

Utah and Payday Lending

Brief Overview



Business and Labor Interim Committee
May 16, 2007



Next
Few
Minutes

Today's Discussion

- Background
- Check Cashier Registration Act
- Examples Other Than Utah

Background

Selected Highlights

Terminology

Information About Industry

Information About Consumers



Similar
Terms

Terms: Payday Loan

- Different names
 - Basic concept of lending based on the lender's deferred right to access the borrower's money
- Two examples of definitions
 - "Deferred deposit loan" means:
 - a person presents a check or provides authorization to debit that person's account using an electronic payment
 - the lender provides the person an amount of money equal to the face value of the check or debit less any fee or interest charged and agrees not to cash the check or process the debit until a specific date

See Utah Code Ann. § 7-23-102



Similar
Terms

Terms: Payday Loan

- Different names
 - Basic concept of lending based on the lender's deferred right to access the borrower's money
- Two examples of definitions
 - "Payday loan" means closed-end credit:
 - with a term \leq 91 days and an amount financed \leq \$2,000
 - when the covered borrower receives funds, incurs interest or fees, and contemporaneously provides a check or authorizes a debit by a creditor who agrees not to deposit/present check or debit for more than one day
 - that is not the right of a depository institution to offset indebtedness if a borrower is delinquent or defaults

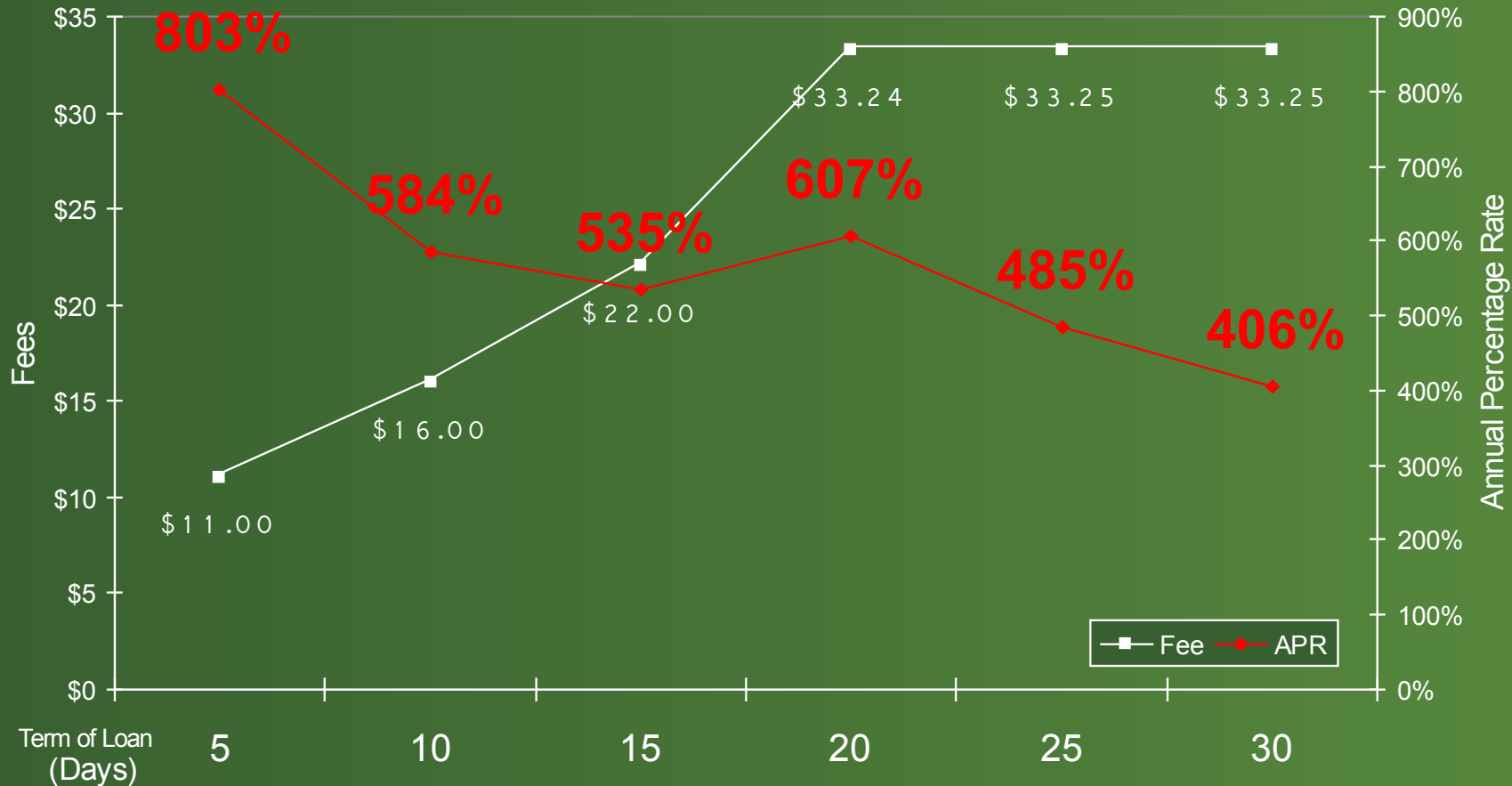
See Proposed DoD Rules, 72 FR 18157 (4/11/07)



Similar Terms

Terms: Interest/Fee/APR

Example Fees and APR per \$100 Loan



Prepared by the Office of Legislative Research and General Counsel (May 07)

Source: Payday Loans: Laws Protecting Montana Borrowers, Montana State University, Extension Service (7/02), <http://www.montana.edu/wwwpb/pubs/mt200102.html> (5/1/07)



Similar Terms

Terms: Interest/Fee/APR

| | Late Fee | "Bad" Check Fee |
|----------------|---|-----------------|
| Qwest | 1.2% of balance > \$25 per bill after 10 day grace period | \$15 |
| Questar | 1% of balance per monthly billing | \$20 |
| Rocky Mountain | 1% of balance per monthly billing | \$20 |

| | "Bad" Check Fee |
|----------------------------|-----------------|
| Zions Bank | \$23 flat fee |
| Deseret First Credit Union | \$22 flat fee |



Similar Terms

Terms: Interest/Fee/APR

| | | | | | | | | | |
|--|--|------------------------------|------|----------------------|-----|---------------------------|------|------------------------|-------------|
| <p>Questar</p> <p>1.2</p> <p>Questar</p> <p>Rocky Mountain</p> | <p>If owed \$100 and paid with a "bad" check, fees could include:</p> <table border="0"> <tr> <td>Utility dishonored check fee</td> <td>\$20</td> </tr> <tr> <td>1% interest on \$100</td> <td>\$1</td> </tr> <tr> <td>Bank dishonored check fee</td> <td>\$23</td> </tr> <tr> <td>Possible TOTAL:</td> <td>\$44</td> </tr> </table> | Utility dishonored check fee | \$20 | 1% interest on \$100 | \$1 | Bank dishonored check fee | \$23 | Possible TOTAL: | \$44 |
| Utility dishonored check fee | \$20 | | | | | | | | |
| 1% interest on \$100 | \$1 | | | | | | | | |
| Bank dishonored check fee | \$23 | | | | | | | | |
| Possible TOTAL: | \$44 | | | | | | | | |

| | "Bad" Check Fee |
|----------------------------|-----------------|
| Zions Bank | \$23 flat fee |
| Deseret First Credit Union | \$22 flat fee |



Similar
Terms

Terms: Examples of Others

Financial Taxi?

Predatory?

Debt Trap?



Similar
Terms

Terms: Examples of Others

Financial Taxi?

Just as commuters understand that a taxi is a convenient and valuable service for short distance transportation, payday advance customers know that this is a convenient and economical service that should be used to meet short-term cash needs. The payday advance service is inappropriate for meeting long-term financial obligations. The payday advance is a dignified and cost-efficient “financial taxi” for customers to get from one payday to the next when faced with an immediate need for cash.

CFSA Website, http://www.cfsa.net/about_payday_advance_product.html (5/1/07)



Similar
Terms

Terms: Examples of Others

At the average rate of \$18.28 per \$100 borrowed for a two-week period (i.e., 475% APR), it takes less than twelve weeks (or five rollovers) for the amount of loan fees paid by a customer to exceed the amount borrowed. If a loan were allowed to continue at this rate for a full year, the consumer would pay \$4.75 in interest for every dollar borrowed without getting any closer to paying off the loan.

Note: Exposing the Loan Sharks in Sheep's Clothing: Why Re-Regulating the Consumer Credit Market Makes Economic Sense, 80 Notre Dame L. Rev. 1567 (4/05)

Debt Trap?



Similar
Terms

Terms: Examples of Others

Predato

We define predatory lending as a welfare-reducing provision of credit. . . . We find that in states with higher payday loan limits, less educated households and households with uncertain income *are* less likely to be denied credit, but are *not* more likely to miss a debt payment. Absent higher delinquency, the extra credit from payday lenders does not fit our definition of predatory. Nevertheless, it is expensive. On that point, we find somewhat lower payday prices in cities with more payday stores per capita, consistent with the hypothesis that competition limits payday loan prices.

Defining and Detecting Predatory Lending, Federal Reserve Bank of New York Staff Report n. 273 (1/07), http://www.newyorkfed.org/research/staff_reports/sr273.html (5/1/07)



Similar Terms

Terms: Examples of Others

When compared against the common characteristics [of predatory lending]:

| | | | |
|---|-----------------------------|------------------------------|-------------------------------|
| Without regard for borrowers ability to repay | Excessive fees and interest | Unrealistic payment schedule | Repeated rollover/refinancing |
|---|-----------------------------|------------------------------|-------------------------------|

X

X

X

X

Predato

Source: DoD Proposed Rules, 72 FR 18157 (4/11/07)



Payday
Lenders

Industry

■ Growth

- Approximately 300 in 1992 to Current >20,000

http://www.cfsa.net/about_payday_advance.html (4/26/07), & Payday Lending and Public Policy: What Elected Officials Should Know, Indiana Wesleyan U. (8/06)

■ In US approximately \$40B extended

http://www.cfsa.net/about_payday_advance.html (4/26/07)

■ Storefront locations v. Internet

- “Internet search engines identify about 3,000 web sites delivering payday loans online, either directly to the consumer or by generating leads for Internet lenders”

CFSa http://www.cfsa.net/state_legislation.html (4/26/07)

■ Degree of profitability debated



Payday
Lenders

Industry: Utah

Total Registered
186

Payday Lenders

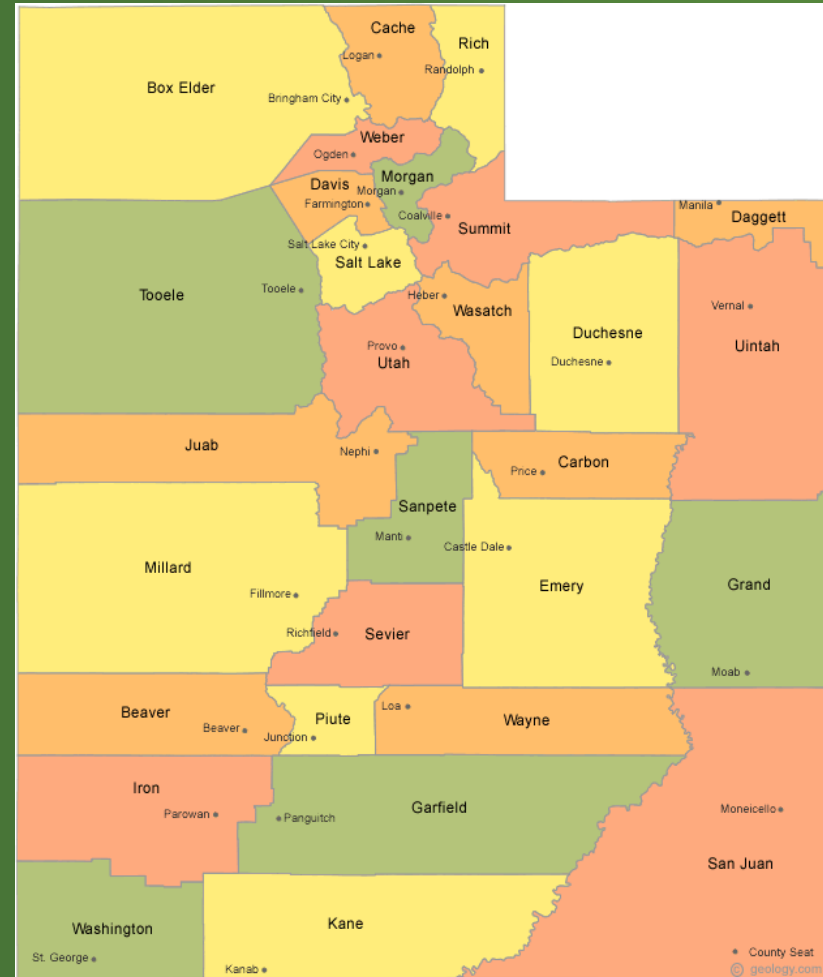
168

(Check cashing only 18)

Internet Lenders

79

(27 based in Utah)





Payday
Lenders

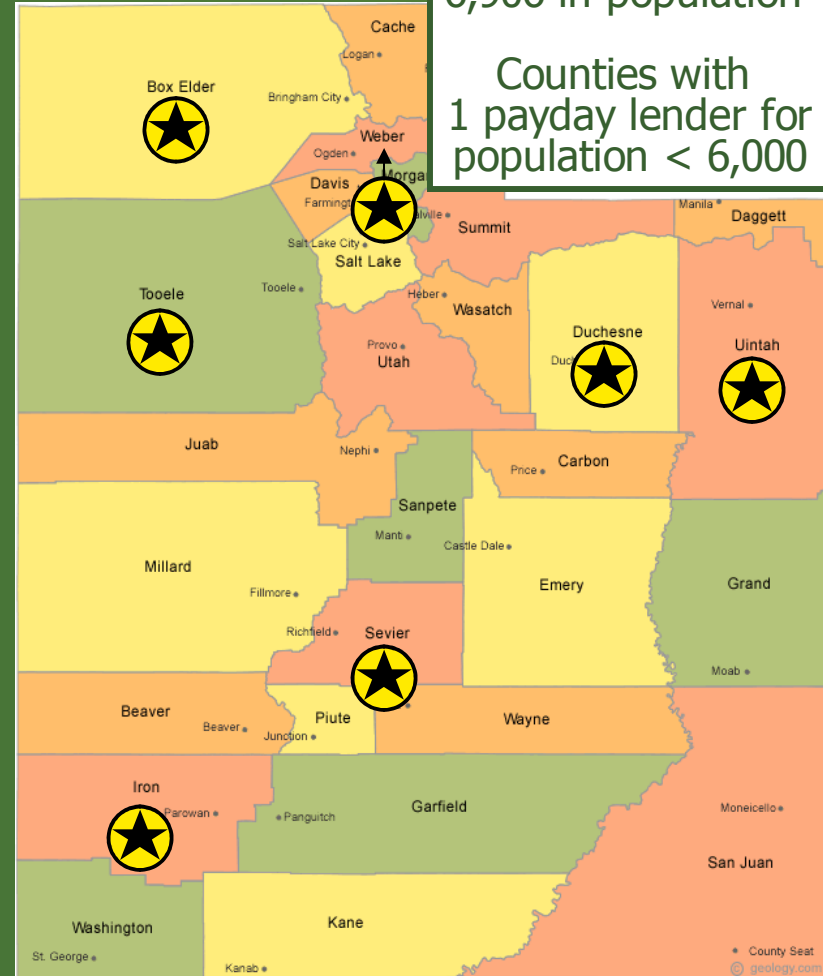
Industry: Utah

Utah Average
1 payday lender for
6,906 in population

Counties with
1 payday lender for
population < 6,000

Payday Lender Locations

| | | | |
|--------------|----------|------------|----|
| Box Elder | 9 | Sanpete | 3 |
| Cache | 14 | Sevier | 4 |
| Carbon | 3 | Tooele | 10 |
| Davis | 41 | Uintah | 6 |
| Duchesne | 4 | Utah | 53 |
| Grand | 1 | Wasatch | 3 |
| Iron | 8 | Washington | 19 |
| Juab | 1 | Weber | 38 |
| Salt Lake | 13 | | |
| Total | 7 | 354 | |



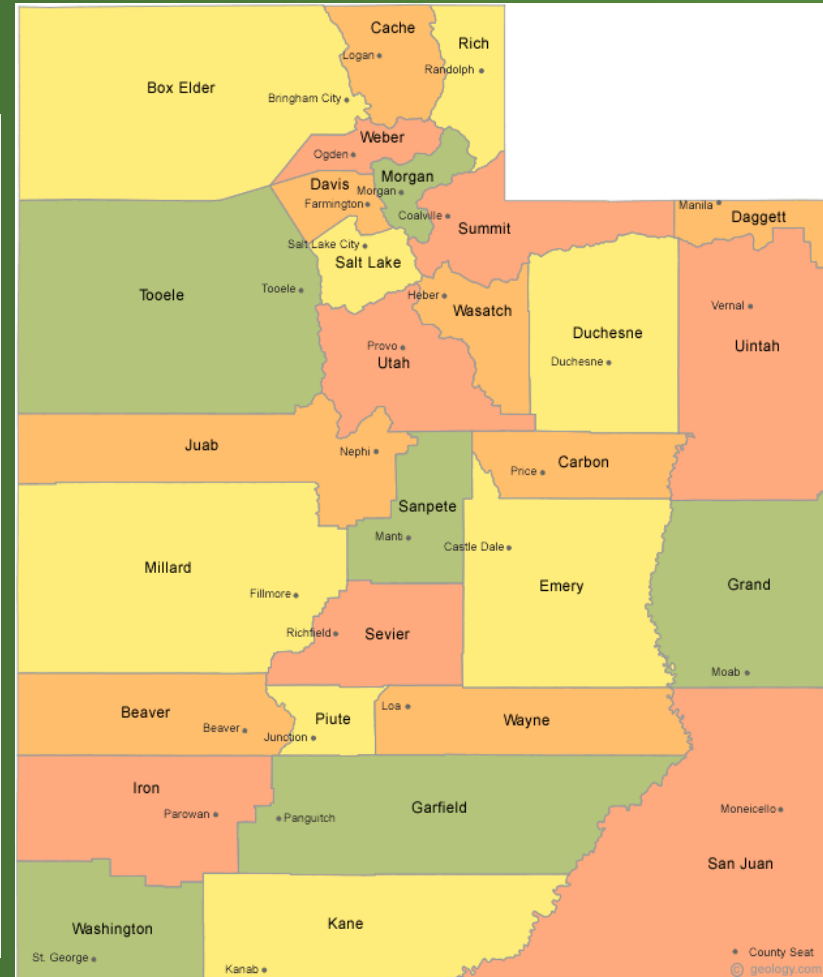


Payday
Lenders

Industry: Utah

Written Complaints

| | Total | Internet Based | Nonresident Internet Based |
|----|-------|----------------|----------------------------|
| 01 | 4 | | |
| 02 | 5 | | |
| 03 | 9 | | |
| 04 | 23 | | |
| 05 | 52 | 23 | 18 |
| 06 | 39 | 32 | 27 |



Prepared by the Office of Legislative Research and General Counsel (May 07)

Source: DFI to OLRGC (5/10/07)

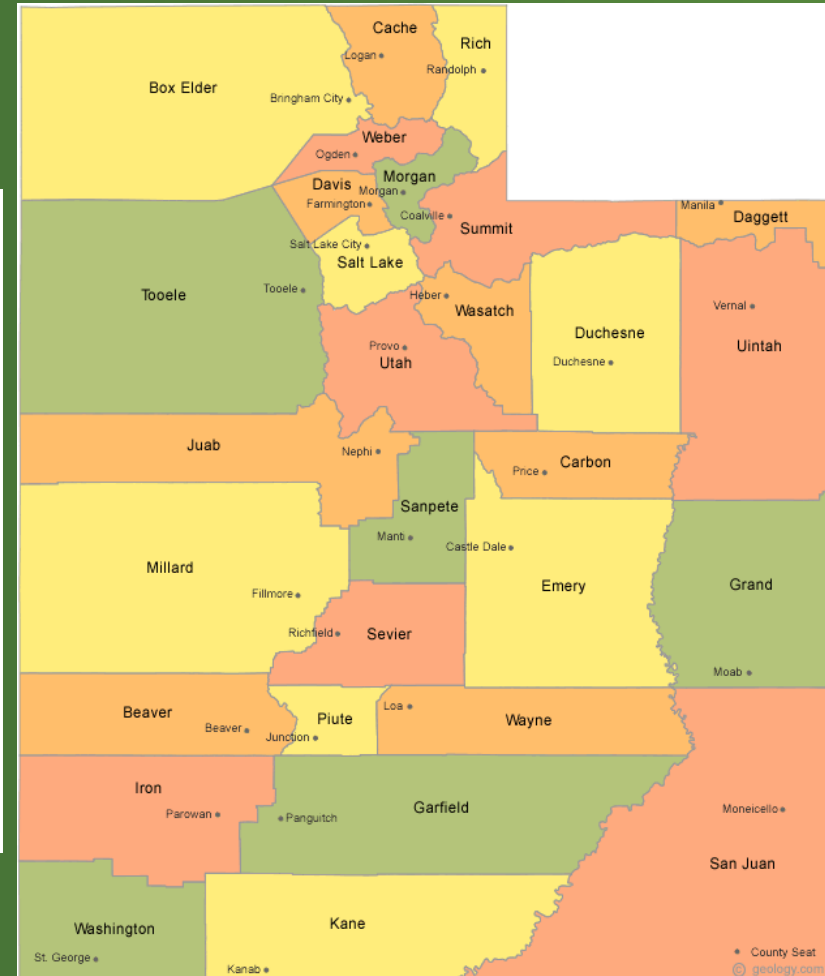


Payday
Lenders

Industry: Utah

2006 Examinations

| | In Compliance |
|--------------------------------------|---------------|
| APR in oral response | 77% |
| Weekly rate avoided in oral response | 94% |
| APR accurate in written disclosure | 94% |
| Display fee schedule | 91% |
| DFI phone # posted | 95% |





Debtor

Consumers: How?

| | CFSA Website* | CFA Website‡ |
|----------------------|---|---|
| Frequency | 70-80% use loans between once a year and once a month | 91% of loans to debtor with ≥ 5 loans per year Ave of 8 to 13 loans per year at a single lender |
| Amount | \$100 to \$500 | \$100 to \$1,000 |
| Interest/Fees | Typical \$15 per \$100 | \$15 to \$30 per \$100 |

* Community Financial Services Association of America, http://www.cfsa.net/myth_vs_reality.html#3 (4/26/07) citing Credit Research Center, Payday Advance Credit in America: An Analysis of Customer Demand (4/01) or otherwise obtained from CFSA's website citing Payday Lending and Public Policy: What Elected Officials Should Know, Indiana Wesleyan University (8/06)

‡ Consumer Federation of America, <http://www.paydayloaninfo.org/facts.cfm> (4/27/07) or otherwise obtained from CFA Website citing Financial Quicksand, Center for Responsible Lending (11/06)



Debtor

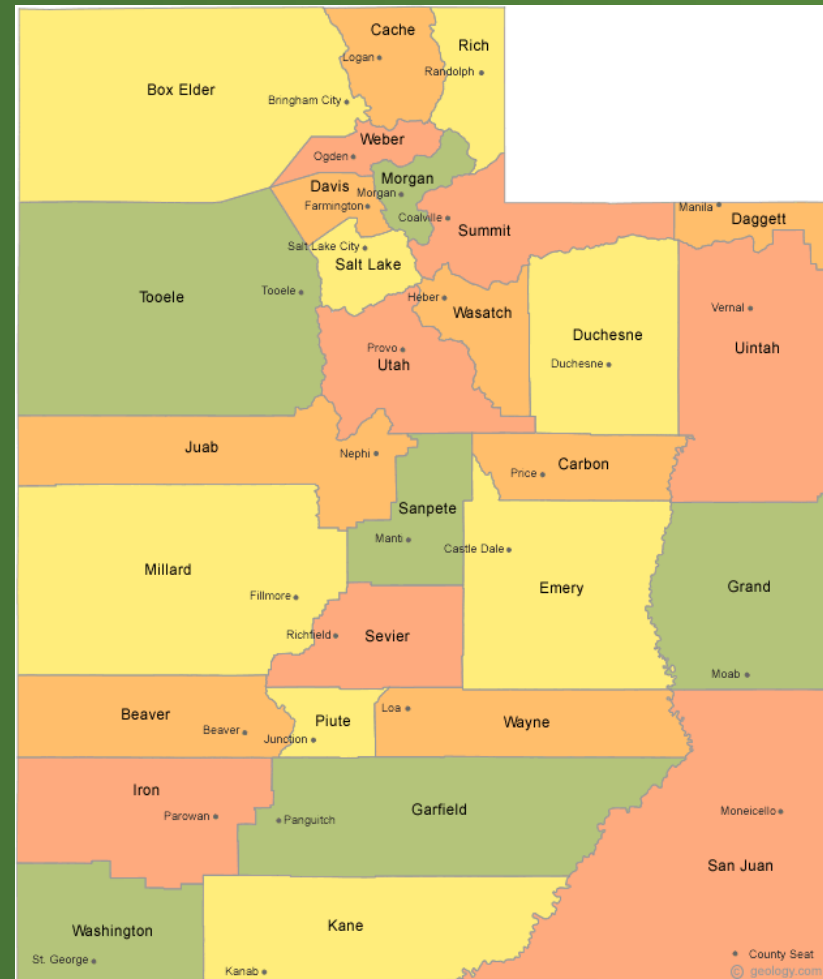
Consumers: How?

In 2005 UT registered payday lenders charged off > 41,000 loans (DFI indicated an industry est. of 17 to 20%)

DFI est. approx 80% roll over once while < 20% roll over for 12 weeks (Issue of beginning/end of a loan)

DFI est. typical amount is < \$500, APR ranges 400-550%, 2 week term

Several offer products like title loans, traveler checks, money orders, and wire transmission services





Debtor

Consumers: Who?

| | CFSA Website* | CO Law Review‡ |
|--------------------------------|--|---|
| Income | \$25K to \$50K annual | \$2,373 ave monthly gross (approx \$28,476 annual) |
| Age | 68% under 45 4% over 65 | Ave age approx. 35.8 62.41% between 20-39 1.67% are 65 or over |
| Education or Profession | 94% high school grad 56% some college | 62.80% of borrowers are laborers, officer workers, or benefits recipients |
| Family Status | Majority married 64% have children | 52.67% single 47.33% married |

* Community Financial Services Association of America, http://www.cfsa.net/myth_vs_reality.html#3 (4/26/07) citing Credit Research Center, Payday Advance Credit in America: An Analysis of Customer Demand (4/01)

‡ Colorado Information, Borrowing from Peter to Pay Paul: A Statistical Analysis of Colorado's Deferred Deposit Loan Act, Denver University, 83 Denv. U.L. Rev. 387 (2005)

Check Cashier Registration Act

Selected Highlights of Title 7, Ch. 23

Registration

Operational Requirements

Enforcement

Exemptions



Utah's
Act

Registration

- Annual registration with DFI
 - Fees:
 - Original: \$300, Annual: \$200, Examination: \$55 per hour
 - Approx. \$80K DFI receipts for FY 2006
 - Check cashers only and deferred deposit lenders
- Provide basic information
 - Name(s), address(es), designated agent
 - If no office in UT, how it operates
 - Criminal and administrative information
- Fine for failure to register



Utah's
Act

Operational Requirements

- Initiating the payday loan
 - Postings
 - Disclosures
 - Written contract
 - Oral review
 - Certain federal laws
- Examples of other requirements
 - Allow partial payments
 - Allow rescission next business day
 - Limit rollovers
 - Not threaten criminal process
 - Process electronic payments in timely manner



Utah's
Act

Enforcement

- Examples of DFI powers include:
 - Receive and act on complaints
 - Commence administrative/judicial actions
 - Counsel persons on rights and duties
 - Make rules
 - Examine books, accounts, records (required annually)
- Penalties
 - Class B misdemeanor
 - Revocation of registration
 - Cease & desist/prohibit engaging in business
 - Fines



Utah's
Act

Exemptions

- A depository institution or depository institution holding company
- An institution directly/indirectly owned or controlled by a depository institution or depository institution holding company
- A person that cashes a check in a transaction that is incidental to a retail sale for no more than the greater of 1% of the check or \$1

Examples Outside Utah

Selected Highlights

Other States

Federal Law and the Military



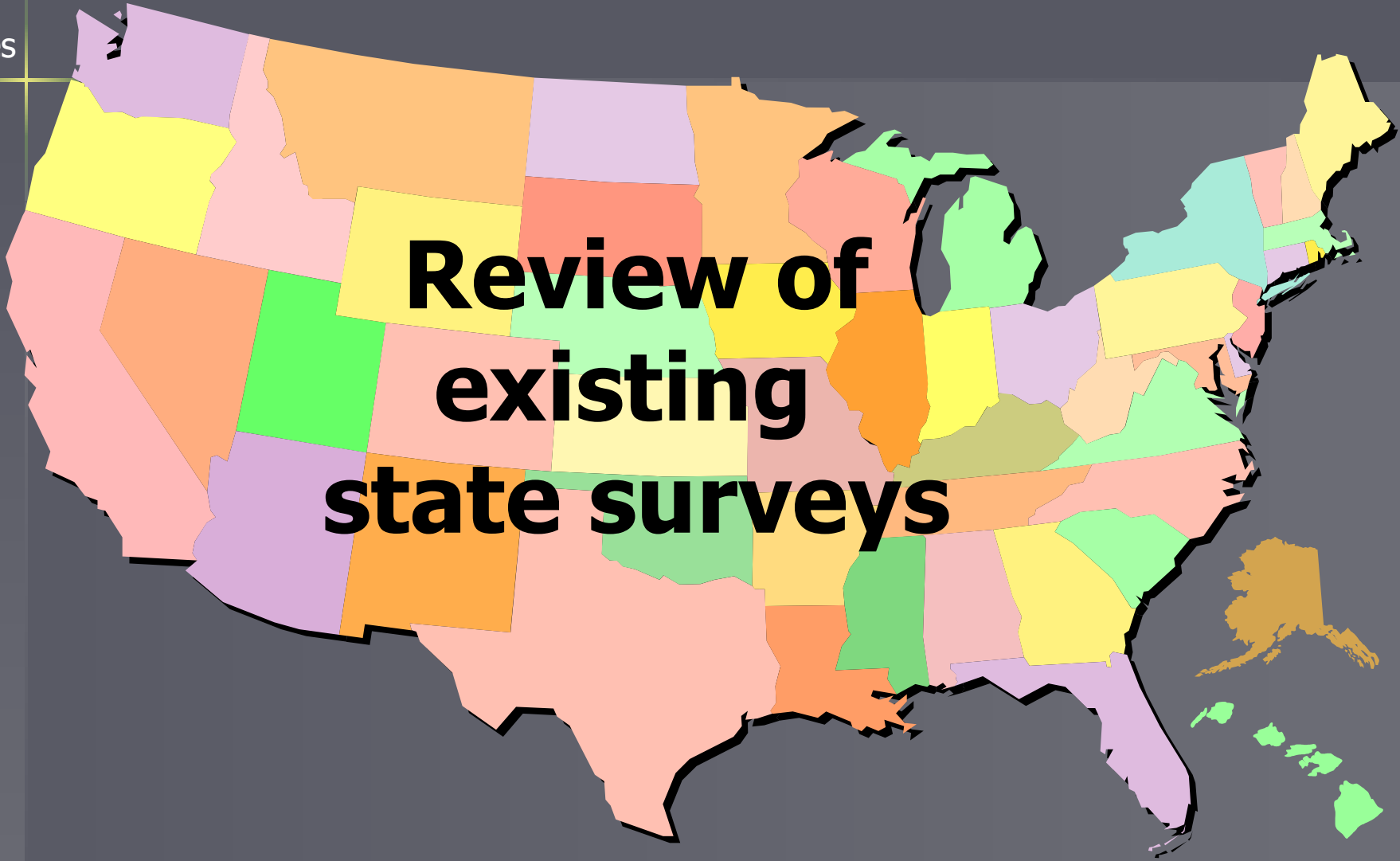
Other States

- Spectrum of regulation
- Examples of provisions include:
 - Maximum loan amount
 - Loan term maximum/minimum
 - Finance charges
 - Limiting rollovers/refinancing
 - Posting
 - Disclosures
 - Written contract
 - Others



State
Statutes

Other States

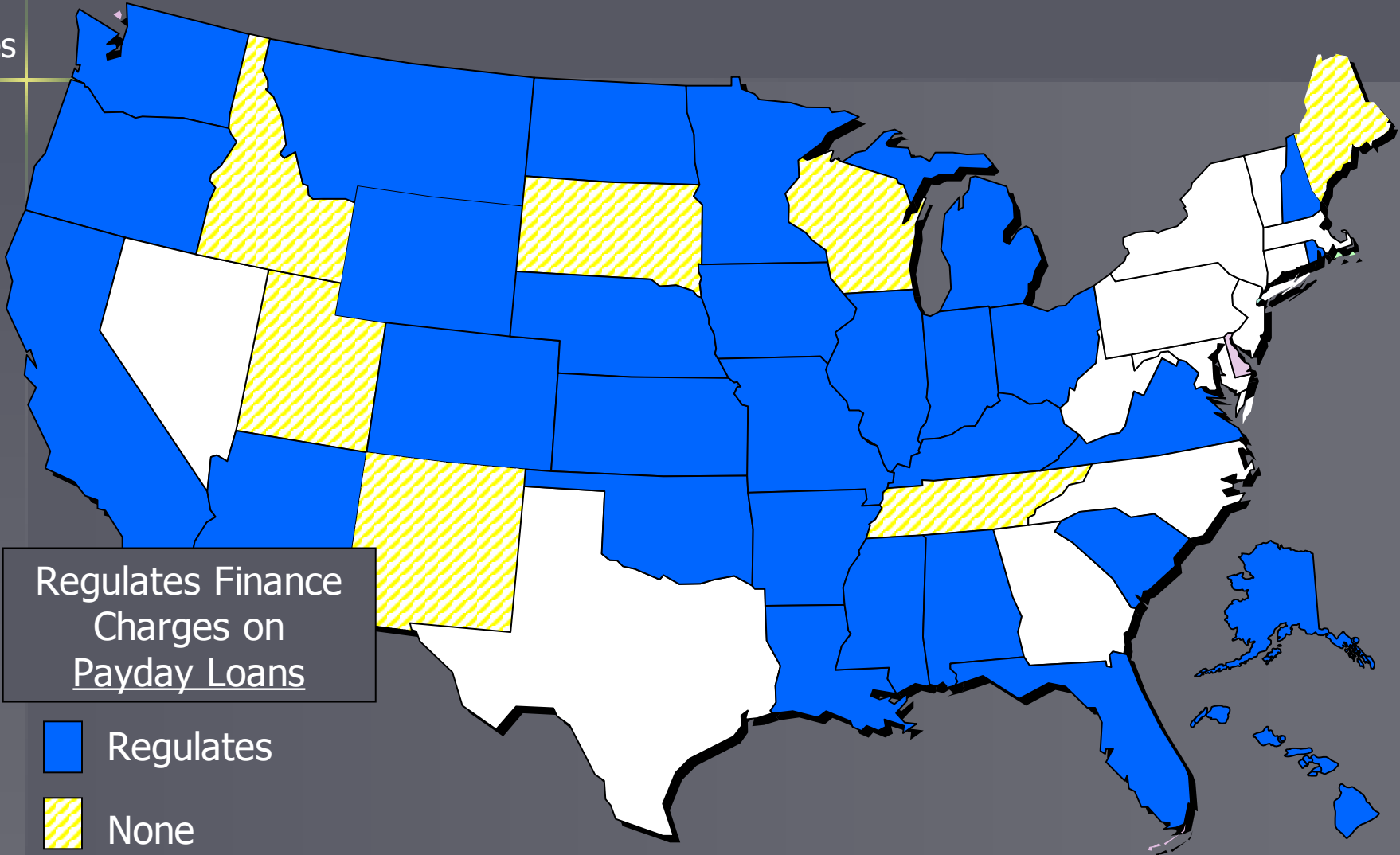


Prepared by the Office of Legislative Research and General Counsel (May 07)



State Statutes

Other States: Finance Charges



Regulates Finance Charges on Payday Loans

- Regulates
- None

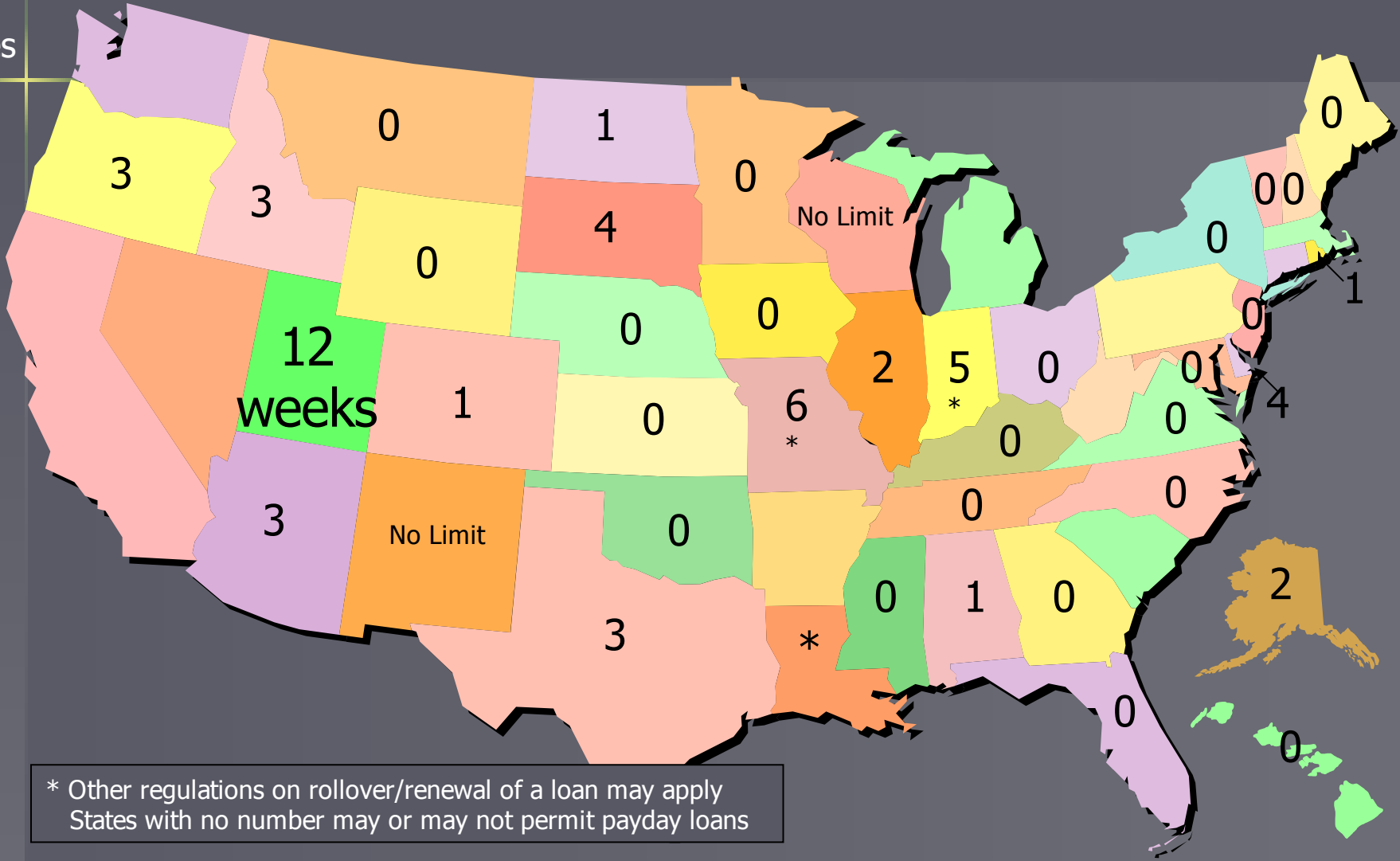
Prepared by the Office of Legislative Research and General Counsel (May 07)

States that do not have specific payday lending statutes and/or require lenders to comply with interest rate caps on consumer loans: CT, MD, MA, NJ, NY, NC, PA, TX, VT, WV
Source: NCSL, Current State Laws (3//21/07) <http://www.ncsl.org/programs/banking/PaydayLend-Intro.htm> (5/3/07)



State Statutes

Other States: Rollover/Renew

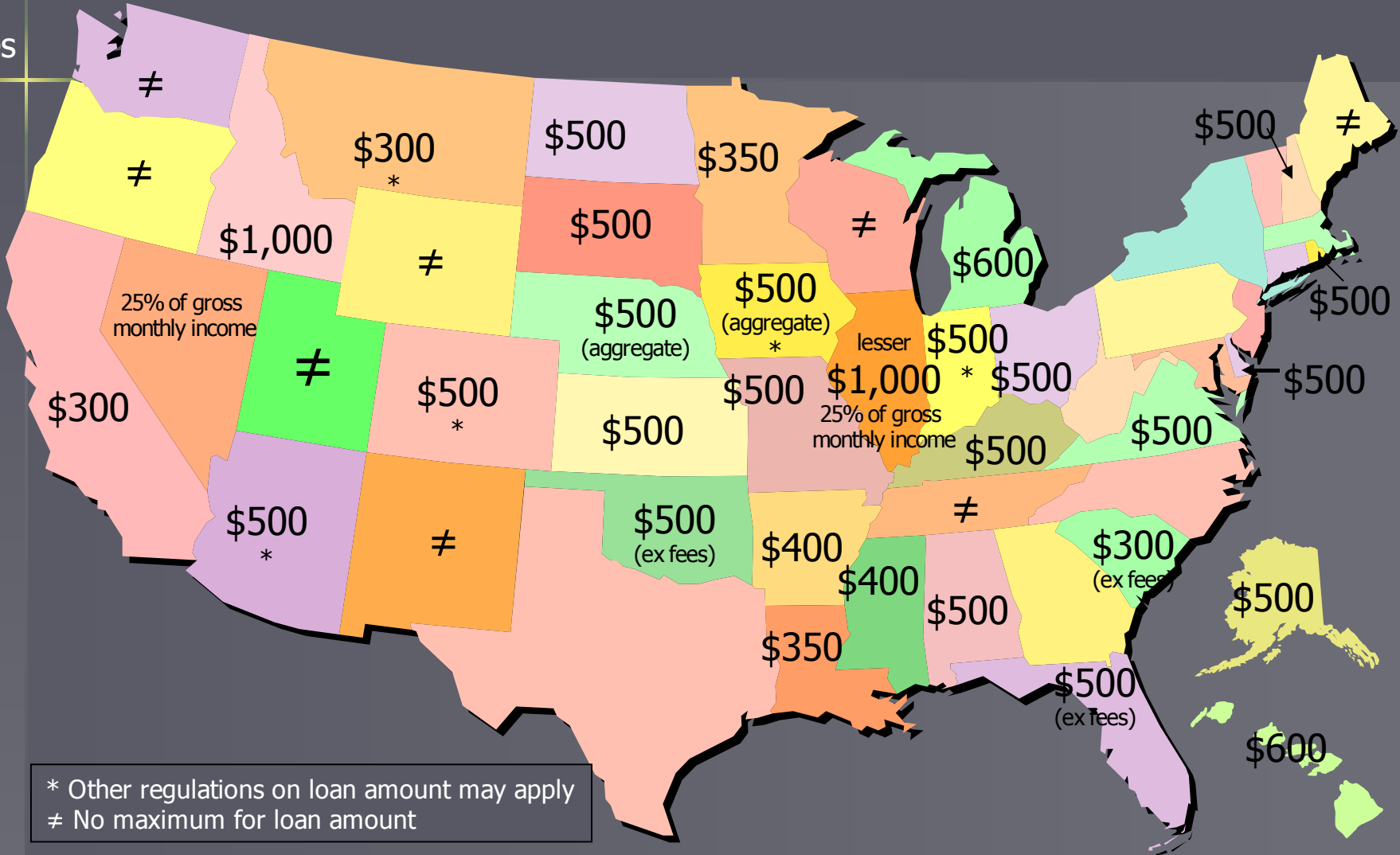


Prepared by the Office of Legislative Research and General Counsel (May 07)



State Statutes

Other States: Max. Amount



* Other regulations on loan amount may apply
 ≠ No maximum for loan amount

Prepared by the Office of Legislative Research and General Counsel (May 07)

States that do not have specific payday lending statutes and/or require lenders to comply with interest rate caps on consumer loans: CT, MD, MA, NJ, NY, NC, PA, TX, VT, WV.
 Source: NCSL, Current State Laws (3/21/07) <http://www.ncsl.org/programs/banking/PaydayLend-Intro.htm> (5/3/07)



Federal Law and the Military

- John Warner National Defense Authorization Act for Fiscal Year 2007 & Dept. of Defense Rules (Rule proposed/comments requested 4/11/07)
- Examples of key elements
 - Restrictions on interest include 36% APR cap
 - Mandatory disclosures
 - Limitations on certain loan provisions (*e.g.*, rollover/renewal/repay/refinance/consolidation; waiving right to legal recourse; requiring arbitration or other dispute processes; using as security a check/access to an account/vehicle title; prohibiting or penalizing prepaying)
 - Penalties and remedies
 - Preemption of state laws



Federal Law and the Military

- Applying the 36% APR cap
 - “Military annual percentage rate” (MAPR)
 - Cost of transaction expressed as an annual rate:
 - Interest
 - Fees (e.g., cancellation/suspension/credit-related ancillary products)
 - Credit service charges
 - Credit renewal charges
 - Credit insurance premiums
 - Other than using this list of costs, calculated in accordance with Truth-in-Lending



Next
Few
Minutes

Remainder of Discussion

Does the Committee want to pursue legislative action?

If so, what option(s) does the Committee want to pursue?