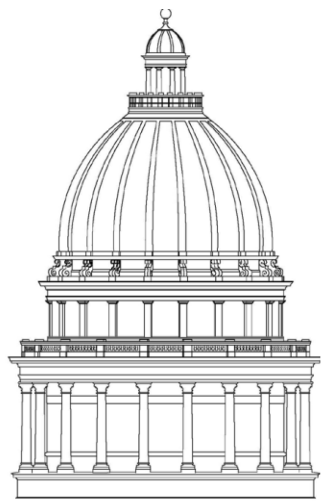
REPORT TO THE

UTAH LEGISLATURE

Number 2016-04



A Performance Audit of The Department of Financial Institution's Regulation of the Payday Loan Industry

August 2016

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

August 2, 2016

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of the Department of Financial Institution's Regulation of the Payday Loan Industry** (Report #2016-04). A digest is found on the blue pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

John M. Schaff

John M. Schaff, CIA
Auditor General

JMS/lm

Digest of
A Performance Audit of the Department of Financial Institution's Regulation of the Payday Loan Industry

A payday loan is a short-term loan designed to help people address a financial emergency between paydays. However, many payday loan customers still borrow repeatedly and for extended periods of time. This report recommends the Legislature consider some of the regulatory strategies used by other states to prevent the overuse of payday loans. In addition, the report recommends the Legislature authorize the Department of Financial Institutions to gather a more complete set of industry data in order to monitor overuse, and rates of default among payday loan customers.

Chapter II
State Limits on Payday Loans May Not Be Preventing Overuse

Study Shows High Rate of Payday Loan Use by Some Borrowers. Our study of 303 payday loan customers in five Utah communities shows that 32 percent of customers were chronic users of payday loans. Only 17 percent used the product as intended, for short term financial needs. The following is our classification of the borrowers in our study:

17%	**Low-Risk Users**: Borrowers who used payday loans sparingly. They took out an average of 2.6 loans in a year and repaid their loans on the agreed upon date or after one extension.
37%	**Moderate-Risk Users:** Borrowers who used an average of 4.0 payday loans in a year. These borrowers often extend their loans for several weeks or months.
32%	**Chronic Users**: Borrowers who demonstrated a frequent and sustained use of payday loans, averaging 7.4 loans during fiscal year 2015. Some took out loans from multiple lenders at the same time.
14%	**Defaulters**: Borrowers who defaulted on their payday loans within just a few weeks, some without ever paying interest. They averaged 1.6 loans a year.

Of greatest concern are the chronic users and defaulters who equal a combined 46 percent of payday loan customers. For example, the average chronic user had one or more payday loans for 213 days and paid $1,248 in interest during fiscal year 2015.

Overuse by Some Borrowers Casts Doubt On the Effectiveness of State Limits. It is not uncommon for chronic users to roll one payday loan into another payday loan. This practice enables a borrower to extend their loans well beyond the state's 70-day limit on payday loans. In addition, by taking out loans from multiple lenders, borrowers can work around state laws aimed at limiting payday loan debt. If the Legislature wishes to take steps to reduce the chronic use among some payday borrowers, it should consider the strategies described in Chapter III.

Chapter III
Legislature Should Consider Ways to Prevent Overuse of Payday Loans

Consider Implementing a Loan Tracking System for Payday Loans. Of the 35 states that allow payday lending, 15 require lenders to use a real-time, centralized database for screening loan applications. By creating such a database, Utah could help payday lenders avoid issuing loans to applicants who already have outstanding loans with other lenders, or to those who may have already defaulted on a loan. The use of a database system would also allow regulators to track each lender's compliance with Utah's payday loan laws.

DFI Could take a Stronger Approach to Regulating the Payday Loan Industry. In order to strengthen its enforcement efforts, DFI could issue fines more frequently. We found DFI had issued only one fine in five years. DFI could also better prioritize its enforcement efforts. For example, DFI could spend more time examining loan histories to see whether lenders are complying with those laws aimed at preventing overuse of payday loans. DFI could also do a better job of tracking the results of its examinations, and could provide a summary report of the results to DFI management and the Legislature.

Legislature Could Place Additional Limits on Payday Loans. Most states impose more limits on payday loans than Utah. The legislature could choose to strengthen Utah's statute by (1) limiting how many loans a borrower may have at the same time, (2) prohibiting lenders from rolling over an old payday loan into a new payday loan, or (3) requiring a "cooling-off" period between loans.

Chapter IV
Better Data Can Help DFI Regulate The Payday Loan Industry

Legislature Should Consider Authorizing DFI to Gather More Data. Lenders should be required to report the total number of deferred deposit loans issued, the total dollar amount of those loans, and the total number of individuals who received loans.

Court Data Not a Reliable Gauge of Loan Defaults. Some have expressed alarm over the number of small claims filed against payday loan customers. We found that the court filings are a poor indicator of the number of payday loan defaults. In addition, we found that payday lenders are filing relatively few small claims against their customers. The public interest in court filings suggests a need for better data on chronic use and loan defaults.

Accuracy of Lender Data Is a Concern. The data submitted by lenders each year to DFI is not always accurate. If the Legislature authorizes the use of a database system to monitor payday loan transactions, the department will have access to better industry data. If a database system is not authorized, DFI should conduct tests to validate lender data.

REPORT TO THE
UTAH LEGISLATURE

Report No. 2016-04

A Performance Audit of
The Department of Financial Institution's
Regulation of the Payday Loan Industry

August 2016

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Chapter I
Introduction

A payday loan is short term loan designed to help people address a financial emergency between paydays. However, with interest rates as high as 500 percent, payday loans can lead to serious financial hardship if used for extended periods of time. After just a few months, the interest charged can equal the amount of the loan itself. Because of the risk involved, legislators have asked the Legislative Auditor General to determine whether the state laws governing payday loans provide adequate protection to the borrowing public.

Payday Loans Offer a Solution to A Short Term Financial Need

"Payday loan" is commonly used to describe what the statute refers to as a "deferred deposit loan." Such loans typically consist of a cash advance used to address an urgent financial need before the borrower's next payday. Nevertheless, a payday loan can be offered until any agreed upon date, not only until the next payday. As collateral, the borrower usually provides a post-dated check. However, lenders will also accept an agreement to an electronic funds transfer. Figure 1.1 illustrates a standard payday loan for $300 at 521 annual percentage rate (APR), which is the rate charged by many Utah lenders.

To receive a typical $300 payday loan at 521%, a borrower would provide the lender a post-dated check for $360 to be cashed in two weeks.

Figure 1.1 Fees Charged for a Standard Payday Loan. For a typical payday loan at 521% APR, a borrower would pay $10 per week for every $100 loaned. For a $300 loan for two weeks, the fee would be $60.

Day	Amount Received	Amount Paid	Transaction Type
1	$300		Loan Initiation
14		$360	Payoff
Total	**$300**	**$360**	

In the example shown in Figure 1.1, the borrower provides a post-dated check for $360 which the lender holds as collateral for two weeks. In exchange, the borrower receives a cash loan of $300.

Often, borrowers cannot repay the loan when it is due and choose to delay repayment by paying an additional fee to extend the loan. Sometimes, borrowers choose to extend their payday loans multiple times. However, due to the high rate of interest, finance charges quickly grow. As shown in Figure 1.2, it takes just ten weeks for the fees charged for a typical loan at 521 percent APR to equal the amount originally borrowed.

To extend the payday loan for two weeks, a borrower would need to pay an extension fee.

Figure 1.2 The Cost of a Payday Loan with Multiple Extensions. At 521 percent APR, a borrower can end up paying as much in interest as the original loan amount in just 70 days.

Day	Amount Received	Amount Paid	Transaction Type
0	$300		Loan Initiation
14		$ 60	Extension
28		60	Extension
42		60	Extension
56		60	Extension
70		$360	Payoff
Total	**$300**	**$600**	

Figure 1.2 shows the fees that would be charged for a $300 loan (with an initial term of 14 days), which was then extended four times. With an APR of 521 percent, the biweekly fee would be $60. Over the course of 70 days (10 weeks) the fee would equal $300, or the same amount as the loan itself.

Utah has 63 Payday Lenders Serving Between 60,000 and 120,000 Customers

Between 60,000 and 120,000 Utahns take out a payday loan each year.

Utah has 63 registered payday lenders that operate out of 184 storefronts. Many lenders also offer payday loans over the internet. Some also offer title loans, installment loans and check cashing services. Unfortunately, no official tally has been made of the number of payday loans issued in a year or the number of borrowers in Utah, which is problematic. This report suggests the Department of Financial Institutions (DFI) obtain this information. However, based on national data and our own tests of five Utah communities, we estimate that between 3 and 6 percent of Utah's adult population obtain a payday loan each year. That means Utah's payday lenders serve between 60,000 and 120,000 customers each year. Our test of payday loans issued in 5 Utah communities shows that an average customer will obtain 4.3 loans for $370 each, with interest charges of $584 a year.

State Law Places Certain Limits On Payday Loans

The State of Utah has placed a number of restrictions on the payday lenders. For example, lenders may not charge interest for more than ten weeks. If after 10 weeks the borrower still cannot repay the loan, the law allows borrowers to request an extended payment plan (EPP) during which no interest may be charged. These statutory provisions are aimed at preventing the overuse of payday loans. DFI is the agency charged with enforcing these requirements. Figure 1.3 describes the restrictions we consider to be the most significant.

Utah Code includes several restrictions aimed at preventing borrowers from overusing their payday loans.

Figure 1.3 Codified Limitations on Payday Loan Provisions. State law imposes a number of restrictions aimed at preventing the overuse of payday loans.

Consumer Protection	*Utah Code* Citation
One-day Right to Rescind	*Utah Code 7-23-401(3)* A deferred deposit lender that engages in a deferred deposit loan shall permit a person receiving a deferred deposit loan to:…(b) Rescind the deferred deposit loan without incurring any charges by returning the deferred deposit loan amount to the deferred deposit lender on or before 5 p.m. the next business day following the deferred deposit loan transaction.
Annual Extended Payment Plan	*Utah Code 7-23-403(1)(a)* If a person who owes money on a deferred deposit loan requests to enter into an extended payment plan, the deferred deposit lender who extended the deferred deposit loan shall allow the person to enter into an extended payment plan that meets the requirements of this section at least once during a 12-month period to pay the money owed.
70-Day Interest Limit	*Utah Code 7-23-401(4)* a deferred deposit lender that engages in a deferred deposit loan may not: (a) Collect additional interest on a deferred deposit loan with an outstanding principal balance 10 weeks after the day on which the deferred deposit loan is executed.
Extended Payment Plan Offered After 70 Days	*Utah Code 7-23-403(1)(c)*…If a person is charged 10 continuous weeks of interest or fees on a deferred deposit loan, including rollovers, at the end of the 10-week period: (i) the person may request to repay the deferred deposit loan and rollovers under an extended payment plan that meets the requirements of this section; and (ii) the deferred deposit lender shall execute the extended payment plan in accordance with this section.
Cooling-Off Period After 70 days	*Utah Code 7-23-401(4)* a deferred deposit lender that engages in a deferred deposit loan may not:…(d) extend a new deferred deposit loan to a person on the same business day that the person makes a payment on another deferred deposit loan if the payment: (i) is made at least 10 weeks after the day on which that deferred deposit loan is extended; and (ii) results in the principal of that deferred deposit loan being paid in full.

Source: ***Utah Code*** *Title 7 Chapter 23*

Following approval by the Legislature during the 2016 legislative session, the Governor signed House Bill 292, which added several new requirements. First, lenders must report each loan to a credit reporting agency and also consult with a credit reporting agency before issuing a loan to a new customer. Second, lenders must report additional information with their annual registration, including the percent of loans that resulted in court action. Because these requirements were not yet in effect, they did not apply to the loans examined during this audit.

Audit Scope and Objectives

Legislators want to know whether Utah's payday loan regulations are successful at preventing borrowers from overusing the product.

The Legislature has asked the Legislative Auditor General to examine the effectiveness of the state's payday loan regulations as well as the efforts by the Department of Financial Institutions to enforce those laws. Legislators have asked that the audit address the following questions:

1. Are state limits on the duration of payday loans effective at preventing borrowers from overusing the product?

2. What percent of loans go into default?

3. How effective is the state's regulation of payday lending? Is the level of oversight provided by the Department of Financial Institutions commensurate to the risky nature of the business?

4. Does the Department of Financial Institutions gather the information it needs from lenders to obtain an accurate view of the payday lending industry?

This report addresses the first two questions in Chapter II. Chapter III summarizes our review of Utah's payday lending laws and the effectiveness of DFI's enforcement efforts. Chapter IV responds to concerns about the adequacy of industry data. The findings described in this report are based on an analysis of actual loans issued to a sample of payday loan customers in Utah, and through interviews with the employees of several Utah payday lenders. The audit did not include a review of internet lenders, the loans they have issued, or their customers.

Chapter II
State Limits on Payday Loans May Not Be Preventing Overuse

A study of 303 payday loan customers in 5 communities raises questions about the effectiveness of Utah's payday lending laws in preventing overuse of the product. Payday loans are designed to help borrowers address a short-term financial need until their next paycheck. The loans are not intended to address long-term financial problems; however, many payday loan customers borrow repeatedly and for extended periods of time.

State law includes several provisions aimed at limiting a borrower's exposure to payday loan debt. For example, the statute places a 70-day limit on the interest charges for a payday loan. The law also allows borrowers to request a 60-day pay-down period, during which they can pay off their loans without interest. Our tests suggest that such laws have not been as successful as legislators had hoped in preventing the overuse of payday loans.

Laws limiting a borrower's exposure to a payday loan may not be preventing borrowers from overusing the product.

Study Shows High Rate of Payday Loan Use by Some Borrowers

Because of the high interest rates charged, payday loans are not designed to solve long-term financial needs. Even so, our study of 303 borrowers in 5 separate Utah communities shows that nearly one-third of customers can be described as chronic users of payday loans. In addition, another 14 percent of borrowers quickly default on their loans without paying much, if any, interest.

Industry Warns that Overuse of Payday Loans Can Lead to Financial Hardship

The payday lending industry warns that payday advances should only be used to address short-term financial needs. It says the extended or frequent use of payday loans can lead to serious financial hardship. For example, the following warning has been offered by the Community Financial Services Association:

> A payday advance is designed to provide short-term financial assistance. Only use a payday advance to solve a

cash shortfall between paydays. It is not a long-term solution. Repeated or frequent use of payday advances can cause serious financial hardships.

Members of Utah's payday lending community offer similar warnings. For example, the following statements are posted on several Utah payday lenders' websites:

Payday lenders warn borrowers to avoid using their product to address a long-term financial need.

> Payday advances should be used for short-term financial needs only, not as a long-term financial solution. Customers with credit difficulties should seek credit counseling.
>
> A single payday advance is typically for two to four weeks. However, borrowers often use these loans over a period of months, which can be expensive. Payday advances are not recommended as long-term financial solutions.

Using the above statements, the payday loan industry is advising its borrowers to use caution when taking out a payday loan. DFI offers a similar warning in the borrower pamphlets it makes available in every payday loan storefront in the state. Although the loans come with very high fees, the industry promotes its product as a sensible solution to address an urgent financial need. For example, by taking out a payday loan, a customer may be able to avoid the even higher fees that result from a bad check or having the utilities turned off.

The key is to only use a payday loan to address a short-term financial need. Some industry representatives like to draw similarities between a payday loan and a taxi service. They say each provides a valuable service that addresses a short-term, urgent need. However, using a payday loan to cover a long-term debt is like hiring a taxi for a cross-country excursion. Neither makes much financial sense.

Using a payday loan to address a long term financial need is like taking a taxi for a cross country excursion. In either case, it makes little financial sense.

Many Use Payday Loans for Extended Periods of Time While Others Quickly Default on Their Loans

Our study of 303 payday loan customers reveals that many borrowers used payday loans in a "repeated or frequent" manner that, according to the industry, put them at risk of "serious financial hardships." The study shows only 17 percent of customers are low-risk users who limit their use of payday loans to short-term needs as recommended by the industry. Another group, which we describe as moderate-risk users, represents 37 percent of our study population. Of greatest concern are the 32 percent who we describe as chronic users. Also concerning are the remaining 14 percent who we describe as defaulters. In sum, this report raises concern that 46 percent of customers are not using payday loans appropriately.

A Study of Payday Lending Uncovered Four Types of Borrowers. Our audit findings are based on a study of all the payday loan customers in five separate Utah communities during fiscal year 2015. Each of the 14 lenders operating in those communities were asked to provide a list of all of their payday loan customers during the study period. From those lists we selected a statistically representative sample of 303 customers. We then obtained the transaction logs for the 1,343 loans issued to those customers. Based on patterns we observed in the data, we classified customers into one of four user groups:

Our findings are based on a study of 1,343 loans issued to 303 payday loan customers in five separate Utah communities.

- **Low-Risk Users**: Borrowers who used payday loans sparingly, for an average of 2.6 loans a year and repaid their loans on the agreed upon schedule.

- **Moderate-Risk Users:** Borrowers who used an average of 4.0 payday loans each year. These borrowers tended to roll over their loans for several weeks or months.

- **Chronic Users**: Borrowers who demonstrated a frequent and sustained use of payday loans, averaging 7.4 loans during fiscal year 2015. Many had loans from multiple lenders at the same time.

- **Defaulters**: Borrowers who defaulted on their payday loans within just a few weeks, many without ever paying interest. They averaged 1.6 loans a year.

Figure 2.1 describes the criteria used to identify the four customer groups, and the number and percentage belonging to each group.

Of greatest concern are the 32 percent of borrowers who we describe as chronic users of payday loans.

Figure 2.1 Some Borrowers Use Payday Loans to Address Short-Term Financial Needs as Intended, but a Third are Chronic Users.
Chronic users risk serious financial hardship by overusing payday loans.

17% (53 borrowers)	**Low-Risk Users** – use payday loans sparingly and only to address a short-term emergency; repay the loan within one or two paydays • Paid interest on payday loans for no more than 60 days (2 months) during fiscal year 2015. This is equivalent to 4 payday loans in one year, each with a 14-day term • Had no loan defaults • Paid off all loans no later than two weeks after the original due date of the loan
37% (113 borrowers)	**Moderate-Risk Users** – use payday loans often, sometimes miss a loan payment and may roll over their loans for several months • Paid interest on one or more payday loans for more than 60 days but less than 183 days (6 months) during fiscal year 2015 • Missed making a payment on the scheduled loan due date on one or two occasions • Rolled over a payday loan three times on average
32% (96 borrowers)	**Chronic Users** – use one payday loan after another on a long-term basis • Paid interest on a payday loan for over 183 days (6 months) during fiscal year 2015 • Obtained one payday loan after another until the total days paying interest exceeded 70 days • Paid interest that was 2.5 times the amount borrowed • Took out loans with multiple lenders at the same time
14% (41 borrowers)	**Defaulters** – show an inability to repay a payday loan • Stopped making payments on a payday loan soon after it was issued • Had a loan written off by the lender • Had a loan submitted to debt collectors • Had a loan pursued in small claims court

Note: For a description of the study methodology and the results, see Appendix A.

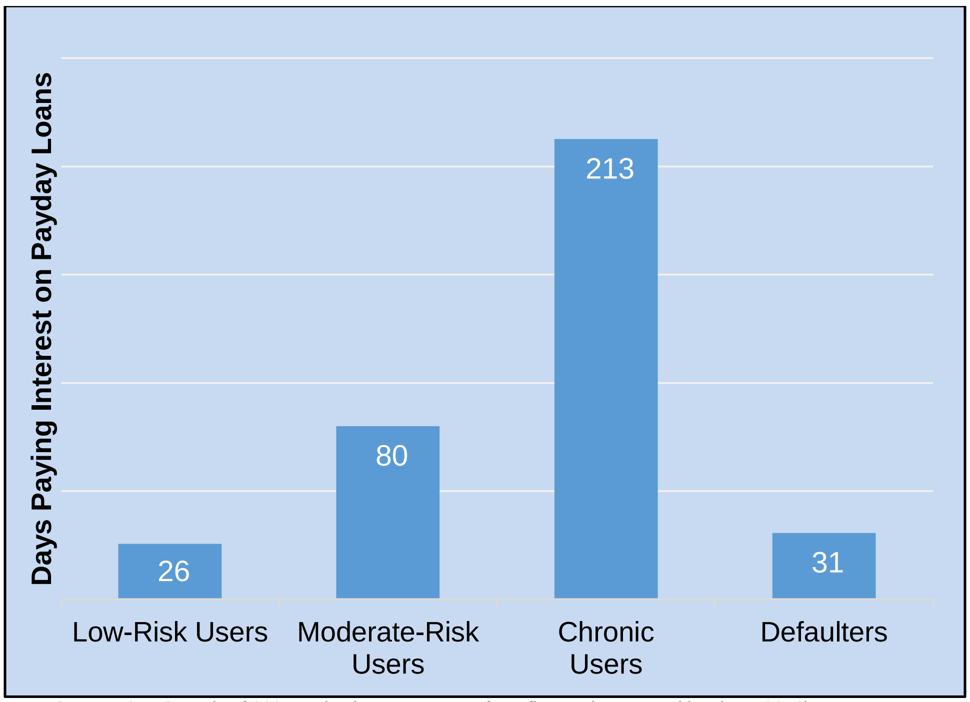
The study results show that only 17 percent of payday loan borrowers are using the product for short-term financial needs, as recommended by the industry. Another 37 percent demonstrate a moderate level of risk by rolling over loans for several periods. Though costly, their level of use is manageable. Of greatest concern are the chronic users who paid very high interest rates for many months during our study period. Some also obtained loans from multiple lenders and some used one payday loan to pay off another. According to industry warnings, chronic users put themselves at risk of "serious financial hardships."

The defaulters are also a concern. They are a relatively small group of customers who quickly demonstrate an inability to repay their payday loans. The following compares the chronic users and defaulters to the other customer groups.

During Fiscal Year 2015, Chronic Users Paid Interest On Payday Loans for an Average of 213 Days

Chronic users are frequent and heavy users of payday loans. For a majority of the days in our study period (fiscal year 2015), the chronic users were paying interest on a payday loan. Figure 2.2 compares the use by chronic users to that of other customer groups.

Figure 2.2 Average Days Borrowers in Each Customer Group Spent Paying Interest on a Payday Loan. Chronic users paid interest on payday loans for an average of 213 days during fiscal year 2015. This was far greater than the number of days other users paid interest on their payday loans.



Source: OLAG study of 303 payday loan customers from five Utah communities (May 2016).

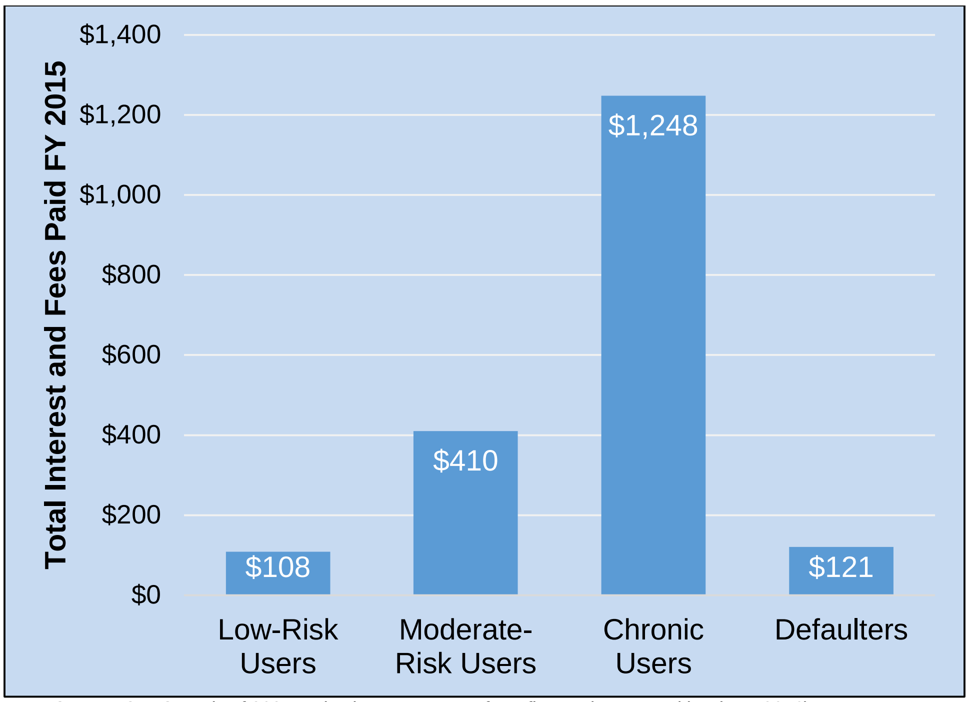
The average chronic user in our study paid interest on a payday loan during 213 days in fiscal year 2015.

With an average of 213 days, chronic users spent more than 8 times as many days paying interest on payday loans as the low-risk users (at 26 days) and nearly 3 times as many days as moderate-risk users (at 80 days). Chronic users spend so many more days paying interest because they take out more loans than other customers, for longer periods of time. See Appendix A for a comparison of the number, duration, and value of loans for customers in each user group.

Frequent Use of Payday Loans Leads to a Higher Overall Interest Expense. Because chronic users are involved in payday loans for longer periods of time, they also pay more interest. Figure 2.3 shows the average amount of interest paid during fiscal year 2015 by each customer group.

During fiscal year 2015, the average chronic user in our study paid $1,248 in interest on a payday loan.

Figure 2.3 Average Amount of Interest and Fees Paid by Borrowers Within Each Customer Group. Those described as chronic users paid an average of $1,248 in interest and fees during fiscal year 2015. That amount is far greater than that paid by other customer groups.



Source: OLAG study of 303 payday loan customers from five Utah communities (May 2016).

Figure 2.3 shows that chronic users of payday loans paid 12 times the amount of interest as those described as low-risk users and 3 times the amount of moderate users. On average, chronic users had 7.4 payday loans during fiscal year 2015 with an average outstanding loan balance of $420. As mentioned, they paid interest on those loans for an average of 213 days. By spending that much time in a loan, and by paying interest of $1,248, the average chronic user was in effect paying interest at an annual percentage rate (or APR) of 509 percent.

By Obtaining One Loan After Another, Borrowers Greatly Extend Their Debt Exposure. As mentioned, chronic users tend to take out many payday loans, some from multiple lenders. The loan history for a typical chronic user in our study is shown in Figure 2.4. Each time a loan approached the due date, the customer extended, or rolled over, the loan for another two-week period. As each loan reached the 70-day limit (after which no interest may be charged as required by state law), the customer closed the loan and obtained a new loan.

One chronic user of payday loans had an average loan balance of $662 for 322 days. During that time, the borrower paid $2,984 in interest.

Figure 2.4 Loan History of a Chronic User of Payday Loans. During fiscal year 2015, the customer obtained six payday loans from two lenders, averaging $662. The total interest and fees was $2,984.

Lender	Loan Number	Loan Amount	Interest/ Fees Paid	Initiation Date	Closed Date	Loan Duration
Lender M	Loan 1	$ 400	$ 400	9/5/14	11/14/14	70 days
Lender M	Loan 2	500	500	11/15/14	1/23/15	69 days
Lender M	Loan 3	1,000	1,051	1/24/15	4/4/15	70 days
Lender K	Loan 4	600	471	1/25/15	4/4/15	69 days
Lender M	Loan 5	1,000	486	4/8/15	5/12/15	34 days
Lender K	Loan 6	536	77	5/2/15	5/12/15	10 days
	Average*:	**$ 662**			**Sum of Loan Days:**	**322**
	Sum:		**$2,985**		**Combined APR**:**	**511%**

Source: OLAG study of 303 payday loan customers from five Utah communities (May 2016).
** Weighted average based on loan duration.*
*** APR = (total interest) ÷ (average loan amount) ÷ (sum of loan days) × 365.*

During fiscal year 2015, the customer described in the example above obtained six loans from two different payday lenders. Every two weeks, as each loan came due, the borrower paid an additional fee to extend the loan for another fourteen days. As a result, each of the first four loans approached Utah's 70-day legal limit on the time interest may be charged. In total, the customer paid $2,984 in interest. With an average (weighted) loan amount of $662 for 322 total days, the borrower paid a combined APR of 511 percent.

See Appendix B for additional examples of chronic payday loan users.

Chronic Use of Payday Loans Is Costly. The loan history shown in Figure 2.4 describes a level of use that the payday loan industry itself warns against. As mentioned, the industry urges its customers to use a payday loan to address a short-term financial need until the next payday. Instead, the customer described above took out several loans in succession and extended each loan for several additional paydays. After eight months of almost continuous borrowing, the customer ended up paying nearly $3,000 for an average loan balance of just $662. According the industry, this repeated and frequent borrowing puts customers at "risk of serious financial hardships."

More Research Is Needed into the Effects of Chronic Use on Borrowers. We were unable to identify how borrowers are affected by their sustained and ongoing use of payday loans. Our efforts to contact chronic users of payday loans were largely unsuccessful. In many cases we found their contact information had changed. For many, the home addresses and phone numbers listed on lender records were no longer valid. As a result, we were unable to conduct a valid survey of this population. In addition, few of those we attempted to contact appeared willing to return our calls.

In a random sample of customers of one payday lender, we found two thirds had incomes of less than $28,000 per year.

We also found the research literature into the effects of payday lending to be inconclusive. Some research appears to demonstrate the economic benefits of payday loans to a community. Other research suggests the product can be harmful to users. Several groups have warned that the research in this area tends to reflect the interests of those funding the research.

We did find some information from lenders and from court records that suggests many chronic users face rather desperate financial conditions. The average income of 19 payday loan customers in one store in our study was about $38,000 a year. Two of the customers reported incomes of greater than $100,000, while 12 customers (or 63 percent) reported incomes less than $28,000. This level of income is consistent with a study of borrower incomes in Colorado.

We found that the court records also provide some insight into the challenges faced by some payday loan borrowers. The court records reveal that many of the borrowers in our study have low incomes and are facing difficult financial conditions. For example, many payday loan customers have had small claims cases filed against them by their medical care providers. This anecdotal evidence suggests that many users of payday loans are facing difficult financial challenges. However, additional research is needed.

Some Customers Quickly Default On Payday Loans

We are also concerned about a group of customers who tend to default on their payday loans within a few weeks. While most of these defaulters make at least some payment on their loans, some default without making a single payment. As one lender said, they obtain a loan and "are never heard of again."

Some Customers Borrow from Multiple Lenders and Then Default on Their Loans. Among those who default, our greatest concern is for those borrowers who obtain a series of loans from one lender after another, defaulting on each loan. The ability of this group to repeatedly take out loans and then go into default raises questions about the industry's ability to validate the credit worthiness of its customers. Figure 2.5 describes the loan history for one such customer from our study.

Figure 2.5 Example of a Customer with a History of Defaulting on Payday Loans. During fiscal year 2015, one customer obtained four loans from three payday lenders. On three of the loans, the customer never made a payment and the loans went into default.

Lender	Loan Number	Loan Amount	Interest/ Fees Paid	Initiation Date	Due Date/ Closed Date	Final Status
Lender F	Loan 1	$400	–	8/29/14	9/5/14	Default
Lender J	Loan 2	500	–	8/29/14	9/12/14	Default
Lender L	Loan 3	300	$133	10/16/14	11/17/14	Loan Paid Off
Lender L	Loan 4	350	–	12/12/14	1/12/15	Default
						APR: 507%**

Source: OLAG study of 303 payday loan customers from five Utah communities (May 2016).
*** APR (for Loan 3 only) equals (total interest) ÷ (average loan amount) ÷ (sum of loan days) × 365.*

One borrower in our study defaulted on three loans received from two different lenders.

Figure 2.5 shows that, on August 29, 2014, a customer obtained payday loans from two different lenders but never made a payment on either loan. The first loan (for $400) was supposed to be repaid in one week, on September 5, 2014. On that date, the customer was supposed to repay the loan or pay a fee to extend the loan. The customer did neither. In response, Lender F deposited the customer's deferred deposit check, which was held as collateral. When the check did not clear the bank, Lender F closed the loan and classified it as a "Default/Charge Off." After Lender J had a similar experience, they also wrote off the loan.

On October 16, 2014, one month after defaulting on the two previously mentioned payday loans, this customer took out Loan 3 from another payday lender, Lender L. As with the other loans, the borrower's check did not clear the bank when the loan came due. However, the customer eventually submitted another check for $433.43 to cover principal, interest and bank fees. This time, the check cleared and the loan was closed. Then, on December 12, 2014

Lender L issued the customer another payday loan. However, the customer never made a payment and Lender L classified the loan as a "write off." We assume that each lender was not aware that the borrower had defaulted on loans from other lenders.

Most Defaulters Pay Some Interest on Their Loans. Many of those we describe as defaulters, such as the one described in Figure 2.5, will take out a loan and never even attempt to repay. These customers are sometimes referred to as "shoplifters" by the industry. More typical, however, are those who make an initial effort to pay the fees necessary to extend the loan for a few weeks or months. However, at some point the customers stops making payments. It appears that they eventually realize that they don't have the financial resources to continue extending the loan. Then, once the next loan due date is passed, the lender will try to deposit the borrower's post-dated check but the check will not clear the bank.

Some borrowers eventually realize they do not have the financial resources to pay off a payday loan and stop making payments.

Some Defaulters Have Been Known to Take Out Installment Loans. We found that some of those who defaulted on payday loans also defaulted on installment loans. Installment loans are another form of short-term debt that are also offered by some payday lenders and by lenders who specialize in this form of unsecured debt. Of the 41 borrowers in the Defaulter customer group, court records show that 14 also defaulted on an installment loan at approximately the same time they were defaulting on their payday loans. This suggests that those we describe as defaulters are actively pursuing short-term loans from many different sources and are quickly defaulting on those loans.

Fifteen borrowers in our study who defaulted on a payday loan also defaulted on one or more installment loans.

For example, the customer whose payday loans are described in Figure 2.5 also defaulted on two installment loans. State court records show that one of the installment loans, for $1,200, was issued on the December 11, 2014, the day before the customer obtained Loan 4 (see Figure 2.5). After the customer defaulted on the installment loan, the courts awarded that lender a judgement of $5,671. Court records also show another judgement of $5,890 was sought against the same borrower for defaulting on a second installment loan that had been issued at about the same time as the first installment loan. This means that this customer was able to default on loans issued by three payday lenders and two installment lenders without the lenders knowing that their customer had other outstanding obligations.

Payday Lenders Do Not Have the Tools They Need to Identify Applicants Who Have Already Defaulted on a Payday

Loan. Of the 41 customers classified as defaulters, 13 (that we know of) defaulted on loans from multiple lenders during fiscal year 2015. One borrower defaulted on loans from six different lenders, including both payday lenders and installment lenders. Of the 303 payday loan customers in our study, we found that 29 appear to have obtained a new payday loan soon after they had defaulted on another payday loan or an installment loan.

Payday lenders do not appear to have the information they need to avoid giving loans to borrowers who have already defaulted on other loans.

Our findings suggest the payday loan industry lacks an effective mechanism for identifying high-risk borrowers who have a history of defaulting on payday loans. We assume most of the lenders described in Figure 2.5 would not have issued a new loan to that customer if they had information disclosing the customer's first default. Later in this report, we suggest that legislators may address this problem by considering the solution used by 15 other states. These states require lenders to participate in an electronic loan reporting system that informs payday lenders if a loan applicant is ineligible because they had defaulted on past loans or because they have too many other outstanding payday loans.

Overuse by Some Borrowers Casts Doubt On The Effectiveness of State Limits

The overuse by some payday loan customers raises questions about the effectiveness of state limits on payday loans. For example, by rolling an existing loan into a new loan, the debt can be extended beyond the state's 70-day limit on a payday loan. In addition, by taking out loans from multiple lenders, borrowers can work around state requirements on payday loans, or any limits a lender may wish to impose. Finally, some payday loans are being refinanced using installment loans, which can offer similar terms as a payday loan but without the statutory limits.

Sometimes New Loans Are Opened on the Same Day an Old Loan Is Closed

We found that it is not uncommon for chronic users to roll one payday loan into another payday loan.[1] This practice enables a borrower to extend their loans well beyond the state's 70-day limit on

[1] See Appendix A for rollover rates and other statistics on borrowing activity.

payday loans. As a result, some chronic users of payday loans are paying interest for many months on end. In fact, by rolling one loan into another, a few borrowers in our sample had a payday loan nearly every day during fiscal year 2015. This action is inconsistent with the purpose of a payday loan which is to provide short term financing.

Utah Law Prohibits Lenders from Charging Interest on a Payday Loan for More Than 70 Days. As mentioned in Chapter I, the ***Utah Code*** limits the time when interest may be charged on a payday loan to 10 weeks (or 70 days) after the loan was initiated. Specifically, ***Utah Code*** 7-23-401 (4) states:

> A deferred deposit lender that engages in a deferred deposit loan may not: (a) collect additional interest on a deferred deposit loan with an outstanding principal balance 10 weeks after the day on which the deferred deposit loan was executed.

State law limits the number of days a borrower may pay interest on a payday loan to ten weeks, or 70 days.

In addition, once a loan reaches the 70-day limit, the statute requires the lender to offer a 60-day extended payment plan, during which the borrower may repay the debt interest free. Finally, once the payment plan is in effect, the law requires a lender to impose a "cooling-off period" preventing borrowers from rolling their debt into a new loan.

The law does not require a cooling-off period for consecutive loans issued before the 70-day limit occurs on the most recent loan. However, DFI policy requires that such sequential loans be subjected to a cooling-off period if together they are expected to exceed the 70-day limit. The department believes a "new loan" issued the same day as an "old loan" does not reset the 70-day limit on payday loans. Even so, we found that many loans were issued the same day another loan was closed and together some of those exceeded the 70-day limit.

Though it is legal to do so, we question whether borrowers should be allowed to roll one payday loan into another.

We also found loans that were refinanced several days after the loan due date had passed. Though it may not violate of the law, we question whether lenders should be allowed to roll one loan into another loan even if there are several days between the time one loan is considered closed and a new loan is opened. This type of refinancing, in our opinion, is also inconsistent with the short term nature of the loans.

The Practice of Obtaining One Loan after Another Extends the Use of Payday Loans for Many Months. Of the 303 customers in our study, we found that 28 customers (9 percent) from 8 different lenders had loans in sequence some time during fiscal year 2015 that together lasted for more than 70-days. In each case, the lender issued a new loan the same day they closed an old loan. These loans appear to violate the state's payday loans limit to ten weeks, or 70 days.

Figure 2.6 offers an example of a borrower who paid interest on three consecutive payday loans for a total of 162 days. By taking out three separate loans, his debt was extended beyond the state's 70-day limit on payday loans.

One borrower had three loans in succession which together lasted 162 days. Together these loans lasted well beyond the state's 70-day legal limit on payday loans.

Figure 2.6 Loan History of a Customer Who Appears to Be Paying Off Old Payday Loans with New Ones. One customer paid interest on three consecutive payday loans that together lasted 162 days.

Lender	Loan Number	Loan Amount	Interest/ Fees Paid	Initiation Date	Closed Date	Loan Duration
Lender D	Loan 1	$300	$190	4/29/14	7/1/14	63 days
Lender D	Loan 2	200	157	7/1/14	8/25/14	55 days
Lender D	Loan 3	200	126	8/25/14	10/8/14	44 days
Average*:		**$239**		**Consecutive days in a loan: 162**		
Sum:			**$473**		**Combined APR**: 446%**	

Source: OLAG study of 303 payday loan customers from five Utah communities (May 2016).
** Weighted average based on loan duration.*
*** APR = (total interest) ÷ (average loan amount) ÷ (sum of loan days) × 365.*

Figure 2.6 describes the loan history for a borrower who had three payday loans in succession that lasted for a total of 162 days. The 70-day limit imposed by state law is designed to limit a borrower's continuous exposure to a payday loan debt to just 70 days.

Of the 96 chronic users in our study, we found 43 (or 45 percent) who had a series of loans that together lasted more than 70-days.

We also found cases in which a new loan was used to "refinance" an existing loan several days after that loan was described as being closed. In most cases, the new loan was issued by the same lender. However, sometimes a borrower obtained a loan from another lender to refinance an old loan. In still other cases, new loans were issued the day after an extended payment plan (EPP) was closed. In our view, it makes little sense to obtain a new loan immediately after paying off an EPP because the purpose of an EPP is to help borrowers pay off their loan balance. In all, we found 43 chronic users (45 percent) who had a sequence of loans, on the same day or within a few days' separation, that together exceeded 70 days.

One Lender Had a Practice of Refinancing Payday Loans Before They Reached 70 Days. For many payday lenders in our study it was not uncommon to have customers with loans that reached the 70-day limit. However, one lender (herein described as Lender A) did not issue a single loan that lasted for 70 days. Instead, the lender's loan transaction reports show that, each time a customer's loan reached 9 weeks, or about 63 days, the loan was closed and a new loan was extended to the borrower for the same dollar amount as the old loan. Figure 2.7 shows the loan history of one of Lender A's customers.

One payday lender believes it can roll an old loan into a new loan and thereby reset state's 70-day limit. DFI disagrees.

Figure 2.7 By Continually Rolling One Loan into Another, One Lender Extended a Customer's Debt for 373 days. One payday lender kept rolling a customer's old loan into a new payday loan just before the old loan was about to reach the 70-day limit required by law.

Lender	Loan Number	Loan Amount	Interest/ Fees Paid	Initiation Date	Closed Date	Loan Duration
Lender A	Loan 1	$500	$ 357	6/30/14	8/20/14	51 days
Lender A	Loan 2	500	390	8/20/14	10/20/14	61 days
Lender A	Loan 3	500	410	10/21/14	12/22/14	62 days
Lender A	Loan 4	500	396	12/22/14	2/20/15	60 days
Lender A	Loan 5	500	390	2/20/15	4/20/15	59 days
Lender A	Loan 6	500	416	4/20/15	6/22/15	63 days
Lender A	Loan 7	500	93	6/22/15	7/6/15	14 days
Average:		**$500**		**Consecutive days in a loan: 370**		
Sum:			**$2,452**		**Average APR: 484%**	

Source: OLAG study of 303 payday loan customers from five Utah communities (May 2016).

When asked about the practice, Lender A told a DFI examiner that borrowers are allowed to obtain "new loans" on the same day old ones are paid off, thus resetting the 10-week rollover limitation. DFI however, disagrees with this idea that refinancing a loan "resets" the 10-week limit. According to DFI's interpretation of the statute, "a 'new loan' written on the same day an 'old loan' is 'paid off' is merely a variation of a rollover and should not reset the 10-week limitation." Based on this view, the sequential loans described in Figure 2.7, and those loans in excess of 70 days issued to 27 other customers, would be considered a violation of ***Utah Code*** 7-23-401.

Statutory Limits Are Not Preventing Long-Term Use of Payday Loans. As mentioned, we found that 43 of the chronic users in our study (or 45 percent of all chronic users) had at least one set of payday loans that in combination exceeded the 70-day limit. Some customers were issued a new loan the same day an old one was closed, while others waited one day to refinance the loan. A few, after having defaulted on their loans, were issued new loans a week or so later. Rather than try to collect on the bad debt, some lenders appear willing to "refinance" an overdue loan even if it is a few days past due. In each case, the combination of the old loan and the new loan exceeded 70 days.

The practice of rolling old loans into new loans raises questions about the effectiveness of the statute in preventing the long-term use of payday loans. The purpose of the state's 70-day limit on payday loans is to prevent the behavior described in Figure 2.7, in which a loan for $500 is issued for a full year at a cost of $2,451 in interest. During each of the first four loans, the customer repeatedly extended the loan until reaching the 70-day limit. At that point, the customer closed the loan and then immediately obtained a new loan.

The practice of rolling old loans into new loans raises questions about the effectiveness of Utah's 70-day limit in preventing the overuse of payday loans.

It makes no real difference that one day transpired between two of the loans. In our opinion, the law requires that a payday loan may not be rolled over so many times that the borrower is required to pay the loan in whole or in part more than 70 days from when the loan was issued. Even if a refinancing occurs a week after the old loan reaches 70 days, it still represents an extension of a prior debt that have been extended beyond the statutory limits on such loans.

Some Borrowers Obtain Loans from Multiple Lenders at the Same Time

At least 34 customers in our study (or 11 percent) obtained loans from multiple payday lenders at the same time. This is another way that the chronic users in our study bypassed the state limits on the duration of a payday loan. The practice also enables borrowers to incur a larger amount of debt than one lender might otherwise approve.

Customers Face an Increased Risk When Taking Out Loans from Multiple Lenders. Before approving a loan to a new customer, payday lenders typically require customers to provide evidence of their ability to repay the loan. The lenders usually require a bank statement or a paycheck to demonstrate that the customer' s income is sufficient to cover the post-dated check used as collateral for the payday loan. However, when customers have loans from multiple lenders, it makes it difficult for any single lender to properly assess the level of risk a loan applicant may be facing. Figure 2.8 offers an example of a payday loan customer who obtained multiple loans from different lenders.

When customers obtain loans from multiple lenders, it makes it difficult for a lender to limit a customer's exposure to debt.

One customer in our study obtained twelve loans from three different lenders. The loans often overlapped.

Figure 2.8 Some Borrowers Increase Their Debt Exposure by Taking Out Payday Loans from Multiple Lenders. By taking out loans from multiple lenders, one chronic borrower was able to exceed the state limits on the duration of a payday loan and any limits on debt that a lender might impose on its customers.

Lender	Loan Number	Loan Amount	Interest/ Fees Paid	Initiation Date	Closed Date	Loan Duration
Lender K	Loan 1	$614	$ 474	4/24/14	7/3/14	70-days
Lender I	Loan 2	500	413	4/30/14	7/9/14	70-days
Lender H	Loan 3	300	210	6/23/14	8/29/14	67 days
Lender K	Loan 4	614	149	7/11/14	7/28/14	17 days
Lender H	Loan 5	500	352	9/6/14	11/15/14	70-days
Lender I	Loan 6	436	371	9/13/14	11/22/14	70-days
Lender H	Loan 7	300	209	12/6/14	2/13/15	69 days
Lender I	Loan 8	407	341	1/31/15	4/10/15	69 days
Lender H	Loan 9	350	235	3/2/15	5/8/15	67 days
Lender I	Loan 10	800	612	4/13/15	6/22/15	70-days
Lender H	Loan 11	350	245	5/9/15	7/17/15	69 days
Lender I	Loan 12	800	583	6/23/15	8/31/15	69 days
Weighted Average:		**$491**		**Sum of combined loan days: 777**		
	Sum:		**$4,193**		**Average APR: 401%**	

Source: OLAG study of 303 payday loan customers from five Utah communities (May 2016).

When taking out a payday loan, borrowers promise to repay the loan from the upcoming paycheck. However, when borrowers receive loans from multiple payday lenders at the same time, they are promising to repay several different loans while using the same paycheck as collateral. The use of multiple lenders is a concern because it means a payday lender cannot assess a borrower's true ability to repay a loan with the income from the next paycheck. In the case described in Figure 2.8, each lender most likely did not realize that their customer had an outstanding loan obligation of several hundred dollars to other lenders.

Some lenders issued new loans to customers who, at the time, were facing court action for defaulting on payday loans from other lenders.

Some Payday Lenders Have Issued Loans to Customers Who Are Already Facing Court Action by Other Lenders. State court records provide additional evidence that payday loan customers obtain loans from multiple lenders. In our sample population of 303 payday loan customers, we found that 24 customers had been issued a loan after they had defaulted on and/or received a court judgment against them on behalf of one or more other lenders. We found, not surprisingly, that those already facing court action on old payday loans often had difficulty paying their new payday loans as well.

Some Payday Loans Are Refinanced as Installment Loans

Another way payday loan debt can be extended is by rolling the debt into an installment loan. Installment loans offer short-term financing at the same high interest rates as payday loans and can be placed on the same two-week repayment schedule as payday loans. Some payday lenders offer both payday loans and installment loans. We found one lender that would often refinance a customer's payday loan into a similar (but unregulated) installment loan product just as the payday loan was about to reach the 70-day limit. This approach appears to be another method of working around the state's limit on the duration of a payday loan.

Some lenders use installment loans to refinance payday loans that are about to reach the state's 70-day limit.

Installment Loans Can Be Structured to Resemble a Payday Loan. For many borrowers, installment loans meet the same need for short-term cash as a payday loan. The main difference between the two financial products is that installment loans allow a borrower to pay principal and interest through fixed monthly installments. In contrast, payday loans require an **interest-only** payment if a borrower wishes to extend a payday loan. Although installment loans often come with the same high interest rates as payday loans, they are not subject to the state laws that apply to payday loans.

One Lender Uses Installment Loans to Extend a Payday Loan Beyond the State's 70-Day Limit. We found that one lender often refinances payday loans as installment loans just as they reach the state's 70-day limit. Of the lender's 61 payday loan customers in our sample population, we found 17 customers (28 percent) who had one or more payday loans that had been refinanced as an installment loan. Many of the payday loans were refinanced on the 70th day. Though nothing in state law prohibits lenders from converting a customer's payday loan into an installment loan, it appears to be a way that lenders can work around the state limits on payday loans.

We are not aware of any other payday lenders in our study that use installment loans to refinance their payday loans. We do know that many lenders have the opportunity to do so because many lenders offer installment loans as well as payday loans. However, only the one lender mentioned above provided us with the information we needed to determine when its loans were refinanced as installment loans.

Timely Opportunity for Legislature to Consider More Effective Limits on Payday Loans

This review of Utah's oversight of the payday loan industry comes at a time when there has been a growing interest nationally in the effects of payday loans and the need for new regulations. The information provided in this report should assist the Legislature in the ongoing debate regarding how best to regulate the payday loan industry.

National studies by PEW Charitable Trust produced results that were similar to those in our study of 303 Utah customers.

Pew Charitable Trust Has Raised Concern About the Effects of the Payday Loan Industry. The PEW Charitable Trust, has suggested a number of recommendations aimed at reducing the overuse of payday loans. Several studies conducted by PEW have produced similar results to those we obtained in our study of payday lending in Utah. A PEW report released in January 2016 raises the following concerns:

- Most borrowers pay more in fees than the amount loaned.
- The payday lending business relies on extended indebtedness: three-quarters of payday loans go to those who take out 11 or more of the loans annually.
- 70 percent of loans are used for ongoing expenses, not for emergency needs.

These results have led PEW to recommend that states consider adopting new limits on payday lending.

If adopted, the new rules proposed by the CFPB could make it uneconomical for many payday lenders to operate.

New Rules Proposed by the Federal Government Could Dramatically Limit the Availability of Payday Loans. The Consumer Finance Protection Bureau (CFPB) is a federal agency created after the 2008 financial crisis. On June 2, 2016, the CFPB proposed a set of new rules that would apply to all short term lending products nationwide. Some industry observers believe the practical effect of CFPB's new rules would be to make it uneconomical for most payday lenders to operate profitably. For example, an opinion piece in Forbes Magazine, concludes "the CFPB is not regulating payday loans, it is abolishing them." Similarly, local representatives of the payday loan industry have told us the practical effect of CFPB's new rules would be to dramatically reduce, if not eliminate the availability of payday loans in Utah.

In contrast to the proposed federal rules which may severely limit anyone from obtaining a payday loan, this report recommends a set of state level regulations that targets only those customers who overuse the product. As mentioned in Chapter II, 17 percent of customers are using the product as intended. Another 37 percent are moderate risk uses. We believe any new regulations should avoid limiting access to payday loans by these consumers.

Instead, the Legislature should consider adopting a set of new laws aimed at preventing the misuse of payday loans by the remaining 46 percent of customers. This includes the 32 percent of customers who are chronic users and the 14 percent who default on a payday loans from obtaining a new loan from another lender. Chapter III, which follows, suggests a regulatory framework that will prevent the misuse and overuse of payday loans by these to user groups without entirely eliminating the availability of payday loans.

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Chapter III
Legislature Should Consider Ways to Prevent Overuse of Payday Loans

If the Legislature wants to prevent the overuse of payday loans described in Chapter II, they should consider adopting one or more of the regulatory tools used in other states. First, the Legislature should consider requiring lenders to use a centralized tracking system for payday loans. Second, the department should adopt a stronger approach to enforcing the state's payday lending laws. Third, the Legislature should consider adopting additional statutory limits on payday loans, such as those used by other states.

Consider Implementing a Loan Tracking System for Payday Loans

The Legislature should consider adopting a centralized tracking system (or database) for payday loans similar to those used in 15 other states.

The Legislature should consider creating a centralized internet-based database system to monitor payday loan transactions and help lenders determine applicant eligibility for loans. This tool, already used by 15 of the 35 states allowing payday loans, provides a number of benefits to lenders, borrowers, and regulators. The database would provide a more effective mechanism for verifying an applicant's eligibility than the consumer credit reports currently used by many payday lenders. Before adopting a database, the Legislature should be aware of some of the challenges other states have encountered.

Database of Payday Loans Would Help Lenders Verify Applicant's Eligibility to Borrow

Many of the problems described in Chapter II can be avoided by providing lenders with better information about their customers' eligibility for a payday loan. Of the 35 states that allow payday lending, 15 have accomplished this objective by requiring lenders to use a real-time, centralized database for screening loan applications. By creating such a database, Utah could help its payday lenders avoid issuing loans to applicants who already have an outstanding loan with another lender or who may have already defaulted on a loan.

A Database Can Help Lenders Comply with the Law and Help Consumers Avoid Becoming Overloaded with Debt. The overall benefit of a database for payday loans is that it helps lenders comply with a set of reasonable lending standards. Borrowers benefit because they can be prevented from accumulating too much debt. Without the system, lenders will continue to risk lending to the following:

- Borrowers who have already committed their next pay check to another payday loan
- Borrowers who may be using one payday loan to pay off another payday loan
- Borrowers who will use a new payday loan to extend a prior payday loan beyond the state's 70-day limit on the length of a payday loan
- Borrowers who have a court claim against them and face a garnishment against their next paycheck
- Borrowers who have a history of defaulting on payday loans

Many states use a database to help lenders comply with a set of lending standards that are safe for both lenders and borrowers.

The overall benefit of the system is that it will encourage payday lending within a set of parameters that are deemed safe for both the lender and the borrower. It should also help lenders avoid the cost of loan defaults and the number of claims they will need to pursue in court. Borrowers will benefit by avoiding the frequent and extended use of payday loans, which leads to excessive interest payments.

Fifteen States Use a Database System to Track Payday Loans. Typically, the borrower information is automatically uploaded to a central database when a lender enters the loan application data into its own loan management systems. Once a borrower's information is entered and automatically uploaded, the database system then identifies whether the borrower is eligible for the loan in accordance with state law.

Of the 15 states that use a database, 14 rely on an outside vendor to manage the system. Each of the 14 states have their own custom-designed system, tailored to their own payday loan regulations. When an outside vendor is used, the state owns the data on the system but the vendor is responsible for data management and security. The cost of operating a database system is typically a fee charged for each approved loan, covered by the lender, the borrower, or both, depending on statute. One vendor estimated that it could operate a real-time payday loan transaction system in Utah for around $0.45 to $0.65 per loan. Nevertheless, the actual fee would be determined after considering relevant factors such as the number of regulations monitored by the system. See Appendix C for a list of the states using a database and for additional details.

Centralized Database of Payday Loan Transactions Can Be a Benefit to Regulators

A database system could be designed to meet whatever parameters and restrictions deemed appropriate by the Legislature.

In addition to helping lenders avoid issuing loans to unqualified borrowers, a database system can be of significant value to regulators. One advantage is that the service can be customized to track compliance with an individual state's unique regulations. In addition, transaction data can be accessed by examiners and thus expedite the examination process.

A Database System Could Be Customizable to Meet State and Regulatory Needs. The database system can be installed in three ways. First, it could be installed to simply monitor and track loans. Second, it could be installed to warn lenders when a loan does not meet statutory requirements. Third, it could be installed to stop transactions that do not meet statutory requirements. Essentially, the system could be designed to meet whatever parameters and statutory restrictions are deemed appropriate by the Legislature or DFI. Furthermore, multiple integrating systems could be used to track other small-dollar, high-interest consumer loans, including title and installment loans.

A database system would allow regulators to identify questionable lending practices without conducting on-site examinations.

The Database Could Expedite Examinations and Serve as a Warning System. The database can assist regulators in identifying irregular activity by lenders and serve as an information system for examiners preparing for visits. For example, in Chapter II, we describe a problem associated with lenders who roll one payday loan into another on the same day or even a few days later, creating back-to-back loans. The database could be designed to flag this behavior and other activities that may be inconsistent with state law. It would also allow regulators to identify questionable lending practices without conducting onsite examinations that can be disruptive to a lender's local operations.

Consumer Reporting Agencies Provide Inadequate Information Regarding Customers' Eligibility

Many payday lenders rely on consumer reporting agencies to screen their loan applications. In fact, a new state law requires lenders to use a consumer reporting agency to screen all loans. We found two reasons why past use of credit reporting agencies has not proven effective in preventing the overuse of payday loans and will not likely be effective in the future. First, the consumer reports do not provide sufficient detail regarding a loan applicant's other payday loan obligations, and second, the information is incomplete.

State Law Requires All Payday Lenders to Use a Credit Reporting Agency. There are five credit reporting agencies (that we know of) that offer consumer credit rating services to payday lenders. Currently, many, if not most, payday lenders have relied on the services of a credit reporting agency to screen new loan applicants. During the 2016 Legislative General Session, legislators passed H.B. 292, which was signed by the Governor. The new law, effective on July 1, 2016, requires a lender to obtain a consumer report for any applicant who has not previously received a payday loan from that lender. The law also requires all payday lenders to report select transaction information to at least one consumer reporting agency.

The consumer reporting agencies that many payday lenders currently use do not provide adequate information to properly screen loan applicants.

Consumer Reports Do Not Provide Sufficient Detail. We found that the consumer reports do not provide sufficient information to verify whether a customer has other outstanding loan obligations. The credit rating agencies provide a risk rating on an applicant and may inform a lender that the applicant has applied for another payday loan, but their reports do not identify the extent to which the borrower may be in debt to another lender.

For example, Customer B (whose loan history is described in Appendix B) had numerous loans from two different lenders. We asked one of the lenders what information they had received from their consumer reporting agency. The lender told us "The … report that we get shows us only if another company has done an inquiry on [the borrower]. We see that [the borrower] had another inquiry from a competitor, but not if [the borrower] loaned with the other company." So the consumer reporting agency did not notify this lender that the applicant had a loan with another payday lender, only that there was an inquiry.

Consumer Reporting Agencies Only Have Access to Information Submitted by Their Own Clients. A second concern is that consumer reports are incomplete. The consumer reporting agencies are only able to provide information they receive from their client lenders. Consumer reporting agencies do not share information with competing credit reporting agencies. As a result, unlike a statewide database, consumer reports do not include any information from lenders that do not use the agency's services. We identified at least five different consumer reporting agencies that collect information from and provide reports to their payday lender customers. The new law requires lenders to submit to only one of these five agencies.

Possible Unforeseen Consequences to Adopting a Payday Loan Transaction System

As they consider whether to adopt a database system, legislators should be aware of some challenges other states encountered after instituting databases. Two states adjusted their database fees after loan volumes changed considerably. Also, lenders in some states began to alter their loan products in order to avoid being subjected to the database requirement. Finally, several states had to adopt additional controls to prevent lenders from misusing the database. Each of these challenges can be avoided through an appropriate regulatory response.

In some states, the use of a database, combined with new restrictions, reduced the number of payday loans issued.

Changes in Payday Loan Volume Affected the Fees. We are aware of two states that adjusted their loan transaction fees in response to significant changes in statewide loan volume. The first state established strict regulations in addition to a database. Regulations included restrictions that limited borrowers to one payday loan at a time, with a maximum of 36 percent annual percentage rate (APR). Loan volume decreased and the state increased its fee just three years after creating the database. On the other hand, the second state decreased its fee several times as loan volume more than doubled over 10 years.

If the Legislature decides to implement a loan transaction system, it may choose to minimize its impact on loan volumes by not adopting any new regulations with the database. The Legislature might even consider using the database simply as an information system for the first year or two before adopting new limits on payday loans. This would allow the regulator and policymakers to gain a better understanding of the industry in order to inform the legislative process.

Lenders in some other states have tried to misuse the database in order to prevent customers from going to other lenders.

Lenders Restructured Loan Products to Avoid Reporting Loan Activity. Other states report that some lenders found ways to work around database requirements by adjusting the terms of their loan products so they were technically exempt from database requirements. For example, lenders restructured loans so they had similar terms to payday loans, but were not collateralized by a check. Payday loans became "supervised" signature loans, installment loans, and other high-interest consumer loans. Essentially, these loans were structured to be similar to payday loans but, by altering the terms of the loan, could avoid the technical definition of a payday loan. One regulator in another state referred to these alternative, under-regulated loans as "pseudo-payday-loans." To address this problem, the Legislature would need to define the scope of personal loan services that are covered by the database.

Some Lenders Reportedly Misuse the Database. Two other state sources told us that one benefit of the database is that lenders cannot issue a new payday loan until the borrower has paid off their other loans. The requirement incentivizes borrowers to pay off their loans. However, both sources also told us that the requirement leads some lenders to misuse the system. Lenders can prevent customers from taking out loans offered by competing lenders simply by not reporting a customer's repaid loan as closed.

One regulator from another state also told us that his state limits borrowers to a certain number of outstanding loans. He said some lenders would intentionally avoid reporting to the database that a loan had been paid in full in order to prevent a borrower from obtaining a new loan from a competitor. This state also reported that lenders would "backdate" loans (that is, mark them as paid off or closed a day earlier) so a borrower can obtain a new loan the same day without the completing the mandatory waiting period. While these abuses may have occurred in the past, we understand that regulatory fixes have been put in place in some states to prevent these problems.

In sum, we believe the Legislature could improve DFI's ability to identify and prevent violations of the state's payday lending laws by authorizing the use of a database to regulate payday loans. However, if the use of a database is not authorized, we still believe DFI needs to take steps to strengthen its oversight of the payday loan industry. These steps are described in the following section.

DFI Could Strengthen its Approach to Regulating the Payday Loan Industry

One way DFI could help reduce the overuse of payday loans would be to adopt a more aggressive approach to regulation. After reviewing DFI's examination process, including 194 examinations conducted during 2015, we have concluded that DFI could strengthen its enforcement of Utah's payday lending laws. We have identified three areas where DFI could better utilize existing tools:(1) more aggressively issue fines or take some other administrative action as soon as violations are identified, (2) prioritize enforcement efforts by focusing more attention on those provisions in the statute aimed at preventing the overuse of payday loans, and (3) track, tabulate, and report to management and the legislature, the number and type of violations identified during routine examinations.

DFI Could Issue More Fines

The use of fines is a regulatory tool that DFI could use more often. When DFI finds a lender has violated one of the statutory requirements for payday lenders, it rarely responds with a fine or with some other administrative action designed to compel the lender to come into compliance.

DFI Rarely Issues Fines. We found that DFI rarely exercises its authority to use fines and other administrative actions to enforce the state's payday lending laws. Among other penalties, ***Utah Code*** 7-23-504 authorizes DFI to fine non-compliant payday lenders $1,000 per violation, up to an aggregate total of $30,000 per calendar year. During the five years prior to 2015, DFI issued only one such fine. Our review of 194 corporate and storefront examinations conducted during 2015 showed that DFI examiners identified 244 violations considered finable. The exams conducted at the corporate offices of some of the state's largest payday lenders produced the greatest number of violations, with finable violations representing 85 percent of all payday lending violations identified.

DFI's examinations during 2015 uncovered 244 violations it considered finable, yet the agency issued no fines.

DFI Will Not Issue a Fine Until a Violation has been Identified for Three Consecutive Years. DFI has a policy of waiting

DFI will not fine a payday lender until the lender has been found violating a requirement for three consecutive years.

until a violation has been identified during three consecutive annual exams before it issues a fine. According to the DFI Examination Guide:

> The third time a fineable violation is identified, [DFI] will generally fine the institution. This is why it is important to cite all violations – [DFI] won't fine for an ongoing violation if we haven't already told them about it and given them two chances to correct the problem.

This policy seems too lenient and does not appear to be enforced. During our review of examinations conducted during 2015, we identified seven lenders with third-year violations. DFI's new examination supervisor issued fines to two of these lenders during our audit. However, as mentioned previously, DFI issued only one fine during the five years before our audit.

One reason DFI examiners observe so many repeat violations may be that the consequences for violating the requirements are delayed for three years. One way to encourage greater compliance would be to take some sort of administrative action, such as a fine, as soon as violations are identified.

DFI Needs to Prioritize its Enforcement Efforts

Chapter II raises concern for a large number of chronic users who appear to be taking out loans for extended periods of time which exceed the state's 70-day time limit. To address the problem, the legislature may need to make some changes to the statute, which are described later in this chapter. However, DFI may also need to focus more of its attention on examining loan histories in order to identify those instances in which lenders roll over one loan into another and thereby extend the debt beyond the 70-day limit. Currently most of the time examiners spend reviewing documents is devoted to verifying the accuracy of APRs disclosed in loan agreements which does little to prevent the overuse of payday loans.

Validating the APR Offers Little Benefit to Payday Loan Customers. According to federal law, an APR is considered accurate if the actual APR is within 1/8th of 1 percent (or .125 percent) of the disclosed APR. Thus, if the advertised interest rate is 521.43 percent, the actual interest charged must be within 0.13 of that rate. Certainly, testing the accuracy of the APR may help validate compliance with this specific federal requirement. However, we question value of devoting the majority of an examiners time to an issue that has little impact on customers. For example, DFI's will report a lender is in violation of state and federal law if they charge 521.55 percent APR when their loan agreement quotes a 521.30 percent rate. However, that violation equals a cost difference of just a few cents on a $300 loan for two weeks.

DFI Could Spend More Time Verifying Compliance with Laws Aimed at Preventing the Chronic Use of Payday Loans. We recommend that DFI consider reprioritizing the issues it considers during its examinations. Instead, of devoting much of their time validating the accuracy of the APR on nine different loans, perhaps DFI examiners should spend more time determining whether lenders are complied with the 70-day limit on the duration of a payday loan. Based on our review of loan histories for 303 payday loan customers, there are a significant number of loans that are exceeding this requirement. This is one reason for the chronic use described in Chapter II. Currently, DFI requires its examiners to review three loan histories during each examination. However, we also found that examiners do not always perform that review.

DFI examiners should consider devoting less time to validating APRs and more time validating compliance with laws aimed at preventing chronic use of payday loans.

DFI Should Also Consider Prioritizing Which Lenders it Examines Each year. State law currently requires DFI to annually visit every storefront of the state's registered payday lenders. We question whether this is an effective use of time. For example, one lender operates 30 stores in Utah. We believe that DFI can validate that lender's level of compliance without visiting every store.

Other states report that they prioritize the lenders they examine each year. Lenders considered most likely to violate lending laws are visited more often. Higher risk lenders, such as new lenders, lenders with small operations, and lenders previously identified as non-compliant are examined more frequently than lenders with an established history of compliance.

Before DFI can begin to prioritize its examinations, a change in statute may be needed. ***Utah Code*** 7-23-502(1) requires that DFI conduct examinations at "each premise" that offers payday loans. We recommend the Legislature consider changing this requirement in order to enable DFI to focus its efforts on those lenders it deems most likely to violate the payday lending laws.

DFI Could Improve the Accountability Of its Examination Process

DFI reports that it does not systematically track the results of examinations or tabulate violations; furthermore, it does not report such information to management. Such information would certainly be instrumental in assessing fines and prioritizing examination efforts. Department management expressed interest in receiving such information. We believe a list of the number and type of violations should also be included in DFI's annual report.

DFI could do a better job of tracking and reporting on the violations identified during its on-site examinations.

DFI Could Track and Report to Management and the Legislature the Violations Most Commonly Identified during Examinations. Considering the time and effort that goes into examinations, DFI should consider doing a better job of tabulating and summarizing the results of its examinations and make this information available to DFI management, the Legislature and the public. The number and type of violations identified during examinations might be tabulated and reported to management. DFI managers could then identify risk areas that may need greater attention during future examinations. DFI's annual report to the legislature should also include this information in summary form.

We have observed that other states also provide information regarding their enforcement efforts to the public. For example, Washington State's Department of Financial Institutions posts on their website the most common violations each year. In addition, several other states post the enforcement actions taken on their websites, listing the names of lenders, the fines or other administrative actions that have been taken. DFI could consider doing the same.

DFI Should More Carefully Document Administrative Action and Create Guidelines for Assessing Administrative Fines. DFI was unable to produce documentation supporting its assertion that it has issued more administrative fines for payday lending violations identified in examinations. While the department tracks fines received through a receipt database, it does not track fines issued. Furthermore, it should be noted that despite receiving statutory fining authority in 2007, the department has not created any administrative rules or guidelines to support consistent and uniform assessment of administrative fines.

We also asked the department for documentation of any other administrative action against payday lenders during the last five years. DFI has not commenced any administrative action or issued any Cease and Desist Orders, revoked registrations, or prohibited persons from payday lending since 2007. A review of other states indicates that they are much more likely to pursue administrative action and assess fines for non-compliant lenders.

DFI Examinations Could be Better Documented. In addition to not tracking, tabulating, or reporting examination results, the documentation of its examinations is lacking. During our review of examinations conducted in 2015, we found inconsistencies in the way examinations and violations are documented. While examiners are instructed to review the prior year's examination letter to determine repeat violations, we found that some violations indicated on exam questionnaires are not cited in examination letters sent to lenders and reviewed the following year. We also found that half of the letters did not match the questionnaires. In some cases, the letter cited fewer or more violations than those identified on the examination questionnaire, and some failed to identify repeat violations.

Half of the letters summarizing the results of the examinations did not match the documentation prepared during the examinations.

Examiners rely on prior year examination letters to determine repeat and third year violations. In some cases, repeat violations were not cited in letters. We also found that some examination letters included billing errors where lenders were undercharged or overcharged for examiner time.

An additional concern is apparent skipped questions in exams. We found a number of questionnaires that were incomplete with blank responses for questions. For example, each exam we reviewed included a section with questions regarding loan histories. Sixteen percent (233) of those questions were left blank, which raises the question of whether the examiner reviewed any loan histories for those examinations. Part of the problem may be DFI's use of an examination process that relies heavily on handwritten notes and hard-copy documentation. If the department could move to an electronic process, it could improve the reliability and consistency of the examination process.

In sum, we believe the effective use of the above described regulatory tools could help reduce the overuse of payday loans and bring lenders into greater compliance with state law.

Legislature Could Place Additional Limits On Payday Loans

The Legislature should also consider adopting some of the regulations used in other states to prevent borrowers from overusing payday loans. Compared to other states, Utah's payday lending laws are among the least restrictive. Many of the new controls could be adopted without affecting those who use payday loans responsibly. However, there may be some unforeseen consequences of placing further restrictions of payday loans.

States Have Developed Several Different Approaches To Regulating Payday Lending Industry

Of the seven main restrictions states have established on payday loans, Utah has adopted only two, making it one of the least restrictive states.

Several national research groups have studied the various strategies for regulating payday loans used in each of the 50 states. The studies show that some states are very restrictive while other states, including Utah, have relatively few restrictions. Based on these studies, we prepared a comparison of the state regulations, shown in Figure 3.1.

Figure 3.1 Comparison of State Payday Regulations. With no database, and just two of seven restrictions, Utah is one of the least restrictive states in our comparison of state payday loan regulations.

Payday Loans Prohibited	Database and Restrictions	5 - 7 Restrictions	3 - 4 Restrictions
Arizona	Alabama	Alaska	Idaho
Arkansas	Colorado	California	Kansas
Connecticut	Delaware	Hawaii	Louisiana
Georgia	Florida	Iowa	Minnesota
Maryland	Illinois	Missouri	Mississippi
Massachusetts	Indiana	Nebraska	Nevada
North Carolina	Kentucky	Ohio	Texas
Pennsylvania	Michigan	Oregon	Wyoming
Vermont	New Mexico	Rhode Island	
West Virginia	North Dakota	Tennessee	
Effectively Prohibited	Oklahoma		**2 Restrictions**
	South Carolina		
Montana	Virginia		South Dakota
New Hampshire	Washington		Utah
New Jersey	Wisconsin		
New York			
Maine			

Source: OLAG Summary of payday loans studies by National Conference of State Legislatures, PEW Charitable Trusts, Consumer Federation of America, and Center for Responsible Lending.

The following material describes the different state strategies for regulating payday loans. See Appendix C for a list of the specific limits imposed by each state.

Most states either prohibit payday loans altogether or they use a database to place tight restrictions on payday loans.

Fifteen States do not Allow Payday Lending. The first column in Figure 3.1 lists those states where payday loans are not available. These states either have outright bans of payday lending or they have placed such severe restrictions that lenders are prevented from operating profitably. The downside of imposing such severe regulation is that it does not recognize that some people have few alternative sources of credit and can use payday loans responsibly.

Another Fifteen States Combine Regulation with the Use of a Database. The second column of Figure 3.1 identifies those states that allow payday lenders to operate within a certain set of restrictions. These states use a database system to monitor payday loan transactions. The database also ensures that lenders avoid loans that do not meet the state's regulatory requirements. We interviewed staff from the regulatory agencies of several of these states. They told us the database system greatly improved their ability to enforce their regulations and was a benefit to consumers, lenders, and regulators.

Eighteen States Impose Tougher Regulations Than Utah Does. The two right-hand columns in Figure 3.1 list the twenty remaining states that do not use a database system but do place restrictions on payday loans. Of the seven key regulations that states most commonly use, shown in Figure 3.2, we found Utah and South Dakota have just two of the regulations.

Most states impose tougher restrictions on payday loans than Utah does.

Figure 3.2 Summary of Regulations in States That Allow Payday Lending. Of the seven methods other state's use to limit payday lending, Utah uses two.

	Count of States	Percent
Limits on the Terms of the Loan		
1. Limit on loan amount	32	91%
2. Limit on loan duration*	33	94%
3. Limit on APR/fees	29	83%
Debt Limits		
4. Limit on number of rollovers	32	91%
5. Limit on number of loans	23	66%
6. Required cooling-off period	11	31%
7. Opportunity for EPP/repayment plan*	15	43%

** Utah has these regulations*

Figure 3.2 shows that, of the 35 states that allow payday lending, over 90 percent have limits on the loan amount and duration, as well as a limit on the number of loan extensions ("rollovers.") Over 80 percent of states limit interest rates and fees and 66 percent restrict the number of active loans a borrower may have at one time. A little less than a third require cooling-off periods between loans; however, in some states, a cooling-off period may not be necessary because of limits on the number of loans a borrower may have. Finally, 43 percent of states require lenders to offer an interest-free pay-down period or extended payment plan.

Two States, Including Utah, Impose Few Restrictions on Payday Loan Use. Compared to other states, Utah offers payday lenders a relatively unrestrained regulatory environment. Utah and South Dakota are the only two states that have just two of the seven major restrictions that we examined. Utah restrictions include a limit of 70 days on the duration of a loan, and a requirement that borrowers must be allowed to repay their loans during a 60-day interest-free repayment period. South Dakota limits include restrictions on the loan amount and the number of loan extensions allowed.

Compared to other states, Utah offers payday lenders a relatively unrestrained regulatory environment

Restrictions Can Prevent Misuse of Payday Loans Without Affecting Responsible Borrowers

In order to prevent chronic use of payday loans, Legislators could adopt some of the restrictions that other states have imposed on payday loans. These restrictions should have little effect on low- and moderate-risk customers described in Chapter II. The following material describes three specific restrictions that legislators should consider.

To prevent chronic use of payday loans, the Legislature could adopt some of the restrictions used in other states.

1. Limit How Many Loans a Borrower May Have at the Same Time. Of the 23 states in Figure 3.2 that limit the number of loans a borrower may obtain, at least 16 states have laws limiting how many payday loans a borrower many have **at the same time**. For example, in Indiana, borrowers may only have two outstanding loans at one time, but they must be from different lenders.

Limiting borrowers to one payday loan at a time would be one method of preventing some of the chronic borrowing we described in Chapter II. Many of the chronic borrowers we identified increased their payday loan debt by obtaining multiple loans from different lenders. This restriction, combined with a database or registry of payday loan customers, would limit customers' ability to overextend themselves with payday loan debt.

2. Prohibit Lenders from Rolling an Old Payday Loan into a New Payday Loan. Of the 32 states in Figure 3.2 that limit the number of rollovers, we identified 22 states that **prohibit** rolling one loan into another. For example, the state of Wyoming has a requirement that a borrower may not repay, refinance, or consolidate a loan with the proceeds of another loan.

As reported previously in this chapter, DFI cited one lender for rolling old loans into new loans because the loan would extend the duration of the borrower's debt beyond 70 days. Our study of 303 payday loan customers found that as many as one-half of chronic users of payday loans rolled an old loan into a new loan, which together exceeded 70 days. That practice is one reason why many of those borrowers paid interest on a payday loan for more than 180 days during fiscal year fiscal year 2015.

3. Require a "Cooling-Off" Period Between Loans. We are aware of 11 states that require borrowers to wait for a period of time between payday loans. For example, the state of New Hampshire requires borrowers to wait 60 days after closing a loan before obtaining a new one. Cooling-off periods range from 24 hours to 90 days, and some states have progressive cooling-off periods that depend on a consumer's borrowing and repayment history.

Utah Code 7-23-4 already prohibits lenders from issuing a new loan the same day as an old loan is closed, but this provision only applies to loans that have exceeded the 70-day duration on a payday loan. As a result, the Utah law applies to relatively few loans since only 8 percent of loans end with an EPP. Requiring time between loans would help restrict a borrower's use of payday loans to addressing short-term financial needs and prevent them from using the loans for long-term financing.

Tighter restrictions on payday loans can prevent chronic use without affecting those who use payday loans infrequently.

Legislature can apply Additional Restrictions Without Limiting the Legitimate Use of Payday Loans. The three restrictions described above would have very little effect on the customers who use payday loans responsibly. Few low-risk or moderate-risk users would be affected by laws limiting them to one loan and one borrower at a time, or by a requirement that they pay off a default before obtaining a new loan. These restrictions would only affect those who tend to overextend themselves or default on loans.

Tougher Regulations May Lead Borrowers to Turn to Unregulated Alternatives to Payday Loans

Based on the experiences of other states, the Legislature should consider potential unintended consequences of adding restrictions to the payday loan industry. As payday lending has become subject to tighter restrictions in other states, some lenders acknowledge that they have promoted installment loans as a way to avoid the limits on payday loans. In addition, borrowers may turn to internet loans provided by unregulated lenders from another state.

If tighter restrictions are placed on payday loans, borrowers may turn to unregulated installment loans.

Lenders May Promote the Use of Unregulated Installment Loans. Lenders, DFI, and other states told us payday lenders are shifting to installment loans because they are not regulated like payday loans. While installment loans may be set up similarly to payday loans, they do not offer the same borrower protections required for payday loans. The duration of an installment loan is typically unlimited, and borrowers are not entitled to repayment plans if they become unable to repay the loan. Furthermore, installment lenders are not subject to annual examinations. We observed lenders that described their installment loans as a "better" alternative to payday loans. We were also told that lenders are switching to installment loans because they are not regulated.

Borrowers May Turn to Internet Loans. Lenders contend that stricter regulation of payday lending will force consumers who do not qualify for loans to turn to foreign and out-of-state online lenders that are difficult to control. While all internet based payday loans are subject to Utah law, some are concerned that borrowers will pursue loans from out of state vendors, who are difficult to regulate. This claim is contradicted by a report by the Pew Research Center which indicates that the rise in internet lending is explained by the convenience it offers, not by increased regulation. In addition, the argument that internet loans will increase as local regulations increase seems to ignore the availability of small-dollar, high-interest consumer loan alternatives on the market. Payday lending is one option in a range of consumer loan products that includes title loans, pawn loans, signature loans, installment loans, and other secured or unsecured personal loans.

Recommendations

1. We recommend that the Legislature consider requiring payday lenders to participate in a centralized internet-based database system to monitor payday loan transactions and that lenders be required to consult the registry before issuing a payday loan.

2. We recommend that the Department of Financial Institutions consider more aggressively issuing fines and other administrative actions when lenders are found to be in violation of state restrictions on payday loans.

3. We recommend that the Department of Financial Institutions consider reprioritizing its examination efforts by focusing on lender compliance with those laws aimed at preventing chronic use of payday loans.

4. We recommend that the Department of Financial Institutions consider improving its approach to tabulating and reporting violations.

5. We recommend that the Department of Financial Institutions consider improving the documentation of its examinations as well as its administrative actions.

6. We recommend the Legislature consider modifying ***Utah Code*** 7-23-502(1) in order to allow DFI to prioritize which lenders it examines each year.

7. We recommend that the Legislature consider adopting additional statutory limits to payday loans. Among others, legislators should consider the following:

    a. Limit the number of active payday loans a borrower may have at one time

    b. Prohibit borrowers from obtaining a new loan before a prior loan default has been repaid

    c. Prohibit rolling the principal balance due on an old payday loan into a new payday loan

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Chapter IV
Better Data Can Help DFI Regulate The Payday Loan Industry

The Department of Financial Institutions (DFI) could benefit from obtaining more complete and accurate reports from the payday lenders it regulates. Currently, lenders are required to report about one dozen measures of their lending activity. However, the measures reported do not include the total number or the dollar amount of payday loans issued each year. The annual total of borrowers is also not included. Surrounding states require their payday lenders to report these industry measures annually. Without this information, it is difficult to interpret the other data DFI does collect. In addition, some lenders are not using sufficient care to make sure their reports to DFI are accurate. Because DFI relies on those figures for its annual report, we question the reliability of the industry data reported by DFI each year.

Key data elements are missing from the reports currently being submitted each year by payday lenders.

DFI, the Legislature, and the public could also benefit from knowing the number of chronic users and the rate at which borrowers default on their payday loans, as reported in Chapter II of this report. Because the information has not been available, some have tried to use the number of court filings by payday lenders as an indicator of how many borrowers are defaulting on their loans. We found that the number of court filings is a poor indicator of the payday loans in default.

Most of our concerns about the accuracy of the industry data would be addressed if the Legislature were to direct DFI to use a database for tracking payday loans. A database of payday loan transactions would provide DFI a means of measuring a wide range of industry activities without relying on the annual operational statements submitted by lenders. If a database is not authorized, the department will need to test the accuracy of the data it receives from lenders during its on-site examinations.

Legislature Should Consider Authorizing DFI to Gather More Data

Information is a basic tool that regulators and policy makers need in order to provide effective oversight of the payday loan industry. However, the Legislature has not authorized DFI to gather all the industry measures that are needed. Because data is incomplete, it is difficult to interpret much of the information that DFI does gather.

Having accurate information regarding the payday loan industry is important for several reasons. Activity measures could help DFI determine the extent to which individual lenders are complying with the law. The information could also help DFI know how to best allocate its staff resources to target noncompliant lenders. Perhaps more importantly for the Legislature, accurate industry data could help policy makers know whether Utah's payday lending laws are effective. The following section describes some reasons DFI has been unable to gather complete data on the payday loan industry.

DFI Has Not Been Authorized to Gather All Industry Information Needed

DFI has asked for authority to gather additional information from lenders but state law only allows them to gather some of the requested data elements.

DFI has not been authorized to gather the information it needs to effectively regulate the payday loan industry. As a result, the data reported each year by payday lenders is incomplete and of limited value. In contrast, other states gather a broad range of data that enable regulators, policy makers, and the public to more effectively monitor conditions in the payday loan industry.

DFI Has Asked for Authority to Gather Additional Information Regarding the Payday Loan Industry. In 2008, DFI asked the Legislature for authority to gather additional data from payday lenders during its annual registration process. In the 2008, 2010, and 2012 General Sessions, legislation was enacted authorizing DFI to collect much of the requested data. However, three key indicators were not included in the legislation, including the total number of deferred deposit loans issued, the total dollar amount of those loans, and the total number of individuals to whom they were made. Figure 4.1 lists the measures DFI requested and the measures approved in the legislation.

Figure 4.1 Measures Requested by DFI vs. Those Required in Statute. The Legislature authorized 12 of the 15 measures DFI requested. However, the 12 measures it did authorize are difficult to interpret without the 3 that were not approved.

	Lender Activity Measures Requested by DFI	Resulting Statutory Provision
1.	Total number of deferred deposit lenders registered at year end	Yes
2.	Total number of locations operated by deferred deposit lenders at year end	Yes
3.	Total number of deferred deposit loans made	No
4.	Total dollar amount of deferred deposit loans made	No
5.	Average deferred deposit loan amount	Yes
6.	Total number of individuals to whom deferred deposit loans were made	No
7.	Range of Annual Percentage Rate charged on deferred deposit loans	Yes
8.	Average Annual Percentage Rate charged on deferred deposit loans	Yes
9.	Average term in days of deferred deposit loans made	Yes
10.	The number of deferred deposit loans rescinded within 24 hours	Yes
11.	The total dollar amount of deferred deposit loans rescinded within 24 hours	Yes
12.	The number of deferred deposit loans carried to the maximum [10]* weeks	Yes
13.	The total dollar amount of deferred deposit loans carried to maximum [10]* weeks	Yes
14.	The number of deferred deposit loans not paid in full at the end of [10]* weeks	Yes
15.	The total dollar amount of deferred deposit loans not paid in full at the end of [10]* weeks	Yes

Source: DFI Internal Documents
**DFI's original request related to the 12-week limit in effect at the time. The limit has since been reduced to 10 weeks.*

Lenders are not required to report the total number of loans made, the total dollar amount of loans or the number of individuals to whom loans were extended.

In addition to the items listed, one item was added that was not on DFI's original list of indicators. During the 2012 Legislative General Session, the passage of House Bill (H.B.) 459 required lenders to report the annual average dollar amount of extended payment plans they issued.

DFI Needs Additional Information to Make Use of the Data It Does Collect. Without the total number of deferred deposit loans made, the total dollar amount of deferred deposit loans made, and the total number of individuals to whom deferred deposit loans were made, it is difficult to interpret the other data elements that lenders are required to submit.

For example, lenders are required to report the number of deferred deposit loans carried to the maximum 10 weeks. DFI's most recent (2014) annual report disclosed that this figure was 45,000. One news outlet raised concern that this figure shows that "45,000 people are unable to pay back a [payday] loan…." Yet, without knowing the total number of loans issued, it is difficult to put this figure in perspective. Based on our rough calculations of the total deferred deposit loans issued in Utah, that figure of 45,000 could be as low as 9 percent of all loans issued. Until the Legislature authorizes DFI to collect the total number and amount of deferred deposit loans issued, and the total number of customers, it will be difficult for DFI or the public to make sense of the other measures reported by lenders each year.

Surrounding States Gather Broader Range of Activity Measures

Lenders in other states are required to report the total number, the total dollar amount and the total individuals who are issued payday loans.

DFI's request for additional activity measures is not unusual when compared to the information being gathered by other states. We surveyed the reporting requirements in seven other western states in order to identify the most commonly used measures. As shown in Figure 4.2, other states gather some of the information DFI has requested, but not yet given, authority to collect.

Figure 4.2 Number of States Reporting Specific Measures of Payday Loan Activity. Most surrounding states gather many of the same industry indicators, including three data elements (in **bold**) requested by DFI but not authorized.

Metric	States Reporting
Total number of deferred deposit loans	**7/7**
Total dollar amount of deferred deposit loans	**7/7**
Total number of individuals issued a deferred deposit loan	**5/7**
Average term in days of deferred deposit loan	6/7
Average and/or total fees charged for deferred deposit loans	6/7
Default rate/returned checks on deferred deposit loans	7/7

Source: OLAG survey of California, Colorado, Idaho, New Mexico, Oregon, Washington, Wyoming.

Figure 4.2 shows each of the other states in our survey gather the three items (in bold) that DFI requested but not yet received approval to collect. In addition, like Utah, most states require lenders to report the average loan duration. Finally, our survey shows that other states require lenders to report two other, equally important measures that DFI has not requested. These include the total fees and the default rate on deferred deposit loans. We recommend that the Legislature consider including these two additional items as well. The following section describes the justification for requiring lenders to report loan defaults.

Court Data Not Reliable Source To Gauge Payday Loan Defaults

Efforts have been made to use court data to identify the extent to which borrowers are unable to repay their payday loans. In addition, during the 2016 Legislative General Session, legislators approved H.B. 292, which requires lenders to report the percentage of loans about which they have initiated court action against a borrower. However, we found that the court filings are a poor indicator of the number of borrower defaults. As an alternative, we suggest the Legislature direct DFI to gather information (similar to that described in Chapter II) identifying the number of chronic users of payday loans and the number of customers who have defaulted on a loan.

Some have expressed alarm for the number of small claims filed by payday lenders.

Legislators, Media, and Interest Groups Have Expressed Concern for the Large Number of Court Filings by Payday Lenders. During the past year, there were several news reports and editorials expressing alarm over the number of payday lenders that had filed small claims against their customers. One news outlet expressed alarm at the 7,927 "lawsuits against borrowers filed by payday lenders registered in Utah." The same news report raised concern that, in several justice courts, more than 90 percent of the small claims are filed by payday lenders. Some have suggested that these court filings are an indication of the number of customers who are unable to repay their loans. Our audit work does not support this claim.

The Court Data Suggests Only a Few Lenders Regularly File Claims Against Their Customers. We found that most small claims were filed by just one lender and most payday lenders file few, if any, claims against their customers. This conclusion is based on the following facts:

- During fiscal year 2015 8,003 small claims were filed by payday lenders. Of those, 51 percent were filed by just one lender who had filed claims against about one-third of its customers.

- About two thirds of the payday lenders in Utah did not file a single claim against a customer during fiscal year 2015.

Our tests show only a small percentage of loans result in a court filing.

- During fiscal year 2015, one payday lender had 1157 active payday loan customers at one of its stores. The lender filed claims against only 13 (1.1 percent) of those borrowers.

- A study of 651 customers of six payday lenders in one Utah community revealed that just 31 (5 percent) had claims filed against them by their payday lender. Of those, 26 (74 percent) claims were filed by one lender.

Based on our review of the court data and interviews with payday lenders, we found that with one exception, Utah's payday lenders are not filing many small claims against their customers. Instead, most lenders appear to do everything they can to avoid filing claims against their customers. Lenders report that, in many cases, it is not worth the cost to pursue a claim in court against an individual who may very well be unable to pay. Instead, they may try to help customers come current on their debts by offering an extended payment plan, or by refinancing the debt. Many debts are simply written off. Lenders who take this approach seem more interested in retaining customers than in pursuing claims in court. Given this information, we believe court filings are not the best indicator of how many borrowers have difficulty repaying their payday loans.

Most lenders are more interested in retaining people as customers than pursuing them in court.

Public Interest in Court Filings Shows a Need for Better Data on Chronic Use and Loan Defaults. Although the number of court filings may not provide useful information for evaluating the payday loan industry, the attention given to those figures does show that some individuals have been searching for ways to identify the effects of payday loans on borrowers. In our view, the data provided in Chapter II helps address that need. However, our study included only five Utah communities for one fiscal year. Ideally, this information should be gathered annually for the entire state.

As described in Figure 4.2, six of seven surrounding states require lenders to report the number of loan defaults. Many states also use the number of rollovers, the duration of loans, and other indicators to identify chronic use. That information, combined with the total number of loans issued and total number of borrowers would help regulators, policy makers, and other interested parties to evaluate the effectiveness of state efforts to prevent the overuse of payday loans.

We recommend that the Legislature authorize the department to add loan defaults (or write-offs) to the list of statutorily authorized data collected from lenders. We further recommend that DFI select a combination of other measures, such as loan duration and rollovers, to identify the number of borrowers who demonstrate a chronic and sustained use of payday loans.

Accuracy of Lender Data Is a Concern

We are also concerned about the accuracy of the industry data DFI receives from lenders each year. As required by statute, DFI compiles the data and summarizes it in its annual report. However, the data submitted by lenders is not always accurate. If the Legislature authorizes the use of a database system to monitor payday loan transactions, the department will have access to the transaction data it needs to provide accurate reports of industry conditions. However, if DFI is not authorized to create a database system, then the department should conduct tests to validate the data it receives from lenders.

Use of a database could address concerns about the quality of the data reported lenders each year.

Some Industry Data in DFI's Annual Report Is Not Reliable

We found two reasons to be concerned about the accuracy of the industry data reported in DFI's annual report. First, our audit work discovered errors in the annual statements submitted by lenders. Second, DFI uses a simple average for many for the reported indicators, which means the data from a small lender with one storefront and a few dozen customers carries as much weight as that from a very large lender with thousands of customers.

State Law Requires DFI to Report on Payday Loan Industry Activity Each Year. ***Utah Code*** 7-23-503 requires DFI to issue a report each year describing several measures of the loans issued by the state's payday lenders.

> **7-23-503. Reporting by commissioner.**
>
> (1) Subject to Subsection (2), as part of the commissioner's annual report to the governor and Legislature under Section 7-1-211, the commissioner

shall report to the governor and Legislature on the operations on an aggregate basis of deferred deposit lenders operating in the state.

The law also requires that the report be based on the operations statement that lenders submit each year with their annual registrations. The law requires that the information be reported in aggregate without disclosing information regarding individual lenders.

Some lenders appear to be submitting rough estimates of the information they have been asked to report.

Some Lender Operations Statements Are Inaccurate. We determined that some of the data submitted by lenders each year is inaccurate. Other figures appear to be only rough estimates of the information they have been asked to report. These errors casts doubt on the accuracy of DFI's annual reports. The following are a few examples of the inaccuracies and data rounding we found in the data lenders submitted for DFI's 2015 annual report.

- Three lenders reported that the average number of days' interest they charged on loans is 70 days. This is very unlikely since it would require every loan to reach the maximum 70-day limit on the duration of a payday loan.
- For 10 of the 14 lenders in our study of 303, we found that the maximum rate of interest actually charged on a $100 loan for seven days was higher than the amount the lender reported to DFI.
- One lender reported that the maximum interest charged for a $100 loan for seven days is $462.52. That is an improbable 24,117 percent APR.
- One lender provided round numbers (250, 50, 350, 300) for items that required the lender to submit the average of actual loans. It is highly unlikely that this series of precise round numbers reflects the lender's actual loan activity.

When asked, several lenders admitted that the data they submitted was not based on information from the loan management systems. For example, one lender told us that they reported the average loan to be $300 because that is the amount they typically loan to new borrowers. However, customers with a lengthy history with the lender can borrow $400 to $500 dollars. So, in effect, the lender told us that they reported the amount of the typical new loan, not the true average loan amount.

DFI told us that they perform a reasonableness check on the data they receive and do exclude from their report any figure that is obviously incorrect. But we believe that if the data is deemed unreasonable by DFI, DFI should ask the lender to resubmit the report.

By averaging the data submitted by each lender, DFI's reports of payday loan activity may give too much weight to the experience of small lenders.

DFI's Use of a Straight Average Adds to Inaccuracy in the Annual Reports. Five measures described in DFI's annual report are a simple average of the data submitted by lenders. For example, in its fiscal year 2015 annual report (see Appendix D), DFI reported that the average loan amount that deferred deposit lenders extended was $373. That figure reflects the average loan amount reported by all payday lenders. The problem with averaging each lender's reported figure is that it does not accurately represent industry conditions statewide. The average loan amount for a lender with just one store and a few hundred customers is given equal weight to the average loan amount of a lender with a few dozen stores and tens of thousands of customers.

Given the way DFI currently collects industry data, there is no alternative to averaging each lender's average figure. If lenders were required to submit the total number of customers and the total loans issued, then DFI could report the weighted averages, which would better represent industry conditions as a whole.

Database for Tracking Loans Would Provide DFI Access to Better Industry Data

In this chapter we recommend the Legislature do two things to improve the accuracy of the data gathered by DFI. First, the Legislature should authorize DFI to obtain and report a broad set of industry indicators, including total customers, total loans, and total loan amounts. Second, DFI must validate the data it receives from lenders. If authorized, DFI's use of a database (as described in Chapter III) would help DFI perform these tasks efficiently. If a database is not authorized, the department will need to perform tests during its on-site examinations to verify the accuracy and reliability of the data it receives from payday lenders.

Database System Can Be an Effective Tool for Gathering Data Regarding the Payday Loan Industry. A database system for monitoring loan transactions can be a valuable source of data for regulators and policy makers. Regulators would have access to loan transaction records that would allow them to monitor individual lender activities and to report on industry trends as a whole. Similarly, each year, policy makers could be provided with same the type of information described in Chapter II of this report but on a statewide basis.

If a Database Is Not Created, DFI May Need to Perform More Thorough On-Site Reviews of Lender Data. Colorado provides an example of what might be done to gather data if an electronic database of loan transactions is not developed. Examiners from Colorado gather a comprehensive set of transaction data each year as they conduct their examinations of each individual lender. In effect, the regulators gather a comprehensive set of data that is quite comparable to what might be gathered electronically by a database. However, Colorado's approach would require staff to manually perform the tasks that would automatically be performed by an electronic loan transaction or database system.

The use of a database to regulate payday loan activity would also provide a means of collecting a wide range of information regarding payday loans in the state.

Recommendations

1. We recommend that the Legislature add the following information to the industry measures gathered by the Department of Financial Institutions each year from registered payday lenders:
   - Total number of deferred deposit loans made
   - Total dollar amount of deferred deposit loans made
   - Total number of individuals to whom deferred deposit loans were made
   - Total fees paid
   - Percent of loans in default

2. We recommend that, if the use of a database system for tracking loan transactions is authorized, the Legislature should direct the Department of Financial Institutions to use the database to gather and report those industry-wide activity measures that are listed in ***Utah Code*** 7-23-201. Lenders would no longer need to submit an annual operations statement.

3. We recommend that the Department of Financial Institutions select a combination of measures of payday loan activity, such as loan duration and rollovers, to identify the number of borrowers who demonstrate a chronic and sustained use of payday loans.

4. We recommend that the Department of Financial Institutions require its examiners to perform tests validating the data submitted in each lender's operations statement for the prior year, if the use of a database system for tracking loan transactions is not authorized.

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Appendices

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Appendix A
Study of Payday Lending in Five Utah Communities

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Study of Payday Lending in Five Utah Communities

Study Objectives

The study was designed to determine the effectiveness of Utah's laws in limiting the use of payday loans to an applicant's short term needs. Legislators requesting the audit express concern for the risky nature of the payday loan business and for effectiveness of Utah's laws in preventing overuse of the product. Specifically, legislators are concerned that the overuse of payday loans can lead a borrower to become overextended and trapped in a "cycle of debt."

The study objectives include:

1. Identify the degree to which borrowers are using payday loans for short term needs without repeatedly extending the loans.
2. Identify the number of borrowers that overuse payday loans and, due to long term use, face serious financial hardships.
3. Identify the percent of borrowers that default on a payday loan.
4. Verify the accuracy of state published reports on the average loan amount, interest expense, and duration, etc. of payday loans in Utah.

Study Methodology

To best accomplish the study objectives, it was determined that the study needed to cover a complete population of payday loan borrowers. To that end, five separate communities were identified as well as the individual payday lenders serving in those communities. Each payday lender was asked to supply a complete list of customers who had an active loan during the year ending June 30, 2015. From that study population a statistically significant sample of borrowers were identified. This produced a sample population of 303 customers. Each lender was then asked to provide a complete loan transaction history for each customer. A review of each loan history produced the following results and are reflected in the contents of this report.

The population of payday loan customers were divided into the following four user groups that we found to be a natural breakdown of the population:

Low-Risk Users – use payday loans sparingly and only to address a short-term emergency; repay the loan within one or two paydays. Low risk users demonstrated each of the following:

- Paid interest on payday loans for no more than 60 days (2 months) during fiscal year 2015. This is equivalent to 4 payday loans in one year, each with a 14-day term
- Had no loan defaults
- Paid off all loans no later than two weeks after the original due date of the loan

Moderate-Risk Users – use payday loans often, sometimes miss a loan payment and may roll over their loans for several months. Moderate-Risk Users demonstrated each of the following:

- Paid interest on one or more payday loans for more than 60 days but less than 183 days (6 months) during fiscal year 2015
- Missed making a payment on the scheduled loan due date on one or two occasions
- Rolled over a payday loan three times on average

Chronic Users – use one payday loan after another on a long-term basis. They demonstrated one or more of the following:

- Paid interest on a payday loan for over 183 days (6 months) during fiscal year 2015
- Obtained one payday loan after another until the total days paying interest exceeded 70 days
- Paid interest that was 2.5 times the amount borrowed
- Took out loans with multiple lenders at the same time

Defaulters – show an inability to repay a payday loan

- Stopped making payments on a payday loan soon after it was issued
- Had a loan written off by the lender
- Had a loan submitted to debt collectors
- Had a loan pursued in small claims court

The following table describes the characteristics of these four user groups.

Study Results

The following describes several loan activity measures drawn from our study of 1,343 loans offered to 303 customers by 14 different lenders, in 5 communities.

Measures of Loan Activity by Customer Group	Group 1	Group 2	Group 3	Group 4	All Customers Groups
	Low-Risk Users	**Moderate-Risk Users**	**Chronic Users**	**Defaulters**	
Number of Customers	53	113	96	41	303
Percent of Customers	17%	37%	32%	14%	100%
Number of Loans Issued	137	428	711	67	1,343
Percent of Loans Issued	10%	32%	53%	5%	100%
Loans Per Customer	2.6	3.8	7.4	1.6	4.3
Number of Days Paying Interest on Loans During FY 2015	1,357	9,046	20,415	1,257	32,075
Average Days Paying Interest on one or more Payday Loans during FY15	26	80	213	31	106
Average Duration of a Loan in Days	10	21	29	19	24
Average Loan Amount	$312	$307	$420	$362	$370
Total Interest and Fees Paid Per Customer FY 2015	$108	$410	$1,248	$121	$584
Percent of All Interest Paid by Customers in Study	3%	26%	68%	3%	100%
Percent of Loans Paid off by the Initial Due Date	77%	55%	45%	21%	50%
Average APR (excludes loans written off or rescinded)	466%	449%	452%	495%	453%
Number of Customers facing Court Action by One of the Payday Lenders in Our Study	–	–	9	15	24
Percent Customers with Claim Filed in Court	–	–	9%	37%	8%
Percent who Borrowed from More than One of the 14 Lenders in our Study	4%	4%	29%	17%	14%
Number of Loans Rescinded by Borrower on First Day	2	5	9	–	16
Number of Loans Ending with Extended Payment Plan	–	26	77	4	107
Percent of Loans Ending with an Extended Payment Plan	–	6%	11%	6%	8%
Number of Loans with Rollover	13	134	367	15	529
Percent of Loans with a Rollover	9%	31%	52%	22%	39%
Number of Rollovers	20	325	984	22	1,351
Rollovers per Borrower	0.4	2.9	10.3	0.5	4.5

Source: Derived from study data   Calculated from study data

Study Limitations

When interpreting the above results, it is important to recognize the following limitations and challenges faced during the study.

1. For 16 customers who used multiple payday lenders, we obtained the loan history information from one or more lenders but some or all of the information from another lender was not provided. In about eight cases, the results would not have been affected by the additional loan data. In the remaining eight cases, the absence of a complete set of loan histories may have led us to understate the actual loans per customer, the days paying interest, total interest paid, etc. The inclusion of the missing loan histories does not, in our view, impact the overall study results.

2. Lenders do not use a consistent method for issuing loans and reporting their loan activity. For example, some lenders allow customer to roll over loans while others do not permit rollovers. Instead, they require customer wishing to extend a loan to obtain an entirely new loan. Auditors attempted to use a consistent method of classify activities which, though technically different, have a similar function.

3. The accuracy of the information included in this report largely depends of the accuracy of the data obtained from lender transaction histories. In most cases, a review of records on site was made to validate the data. Even so, it was not always possible to eliminate the possibility of data entry errors in the lender's transaction logs.

Appendix B
Examples of Chronic Users

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Appendix B
Examples of Chronic Users

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Payday Loans Issued to Customer A during FY 2015

Lender I

2014	S	M	Tu	W	Th	F	S	2015	S	M	Tu	W	Th	F	S
				1	2	3	4		28	29	30	31	1	2	3
Jul	5	6	7	8	9	10	11	Jan	4	5	6	7	8	9	10
	12	13	14	15	16	17	18		11	12	13	14	15	16	17
	19	20	21	22	23	24	25		18	19	20	21	22	23	24
	26	27	28	29	30	31	1		25	26	27	28	29	30	31
Aug	2	3	4	5	6	7	8	Feb	1	2	3	4	5	6	7
	9	10	11	12	13	14	15		8	9	10	11	12	13	14
	16	17	18	19	20	21	22		15	16	17	18	19	20	21
	23	24	25	26	27	28	29		22	23	24	25	26	27	28
	30	31	1	2	3	4	5	Mar	1	2	3	4	5	6	7
Sep	6	7	8	9	10	11	12		8	9	10	11	12	13	14
	13	14	15	16	17	18	19		15	16	17	18	19	20	21
	20	21	22	23	24	25	26		22	23	24	25	26	27	28
	27	28	29	30	1	2	3		29	30	31	1	2	3	4
Oct	4	5	6	7	8	9	10	Apr	5	6	7	8	9	10	11
	11	12	13	14	15	16	17		12	13	14	15	16	17	18
	18	19	20	21	22	23	24		19	20	21	22	23	24	25
	25	26	27	28	29	30	31		26	27	28	29	30	1	2
Nov	1	2	3	4	5	6	7	May	3	4	5	6	7	8	9
	8	9	10	11	12	13	14		10	11	12	13	14	15	16
	15	16	17	18	19	20	21		17	18	19	20	21	22	23
	22	23	24	25	26	27	28		24	25	26	27	28	29	30
	29	30	1	2	3	4	5		31	1	2	3	4	5	6
Dec	6	7	8	9	10	11	12	Jun	7	8	9	10	11	12	13
	13	14	15	16	17	18	19		14	15	16	17	18	19	20
	20	21	22	23	24	25	26		21	22	23	24	25	26	27
	27	28	29	30	31	1	2		28	29	30				

Loan Number	Start	End	Amount	Interest	Days Paying Interest	Rollovers	Default
Loan #1	9/5/14	10/3/14	$300.00	$102.00	28	1	1
Loan #2	12/15/14	1/7/15	$350.00	$97.75	23	1	1
EPP #1	1/8/15	3/14/15					
Loan #3	5/9/15	6/1/15	$400.00	$104.85	23	2	
Loan #4	6/1/15	7/20/15	$572.00	$314.30	49	3	1
Sum:				**$618.90**	**123**	**7**	**3**
Weighted Average:			**$436.41**				
APR:			**421%**				

Background:

Borrower was 22 years of age when loan #1 was issued, was a cook at a restaurant with a monthly income of $2,200 per month.

Observations

1. Borrower defaulted on three loans during FY 2015. After first two defaults, the borrower later repaid the balance due and was extended a new loan.

2. Rather than pursue a small claim in court, the lender showed a willingness to work with the borrower until each loan was repaid. An extended payment plan was issued after one loan went into default. The lender agreed to refinance another loan that the borrower could not repay.

3. Loans #3 and #4 were rolled over on several occassions.

5. Average loan amount was $436 and total interest and fees was $619.

6. With a monthly income of $2,200, the interest on a $400 loan was nearly 7 percent of the borrower's monthly income.

7. Earlier in 2014, before the above loans were issued, the borrower defaulted on a loan from another payday lender. That lender filed a small claim in court seeking $399 for an unpaid payday loan. After court fees and attorneys fees, the final judgement was $979. As a result, during the time the above loans were active, the borrower was in the process of repaying court claims on a prior loan.

Payday Loans Issued to Customer B during FY 2015

Lender 1 of 2

2014	S	M	Tu	W	Th	F	S	2015	S	M	Tu	W	Th	F	S
				1	2	3	4		28	29	30	31	1	2	3
Jul	5	6	7	8	9	10	11	Jan	4	5	6	7	8	9	10
	12	13	14	15	16	17	18		11	12	13	14	15	16	17
	19	20	21	22	23	24	25		18	19	20	21	22	23	24
	26	27	28	29	30	31	1		25	26	27	28	29	30	31
Aug	2	3	4	5	6	7	8	Feb	1	2	3	4	5	6	7
	9	10	11	12	13	14	15		8	9	10	11	12	13	14
	16	17	18	19	20	21	22		15	16	17	18	19	20	21
	23	24	25	26	27	28	29		22	23	24	25	26	27	28
	30	31	1	2	3	4	5	Mar	1	2	3	4	5	6	7
Sep	6	7	8	9	10	11	12		8	9	10	11	12	13	14
	13	14	15	16	17	18	19		15	16	17	18	19	20	21
	20	21	22	23	24	25	26		22	23	24	25	26	27	28
	27	28	29	30	1	2	3		29	30	31	1	2	3	4
Oct	4	5	6	7	8	9	10	Apr	5	6	7	8	9	10	11
	11	12	13	14	15	16	17		12	13	14	15	16	17	18
	18	19	20	21	22	23	24		19	20	21	22	23	24	25
	25	26	27	28	29	30	31		26	27	28	29	30	1	2
Nov	1	2	3	4	5	6	7	May	3	4	5	6	7	8	9
	8	9	10	11	12	13	14		10	11	12	13	14	15	16
	15	16	17	18	19	20	21		17	18	19	20	21	22	23
	22	23	24	25	26	27	28		24	25	26	27	28	29	30
	29	30	1	2	3	4	5		31	1	2	3	4	5	6
Dec	6	7	8	9	10	11	12	Jun	7	8	9	10	11	12	13
	13	14	15	16	17	18	19		14	15	16	17	18	19	20
	20	21	22	23	24	25	26		21	22	23	24	25	26	27
	27	28	29	30	31	1	2		28	29	30				

Loan Number	Start	End	Amount	Interest	Days Paying Interest	Rollovers	Default
Loan #1	5/24/2014	7/31/2014	400	337	68	4	
Loan #2	7/31/2014	10/8/2014	400	394	69	4	
Loan #3	10/9/2014	12/17/2014	500	488	69	4	
Loan #4	12/17/2014	2/25/2015	400	397	70	4	
Loan #5	2/26/2015	5/6/2015	400	389	69	4	
Loan #6	5/7/2015	7/16/2015	500	499	70	4	
Sum:				**$2,503.8**	**415**		**508%**
Sum During FY 2015				**$2,159**	**365**		**498%**
Weighted Average Amount of Loan:			**433.3**				

Background:
Borrower works at a factory.

Observations:

1. The customer had a payday loan obligation for every day of FY 2015. With an average loan balance of $433, the customer paid $2,159, which is an APR of 498%.

2. Instead of rolling one loan into another, the customer could have obtained an extended payment plan (EPP) but did not. If an EPP had been used at the end of each loan, the customer could have reduced the interest expense by nearly one half or by more than $1000.

3. The full loan history provided by the lender (not shown) describes a pattern of uninterrupted use of payday loans back to Febuary 2013.

Payday Loans Issued to Customer B during FY 2015

Lender 2 of 2

2014	S	M	Tu	W	Th	F	S	2015	S	M	Tu	W	Th	F	S
				1	2	3	4		28	29	30	31	1	2	3
	5	6	7	8	9	10	11		4	5	6	7	8	9	10
Jul	12	13	14	15	16	17	18	Jan	11	12	13	14	15	16	17
	19	20	21	22	23	24	25		18	19	20	21	22	23	24
	26	27	28	29	30	31	1		25	26	27	28	29	30	31
	2	3	4	5	6	7	8		1	2	3	4	5	6	7
	9	10	11	12	13	14	15		8	9	10	11	12	13	14
Aug	16	17	18	19	20	21	22	Feb	15	16	17	18	19	20	21
	23	24	25	26	27	28	29		22	23	24	25	26	27	28
	30	31	1	2	3	4	5		1	2	3	4	5	6	7
	6	7	8	9	10	11	12		8	9	10	11	12	13	14
Sep	13	14	15	16	17	18	19	Mar	15	16	17	18	19	20	21
	20	21	22	23	24	25	26		22	23	24	25	26	27	28
	27	28	29	30	1	2	3		29	30	31	1	2	3	4
	4	5	6	7	8	9	10		5	6	7	8	9	10	11
	11	12	13	14	15	16	17		12	13	14	15	16	17	18
Oct	18	19	20	21	22	23	24	Apr	19	20	21	22	23	24	25
	25	26	27	28	29	30	31		26	27	28	29	30	1	2
	1	2	3	4	5	6	7		3	4	5	6	7	8	9
	8	9	10	11	12	13	14		10	11	12	13	14	15	16
Nov	15	16	17	18	19	20	21	May	17	18	19	20	21	22	23
	22	23	24	25	26	27	28		24	25	26	27	28	29	30
	29	30	1	2	3	4	5		31	1	2	3	4	5	6
	6	7	8	9	10	11	12		7	8	9	10	11	12	13
Dec	13	14	15	16	17	18	19	Jun	14	15	16	17	18	19	20
	20	21	22	23	24	25	26		21	22	23	24	25	26	27
	27	28	29	30	31	1	2		28	29	30				

Loan Number	Start	End	Amount	Interest	Days Paying (EPP) Interest	Rollovers	Default
Loan #1	7/18/2014	9/26/2014	300	312	70	4	
EPP #1	9/28/2014	12/6/2014			69		
Loan #2	12/8/2014	2/16/2015	500	443	70		1
EPP #2	2/16/2015	7/16/2015			150		
Sum:				**$ 755**			
Lender #1				**$ 2,159**		**442.5**	
Total both lenders				**$ 2,914**			
Days paying Interest during FY 2015:					**140**		

1. The loan detail (not shown) indicates that on 7/18/2014 the customer took out a payday loan from Lender #2. On the same day, the customer paid $100 to Lender #1 to roll over loan #1. It appears the customer may have used the loan from Lender #2 to pay Lender #1.

2. The loan detail (not shown) also shows on 12/8/2014 the customer took out a $500 payday loan from Lender #2 and paid off a $400 loan from Lender #1. It appears the proceeds from one loan was used to pay off another.

3. The borrower defaulted on Loan #2 on 12/29/2014 and accrued interest but did not pay it off until entering the extended payment plan #2. Only then were the principal and interest obligations paid down over 150 days.

Payday Loans Issued to Customer C during FY 2015

Lender C

2014	S	M	Tu	W	Th	F	S	2015	S	M	Tu	W	Th	F	S
				1	2	3	4		28	29	30	31	1	2	3
Jul	5	6	7	8	9	10	11	Jan	4	5	6	7	8	9	10
	12	13	14	15	16	17	18		11	12	13	14	15	16	17
	19	20	21	22	23	24	25		18	19	20	21	22	23	24
	26	27	28	29	30	31	1		25	26	27	28	29	30	31
Aug	2	3	4	5	6	7	8	Feb	1	2	3	4	5	6	7
	9	10	11	12	13	14	15		8	9	10	11	12	13	14
	16	17	18	19	20	21	22		15	16	17	18	19	20	21
	23	24	25	26	27	28	29		22	23	24	25	26	27	28
	30	31	1	2	3	4	5	Mar	1	2	3	4	5	6	7
Sep	6	7	8	9	10	11	12		8	9	10	11	12	13	14
	13	14	15	16	17	18	19		15	16	17	18	19	20	21
	20	21	22	23	24	25	26		22	23	24	25	26	27	28
	27	28	29	30	1	2	3		29	30	31	1	2	3	4
Oct	4	5	6	7	8	9	10	Apr	5	6	7	8	9	10	11
	11	12	13	14	15	16	17		12	13	14	15	16	17	18
	18	19	20	21	22	23	24		19	20	21	22	23	24	25
	25	26	27	28	29	30	31		26	27	28	29	30	1	2
Nov	1	2	3	4	5	6	7	May	3	4	5	6	7	8	9
	8	9	10	11	12	13	14		10	11	12	13	14	15	16
	15	16	17	18	19	20	21		17	18	19	20	21	22	23
	22	23	24	25	26	27	28		24	25	26	27	28	29	30
	29	30	1	2	3	4	5		31	1	2	3	4	5	6
Dec	6	7	8	9	10	11	12	Jun	7	8	9	10	11	12	13
	13	14	15	16	17	18	19		14	15	16	17	18	19	20
	20	21	22	23	24	25	26		21	22	23	24	25	26	27
	27	28	29	30	31	1	2		28	29	30				

Loan Number	Start	End	Amount	Interest	Days Paying Interest	Rollovers	Default
Loan #1	5/13/2014	7/22/2014	500	476	70	6	
EPP #1	7/22/2014	9/22/2014					
Loan #2	9/22/2014	12/1/2014	600	398	70	6	
EPP #2	12/1/2014	2/20/2015					
Sum:				**$874**	**140**		
Average Loan Amount:			**550**				
APR Excluding days in EPP:							**414%**
APR Including Days in EPP:							**205%**

Observations:

1. The customer had two payday loans, each was paid off after entering into a no-interest extended payment plans.

2. On the same day the first loan was paid off during extended payment plan #1, a new loan was issued. It appears the last payment on the first extended payment plan may have been paid off using the proceeds from the second loan.

Payday Loans Issued to Customer D during FY 2015

Lender K

2014	S	M	Tu	W	Th	F	S	2015	S	M	Tu	W	Th	F	S
				1	2	3	4		28	29	30	31	1	2	3
Jul	5	6	7	8	9	10	11	Jan	4	5	6	7	8	9	10
	12	13	14	15	16	17	18		11	12	13	14	15	16	17
	19	20	21	22	23	24	25		18	19	20	21	22	23	24
	26	27	28	29	30	31	1		25	26	27	28	29	30	31
Aug	2	3	4	5	6	7	8	Feb	1	2	3	4	5	6	7
	9	10	11	12	13	14	15		8	9	10	11	12	13	14
	16	17	18	19	20	21	22		15	16	17	18	19	20	21
	23	24	25	26	27	28	29		22	23	24	25	26	27	28
	30	31	1	2	3	4	5	Mar	1	2	3	4	5	6	7
Sep	6	7	8	9	10	11	12		8	9	10	11	12	13	14
	13	14	15	16	17	18	19		15	16	17	18	19	20	21
	20	21	22	23	24	25	26		22	23	24	25	26	27	28
	27	28	29	30	1	2	3		29	30	31	1	2	3	4
Oct	4	5	6	7	8	9	10	Apr	5	6	7	8	9	10	11
	11	12	13	14	15	16	17		12	13	14	15	16	17	18
	18	19	20	21	22	23	24		19	20	21	22	23	24	25
	25	26	27	28	29	30	31		26	27	28	29	30	1	2
Nov	1	2	3	4	5	6	7	May	3	4	5	6	7	8	9
	8	9	10	11	12	13	14		10	11	12	13	14	15	16
	15	16	17	18	19	20	21		17	18	19	20	21	22	23
	22	23	24	25	26	27	28		24	25	26	27	28	29	30
	29	30	1	2	3	4	5		31	1	2	3	4	5	6
Dec	6	7	8	9	10	11	12	Jun	7	8	9	10	11	12	13
	13	14	15	16	17	18	19		14	15	16	17	18	19	20
	20	21	22	23	24	25	26		21	22	23	24	25	26	27
	27	28	29	30	31	1	2		28	29	30				

Loan Number	Start	End	Amount	Interest	Days Paying Interest	Rollovers	Default
P.D. Loan #1	10/14/14	12/12/14	$350.00	$296.15	59	4	1
P.D. Loan #2	12/15/14	2/6/15	$350.00	$264.96	53	3	
Sig. Loan #1	2/6/14	?			?		
Sum:				$561.11	112	7	
Average:			$350.00				
APR:				522%			

Observations

1. After the borrower defaulted on Loan #1, the transaction records for the loan indicates its was resolved by "Default - Cured with Refi," indicating the loan was refinanced as a new loan. In fact, the last loan balance listed for loan #1 ($349.95) was also recorded as the initial principal amount on Loan #2.

2. Loan #2 had three extensions and was then closed after 53 days when it was "refinanced to SIG Loan - PIF."

3. A representative of the payday lender was not asked about this loan specifically, but did say that the company offers signiture loans as well as payday loans and that some customers ask to have the payday loans rolled into signiture loans.

4. The duration of a signiture loan can vary, but often scheduled for six months, as shown.

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Appendix C
Summary of State Payday Lending Regulations

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Summary of State Payday Lending Regulations

	State	PROHIBITION: Prohibits Payday Loans	PROHIBITION: Effectively Prohibits PDLs	DATABASE: Utilizes a Transaction Database	LOAN TERM LIMITS: Limits Advance Amount	LOAN TERM LIMITS: Limits Loan Term	LOAN TERM LIMITS: Limits APR/Fees	DEBT LIMITS: Limits Number of Loans	DEBT LIMITS: Limits # of Rollovers	DEBT LIMITS: Requires Cooling-Off Period	DEBT LIMITS: EPP/ Repayment Plan	Rank
PROHIBITED	Arizona	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	Arkansas	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	Connecticut	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	Georgia	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	Maryland	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	Massachusetts	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	North Carolina	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	Pennsylvania	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	Vermont	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
PROHIBITED	West Virginia	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1
EFFECTIVE PROHIBITION	Montana	0	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	11
EFFECTIVE PROHIBITION	New Hampshire	0	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	11
EFFECTIVE PROHIBITION	New Jersey	0	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	11
EFFECTIVE PROHIBITION	New York	0	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	11
EFFECTIVE PROHIBITION	Maine	0	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	11
DATABASE + Restrictions	Alabama	0	0	1	1	1	1	0	1	1	1	16
DATABASE + Restrictions	Colorado	0	0	1	1	1	1	1	1	0	0	16
DATABASE + Restrictions	Delaware	0	0	1	1	1	0	1	1	0	0	16
DATABASE + Restrictions	Florida	0	0	1	1	1	1	1	1	1	1	16
DATABASE + Restrictions	Illinois	0	0	1	1	1	1	1	1	1	1	16
DATABASE + Restrictions	Indiana	0	0	1	1	1	1	1	1	1	1	16
DATABASE + Restrictions	Kentucky	0	0	1	1	1	1	1	1	0	0	16
DATABASE + Restrictions	Michigan	0	0	1	1	1	1	1	1	0	1	16
DATABASE + Restrictions	New Mexico	0	0	1	1	1	1	1	1	1	1	16
DATABASE + Restrictions	North Dakota	0	0	1	1	1	1	1	1	1	0	16
DATABASE + Restrictions	Oklahoma	0	0	1	1	1	1	1	1	1	1	16
DATABASE + Restrictions	South Carolina	0	0	1	1	1	1	0	1	0	0	16
DATABASE + Restrictions	Virginia	0	0	1	1	1	1	1	1	1	1	16
DATABASE + Restrictions	Washington	0	0	1	1	1	1	1	1	0	1	16
DATABASE + Restrictions	Wisconsin	0	0	1	1	1	0	0	1	1	1	16
5 - 7 Restrictions	Alaska	0	0	0	1	1	1	1	1	0	1	31
5 - 7 Restrictions	California	0	0	0	1	1	1	1	1	0	1	31
5 - 7 Restrictions	Hawaii	0	0	0	1	1	1	1	1	0	0	31
5 - 7 Restrictions	Iowa	0	0	0	1	1	1	1	1	0	0	31
5 - 7 Restrictions	Missouri	0	0	0	1	1	1	1	1	0	0	31
5 - 7 Restrictions	Nebraska	0	0	0	1	1	1	1	1	0	0	31
5 - 7 Restrictions	Ohio*	0	0	0	1	1	1	1	1	1	1	31
5 - 7 Restrictions	Oregon*	0	0	0	1	1	1	0	1	1	0	31
5 - 7 Restrictions	Rhode Island	0	0	0	1	1	1	1	1	0	0	31
5 - 7 Restrictions	Tennessee	0	0	0	1	1	1	1	1	0	0	31
3 - 4 Restrictions	Idaho	0	0	0	1	0	0	1	1	0	0	41
3 - 4 Restrictions	Kansas	0	0	0	1	1	1	1	0	0	0	41
3 - 4 Restrictions	Louisiana	0	0	0	1	1	1	0	1	0	0	41
3 - 4 Restrictions	Minnesota	0	0	0	1	1	1	0	1	0	0	41
3 - 4 Restrictions	Mississippi	0	0	0	1	1	1	0	1	0	0	41
3 - 4 Restrictions	Nevada	0	0	0	1	1	0	0	0	0	1	41
3 - 4 Restrictions	Texas	0	0	0	0	1	1	0	1	0	0	41
3 - 4 Restrictions	Wyoming	0	0	0	0	1	1	0	1	0	0	41
2 Restr.	South Dakota	0	0	0	1	0	0	0	1	0	0	49
2 Restr.	*Utah*	0	0	0	0	1	0	0	0	0	1	49
	50	10	5	15	32	33	29	23	32	11	15	
	35	20%	10%	**30%**	**91%**	**94%**	**83%**	**66%**	**91%**	**31%**	**43%**	

30%

(percent of states that allow payday lending)

* Ohio and Oregon have statute providing for databases if certain conditions exist

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Appendix D
Utah Deferred Deposit Lenders Aggregate Information
(DFI Annual Report 2015)

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Deferred Deposit Lenders

Aggregate Information – 7-23-503(2)(a)
For the immediately preceding calendar year – 60 institutions reporting

1. The average deferred deposit loan amount that the deferred deposit lender extended	$373
2. For deferred deposit loans paid in full, the average number of days a deferred deposit loan is outstanding for the duration of time that interest is charged	29 Days
3. The minimum and maximum dollar amount of interest and fees charged by the deferred deposit lender for a deferred deposit loan of $100 with a loan term of seven days	$0 - $30*
4. The total number of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to subsection 7-23-401(3)(b)	3,177
5. Of the persons to whom the deferred deposit lender extended a deferred deposit loan, the average percentage that entered into an extended payment plan under Section 7-23-403	6.59%
6. The total dollar amount of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b)	$1,349,151
7. The average annual percentage rate charged on deferred deposit loans	481.77%
8. The average dollar amount of extended payment plans entered into under Section 7-23-403 by the deferred deposit lender	$334
9. The number of deferred deposit loans carried to the maximum 10 weeks	53,777
10. The total dollar amount of deferred deposit loans carried to the maximum 10 weeks	$21,359,528
11. The number of deferred deposit loans not paid in full at the end of 10 weeks	45,655
12. The total dollar amount of deferred deposit loans not paid in full at the end of 10 weeks	$17,898,138

* The Annual Percentage Rate (APR) calculation for interest charged in this range is 0 percent APR to 1,564.29 percent APR.

Deferred Deposit Lenders

Required Information – 7-23-503(2)(b)
For the immediately preceding calendar year

1. The total number of written complaints concerning issues material to deferred deposit loan transactions received by the department in a calendar year from persons who have entered into a deferred deposit loan with a deferred deposit lender 12

2. For deferred deposit lenders who are registered with the department:
   A) The number of complaints the department considers resolved; 9
   B) The number of complaints the department considers unresolved; 0

3. For deferred deposit lenders who are not registered with the department:
   A) The number of complaints the department considers resolved; 3
   B) The number of complaints the department considers unresolved; 0

Agency Response

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DEPARTMENT OF FINANCIAL INSTITUTIONS

G. Edward Leary
Commissioner
Darryle P. Rude
Chief Examiner
R. Paul Allred
Deputy Commissioner

STATE OF UTAH

Gary R. Herbert
Governor
Spencer J. Cox
Lieutenant Governor

July 15, 2016

John Schaff
Legislative Auditor General
Office of Legislative Auditor General
Utah State Complex, House Building, Suite W315
Salt Lake City, Utah 84114

VIA Hand Delivery

Dear Mr. Schaff:

Thank you for the opportunity to review an exposure draft to the report, "A Performance Audit of the Department of Financial Institution's Regulation of the Payday Loan Industry" (Report No. 2016-04).

As you are aware, the department understands the audit process. The department examines financial institutions under its jurisdiction in much the same manner. We issue reports of examinations that make recommendations based upon findings and conclusions.

The department has reviewed the recommendations in the audit report and has implemented some and is working on implementing others. In connection with the recommendations made throughout the audit report, it is appropriate to note, that in the 16 years the department has had the responsibility to register payday lenders; Chapter 23 of Title 7 has been amended 9 times. Numerous bills have been proposed but not passed, including four bills that would have created a database.

The audit scope was broader than the performance of the department and it's regulation of payday lenders. Chapter II refers to a study conducted by the auditors during the audit to answer the first two questions identified in the audit scope and objectives. Among a number of conclusions involving the overuse of the product, the study finds that some payday customers borrow from multiple lenders, a practice the department advised the auditors is not prohibited under the provisions in Chapter 23 of Title 7. However, if this is an area that the Legislature determines needs to be addressed, the department would take action if a bill is passed and signed by the Governor.

Chapter II concludes with a reference to a proposed rule issued by the Consumer Finance Protection Bureau (CFPB) on June 6, 2016. The proposed rule was made public in a release of

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1,334 pages. The proposed rule is 208 pages. The proposed rule establishes limitations in the area of payday loans, auto title loans, and certain high-rate installment loans. The proposed rule is very restrictive for "covered" short-term credit. According to the estimates of the CFPB, the proposed rule could reduce loan volume of payday loans by 55 to 62 percent.

A reduction anywhere close to the estimate would alter the landscape of the industry and the department's regulation in Utah. In fact, as proposed, the rule is more restrictive than Chapter 23 and therefore raises questions about preemption, in part or in whole of the Utah law, that may need to be addressed in future legislative sessions.

Chapter III contains recommendations to both the Legislature and the department. Recommendation 2 is directed to the department for a stronger approach to enforcement. However, Part 5 of Chapter 23, entitled Enforcement, states that the department is to ". . . take action to obtain voluntary compliance . . ." Recommendation 2 also states that the department should issue more fines. It should be noted that fining authority was not put into Chapter 23 until 2007 because; the department was having problems with lenders that did not renew their registrations in a timely manner.

As a result, the department approached the Legislature about the need for fining authority. The report states that the department has only issued one fine in five years. The department did issue fines, totaling $10,200 for late registrations as provided for Utah Code Ann. §7-23-201(4)(b). The department will act on recommendation 2. However, it may be necessary for the Legislature to make amendments to Part 5 dealing with the enforcement approach of "voluntary compliance." The department will implement any changes that may need an amendment if they are contained in a bill that is passed by the Legislature and signed by the Governor.

Chapter III also discusses the department's efforts to determine payday lenders compliance with the law. As we discussed with the auditors, both state and federal law dealing with deferred deposit loans involves specific and important disclosures that must be provided to customers. Part 4 of Chapter 23 deals with the operational requirements of deferred deposit lenders. For example, a disclosure that is required under federal law and Part 4 is the annual percentage rate (APR) of a loan. The approach identified in Part 4 includes this important disclosure. As a result, the department focuses its examination and enforcement efforts on all of the required disclosures including APR.

Recommendation 3 is that the department reprioritizes its efforts by focusing on the provisions that prevent chronic use. The department is considering adjusting its focus to address this recommendation. However, it would be necessary for the Legislature to make amendments to Part 4. The department will implement any changes that are amended if they are contained in a bill that is passed by the Legislature and signed by the Governor.

In addition, recommendation 3 implies that the department should adjust its approach to examinations "... of all premises . . ." As required by statute, for the past 16 years, the department has examined all of the payday premises in the state annually. As stated on page 34 of the report, the department can only implement this recommendation if the Legislature amends Utah Code Ann. §7-23-502(1).

Recommendations 4 and 5 are that the department considers implementing reporting and documentation changes. The department will act on these recommendations taking into consideration resource, budget and any changes that result from the CFPB's proposed payday rule.

Chapter IV recommends that the Legislature authorize the collection of more data. The department has always maintained that more data would be beneficial to the Legislature and the department. In addition, a recommendation is made to the Legislature to implement a state wide database. The database could limit overuse of the product and aid the department in its regulation of lenders.

In the event, that a database is not authorized, a recommendation is made that the department test the accuracy of the data received from lenders during its on-site exams. The department will implement this recommendation to the best of its ability going forward. However, the recommendations in the report anticipate increased activity during examinations that would require the collection of additional data and more resources.

If you have any questions, please contact me at (801)538-8761.

Sincerely,

G. Edward Leary
Commissioner

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