortgages and credit cards [16]
6. 1970s-1980s−Deregulation of the financial industry through federal banking-law developments that allowed mortgage lenders, credit card lenders, and others to disregard state usury laws [16]
    a. 1978−The U.S. Supreme Court held that the National Bank Act of 1864 allowed exportation of interest rates,[17] thus effectively enabling out-of-state financial institutions to circumvent state usury laws
    b. A number of state legislatures sought equity for state-based lenders by enacting legislation that authorized deferred presentment transactions and allowed APRs in the triple-digits.[16]
7. 1990s−the payday lending industry grew exponentially [16]¶3 with some companies attempting to circumvent the state usury limit.[18]¶5
8. 1999−As result of a lawsuit [19] filed by Texas Attorney General John Cornyn to enforce the interest rate and fee caps of TEX. FIN. CODE § 342 and TEX. CONST. ART. 16 § 11, payday lending company Cash Today "agreed to end its payday lending business and pay $1 million in restitution to Texas consumers" as a penalty for charging 33% interest on a 2-week payday loan (860% APR).[18]¶7

## B. Development of the Payday and Auto Title Loan Industry Since 2000

1. 2000−The Texas Office of Consumer Credit Commissioner adopted rules to ensure that payday lenders would abide by state law that capped interest rates and administrative fees on cash advances at varying levels according to the size and duration of the loan.
   a. The rules are found in 7 TEX. ADMIN. CODE § 83.604.[20]
   b. 4 TEX. FIN. CODE §§ 342.201-260 [21] caps interest rates and administrative fees on cash advances at various levels depending on the size and duration of the loan.
2. 2001−S.B. 317 [22] enacted; § 13 of the bill amended TEX. FIN. CODE § 342, adding § 342.007 that directed the Texas Finance Commission to adopt rules to regulate deferred presentment transactions.
3. 2001-2005−The majority of Texas payday lending companies soon partnered with an out-of-state bank located in a state without a usury cap on interest rates, thus importing that state's interest rate to Texas. This arrangement is commonly referred to as the rent-a-bank model.[18][¶10]
4. 2004−Lovick v. Ritemoney Ltd., 378 F.3D 433, 5TH CIR. TEX.[23]

   The legality of payday and auto title loan businesses to operate as a *credit services organization* was supported by case law with the dismissal of a putative class action suit brought by Betty R. Lovick against Power Financial auto title loan company for collection of unlawful (usurious) debt. The U.S. 5th Circuit Court of Appeals ruled that fees charged by a credit services organization cannot be attributed the lender and thus does not constitute usury.
5. 2005−The Federal Deposit Insurance Corporation (FDIC) issued revised bank examination guidelines that addressed use of third parties in bank payday lending transactions. The guidelines required that an institution:

   > Ensure that payday loans are not provided to customers who had payday loans outstanding **at any lender** for a total of three months during the previous 12 months. When calculating the three-month period, institutions should consider the customers' total use of payday loans at all lenders.[24]

   Without specifying a maximum number of loans per year, the guidelines created a de facto limit of approximately 6 loans per year that made use of the rent-a-bank model unprofitable.
6. 2006−An opinion issued by the Office of the Attorney of Texas stated that the credit services organization lending model "does not appear to be prohibited under Texas law."[18][¶15],[25]
7. Subsequent to the three events in 2004, 2005, and 2006 (described above), payday and auto title businesses increasingly operated under 5 TEX. FIN. CODE § 393 Credit Services Organizations that has no restriction on administrative fees for arranging loans.[8]
   a. 2004−250 credit services organizations registered with the Texas Office of Consumer Credit Commissioner.[18][¶16]
   b. 2014−3,491 credit access businesses completed the *Credit Access Business (CAB) Annual Data Report, CY 2014*.[26]
8. 2008-pr−Texas cities are prohibited from setting interest rates and overriding state and federal laws. For this reason, 35 cities in Texas have regulated payday and auto title businesses through business and/or land use ordinances as of May 2015. Business ordinances have been enacted by 21 cities, land use ordinances by 11 cities, and both business and land ordinances by 3 cities.[27]

# II. Obtaining a Payday or Auto Title Loan

## A. The Application Process

1. Payday and auto title loans are available at storefronts in towns and cities across Texas or online. Lenders advertise that there is no evaluation of the applicant's credit worthiness.[28]
2. To obtain cash in less than an hour, the borrower completes an application form and presents the following [29]:
    a. A recent paycheck stub or other proof of income, such as Social Security, a pension, or child support
    b. The most recent checking account statement (account must be open 30 days)
    c. A personal check
    d. A valid driver's license or a state-issued ID
    e. Social security number
3. In addition to the above, the owner of the vehicle to be used as collateral for an auto title loan must present an unencumbered title to the vehicle and, often, a set of keys to the vehicle.[2][p. 47]

## B. Denial of Application

1. Potential reasons for denial of a payday or title loan application [30]:
    a. Less than minimum income requirement (e.g., < $800 gross income per month)
    b. Less than 3 months employment with current employer
    c. Self-employment
    d. Lack of a bank account
    e. Outstanding loan with another lender
    f. A record of not-sufficient-funds (NSF) payments
    g. Bankruptcy within the last 1 to 2 years
2. A search for data regarding the rate of approval and denial of small dollar loans found one published data report.[31]
    a. The Illinois Division of Financial Institution published a report based on data from the Illinois PLRA Consumer Reporting Service collected February 2006 through December 2008, the first 3 years following implementation of the Payday Loan Reform Act that became effective December 2005. [31][pp. 4-5]
    b. Declined eligibility for a payday loan averaged 28.4% over the 35-month period from February 2006 through December 2008.[31][p. 13]
    c. All reported reasons for denial were related to applications by repeat borrowers. [31][pp. 14-17] **See Table III-B.**

**Table II-B. Percent Payday Loan Denials, by Reason, Illinois, February 2006-December 2008**

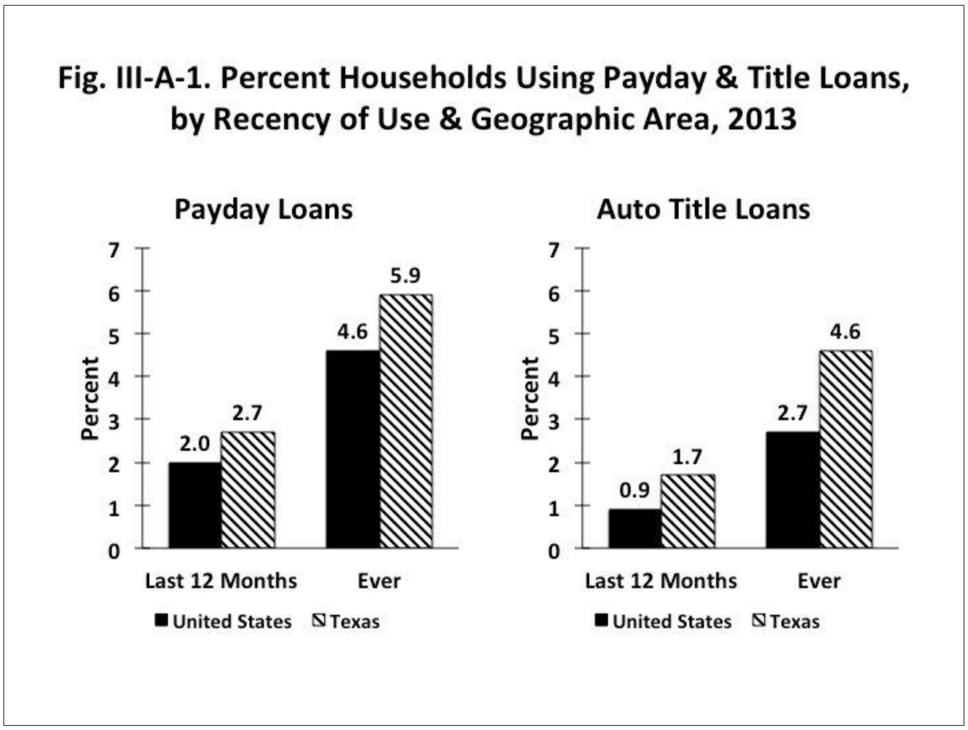
| Reason for Denial | Percent of Denials |
|---|---|
| Exceeded 45 day limit for consecutive days in product | 72.0 |
| Exceeded loan limit ($1,000 or 25% gross monthly salary) | 15.5 |
| Reached limit of 2 simultaneous loans | 5.8 |
| Other/unknown | 6.4 |

Data compiled from *Illinois Payday Reform Act Three Year Report.*[31][pp. 14-17]

# III. The Stakeholders & Their Perspectives

## A. The Borrowers

1. Characteristics of borrowers
   a. *Summary.* In 2013, two thirds of Texans who had ever used a payday loan were younger than 45 years of age, while the majority of those who had ever used an auto title loan were 45 years of age and older. Two thirds of borrowers lived in metropolitan areas. African American and Hispanic Texans used payday (70%) and auto title (62%) loans at rates disproportionately high compared to their share of the state's population (51%). One third of all payday and auto title loan borrowers had obtained some college education. Half lived in households with annual incomes between $15,000 and $50,000, and two thirds were employed. One in six payday and title loan borrowers in Texas were disabled.[32]
   b. Residents of Texas are more likely to have used a payday or auto title loan than other Americans. **See Figure III-A-1**.




Data compiled from [32].

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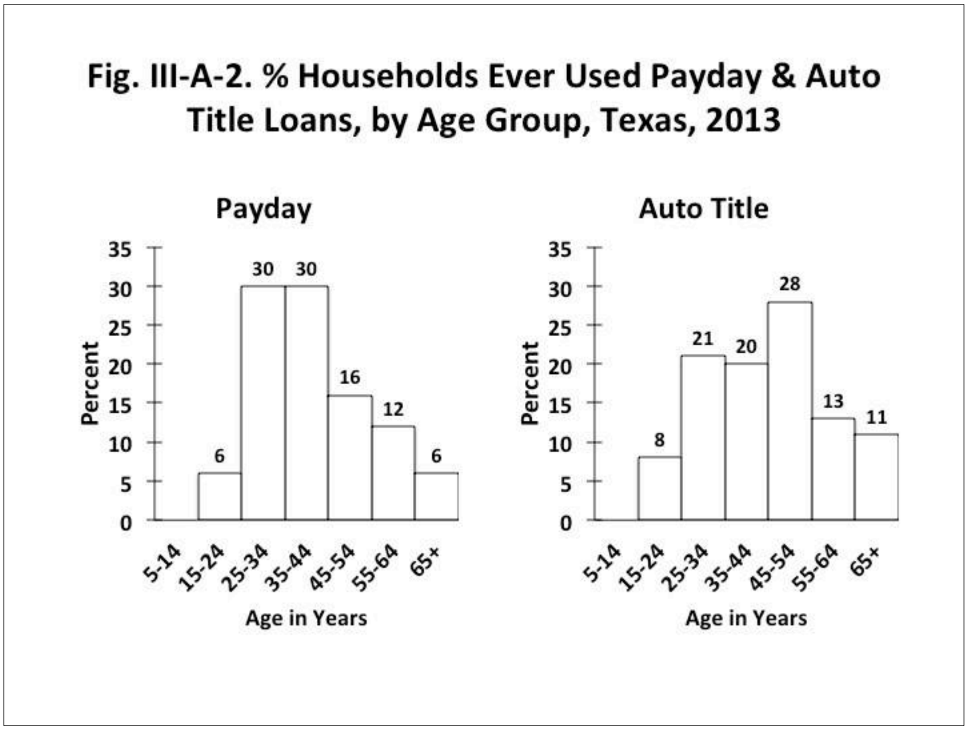
c. Age [32]

1) Payday loan consumers tend to be younger than those taking out auto title loans in Texas. While two-thirds (66%) of payday loan borrowers in 2013 were under age 45, a majority (52%) of auto title loan borrowers were age 45 years and older. **See Figure III-A-2.**




Data compiled from [32].

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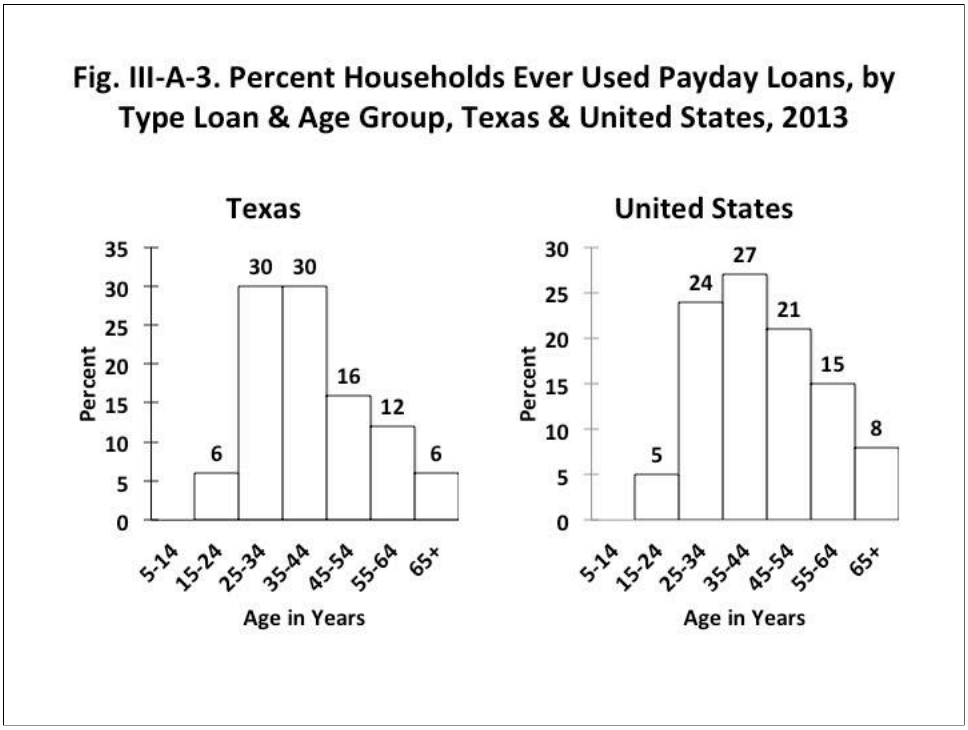
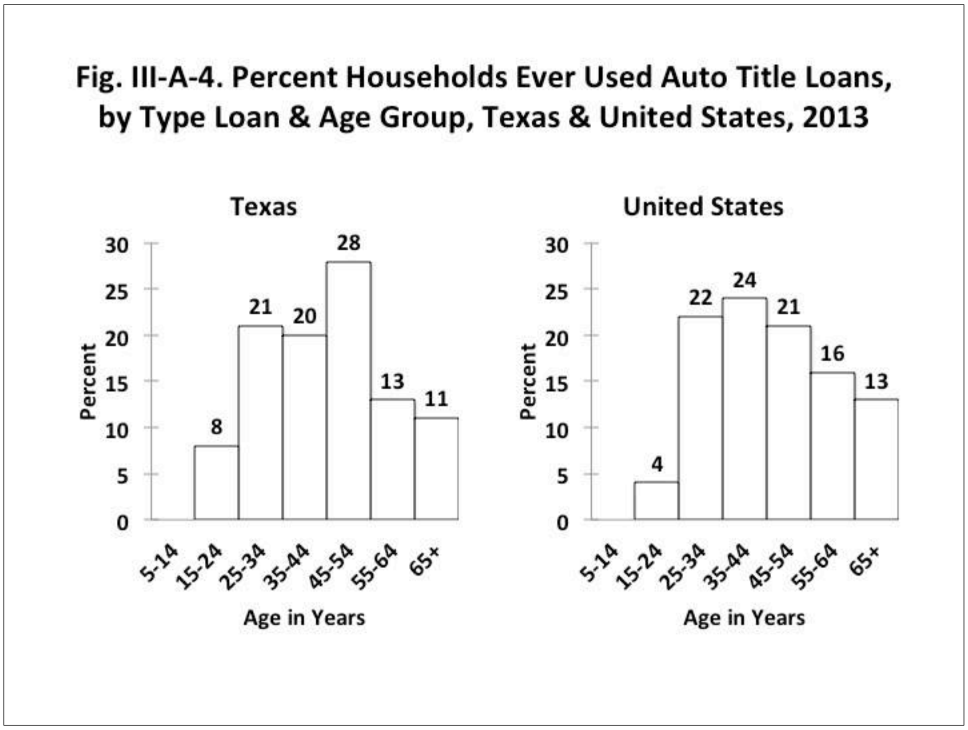
2) Texas and auto title consumers are also younger than their counterparts in the nation.
   a) Among payday loan consumers, a larger proportion of borrowers in Texas than the United States are under age 45 years (66% vs. 56%). **See Figure III-A-3.**




Data compiled from [32].

*– Space left blank intentionally –*

b) Among auto title borrowers, a larger proportion of borrowers in Texas than the United States are under age 55 years (77% vs. 71%). **See Figure III-A-4**.




Data compiled from [32].

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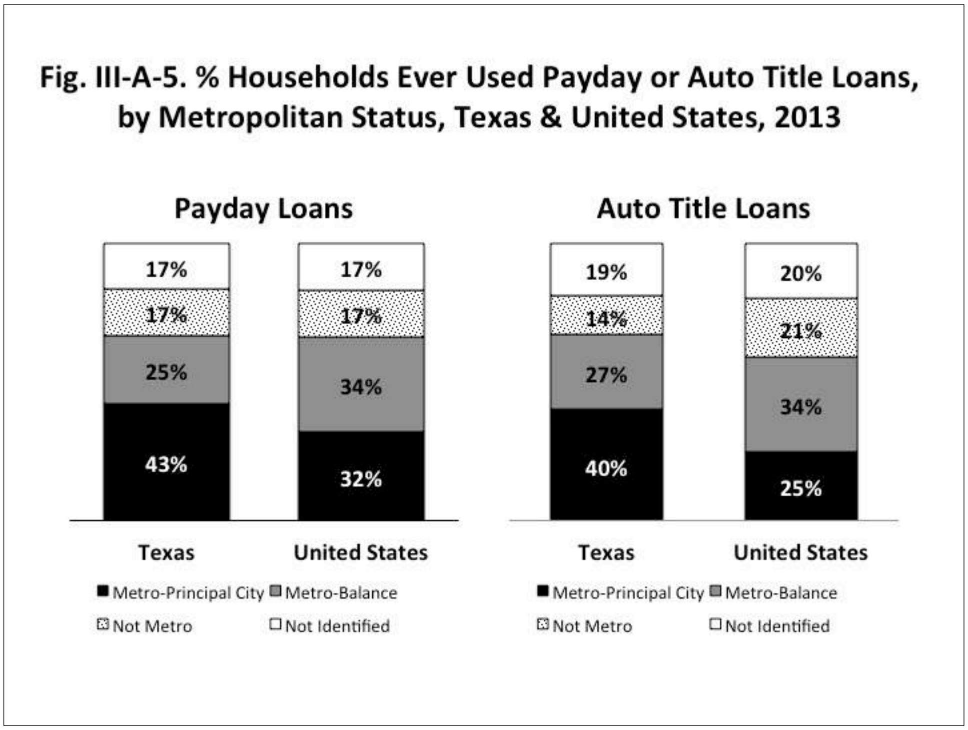
d. Metropolitan status [32]

1) Payday and auto title borrowers in Texas are more likely to live in the principal city (largest city) of a metropolitan area than other areas.
2) In the United States, they are more likely to live in the outlying part of metropolitan areas. **See Figure III-A-5**.




Data compiled from [32].

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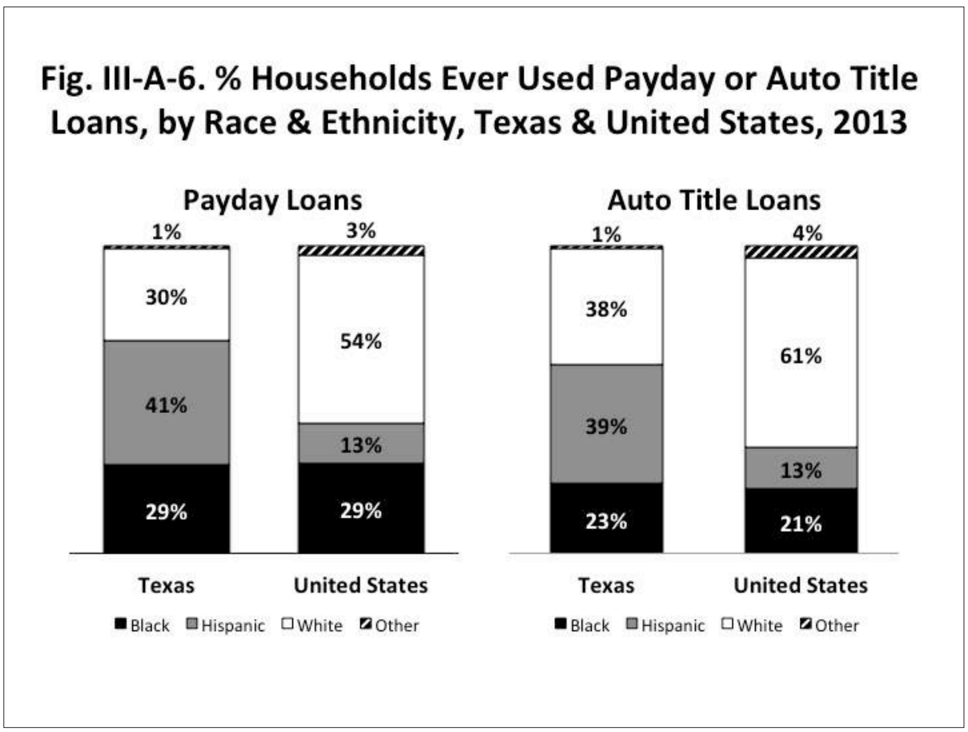
e. Race and ethnicity [32, 33]

1) In Texas, the proportion of Blacks and Hispanics among payday (70%) and auto title (62%) loan borrowers is disproportionately high compared to their share of the state's population (51%).
2) While the same is true for comparable national measures, the difference is much less (payday, 42%; title, 34% vs. 30%).
3) The disproportionate representation of Blacks and Hispanics in Texas is due to their higher rate (%) of use of short-term loans than among the rest of the population.
   a) Among Black Texans, the rate of use of:
      i) Payday loans is 3.4 times that among White Texans (12.4% vs. 3.6%)
      ii) Auto title loans is 2.2 times that among White Texans (7.6% vs. 3.5%)
   b) Among Hispanic Texans, the rate of use of:
      i) Payday loans is 2.1 times that among White Texans (7.5% vs. 3.6%)
      ii) Auto title loans is 1.6 times that among White Texans (5.5% vs. 3.5%)
   c) In the United States, the rate ratio comparisons are not as high as those in Texas. Among Black Americans, the rate of use of:
      i) Payday loans is 1.7 times that among Whites (9.9% vs. 5.7%)
      ii) Auto title loans is 1.8 times that among White Texans (4.2% vs. 2.4%)
   d) Among Hispanic Americans, the rate of use of:
      i) Payday loans is less than that among Whites (5.1% vs. 5.7% = 0.9)
      ii) Auto title loans is 1.2 times that among White Texans (2.9% vs. 2.4%)

**See Figure III-A-6**.




Data compiled from [32].

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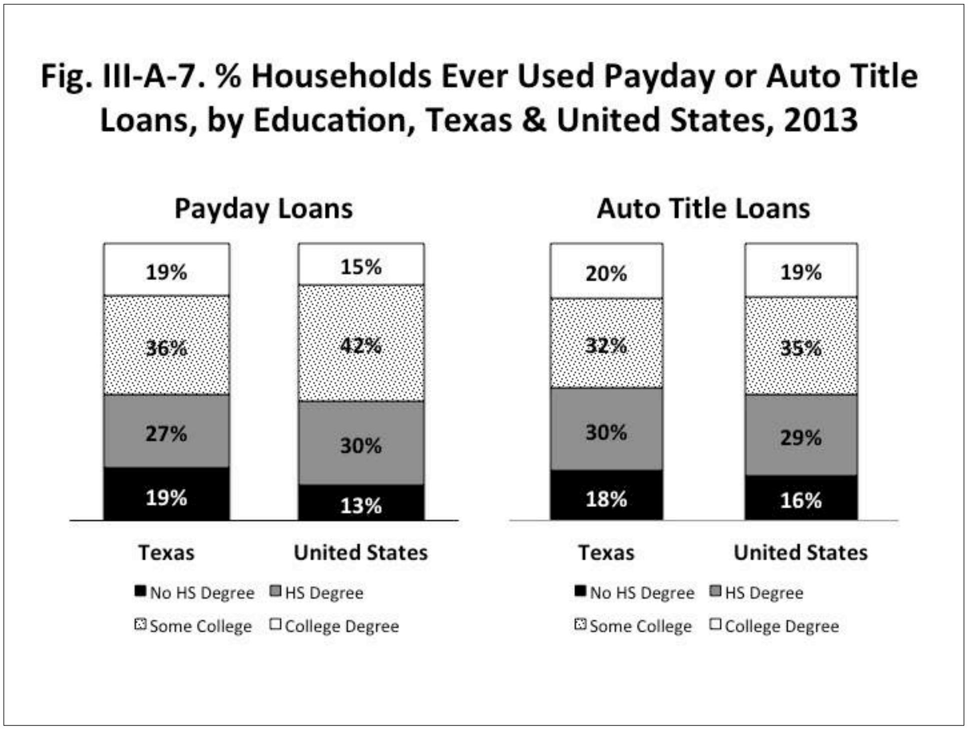
f. Education [32]

1) In Texas and the nation, the largest proportions of payday and auto title users have obtained some college education.
2) The proportion of borrowers without a high school degree is slightly higher than that in the nation. **See Figure III-A-7**.




Data compiled from [32].

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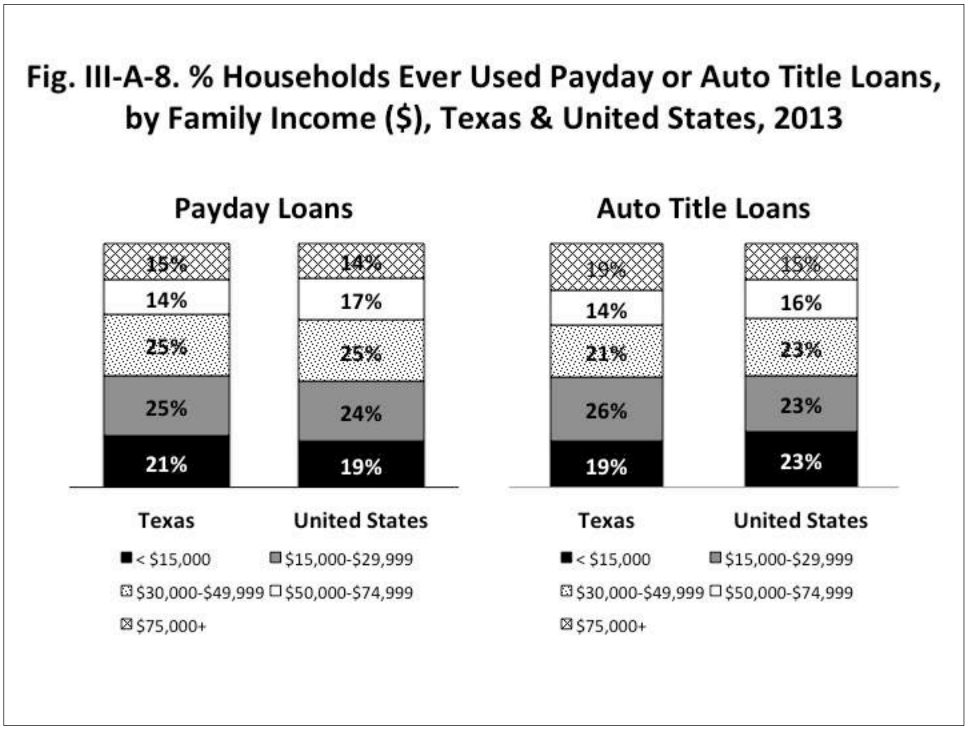
g. Family income [32]
   1) Households in every income bracket use payday and auto title loans.
   2) Half of payday and auto title loan borrowers live in households with annual incomes between $15,000 and $50,000.
   3) The distribution The distribution of borrowers in Texas by income is similar to that of the nation. **See Figure III-A-8**.




Data compiled from [32].

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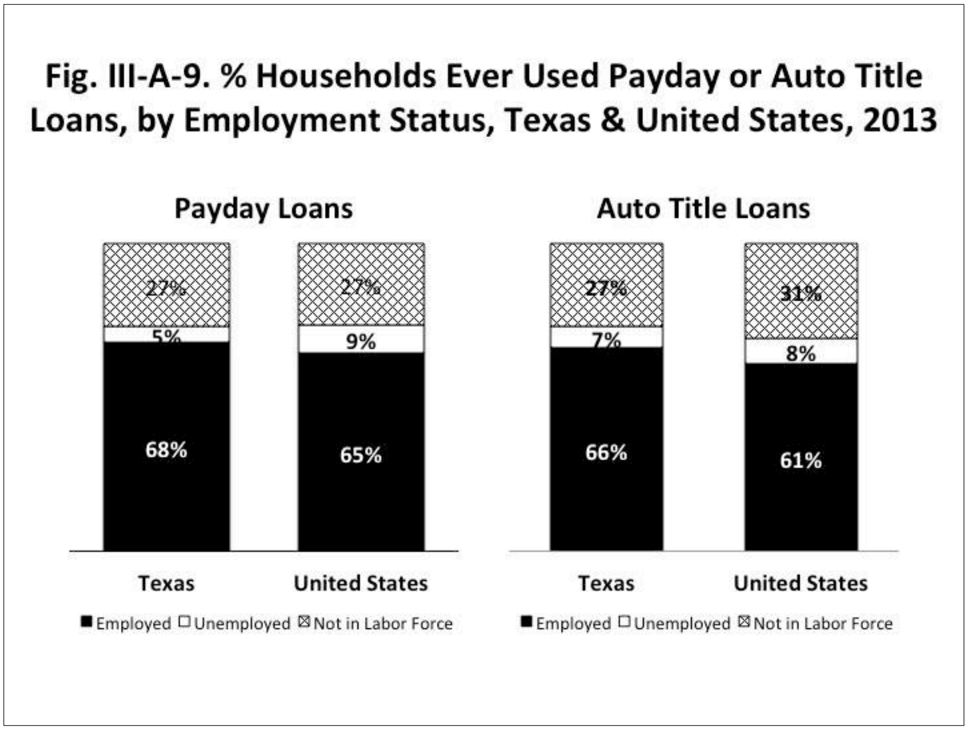
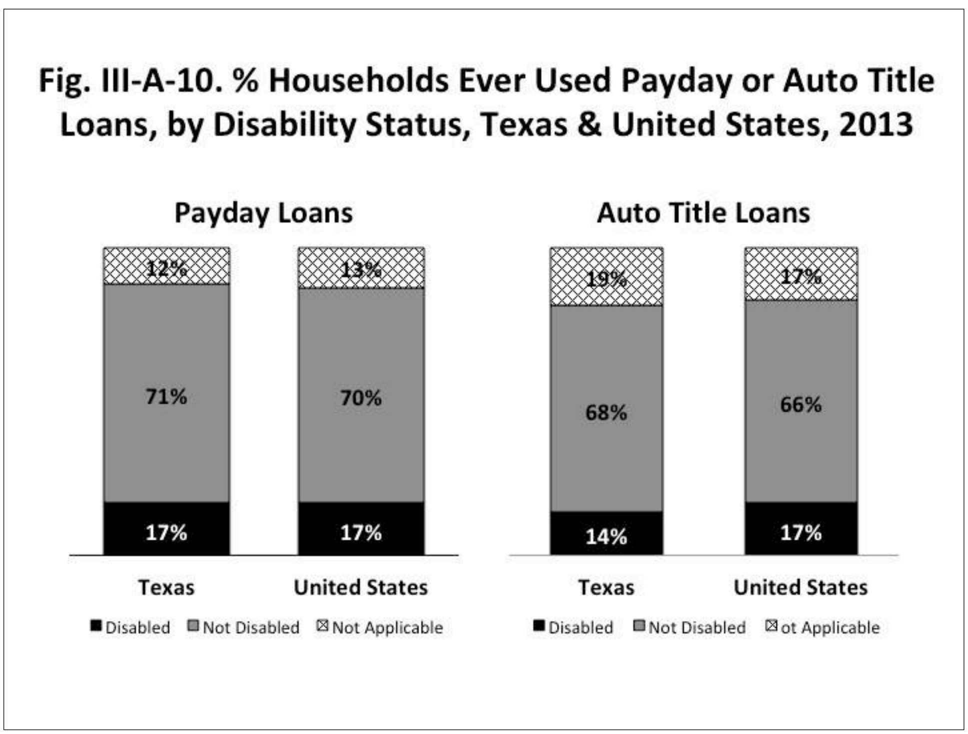
h. Employment [32]
Approximately two thirds of payday and auto title users are employed. **See Figure VIII-A-9**.




Data compiled from [32].

i. Disability [32]
Over 15% of payday and title loan users are disabled. **See Figure VIII-A-10**.




Data compiled from [32].

j. Predictors of payday loan use [34]
Investigators in the Pew Safe Small-Dollar Loans Research Project analyzed the predictive strength of demographic characteristics of the 451 respondents to their August 2011-April 2012 Telephone Survey of Storefront Payday Loan Borrowers. The results showed strong relationships between a number of characteristics and the likelihood of payday loan use, but not causation.[34][p. 36]
Obtaining a payday loan was [34][p. 37]:
   1) 2 times more likely for African Americans than for others
   2) 2 times more likely for those who are separated or divorced than any other marital/nonmarital status
   3) 1.8 times more likely for those with less than a 4-year college degree than those with a college degree
   4) 1.6 times more likely for those earning less than $40,000 annually than for those earning $40,000 or more
   5) 1.6 times more likely for renters than homeowners
   6) 1.4 times more likely for parents than nonparents
   7) 1.4 times more likely for those aged 25-34 than for those of other ages

2. Perspective of borrowers

See [2][p. 47], [5][pp. 8, 9-10], [34][pp. 13-16], [35][pp. 42-43], [36][pp. 542-546], [37][pp. 436-441], [38][pp.1-2], [39][pp. 41, 49-51], and [40][pp. 17-20].

a. *Summary.* Interviews revealed that payday and auto title loan consumers use small dollar loans to overcome financial shortfalls whenever money is tight for basic living expenses, unexpected or emergency events, and special occasions. They choose payday and title loans because these loans are easy to apply and qualify for, accessible at any time, available nearby, and their lenders are friendly in comparison to mainstream lenders. Borrowers believe a payday or title loan to be the best alternative to the disruption and financial penalties for shutoff utilities or bounced checks.[34][p. 14], [35][pp. 42-43], [36][pp. 542-546], [37][pp. 436-441], [38][pp.1-2]

   Interviews found that payday and title loan consumers are overwhelmingly satisfied with their loan experience, primarily because of the convenience of obtaining the loan. A majority of payday loan borrowers favored no limitation on the number of loans they can get per year. Most auto title loan borrowers reported that the terms of the loan were clear. Without the loans, most payday and title loan borrowers would cut back on basic expenses, delay paying bills, borrow from family or friends, and/or sell or pawn personal possessions.[5][pp. 8, 9-10], [34] [p. 16], [39][pp. 41, 49-51], [40][pp. 17-20]

b. Whether interviewed by telephone or in person, payday and auto title loan consumers use these alternative financial products:
   1) To overcome financial shortfalls when money is needed to pay for unexpected or emergency events, basic living expenses, and special occasions.[34][p.14], [35][p. 42], [36][pp. 542-546]
   2) Because of their ease of application and qualification, accessibility at any time, geographic availability, and customer friendliness in comparison to mainstream lenders.[35][p. 43], [37][pp. 436-441]

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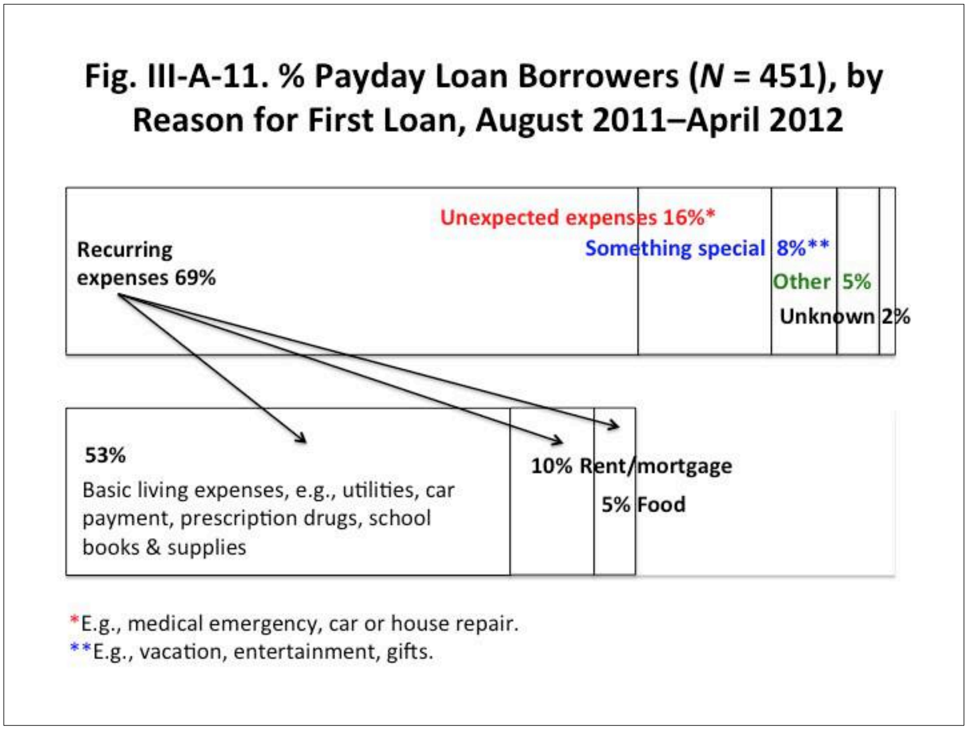
c. Causes of the need for a payday or auto title loan [34]
**See Figure III-A-11.**




Data compiled from [34]p. 14, Exhibit 4.

d. Borrowers believe a payday or auto title loan to be the best alternative. For example,

> Suppose that I am one week away from my payday, my bank account is nearly empty, I don't have a credit card or I've already borrowed to the limit on my card, and I have some bills to pay. I could write checks to pay the bills, knowing that I will pay a $30 non-sufficient funds (NSF) fee for each check that overdraws my account and a $15 returned check fee for each check my bank refuses to pay. If I must pay two $100 utility bills, such fees could easily exceed the fee on a $200 payday loan. Alternatively, I might simply delay paying the utility bills, but then I will incur late payment charges and perhaps have my utility service disconnected. These fees and the cost of the disruption could easily exceed the finance charge on a payday loan.[38]pp. 1-2

## B. The Lenders

1. Characteristics of lenders

a. *Summary.* In 2014 the Texas Office of the Consumer Credit Commissioner reported that 3,941 payday and title loan storefronts operated in Texas, nearly 13% of the estimated 29,500 in the United States. Two thirds of the companies licensed in Texas operated only one store and were independently owned. Nationally, individual stores are relatively small businesses averaging three employees, an annual outstanding loan portfolio around $85,000, and annual revenue of $350,000.[26, 41, 42, 43]p. 9

b. Of the approximately 26,000 payday and title loan storefronts in the United States, nearly 13% (3,296) are located in Texas, which has 9% of the population.[33, 42]

c. Of the 207 companies licensed by the Office of Consumer Credit Commissioner in August 2014, two thirds (138) are independently owned and operated only one storefront. The 10 largest companies operated from 61 to 464 storefronts.[42]

d. A profile A profile of approximately 1, 000 payday loan stores based on 2002-2004 data from two payday loan corporations operating nationally found that [43]p. 9**:**

1) Individual stores are relatively small businesses
   a) Average outstanding loan portfolio: $85,169
   b) Average annual revenue: $348,950
   c) Average number full-time employees: 3
   d) Annual salary, including benefits: $30,000
2) Lending volume increases with age, as measured by average number of advances
   a) New store (<1 year old): 960
   b) Young store average (1-4 years old): 5,688
   c) Mature store average (>4 years old): 8,743

2. Perspective of lenders
   a. *Summary.* Payday and title loans allow consumers with an inadequate consumer credit score or a blemished credit report to obtain small dollar loans.[44], pp. 4, 9, [45], p. 6 These loans help borrowers cope with a financial shortfall or unexpected expenses (e.g., medical emergency, car or property repair) without having to approach friends, relatives, or loan sharks for money.

      Handy location, long business hours, and immediate access to cash serve consumers with an urgent need to cover a financial shortfall.[46] p. 36 Storefront lenders are located in neighborhood shopping centers. Many are open 24 hours a day. And the loan can be obtained within an hour by completing a simple application and verifying income, bank account, and identification.[29] In contrast to banks, payday and auto title loan lenders must conspicuously display their schedule of fees to the public,[47] provide the consumer with an easily readable[48] disclosure of terms, and state alternative loan comparisons.[11, 49] p. 1
   b. Benefits of payday and auto title loans
      1) *Access to credit.* The availability of payday and title loans enables a consumer with an inadequate consumer credit score or a blemished credit report to obtain a small dollar loan. Persons with little or no credit information in their credit files and those considered at unacceptably high risk for loan repayment are unlikely to obtain a loan from a mainstream lender.[44] pp. 4, 9, [45] p. 6
      2) *Increased consumer welfare.* Payday and auto title loans:
         a) Enable consumers to cope with short-term financial problems caused by unexpected expenses or a shortfall in financial resources such as a medical emergency, car or property repair, and reduced income.[39] pp. 1, 43
         b) … allow borrowers to avoid risking reduced quality of life by skipping medical visits or having utilities shut off for lack of payment, resorting to dangerous black market lenders (loan sharks), or enduring embarrassment and potential conflict from borrowing from friends or relatives.[46] p. vii
         c) … provide the borrower an opportunity to establish a positive credit history. In short, payday lenders provide a means for the unbanked to join the financial mainstream.[50] ¶9
      3) *Convenience.* Handy location, long business hours, and immediate access to cash accommodate consumers with an urgent need for money to fulfill a financial shortfall.[46] p. 36 Storefront lenders are located in neighborhood shopping centers. Many are open 24 hours a day. The loan can be obtained within an hour by completing a simple application and a few items to verify income, bank account, and identification.[29]
      4) *Transparency*
         a) The schedule of fees must be displayed in the business office or website "in a conspicuous place visible to the public" (§ 83.6003). In addition, the consumer must be presented with an easily readable disclosure of terms that includes all fees and a comparison of the annual percentage rate (APR) to other types of loans (7 TEX. ADMIN. CODE §§ 83.6001 - 83.6008).[11]

b) Banks are not held to the same standard of transparency. According to a study by The Pew Charitable Foundation, checking account customers are not provided complete information on policies, fees, and penalties in a concise or easily understood format.[49][p. 1]

5) *Economic impact in Texas, 2014*

a) Credit access businesses extended $1.6 billion in consumer credit for new loans and collected $1.9 billion in fees and interest for new and refinanced loans in Texas in 2014.[26]

b) We estimate that the fees and interest that were collected added an estimated $3.2 billion in value to the Texas economy directly through employee compensation, taxes, owner income and profit; indirectly through purchasing done by the businesses; and through induced spending by employees. The economic impact of payday and title loan fees resulted in an estimated gain of 36,531 jobs in Texas in 2014.[51][pp. 2-3]

c) Nationally, we estimate that the payday and auto title lending industry added $13.3 billion in value to the United States economy and generated an estimated 152,931 jobs in 2013.[51][pp. 2-3], [52][p. 9], [53][pp. 26-27]

c. Myths

1) Excessive fees

a) Myth:

Payday and title loan fees are "exorbitant and constitute a form of usury" [46][p. 23] in order to reap high profits.[46][p. 20]

b) Response:

i) *Re: high cost*. Admittedly, payday and title loans are high-cost loans. However, they are less expensive than penalties for nonpayment of bills.

The combined fee and interest annual percentage rate (APR) on a 2-week storefront payday loan [54] is less than the 2-week APR on a credit card late fee,[55] combined fees for nonsufficient funds fee (NSF) [56, 57, 58] and merchant returned check fee,[59] and the combined fees for disconnecting and reconnecting electricity.[60]

**See Figure III-B-1 on page 27.**

But Is it really logical to calculate a year long APR for a short-term (2-week or 30-day) loan?

**See Figure III-B-2 on page 28.**

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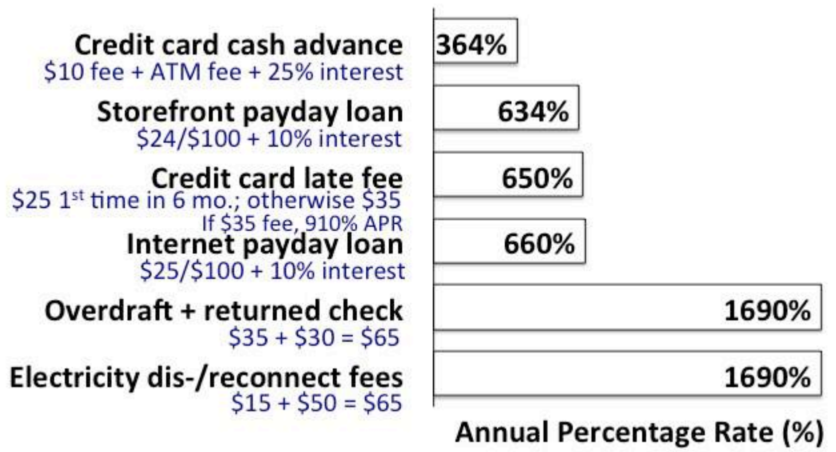
**Fig. III-B-1. Estimated Annualized Cost (APR*) of Options to Cover $100 Cash Shortfall for 2 weeks, Texas, 2014**




*APR = Annual percentage rate
= (Charge per $100 ÷ $100 principal) X (26 pay periods per year) X 100

Data compiled from [40, 54, 56, 57, 58, 59, 60, 61, 62, 63].

**Calculations for Figure III-B-1:**

***Credit Card Cash Advance Calculation*** [61, 62]
Fee = $10 or 5%, whichever is greater
Average ATM fee in Houston = $3.06
$24.99 APR (daily interest rate = 0.068)
Charges = $10 fee + $3.06 ATM fee + $0.95 interest = $14.01
APR = ($14.01 ÷ 100) x 26 x 100 = 364% APR

***Storefront Payday Loan Calculation*** [54]
Fee = $24/$100
10% APR
Charges = $24 fee + $0.38 interest = $24.38
APR = ($24.38 ÷ 100) x 26 x 100 = 634% APR

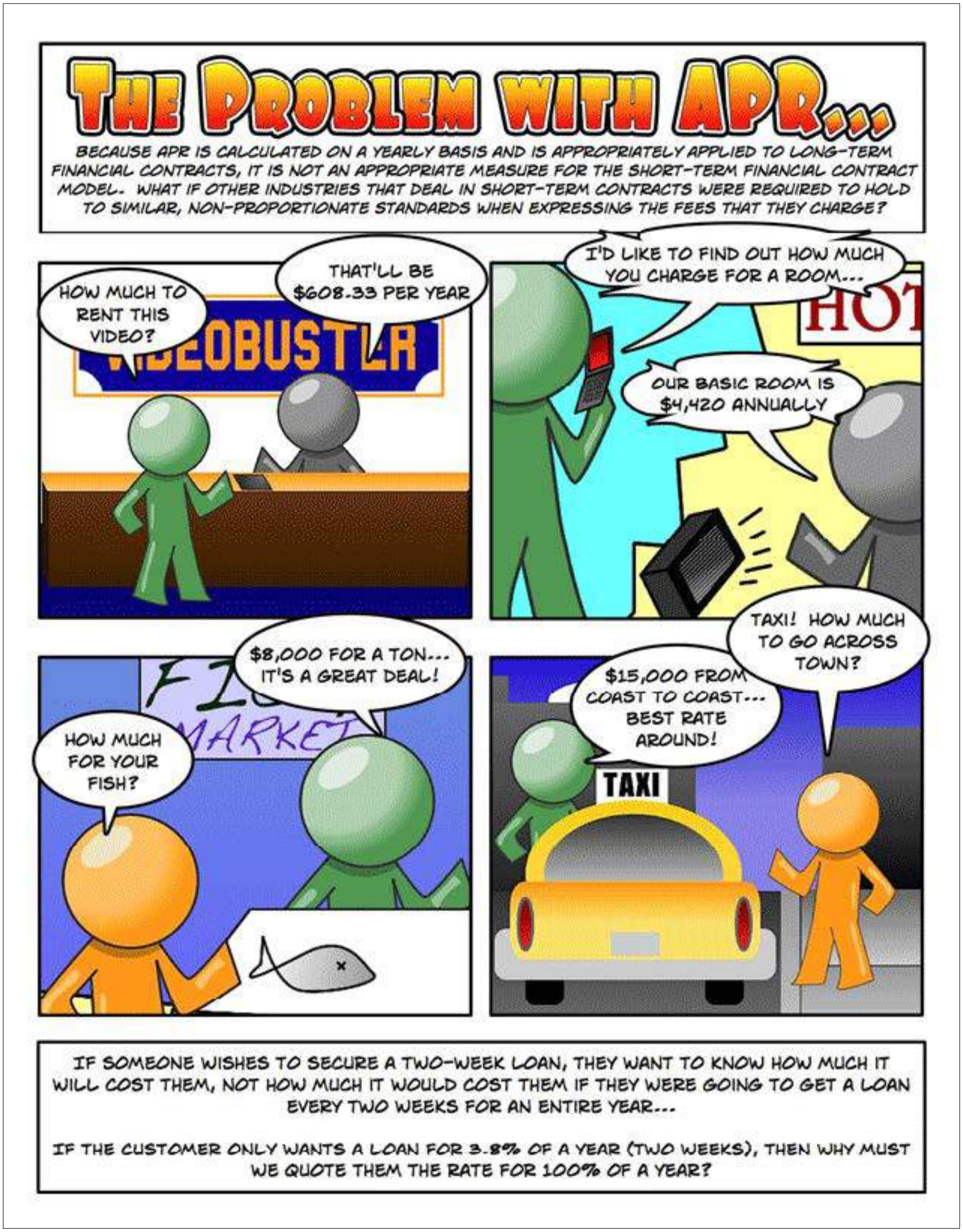
***Credit Card Late Fee Calculation*** [55]
Fee = $25 if 1st time late in 6 mo.; otherwise $35
Charges = $25 fee
APR = ($25.00 ÷ 100) x 26 x 100 = 650% APR
If $35 fee, APR = ($35.00 ÷ 100) x 26 x 100 = 910% APR

***Internet Payday Loan Calculation*** [63]
Fee = $25/$100
10% APR
Charges = $25 fee + $0.38 interest = $25.38
APR = ($25.38 ÷ 100) x 26 x 100 = 660% APR

***Overdraft + Returned Check Calculation*** [56, 57, 58, 59]
Overdraft fee = $35
Returned check fee in Texas = $30
Charges = $65 in fees
APR = ($65.00 ÷ 100) x 26 x 100 = 1690% APR

***Electricity Disconnect + Reconnect*** [60]
Ambit Energy disconnect fee = $15
Ambit Energy reconnect fee = $50
Charges = $65 in fees
APR = ($65.00 ÷ 100) x 26 x 100 = 1690% APR

**Figure III-B-2. The Illogic of Short-Term Loan Annual Percentage Rate (APR)**




Check Into Cash, Inc., in Summers [46][p. 17].

ii) *Re: Usury.* It can be argued that the bank overdraft coverage fee (also known as nonsufficient funds fee [NSF]) along with the merchant returned check fee are more usurious than the cost of payday loans.

(a) *Overdraft/NSF fees*. A 2014 survey by Bankrate found the average NSF fee was $31.33 in Dallas and $33.78 in Houston.[64] NSF fees ranged from $34 to $36 for major banks such as Bank of America, BB&T, Capital One, Chase, Citibank, SunTrust, and Wells Fargo. The NSF fee applies to as many as 4 to 6 incidents per day. If the negative checking account balance remains after 5 to 10 days, an extended overdraft fee is charged that can range from a one-time $35 fee to $25 per week, to $7 per day.[65]

*Examples.* Using median NSF transaction amounts reported in the 2008 *FDIC Study of Bank Overdraft Programs* [66][p. 79] and applying one $35 NSF fee to the transaction, a customer repaying an overdraft in 2 weeks would incur an APR as follows:

- $20 point-of-sale debit overdraft: 4,550% APR
- $60 ATM overdraft: 1,517% APR
- $66 check overdraft: 1,379% APR

Accordingly, "More rapid repayment of the overdraft amount would result in higher APRs, and slower repayment would result in lower APRs."[66][p. 79]

(b) *Returned check fee.* In Texas the returned check fee a merchant may charge is limited to $30.[59] However, the consumer is also subject to a bank NSF fee, adding from $31 to $36. The 2-week projected APR for the combined returned check and a $35 NSF fee ($65) would be 2,561% on a $66 returned check.

iii) *Re: High profits.* Payday and title loan store profits are not as exorbitant as the high fees suggest.

(a) *High cost of business.* Because payday and title loan stores are open long hours and have a high geographic density their operating costs (personnel and overhead) are relatively high. Operating costs are approximately two thirds of total store costs.[43][p. 32], [67][p. 19]

(b) *High cost of bad debt.* Payday and title loan stores provide loans to people who are with few credit choices–half of those seeking short-term payday loans believe they had no other choice.[39][p. 39] In turn, these consumers are at high risk of default.

Approximately a quarter of the total payday loan store cost in providing loans in 2002-2008 was due to bad debt.[43][p. 10], [67][p. 19] The reported ratio of loan losses to current portfolio of outstanding short-loans among five large payday lenders ranged from 82% in 2005 to 46% in 2008.[68][p. 13]

(c) *Profit margin.* Profit margins for the payday loan industry are comparable to other major businesses.

Results of studies of large numbers of publicly traded payday lending stores indicated profit margins from 8% to 14%.[69][p. 227], [67][p. 24] Profit margins reported among mainstream lenders (Capital One, GE Capital, HSBC, Money Tree, and American Express Credit) was 13% and Starbucks was 9%.[69][p. 228]

2) The debt trap
   a) Myth:

      > … payday lenders trap their customers in a cycle of debt. The reasoning is that many people struggle to pay off the initial payday loan, so they must "roll over" the first loan and take out a second loan to pay off the first, racking up higher fees in the process. This pattern is repeated and borrowers fall further and further in debt due to higher and higher transaction fees. Borrowing from one payday lender to pay back another has a similar effect.[46][p. 21]

   b) Response:
      i) The majority (53%) of Texas payday and title loans issued in 2012 and 2013 were not refinanced.[70, 71]
      ii) The association between payday and title loans and indebtedness is evident but not proof of causation. Which came first? Financial distress or payday and title loan debt? As of yet, there is no convincing research evidence that payday and title lending exacerbates or mitigates the financial welfare of the borrowers.[38][pp. 2, 35]
3) Targeting the vulnerable
   a) Myth:

      > Payday and title lenders exploit poor communities, minority groups, the mentally ill, the elderly, military personnel,[46][p. 26] and those in desperate financial need to profit off their debt, i.e., throwing the vulnerable "a shovel when they are already stuck in a ditch."[72][¶13]

   b) Response:
      Payday and auto title loan stores are located where they will attract the most customers and to provide customers convenient locations:
      i) Credit scores are a strong predictor of concentrations of alternative financial services providers (AFSPs). Counties with a large proportion of residents with no credit score or a low credit score and thus have difficulty accessing mainstream loans have a higher concentration of payday lenders than other counties.[73][p. 17]
      ii) An analysis of the Colorado market between 2000 and 2006 found that payday loan stores were more likely to locate in "densely populated areas with lots of business and banking activity" and "lower household income areas" as well as near military bases. There was no direct association between location and minority neighborhoods. However, low-income areas had higher proportions of minority households than other areas.[74][p. 45]
      iii) A common perception is that banks and credit unions avoid low-income areas and that payday and title lenders fill the void.[75][p. 9] Contrary to that notion, banks and credit union branches are distributed evenly across all neighborhoods, regardless of income.[75][p. 11] Furthermore, almost all short-term lenders are located within 1 mile of a bank or credit union (payday, 95%; pawnshops and check cashers, 93%).[75][p. 11]
4) Most consumers want more protection against payday and title lenders.
   a) Myth:

      > Because Americans generally favor interest rate caps on consumer loans, payday and title loan customers also want the availability of high-cost loans to disappear.

b) Response:

i) *Customer satisfaction*. While results of a number of surveys show that the general public favors interest rate caps on consumer loans,[76, 77, 78] a 2007 survey [39] of 1,173 payday and title loan customers found that they were overwhelmingly satisfied (88%) with their loan experience, primarily because of the convenience of obtaining the loan (p. 41). Those that were dissatisfied (11%) were critical of the cost.[39][p. 42]

ii) *Customers want access*. Fifty-nine percent of customers disagreed with the statement, "The government should limit the number of payday loans I can get in a year."[39][p. 50]

iii) *Alternatives.* If payday loans were not available, a majority of borrowers would choose a number of options to make up their financial shortfall−cut back on expenses (81%), delay paying bills (62%), borrow from family/friends (57%), or sell/pawn personal possessions (57%). Less than 45% would seek credit from mainstream sources.[34][p. 16]

## C. The Opposition

1. Characteristics of opponents to payday and auto title lending

Several interest groups and faith-based organizations have sounded an alarm about drawbacks to payday and auto title lending, seeking to educate the public and lobbying for increased regulation.[79] Major Texas opponents include the Texas Fair Lending Alliance, Faith Leaders for Fair Lending, Texas IMPACT, and Texas Municipal League. Major national organizations with advocacy positions to increase regulation of payday and auto title lending include AARP, Center for Responsible Lending, Consumer Federation of America, Corporation for Enterprise Development, INSIGHT Center for Community Economic Development, National Consumer Law Center, and The Pew Charitable Trusts.

a. Texas Fair Lending Alliance [80]

1) A coalition that strives "to transform the Texas payday and auto title loan market from one based on a cycle of debt, to one that thrives on a cycle of success…for lenders, borrowers, and the Texas economy."[81][, ¶¶1,3]

2) Fifty-nine member organizations include community action and economic development centers, faith-based organizations (churches and other), housing authorities, nonprofit organizations (e.g., Center for Public Policy Priorities, Texas AARP, NAACP, and Appleseed; RAISE Texas, United Way organizations, et al.), private corporations (banks, credit unions), and professional associations and unions (BCL, AFL-CIO).[82] The coalition collects stories of payday lending victims, and encourages city and state elected officials to take efforts to protect consumers.[79]

b. Faith Leaders for Fair Lending[83]

1) Faith Leaders for Fair Lending is a coalition of faith organizations whose goal is "to reform payday and auto-title lending practices in Texas."[84]

2) The principal organizations leading the effort are the Christian Life Commission of the Baptist General Convention of Texas,[85] and Texas Catholic Conference.[86] Each of these organizations has multiple members within their public policy focused coalitions.

3) These organizations educate their congregations on payday lending and collectively call on congregates and community leaders to take action, particularly by signing petitions and contacting elected officials.

d. Texas IMPACT [87]

1) Established in 1973, Texas Impact is a statewide coalition of governing bodies, congregations, and individuals of the Christian, Jewish and Muslim faiths.

        2) Its mission is "to advance state public policies that are consistent with universally held social principles of the Abrahamic traditions."[88]¶1
        3) Grassroots networks in local communities advocate with their legislators on specific issues based on policy positions related to the legislative agenda set by the board.[88]¶¶2, 6
        4) Member organizations include Christian Church, Episcopal Church, Evangelical Lutheran Church in America, Islamic Circle of North America, Jewish Federation of Dallas, Presbyterian Church, United Methodist Church, United Church of Christ, Society of Friends, and others.[89]
    e. Texas Municipal League[90]
        1) Formed in 1913, the purpose of the Texas Municipal League is "to serve the needs and advocate the interests of cities and city officials." It provides services to its member cities that "individual cities have neither time, money nor strength to do alone."[91]¶10
        2) As of June 2015, there were 1,146 member cities representing over 16,000 mayors, councilmembers, city managers, city attorneys, and city department heads.[92]¶¶2, 4
        3) The Texas Municipal League maintains a Payday Lending Clearinghouse of updates, an example credit access business ordinance, helpful Internet links, and lawsuit pleadings.[27]
    f. Major national organizations with advocacy positions to increase regulation of payday and auto title lending based on study include:
        1) Center for Responsible Lending [93]
        2) Consumer Federation of America [94]
        3) Corporation for Enterprise Development [95]
        4) INSIGHT Center for Community Economic Development [96]
        5) National Consumer Law Center [97]
        6) The Pew Charitable Trusts [98]

2. Perspective of opponents to payday and auto title lending
    a. *Summary.* Opponents argue that payday and auto title lenders take advantage of cash-strapped consumers. Lenders charge high fees, demand full payment on the next payday, and fail to screen a borrower's ability to repay the loan while meeting recurring expenses.[52]p. 2, [53]p. 2 When unable to make the whole payment, borrowers may have to refinance the loan and incur additional high fees.[99]p.8 After multiple loan renewals, borrowers have paid fees that amount to more than that borrowed, but still owe the principal.[53]p. 4 Thus a short-term loan becomes a longer-term cycle of debt.[53]p. 2 Auto title loan borrowers who default on their loan are threatened with repossession of their vehicle.[52]p. 4

       The high cost of payday loans cannot be explained by loan losses.[6]p. 28 The payday loan default rate is only slightly larger than that of bank consumer loans. And the credit card default rate is higher than that of payday loans.[68]p. 15

       For the faith community, high cost small dollar loans contradict the religious values that most Texans hold−the costs are immoral and unethical.[100]¶ 2 Scriptures of all traditions deplore exploitation of the poor for financial gain.[101]
    b. Loan features that exploit borrowers include [52]pp. 2-4, [53]p. 2**:**
        1) Lack of underwriting: Failure to evaluate the borrower's ability to repay the loan while meeting recurring expenses.[53]p. 2
        2) High fees/APRs: Fees vary with the maximum charge allowable in a state. For example the cost of a 2-week, $500 payday loan in Minnesota is $31.50 (163% APR) while in Texas it may be $125.92 (660% APR).[53]p. 2
        3) Short-term due date/balloon payments: The entire loan balance, fees, and interest are due in one payment on the short-term due date, usually 2 weeks for a payday loan or 1 month for an auto title loan.[53]p. 2

4) Loan churn: Unable to repay the loan in full and meet recurring expenses, a borrowers often renew the loan when due or repay the loan and take out another loan shortly thereafter.[53][p. 3] Thus a short-term loan becomes a longer-term cycle of debt. A 2009 study of Florida and Oklahoma payday loan databases found that among repeat borrowers, 86% in Florida and 88% in Oklahoma refinanced their loans within 2 weeks and 95% within 1 month.[99][p. 8]
5) Repossession of collateral
   a) *Payday loans.* At the time a payday loan is secured, the borrower provides a post-dated check or debit-access to a bank checking account. If the loan is not repaid on the due date, the lender is first in line to be paid by cashing the check or through an ACH transaction as soon as the paycheck is deposited into the bank account.[53][p. 2]
   b) *Auto title loans*. At the time an auto title loan is secured, the borrower provides the title and set of keys to the vehicle. Because the borrower relies on the car for transportation to and from work, the threat of repossession makes repaying or renewing the loan the top financial priority.[52][p. 4]

c. For the faith community, high cost small dollar loans "are immoral, unethical and in direct contradiction of the religious values that most Texans hold."[100][¶2] Financial institutions contribute to the common good through their role in providing credit to promote a modern economy.[102][¶1] However, scriptures of all religious traditions deplore exploitation for financial gain, especially of the poor.[101]

d. Payday loans are not more risky than mainstream consumer loans. Thus their high cost cannot be explained by loan losses.[68]
   1) Measuring annual loan defaults against current receivables is deceptive. Current receivables represent only a small fraction of total loans issued and collected in a year. The more accurate measure of the incidence of default is the percentage of loan dollars that are written off as uncollectable.[68][pp. 13-14]
   2) Comparing default rates of payday loans and commercial bank consumer loans, the payday loan default rate is only slightly larger than that of bank consumer loans (< 0.25%).[68][p. 15]
   3) Comparing default rates of payday loans and credit cards, the credit card default rate is higher than that of payday loans.[68][p. 15]

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# IV. Accessibility and Demand for Payday and Auto Title Loans in Texas

## A. Accessibility: Number and Distribution of Credit Access Businesses in Texas

*Summary*. In August 2014, the Texas Office of Consumer Credit Commissioner reported that 207 companies were licensed as credit access businesses in Texas, operating 3,296 storefronts in 2,232 cities and towns. Over half operated only one storefront.[42] The 2012-2014 3-year average in number of storefronts was 3,510.[26, 70, 71] Payday and auto title lenders tend to cluster around major metropolitan areas, military installations, and veterans facilities.

1. Companies and business sites in Texas
   a. 207 companies licensed as credit access businesses in August 2014 [42]
      1) Over half (138) operated only one business site
      2) Ten companies with the highest number of business sites in Texas
         a) 464 Ace Cash Express
         b) 298 TitleMax
         c) 231 Advance America
         d) 230 Check N Go
         e) 217 Cash America Financial Services, Inc.
         f) 206 LoanStar Title Loans
         g) 183 First Cash Pawn
         h) 178 The Cash Store
         i) 147 Texas EZMoney LP
         j) 61 Speedy Cash
   b. 3,296 credit access business sites (storefronts)
   c. The 2012-2014 3-year average in number of storefronts that completed an annual report for the Texas Office of Consumer Commissioner was 3,510.
      1) CY 2012: 3,455 [70]
      2) CY 2013: 3,585 [71]
      3) CY 2014: 3,491 [26]

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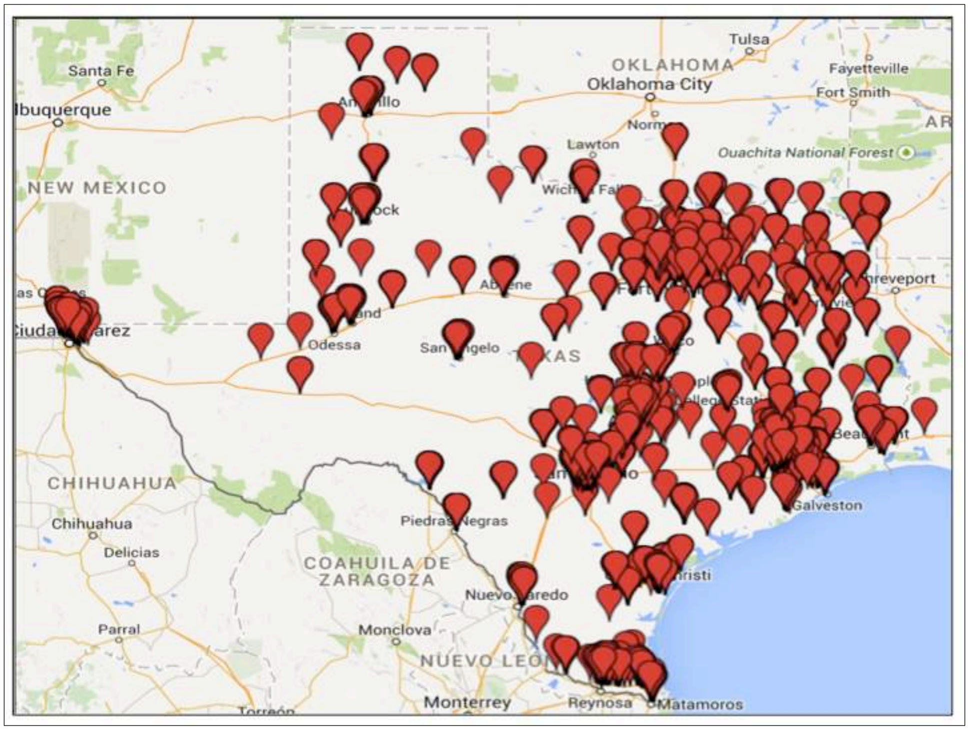
2. Geographic distribution of payday and auto title loan storefronts
    a. 2,232 cities and towns in Texas, August 2014 [42]
    b. Payday and auto title loan businesses tend to cluster around:
        1) Major metropolitan areas
        2) Military installations [103]
        3) Veterans facilities [104]

**See Figure IV-A.**

**Fig. IV-A. Texas Payday & Auto Title Storefronts, 2014**




Texas Appleseed, 2014 [105]

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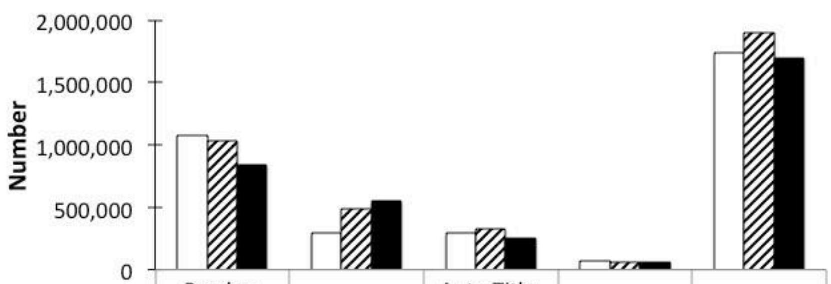
## B. Demand: Number of Consumers and Loans in Texas

*Summary*. According to the Texas Office of Consumer Credit Commissioner, 1.7 million borrowers in Texas took out over 2.7 million new payday and auto title loans in 2014. While the number of borrowers decreased by 11% from 2013 to 2014, the number of loans decreased only 9%. Payday loans outnumbered title loans by over 7 to 1. Single payment loans outnumbered installment loans 2 to 1. Nearly half (45%) of all loans were refinanced at least once. Among refinanced loans, 70% were ultimately refinanced more than once, usually two to four times.[26, 71]

1. Number of consumers [26, 70]
   a. In 2014, a total of 1,701,442 Texans took out payday and auto title loans.[26]
   b. From the first reporting year in 2012 to 2014, the total number of borrowers remained steady, declining 2%. However, there was a dramatic change in the number of borrowers by type of loan and payment method from 2012 to 2014:
      1) 90% increase in borrowers who took out installment payday loans
      2) 22% decline in single-payment payday loan borrowers
      3) 16% decline in single-payment auto title loan borrowers
      4) 17% decline in installment auto title loan borrowers

   **See Figure IV-B-1.**

**Fig. IV-B-1. No. Payday & Auto Title Loan Consumers, by Type Loan, Texas, 2012-2014**




| | Payday, Single Payment | Payday, Installment | Auto Title, Single Payment | Auto Title, Installment | Total |
|---|---|---|---|---|---|
| 2012 | 1,080,644 | 290,139 | 297,948 | 67,691 | 1,736,422 |
| 2013 | 1,034,992 | 488,740 | 322,073 | 57,822 | 1,903,627 |
| 2014 | 844,643 | 548,917 | 251,372 | 56,510 | 1,701,442 |

Data compiled from [26, 70, 71].

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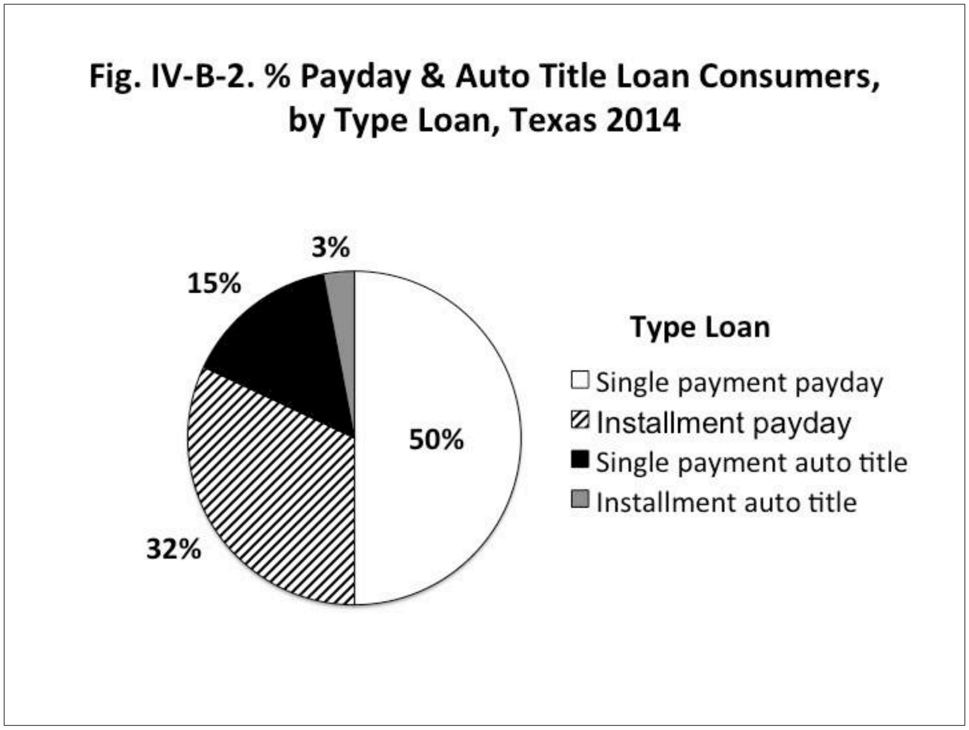
c. The large majority (82%) of Texas small-dollar loan consumers in 2014 took out payday loans; half of all borrowers took out single payment payday loans.
**See Figure IV-B-2.**




Data compiled from [26].

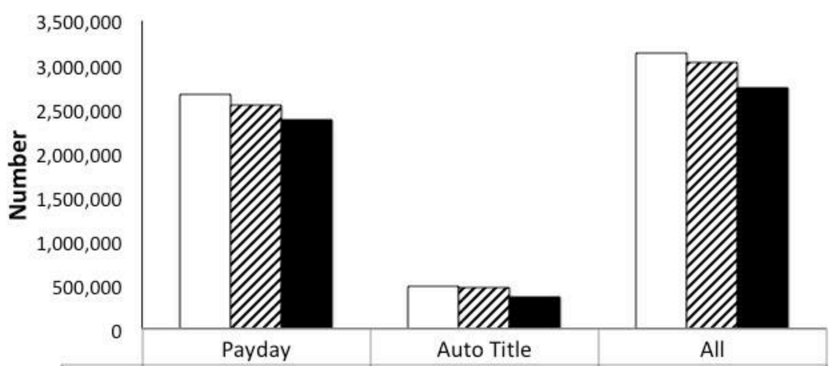
*– Space left blank intentionally –*

2. Number of new payday and auto title loans [26, 70]
    a. Number loans by type of loan
        1) Over 2.7 million payday and auto title loans were issued in 2014.
        2) Payday loans outnumbered auto title loans nearly 7 to 1 (6.6:1).
        3) The number of loans has slowly declined since 2012, the first year of reporting.
            a) 24% decline in the number of auto title loans, 2012-2014
            b) 11% decline in the number of payday loans, 2012-2014

               The 29% decline in single-payment payday loans was offset by an 87% increase in installment payday loans from 2012 to 2014.
            c) 13% decline in the total number of loans, 2012-2014

**See Figure IV-B-3.**

**Fig. IV-B-3. Number Payday & Auto Title Loans, by Type Loan, Texas, 2012-2014**




| | Payday | Auto Title | All |
|---|---|---|---|
| 2012 | 2,660,270 | 475,681 | 3,135,951 |
| 2013 | 2,543,855 | 473,194 | 3,017,049 |
| 2014 | 2,378,497 | 363,385 | 2,741,882 |

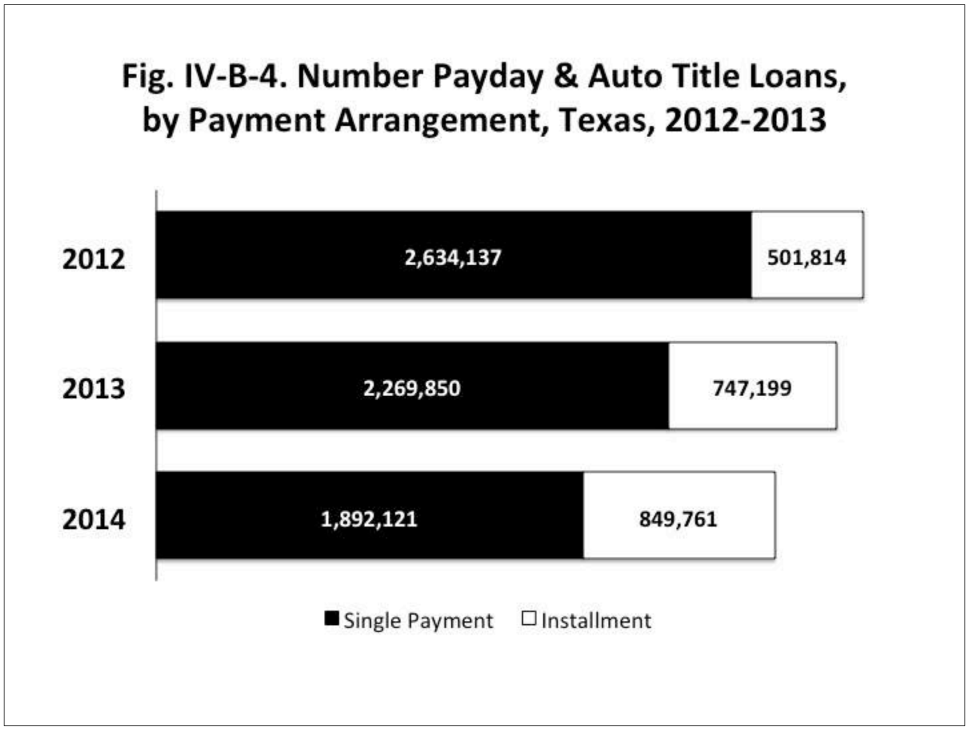
Data compiled from [26, 70, 71].

*– Space left blank intentionally –*

b. Number of loans by payment arrangement [26, 70]

1) Single-payment loans have dominated the payday and auto title loan market since 2012, when Texas began collecting data from credit access businesses.
2) In 2012, single-payment loans outnumbered installment loans by over 5 to 1.
3) While still the dominant payment arrangement, single-payment loans outnumbered installment loans by just over 2 to 1 in 2014 due to:
    a) A 69% increase in the number of installment loans from 2012 to 2014
    b) A 28% decrease in the number of payday loans from 2012 to 2014

**See Figure IV-B-4.**




Data compiled from [26, 70, 71].

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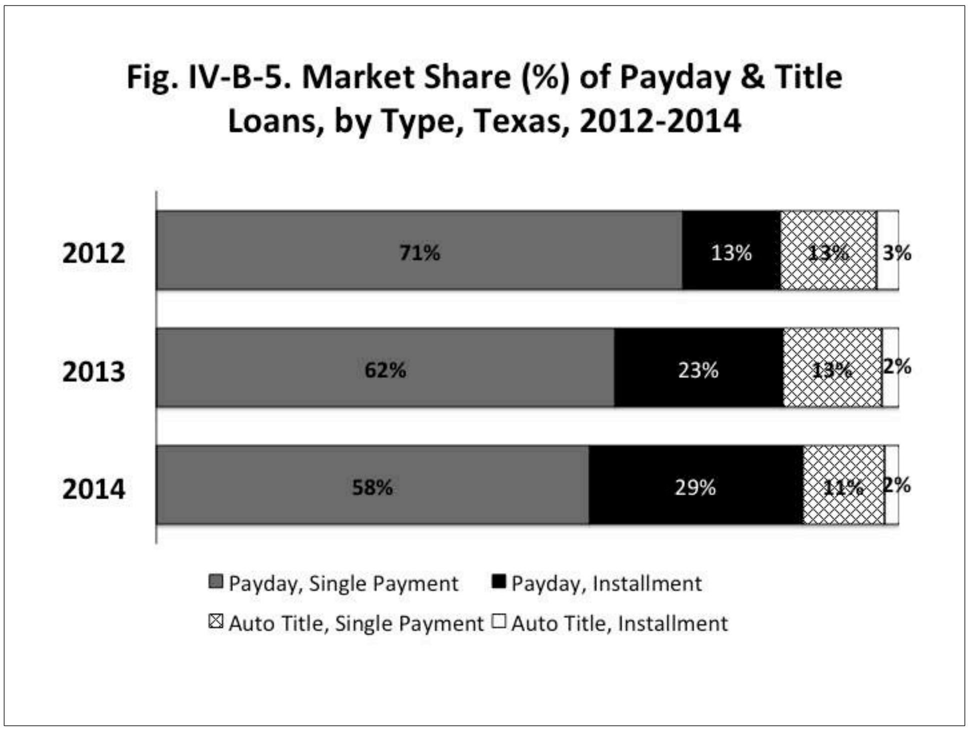
3. Market share of payday and auto title loan products [26, 70, 71]
   a. Market share by type of loan
      1) In 2014 the payday and auto title loan market was comprised largely of payday loans (87%).
      2) The payday loan market share increased slightly between 2012 and 2014, from 84% to 87%.
   b. Market share by payment arrangement
      1) Single-payment loans continued to dominate payment arrangements for payday and auto title loans in 2014, garnering 69% of the loans.
      2) However, installment loans have nearly doubled their market share from 16% in 2012 to 31% in 2014.
      3) In other words, in 2012 1 in 6 loans were installment loans; in 2014 1 in 3 were installment loans

   **See Figure IV-B-5.**




Data compiled from [26, 70, 71].

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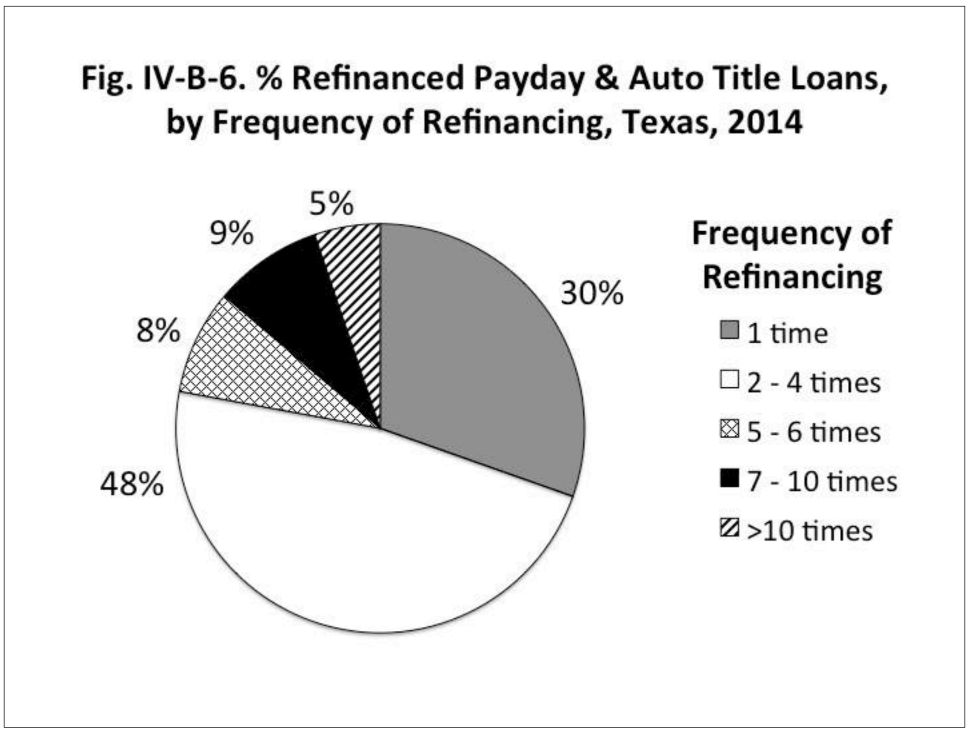
4. Intensity of use: loan churn
    a. Loan churn is defined as "when borrowers either directly renew loans or pay back a loan but take out another shortly thereafter."[53] p. 3
    b. Proportion of Texas payday and title loans that were refinanced in 2014 [26]
        1) Close to half (45.3%) of all Texas payday and title loans were refinanced in 2014.
        2) The likelihood of refinancing was higher among:
            a) Auto title loans (54.7% vs. 43.8% among payday loans)
            b) Single-payment loans (56.2% vs. 18.7% among installment loans)
        3) If a loan was refinanced, it was likely to be refinanced multiple times:
            a) 70% of refinanced loans were refinanced more than once
            b) Among the refinanced loans, nearly half (48%) were refinanced 2-4 times.

        **See Figure IV-B-6.**




Data compiled from [26].

*– Space left blank intentionally –*

c. Change in number of refinancing transactions, 2012-2014 [26, 70, 71]

1) 22.6% decline in total number of transactions that refinanced a payday or auto title loan

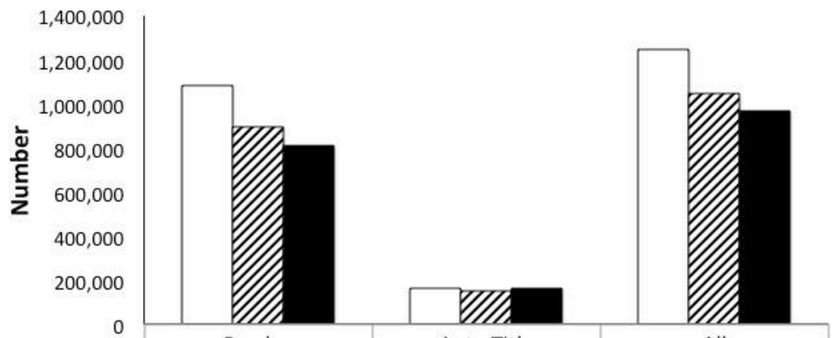
   While the decline in refinancing transactions was almost entirely due to the decline in payday loan refinances, transactions to refinance an installment payday loan increased by nearly 50%.

2) 25.6% decline in number of transactions that refinanced a payday loan
   a) 30.5% decline among single-payment refinancing transactions
   b) 47.8% increase among installment refinancing transactions

3) 2.6% decline in number of transactions that refinanced an auto title loan
   a) 1.6% decline among single-payment refinancing transactions
   b) 10.8% decline among installment refinancing transactions

**See Figure IV-B-7.**

**Fig. IV-B-7. Number Payday & Auto Title Loan Refinancing Transactions, by Type Loan, Texas, 2012-2014**




| | Payday | Auto Title | All |
|---|---|---|---|
| 2012 | 1,085,575 | 163,409 | 1,248,984 |
| 2013 | 896,570 | 148,406 | 1,044,976 |
| 2014 | 807,279 | 159,159 | 966,438 |

Data compiled from [26, 70, 71].

d. The Texas rate of refinancing single-payment payday loans in 2012 compared favorably with that reported for the nation by the Consumer Financial Protection Bureau (49% vs. 82%).[71, 106]

   *Note.* To arrive at their estimate, the Consumer Financial Protection Bureau analyzed a dataset of over 12 million single payment payday loans in 30 states for a 12-month period in 2011-2012 for which loan origination and maturity dates were available.[106]

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5. Refinance-to-new loan ratio, by type loan, Texas
   a. For every new Texas payday and auto title loan transaction in 2014 there were 1.15 refinancing transactions. In other words, there were 15% more refinancing transactions than new loan transactions.
   b. The highest refinance-to-new loan ratio occurred among single-payment auto title loans where there were over twice as many refinancing transactions as new loans.

**Table IV-B. Refinance-to-New Loan Ration, by Type Loan, Texas, 2014**

| | Number Loans | | |
|---|---|---|---|
| **Type Loan** | **Refinanced** | **New** | **Ratio** |
| Payday | | | |
| Single payment | 2,372,537 | 1,592,374 | 1.49 to 1 |
| Installment | 133,612 | 786,123 | 0.17 to 1 |
| Subtotal | 2,506,149 | 2,378,497 | 1.05 to 1 |
| Auto title | | | |
| Single payment | 629,124 | 299,747 | 2.10 to 1 |
| Installment | 29,069 | 63,638 | 0.46 to 1 |
| Subtotal | 658,193 | 363,385 | 1.81 to 1 |
| Total | 3,164,342 | 2,741,882 | 1.15 to 1 |

Data compiled from [26].

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# V. The Economics of Payday and Auto Title Loans in Texas

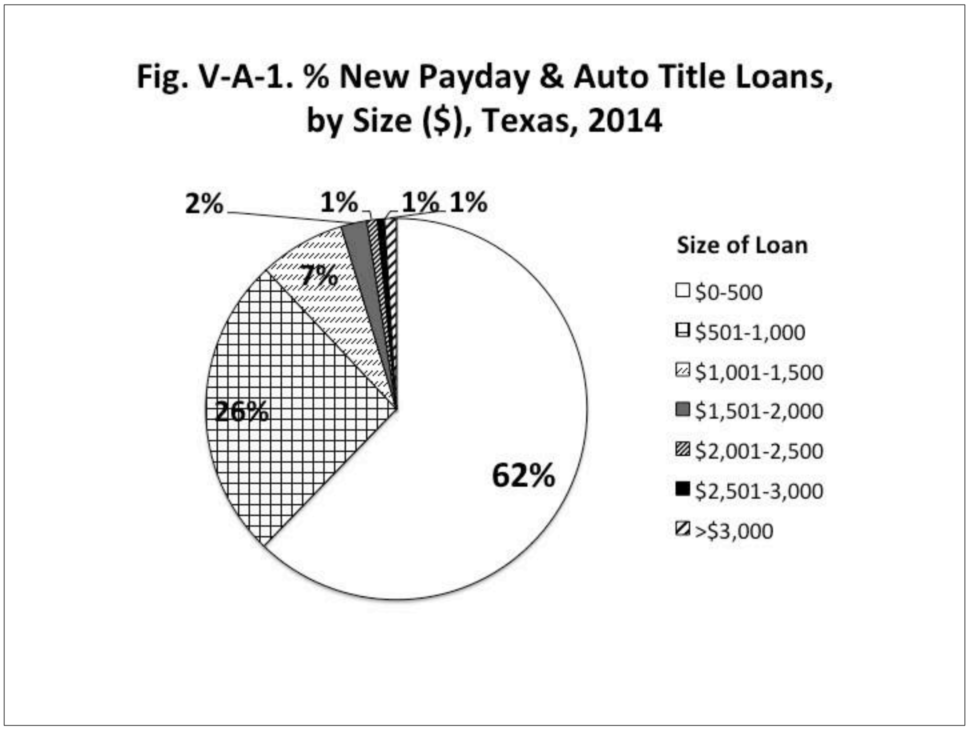
## A. The Economic Context of Payday and Auto title Loans in Texas

1. Size of payday and auto title loans in Texas, 2014 [26]

   a. *Summary*. Most (62%) new payday and title loans in Texas in 2014 were $500 or less, and nearly 90% were $1,000 or less. The average Texas auto title loan ($1,197) was 2.4 times as large as the average payday loan ($501).[26]

   b. Most (62%) small dollar loans in Texas in 2014 were $500 or less, and nearly 90% were $1,000 or less.

   **See Figure V-A-1.**

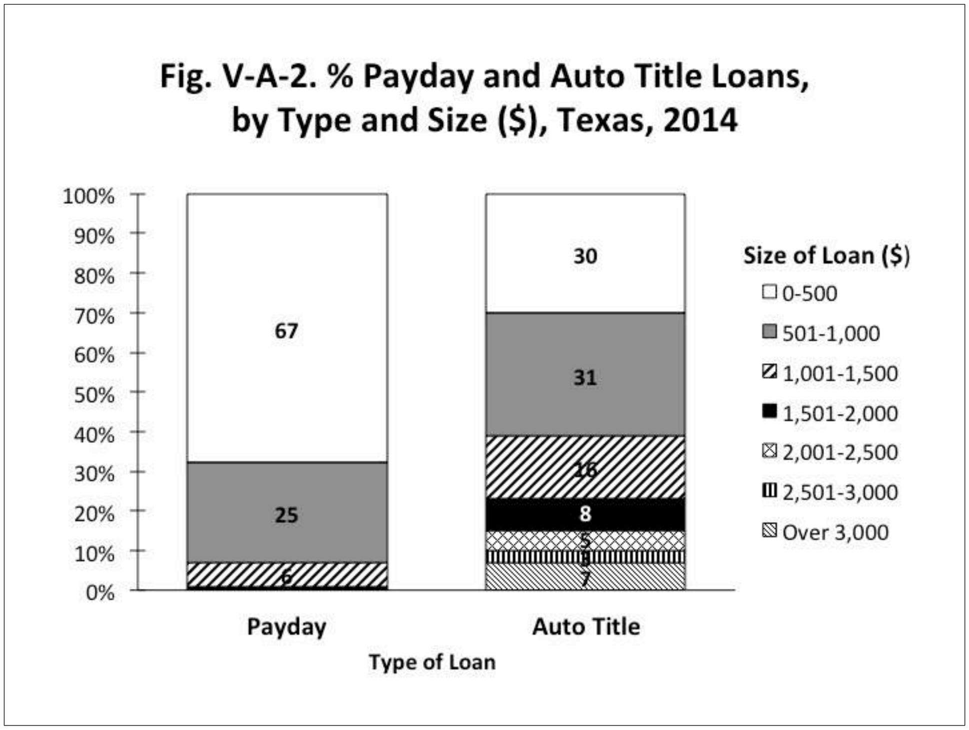



Data compiled from [26].

*– Space left blank intentionally –*

c. Size of loan varied by type.[26]
   1) The average Texas payday and title loan in Texas in 2014 was $593.
   2) The average auto title loan ($1,197) was 2.4 times as large as the average payday loan ($501).
   3) While 70% of auto title loans were over $500, nearly 70% of payday loans were less than $500.

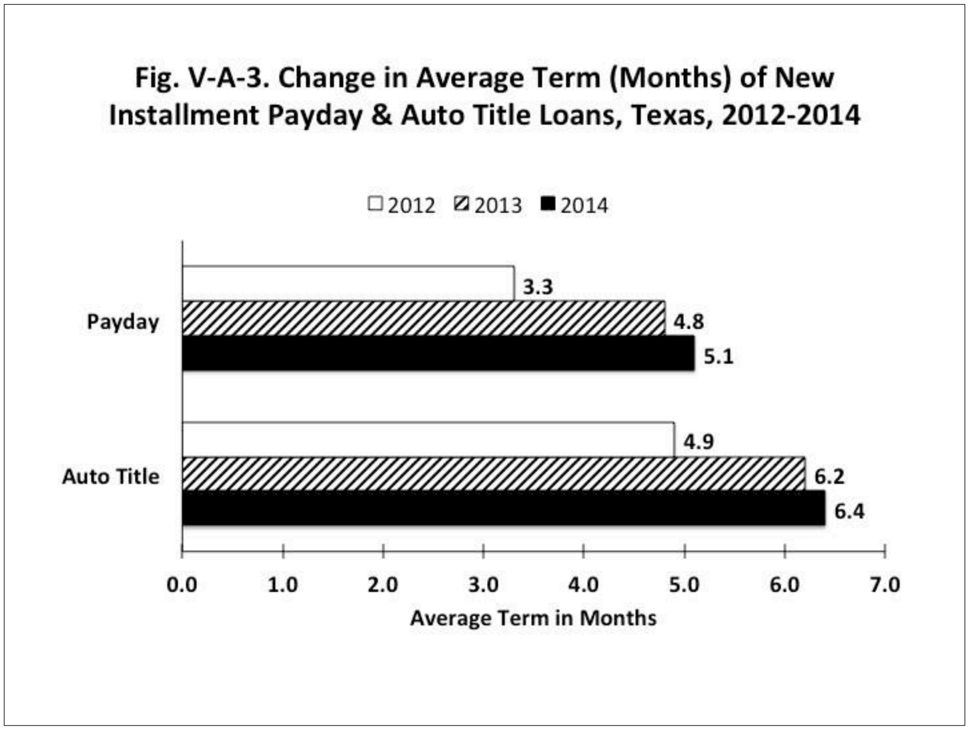
**See Figure V-A-2.**




Data compiled from [26].

2. Change in average term of payday and auto title loans in Texas, 2012-2014 [107, 108, 109]
   a. The average length of new, single payment payday and auto title loans in Texas remained stable from 2012 to 2014.
      1) Payday loans: A mean of 19 days in each year 2012, 2013, and 2014
      2) Auto title loans: A mean of 30 days in each year 2012, 2013, and 201
   b. The average length of new, installment payday and auto title loans in Texas increased considerably from 2012 to 2014.
      1) The average installment payday loan term increased 55% from 2012 to 2014.
         a) 2012: 98 days (3.3 months)
         b) 2013: 145 days (4.8 months)
         c) 2014: 152 days (5.1 months)
      2) The average installment auto title loan term increased 30% from 2012 to 2014.
         a) 2012: 147 days (4.9 months)
         b) 2013: 185 days (6.2 months)
         c) 2014: 191 days (6.4 months)

   **See Figure V-A-3 on page 46.**




Data for Figure V-A-3 compiled from [107, 108, 109].

## B. The Impact of Payday and Auto Title Loans on Consumers

1. Financial cost of a payday or auto title loan for consumers

   a. *Summary*. In 2015 the estimated initial cost of financing a single payment 2-week $500 payday loan is $126.92 (660% annual percentage rate [APR]) while that of a single payment 30-day $500 auto title loan in Texas is $137.63 (310% APR). With multiple renewals, fees and interest may surpass the loan principal. For example, when a $500 payday or auto title loan has been refinanced three times, the fees and interest exceed $500−$510 and $549 respectively−and the principal is still owed.

   b. Initial cost

      1) Lender interest rate

         a) A payday or auto title business, defined as a credit access business, arranges loans for consumers with third party lenders. According to 5 TEX. FIN. CODE § 393.601[2]:

            > A credit access business means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan.[1]

         b) The third-party lender interest rate is limited to no more than 10% a year by 4 TEX. FIN. CODE § 342.004.[110]

      2) Credit access business fee

         a) Payday and auto title loan businesses are not subject to any limit on the fees that they charge for their services. According to 5 TEX. FIN. CODE § 393.602(b):

> A credit access business may assess fees for its services as agreed to between the parties. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.[1]

b) Credit access business fees vary by type of loan and the business issuing the loan. Credit access businesses report their fees to the Texas Office of Consumer Commissioner quarterly.

c) The stability of fees over the past 3 years varied greatly by type of loan and payment arrangement. **See Table V-B-1.**

**Table V-B-1. Average Credit Access Business Fee Charged per Transaction ($/$100), by Type Loan, Texas 2014**

| Type Loan | Mean CAB Fee per $100 borrowed 2014 | 2013 | 2012 | % Change 2012-2014 |
|---|---|---|---|---|
| Payday loan | | | | |
| Single payment | 23.27 | 22.92 | 22.85 | 1.8 |
| Installment | 150.69 | 136.24 | 137.89 | 9.3 |
| Auto title loan | | | | |
| Single payment | 19.12 | 21.22 | 22.58 | −15.3 |
| Installment | 96.48 | 81.32 | 91.79 | 5.1 |

Data compiled from [107],[108],[109].

3) While Table V-B-1 above presents average credit access business fees, the Texas Office of Consumer Commissioner [111] reported that nearly half of the maximum single payment loan fees (reported by location) were $30 or above.
   i) 45% of maximum single payment payday loan fees were $30 or above.
   ii) 48% of maximum single payment auto title loan fees were $30 or above.

4) A fee of $25 per $100 borrowed was used to calculate the estimated initial cost of a single payment small dollar loan in Table V-B-2.
   i) Ace Cash Express advertises a $25/$100 fee.[63],[111]) Ace Cash Express is the largest credit access business in Texas, operating 14% of payday and auto title loan store locations in August 2014.[42]
   ii) Nearly half of the maximum single payment loan fees reported by individual credit access businesses were $30 or above.[109]
      (a) 45% of maximum single payment payday loan fees were $30 or above.
      (b) 48% of maximum single payment auto title loan fees were $30 or above.

**See Table V-B-2 on page 48.**

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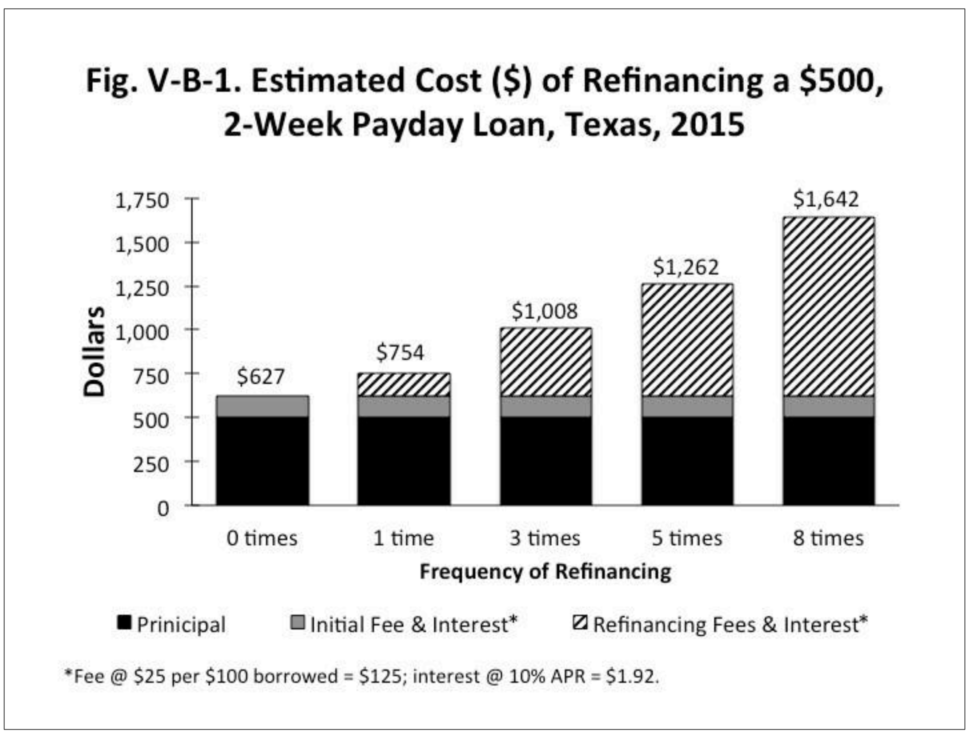
**Table V-B-2. Estimated Initial Cost ($) of a $500 Single Payment Payday or Auto Title Loan, Texas, 2015**

| Type Cost | 2-Week Payday | 30-Day Auto Title |
|---|---|---|
| Principal | 500.00 | 533.00[a] |
| CAB fee ($25/$100) | 125.00[63] | 133.25[111] |
| Interest (10% APR) [21] | 1.92 | 4.38 |
| | 626.92[b] | 670.63[c] |

CAB = credit access business.
[a]Includes $33 certificate of title fee. [b]660% APR. [c]310% APR.

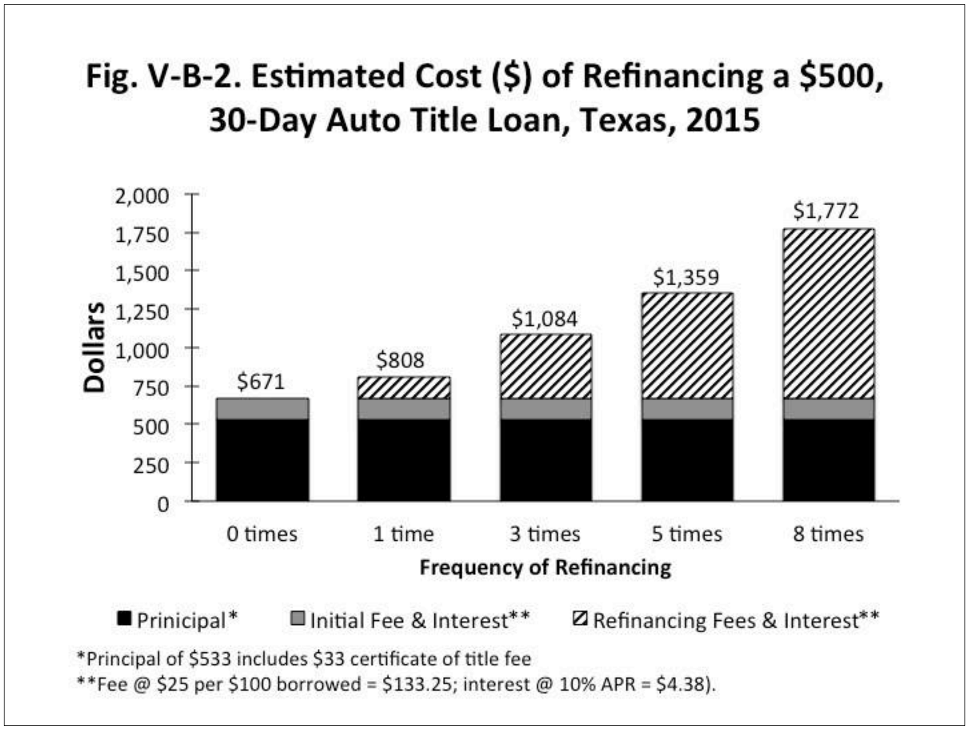
c. Refinancing cost
   1) At the time of refinancing the loan, the borrower must pay the CSO fee and lender interest. The fee and interest are charged each time the loan is refinanced.
   2) With multiple refinances of a loan, fees and interest paid may surpass the principal. For example:
      a) If a $500 2-week payday loan is refinanced three times over 8 weeks, fees & interest ($508) surpass the original amount of the loan ($500). **See Figure V-B-1**.




Sources: Fee [63]; interest [21].

*– Space left blank intentionally –*

b) If a $533 30-day auto title loan (includes $33 certificate of title fee) is refinanced three times over 4 months, fees & interest ($551) surpass the original amount of the loan ($533). **See Figure V-B-2.**




Sources for Figure V-B-2: Fee [111]; interest [21].

2. Affordability of a payday or auto title loan

   a. *Summary.* According to the Center for Public Priorities, most working class jobs in Texas pay less than the wages needed to cover basic household necessities. For example in 2014, 63% of jobs in the Dallas-Fort Worth-Arlington Metropolitan Area paid less than the $16 per hour needed for a single parent with one child to pay for basic household expenditures−nearly $275 less per 2-week pay period.[112] To pay off a $500 payday loan along with the fees and interest would require foregoing other necessities or acquiring an additional source of income. A payday or title loan is one way to cover a financial shortfall.[53][pp. 4-5]

   b. In a majority of metropolitan areas in Texas, most working class jobs pay less than the wages needed to cover basic household necessities.

   **See Table V-B-3 on page 50.**

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**Table V-B-3. % Jobs That Paid Less Than the Hourly Wage Needed for a Single Parent With One Child to Pay for Basic Household Expenses,* by Metropolitan Statistical Area, Texas, 2014**

| Metropolitan Area | % | Hourly Wage Needed ($) |
|---|---|---|
| Abilene | 38 | 11.66 |
| Amarillo | 36 | 12.58 |
| Austin-Round Rock-San Marcos | 58 | 17.06 |
| Beaufort-Port Arthur | 27 | 12.56 |
| Brownsville-Harlingen | 61 | 11.56 |
| Bryan-College Station | 52 | 14.11 |
| Corpus Christi | 53 | 14.16 |
| Dallas-Fort Worth-Arlington | 63 | 16.01 |
| Dallas-Plano-Irving | 62 | 15.90 |
| El Paso | 62 | 11.74 |
| Houston-Sugarland-Baytown | 59 | 16.03 |
| Killeen-Temple-Fort Hood | 52 | 13.12 |
| Laredo | 65 | 12.48 |
| Longview | 27 | 12.19 |
| Lubbock | 63 | 12.91 |
| McAllen-Edinburg-Mission | 64 | 12.12 |
| Midland | 27 | 13.51 |
| Odessa | 27 | 12.67 |
| San Angelo | 42 | 12.02 |
| San Antonio-New Braunfels | 42 | 13.81 |
| Sherman-Dennison | 56 | 13.25 |
| Texarkana | 30 | 11.77 |
| Tyler | 32 | 12.71 |
| Victoria | 50 | 12.73 |
| Waco | 34 | 12.82 |
| Wichita Falls | 47 | 12.08 |

Data compiled from [112].
*Employer paid the entire health insurance premium for one adult and half of premium for rest of the family.

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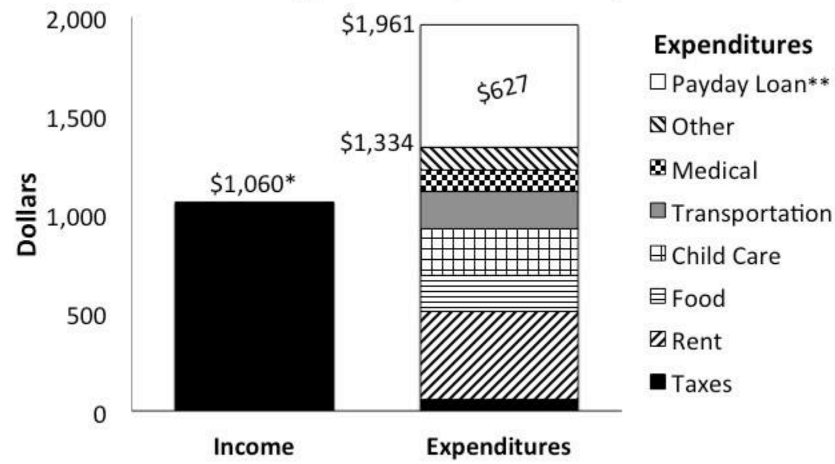
c. In the Dallas-Fort Worth-Arlington Metropolitan Statistical Area in 2014, a single parent with one child who worked full-time in a sales or related occupation earned nearly $275 less per 2-week pay period than that needed to pay for basic household expenditures. (The employer paid the entire health insurance premium for one adult and half of the premium for the rest of the family.)
**See Figure V-B-3.**

**Fig. V-B-3. Estimated Biweekly Household Income & Expenditures for a Single-Parent/One-Child Family, Dallas-Fort Worth-Arlington Metropolitan Area, 2014**




*2-week income based on average hourly pay ($13.24 x 80 hrs.) for sales and related occupations in the DFW-Arlington Metropolitan Area in 2014.
**Payday loan payment = $500 principal + $125 fee + $1.92 interest = $626.92.

Data compiled from [112].

3. Payday and auto title loan default rates

   a. Few states report default rates on payday or auto title loans. Texas does not track this type of data.

   b. Payday loan default rates

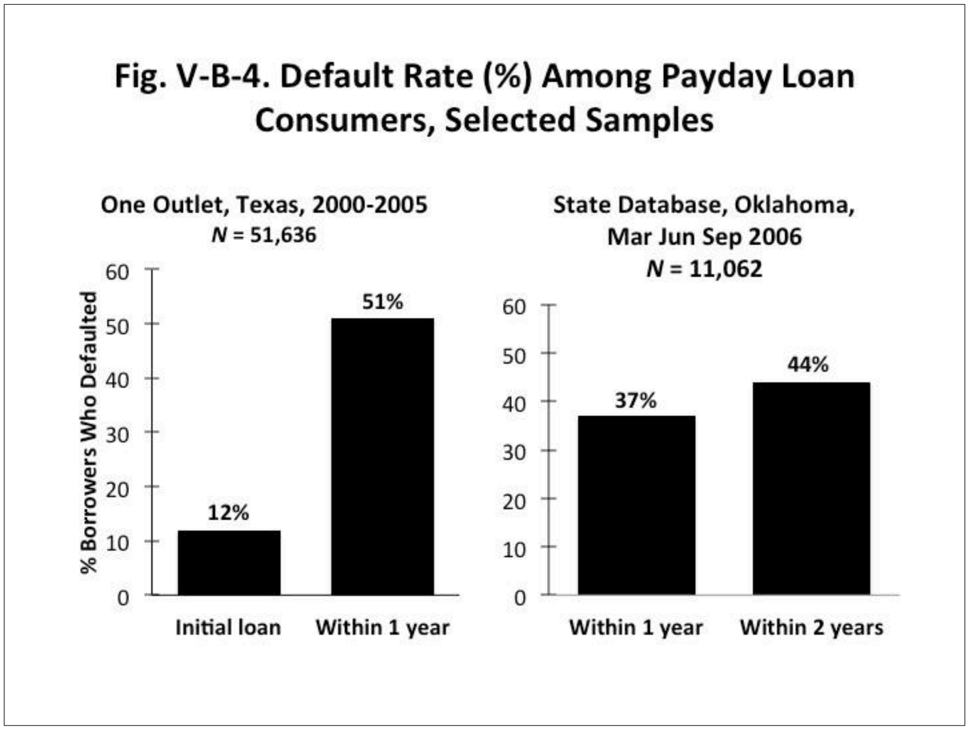
      1) Missouri Division of Finance reported a 5.95% on any new or refinanced payday loan for FY 2014.[113]

      2) A few researchers have analyzed public and proprietary databases to determine the default rates among payday loan consumers from specific samples

         a) *Texas*. Skiba and Tobacman tracked 51,636 bi-weekly-paid workers who took out 335,376 payday loans between September 2000 and August 2004 from one Texas outlet for 1 year. The study found that 12% of the borrowers defaulted on the initial loan. Within 1 year of refinancing the original loan, 51% had defaulted on the loan.[114] [p. 33, Table 2]

         b) *Oklahoma*. King and Parrish tracked 11,062 individuals entered into the Oklahoma payday-lending database during March, June, or September 2006 for 2 years. Within 1 year, 37% of the borrowers had defaulted on a loan. By the end of the second year, 44% had defaulted on a loan.[115] [p. 21]

**See Figure V-B-4 on page 52.**




Data for Figure V-B-4 compiled from [114, 115].

c. Auto title loan default rates

TMX Finance LLC and Affiliates, dba TitleMax and TitleBucks, reported an increase in auto title loan default rates from 2009 and 2013, according to reports filed with the U.S. Securities and Exchange Commission between 2011 and 2013.[116, 117, 118]

1) TitleMax and TitleBucks stores were located in 12 states (AL, AZ, FL, GA, IL, MI, MO, NV, SC, TN, TX, & VA)
2) Reported by fiscal year (FY) [116][p. 24]
   a) FY 2009: 12.5%
   b) FY 2010: 11.8%
   c) FY 2011: 12.5%
3) Reported by quarter
   a) Q1 2011: 12.5% [117][p. 22]
   b) Q1 2013: 15.7% [118][p. 21]

d. Auto title loan vehicle repossessions in Texas

1) In 2014 credit access businesses repossessed 44,052 vehicles from 366,694 Texas consumers who had taken out 404,855 new auto title loans.[109]
   a) 11% vehicle repossession rate
   b) 12% of auto title loan consumers affected
   c) 92.6% of vehicles that were repossessed were due to default on single payment auto title loans. The vehicle repossession rate for single payment loans was 2.5 times that of installment loans in 2014 (12.1% vs. 4.8%).

2) The 2012-2014 3-year average vehicle repossession rate was 8.5%. The annual rate increased 39.7% from 2012 to 2014.
   a) 2012 vehicle repossession rate: 7.8% [107]
   b) 2013 vehicle repossession rate: 7.3% [108]
   c) 2014 vehicle repossession rate: 10.9% [109]

**See Table V-B-4.**

**Table V-B-4. Vehicle Repossession Rate (%), Auto Title Loans, Texas, 2012-2014**

| Characteristic | 2014 | 2013 | 2012 |
|---|---|---|---|
| Number auto title loan consumers | 366,694 | 568,126 | 420,444 |
| Number new auto title loans | 404,855 | 504,991 | 473,807 |
| Number vehicles repossessed | 44,052 | 36,918 | 37,062 |
| Vehicle repossession rate | 10.9% | 7.3% | 7.8% |
| Percent consumers affected | 12.0% | 6.5% | 8.8% |

Data compiled from [107, 108, 109].

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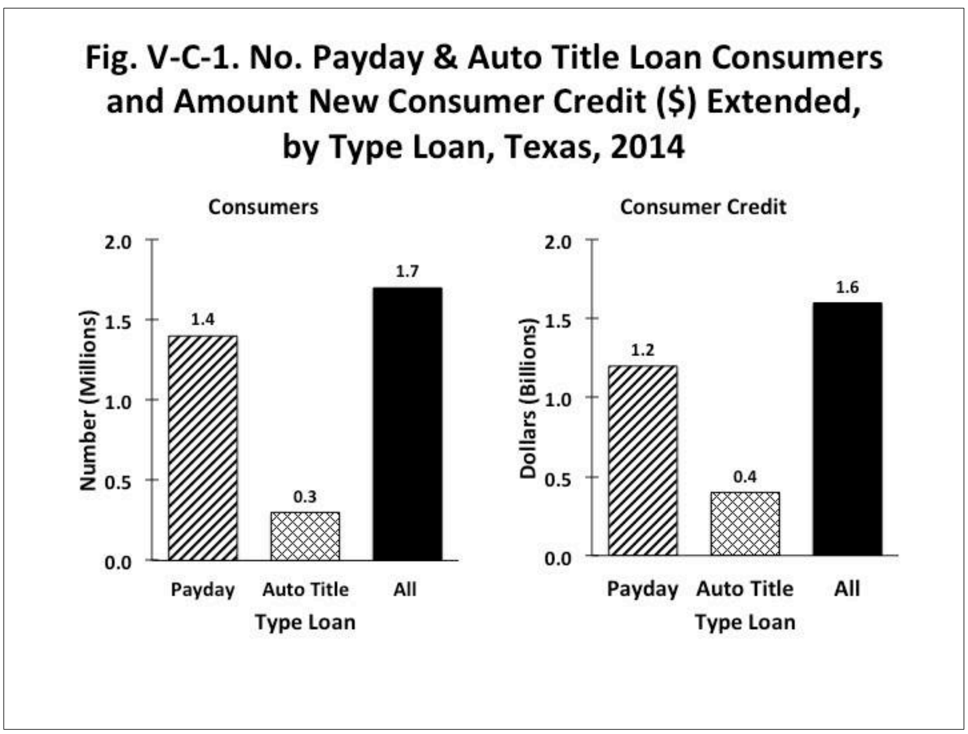
## C. The Impact of Payday and Auto Title Loans on the Texas Economy

1. *Summary*. The Texas Office of Consumer Credit Commissioner reported that in 2014 payday and title loan businesses in Texas extended $1.6 billion in consumer credit for new loans and collected $1.5 billion in fees and interest for new and refinanced loans.[26] We estimate that the fees and interest that were collected added an estimated $2.5 billion in value to the Texas economy directly through employee compensation, taxes, owner income and profit; indirectly through purchasing done by the businesses; and through induced spending by employees. The economic impact of payday and title loan fees and interest resulted in an estimated gain of 28,643 jobs in Texas in 2014. On the other hand, if payday and title loan consumers had spent or saved the money that was paid in fees and interest, household income and spending would have created $2.8 billion in private household economic activity, adding an estimated 36,018 jobs. Thus the resulting economic impact on the Texas economy in 2014 was an estimated net loss of approximately $351 million in economic value and 7,375 jobs.[51][pp. 2-3]

2. Payday and auto title loan consumers, loans, and extended consumer credit

   In 2014 nearly 1.7 million Texas consumers took out over 2.7 million new payday and auto title loans for $1.6 billion in extended consumer credit.[26]
   **See Figure V-C-1**.




Data compiled from [26].

3. Comparative magnitude [26]
   a. Consumer credit extended compared to fees charged
      1) In 2014 credit access businesses charged payday and auto title loan consumers paid nearly as much in fees as the amount of credit that had been extended (88%).

    a) $1.6 billion consumer credit extended for new loans
    b) $1.4 billion total amount of fees paid on all loan contracts
    c) $27.4 million estimated total interest paid on all loan contracts
    d) 88.1% = total loan fees ÷ total consumer credit extended (excludes interest)
    e) 89.9% = (total loan fees + estimated interest) ÷ total consumer credit extended

2) Payday loans – Texas, CY 2014
    a) $1.2 billion consumer credit extended for new payday loans
    b) $1.1 billion total amount of fees paid on all payday loan contracts
    c) 92.7% = total payday loan fees ÷ total payday consumer credit extended
3) Auto title loans – Texas, CY 2014
    a) $434.4 million consumer credit extended for new auto title loans
    b) $327.6 million total amount of fees paid on all auto title loan contracts
    c) 75.4% = total auto title loan fees ÷ total payday consumer credit extended
4) Estimated interest at 10% APR calculated as follows
    a) Estimated total payday loan interest = Total fees X 0.0154 = ($1,105,338,097) X (0.0154) = $16,580,071

        Multiplier derived from the ratio of interest APR to fees APR = 10:650 when fee is $25 per $100 borrowed

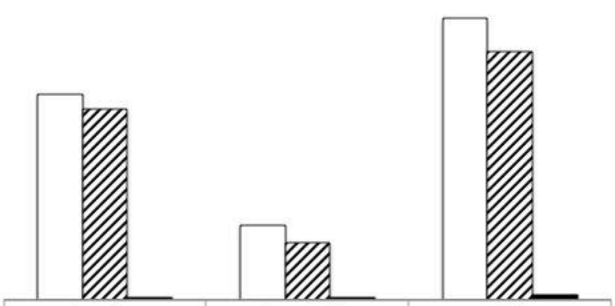
    b) Estimated total auto title loan interest = Total fees X 0.0333 = ($327,635,492) X (0.0333) = $10,811,971

        Multiplier derived from the ratio of interest APR to fees APR = 10:300 when fee is $25 per $100 borrowed

    c) Estimated total loan interest = ($16,580,071 + $10,811,971) = $27,392,043

**See Figure V-C-2.**

**Fig. V-C-2. Dollar Amount of Consumer Credit Extended & Total Fees/Estimated Interest Charged by Credit Access Businesses, Texas, 2014**



| | Payday | Auto Title | All |
|---|---|---|---|
| □ Consumer Credit | $1,192,435,048 | $434,395,615 | $1,626,830,663 |
| ▨ Fees | $1,105,338,097 | $327,635,492 | $1,432,973,589 |
| ■ Estimated Interest | $16,580,071 | $10,811,971 | $27,392,043 |

The amount of fees charged on all loans = 88% of amount of credit extended.
(Fees + estimated interest) ÷ consumer credit = 90%.

Data compiled from [26].

b. Change in number of payday and auto title loans compared to change in fees [26, 70, 71]

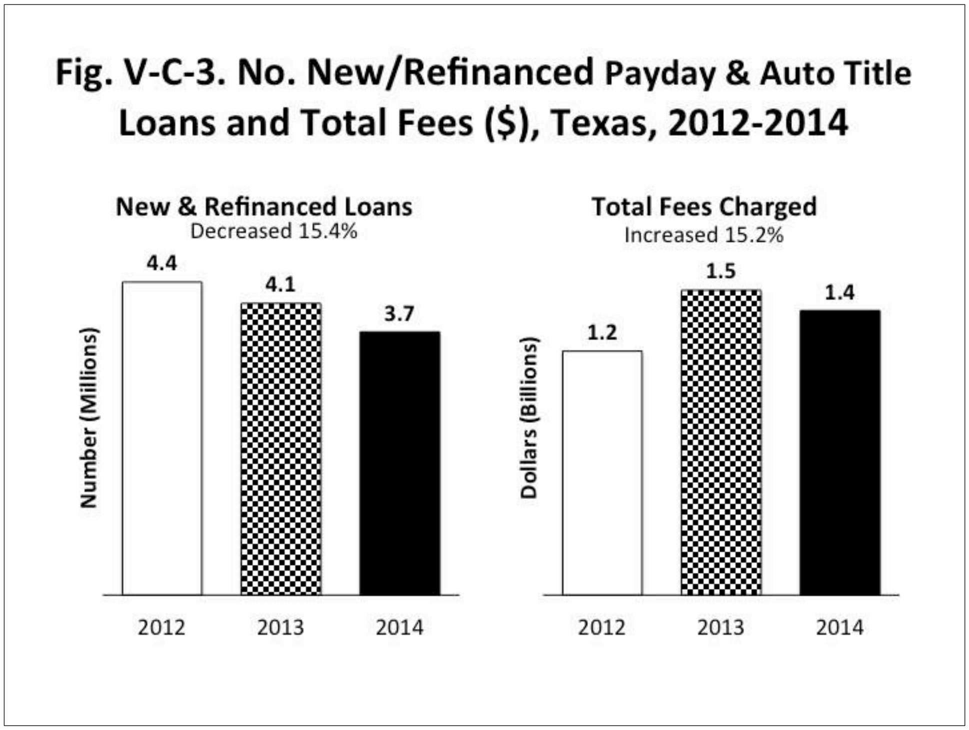
1) From 2012 to 2014, credit access businesses:

   a) Issued fewer new and refinanced loans.

   b) Increased fees charged on new and refinanced loans.

2) While the number of new and refinanced loans decreased 15.4% between 2012 and 2014, the total amount of fees charged increased 15.2%.

**See Figure V-C-3 and Table V-C-1.**




Data compiled from [26, 70, 71].

**Table V-C-1. % Change in No. New/Refinanced Payday/Auto Title Loans and Total Amount Fees ($) Charged, Texas, 2012-2014**

| | 2014 | 2013 | 2012 | % Change 2012-14 |
|---|---|---|---|---|
| ***Type Loan*** | | ***Number Loans*** | | |
| Payday | | | | |
| New | 2,378,497 | 2,543,855 | 2,660,270 | −10.6 |
| Refinanced | 807,279 | 896,570 | 1,085,575 | −25.6 |
| Total payday | 3,185,776 | 3,440,425 | 3,745,845 | −15.0 |
| Auto title | | | | |
| New | 363,385 | 473,194 | 475,686 | −23.6 |
| Refinanced | 159,159 | 148,406 | 163,409 | −2.6 |
| Total auto title | 522,544 | 621,600 | 639,095 | −18.2 |
| All (payday + auto title) | | | | |
| New | 2,741,882 | 3,017,049 | 3,135,951 | −12.6 |
| Refinanced | 966,438 | 1,044,976 | 1,248,984 | −22.6 |
| Total all | 3,708,320 | 4,062,025 | 4,384,935 | **−15.4** |
| | | ***Total Amount Fees Charged ($)*** | | |
| Payday | 1,105.338,097 | 1,126,138,783 | 937,089,774 | 18.0 |
| Auto title | 327,635,492 | 359,961,996 | 307,177,572 | 6.7 |
| Total | 1,432,973,589 | 1,486,100,779 | 1,244,267,346 | **15.2** |

Data compiled from [26, 70, 71].

4. Net impact of payday and auto title lending on the economy

   a. *Methodology.* Lohrentz used IMPLAN value-added modeling to estimate the economic impact of the payday lending industry in 2013. The methodology is published in *The Net Economic Impact of Payday Lending in the U.S.*, published by the Insight Center for Community Economic Development.[51]

      1) The Office of Financial Institutions for the State of Louisiana used Lohrentz' methodology to analyze the economic impact of payday lending in Louisiana in 2013, based on its Deferred Presentment and Small Loans 2013 Data.[119] Use of the Lohrentz methodology by the State of Louisiana lends credibility to the model.

      2) We recognize that the multipliers and divisors used in the model applied to 2012-2013 data. For our analysis of 2014 data, we assume that the economic environment has not changed substantially to prevent their use at this time.

   b. Industry impact on the economy

      1) Payday and auto title loan businesses and third party lenders generate economic value and jobs from the fees and interest collected from borrowers through direct, indirect, and induced economic activities.[51][p. 1]

         a) Direct impact: Employee compensation, taxes, owner income, profit

         b) Indirect impact: Purchasing done by the businesses

         c) Induced impact: Spending by employees

      2) Each fee/interest dollar collected by credit access businesses and lenders adds $1.70 to the economy.[51][pp. 1, 3]

      3) Payday and auto title loan businesses and third party lenders generate jobs from the added economic value at a cost of $86,706 per job.[51][p. 7]

   c. Borrower impact on the economy

      1) Payday and auto title loan consumers withhold economic value and fail to generate jobs from fees and interest paid to credit access businesses and lenders through direct and induced economic activities.[51][p. 1]

         a) Direct impact: Cash assets from household income

         b) Indirect impact: None, not a business

         c) Induced impact: Spending by consumer and household members

      2) Each fee/interest dollar paid to credit access businesses and lenders subtracts $1.94 from the economy.[51][pp. 1, 3]

      3) Consumer households generate jobs from their contributed economic value at a cost of $78,687 per job.[51][p. 7]

5. Estimated net economic impact of the payday and auto title lending industry in Texas, 2014

   a. Value added to the economy

      1) The payday and auto title lending industry added an estimated $2.5 billion in value to the Texas economy from the collection of $1.5 billion in fees and interest.

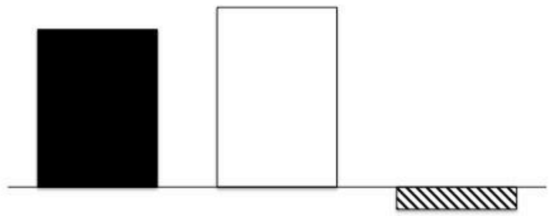
      2) If payday and auto title loan consumers had spent the $1.5 billion diverted to fees and interest, they would have generated $2.8 billion in private household economic activity.

      3) The resulting economic impact is an estimated net loss of $351 million in economic value to the Texas economy in 2014.

   **See Figure V-C-4 on page 58 and Table V-C-2 on page 59.**

**Fig. V-C-4. Estimated Impact of Payday & Auto Title Lending Activity on Value Added to Economy, Texas, 2014**

**Economic Activity Created/Lost from $1.5 Billion in Fees & Interest Collected by/Paid to Lending Industry**



| | Lending Industry Contribution | Private Household Lost Contribution | Net Value Added/ Lost to Economy |
|---|---|---|---|
| Value added to economy | $2,483,540,299 | $2,834,157,753 | -$350,617,454 |

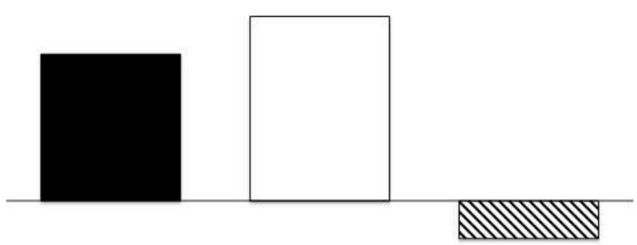
Data for Figure V-C-4 compiled from [26] using Lohrentz methodology.[51]

b. Number jobs gained
   1) The payday and auto title lending industry generated an estimated 28,643 Texas jobs from the collection of $1.5 billion in fees and interest.
   2) If payday and auto title loan consumers had spent the $1.5 billion diverted to fees and interest, they would have generated an estimated 36,018 Texas jobs.
   3) The resulting economic impact is an estimated net loss of 7,375 Texas jobs in 2014.

**See Figure V-C-5 and Table V-C-2 on page 59.**

**Fig. V-C-5. Estimated Impact of Payday & Auto Title Lending Activity on Jobs, Texas, 2014**

**Economic Activity Created/Lost from $1.5 Billion in Fees & Interest Collected by/Paid to Lending Industry**



| | Lending Industry Contribution | Private Household Lost Contribution | Net Jobs Added/Lost to Economy |
|---|---|---|---|
| No. jobs gained | 28,643 | 36,018 | -7,375 |

Data compiled from [26] using Lohrentz methodology.[51]

## Table V-C-2. Estimated Net Economic Impact of the Payday and Auto Title Lending Industry, Texas, 2014

***Scenario 1.* Economic Activity Created by Credit Access Businesses and Third Party Lenders from $1.5 Billion in Fees and Interest Collected from Consumers**

| | **Direct Impact** Employee compensation, taxes, owner income, profit | **Indirect Impact** Purchasing done by credit access businesses and lenders | **Induced Impact** Spending by employees of credit access businesses and lenders | **Total Impact** |
|---|---|---|---|---|
| Payday/auto title loan consumer fees/interest ($) | 1,460,906,058 | 1,460,906,058 | 1,460,906,058 | 1,460,906,058 |
| Value added multipliers | 0.59 | 0.38 | 0.73 | 1.70 |
| Value added to the economy ($) | 861,934,574 | 555,144,302 | 1,066,461,422 | 2,483,540,299 |
| Jobs gained divisor ($) | 86,706 | 86,706 | 86,706 | 86,706 |
| Number jobs gained | 9,941 | 6,403 | 12,300 | 28,643 |

***Scenario 2.* Economic Activity Consumer Households Would Have Generated Had They Not Paid $1.5 Billion in Payday and Auto Title Loan Fees and Interest**

| | **Direct Impact** Household income | **Indirect Impact** None−not a business | **Induced Impact** Household spending | **Total Impact** |
|---|---|---|---|---|
| Payday/auto title loan consumer fees/interest ($) | 1,460,906,058 | 1,460,906,058 | 1,460,906,058 | 1,460,906,058 |
| Value added multipliers | 1.00 | 0.00 | 0.94 | 1.94 |
| Value added to the economy ($) | 1,460,906,058 | 0 | 1,373,251,695 | 2,834,157,753 |
| Jobs gained divisor ($) | 78,687 | 78,687 | 78,687 | 78,687 |
| Number jobs gained | 18,566 | 0 | 17,452 | 36,018 |

***Net Impact on Economic Activity of Payday and Auto Title Lending (Scenario 1 – Scenario 2)***

| | **Direct Impact** | **Indirect Impact** | **Induced Impact** | **Total Impact** |
|---|---|---|---|---|
| Net value added to or subtracted from the economy | (598,971,484) | 555,144,302 | (306,790,272) | (350,617,454) |
| Net jobs gained or lost | (8,625) | 6,403 | (5,152) | (7,375) |

Methodology to assess net economic impact published by Lohrentz.[51] Fees compiled from [26]. Estimated interest (10% APR) calculated as follows: (a) Payday loan interest = (Fees)*0.0154; multiplier derived from the ratio of interest APR to fee APR (10:650). (b) Auto title loan interest = (Fees)*0.0333; multiplier derived from the ratio of interest APR to fee APR (10:300).

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# VI. State and National Comparisons

## A. Accessibility (Number and Distribution of Payday and Auto Title Lenders)

1. *Summary*. According to the U.S. Census Bureau,[120] there were nearly 29,500 payday and auto title loan establishments operating in the United States in 2013−less than one third the number of bank branches in the United States, but more than twice the number of McDonald's restaurants.[121], [122][p. 29] After reaching a peak in 2007, the number of payday loan storefronts in the United States declined steadily from 24,043 in 2007 to 17,862 in 2013.[123] In 2013 Texas had twice as many businesses making or arranging unsecured cash loans as the next highest state, California (Texas, 4,441; California, 2,603).[33, 120, 124] The concentration of payday and title lenders varies with the degree of state regulation. In 2013 states with less stringent regulation had twice the ratio of lenders to adults 18 years and older as more restrictive states. Texas ranked 8th highest in concentration of lenders to adults.[120, 124]

2. Number of payday and auto title loan establishments in the United States, 2013
   a. The estimated number of payday and auto title establishments in the United States in 2013 ranges from 26,000 to nearly 29,500.[33, 120, 122, 123]
      1) Low estimate: 26,000 payday and auto title lenders
         a) 17,862 payday lending storefronts [123][Slide 5]

            *Note.* The estimated 20,600 payday loan storefronts in the United States reported In March 2015 on the website of the Consumer Financial Services Association of America (CFSA), a trade association representing payday lenders,[125] is likely to be outdated as that reported number has not changed since 2011 [46][pp. 3, 58] and conflicts with the above number presented to the Annual Meeting of the Consumer Financial Services Association of America in 2014.[123]

         b) 8,138 auto title lending storefronts [122][p. 29]
      2) High estimate: 29,489 business establishments in the United States were primarily engaged in making or arranging unsecured cash loans to consumers.[120]

         The U.S. Census Bureau uses the North American Industry Classification System (NAICS) to classify business establishments for the collection, tabulation, presentation, and analysis of statistical data describing the U.S. economy.[126] Two classifications capture payday and auto title lending storefronts and may be used as a proxy for estimating the number of payday and auto title lending establishments:
         a) 522291 Consumer Lending: "Establishments primarily engaged in making unsecured cash loans to consumers."[127]
         b) 522390 Other Activities Related to Credit Intermediation: "Establishments primarily engaged in facilitating credit intermediation (except mortgage and loan brokerage; and financial transactions processing, reserve, and clearinghouse activities)."[127]
   b. Either estimate is less than one third the number of bank branches in the United States, but more than twice the number of McDonald's restaurants in the United States in 2013.[121], [122][p.9]
      1) 97,670 bank branches (estimate) [122][p.9]
      2) 14,267 McDonald's restaurants [121]

3. Trend in the number of payday lenders

   a. Internet vs. storefront lending

      1) From 2008 to 2012, compound annual growth rate (CAGR) for Internet payday lending sites was 20% compared to a −5% CAGR for payday storefronts.[128, 129]

      2) In June 2013, the Department of Justice pressured banks and third party lenders to terminate relationships with numerous Internet lenders in order to stop "payments for illegal and fraudulent payday loans" and other fraudulent transactions.[130] Known as Operation Choke Point, the effort disrupted Tribal and offshore lenders and resulted in a decline in Internet payday lending.[123, 128]

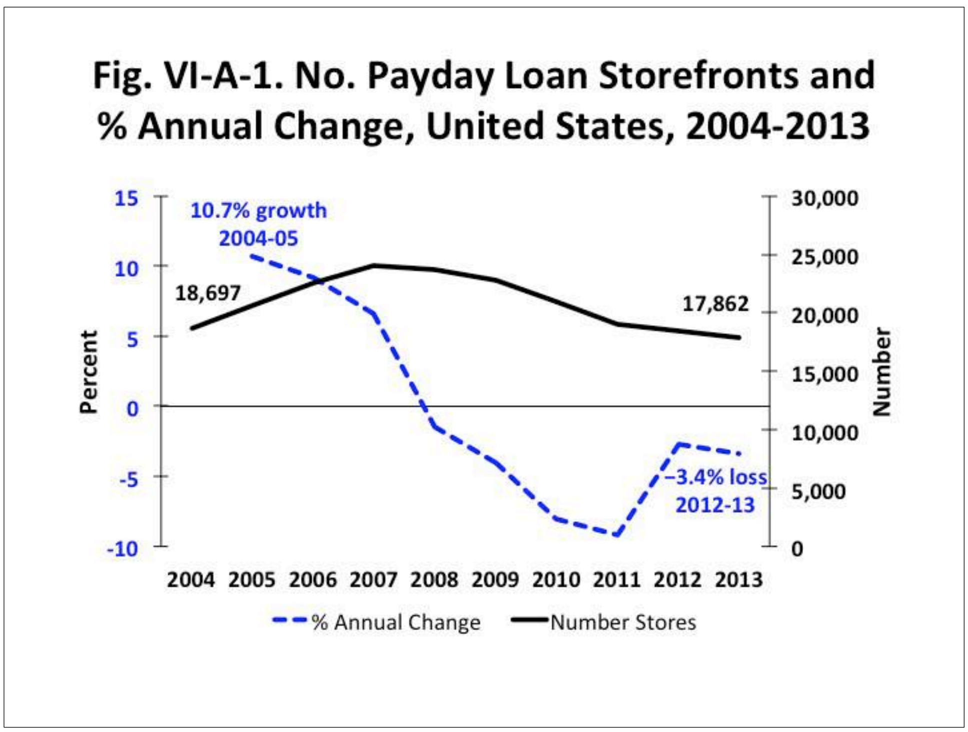
   b. Installment loans have experienced strong growth during 2012-2013.[123, 128]

   c. Long-term change in number of payday loan storefronts in United States, 2004-2013

      1) After reaching a peak in 2007 (24,054 stores), the number of payday lending storefronts began a long-term decline (17,862 in 2013).[123][Slide 5]

      2) In 2013 large operators added storefronts for the first time in several years. However, small lender store closures offset that growth, resulting in a 3% loss from 2012.[123][Slide 5]

   **See Figure VI-A-1.**




Data compiled from [123][Slide 5].

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4. Ten largest publicly traded payday lending enterprises and number of their establishments, by Size, United States, December 2013 [123][Slide 6]

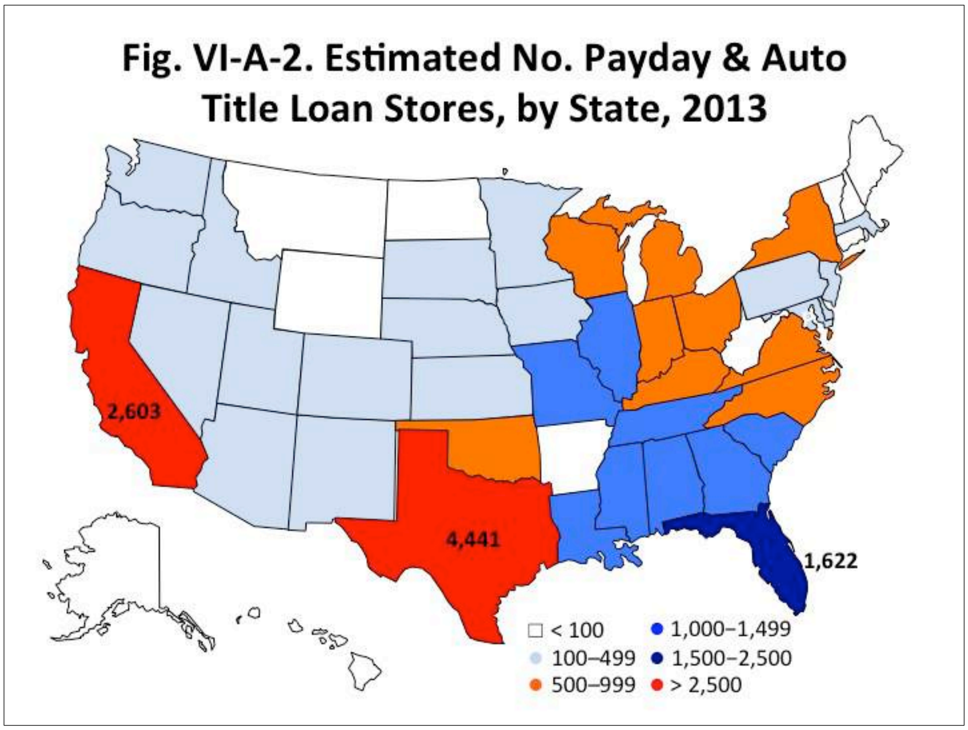
| | | |
|---|---|---|
| a. | 2,500 | Advance America |
| b. | 1,623 | Ace Cash Express |
| c. | 1,100 | Cash Into Cash |
| d. | 1,042 | Check n Go (CNG Financial) |
| e. | 622 | Cash America International (CSH) |
| f. | 498 | Community Choice Financial |
| g. | 483 | EZCORP, Inc. (EZPW) |
| h. | 443 | QC Holdings (QCCO) |
| i. | 400 | PLS Financial Services |
| j. | 292 | DFC Global (DLLR) |

5. Distribution and Concentration of Payday and Auto Title Lenders in the United States

   a. Distribution

   Distribution of payday and auto title loan stores by state is a relevant measure within a state, but not between states, because population and regulation of payday and auto title lending varies greatly by state.

**See Figure VI-A-2.**




Data compiled from [120].

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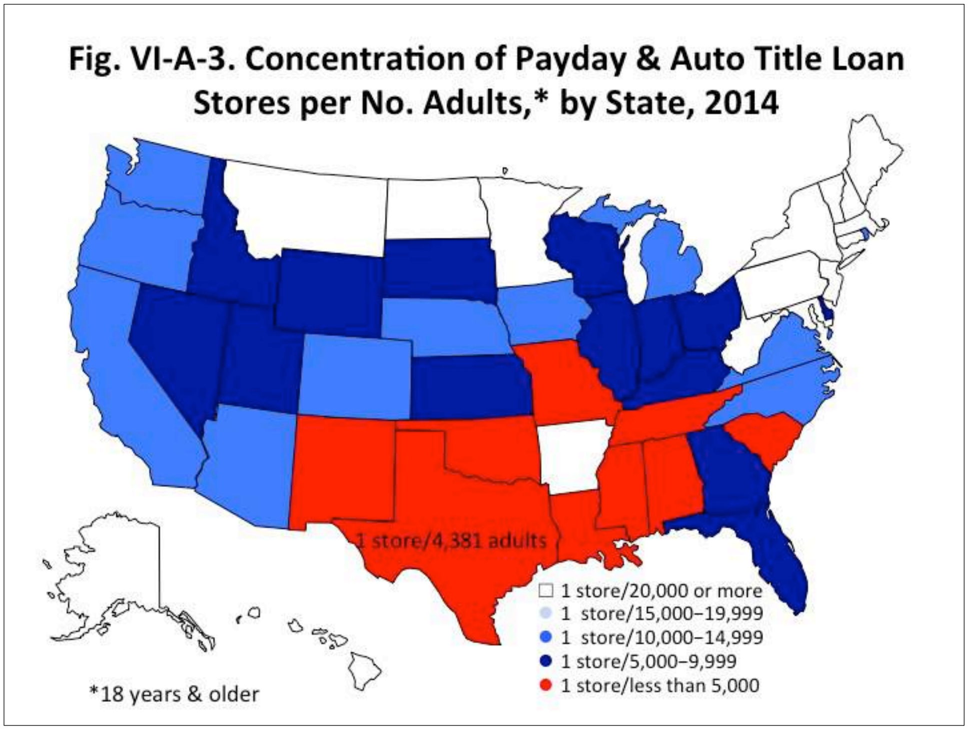
b. Concentration

1) Concentration is a measure of the number of payday and auto title loan stores per adult population (18 years and older). This measure controls for differences in state population and its age distribution, but not other population factors or the legality of payday and auto title lending.
2) Relative to adult population, Texas ranked 8th highest among states in 2013 with 1 store for every 4,381 adults age 18 and older.[120]
3) In comparison, Mississippi had the highest concentration (1:2,156) while Vermont had the lowest (1:125,998).[120]

**See Figure IV-A-3.**




Data for Figure IV-A-3 compiled from [120].

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c. Association of population characteristics with number and concentration of payday and auto title lending stores in a state

1) In a study published in 2014, Barth, Hilliard, and Jahera found statistically significant relationships between the number of establishments making or facilitating unsecured cash loans to consumers in a state and the following population characteristics.[122][p.11]

   The number of payday and auto title loan stores increased with:

   a) An increase in the
      i) % African American population
      ii) % population age 18 years and younger
      iii) % poverty population
   b) A decrease in the
      i) % high school graduates
      ii) % bachelor's degree or higher
      iii) Per capita income

2) We did not repeat the statistical testing to determine statistically significant relationships between the number of payday and auto title loan stores in a state and state population characteristics on the 2013 data from the U.S. Census Bureau. However, the patterns of association for 2013 *appear* to be the same as those found by Barth, Hilliard, and Jahera.

   The number of payday and auto title loan stores increases with:

   a) An increase in the proportion of the population that is African American, under age 18 years, and below poverty.
   b) A decrease in the proportion of the population that has a high school diploma or higher and the per capita income.

   **See Table VI-A-1.**

**Table IV-A-1. Rank and Concentration of Payday/Auto Title Loan Stores and Associated Population Characteristics, Selected States, 2013**

| Characteristic | MS | TX | NV | IA | VT |
|---|---|---|---|---|---|
| ***Rank and Concentration of Stores*** | | | | | |
| Rank by concentration | 1 | 8 | 16 | 29 | 50 |
| No. adults 18+ years per store | 2,156 | 4,381 | 6,849 | 12,024 | 125,998 |
| ***Population Characteristics Associated With Concentration*** | | | | | |
| Percent Black/African American | 37.4 | 12.4 | 9.0 | 3.3 | 1.2 |
| Percent age < 18 years | 24.7 | 26.6 | 23.7 | 23.4 | 19.6 |
| Percent high school graduates or higher, age 25+ yrs., 2009-2013 | 81.5 | 81.2 | 84.6 | 91.0 | 91.4 |
| Percent bachelor's degree or higher, age 25+ yrs., 2009-2013 | 20.1 | 26.7 | 22.4 | 25.7 | 34.8 |
| Percent poverty population | 24.0 | 17.5 | 15.8 | 12.7 | 12.3 |
| Per capita income ($) | 20,618 | 26,019 | 26,589 | 27,027 | 29,167 |

Data compiled from [33, 120]

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## B. Demand

1. Context: Use of alternative financial services, United States and Texas, 2013

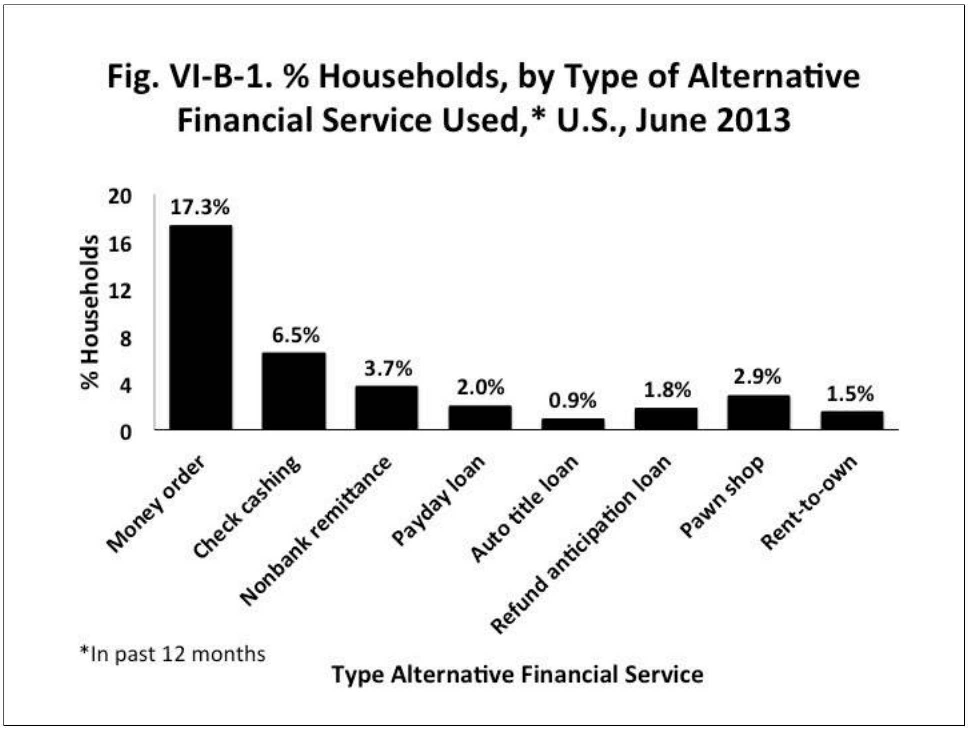
   a. Alternative financial services include nonbank check cashing, money orders, and remittances; auto title, payday, and refund anticipation loans; and pawn shop and rent-to-own services.[131][p. 41]

   b. In 2013 among U.S. households [131][p. 41]**:**

      1) 24.9% had used at least one alternative financial service with the last 12 months (30.8 million households)

      2) 39.3% had ever used an alternative financial service (123.8 million households)

   c. Payday and auto title loans were used less frequently than most other types of alternative financial services.[131][pp. 45, 47] **See Figure IV-B-1.**




Data for Figure IV-B-1 compiled from [131][pp. 45, 47].

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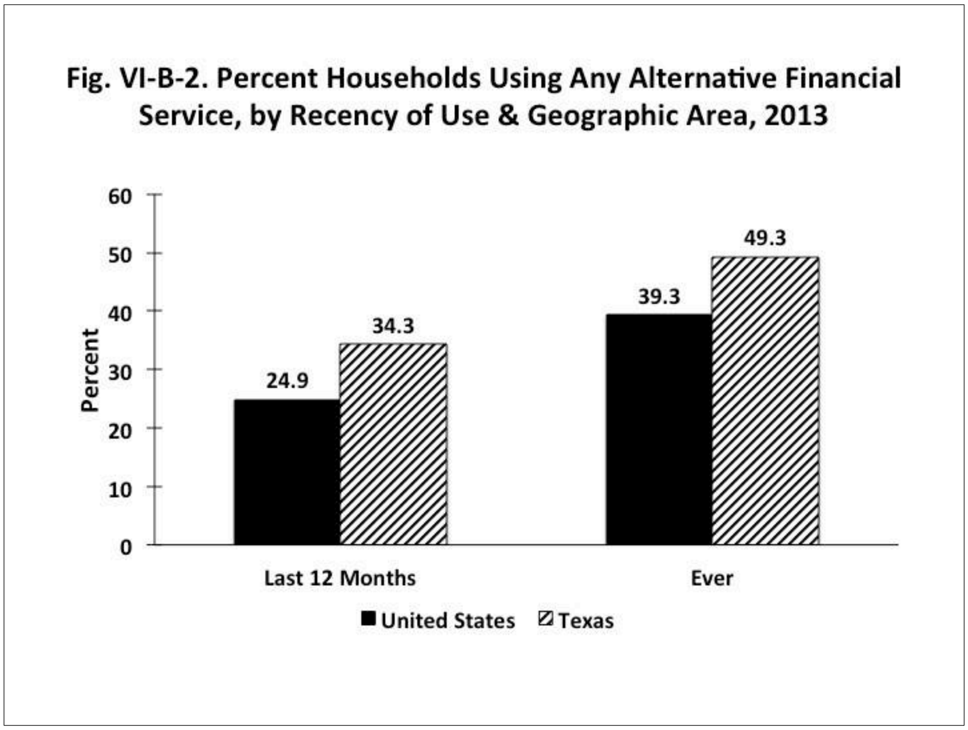
d. A significantly higher proportion of Texas households used alternative financial services in 2013 than the nation as a whole.[32]
   1) Texans' use was higher in virtually all demographic subcategories.
   2) The disproportionate use approached 10% or higher among Blacks and Asians, those aged 25-54 years, those with only a high school degree or less, the employed and unemployed, those with an annual income of $75,000 or less, and residents of nonmetropolitan areas.

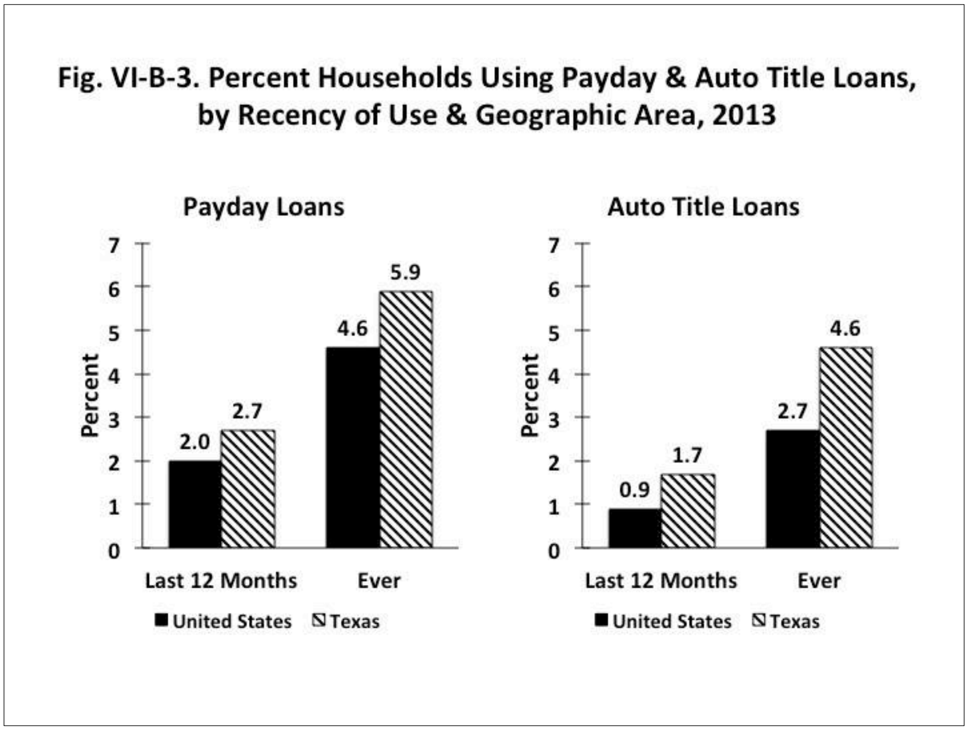
**See Figure VI-B-2.**




Data compiled from [32].

*– Space left blank intentionally –*

e. A higher percentage of Texas households used payday and auto title loans in 2013 than the nation as a whole.[32] **See Figure VI-B-3.**




Data compiled from [32]

2. Number consumers of payday and auto title loans

   a. Texas adults use payday and auto title loans at a higher rate than the national rate. [32, 33, 71] **See Table VI-B-1.**

**Table VI-B-1. No. and % Adult (18+ Years) Payday and Auto Title Loan Consumers, United States and Texas, 2013**

| | | Consumers | | | |
|---|---|---|---|---|---|
| | Population | Payday Loans | | Auto Title Loans | |
| Geographic Area | 18+ Years | Number | % Adult Population | Number | % Adult Population |
| United States | 242,470,820 | 14,087,555 | 5.81[a] | 2,521,697 | 1.04[a] |
| Texas | 19,412,974 | 1,523,732 | 7.85 | 379,895 | 1.96 |

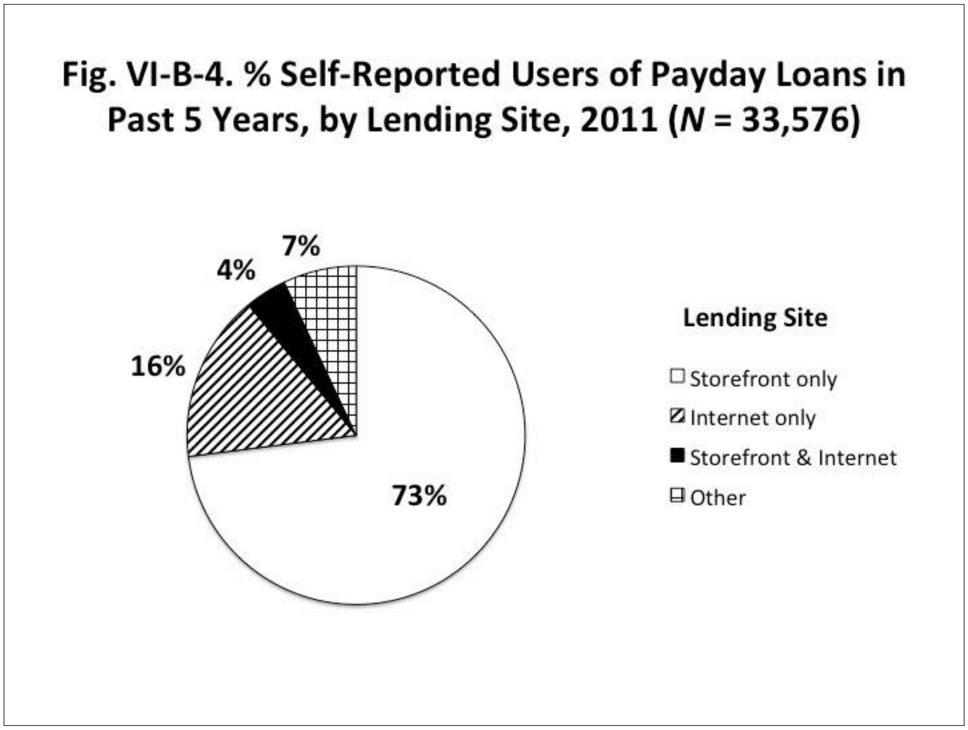
Data compiled from [32, 33, 71]. [a]Percent U.S. loan consumers extrapolated from the ratio of (% Texas user households [32] ÷ % Texas consumers [71]) = (% U.S. user households ÷ x% U.S. consumers) as follows: (a) % U.S. payday loan consumers = (2.7 ÷ 7.85) = (2.0 ÷ x) = 5.81; (b) % U.S. auto title loan consumers =(1.7 ÷ 1.96) = (0.9 ÷ x) = 1.04.

   b. The above estimates of the percentage of payday and auto title loan consumers in the nation for 2013 track well with the estimates by The Pew Charitable Trusts.

      1) The Pew Safe Small Dollar Loans Project estimated the 12 million adults use a payday loan each year.[6][p. 1]

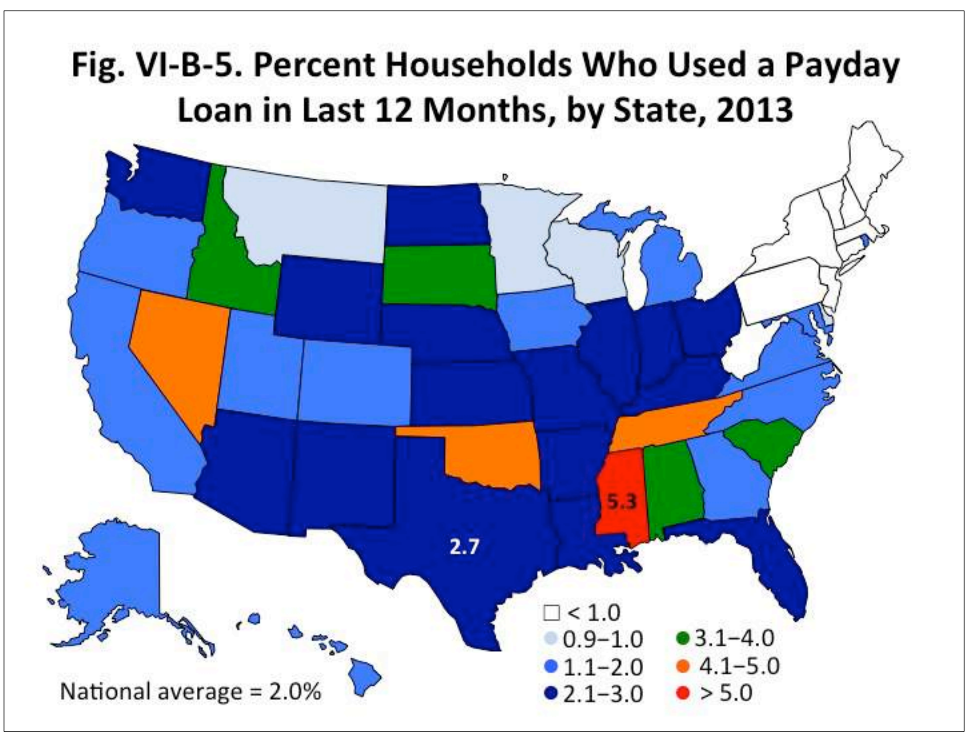
      2) Three different calculations by The Pew Charitable Trusts yielded an estimate that 1% of adults in the United States use auto title loans annually.[5][p. 33]

   c. Nearly three fourths (73%) of payday loan consumers reported in 2011 that they had obtained their loans exclusively from a storefront.[34][p. 27] **See Figure VI-B-4.**



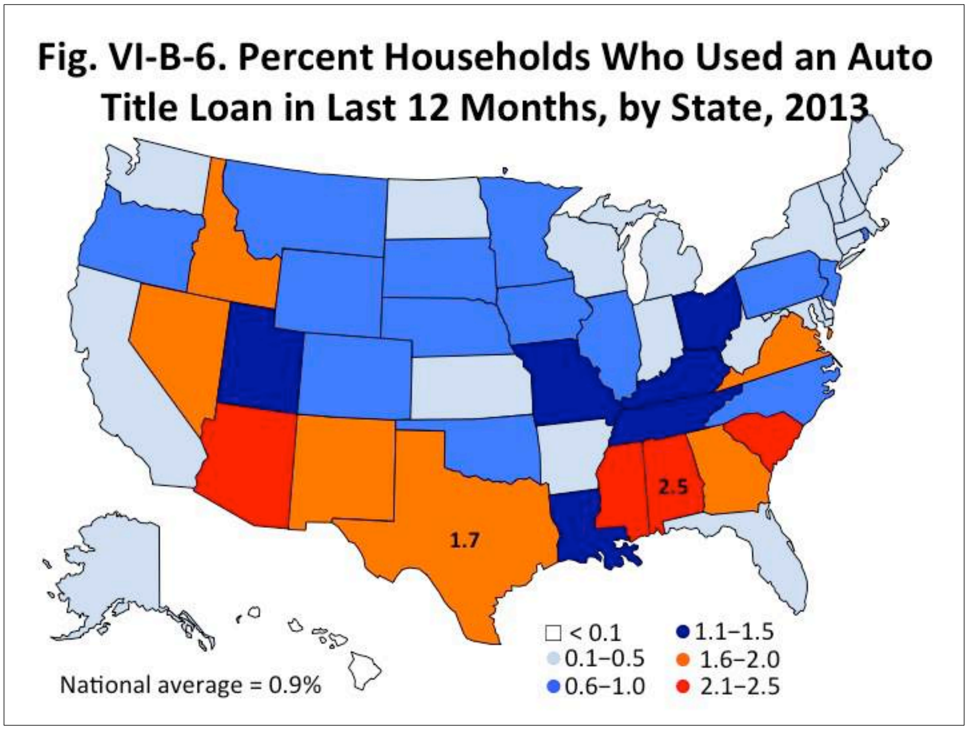

Data for Figure VI-B-4 compiled from [34][p. 27].

3. Consumer use of payday and auto title loans varies by state.[32]
    a. In 2013 Texas ranked 12th highest among states in the percentage of adults who used a payday loan within the last 12 months (2.7%). Texas' percentage was 1/3 higher than the national average. **See Figure VI-B-5.**




Data compiled from [32].

b. In 2013 Texas ranked 7th highest among states in the percentage of adults who used an auto title loan within the last 12 months (1.7%). Texas' percentage was twice as high as the national average. **See Figure VI-B-6.**




Data compiled from [32].

c. Payday and auto title loan use rates among consumers are related to the degree of state regulation of payday and auto title lending.[132]

   1) The Pew Safe Small Dollar Loans Project classified states according to payday loan regulations into three categories: Permissive, hybrid, restrictive. **See Table VI-B-2 and Figure VI-B-7 on page 70.**

**Table VI-B-2. Degree of State Payday Lending Regulation, by State, 2014**

| Degree of State Regulation | | No. States | States |
|---|---|---|---|
| Permissive | Allow fees of 15% or higher with annual percentage rates of 390% or more | 29 | AL, AZ, AK, CA, CT, HI, ID, IL, IN, IA, KS, KY, LA, MI, MS, MD, NE, NV, NM, ND, OH, OK, **TX**, UT, WI, WY, SC, SD, TN |
| Hybrid | Impose requirements, e.g., limits on fees or number of loans, longer term for repayment | 9 | CO, DE, FL, ME, MN, OR, RI, VA, WA |
| Restrictive | Prohibit payday loans or cap fees at such a low rate that eliminates payday lending | 12 | AR, GA, MD, MA, MT, NH, NJ, NY, NC, PA, VT, WV |

Data compiled from [132] and individual state statutes.

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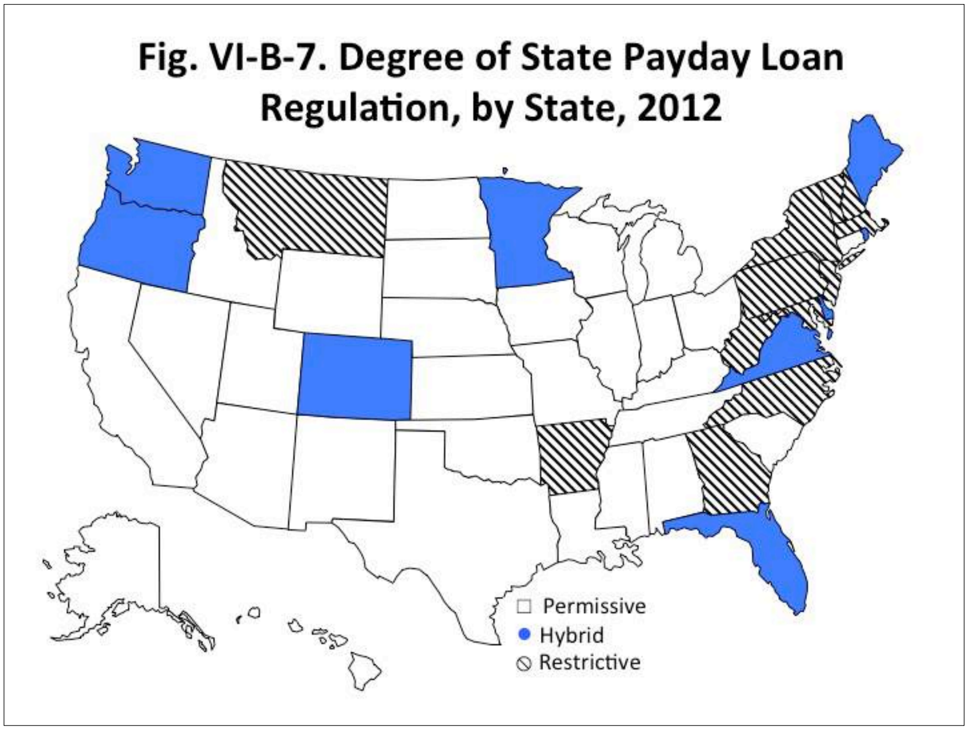
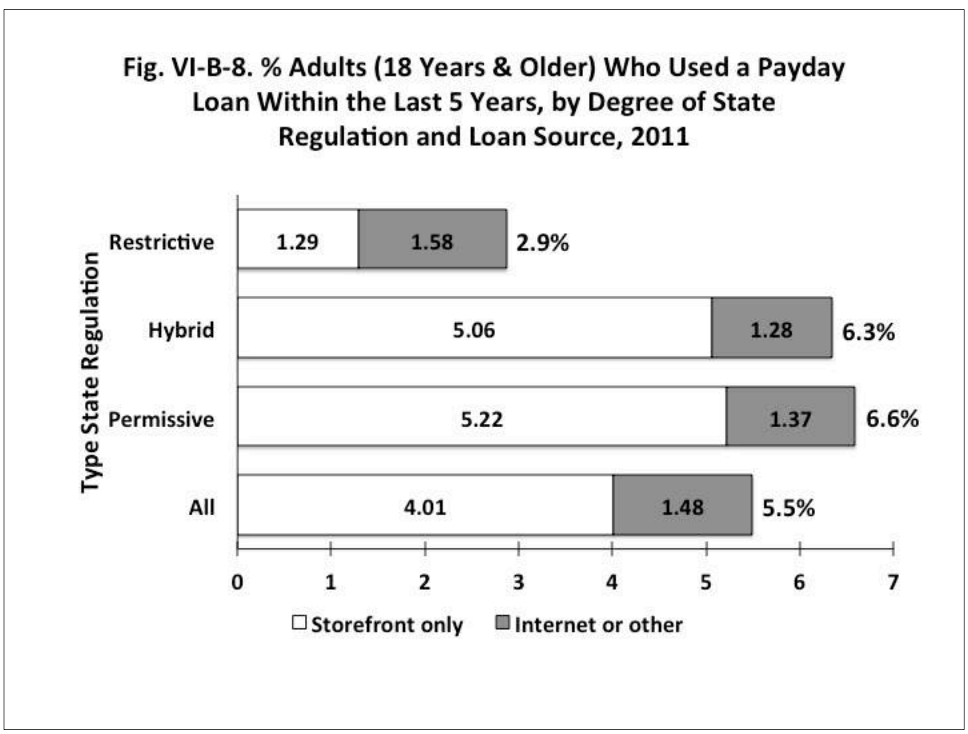



Data for Figure IV-B-7 compiled from [132].

2) The percentage of adults who reported using a payday loan within the last 5 years was lower in states with restrictive regulation of payday lending than in hybrid or permissive states, according to The Pew Safe Small Dollar Loans Project nationally representative telephone survey in Fall 2011 (Restrictive, 2.9%; hybrid, 6.3%; permissive, 6.6%).[34]p.23 **See Figure VI-B-8.**



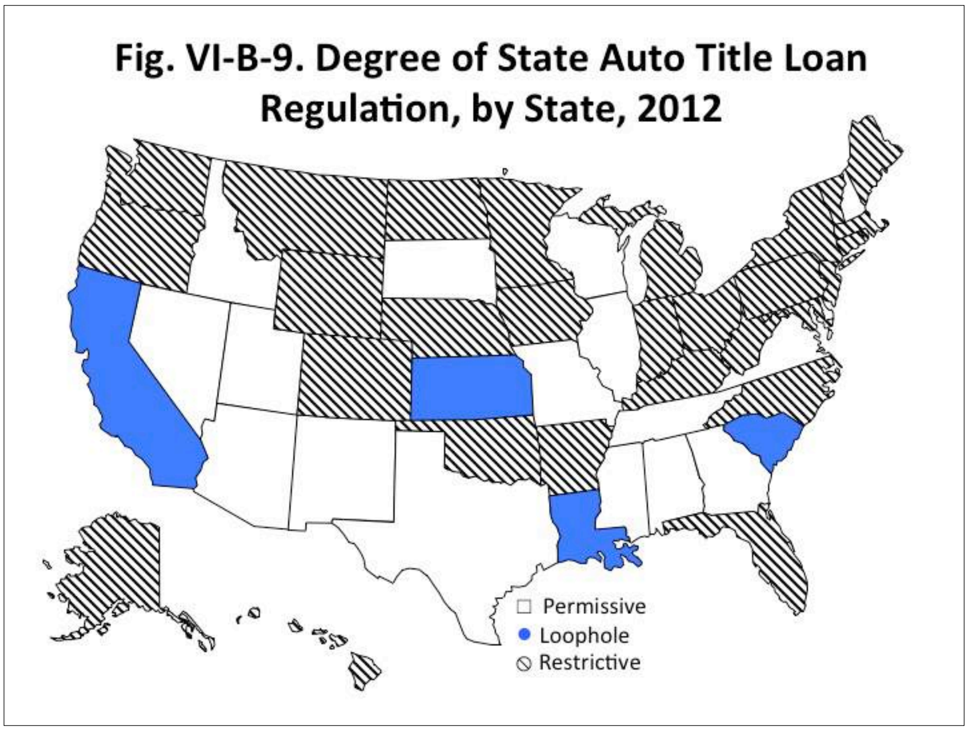

Data from [34]p.23.

3) After controlling for borrower demographic characteristics, the odds for a person using a payday loan in a permissive state are 1.7 times that for a person living in a restrictive state.[34][p. 24]
4) The Consumer Federation of America classified states according to auto title loan regulations into three categories: Permit, loophole, restrict.[133] **See Table VI-B-3 and Figure VI-B-9.**

**Table VI-B-3. Degree of State Auto Title Lending Regulation, by State, 2014**

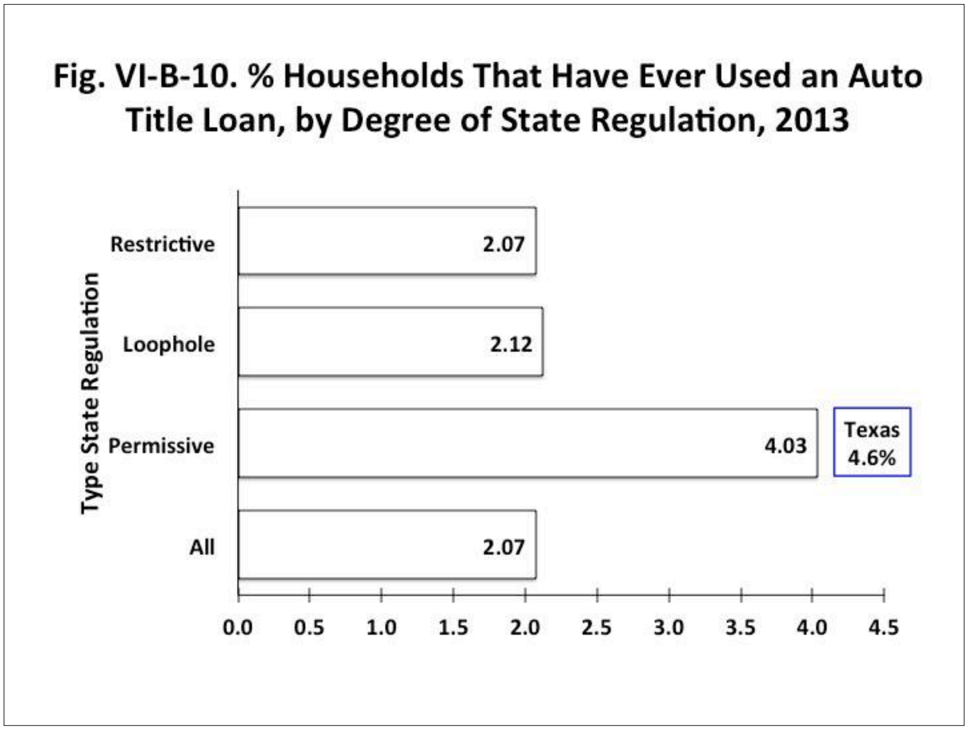
| Degree of State Regulation | | No. States | States |
|---|---|---|---|
| Permit | Allow auto title loans with an annual percentage rate of 200% or higher | 17 | AL, AZ, DE, GA, ID, IL, MS, MO, NV, NH, NM, SD, TN, **TX**, UT, VA, WI |
| Loophole | Lenders exploit loopholes in the law to evade consumer protections for auto title loans | 4 | CA, KS, LA, SC |
| Restrict | Prohibit auto title loans, restrict fees/interest at a low rate, or omit from consumer credit law | 29 | AK, AR, CO, CT, FL, HI, IN, IA, KY, ME, MD, MA, MI, MN, MT, NE, NJ, NY, NC, ND, OH, OK, OR, PA, RI, VT, WA, WV, WY |

Data compiled from [133].




Data compiled from [133].

5) In 2013 the percentage of adults who reported ever having used an auto title loan was twice as high in states with permissive regulation of payday lending than in loophole or restrictive states, using data from the *2013 FDIC National Survey of Unbanked and Underbanked Households* (Permissive, 4.03%; loophole, 2.12%; restrictive, 2.07%).[32] **See Figure VI-B-10 on page 72.**
6) Within permissive states, a higher proportion of adults in states that limit interest/fees to an APR between 200% and 300% than among states with no limits (4.66% vs. 3.62%).[32]




Data for Figure VI-B-10 compiled from [32].

## C. Economics

1. Payday and auto title loan volume

   a. *Summary*. In 2012 Texas accounted for 3% of the payday loan volume in the United States ($1.3 out of $48.7 billion). However, Texas accounted for 27% of the storefront auto title loan volume in the nation ($518.2 million ÷ $1.9 billion).

   b. $51 billion in consumer credit was extended for new payday and auto title loans in the United States during 2012.[52][p. 16],[128][Slide 8]

   c. Texas garnered 4% of the payday and auto title loan market in the U.S. in 2012.

   d. While Texas' share of the national payday loan volume was small (3%) in 2012, it dominated the auto title loan market with a 27% market share. Only one other state exceeded 10% of the nation's total auto title loan volume: Tennessee, 13%.[52][p. 16]

**See Table VI-C-1.**

**Table VI-C-1. Payday and Auto Title New-Loan Volume, by Type, United States and Texas, 2012**

| Type Loan | New-Loan Volume ($ Billion): United States | New-Loan Volume ($ Billion): Texas | Texas Market Share (%) |
|---|---|---|---|
| Payday | 48.7 | 1.3 | 2.7 |
| Auto title | 1.9 | 0.5 | 26.8 |
| Total | 50.6 | 1.8 | 3.6 |

Data compiled from [52][p.16] and [128][Slide 8] for U.S. and [70] for Texas.

   d. The 2012-2013 decline in payday new-loan volume in Texas was slightly higher than in the nation as a whole. While the auto title new-loan volume in Texas increased 13% from 2012 to 2013, we were unable to locate comparable data for the nation as a whole.[52][p. 16], [70, 71], [123][Slide 7], [128][Slide 8] **See Table VI-C-2 on page 73.**

**Table VI-C-2. Change in New-Loan Volume, United States and Texas, 2012-2013**

| Geographic Area | New-Loan Volume ($ Billion) 2012 | New-Loan Volume ($ Billion) 2013 | Change (%) |
|---|---|---|---|
| ***Payday Loans*** | | | |
| United States | 48.7 | 45.9 | −5.7 |
| Texas | 1.3 | 1.2 | −7.7 |
| ***Auto Title Loans*** | | | |
| United States | 1.9 | NA | – |
| Texas | 0.5 | 0.6 | 13.2 |

NA = Not available.
Data compiled from [52][p. 16], [70, 71], [123][Slide 7], and [128][Slide 8].

2. Loan characteristics

   a. The size, fee, term, and APR of Texas single-payment auto title loans differed little from national characteristics in 2012.[52][p. 10], [107] However, the average sized single-payment payday loan in Texas was $468,[107] nearly 20% higher than the national average of $392.[106][p. 17] Texas payday loan consumers paid on average $23 per $100 borrowed.[107] This was 60% higher than the $14 national average.[106][p. 17]

   **See Table VI-C-3.**

**Table VI-C-3. Characteristics of Payday & Auto Title Loans, United States & Texas, 2012**

| Characteristic (Average)* | United States | Texas | Percent Difference |
|---|---|---|---|
| ***2-Week Payday Loan*** | | | |
| Loan amount ($) | 392 | 468 | 19.4 |
| Fee per $100 | 14.40 | 23.23[a] | 61.3 |
| Term (days) | 18.3 | 19 | 3.8 |
| APR (%) | 339 | 604 | 78.2 |
| ***30-Day Auto Title Loan*** | | | |
| Loan amount ($) | 1,042 | 1,003 | −3.7 |
| Fee per $100 | 25 | 23.40[b] | −0.6 |
| Term (days) | 30 | 30 | 0.0 |
| APR (%) | 300 | 281 | −6.3 |

Data compiled from [52][p.10], [106][p. 17], [107].
[a]Includes $0.38 interest. [b]Includes $0.82 interest.

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b. Cost comparison

1) Payday and auto title loans cost more in states with less stringent regulation of fees and interest.

2) It should be noted that the reported national average APR for auto title loans varies widely in the literature because there is no national database. However, the common assumption is 300%.[2][p. 434], [37][p. 48], [134])

**See Table VI-C-3.**

**Table VI-C-3. Cost of a $500 Short-Term Loan, by Type, Maximum Charge, and State, 2015**

| State | Maximum Charge | Cost ($) | APR (%) |
|---|---|---|---|
| ***Single Payment, 2-Week Payday Loan*** | | | |
| Minnesota | 33% APR + $25 | 33.10 | 172 |
| Oklahoma | $300 or less = $15/$100 + $301-$500 = $10/$100 | 65.00 | 338 |
| N. Dakota | 20% of principal + $0.50 | 100.50 | 523 |
| Texas | 10% APR + any fee[a] | 126.92 | 660 |
| ***Single Payment, 30-Day Auto Title Loan*** | | | |
| Florida | 30% APR | 4.93 | 30 |
| Arizona | 15%/month | 75.00 | 180 |
| Alabama | 25%/month | 125.00 | 300 |
| Texas | 10% APR + any fee[b] | 137.63 | 310 |

Data compiled from [1, 21, 135, 136, 137, 138, 139, 140].
[a]$25 fee posted by Ace Cash Express, Check Into Cash, and Check 'n Go.[63, 141, 142]
[b]Fees posted by Check Into Cash, LoanStar Title Loans, and TitleMax ranged from 12% to 30% per month plus 10% APR interest on $533, including the $33 title lien fee.[142, 143, 144]

3. Impact of payday and auto title loans on the national economy

a. *Summary*. In 2012 approximately 14.4 million adults ([5][p. 33], [6][p. 1], [145]) borrowed $50.6 billion in new payday and auto title loans, paying $7.8 billion in fees for new and refinanced loans.[52][p. 9], [53][pp. 26-27], [128][Slide 8] We estimate that while the payday and auto title lending industry added nearly $13.3 billion in value to the United States economy in 2012, ([52][p. 9], [53][pp. 26-27]) the loss of $15.2 billion in consumer household economic activity resulted in a net loss of over $1.8 billion in economic value. In addition, the industry generated an estimated 152,931 jobs in 2012. However, had payday and title loan consumers spent or saved their loan fees, an estimated 192,631 jobs would have been generated. Thus the economic impact of the payday/title loan industry on jobs was an estimated net loss of 39,442 jobs nationally.[51][pp. 2-3]

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b. Consumer credit extended compared to fees charged

1) In 2012 approximately 14.4 million adults ([5]p. 33, [6]p. 1, [145]) borrowed $50.6 billion in new payday and auto title loans, paying $7.8 billion in fees for new and refinanced loans.[52]p. 9, [53]pp. 26-27, [128]Slide 8

   a. $50.6 billion consumer credit extended for new loans [52]p. 9, [128]Slide 8

   b. $7.8 billion in fees paid on all loan contracts (new and refinanced) [52]p. 9, [53]pp. 26-27

   c. Payday and auto title loan consumers paid 15% as much in fees as the amount of credit that had been extended.

2) Payday loans – United States, 2012

   a. $48.7 billion consumer credit extended for new loans [128]Slide 8

   b. $3.5 billion in fees paid on all loan contracts (new and refinanced) [53]pp. 26-27

   Payday loan consumers paid 7% as much in fees as the amount of credit that had been extended.

3) Auto title loans – United States, 2012

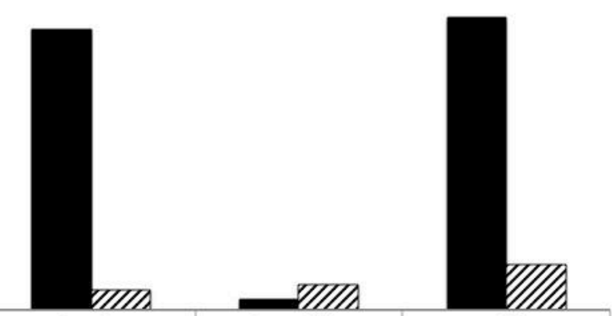
   a. $1.9 billion consumer credit extended for new loans [52]p. 9

   b. $4.3 billion in fees paid on all loan contracts (new and refinanced) [52]p. 9

   Auto title loan consumers paid over twice as much in fees as the amount of credit that had been extended.

**See Figure VI-C-1.**

**Fig. VI-C-1. Dollar Amount of Consumer Credit Extended & Total Fees Charged, Payday & Auto Title Loans, U.S., 2012**



| | Payday | Auto Title | All |
|---|---|---|---|
| Consumer Credit | $48,700,000,000 | $1,932,023,417 | $50,632,023,417 |
| Fees | $3,513,183,887 | $4,300,000,000 | $7,813,183,887 |

Data compiled from [52]p. 9, [53]pp. 26-27, [128]Slide 8.

c. Net impact of payday and auto title lending economic activity

1) Methodology with rationale: See "Net impact of payday and auto title lending on the economy" that begins on page **57**.

2) Value added to the economy

   a) The payday and auto title lending industry added an estimated $13.3 billion in value to the United States economy from the collection of $7.8 billion in fees and interest.

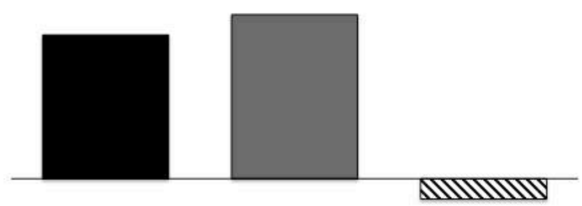
   b) If payday and auto title loan consumers had spent or saved the $7.8 billion that was diverted to fees and interest, they would have generated $15.2 billion in consumer household economic activity.

   c) The resulting economic impact is an estimated net loss of $1.9 billion in economic value to the United States economy in 2012.

**See Figure VI-C-2 and Table VI-C-4 on page 78.**

**Fig. VI-C-2. Estimated Impact of Payday & Title Lending Activity on Value Added to Economy, United States, 2012**

**Economic Activity Created/Lost from $7.8 Billion in Fees Collected by/Paid to Lending Industry**



| | Lending Industry Contribution | Consumer Household Lost Contribution | Net Value Added/ Lost to Economy |
|---|---|---|---|
| Value added to economy | $13,282,412,608 | $15,157,576,741 | -$1,875,164,133 |

See [51]pp. 2-3 for methodology used to calculate net value added from estimated payday and auto title fees displayed in Figure VI-C-2.

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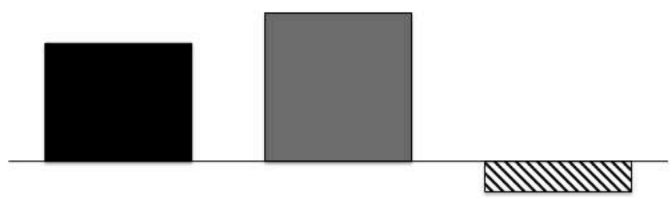
3) Number jobs gained
   a) In 2012 the payday and auto title lending industry generated an estimated 153,189 jobs in the United States from the collection of $7.8 billion in fees and interest.
   b) If payday and auto title loan consumers had spent the $7.8 billion diverted to fees and interest, they would have generated an estimated 192,163 jobs.
   c) The resulting economic impact is an estimated net loss of 39,442 jobs across the nation in 2012.

**See Figure VI-C-3 and Table VI-C-4 on page 78.**

**Fig. VI-C-3. Estimated Impact of Payday & Title Lending Activity on Jobs, United States, 2012**

**Economic Activity Created/Lost from $7.8 Billion in Fees Collected by/Paid to Lending Industry**



| | Lending Industry Contribution | Consumer Household Lost Contribution | Net Jobs Added/Lost to Economy |
|---|---|---|---|
| No. jobs gained | 153,189 | 192,631 | -39,442 |

See [51][pp. 2-3] for methodology used to calculate net value added from estimated payday and auto title fees displayed in Figure VI-C-3.

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## Table VI-C-4. Estimated Net Economic Impact of the Payday and Auto Title Lending Industry, United States, 2012

***<u>Scenario 1.</u> Economic Activity Created by Payday and Auto Title Lenders from $7.8 Billion in Fees Collected from Consumers***

| | **Direct Impact**<br>Employee compensation, taxes, owner income, profit | **Indirect Impact**<br>Purchasing done by credit access businesses and lenders | **Induced Impact**<br>Spending by employees of credit access businesses and lenders | **Total Impact** |
|---|---|---|---|---|
| Estimated payday/auto title loan consumer fees 2012 ($) | 7,813,183,887 | 7,813,183,887 | 7,813,183,887 | 7,813,183,887 |
| Estimated payday/auto title loan consumer fees 2012 ($) | 7,813,183,887 | 7,813,183,887 | 7,813,183,887 | 7,813,183,887 |
| Value added multipliers | 0.59 | 0.38 | 0.73 | 1.70 |
| Value added to economy ($) | 4,609,778,493 | 2,969,009,877 | 5,703,624,238 | 13,282,412,608 |
| Jobs gained divisor ($) | 86,706 | 86,706 | 86,706 | 86,706 |
| Number jobs gained | 53,166 | 34,242 | 65,781 | 153,189 |

***<u>Scenario 2.</u> Economic Activity Consumer Households Would Have Generated Had They Not Paid $7.8 Billion in Payday and Auto Tile Loan Fees***

| | **Direct Impact**<br>Household income | **Indirect Impact**<br>None–not a business | **Induced Impact**<br>Household spending | **Total Impact** |
|---|---|---|---|---|
| Estimated payday/auto title loan consumer fees 2012 ($) | 7,813,183,887 | 7,813,183,887 | 7,813,183,887 | 7,813,183,887 |
| Value added multipliers | 1.00 | 0.00 | 0.94 | 1.94 |
| Value added to economy ($) | 7,813,183,887 | 0 | 7,344,392,854 | 15,157,576,741 |
| Jobs gained divisor ($) | 78,687 | 78,687 | 78,687 | 78,687 |
| Number jobs gained | 99,294 | 0 | 93,337 | 192,631 |

***Net Impact on Economic Activity of Payday and Auto Title Lending (Scenario 1 – Scenario 2)***

| | **Direct Impact** | **Indirect Impact** | **Induced Impact** | **Total Impact** |
|---|---|---|---|---|
| Net value added/subtracted to/from the economy | (3,203,405,394) | 2,969,009,877 | (1,640,768,616) | (1,875,164,133) |
| Net jobs gained or lost | (46,129) | 34,242 | (27,556) | (39,442) |

Estimated fees compiled from [52][p. 9], [53][pp. 26-27], [128][Slide 8]. Methodology to assess net economic impact published by Lohrentz.[51][pp. 2-3].

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# VII. Regulation of the Payday and Auto Title Loan Industry

## A. Texas Law

1. *Summary*. Payday and auto title loans are governed primarily by (a) TEXAS FINANCE CODE TITLE 4 REGULATION OF INTEREST, LOANS, AND FINANCED TRANSACTIONS and (b) TITLE 5 PROTECTION OF CONSUMERS OF FINANCIAL SERVICES. In addition the Texas Office of Consumer Credit Commissioner issues rules to implement the laws in TEXAS ADMINISTRATIVE CODE TITLE 7 BANKING AND SECURITIES, PART 5, CHAPTER 83. A payday or auto title loan establishment is a credit access business that operates as a consumer services organization.

   ***Interest and fees****.* 4 TEX. FIN. CODE § 342 [21] and 5 TEX. FIN. CODE § 393 [8] govern interest and fees on consumer loans in Texas. The third-party lender interest rate is limited to no more than 10% a year by § 342.004, while limits to fees on a *cash advance* are prescribed by §§ 342.251-259*.* However under §§ 393.601-602, a payday or auto title loan company that arranges for loans with a third-party lender is defined as a *credit access business* and may operate as a *credit services organization*.[1] According to § 393.602(b) of this law, "A credit access business may assess fees for its services as agreed to between parties" as long as disclosed to the borrower. Consequently payday and auto title loan businesses are not subject to the fee limits on cash advances. If the limits to a cash advance were enforced on payday and auto title loans, the fee for a $500 2-week payday loan would be $60 rather than the $125 that is commonly charged by payday lenders in Texas.[20]

   ***Disclosure***. 5 TEX. FIN. CODE §§ 393.221-223 requires credit access businesses to provide consumers with a disclosure statement and post it at the business site and on its website. It must include a schedule of fees, interest, and APR. The disclosure must compare these rates to alternative forms of consumer debt, include information on accumulated fees to be incurred from refinancing the loan, and state the typical pattern of loan repayment.[3, 11]

2. Definitions according to Texas law

   a. Consumer lending

      1) *Consumer.* "An individual who is solicited to purchase or who purchases the services of a credit services organization" (5 TEX. FIN. CODE § 393.001[1]).[8]

      2) *Extension of consumer credit*. "The right to defer payment of debt offered or granted primarily for personal, family, or household purposes or to incur the debt and defer its payment" (5 TEX. FIN. CODE § 393.001[4]).[8]

   a. The loans

      1) *Auto title loan*. "A loan in which an unencumbered motor vehicle is given as security for the loan" (5 TEX. FIN. CODE § 393.601[5]).[1]

      2) *Payday loan.* "'Deferred presentment transaction'…The term is also referred to as a payday loan" (5 TEX. FIN. CODE § 393.221[2])[8]

      3) *Deferred presentment transaction.*

         > A transaction in which: (A) a cash advance in whole or part is made in exchange for a personal check or authorization to debit a deposit account; (B) the amount of the check or authorized debit equals the amount of the advance plus a fee; and (C) the person making the advance agrees that the check will not be cashed or deposited or the authorized debit will not be made until a designated future date (4 Tex. Fin. Code § 341.001[6]).[4]

4) *Cash advance.* "The total of the amount of cash or its equivalent that the borrower receives and the amount that is paid at the borrower's direction or request, on the borrower's behalf, or for the borrower's benefit" (4 TEX. FIN. CODE § 341.001[3]).[4]

b. Lending organizations

1) *Credit access business*. "A credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan" (5 Tex. Fin. Code § 393.601[2]).[1]

2) *Consumer services organization.*

> A person who provides, or represents that the person can or will provide, for the payment of valuable consideration any of the following services with respect to the extension of consumer credit by others: (A) improving a consumer's credit history or rating; (B) obtaining an extension of consumer credit for a consumer; or (C) providing advice or assistance to a consumer with regard to Paragraph (A) or (B) (5 TEX. FIN. CODE § 393.001[3]).[8]

3. 4 TEXAS FINANCE CODE § 302 INTEREST RATES

> The maximum rate or amount of interest is 10 percent a year except as otherwise provided by law. A greater rate of interest than 10 percent a year is usurious unless otherwise provided by law. All contracts for usurious interest are contrary to public policy and subject to the appropriate penalty prescribed by Chapter 305. (4 TEX. FIN. CODE 302.001[b])[146]

4. 4 TEXAS FINANCE CODE § 342 CONSUMER LOANS [21]

a. 4 TEX. FIN. CODE § 342.007 DEFERRED PRESENTMENT TRANSACTION

1) Enacted by the 77th Texas Legislature in 2001.

2) Authorized that "The finance commission shall adopt rules providing for the regulation of deferred presentment transactions" (§ 342.007).[21]

b. 4 TEX. FIN. CODE § 342.251-259 SUBCHAPTER F. ALTERNATE CHARGES FOR CERTAIN LOANS

1) Provides that "An acquisition charge under this subchapter is not interest" (§ 342.252[c]).[21]

2) Mandates maximum acquisition charges on cash advances for payday loans.[147]

a) Rules to implement 4 TEX. FIN. CODE §§ 342.251-259 are outlined in 7 TEX. ADMIN. CODE § 83.604 PAYDAY LOANS; DEFERRED PRESENTMENT TRANSACTIONS.[20]

b) A chart embedded in § 83.604(c) provides maximum authorized rates for acquisition charges payday loans.[148] For example:

i) 309.47% APR for a 14-day loan

ii) 170.33% APR for a 30-day loan

c) If the maximum authorized rates for acquisition charges on payday loans were enforced, the maximum acquisition charge would be:

i) $59.35 for a 2-week $500 payday loan rather than ~$125

ii) $69.95 for a 30-day $500 auto title loan rather than ~$125

3) The provisions of this law are not enforced because provisions in 5 TEX. FIN. CODE § 393 authorize payday and auto title loan lenders to operate as credit services organizations (§ 393.601) and charge any fee agreed upon with the borrower (§ 393.602[b]).[1]

5. 5 TEXAS FINANCE CODE § 393 CREDIT SERVICES ORGANIZATIONS [8]

   a. 5 TEX. FIN. CODE § 393 was enacted by Acts of the 75th Texas Legislature in 1997 to reign in abusive activities of credit repair companies. The Chapter deals with consumer loans as opposed to banks, credit unions, nonprofit organizations, or mortgage loans (§ 393.002).

   b. In 2011 the 82nd Texas Legislature amended 5 TEX. FIN. CODE § 393 with provisions that authorized payday and auto title loan establishments to operate as credit services organizations (§ 393.601).[1]

      1) 82(R) H.B. 2592 An Act Relating to Notice and Disclosure Requirements for Certain Credit Services Organizations Regarding Charges and Consumer Borrowing; Providing an Administrative Penalty. Effective 2012 Jan 1. [149]

         The Act added SUBCHAPTER C-1 NOTICE AND DISCLOSURE REQUIREMENTS FOR CERTAIN CREDIT SERVICES ORGANIZATIONS (§§ 393.221-224).

         a) Defined a credit access business as a credit services organization and brought payday and auto title loans under 5 TEX. FIN. CODE § 393 (§ 393.221)

         b) Provided specific requirements for posting a schedule of fees at the business location and Internet website (§ 393.222)

         c) Required specific information about the loan be disclosed to consumers prior to the loan transaction (§ 393.223)

         d) Directed the Finance Commission of Texas to adopt rules to implement §§ 393.221-223 (§§ 393.221-223)

         e) Authorized the consumer credit commissioner to assess penalties for violation of the subchapter or its related administrative rules (§ 393.224)

      2) 82(R) H.B. 2594 An Act Relating to the Licensing and Regulation of Certain Credit Services Organizations and the Regulation of Certain Extensions of Consumer Credit Obtained by Those Organizations or With Regard to Which the Organizations Provide Assistance; Providing an Administrative Penalty. Took effect January 1, 2012.[150]

         a) The Act added SUBCHAPTER G LICENSING AND REGULATION OF CERTAIN CREDIT SERVICES ORGANIZATIONS (§§ 393.601-628).

            i) Added § 393.601 DEFINITIONS that included credit access business, deferred presentment transactions, and motor vehicle title loan (see definitions on page **79**).

            ii) Provided that there be no limitations to charges by a credit access business for its services (§ 393.602[b])

            iii) Prohibited the Finance Commission of Texas and the Texas Office of Consumer Credit Commissioner from "establish[ing] a limit on the fees charged by a credit access business" (§ 393.622[c])

            iv) Required licensing of each location at which a credit services organization operates a credit access business (§ 393.603)

            v) Required quarterly reporting by credit access businesses and outlined the information to be reported (§ 393.627)

         b) The Act authorized the Texas Office of Consumer Credit Commissioner to enforce § 393 with respect to credit access businesses (2 TEX. FIN. CODE § 14.101)

   c. Fees: No limit on fees

      Two provisions in 5 TEX. FIN. CODE § 393 enacted in 2011 provided that there be no limitations to charges by a credit access business for its services [8]:

1) 5 TEX. FIN. CODE § 393.602(b):

> A credit access business may assess fees for its services as agreed to between the parties. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.[1]

2) 5 TEX. FIN. CODE § 393.622(c):

> Nothing in Section 393.201(c) or Sections 393.601-393.628 grants authority to the finance commission or the Office of Consumer Credit Commissioner to establish a limit on the fees charged by a credit access business.[1]

d. Disclosure and posting of loan information

5 TEX. FIN. CODE §§ 393.221-224 SUBCHAPTER C-1 NOTICE AND DISCLOSURE REQUIREMENTS FOR CERTAIN CREDIT SERVICES ORGANIZATIONS [3]

1) Posting of fee schedule and notice

> A credit access business shall post, in a conspicuous location in an area of the business accessible to consumers and on any Internet website, including a social media site, maintained by the credit access business: (1) a schedule of all fees to be charged for services performed by the credit access business in connection with deferred presentment transactions and motor vehicle title loans, as applicable; (2) a notice of the name and address of the Office of Consumer Credit Commissioner and the telephone number of the office's consumer helpline; and (3) a notice that reads as follows: "An advance of money obtained through a payday loan or auto title loan is not intended to meet long-term financial needs. A payday loan or auto title loan should only be used to meet immediate short-term cash needs. Refinancing the loan rather than paying the debt in full when due will require the payment of additional charges" (5 Tex. Fin. Code § 393.222[a]).[3]

2) Disclosure to consumer of transaction information

> Before performing services described by Section 393.221(1), a credit access business must provide to a consumer a disclosure adopted by rule of the Finance Commission of Texas that discloses the following in a form prescribed by the commission: (1) the interest, fees, and annual percentage rates, as applicable, to be charged on a deferred presentment transaction or on a motor vehicle title loan, as applicable, in comparison to interest, fees, and annual percentage rates to be charged on other alternative forms of consumer debt; (2) the amount of accumulated fees a consumer would incur by renewing or refinancing a deferred presentment transaction or motor vehicle title loan that remains outstanding for a period of two weeks, one month, two months, and three months; and (3) information regarding the typical pattern of repayment of deferred presentment transactions and motor vehicle title loans.[3] (5 TEX. FIN. CODE § 393.223[a])
>
> If a credit access business obtains or assists a consumer in obtaining a motor vehicle title loan, the credit access business shall provide to the consumer a notice warning the consumer that in the event of default the consumer may be required to surrender possession of the motor vehicle to the lender or other person to satisfy the consumer's outstanding obligations under the loan.[3]
>
> (5 TEX. FIN. CODE § 393.223[b])

3) 7 TEX. ADMIN. CODE §§ 83.6001-6008 delineates the rules adopted by the Finance Commission of Texas to implement posting and disclosure of fees and interest.[11]

e. Registration, licensure, bonding, and reporting (5 TEX. FIN. CODE § 393) [8]

Credit services organizations are required to:

1) Register with the Secretary of State and renew the registration certificate annually (§§ 393.101-103)
2) Obtain a license from the Office of Consumer Credit Commissioner for each credit access business license and renew the license annually (§§ 393.601-623)
3) Obtain a $10,000 surety bond from an authorized surety company in Texas and file a copy with the secretary of state (§§ 393.401-407)
4) Submit quarterly reports to the Office of Consumer Credit Commissioner on a form prescribed by the commissioner that provides specific, itemized information relating to extensions of consumer credit (§393.627)

f. Contract for services (5 TEX. FIN. CODE §§ 393.201-204) [8]

A written, signed by and a copy provided to the consumer, must provide:

1) Details of the contract
2) Provisions that the consumer may cancel the contract within 3 days and prepay the loan without penalty
3) Statements of compliance with 5 TEX. FIN. CODE § 392 (related to prohibited methods of debt collection),[151] the federal Fair Debt Collection Practices Act,[152] and the Military Lending Act[153]

g. Prohibitions and restrictions on a credit services organization and its representatives include (5 TEX. FIN. CODE §§ 393.301-307) [8]:

1) False or misleading representations by the CSO and its consumers
2) Fraudulent or deceptive conduct
3) Advertising without being registered with the secretary of state
4) Attempting to cause a consumer to waive rights

h. Criminal penalties and civil remedies outlined include (5 TEX. FIN. CODE §§ 393.501-501 [8]):

1) Violation of 5 TEX. FIN. Code § 393 is a:
   a) Class B misdemeanor
   b) Deceptive trade practice
2) A consumer injured by such a violation may be awarded actual damages, attorney's fees, court costs, and punitive damages.
3) Inspection of lending agencies for compliance
   a) 46.5% of the 89 Texas Office of Consumer Credit Commissioner employees is financial examiners who perform on-site examinations of licensed entities.[154][p. 5]
   b) $8.1 million was approved to address compliance concerns in the 2014 budget for the Texas Office of Consumer Credit Commissioner.[154][pp. 4-5]
4) Consumer complaint resolution process related to payday and auto title loans
   a) Submit a Consumer Complaint Form to the Consumer Assistance Department of the Texas Office of Consumer Credit Commissioner.[155]

> Complaints are processed in the following manner: The complaint is assigned to a member of our Consumer Assistance Staff who determines if the complaint is within our jurisdiction. We will attempt to resolve your complaint in the most expedient manner, either over the telephone or through written correspondence, with the business entity in question. If, at any time, we need more information, we will contact you. If you need to provide us with additional information, please do so in writing. If we are unable to address the complaint by telephone or mail, it may be

assigned to a field examiner for investigation and resolution. In any event, we will notify you. We will keep your complaint on file so that we can monitor business practices in the marketplace.[155][¶7]

b) Submit a complaint to the Consumer Finance Protection Bureau.[156]

i) When the consumer files a complaint, the CFPB sends the complaint to the vendor, and they try to resolve the issue.

ii) If the vendor does not comply, the vendor remains as a complaint in a public nationwide database.

6. 7 TEXAS ADMINISTRATIVE CODE § 83 REGULATED LENDERS AND CREDIT ACCESS BUSINESSES

a. Fees

7 TEX. ADMIN. CODE §§ 83.601-606 ALTERNATE CHARGES FOR CONSUMER LOANS

1) 7 TEX. ADMIN. CODE § 83.604 PAYDAY LOANS; DEFERRED PRESENTMENT TRANSACTIONS outlines rules to implement 4 TEX. FIN. CODE §§ 342.251-259.[20]

2) A chart embedded in § 83.604(c) provides maximum authorized rates for acquisition charges payday loans.[148] For example:

a) 309.47% APR for a 14-day loan

b) 170.33% APR for a 30-day loan

3) If the maximum authorized rates for acquisition charges on payday loans were enforced, the maximum acquisition charge would be:

a) $59.35 for a 2-week $500 payday loan rather than ~$125

b) $69.95 for a 30-day $500 auto title loan rather than ~$125

**See Table VII-A-1.**

4) The maximum authorized rates for acquisition charges on payday loans are not enforced because two provisions in 5 TEX. FIN. CODE § 393 enacted by the Texas Legislature in 2011 provided that there be no limitations to charges by a credit access business for its services.[8]

a) 5 TEX. FIN. CODE § 393.602(b):

> A credit access business may assess fees for its services as agreed to between the parties. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.[1]

b) 5 TEX. FIN. CODE § 393.622(c):

> Nothing in Section 393.201(c) or Sections 393.601-393.628 grants authority to the finance commission or the Office of Consumer Credit Commissioner to establish a limit on the fees charged by a credit access business.[1]

Table VII-A-1. Cost of a $500 Single Payment, Payday & Auto Title Loan, by Type Loan, Type Charge, & Allowable Charges by Texas Statute, 2015

| | Allowable Charges by Texas Statute | |
|---|---|---|
| Type of Charge | Credit Services Organizations* | Consumer Loans** |
| *Single Payment, 2-Week Payday Loan* | | |
| Principal | $ 500.00 | $ 500.00 |
| Acquisition fee | $ 125.00 | $ 59.35 |
| Lender interest (10% APR) | $ 1.92 | $ 1.92 |
| Total charges | $ 126.92 | $ 61.27 |
| APR | 660% | 319% |
| *Single Payment, 30-Day Auto Title Loan* | | |
| Principal | $ 533.00 | $ 533.00 |
| Acquisition fee | $ 133.25 | $ 69.95 |
| Lender interest (10% APR) | $ 4.38 | $ 4.38 |
| Total charges | $ 137.63 | $ 74.33 |
| APR | 310% | 167% |

*5 TEX. FIN. CODE § 393.601-602. **4 TEX. FIN. CODE § 342.251-259.

b. Underwriting requirement

1) 7 TEX. ADMIN. CODE § 83.852 LOAN SIZE, DURATION, AND SCHEDULE OF INSTALLMENTS: LIMITATION [157]

> When making or negotiating a loan under Texas Finance Code, Chapter 342, licensees must consider, in determining the size, duration, and schedule of installments of a loan, the financial ability of the borrower to repay the loan. The lender should evaluate whether the borrower should be reasonably able to repay the loan in cash in the time and means provided in the loan contract and repay all other known obligations concurrently. [157]

2) The underwriting requirement is not enforced because credit access businesses issue payday and auto title loans under 5 TEX. FIN. CODE § 393 rather than 4 TEX. FIN. CODE § 342.

c. Disclosure

7 TEX. ADMIN. CODE §§ 83.6001-6008 CONSUMER DISCLOSURES AND NOTICES [11]

1) These rules prescribe the specific form and content of the disclosures mandated under 5 TEX. FIN. CODE §§ 393.221-223 SUBCHAPTER C-1 NOTICE AND DISCLOSURE REQUIREMENTS FOR CERTAIN CREDIT SERVICES ORGANIZATIONS.[3]

2) Credit access businesses must develop disclosure forms in the format prescribed by Figures 7 TAC § 83.6007(a) - (d).[158]

> Required information: For three to five examples of the most common loans transacted by a credit access business, the business must post the following under Texas Finance Code, §393.222(a)(1): (1) standard fee rate; (2) annual percentage rate (APR); (3) any additional fees charged at the inception of the loan; (4) standard loan term; and (5) any late fees or nonsufficient funds fees, if charged.[11] (§ 83.6004[a])

3) The disclosure forms must be posted conspicuously at the business site and on the Internet.[11] (§ 83.6004)

4) A disclosure form with the required information for the product and amount that most closely relates to the consumer's loan request must be provided to the consumer before a credit application is provided.[11] (§ 83.6007[e])

5) On the Internet, the required disclosure must be presented immediately upon arrival at the website. [11] (§ 83.6007[f])

## B. Local Ordinances in Texas

1. *Summary*. Texas cities are prohibited from setting interest rates and overriding state and federal laws. For this reason, 35 cities in Texas have regulated payday and auto title businesses through business and/or land use ordinances as of May 2015. Business ordinances have been enacted by 21 cities, land use ordinances by 11 cities, and both business and land ordinances by 3 cities.[27]

   Most of the local business ordinances resemble a model ordinance developed by the Texas Municipal League.[159] The model ordinance limits (a) a payday loan to 20% of the consumer's gross monthly income, (b) an auto title loan to the lesser of 3% of the consumer's gross annual income or 70% of the retail value of the vehicle, (c) installment loans to 4 payments, each used to repay at least 25% of the principal with no refinancing, and (d) refinancing of a lump sum loan to 3 times, with each used to repay at least 25% of the principal. Of the eight legal challenges to local ordinances in Texas, all have been dismissed.[160, 162, 163, 164, 165, 166, 167, 168]

2. Rational for local ordinances

   Cities use their power to license businesses as a means to regulate payday and auto title businesses because they are prohibited from (a) setting interest rates and (b) overriding state and federal laws.

3. 35 cities in Texas had ordinances that regulated credit access businesses as of May 2015 [27]

   a. 21 cities enacted business regulations only:

      Austin, Amarillo, Angleton, Balcones Heights, Baytown, Bellaire, College Station, Dallas, Denton, Dickinson, El Paso, Flower Mound, Galveston, Houston, Midland, San Antonio, Sequin, Somerset, South Houston, Universal City, West University Place

   b. 11 cities enacted land use regulations only:

      Belton, Corinth, Farmers Branch, Irving, Little Elm, Mesquite, Missouri City, Richardson, Sachse, Saginaw, Watauga

   c. 3 cities enacted both business and land use regulations:

      Bryan, Brownsville, Garland

   d. In addition, 2 cities passed a resolution requesting that the Texas Legislature maintain municipal authority:

      Lubbock, Somerset

4. Model ordinance

   a. Developed by Texas Municipal League developed for adoption by cities
   b. Rationale: If cities adopt uniform ordinances, credit access businesses "will not be able to use the argument that city ordinances vary from city-to-city if they seek preemption legislation in 2015."[159]
   c. Key features of the model ordinance [27]
      1) A credit access business must apply for and receive a certificate of registration from the city.
      2) A credit access business must maintain complete records of all loans made by the business for at least 3 years and make the records available to the city for inspection upon request.
      3) The amount of a payday loan may not exceed 20% of the consumer's gross monthly income.
      4) The amount of an auto title loan may not exceed the lesser of 3% of the consumer's gross annual income or 70% of the retail value of the motor vehicle.
      5) Any loan from a credit access business that provides for repayment in installments may not be payable in more than four installments, and the proceeds from each installment must be used to repay at least 25% of the principal amount of the loan. No renewals or refinancing of installment-payment loans are permitted.
      6) Any loan from a credit access business that provides for a single lump sum repayment may not be refinanced or renewed more than 3 times, and the proceeds from each refinancing or renewal must be used to repay at least 25% of the principal amount of the loan.
      7) Any loan made to a consumer within 7 days of a previous loan has been paid by the consumer constitutes a refinancing or renewal.

5. Legal challenges to local ordinances

Of the eight legal challenges to local ordinances in Texas, all have been dismissed. [160, 162, 163, 164, 165, 166, 167, 168]

a. Austin

1) Consumer Service Alliance of Texas, Inc. and TitleMax of Texas, Inc. v. City of Austin, Texas [164]

Travis County 250th District Court, Cause No. D-1-GN-11-003142

Case closed (Travis County District Clerk's Office, personal communication, July 14, 2015)

2) TitleMax of Texas, Inc. v. City of Austin, Texas [165]

Travis County 98th District Court, Cause No. D-12-GN-001780

Case closed (Travis County District Clerk's Office, personal communication, July 14, 2015)

b. Dallas

Consumer Service Alliance of Texas, Inc., TitleMax of Texas, Inc., and Ace Cash Express, Inc., v. City of Dallas, Texas [162]

Dallas County 14th Judicial Court of Trial Court Cause No. 11-08739-A

Dismissed

Texas 5th Court of Appeals in Dallas, No. 05-13-00255-CV

Affirmed trial court's dismissal order May 23, 2014

c. Denton

1) ACE Cash Express, Inc. v. The City of Denton Texas [163]

Denton County 16th District Court, Cause No. 2013-1-564-16

Case dismissed April 17, 2014

2nd Court of Appeals, Forth Worth, TX, Cause No. 02-14-00146-CV

Affirmed trial court's dismissal order June 4, 2015

2) Consumer Service Alliance of Texas, Inc. v. City of Denton, Texas

Denton County 393rd District Court, Cause No. 2013-60479-393

Dismissed April 1, 2014

d. El Paso

Carl Starr v. City of El Paso [167]

El Paso County 34th District Court, Cause No. 2013-DCV-0072

Dismissed at request of plaintiff, June 26, 2013

e. San Antonio

1) Consumer Service Alliance of Texas, Inc. v. City of San Antonio, Texas [168]

Bexar County 285th District Court, No. 2012-CI-20520

Dismissed March 17, 2015

2) Cash Station, Ltd. v. City of San Antonio, Texas [166]

Bexar County 285th District Court, No. 2012-CI-20678

Dismissed

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## C. Federal Law

1. Summary

   A number of federal laws protect consumer borrowing. Among them are Dodd-Frank Wall Street Reform and Consumer Protection Act,[169] Electronic Funds Transfer Act,[170] Equal Credit Opportunity Act,[171] Fair Credit Reporting Act,[172] Fair Debt Collection Practices Act,[152] Federal Trade Commission Act,[173] Gramm-Leach Bliley Act,[174] and Truth in Lending Act.[175] A discussion of applicable federal law and regulations is found in *Reshaping the Future of Small-Dollar Lending in Texas,* Appendix A, a 2012 publication by Texas Appleseed.[176] pp. 82-90

2. The Military Lending Act

   a. *Summary*. The Military Lending Act (MLA) [177] protects military personnel and their families against predatory lending through U.S. Department of Defense regulations. As amended July 2015,[178] consumer loans under MLA protection include "all forms of payday loans, vehicle title loans, refund anticipation loans, deposit advance loans, installment loans, unsecured open-end lines of credit, and credit cards."[179] ¶4 Key regulations cap APR at 36% (including interest, fees, credit insurance premiums, and ancillary charges), (b) prohibit securing a loan with a personal check, debit authorization, wage allotment, or vehicle title; (c) prohibit rollovers, same-creditor refinances, renewals, and consolidations; and (d) outline disclosure requirements, legal rights, and violations.[180] The amended rule is effective October 1, 2015, and has staggered compliance dates.[179]

   b. Historical background [181]

      1) 2005−National Defense Authorization Act for FY 2006 directed the Department of Defense to study the impact of predatory lending on their troops[182]
      2) 2006, August−The Department of Defense study found that:
         a) Predatory lenders target military personnel through widespread proximity to military installations and marketing to the characteristics and interests of the troops[181]
         b) Military personnel are 3 to 4 times more likely than civilians to have taken out a payday loan[177] with estimates ranging from 13% to 19% of service members using payday loans.[181] pp. 21-22
      3) 2006, September−The Military Lending Act passed Congress as H.R. 5122 § 670 of the John Warner National Defense Authorization Act for FY 2007 and was signed by President George W. Bush.[180]
      4) 2015, July−The U.S. Department of Defense amended the regulations that implements the Military Lending Act (MLA) [178] in order to "extend the protections of the MLA to a broader range of closed-end and open-end credit products"[183] and "close harmful loopholes" that had allowed payday lenders to provide products outside the "narrowly defined loans covered by the Act's protection."[184] ¶¶1, 6
      5) Staggered dates for compliance with the amended MLA:
         a) Amended rule effective October 1, 2015 (80 Fed. Reg. 43559 § 232.12) [178]
         b) "A creditor must comply with the requirements of the rule with respect to a consumer credit transaction or account for consumer credit consummated or established on or after October 3, 2016" (80 Fed. Reg. 43559 § 232.13).[178] ¶2

c) 1-year exemption for a credit card account [178]¶5:

> Until October 3, 2017 (or potentially a longer period of time [October 3, 2018]), the requirements relating to the computation of the [Military Annual Percentage Rate (MAPR)] for a credit card account, as set forth in § 232.4, would not apply. When the exemption expires, the conditional exemption for any "bona fide" fee charged to a credit card account, as set forth in § 232.4(d) would apply.

c. Military Lending Act applies to:

1) Active duty military, National Guard, and Reserve personnel and their dependents
2) "All forms of payday loans, vehicle title loans, refund anticipation loans, deposit advance loans, installment loans, unsecured open-end lines of credit, and credit cards."[179]¶4
3) Loans not covered by the MLA include: "Loans secured by real estate or a purchase-money loan, including a loan to finance the purchase of a vehicle."[179]¶7

d. Provisions of Military Lending Act [177, 178, 179, 185]

1) Caps the Military Annual Percentage Rate (MAPR) for consumer credit to covered borrowers at 36% inclusive of all fees and charges, credit insurance premiums, and any other ancillary charges
2) Requires written and oral disclosure of interest rates and payment obligations before the loan is issued (80 Fed. Reg. 43559 § 232.6) [178]:
   a) Written disclosure must be in a form that the consumer may keep.
   b) Oral disclosure may be delivered either in person or by providing a toll-free telephone number to the borrower.
   c) Required content:
      i) A statement of applicable MAPR. A statement substantially similar to the following may be used to comply (80 Fed. Reg. 43559 § 232.6[c][1]) [178]:

      > Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: the costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account).

      ii) Any disclosure required by Regulation Z (12 C.F.R. §§ 226.1-226.59) [186]
      iii) A clearly stated (a) payment schedule for closed-end credit or (b) account-opening disclosure for open-end credit

3) Prohibits "creditors from requiring service members to" [179][¶6]:

   a) Submit to mandatory arbitration and onerous legal notice requirements;
   b) Waive their rights under the service members' Civil Relief Act;
   c) Provide a payroll allotment as a condition of obtaining credit (other than from relief societies);
   d) Be able to refinance a payday loan;
   e) Or be able to secure credit using a post-dated check, access to a bank account (other than at an interest rate of less than 36 percent MAPR), or a car title (other than with a bank, savings association or credit union).

4) Prohibits rollovers, same-creditor refinances, renewals, or consolidations by covered borrowers for deferred presentment transactions or similar payday loan transactions (80 Fed. Reg. 43559 § 232.8[a]) [178]
5) Permits *only* banks, thrifts, and credit unions that are supervised by federal or state regulators to secure credit with the title of a vehicle from covered borrowers (80 Fed. Reg. 43559 § 232.8[f]) [178]
6) Makes violations of the MLA a misdemeanor and preserves other remedies for violations including awarding of damages and voiding of contracts (72 Fed. Reg. 50579 § 232.9).[185]
7) 32 C.F.R. 232 preempts any state or federal law that is inconsistent with it or 10 U.S.C. 987 except "to the extent that it provides protection to a covered borrower greater than those protections provided by 10 U.S.C. 987 and this part [i.e., 32 C.F.R. 232]" (72 Fed. Reg. 50579 § 232.7).[185]

3. How well do Texas credit access businesses comply with the Military Lending Act?

   See *New Data Documents the Practices Payday Lenders Use to Bypass the Military Lending Act* for results of a study by Texas Appleseed.[103]

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## D. State and Federal Oversight

1. State agencies responsible for oversight of payday and auto title lending in Texas
    a. Finance Commission of Texas [187]
        1) The Finance Commission of Texas is a board of private citizens appointed by the governor to oversee and make policies for three agencies:
            a) Department of Savings and Mortgage Lending
            b) Texas Office of the Consumer Credit Commissioner
            c) Texas Department of Banking
        2) Its mission is to ensure that the banks, savings institutions, consumer credit grantors, and other regulated entities chartered under state law operate as sound and responsible institutions that enhance the financial well-being of the citizens of Texas.
        3) Established in 1943, the Finance Commission of Texas derives its authority from 2 TEX. FIN. CODE § 11 [188]
        4) Notes
            a) In 2005 The Texas Legislative Council prepared a report for the Finance Commission of Texas and Office of Consumer Credit Commissioner entitled, *Legislative Report: An Analysis of Non-Real Estate Lending Regulated by the Office of Consumer Credit Commissioner.* [189]
                i) [The report] collected and analyzed current and historical data in an attempt to ascertain the characteristics and types of credit available to Texas consumers in the high-cost, consumer-lending credit market that is not secured by real estate…consumer installment, signature, payday export, payday state rate, and pawn.[189] p. vii
                ii) [The report concluded that] high-cost loans have found a place in the economy and will continue as long as consumer demand for high-cost loans exists. Consumer organizations and many lenders agree that a combination of financial education and regulation is needed. The prevailing belief is that consumers should have financial tools and the ability to access the credit market, but the market must be fair and the people should be well-informed.[189] p. 33
            b) In April 2012 the Finance Commission of Texas issued a resolution stating that municipal ordinances regulating credit access businesses creates confusion and asked the Texas Legislature to amend the Finance Code to more clearly articulate its intent for uniform laws.[190]
    b. Texas Office of Consumer Credit Commissioner [9]
        1) Its mission is "to regulate the credit industry and educate consumers and creditors, fostering a fair, lawful and healthy credit environment for economic prosperity in Texas" [154] p. 22
        2) Established in 1967; replaced the Office of Regulatory Loan Commissioner that had been established in 1963 as part of the Texas Regulatory Loan Act [191]
        3) Credit access businesses were first subject to licensing in January 2012 [192]
        4) During CY 2014, 3,491 locations reported issuing small-dollar loans [26]
        5) All operating funds are received directly from regulated industries.

6) The Office issues interpretations of statutes, as approved by the Finance Commission [193]
7) Next Sunset review is September 1, 2019 [154][p. 5]

2. Federal agencies responsible for oversight of payday and auto title lending
   a. A number of federal agencies oversee protection of consumer lending. Among them are Federal Deposit Insurance Corporation,[24] Federal Reserve System Board of Governors,[194], [195][p. 17] Office of the Comptroller of the Currency,[196] and Office of Thrift Supervision.[197] For a discussion of federal regulations related to payday lending, see [176][pp. 82-90] and [198][pp. 3-6].
   b. Consumer Financial Protection Bureau [199]
      1) Established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to create a single point of accountability for consumer financial protection[169]
      2) Functions
         a) Writes consumer protection rules for all financial institutions that provide consumer financial services or products
         b) Examines and enforces regulations for payday lenders, student lenders, debt collectors, consumer reporting agencies, and mortgage-related businesses; also regulates banks and credit unions with assets over $10 billion
         c) Examines small dollar loan business practices [200]
      3) *Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings* [106]

         The findings from data analysis of two datasets of small dollar loan consumers were built from aggregated data collected through supervision of depository (banks, credit unions) and nondepository financial institutions (storefront lenders)
         a) The datasets [106][pp. 14-15]
            i) *Payday loan dataset*. Data from "approximately 15 million loans generated by storefronts in 33 states" during 12-month windows in 2011 and 2012 from a population single payment, payday loan borrowers tracked for 12 months from the initial transaction
            ii) *Deposit advance loan dataset*. Data from over 100,000 randomly selected accounts that were eligible for deposit advances during the 12-month study period from the population of supervised depository financial institutions. Approximately 15% of accounts had at least one deposit advance during the study period.
         b) Major finding

            A relatively high proportion of consumers in the two samples engaged in patterns of sustained use of small dollar loans [106][p. 43]
            i) Among payday loan borrowers:
               (a) Two-thirds had 7 or more loan transactions in a year, the majority of subsequent transactions occurring within 14 days of the previous transaction [106][p. 43]
               (b) Median # days indebtedness during the year for payday loan borrowers was 199 (55% of the year) [106][p. 23]

ii) Among deposit advance borrowers:

(a) Half (52%) took deposit advances of $3,000 or more during the year.[106][p. 33]

(b) Median # days indebtedness during the year for payday loan borrowers was 112 (31% of the year).[106][p. 36]

c) Conclusion [106][p. 44-45]

i) Sustained use of small dollar loans raises "substantial consumer protection concerns."[106][p. 44]

ii) Study of small dollar loan products will continue to better understand the factors that differentiate sustained use from episodic use.

iii) "The potential consumer harm and data gathered to date are persuasive that further attention is warranted to protect consumers…CFPB expects to use its authorities to provide such protections."[106][p. 45]

4) Proposed rules [201]

a) In March 2015 the Consumer Financial Protection Bureau (a federal agency established by the Dodd-Frank Act of 2010) proposed rules providing safeguards for borrowers using high-interest loans. The suggested rules would apply to payday and auto title loans as well as deposit advance products and open-ended lines of credit.

i) Lenders would choose one of two options for compliance: prevention or protection.

(a) *Prevention*. The prevention option would require preloan eligibility verification to determine whether or not a borrower has the resources to repay the loan after covering all other expenses.

(b) *Protection*. The protection option requires that lenders offer affordable repayment options, accept restrictions on the amount and duration of loans, and restrict the number of loans per consumer.

ii) All lenders would be prohibited from bank account collection practices that tend to produce excessive fees, such as repeated, unsuccessful withdrawal attempts.

b) For a factsheet about the proposals under consideration and alternatives being considered and links to more information, see [202].

3. Compliance with state/local regulations and self-imposed industry standards

Findings from a survey of 40 payday and auto title establishments in Austin, Texas, conducted by Texas Appleseed during June-July 2012 [203]

a. Conclusion

There is little compliance with both state law and industry "best practices" with respect to disclosures, information postings, and product restrictions.[203][p. 2]

b. Summary of results [203][p. 2]

1) 2 locations complied with all posting and disclosure requirements

2) 3 locations did not comply with any posting and disclosure requirements

3) 1 location complied with industry best practices

4) 24 locations complied with none of the industry best practices

5) APRs mostly clustered between 450% and 750%

## E. Other State Payday and Auto Title Loan Regulations

1. *Summary*. Texas is 1 of 7 states with no rate or fee restrictions on payday loans and 1 of 11 states with none on auto title loans.[95] The maximum annual percentage rate for charges on payday and auto title loans is related to the degree of state regulation.[52, 95, 204]

2. States without rate or fee restrictions on payday and auto title loans
**See Table VII-E-1.**

**Table VII-E-1. States Without Rate or Fee Restrictions on Payday and Auto Title Loans, United States, 2015**

| State | Payday | Auto Title |
|---|---|---|
| Delaware | X | X |
| Idaho | X | X |
| Illinois | | X |
| Kansas | | X |
| Missouri | Limit = 1950% | X |
| Nevada | X | X |
| New Mexico | | X |
| South Dakota | X | X |
| Texas | X | X |
| Utah | X | X |
| Wisconsin | X | X |

Data compiled from [95, 205] and individual state statutes.

3. State regulation of payday and auto title lending: Degree of regulation
   a. Payday lending: See Table VII-E-2 on page **95**.
   b. Auto title lending: See Table VII-E-3 on page **96**.

4. State regulation of payday and auto title lending: Maximum allowable APR by state
   a. Payday lending: See Figure VII-E-1 on page **95**.
   b. Auto title lending: See Figure VII-E-2 on page **96**.

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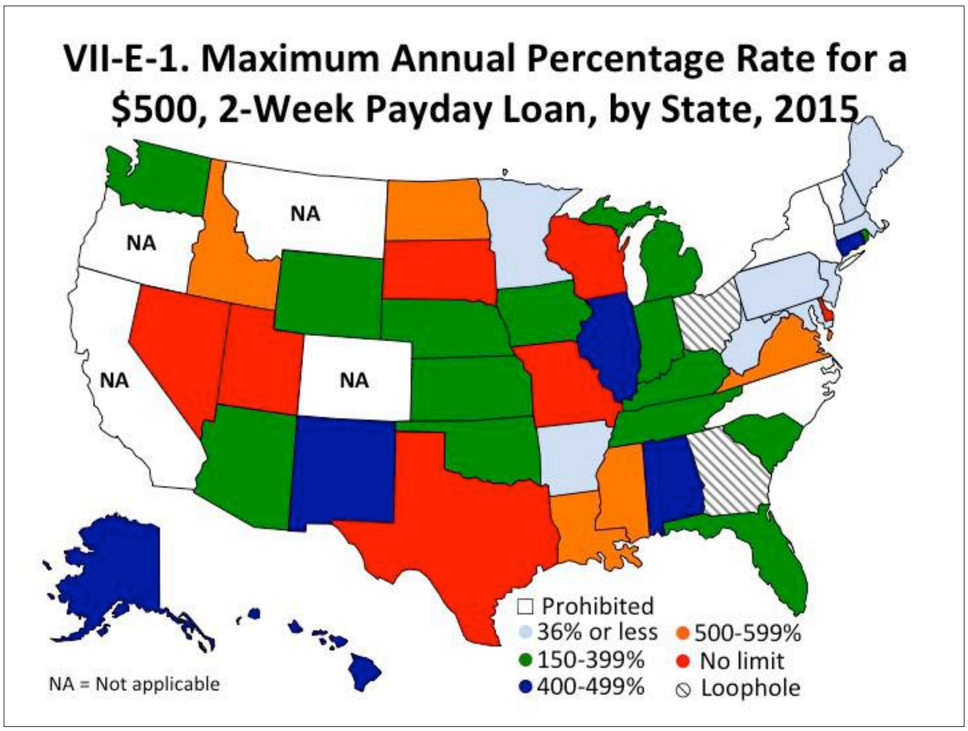
**Table VII-E-2. Degree of State Payday Lending Regulation, by State, 2014**

| Degree of State Regulation | | No. States | States |
|---|---|---|---|
| Permissive regulation | Allow fees of 15% or higher with annual percentage rates of 390% or more | 29 | AL, AZ, AK, CA, HI, ID, IL, IN, IA, KS, KY, LA, MI, MS, MD, NE, NV, NM, ND, OH, OK, **TX**, UT, WI, WY, SC, SD, TN |
| Hybrid regulation | Impose requirements, e.g., limits on fees or number of loans, longer term for repayment | 9 | CO, DE, FL, ME, MN, OR, RI, VA, WA |
| Restrictive regulation | Prohibit payday loans or cap fees at such a low rate that eliminates payday lending | 12 | AR, GA, MD, MA, MT, NH, NJ, NY, NC, PA, VT, WV |

Data compiled from [132] and individual state statutes.




VII-E-1. Maximum Annual Percentage Rate for a $500, 2-Week Payday Loan, by State, 2015

Data for Figure VII-E-1 compiled from [95, 206].

*Notes*. (a) California and Montana limit the size of payday loans to a maximum of $300. (b) Colorado has a 6-month minimum term for payday loans, while Oregon has a minimum 31-day term. (c) Georgia explicitly prohibits payday loans.[207] However, a licensed industrial loan lender can issue a $500, 2-week industrial loan at 218% APR.[208] (d) In Ohio short-term loans have a minimum term of 31 days and maximum interest APR of 28% for no more than $500. However, a credit services organization may arrange a payday loan for any fee in addition to interest on the loan at 25% APR.[209]

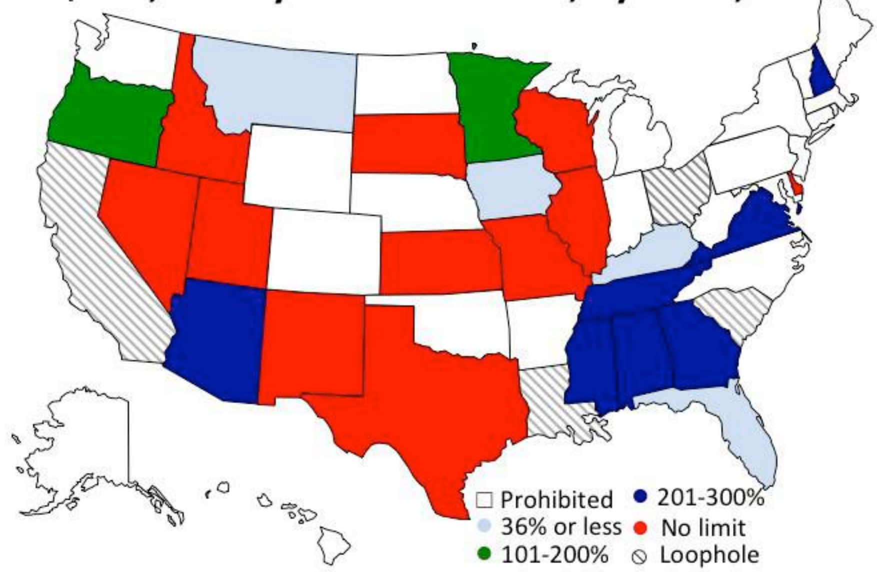
*– Space left blank intentionally –*

**Table VII-E-3. Degree of State Auto Title Lending Regulation, by State, 2014**

| Degree of State Regulation | | No. States | States |
|---|---|---|---|
| Permissive regulation | Allow auto title loans with an annual percentage rate of 200% or higher | 17 | AL, AZ, DE, GA, ID, IL, MS, MO, NV, NH, NM, SD, TN, **TX**, UT, VA, WI |
| Loophole in regulation | Lenders exploit loopholes in the law to evade consumer protections for auto title loans | 4 | CA, KS, LA, SC |
| Restrictive regulation | Prohibit auto title loans, restrict fees/interest at a low rate, or omit from consumer credit law | 29 | AK, AR, CO, CT, FL, HI, IN, IA, KY, ME, MD, MA, MI, MN, MT, NE, NJ, NY, NC, ND, OH, OK, OR, PA, RI, VT, WA, WV, WY |

Data compiled from [133].

**VII-E-2. Maximum Annual Percentage Rate for a $500, 30-day Auto Title Loan, by State, 2015**




Data for Figure VII-E-2 compiled from [95, 205] and individual state statutes.

*Notes re: use of alternative statutes to increase fees and interest rates:* (a) In California and South Carolina, auto title loans are issued beginning at $2,5001 and $601 respectively at any rate agreed upon.[210, 211] (b) Kansas issues open-end lines of credit for auto title loans at any rate agreed upon.[212] (c) In Louisiana, for loans >$350 and >60 days, auto title lenders can either charge interest at 36% APR [213] *or* $95 in fees,[214] thus a 61 day $500 loan would be ~114% APR. (d) The Ohio Supreme Court ruled that lenders may make single-installment interest-bearing loans under the Mortgage Loan Act (§§ 1321.51-60) which allows interest at 25% APR plus fees, higher than the Short-Term Lender Act (§§ 1321.35-48) allows.[215, 216]

5. Colorado: A case study of compromise regulation

*Payday Lending in America: Policy Solutions* reports how the State of Colorado enacted legislation that transformed payday lending to allow the viability of the small dollar loan market and maintain access to credit while safeguarding consumers from abusive lending practices. "Colorado’s unique six-month installment loan includes a variety of carefully designed protections, works better for consumers than a lump-sum payday loan, and is viable for lenders."[6][p. ii]

# VIII. The Big Question: Do Payday & Auto Title Loans Help or Harm Consumers?

## A. Do payday and auto title loans ultimately help or harm consumers?

1. Research findings are mixed, reaching opposing conclusions.[38] p. 2, [217] pp. 2, 6, 9, 16
2. All of the studies to date have design flaws that reduce the believability of their results and limit confidence in their conclusions.[38] pp. 25-26

## B. Empirical research on the effect of payday loans on the welfare of borrowers

1. Studies that found payday credit helps the borrowers
   a. Morgan and Strain (2008) [218]
      1) Morgan and Strain compared the financial problems of households in Georgia and North Carolina after payday lending was banned with those of other states.[218] p. 3
      2) Findings. Relative to households in other states, after Georgia and North Carolina banned payday loans, consumers in Georgia [218] p. 26**:**
         a) "Bounced more checks"
         b) "Complained more about lenders and debt collectors"
         c) "Filed for Chapter 7 ('no asset') bankruptcy at a higher rate"
      4) Conclusion: Payday credit is preferable to higher cost bounced check fees [218] p. 26
   b. Morse (2009) [219]
      1) Morse examined whether access to payday loans exacerbates or mitigates financial distress during unexpected natural disasters least likely covered by insurance (floods, landslides, wildfires) in California communities under 800,000 population from 1996 to 2002, with financial distress measured by foreclosures, larcenies, burglaries, and vehicle thefts.[219] pp. 1, 17, 21
      2) Findings
         a) Floods, landslides, and wildfires caused foreclosures to increase by 72%, but the existence of payday lenders prevented 1.22 foreclosures per 1,000 homes.[219] p. 3
         b) Floods, landslides, and wildfires caused larcenies to increase by 13%, but the existence of payday lenders prevented 2.67 larcenies per 1,000 households.[219] p. 3
         c) Floods, landslides, and wildfires did not affect the incidence of burglaries or vehicle thefts.[219] p. 24
      3) Conclusion: Access to payday loans increased the welfare of households who faced foreclosure or could have been driven into small property crime by financial distress following a natural disaster least likely covered by insurance.[219] p. 25
   c. Zinman (2010) [220]
      1) Zinman examined household survey data from respondents in Oregon and Washington collected before and after Oregon restricted payday lending in 2007 with a 36% APR interest cap, a one-time fee of 10% of the principal, and a 31-day minimum term.[221], [220] p. 547
      2) Findings [220] p. 554
         a) Payday loan borrowing decreased in Oregon compared to Washington after the payday loan cap was imposed in Oregon.

b) Oregon respondents were more likely than those in Washington to become unemployed or assess their financial situation negatively.

3) Conclusion: Restricting access to consumer credit decreased consumer welfare, at least in the short-term.[220]

2. Studies that found payday credit harms the borrowers

a. Melzer (2011) [222]

1) Melzer analyzed household data in 13 states without payday lending from the Urban Institute's National Survey of America's Families for 1996-2001. The study examined the access to payday loans (as measured by county distance to the border of a payday lending state) to delayed health care, difficulty paying bills, moving out of residence due to financial difficulties, cutting food, and going without telephone service among low- to-moderate income households.[222]pp. 518, 524-526

2) Findings

a) Low- to moderate-income households with access to payday loans within 25 miles were more likely to report difficulty in paying bills and postponing medical care, dental care, and drug purchases.[222]pp. 533-534

b) Improved access to payday lending over time increased frequency of hardship [222]p. 538

3) Conclusion. The increased debt burden from payday loans increases household difficulty in paying important bills.[222]p. 550

b. Carrell and Zinman (2014) [223]

1) Carrell and Zinman studied the impact of access to payday loans on job performance among enlisted airmen at 67 domestic Air Force Bases in 35 states during two periods (1996-2001 or -2007), with job performance measured by (a) the presence of an Unfavorable Information File, (b) re-enlistment eligibility, and (c) re-enlistment rate.[223]pp. 2805-2808

2) Findings. Payday loan access produced a statistically significant [223]p. 2830:

a) Increase in sanctioned critically poor readiness, as measured by a 5.3% increase in the presence of an Unfavorable Information File

b) Decline in overall job performance as measured by a 3.9% increase in re-enlistment ineligibility and involuntary separation

3) Conclusion: Payday loan borrowing had adverse effects on military readiness likely due to financial distress and distraction (or taking a second job to repay debt) [223]pp. 2830-2831

c. Skiba and Tobacman (2015) [224]

1) Skiba and Tobacman matched 149,519 bi-weekly-paid workers who took out approximately 1 million payday loans between September 2000 and August 2004 from one Texas outlet for 1 year to bankruptcy petitions publicly available in Public Access to Court Electronic Records database.[224]pp. 2, 5

2) Findings

a) 13,540 of the 149,519 borrowers filed bankruptcy during the study period.[224]p. 7

i) 1.33% annual bankruptcy rate among sample

ii) 0. 366% annual bankruptcy rate in Texas during sample period

iii) Thus bankruptcy rate among the sample was 3.6 times greater than the overall rate for Texas from 2000 to 2006.

b) 30% of applicants during the study period defaulted on their first loan, as measured by the lender writing off the loan.[224]p. 9

c) First-time borrowers from this lender averaged 5 more payday loans from the lender within 1 year.[224] p. 21

d) Average annual payday loan finance charges represented 7% of the annual interest owed on debt for first-time payday loan borrowers−thus a 7% increase in debt-related household cash flow.[224] p. 21

3) Conclusions

a) Payday loans increased the likelihood of personal bankruptcy.[224] p. 4

b) The increase in debt-related household cash flow from payday loan finance charges should be further examined as a driver of bankruptcy.[224] p. 26

3. Study that found no effect of payday loans on the financial health of borrowers

Bhutta (2013) [225]

1) Bhutta used 2007, 2009, and 2012 Census data and data from the Federal Reserve Bank of New York Consumer Credit Panel/Equifax database to examine the impact of payday loans on credit score, credit card delinquency, and exceeding one's credit card limit.[225] pp. 15-16, 18-19

2) Findings

a. Payday lenders located in highly populated, less affluent urban areas.[225] p. 2

b. Payday lenders did not "target minority neighborhoods, conditional on economic characteristics of the population."[225] p. 3

c. Payday loans had no effect on borrowers' financial health, as measured by credit score, credit card delinquency, and exceeding one's credit card limit.[225] p. 3

3) Conclusion. "Payday loans, on average, are financially neither destabilizing nor greatly beneficial relative to a world without payday loans." [225] p. 21

## C. Critique of studies examining the impact of payday loans on consumer financial health [38]

1. The studies, although quasi-experimental, represent meticulous, valuable research.[38] p. 25

2. Results must be interpreted with caution because of two assumptions that may or may not be true, thus reducing the reliability (believability) of the results.[38] p. 26

a. The results are due to payday lending rather than to other factors.

b. Payday loan borrowers are similar to those who do not obtain payday loans.

3. Alternatives to quasi-experimental studies

a. Experimental design

1) Effect of payday lending on consumer financial health [38] p. 35

a) Randomly approve/deny applications for a payday loan

b) Track indicators of financial distress over time for the two groups

2) Effect of consumer financial education on use of payday loans [38] p. 37

a) Randomly assign consumers to education/no education groups

b) Track use of payday lending over time for the two groups

b. Ethnographic design

Observe, describe, and analyze "the budgeting decisions and thought processes of payday loan customers and their households over time."[38] p. 37

# IX. Policy Options

## A. The issue

How can the payday and auto title loan market be regulated so it is financially viable and maintains access to credit while safeguarding consumers from abusive lending practices? To what degree should payday and auto title lending be regulated in Texas?

## B. What financial products are available to consumers needing immediate cash?

1. Mainstream financial products and services
    a. Consumer credit score
        1) A consumer credit score is used by 90% of large U.S. financial institutions to measure a consumer's credit risk for bank loans, credit cards, vehicle loans, and retail credit.[226]
        2) The Fair Isaac Corporation (FICO) Score is a three-digit number generated from a mathematical algorithm using information based on a consumer's payment history, amounts owed, length of credit history, types of credit used, and new credit.[227]
        3) Scores range from 300 to 850. The higher the score, the more favorable lenders consider a consumer's credit risk.[228]
        4) The credit files of an estimated 35 to 54 million people in the United States have little or no credit information in their credit files. Thus their credit cannot be scored, and their credit risk is considered unacceptably high by mainstream lenders.[45][p. 2]
    b. Federally insured bank accounts
        1) Definitions [229] (See also [230].)
            a) *Banked*. Individuals who regularly use mainstream financial products services, such as bank or credit union checking and savings accounts, credit cards, vehicle loans, and retail credit.
            b) *Fully banked.* Individuals that have either a checking or savings account and have not used an alternative financial service within the last year.
            c) *Unbanked*. Individuals without a checking or savings account.
            d) *Underbanked*. Individuals that have either a checking or savings account but also use alternative financial services, such as nonbank money orders, nonbank check-cashing services, nonbank remittances, rent-to-own services, pawn shops, payday loans, and auto title loans.
            e) *Alternative financial services.* Financial services offered by providers other than federally insured banks, savings banks, and savings and loan associations.
        2) Household use of banking services [231]
            a) *Fully banked*. A lower proportion of households in Texas than in the nation as a whole used a checking or savings account without also using an alternative financial service during 2013 (59% vs. 67%).
            b) *Underbanked*. A higher proportion of households in Texas than in the nation as a whole used alternative financial services in addition to their checking or savings account in 2013 (27% vs. 20%).
            c) *Unbanked*. A higher proportion of households in Texas than in the nation as a whole had no checking or savings account in 2013 (10% vs. 8%).

        **See Table IX-B-1 on page 101.**

**Table IX-B-1. % Households by Banking Status, United States & Texas, 2013**

| Banking Status | % Households | |
|---|---|---|
| | U.S. | Texas |
| Fully banked | 67.0 | 58.9 |
| Underbanked | 20.0 | 27.4 |
| Unbanked | 7.7 | 10.4 |
| Unknown | 5.3 | 3.2 |

Data compiled from [231]

c. Mainstream financial products other than banks, savings banks, and savings and loan associations
   1) Credit unions
   2) Loans from banks and credit unions
   3) Vehicle loans
   4) Credit cards
   5) Retail credit

d. Alternative financial products
   1) High interest loans
      a) Payday loan
      b) Auto title loan
      c) Cash advance
   2) Small dollar loans issued by federally insured depository institutions, community development financial institutions, and state, local, or tribal government entities
   3) Examples of mainstream lenders that have established low-cost bank accounts or affordable loans [232][Slide 15]
      a) Financial institutions: (a) Amarillo National Bank and (b) Fort Worth City Credit Union
      b) Licensed lender: Oportun with branches in Fort Worth, Houston, and San Antonio [233]
      c) Employer partnership: Rio Grande Valley Multibank Community Loan Center [234]
      d) Loan conversion program: Society of St. Vincent de Paul Predatory Loan Conversion Program in Austin [235]
      e) Outside-the-box models
         1) Lending Circles [236]
         2) On the Road Lending, Dallas/Fort Worth [237]
      f) Credit-like transactions
         1) Energy utilities: Payment of gas, electric, heating oil, and water bills
         2) Telecommunications: Payment of telephone and cable television bills

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## C. Policy considerations

1. Will the policy produce the desired outcome?
2. Will it produce optimal results for the cost of implementation?
3. Is it achievable given available monetary, technical, and human resources?
4. Will lenders be able to evade the statute and regulations that implement the policy change?
5. Is this a policy that elected officials would want to see realized by law?

## D. A range of policy options (from less stringent to more restrictive)

1. Continue operation of payday and auto title loan companies under current state law and administrative regulations

    Payday and auto title lending companies, acting as a credit services organization, may broker a short-term, small-dollar loan for an individual with a third-party lender.[8] Lender interest is limited to 10%.[146] Administrative fees are not limited as long as they are displayed to the public and disclosed to the borrower.[1, 158]

2. Enable a small dollar loan market that maintains access to affordable credit while safeguarding consumers

    A loan is affordable if the borrower can repay the loan and cover basic expenses without borrowing again or obtaining money from another source. A loan is generally unaffordable if payments exceed 5% of gross periodic income. Colorado regulation of the payday loan market has demonstrated that both industry and consumer advocate interests can be accommodated: Colorado enacted an interest rate cap of 45% APR, but allows additional fees to increase lender revenue to a maximum, fee-inclusive APR around 200%.[6][pp. 26, 29, 38]

3. Prohibit all payday and auto title loans whose combined interest and fees exceed the Texas consumer lending rate limits

    Under Texas law, an interest rate greater than 10% APR is usurious.[146] Under Texas consumer lending rate limits, acquisition fees for payday and auto title loans would range from 170% APR for a 30-day loan to 310% for a 2-week loan.[20, 148]

4. Prohibit all payday and auto title loans whose combined interest and fees exceed the limit set by the Military Lending Act

    The Military Lending Act currently applies to payday loans of less than 92 days duration vehicle title loans of less than 181 days duration, and tax refund anticipation loans. Combined fees and interest (including auxiliary fees such as insurance premiums) are limited to 36% APR. Securing a loan with a personal check, debit authorization, wage allotment, or title to a vehicle is prohibited. In addition, loan rollovers, same-creditor refinances, renewals, and consolidations are prohibited.[177] The Department of Defense has proposed extending the Military Lending Act protections to a broader range of closed- and open-end credit products.[183] According to The Pew Charitable Trusts (October 2013), a 36% APR for combined interest and fees essentially eliminates the payday and auto title lending market.[6][p.3]

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# X. Related Policy Issues

## A. Governance of small dollar loans

1. The issue
   a. Should local government be able to regulate payday and auto title lending within their jurisdictions?
   b. Or should state law preempt local ordinances that regulate credit access businesses with more restrictive requirements than current state law?
2. Contrasting points of view
   a. As of May 2015, 35 Texas cities had ordinances that regulated credit access businesses. According to the Texas Municipal League, cities adopted their ordinances in response to the Legislature's failure to enact substantive statewide regulation of payday and title lending.[159]
   b. From another point of view, these ordinances make it more complicated for credit access businesses to comply with the law, create disparate impact on consumers borrowing from credit access businesses that are subject to different requirements, and cause the possibility of costly litigation due to potential conflict with state law.[190]

## B. Criminal Penalties for Loan Default

1. The issue
   a. Should current law be enforced?
   b. Or should Texas law be amended to allow credit access businesses to file criminal charges against defaulting borrowers for writing bad checks or for theft by check?
2. Current law: Credit access businesses are prohibited from pursuing criminal charges related to insufficient funds for a check or debit transaction.[8]
3. Noncompliance with the law: The *Texas Observer* and Texas Appleseed documented over 3,200 criminal complaints that had been filed by credit access businesses against their borrowers between January 2012 and May 2014. Texas Appleseed found that $166,022 had been collected as a result of 1,508 complaints in Bexar, Collin, Dallas, and Harris Counties. In Harris County Justice of Peace Court #4, arrest warrants were issued in 42% of cases and jail time or jail credit served in nearly 6% of cases.[238, 239]

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# XI. Approaches to Reform

Approaches to reform of payday and auto title lending include loan rationing, loan restructuring, or long-term debt prevention.

## A. Loan rationing

1. Loan rationing increases restrictions on issuing and refinancing loans and their fees in order to lessen consumer harm from the lump-sum payment structure of short-term loans. This approach requires a statewide database to track loan use by consumers.[6][p. 11]
2. Mechanisms for loan rationing
    a. Require responsible underwriting
        1) Underwriting is an assessment of the borrower's ability to repay debt.[6][p. 27] An underwriting requirement would screen out very high-risk borrowers.
        2) If traditional underwriting were required, the companies would incur new costs.[6][p. 28] However, establishing an affordability threshold would not incur new costs because borrowers already provide proof of income.[6][p. 32]
        3) An affordability threshold means that the loan payment cannot exceed a given percentage of a borrower's pretax periodic income[6][p. 29]
            a) Colorado law effectively established a threshold of approximately 4%.[6][p. 29]
            b) The Pew Charitable Trusts recommends a 5% threshold.[6][pp. 32, 44]
        4) Innovative lenders are already using a wealth of data on creditworthiness of millions of consumers with poor or no credit scores.[7][¶¶8-10]
    b. Limit the amount, number, and/or refinancing of small-dollar loans
        1) A number of states have imposed restrictions on issuance of payday and auto title loans. As of July 20, 2015, 14 states tracked the number of loans per borrower using a Veritec Solutions statewide database.[240]
        2) In the 3-year period after Washington limited borrowers to eight payday loans per year, substantial decreases were found in the number of loans, borrowers, and storefronts.[6][p. 57, fn#63]
    c. Increase regulation of collection practices [6][p. 29, 45]

        Frequent electronic withdrawal attempts by lenders from borrowers' bank accounts can lead to multiple insufficient funds charges, adding to borrowers' financial burden. Limiting the allowable number of withdrawals would prevent this practice.
    d. Remove incentives for lenders to encourage borrowers to refinance their loans [6][pp. 44-45]
        1) Spread the cost of the loan out evenly during its duration, as frontloading charges during the early weeks of the loan is an incentive for lenders to persuade borrowers to refinance their loan before it is fully paid off.
        2) Prohibit fees for early loan repayment.
        3) When a loan is repaid early, require that fee refunds be prorated.
        4) Prohibit nonrefundable administrative fees for issuing loans.

## B. Loan restructuring

1. Loan restructuring converts lump-sum repayment to installment payments over time, making each payment affordable and amortizing the loan to a zero balance. This approach requires that lenders offer more affordable loans. [6][p. 11]

2. Mechanisms for loan restructuring
    a. Increase regulation of loan repayment practices [6]pp. 44-45
        1) Prohibit short-term, lump-sum payday and auto title loans.
        2) Require equal installment payments that reduce the principal, fees, and interest to zero at the end of the term.
        3) Set a minimum-maximum loan term that enables the borrower to repay the loan in full but avoids excessively long terms that increase loan costs.
    b. Ensure affordability
        1) Establish an affordability threshold for loan payments to make certain that borrowers can make a payment and also cover basic expenses without borrowing again or obtaining money from another source.
        2) Examples
            a) The Pew Charitable Trusts recommends that payments not exceed 5% of the borrower's gross periodic income.[6]p. 44
            b) The Texas Municipal League model ordinance includes the following affordability provisions: (a) cash advanced for a payday loan capped at 20% of the consumer's gross monthly income, (b) cash advanced for a auto title loan capped at the lesser of 3% of the consumer's gross annual income or 70% of the retail value of the vehicle, (c) no more than four payments for installment loans and each payment must repay 25% of the principal, and (d) refinancing of single lump sum loans limited to three times and each must be used to repay at least 25% of the principal.[159]

## C. Long-term debt prevention

Prevention of long-term debt is as important as statutory reform of payday and auto title lending. Measures can be taken to prevent financial distress from diversion of household cash flow to payday and auto title loan finance charges. Two such approaches are financial education measures and financial support and incentives.

1. Financial education measures
    a) Require a disclosure method that attempts to match the impact of the disclosure message with the lender's in-person sales message, such as an on-site or online video.[241]p. 248
    b) Strengthen the Texas public school personal financial literacy course requirement to include evaluation of the use of small dollar loans to meet needs for immediate cash.[242]
    c) Require lenders to refer clients seeking refinancing of their loans to free consumer credit counseling services, such as a HUD-approved nonprofit consumer credit counseling service.[176]p. 29
2. Financial support and incentives
    a) Financially support the development and expansion of initiatives to increase use of bank accounts by low-income individuals. For example, support public-private partnerships that provide a free or low-cost starter bank account and access to financial education to individuals with an inadequate consumer credit score or a blemished credit report.[243]
    b) Provide financial incentives to banks and credit unions for the development and availability of affordable loans with sustainable repayment arrangements. Mainstream lenders that have established low-cost bank accounts or affordable loans include Amarillo National Bank, Fort Worth City Credit Union; Oportun in San Antonio, Fort Worth and Houston; Rio Grande Valley Multibank Community Loan Center, and Society of St. Vincent de Paul Predatory Loan Conversion Program in Austin.[232]Slide 15

# XII. Conclusion

### A. Summary

Consumer protection laws aim to prevent unfair business practices. In Texas "A greater rate of interest than 10 percent a year is usurious *unless otherwise provided by law* [emphasis added]."[146] A payday or auto title lender acting as a credit services organization may "assess fees for its services as agreed to between the parties" [1] despite a law that limits the maximum acquisition charge on 2-week cash advance to 310%.[147, 148]

### B. The issue

Should these inconsistent regulations be changed? To what degree should payday and auto title lending be regulated in Texas? How can the small-dollar loan market be regulated so that lenders function both as a consumer service and a successful business?

### C. The role of the League

The role of the League of Women Voters is to provide opportunities for diverse groups of people to come together to discuss this issue of concern in our communities.

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# XIII. Other League Positions on Payday and Auto Title Lending

## A. League positions

1. LWV-Wisconsin

   Position on Lending Industry Practices [244]

   Support of:

   - Provisions to provide consumers accurate and complete information on the costs of loans (terms, interest, fees and penalties). Consumers would benefit if provided information about other financial options.
   - Provisions for all lenders to implement a tracking system to enable shared information on monitoring of loans; preventing overuse of rollovers and concurrent loans. Lenders should be encouraged to assist in providing consumer education.
   - Efforts of municipalities in Wisconsin to use the avenues available to regulate non-chartered lending businesses. The Milwaukee Task Force on Convenient Lending recommendations are reasonable standards.
   - Encouraging chartered financial institutions to maintain a presence in low to moderate income areas.
   - State and federal regulations for the most important elements of consumer protection in the form of limits on interest, term, rollovers, amount and number of concurrent loans.

2. LWV-Milwaukee County, Wisconsin

   Position on Convenient Lending (adopted May 2007) [245]

   - Support provisions to provide consumers accurate and complete information on the costs of loans (terms, interest, fees and penalties). Consumers would benefit if provided information about other financial options.
   - Support provisions for all lenders to implement a tracking system to enable shared information on monitoring of loans; preventing overuse of rollovers and concurrent loans. Lenders should be encouraged to assist in providing consumer education.
   - Support efforts of the municipalities in Milwaukee County to use the avenues available to regulate non-chartered lending businesses. The Milwaukee Task Force on Convenient Lending recommendations are reasonable standards.
     - Chartered financial institutions should be encouraged to maintain a presence in low to moderate income areas
     - The most important elements of consumer protection must come from state and federal regulations in the form of limits on interest, term, rollovers, amount and number of concurrent loans.

   (Note: "Chartered institutions" cover banks, savings & loans, and credit unions. Convenient lenders are not regulated or chartered.)

## B. League studies

LWV-Nebraska

a. LWVNE Study of Payday Lending [246]

1) Study initiated by the 2010 LWVNE Council [246][p. 1]

2) Study focus: "To study the issue of payday lending with a focus on its impact on Nebraska families" [246][p. 1]

3) Study justification:

> It is in alignment with LWVUS Public Policy positions for 2010-2012 and is specific to the organization's stance on Social Policy. It states, "Secure equal rights and equal opportunity for all. Promote social and economic justice and the health and safety of all Americans."[246][p. 1]

4) Conclusion

> The cycle of debt that all too many payday borrowers get trapped in keeps families in Nebraska and across the country from having a stable and secure income to meet their everyday expenses and fully participate in their community and our economy. The League of Women Voters of Nebraska places a high priority on economic justice. In that light, it is important that we do everything we can to make it a reality for all Nebraskans. [246][p. 2]

b. LWV-Lincoln Lancaster held a lunch and learn program on "Alternative to Payday Lending" on February 12, 2015

## C. League actions

1. LWV-Iowa

Legislative priority: Predatory lending

a. 2009

> Regarding predatory lending and consumer fraud, the League of Women Voters of Iowa (LWVIA) encourages the Iowa legislature to pass legislation to reduce payday loan fees and to allow Iowa consumers to sue when they think they have been defrauded. Iowa is the only state in the country where an individual cannot sue under the state's Consumer Fraud Act.[247][¶3]

b. 2010

> Predatory lending [248][p. 4]

c. 2012

> Protect Iowans from predatory lending practices that contribute to the cycle of debt by limiting payday lending fees to 36% APR, as 16 other states and Washington D.C. have done, and Congress did for loans to military families.[249][p. 4]

d. 2013

> The League of Women Voters of Iowa has long supported limitations on payday lending. For the past six years, the league has made this its top priority, but the Legislature has failed to pass reasonable limits on payday loans…The league does not support banning payday lending, but limiting loans to 36 percent annualized, the same as for all other consumer loans made in Iowa. With no action in the Legislature, the

> league -- including the Dubuque County League -- will work with city councils to develop guidelines that limit payday lending in communities.[250]¶¶1, 7

2. LWV-Pennsylvania
    a. LWV-PA was 1 of 450 signatories on a letter of October 23, 2014, written by Americans for Financial Reform to The Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, re: Proposed payday loan rules.[251]p. 15
    b. LWV-Bucks County (PA)

        1 of 30 signatories on a letter of June 18, 2014, written by Bucks County Women's Advocacy Coalition to Bucks County Legislators advocating opposition to a bill that would grant out-of-state payday lenders "a special exception to Pennsylvania's existing tough usury statutes."[252]

3. LWV-Wisconsin

    1 of 30 signatories on a letter of July 8, 2015, written by Wisconsin Public Interest Research Group to Governor Scott Walker, Assembly Speaker Robin Vos, and Senate Majority Leader Scott Fitzgerald re: Oppose Payday Lending Grab-Bag in State Budget [253]

4. LWV-Houston (Texas)

    1 of 64 signatories to a position statement by One Voice: A Collaborative for Health & Human Services approved on February 13, 2009, re: Basic Needs: Payday Lending Industry Reform [254]

5. LWV-Midland (Texas)

    Hosted a forum on November 3, 2014, regarding the Midland city payday loan ordinance that went into effect September 1, 2014.[255]¶5

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