

SMALL DOLLAR LOAN PRODUCTS SCORECARD—UPDATED

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Consumer Federation of America

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ABOUT THE AUTHORS

Leah A. Plunkett, Emily Caplan, and Nathanael Player at the National Consumer Law Center performed the research, calculations, and analysis for this updated *Scorecard*.

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ABOUT THE NATIONAL CONSUMER LAW CENTER

The National Consumer Law Center®, a nonprofit corporation founded in 1969, assists consumers, advocates, and public policy makers nationwide on consumer law issues. NCLC works toward the goal of consumer justice and fair treatment, particularly for those whose poverty renders them powerless to demand accountability from the economic marketplace. NCLC has provided model language and testimony on numerous consumer law issues before federal and state policy makers. NCLC publishes an 18-volume series of treatises on consumer law, and a number of publications for consumers.

SUMMARY

(Updated 5/7/10)¹

States have historically taken the lead through their police powers to ensure that consumers are not subject to abusive lending practices. This *Scorecard* assesses how well states are exercising their authority by examining five elements of state laws:

- The statutory maximum annual percentage rate (APR) for four typical small dollar loan products:
 - Payday loan;
 - Auto-title loan.
 - Six-month installment loan;
 - One-year installment loan.
- Whether the APRs for these four products are limited by the state's criminal usury cap.²

For each of these four products, the *Scorecard* awards the state a passing grade if state law limits the maximum annual percentage

rate (APR)³ to 36% or less, and a failing grade if state law allows an APR greater than 36%. The 36% annual interest rate benchmark has historically been common in state law,⁴ and a 36% APR is the cap that Congress established for certain loan products extended to active-duty service members.

This updated *Scorecard* (2010) follows up on the original *Scorecard* (2008), which was released by the National Consumer Law Center and Consumer Federation of America in August 2008.⁵ Since that date, the most significant

³ The *Scorecard* uses the Truth in Lending Act's (TILA) definition of "finance charge" to calculate the APRs for the loan products included in the *Scorecard*. In the John Warner National Defense Authorization Act of 2006, Pub. L. No. 109-364, § 670 (2006) ("Defense Authorization Act"), Congress set a cap of 36% for certain loans made to active-duty military personnel but included more fees in the APR calculation than called for under TILA. This means that the APRs calculated under the Defense Authorization Act could be higher than the TILA APR for the same product. Because TILA covers products offered generally in the lending market, the *Scorecard* applies the TILA methodology rather than the military formula.

⁴ See National Consumer Law Center, *The Cost of Credit: Regulation, Preemption, and Industry Abuses* § 2.3.3.2 (4th ed. 2009) (permitting small loans at 36% annual interest rate was designed to address problem of loan-sharking by bringing legitimate lenders into small dollar loan market).

⁵ The original *Scorecard* and its statutory back-up are available at <http://www.nclc.org/reports/content/CU-Small-Dollar-IntroScorecard-8-28-08.pdf> and <http://www.nclc.org/reports/content/CU-Small%20Dollar-backup-8-25-08.pdf>. We have taken the opportunity afforded by updating the *Scorecard* and statutory back-up to make some minor corrections to material in the originals.

¹ Legislative developments through April 15, 2010, are reflected in this *Scorecard*, unless otherwise indicated.

² Some states have enacted both civil and criminal usury laws. Civil usury laws were adopted in the original colonies, and this practice continued among the states after independence. See National Consumer Law Center, *The Cost of Credit: Regulation, Preemption, and Industry Abuses* § 2.2.2 (4th ed. 2009). Criminal usury laws were designed to complement civil laws and create criminal liability when a lender's rate or fees exceeded a rate that is often in excess of the general usury law of the state. Some criminal usury laws also punish extortionate behavior and threats of physical injury—behaviors that are now associated with "loan-sharking." Thus, criminal usury laws punish conduct that is more reprehensible, violent, or intentional.

Eight jurisdictions protect consumers against abusive lending practices for all four small dollar loan products:

Arkansas	New Jersey
Connecticut	New York
District of Columbia	Pennsylvania
Maryland	Vermont

Fifteen states allow abusive lending for all four products included in the *Scorecard*:

Arizona	Mississippi	South Carolina
Delaware	Missouri	South Dakota
Idaho	Montana	Tennessee
Illinois	Nevada	Utah
Minnesota	New Mexico	Wisconsin

legislative developments affecting the grading in this *Scorecard* have been 36% APR caps on payday loans⁶ and title loans⁷ becoming effective in New Hampshire. New Hampshire now receives passing instead of failing grades for these products.⁸ Other positive changes include new or clarifying legislation or regulation in multiple states, such as Idaho and Minnesota, to apply their payday lending laws to Internet payday lenders. Also noteworthy was a decision by the Supreme Court of Arkansas striking down the state's payday lending law as unconstitutional.⁹ These and other state law developments since the original *Scorecard* are discussed in more detail below.

As of April 15, 2010, eight jurisdictions—Arkansas, Connecticut, the District of Columbia, Maryland, New Jersey, New York,

Pennsylvania, and Vermont—protect consumers against abusive lending practices for all four small dollar loan products. On the other hand, fifteen states—Arizona, Delaware, Idaho, Illinois, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, South Carolina, South Dakota, Tennessee, Utah, and Wisconsin—allow abusive lending for all four products included in the *Scorecard*. The remaining states protect consumers to varying degrees.

As this *Scorecard* demonstrates, reforms are still needed in many states. In addition, there is important work to be done at the national level, such as the creation of a nationwide usury cap for consumer loans as well as a new federal regulator to protect consumers in all lending outlets.

⁶ N.H. Rev. Stat. Ann. § 399-A:13(XX).

⁷ N.H. Rev. Stat. Ann. § 399-A:14(VI).

⁸ Although not effective until September 2008, Ohio's 28% APR cap on payday loans was reflected in the grading on the original *Scorecard*.

⁹ *McGhee v. Arkansas Bd. of Collection Agencies*, 289 S.W.3d 18 (Ark. 2008).

The National Consumer Law Center, Consumer Federation of America, and Consumers Union

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I. BACKGROUND

Abusive lending practices not only harm individual consumers, but they place a needless drag on the overall U.S. economy. Abusive lending practices include those in which the lender charges excessive fees and interest rates; lends without regard to the borrower's ability to repay; refinances a borrower's loans repeatedly over a short period of time without any economic gain for the borrower; or commits outright fraud or deception.¹⁰

Consumers experiencing abusive lending practices pay much more for their loans than other consumers and often get trapped in cycles of debt from which they cannot emerge. As a result, these consumers have fewer resources to devote toward building family wealth.¹¹ This is especially true of consumers who are of modest means and just trying to make ends meet. Indeed, numerous studies have documented the harms to consumers related to these abusive lending practices.¹²

¹⁰ See, e.g., Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 Fed. Reg. 50,580, 50,581–83 (Aug. 31, 2007) (Department of Defense final rule) (describing characteristics of payday, auto-title, and military installment loans that are abusive).

¹¹ For a discussion of how consumers in poverty pay more for basic goods and services and, thus, find it difficult to build real wealth, see Matthew Fellowes, The Brookings Institution, From Poverty, Opportunity: Putting the Market to Work for Lower Income Families (July 2006), available at http://www.brookings.edu/reports/2006/07poverty_fellowes.aspx.

¹² See, e.g., Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 Fed. Reg. 50,580, 50,581–83 (Aug. 31, 2007) (Department of Defense final rule); Amanda Quester & Jean Ann Fox, Center for Responsible Lending and Consumer Federation of America, Car Title Lending: Driving

The overall domestic economy also is harmed because these practices distort consumer spending. They lessen consumer resources devoted to building productive assets (such as educational achievement and home ownership) and divert resources to less productive uses such as the payment of multiple loan fees or high finance charges. The subprime mortgage lending crisis that came to a head beginning in 2007 exemplifies how abusive lending practices can harm the overall economy. Had stronger consumer protections governing mortgage lending been in place, the resulting harm to consumers and the overall economy would likely not have been as great. Indeed, these real and potential harms to the individual and to the overall economy are so significant that they outweigh the countervailing notion that lenders and individuals should be free to contract at any rate and terms.¹³

To determine how states have exercised their historical responsibility to address abusive lending, the *Scorecard* examines the

Borrowers to Financial Ruin (Apr. 14, 2005), available at <http://www.responsiblelending.org/issues/car-title/reports/page.jsp?itemID=28012839> (describing abuses of auto-title loans); Uriah King, Leslie Parrish, Ozlim Tanek, Center for Responsible Lending, Financial Quicksand: Payday Lenders Sink Borrowers in Debt with \$4.2 Billion in Predatory Fees Every Year (Nov. 30, 2006), available at <http://www.responsiblelending.org/payday-lending/research-analysis/financial-quicksand-payday-lending-sinks-borrowers-in-debt-with-4-2-billion-in-predatory-fees-every-year.html>.

¹³ See, e.g., Sonia Garrison, Sam Rogers, Mary L. Moore, Center for Responsible Lending, Continued Decay and Shaky Repairs: The State of Subprime Loans Today (Jan. 2009), available at http://www.responsiblelending.org/mortgage-lending/research-analysis/continued_decay_and_shaky_repairs.pdf (assessing damage caused by subprime mortgage crisis).

maximum statutory APR¹⁴ for four typical consumer small loan products and whether the state's criminal usury cap limits the interest charged for those products. The issue of criminal usury caps was included in this evaluation because some of these caps reflect the outer limit of acceptable interest that a state is willing to criminalize and, in the case of New York and New Jersey, provide the cap for small consumer loans.

The *Scorecard* evaluates maximum APRs because payday and auto-title lenders tend to charge an APR near the applicable statutory limit.¹⁵ Moreover, APR caps are the most effective way to protect consumers against abusive lending practices compared with other reforms in these markets. A report on payday lending by the Center for Responsible Lending (CRL) explains how reforms short of rate caps have failed to protect consumers adequately.¹⁶

¹⁴ The Truth in Lending Act APR is a uniform way to determine the true cost of a loan. It is expressed as a percentage and includes some of the fees and charges associated with the loan, as well as the interest to be earned over the term. For purposes of the *Scorecard*, the APR is calculated pursuant to the requirements of the Truth in Lending Act. See 15 U.S.C. §§ 1605, 1606. The APR has been the credit cost yardstick in this country for forty years and aims to provide an apples-to-apples comparison of the cost when consumers shop. See Elizabeth Renuart & Diane Thompson, *The Truth, The Whole Truth, and Nothing but the Truth: Fulfilling the Promise of Truth in Lending*, 25 Yale J. on Reg. 181, 186–91 (2008); Matthew A. Edwards, *Empirical and Behavioral Critiques of Mandatory Disclosure: Socio-Economics and the Quest for Truth in Lending*, 14 Cornell J.L. & Pub. Pol'y 199, 211–15 (2005).

¹⁵ Mark Flannery & Katherine Samolyk, *Payday Lending: Do the Costs Justify the Price?* 9 (FDIC Center for Financial Research Working Paper, June 2005), available at http://www.fdic.gov/bank/analytical/cfr/2005/wp2005/cfrwp_2005-09_flannery_samolyk.pdf.

¹⁶ Uriah King & Leslie Parrish, Center for Responsible Lending, *Springing the Debt Trap: Rate Caps Are*

The CRL report examined the impact of reforms other than rate caps, such as: payment plans which require loans to amortize; bans on renewals or a cooling-off period between renewals; limits on loan amounts based on a borrower's income; limits on the number of loans a borrower can have at the same time; and establishing databases to monitor compliance with payday lending requirements. The report found that the debt trap of payday lending continues even where such reforms have been implemented. In states that have implemented these non-rate cap reforms:

- Borrowers who have five or more loans each year account for 90% of the payday lending business;
- Borrowers who have twelve or more transactions per year get over 60% of payday loans;
- Borrowers who have twenty-one or more transactions per year get 24% of loans;
- Approximately 14% of Colorado payday loan borrowers has had payday debt for the past six months—each day; and
- Almost 90% of repeat payday loans are made on the heels of repayment of an earlier loan.¹⁷

The CRL report concluded that: “Those states which enforce a comprehensive interest rate cap at or around 36 percent for small

Only Proven Payday Lending Reform (Dec. 13, 2007), available at <http://www.responsiblelending.org/payday-lending/research-analysis/springing-the-debt-trap.pdf>.

¹⁷ Uriah King & Leslie Parrish, Center for Responsible Lending, *Springing the Debt Trap: Rate Caps Are Only Proven Payday Lending Reform* 9–18 (Dec. 13, 2007), available at <http://www.responsiblelending.org/payday-lending/research-analysis/springing-the-debt-trap.pdf>.

loans have solved their debt trap problem; realizing a savings of \$1.5 billion for their citizens while preserving a more responsible small loan market. In sum, the only proven way for state policymakers to protect their citizens from predatory small loans is to enforce a comprehensive small loan law with an interest rate cap at or around 36 percent.”¹⁸

After determining the maximum APRs allowed in each state, the *Scorecard* then compares the maximum allowable APR to a 36% APR cap. The 36% cap on small loan lending became the law in most states by the mid-twentieth century.¹⁹ Small loan laws were

¹⁸ Uriah King & Leslie Parrish, Center for Responsible Lending, *Springing the Debt Trap: Rate Caps Are Only Proven Payday Lending Reform* 4 (Dec. 13, 2007), available at <http://www.responsiblelending.org/payday-lending/research-analysis/springing-the-debt-trap.pdf>. In those states that try to improve their consumer protections, the payday loan industry often migrates to the loopholes to avoid coverage. For example, in 2005, Illinois enacted payday legislation in an attempt to increase protections to consumers. 815 Ill. Comp. Stat. 122/1-1–122/99-99 (effective Dec. 6, 2005). Before this Act, Illinois had repealed its usury cap for consumer installment loans. As soon as the new law took effect, some payday lenders began offering “installment” loans for over 120 days that cost more than the new payday loan law permits. For example, one product is a 140-day “look alike” loan requiring nine biweekly interest payments, with a final balloon payment of the entire principal amount. For the borrower, this “installment” loan is essentially a fourteen-day payday loan with ten built-in rollovers. Woodstock Institute, Monsignor John Egan Campaign for Payday Loan Reform, *Hunting Down the Payday Loan Customer: The Debt Collection Practices of Two Payday Loan Companies* 4 (Oct. 2006), available at http://www.issuelab.org/research/hunting_down_the_payday_loan_customer_the_debt_collection_practices_of_two_payday_loan_companies.

¹⁹ See Elisabeth Anderson, *Experts, Ideas, and Policy Change: The Russell Sage Foundation and Small Loan Reform, 1910–1940*, at 4, 39 (Mar. 8, 2006), available at

adopted during this time in response to the widespread problem of loan-sharking. These laws were largely the product of the research and promotional efforts of the Russell Sage Foundation which, between 1916 and 1942, published seven drafts of a Uniform Small Loan Law.²⁰ In 2006, Congress enacted a similar 36% cap for extensions of credit to active-duty service members and their dependents.²¹ Specifically, Congress declared it unlawful for lenders to extend credit for loans at an APR greater than 36% to active-duty service members and their dependents.²² In promulgating the regulations to implement this congressional directive, the Department of Defense described the problem that abusive lending practices can have for consumers. It stated that:

[a] major concern of the Department has been the debt trap some forms of credit can present for Service members and their families. The combination of little-to-no regard for the borrower’s ability to repay the loan, unrealistic payment schedule, high fees, and interest and the opportunity to roll over the loan instead of repaying it, can create a cycle of debt for financially overburdened Service members and their families.²³

<http://www.yale.edu/scr/andersen.doc> (noting that thirty-four states implemented laws permitting small dollar lending at or about 36% annual interest rate from 1914 to 1943).

²⁰ National Consumer Law Center, *The Cost of Credit: Regulation, Preemption, and Industry Abuses* § 2.3.3.2 (4th ed. 2009).

²¹ John Warner National Defense Authorization Act of 2006, Pub. L. No. 109-364, § 670 (2006).

²² This cap became effective on October 1, 2007.

²³ Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 Fed. Reg. 50,580, 50,581–83 (Aug. 31, 2007) (Department of Defense final rule).

The same concerns are present for many nonmilitary families in today's economy. The *Scorecard* seeks to highlight the states that use their regulatory authority to protect consumers against abusive lending practices. More detail is provided in the statutory back-up to this *Scorecard*, available at <http://www.nclc.org/reports/content/cu-small-dollar-scorecard-backup-2010.pdf>.

II. DESCRIPTION OF THE SMALL LOAN PRODUCTS INCLUDED IN THE SCORECARD

1. Two-week, \$250 loan ("payday" loan)

A payday loan is a short-term cash loan based on the borrower's personal check held for future deposit or electronic access to the borrower's bank account. A consumer writes a personal check for the amount borrowed plus the finance charge and receives cash. In some cases, instead of writing a check, the borrower signs over electronic access to his or her bank account to receive and repay the loan. Payday loans are made at stores and via the Internet.

The lender holds the check until the next payday when the total of the cash received and the finance charge must be paid in one lump sum. To pay a loan, the borrower can redeem the check for cash, allow the check to be deposited at the bank, or just pay a new finance charge to roll the loan over for another pay period. When state law prohibits rollovers, a sham in which the consumer redeems the check and immediately re-borrows the same funds plus paying another loan fee may be used to accomplish what is, in effect, a rollover. Unfortunately, even a borrower who is able to repay the loan when it is due may

be left with inadequate funds to cover other expenses and wind up taking out another payday loan immediately or shortly after repaying the prior one. This back-to-back borrowing is known as "churning."²⁴ A study by the CRL concluded that 76% of payday loans are the result of churning (defined as a borrower taking out a new loan within the same two week period as closing out an old loan).²⁵

To get a payday loan, a consumer needs to have an open bank account in relatively good standing, a steady source of income, and identification. Payday lenders do not conduct a full credit check, establish a debt-to-income ratio, or determine whether a borrower can afford to repay the loan when it comes due.

Two weeks is a typical duration for payday loans. In 2009, the median payday loan amount in the country was \$350.²⁶ This rep-

²⁴ Uriah King & Leslie Parrish, Center for Responsible Lending, Phantom Demand: Short-Term Due Date Generates Need for Repeat Payday Loans, Accounting for 76% of Total Volume 5 (July 2009), available at <http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-short-term-due-date-generates-need-for-repeat-payday-loans-accounting-for-76-of-total-volume.html>.

²⁵ Uriah King & Leslie Parrish, Center for Responsible Lending, Phantom Demand: Short-Term Due Date Generates Need for Repeat Payday Loans, Accounting for 76% of Total Volume 3, 7 (July 2009), available at <http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-short-term-due-date-generates-need-for-repeat-payday-loans-accounting-for-76-of-total-volume.html>.

²⁶ Uriah King & Leslie Parrish, Center for Responsible Lending, Phantom Demand: Short-Term Due Date Generates Need for Repeat Payday Loans, Accounting for 76% of Total Volume 15 (July 2009), available at <http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-short-term-due-date-generates-need-for-repeat-payday-loans-accounting-for-76-of-total-volume.html>.

resents an increase from as recently as 2005, when the typical payday loan amount was in the range of \$250–\$300.²⁷ The maximum loan amount permitted depends on state law. Some states have a tiered pricing system and, for ease of calculation, the original *Scorecard* chose an amount (\$250) that would not trigger more than one tier. (For the sake of consistency between the original and updated *Scorecards*, this amount has been retained.) For example, Colorado permits a fee of 20% on the first \$300 and then 7.5% on the balance.

The statutory backup to the *Scorecard* also tracks whether states permit a lender to hold a consumer's check or obtain authorization to debit the borrower's bank account. The practices of check holding and electronic debiting give the lender access to the consumer's bank account with no further action by the consumer after the loan is made. Internet lenders rely heavily on the ability to debit electronically the consumer's bank account; they also may include fine print in their loan contracts to permit them to create and submit for payment an unsigned check using the borrower's account information to collect funds from the borrower's bank account even if the borrower revokes debit authorization.

2. One-month, \$300 auto-title loan

To obtain an auto-title loan, a borrower signs over the title to a paid-for car and, in some states, provides the lender with a spare set of keys. The loan is usually due within a month in one balloon payment. If the borrower fails to repay the loan, the lender can take and sell

the car. In some states, title lenders are allowed to keep the surplus from the sale of the car, allowing title lenders to reap a windfall from the borrower's default. The lenders typically perform no assessment of ability to repay.

Typically, a car title loan is due in one month and has a principal amount of approximately \$300. The *Scorecard* based its APR calculations on a \$300 loan. Auto-title lenders typically do not make large loans; loan size is dependent on the value of the car and they lend no more than 30% to 50% of value to ensure negligible losses if the car is taken by the lender and sold in the event of default. In some states, such as South Carolina²⁸ and California,²⁹ lenders make larger loans secured by car titles to avoid limits on interest and fees for small loans.

3. Six-month, \$500 unsecured installment loan

Short-term installment loans are offered by different types of lenders, but are most commonly made by finance companies. These lenders normally assess the ability of the borrower to repay the loan. Repayment is usually made in installments of equal amounts which cover both principal and interest. Interest rates and APRs can be lower for consumers with better credit records or scores. If the borrower defaults, the lender can obtain a court judgment for repayment of the loan. The *Scorecard* uses a loan slightly larger than either a payday or an auto title loan to compare the cost of an installment, as opposed to a single-payment, loan.

²⁷ Mark Flannery & Katherine Samolyk, *Payday Lending: Do the Costs Justify the Price?* 1 (FDIC Center for Financial Research Working Paper June 2005), available at http://www.fdic.gov/bank/analytical/cfr/2005/wp2005/cfrwp_2005-09_flannery_samolyk.pdf.

²⁸ Title loans over \$600 are not subject to any interest rate cap. S.C. Code Ann. § 37-3-201. However, even a \$300 title loan has a 117% APR.

²⁹ Title lenders in California do not offer a \$300 product, but they will make loans of \$2500 and above because they can do so with no rate cap. Cal. Fin. Code § 22303 (West).

4. One-year, \$1,000 unsecured installment loan

The *Scorecard* uses an unsecured installment loan with a longer duration to provide another point of comparison to the payday and auto-title loan products. The structure of this loan is similar to the six-month, \$500 unsecured installment loan.

5. Criminal usury cap

The *Scorecard* assesses whether a state maintains a criminal usury cap. Criminal usury caps can provide an outer limit to allowable interest rates. Three states have criminal usury laws that apply regardless of other state law and set maximum rates. Twenty-eight jurisdictions have not enacted a criminal usury law. Twelve states set a cap in their criminal law that does not apply if other state law allows a higher rate. Five states have a general criminal usury law that makes it a crime to violate the usury caps in other state law but does not itself set a rate limit. Finally, three states make exceeding the criminal usury cap a crime only if the lender also threatens or uses violence; however, in one of these states, there is no criminal liability based on the rate cap violation if the rate charged is otherwise authorized by law.

- If the loan product's APR is less than or equal to 36%, the grade is a P;
- If the state "Prohibited" a payday or auto-title product, the grade is a P;³²
- If the loan product's APR is greater than 36%, the grade is an F;
- If there is "No cap" on the loan product's APR, the grade is an F.

Criminal usury statutes are somewhat more complicated because of their interplay with other state laws. A handful of these laws set an absolute cap that applies to all loan products evaluated in this *Scorecard*. For these laws, the same basic grading rule applies as for the individual small loan products.

- If the criminal usury statute imposes an APR cap less than or equal to 36%, the grade is a P;
- If the criminal usury statute imposes an APR cap greater than 36%, the grade is an F.

Other criminal usury statutes set a rate cap, but the cap is inapplicable if another state law allows a higher interest rate. For example, a state criminal usury statute might cap interest

III. GRADING SCALE³⁰

The four small loan products are graded on a pass (P) or fail (F) basis based on the APR for the loan product.³¹

³⁰ Grading is strict, thus some states—including Massachusetts, Minnesota, North Carolina, and West Virginia—earn Fs for products that are not far over the 36% APR benchmark. In general, these near misses are the result of fees being permitted in addition to interest.

³¹ APRs are rounded down or up to avoid decimals.

They were rounded down to the nearest number without decimals if they were XX.50% or less and were rounded up to nearest full number without decimals if they were XX.51% or more.

³² Where a payday or auto-title loan is "Prohibited," this means that either: a) state law bans payday or title lending because it prohibits the taking of the check or the car's title as security; or b) payday or title lenders would not make loans with APRs under the applicable usury cap due to their current business models. For example, the applicable state law may contain a low rate cap and/or the small loan law requires installment payments.

rates at 24% except as otherwise authorized by law. If a separate payday loan statute authorizes interest rates of 300%, the criminal usury statute will have no effect on payday loans. But if no other provision of state law allows a higher interest rate for payday loans, then the 24% cap will apply to them.

Taking these factors into account, if the rate cap in a state's criminal usury statute is inapplicable if another state law allows a higher rate or if a state's criminal usury statute does not contain its own rate limit but simply references the limits in other state law, the *Scorecard* grades the state as follows:

- If no other state law allows a rate higher than 36% for any of the four loan products in the *Scorecard*, the criminal usury law is termed a "Soft cap," and the grade is a P.
- If the criminal usury statute contains its own rate cap but other state law allows a rate higher than 36% for any of the four loan products in the *Scorecard*, the APR includes a plus sign ("+") to indicate that the cap can be higher than the stated amount, and the grade is an F.
- If the criminal usury statute does not contain any limits on rates but criminalizes making loans above the caps set forth in other state laws governing the four loan products, and any of these products can have a rate higher than 36%, the criminal usury law is deemed to have "No cap," and the grade is an F.

And a final grading rule for the criminal usury cap category:

- If the state does not have a criminal usury law, the *Scorecard* states "None," and the grade is a NA (not applicable)

because the *Scorecard* does not penalize for the lack of a law in this category.

IV. STATE LAW CHANGES SINCE THE ORIGINAL SCORECARD

Some recent state law developments are highlighted below: all those that have affected the statutory maximum APR for any of the four products in the updated *Scorecard*, as well as some that have not. In the latter category, the focus is on legislative developments that have closed prior loopholes in relevant state laws or addressed the challenges posed by Internet payday lenders who make loans to a state's residents without following the state's laws.³³

Arizona: Arizona's law authorizing payday lending contains a sunset date of July 1, 2010. In 2008, voters rejected Proposition 200, a ballot initiative that would have allowed payday lenders to operate in the state permanently.³⁴ In 2010, legislation that would have had the same effect was killed in committee. If the sunset occurs as scheduled, single payment loans

³³ See Jean Ann Fox & Anna Petrini, Consumer Federation of America, Internet Payday Lending: How High-Priced Lenders Use the Internet to Mire Borrowers in Debt and Evade State Consumer Protections (Nov. 30, 2004), available at http://www.consumerfed.org/pdfs/Internet_Payday_Lending113004.pdf (discussing particular problems with Internet payday lenders, such as trouble tracking them down after loans are made).

³⁴ This consumer victory occurred over massive industry opposition; payday lenders spent almost fifteen times more than opponents of the initiative. Tyler Evilsizer, National Institute on Money in State Politics, Lenders Couldn't Buy Laws 1 (Aug. 18, 2009), available at <http://www.followthemoney.org/Research/index.phtml>.

at high APRs secured by checks will no longer be authorized. Arizona will then earn a P in the payday loan category.

Arkansas: Despite the usury cap located in Arkansas's constitution, the state legislature had enacted a payday loan law permitting "fees" (and avoiding the use of the word "interest") which exceeded the constitutional usury cap. In November 2008, the Arkansas Supreme Court resolved the issue, ruling that the transactions were indeed loans, and the state law was unconstitutional.³⁵ Because of the state supreme court's ruling, Arkansas retains its P in the payday loan category.

Delaware: On July 16, 2009, this state added statutory provisions specifically authorizing title loans—without any mention of a cap on interest or fees.³⁶ Delaware retains its F in the title loan category.

Idaho: As of July 1, 2009, if a payday lender is not licensed by the state of Idaho, any loans it makes in this state are void, uncollectible, and unenforceable.³⁷ Not only can borrowers walk away from these loans, they can sue the unlicensed lenders to get their money back.³⁸ This statutory change addresses the problem of Internet payday lenders. However, as Idaho lacks any cap on fees or interest rates, borrowers' costs when borrowing even from a licensed lender remain high, and it retains its F in the payday loan category.

Illinois: In 2009, the regulations governing auto-title loans changed the definition of a title-secured loan to include all loans secured by title to a motor vehicle, regardless of the loan's duration.³⁹ Under the prior regulations, such loans lasting more than sixty days were not covered. The amendment thus eliminated a long-standing loophole whereby title lenders had evaded these regulations by structuring their loans as longer than sixty days. In addition, a requirement that consumers be allowed to repay the loan in substantially equal installments was added.⁴⁰ This should result in an end to a one-month loan product repayable in a lump sum; however, one-month loan products repayable in installments were not expressly banned. As the new measures did not include a cap on interest rates or fees, lenders in Illinois can continue to charge any amount they wish for a one-month loan product, as long as it is not repayable in a lump sum. Absent a rate and fee cap, the new repayment requirement of substantially equal installments does not decrease the cost of any one-month loan products that may remain available. Illinois thus still rates an F for title lending.

Indiana: Indiana does not have title lending. The 36% annual interest rate cap on small loans (up to a certain amount) would apply to title loans, and thus keeps title lenders from opening their doors in this state. Indiana attempted to enforce its law against title lenders in Illinois who made title loans to Indiana consumers who came over the border to their Illinois stores. This attempt was held to be unconstitutional by a federal trial court, a decision that was affirmed by a federal appellate

³⁵ *McGhee v. Arkansas Bd. of Collection Agencies*, 289 S.W.3d 18 (Ark. 2008). On the basis of its constitutional usury cap, Arkansas earned a "P" for payday loans in the original *Scorecard*, although the *McGhee* decision had not yet been issued.

³⁶ Del. Code Ann. tit. 5, §§ 2250–61.

³⁷ Idaho Code Ann. § 28-46-402(3).

³⁸ Idaho Code Ann. § 28-46-402(3).

³⁹ 38 Ill. Code. R. 110.300.

⁴⁰ 38 Ill. Code. R. 110.340(b).

court.⁴¹ Nonetheless, Indiana retains its P for title lending, as it has a rate cap on the books and is enforcing the cap within its borders.

Kentucky: In 2009, this state imposed new restrictions on payday lenders. If a payday lender is not licensed by Kentucky, any loans it makes in Kentucky are void, and it is not entitled to collect any monies from borrowers.⁴² In addition, if a lender violates any provision of the payday law, the executive director of the Office of Financial Institutions may void the loan; the lender may only recover from the borrower any principal it has paid to him or her.⁴³ A ten-year moratorium on the issuing of new payday loan licenses became effective on July 1, 2009.⁴⁴ The state has also created a database to track payday loan transactions; however, the \$1 per transaction fee for accessing the database may be passed along to the consumer, thereby increasing the allowable APR on a two-week \$250 payday loan from 460% to 471%.⁴⁵ Kentucky retains its F grade in the payday loan category.

Maryland: Although this state does not permit payday lending, in recent years online payday lenders have been making loans to Maryland residents by setting themselves up as credit services organizations and charging

broker fees to connect borrowers with loans. The result has been loans with triple digit APRs due to the imposition of broker fees on top of interest.⁴⁶ A bill to close this loophole passed both houses of the Maryland legislature and was signed by the governor on May 4, 2010. This new law prohibits broker fees that, when added to the interest charged on a loan, exceed the applicable interest rate cap.⁴⁷ It will be effective on October 1, 2010.⁴⁸ Maryland already rated a P in the payday loan category; the new law will make its prohibition more effective.

Minnesota: As of August 1, 2009, this state has applied its payday laws to Internet payday lenders who make loans to Minnesota residents while the residents are present in that state.⁴⁹ Additional reforms also became effective at this time, such as prohibiting payday loan contracts from requiring that disputes between a lender and a borrower residing in Minnesota be resolved anywhere but in Minnesota.⁵⁰ A rate cap was not among the reforms, however, so Minnesota still rates an F in the payday lending category.

New Hampshire: On January 1, 2009, New Hampshire imposed a 36% APR cap on

⁴¹ *Midwest Title Loans v. Ripley*, 616 F. Supp. 2d 897 (S.D. Ind. 2009), *aff'd sub nom.*, *Midwest Title Loans v. Mills*, 593 F.3d 660 (7th Cir. 2010).

⁴² Ky. Rev. Stat. Ann. § 286.9-035(1) (West).

⁴³ Ky. Rev. Stat. Ann. § 286.9-035(2) (West).

⁴⁴ Ky. Rev. Stat. Ann. § 286.9-071 (West).

⁴⁵ Ky. Rev. Stat. Ann. §§ 286.9-140(1)–(2) (West). As of May 1, 2010, the database appeared to be up and running.

⁴⁶ Eileen Ambrose, *Payday Lenders Face Tougher Restrictions*, Baltimore Sun (Apr. 12, 2010), available at <http://www.baltimoresun.com/business/money/bs-bz-ambrose-payday-20100412,0,2759475.story>.

⁴⁷ H.B. 79, 2010 Gen. Assem. 427th Sess. (Md. 2010), <http://mlis.state.md.us/2010rs/billfile/hb0079.htm>.

⁴⁸ Eileen Ambrose, *Payday Lenders Face Tougher Restrictions*, Baltimore Sun (Apr. 12, 2010), available at <http://www.baltimoresun.com/business/money/bs-bz-ambrose-payday-20100412,0,2759475.story>.

⁴⁹ Minn. Stat. § 47.601, subdiv. 5.

⁵⁰ Minn. Stat. § 47.601, subdiv. 2(a)(2).

payday loans⁵¹ and a 36% yearly interest rate cap on auto-title loans.⁵² These caps appear to have shut down the making of both new payday and new auto-title loans in this state. The amended auto-title statute does permit lenders to pass along their actual costs for perfecting a security interest in the title to borrowers and recognizes that this fee may cause the true annualized cost for an auto-title loan to exceed 36%.⁵³ However, the only actual cost that appears to have been contemplated when this legislation was passed was the fee lenders must pay to the state Division of Motor Vehicles to perfect their security interest.⁵⁴ This fee is excludable from the finance charge definition under TILA (with proper disclosure) because it is paid to a public official for perfecting a security interest.⁵⁵ New Hampshire's auto-title law is thus properly understood as imposing a 36% APR cap. The *Scorecard* has changed New Hampshire's grades in the payday and auto-title loan categories from Fs to Ps.

In addition, New Hampshire appears to be moving toward a 36% APR cap for loans of \$10,000 or less. The APR would be computed using the TILA definition of finance charge; however, it would exclude one application fee per borrower per year and one participation or

membership fee per borrower from the finance charge, leaving some room for the TILA APR to exceed 36%. As of April 15, 2010, this bill, S.B. 193, had passed the House and gone to the Senate. If this bill passes and becomes law, New Hampshire will have gone from having no rate caps on any of the four products in the *Scorecard* to having some limit on all of them in the span of roughly two years, a significant accomplishment.

Ohio: This state enacted a 28% annual interest rate cap for payday loans, effective September 1, 2008. This was a significant change, as Ohio had previously permitted payday loans up to 391% APR. However, many payday lenders have stayed in business through a loophole: using licenses issued under the state's small loan and mortgage loan acts. The fees permitted by these laws, which were intended to be applied to longer term installment loans and mortgage loans, result in triple digit APRs when used for two-week payday loans.⁵⁶ Measures are being taken to address this problem, including efforts by the Ohio Department of Commerce to revoke several lenders' licenses⁵⁷ and proposed legislation that aims to close this loophole.⁵⁸ Because it has a

⁵¹ N.H. Rev. Stat. Ann. § 399-A:13(XX).

⁵² N.H. Rev. Stat. Ann. § 399-A:14(VI).

⁵³ N.H. Rev. Stat. Ann. § 399-A:14(VI).

⁵⁴ According to an attorney familiar with passage of the bill amending the auto title statute, the only discussion of any actual costs to be passed through to borrowers was the \$25 fee lenders must pay to the Division of Motor Vehicles (DMV) to perfect their security interest in a vehicle. E-mail from Attorney Sarah Mattson, New Hampshire Legal Assistance, Auto Title follow-up (Apr. 8, 2010, 10:56 a.m. EDT) (on file with NCLC).

⁵⁵ 12 C.F.R. § 226.4(e)(1).

⁵⁶ David Rothstein, Policy Matters Ohio, New Law, Same Old Loans: Payday Lenders Sidestep Ohio Law 2 (Sept. 2009), available at <http://www.policymattersohio.org/pdf/NewLawSameOldLoans2009.pdf> (explaining that the APR for a two week payday loan of \$100 is 423% when the small loan act is used and 680% when the mortgage loan act is used).

⁵⁷ Sheryl Harris, *Ohio Department of Commerce Takes Steps to Revoke Payday Lenders' Licenses*, Plain Dealer (Feb. 2, 2010), available at http://www.cleveland.com/consumeraffairs/index.ssf/2010/02/ohio_department_of_commerce_ta.html.

⁵⁸ Thomas Suddes, *A Bipartisan Stall Thwarts Ohioans' Will on Lending Rate*, Plain Dealer (Mar. 21, 2010), available at <http://www.cleveland.com/opinion/>

statutory rate cap of less than 36%, Ohio continues to rate a P in the payday loan category.

Pennsylvania: On July 26, 2008, the Pennsylvania Banking Department changed its position on Internet payday lenders to require them to follow Pennsylvania law when making loans to Pennsylvania residents.⁵⁹ Existing lenders were given until February 1, 2009, to comply; however, enforcement was suspended past that date due to a lawsuit challenging the Department's new position filed by Cash America Net of Nevada, an Internet lender without an office in the state making loans to Pennsylvania residents. The Commonwealth Court of Pennsylvania ruled in favor of the Department, declaring that Cash America was engaging in activities not authorized by state law because it was lending to Pennsylvania residents at a higher annual rate than the 6% permitted by the state's general usury law.⁶⁰ With the appropriate license under the state's Consumer Discount Company Act,⁶¹ Cash America could have charged more. Not only did Cash America not have such a license; it was charging significantly beyond even what a licensed lender could have charged.⁶² The rate permitted for licensed lenders is low enough to have kept payday lenders from opening up shop in Pennsylvania. Internet lenders will now face

the same barrier. Pennsylvania continues to rate a P in the payday loan category.

South Carolina: In June 2009, the South Carolina legislature overrode the Governor's veto to pass a bill imposing additional restrictions on payday loans. Among the new requirements now in place is that lenders must be licensed by the state to make loans to South Carolina residents.⁶³ This bill also changed the maximum amount that can be charged for payday loans; however, it only decreased the APR on a two-week \$250 payday loan to 391%, not a very significant change from the prior 460% APR. South Carolina therefore still rates an F for payday lending.

Virginia: On January 1, 2009, changes to Virginia's Payday Loan Act went into effect, including a requirement that this state's payday loan laws apply to Internet lenders making loans to Virginia residents.⁶⁴ A 36% annual interest rate cap was put in place, but both a loan fee and verification fee were also permitted.⁶⁵ With these two fees, the APR for a two-week \$250 payday loan has actually increased, from 390% APR to 610% APR. The number of people who are eligible for two-week payday loans has decreased, however, as lenders are now required to give borrowers a repayment period at least two times as long as the borrower's pay cycle.⁶⁶ To avoid this and other new legal requirements, many payday lenders switched to offering unregulated open-end loan products under another statutory provision.⁶⁷ The legislature responded by amending

index.ssf/2010/03/a_bipartisan_stall_thwarts_ohi.html.

⁵⁹ Notice to those Engaging or Considering Engaging in Nonmortgage Consumer Lending to Pennsylvania Residents, 38 Pa. Bull. 3986 (July 26, 2008).

⁶⁰ *Cash Am. Net of Nev., L.L.C. v. Commonwealth*, 978 A.2d 1028 (Pa. Commw. Ct. 2009).

⁶¹ 7 Pa. Cons. Stat. §§ 6203, 6213.

⁶² *Cash Am. Net of Nev., L.L.C. v. Commonwealth*, 978 A.2d 1028, 1031–32 (Pa. Commw. Ct. 2009).

⁶³ S.C. Code Ann. § 34-39-130(A).

⁶⁴ Va. Code Ann. § 6.1-469.1.

⁶⁵ Va. Code Ann. § 6.1-460.

⁶⁶ Va. Code Ann. § 6.1-459.1(v).

⁶⁷ Va. Code Ann. § 6.1-330.78.

this open-end loophole, effective April 8, 2009, to provide payday lenders continued access to it only if they gave up their payday lending licenses or were making auto-title loans.⁶⁸ Furthermore, the latter option will no longer be available as of October 1, 2010.⁶⁹ On that date, a bill reforming title lending (S.B. 606) signed by the governor on April 11, 2010, becomes effective. S.B. 606 also includes limits on interest rates and imposes a minimum loan term of 120 days; these and other new requirements will be imposed on out-of-state lenders making loans to Virginia residents as well as Virginia title lenders.⁷⁰ There is currently no cap on interest or fees for title lending, so the bill is a positive development. Unfortunately,

the limits it sets will continue to permit triple digit APRs.⁷¹ However, it will ban the one-month auto-title product evaluated by this *Scorecard*, thus Virginia will earn a P for title lending as of October 1, 2010. Virginia continues to rate an F for payday lending.

As these recent state law developments demonstrate, there continues to be significant action at the state level to combat abusive small dollar loan products. However, the need for additional reforms in many states as well as at the federal level also remains urgent.

⁶⁸ Va. Code Ann. § 6.1-330.78; 10 Va. Admin. Code § 5-200-100 (effective February 1, 2010). See Jay Speer, *Fool Me Once . . . Will the Loophole Lender Lobbyists Get Their Way Again?*, Augusta Free Press (Feb. 22, 2010), available at <http://augustafreepres.com/2010/02/15/fool-me-once-will-the-loophole-lender-lobbyists-get-their-way-again/>.

⁶⁹ Va. Code Ann. § 6.1-330.78(E), as amended by S.B. 606, Gen. Assem., 2010 Sess. (Va. Apr. 11, 2010). See also *Virginia Lawmakers Pass Car Title Lending Reform*, N.Y. Times (Mar. 11, 2010).

⁷⁰ Va. Code Ann. §§ 6.1-496, 6.1-495 & 6.1-481, as added by S.B. 606, Gen. Assem., 2010 Sess. (Va. Apr. 11, 2010).

⁷¹ Virginia Poverty Law Center, *Restrictions on Car Title Lending Signed into Law* (Apr. 14, 2010), available at <http://www.vplc.org/restrictionsPR.html>.

SMALL DOLLAR LOAN PRODUCTS SCORECARD 2010

The National Consumer Law Center,
Consumer Federation of America, and Consumers Union

(Updated 5/7/10)⁷²

STATE	LOAN TYPE	APR*	GRADE
Alabama	\$250, 2-week payday loan	456%	F
	\$300, 1-month auto-title loan	300	F
	\$500, 6-month loan	94	F
	\$1000, 1-year loan	20	P
	Criminal usury cap	None	NA
Alaska	\$250, 2-week payday loan	443	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Arizona	\$250, 2-week payday loan	460	F ⁷³
	\$300, 1-month auto-title loan	204	F
	\$500, 6-month loan	54	F
	\$1000, 1-year loan	46	F
	Criminal usury cap	No cap	F
Arkansas	\$250, 2-week payday loan	17	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	17	P
	\$1000, 1-year loan	17	P
	Criminal usury cap	None	NA
California	\$250, 2-week payday loan	460	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	45	F
	\$1000, 1-year loan	30	P
	Criminal usury cap	None	NA
Colorado	\$250, 2-week payday loan	521	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	91	F
	\$1000, 1-year loan	58	F
	Criminal usury cap	45	F
Connecticut	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	29	P
	\$1000, 1-year loan	26	P
	Criminal usury cap	12	P

⁷² Legislative developments through April 15, 2010, are reflected in this *Scorecard*, unless otherwise indicated.

⁷³ Due to the sunset provision in Arizona's payday loan law, Arizona will have a P in this category as of July 1, 2010. Ariz. Rev. Stat. Ann. § 6-1263.

* If the APR includes a plus sign ("+"), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.

STATE	LOAN TYPE	APR*	GRADE
Delaware	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
District Of Columbia	\$250, 2-week payday loan	24	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	24	P
	\$1000, 1-year loan	24	P
	Criminal usury cap	None	NA
Florida	\$250, 2-week payday loan	342	F
	\$300, 1-month auto-title loan	30	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	30	P
	Criminal usury cap	25+	F
Georgia	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	304	F
	\$500, 6-month loan	44	F
	\$1000, 1-year loan	31	P
	Criminal usury cap	60	F
Hawaii	\$250, 2-week payday loan	460	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	24	P
	\$1000, 1-year loan	25	P
	Criminal usury cap	No cap	F
Idaho	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
Illinois	\$250, 2-week payday loan	404	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	20+	F
Indiana	\$250, 2-week payday loan	391	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	45	F

*If the APR includes a plus sign (“+”), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.

STATE	LOAN TYPE	APR*	GRADE
Iowa	\$250, 2-week payday loan	358	F
	\$300, 1-month auto-title loan	35	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Kansas	\$250, 2-week payday loan	391	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	35	P
	Criminal usury cap	None	NA
Kentucky	\$250, 2-week payday loan	471	F
	\$300, 1-month auto-title loan	36	P
	\$500, 6-month loan	42	F
	\$1000, 1-year loan	41	F
	Criminal usury cap	None	NA
Louisiana	\$250, 2-week payday loan	521	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	81	F
	\$1000, 1-year loan	47	F
	Criminal usury cap	None	NA
Maine	\$250, 2-week payday loan	261	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	30	P
	Criminal usury cap	None	NA
Maryland	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	33	P
	\$1000, 1-year loan	33	P
	Criminal usury cap	None	NA
Massachusetts	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	37	F
	\$1000, 1-year loan	27	P
	Criminal usury cap	20+	F
Michigan	\$250, 2-week payday loan	375	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	43	F
	\$1000, 1-year loan	35	P
	Criminal usury cap	25+	F

*If the APR includes a plus sign (“+”), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.

STATE	LOAN TYPE	APR*	GRADE
Minnesota	\$250, 2-week payday loan	235	F
	\$300, 1-month auto-title loan	116	F
	\$500, 6-month loan	51	F
	\$1000, 1-year loan	38	F
	Criminal usury cap	None	NA
Mississippi	\$250, 2-week payday loan	572	F
	\$300, 1-month auto-title loan	300	F
	\$500, 6-month loan	52	F
	\$1000, 1-year loan	44	F
	Criminal usury cap	None	NA
Missouri	\$250, 2-week payday loan	1,955	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	24+	F
Montana	\$250, 2-week payday loan	652	F
	\$300, 1-month auto-title loan	300	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
Nebraska	\$250, 2-week payday loan	460	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	47	F
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Nevada	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	40	F
	\$1000, 1-year loan	40	F
	Criminal usury cap	None	NA
New Hampshire	\$250, 2-week payday loan	36	P
	\$300, 1-month auto-title loan	36	P
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
New Jersey	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	30	P
	Criminal usury cap	30	P

*If the APR includes a plus sign ("+"), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.

STATE	LOAN TYPE	APR*	GRADE
New Mexico	\$250, 2-week payday loan	409	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	45	F
New York	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	25	P
	\$1000, 1-year loan	25	P
	Criminal usury cap	25	P
North Carolina	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	54	F
	\$1000, 1-year loan	37	F
	Criminal usury cap	None	NA
North Dakota	\$250, 2-week payday loan	520	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	28	P
	\$1000, 1-year loan	25	P
	Criminal usury cap	10.8+	F
Ohio	\$250, 2-week payday loan	28	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	70	F
	\$1000, 1-year loan	54	F
	Criminal usury cap	25+	F
Oklahoma	\$250, 2-week payday loan	396	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	46	F
	\$1000, 1-year loan	30	P
	Criminal usury cap	45	F
Oregon	\$250, 2-week payday loan	Prohibited ⁷⁴	P
	\$300, 1-month auto-title loan	154	F
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA
Pennsylvania	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	26	P
	\$1000, 1-year loan	22	P
	Criminal usury cap	36	P

⁷⁴ Two-week payday loans are prohibited in Oregon; however, the APR for a \$250, thirty-one-day payday loan (the minimum length permitted by law) is 154%, which merits a F.

* If the APR includes a plus sign ("+"), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.

STATE	LOAN TYPE	APR*	GRADE
Rhode Island	\$250, 2-week payday loan	390	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	30	P
	\$1000, 1-year loan	24	P
	Criminal usury cap	21+	F
South Carolina	\$250, 2-week payday loan	391	F
	\$300, 1-month auto-title loan	117	F
	\$500, 6-month loan	71	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
South Dakota	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	None	NA
Tennessee	\$250, 2-week payday loan	313	F
	\$300, 1-month auto-title loan	264	F
	\$500, 6-month loan	87	F
	\$1000, 1-year loan	54	F
	Criminal usury cap	None	NA
Texas	\$250, 2-week payday loan	156 ⁷⁵	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	84	F
	\$1000, 1-year loan	81	F
	Criminal usury cap	None	NA
Utah	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	No cap	F
Vermont	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	18 or 20	P
	\$500, 6-month loan	24	P
	\$1000, 1-year loan	24	P
	Criminal usury cap	Soft cap	P
Virginia	\$250, 2-week payday loan	610	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA

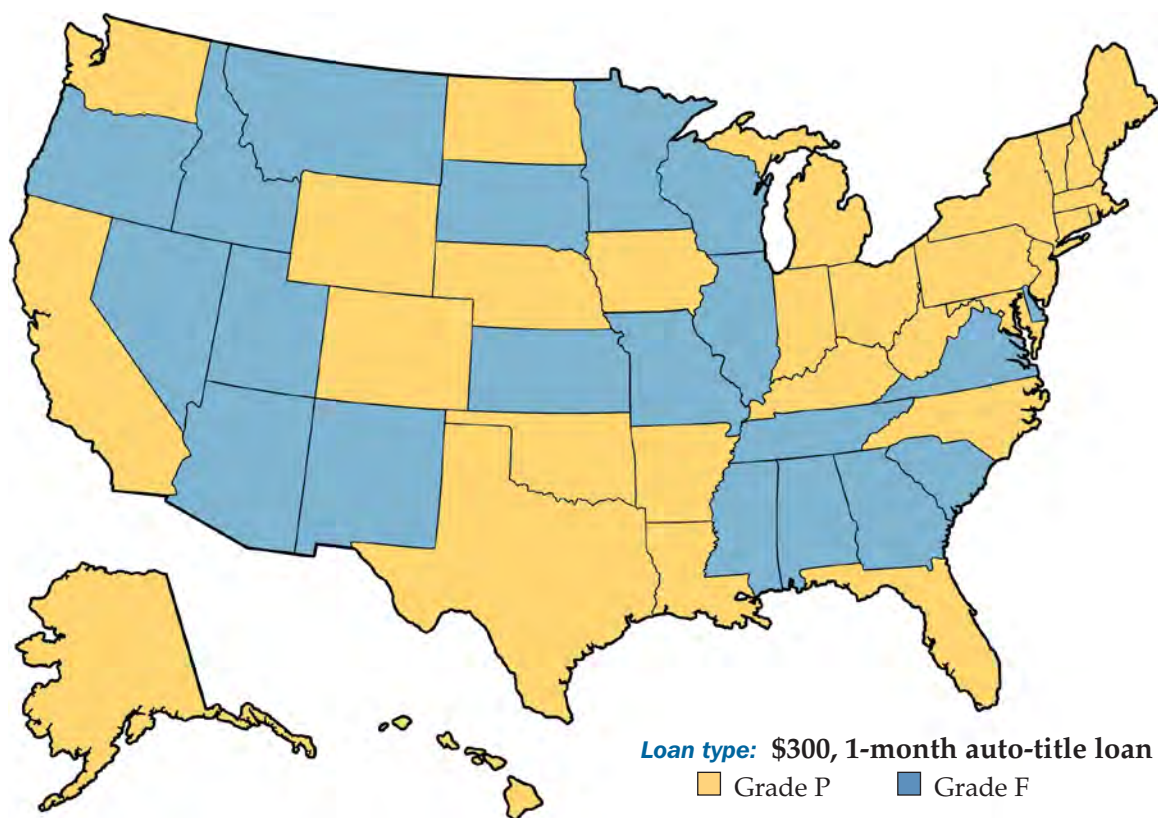
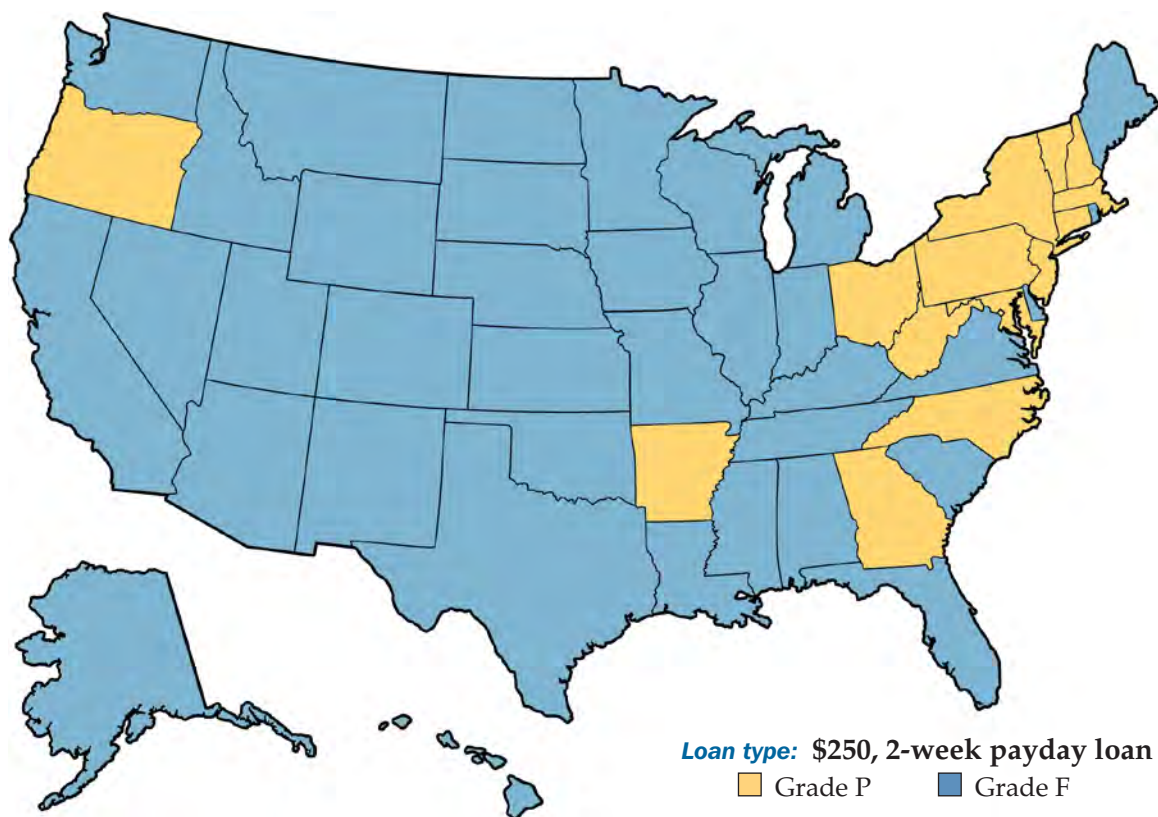
⁷⁵ Some lenders get around the rate cap on payday loans as well as the prohibition on title lending by setting themselves up as credit service organizations and facilitating both these loans with no rate cap. Tex. Fin. Code Ann. § 393.201 (Vernon).

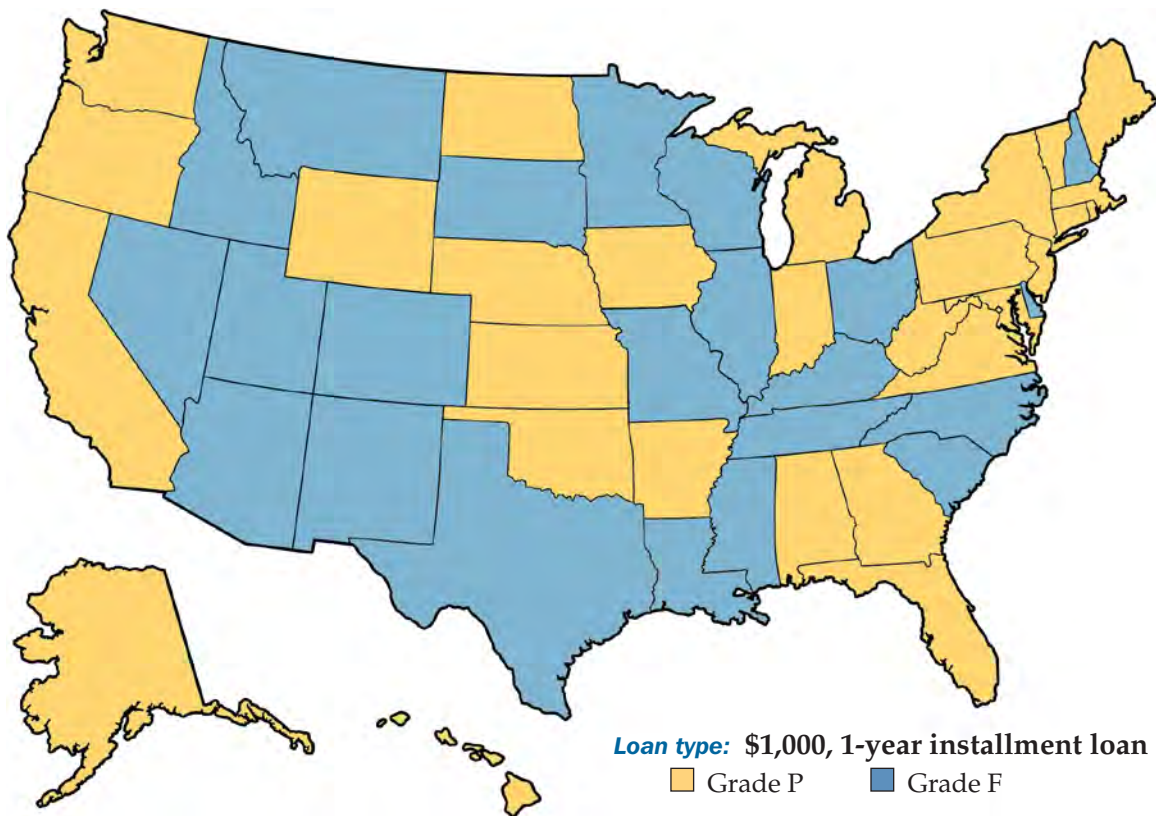
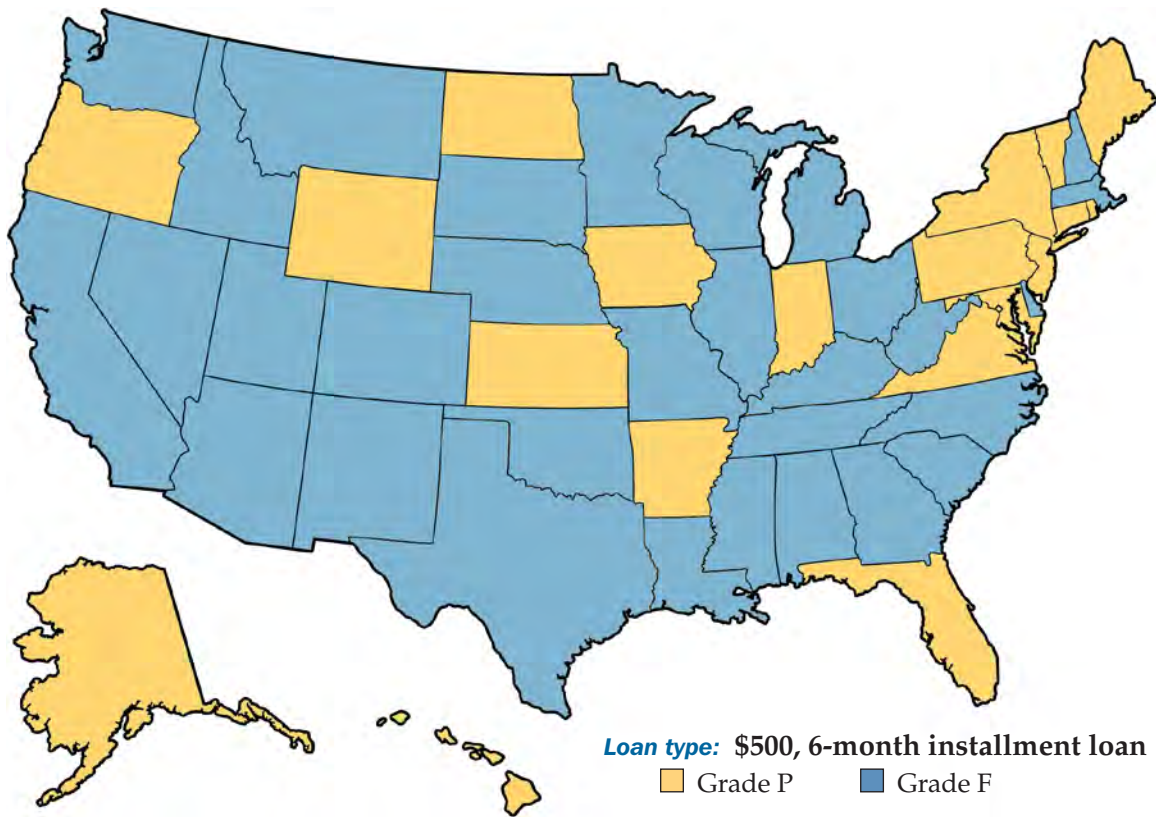
* If the APR includes a plus sign ("+"), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.

STATE	LOAN TYPE	APR*	GRADE
Washington	\$250, 2-week payday loan	390	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	39	F
	\$1000, 1-year loan	33	P
	Criminal usury cap	None	NA
West Virginia	\$250, 2-week payday loan	Prohibited	P
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	38	F
	\$1000, 1-year loan	35	P
	Criminal usury cap	Soft cap	P
Wisconsin	\$250, 2-week payday loan	No cap	F
	\$300, 1-month auto-title loan	No cap	F
	\$500, 6-month loan	No cap	F
	\$1000, 1-year loan	No cap	F
	Criminal usury cap	20+	F
Wyoming	\$250, 2-week payday loan	313	F
	\$300, 1-month auto-title loan	Prohibited	P
	\$500, 6-month loan	36	P
	\$1000, 1-year loan	36	P
	Criminal usury cap	None	NA

Website link to this document available at
<http://www.nclc.org/reports/content/cu-small-dollar-scorecard-2010.pdf>.

* If the APR includes a plus sign ("+"), the grade is an F because the APR could be higher than the stated APR. This situation occurs if the state permits exceptions to the criminal usury cap and one of the four loan products in the *Scorecard* has an APR that exceeds 36%. Several states permit lenders to pick one or two or more rate and/or fee alternatives when making smaller loans. Note that the *Scorecard* APRs are based upon the maximum permissible rates/fees regime.





Boston Headquarters:
7 Winthrop Square
Boston, MA 02110-1245
Phone: 617/542-8010
Fax: 617/542-8028
www.nclc.org



Washington Office:
1001 Connecticut Ave, NW
Suite 510
Washington, DC, 20036
Phone: 202/452-6252
Fax: 202/463-9462