

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, DC 20429

Re: Small-Dollar Lending, Request for Information, RIN 3064-ZA04

Dear Executive Secretary Feldman:

Georgia Watch submits these comments in response to the FDIC's request for information on small dollar lending. Georgia Watch is a non-profit, nonpartisan 501(c)3 consumer advocacy organization that utilizes education and advocacy to improve Georgians quality of life. Our organization is deeply concerned about the debt trap that high-cost small dollar loans create and the harms that they cause.

We share the FDIC's goal of greater financial inclusion for low-income consumers and communities of color. We also know too well the harm that unaffordable, high-cost loans cause these communities.. And we know that state interest rate limits are the most critical protection against predatory small dollar loans.

Thus, any bank product must carry critical safeguards. **First, the FDIC must not sanction "rent-a-bank" schemes, where non-bank lenders partner with banks to facilitate high-rate loans that would otherwise be illegal.** These schemes pose an existential threat to state law and promise to cause severe harm to our nation's most financially distressed consumers.

Second, the FDIC must require that any bank product be (i) affordable and (ii) reasonably priced:

- (i) To ensure loans are affordable, the bank must consider the customer's income and expenses before making the loan. Relying on income-only standards like a "payment-to-income" ratio is *not* ability-to-repay, and it will result in widespread unaffordable lending.
- (ii) On pricing, a 36% interest rate limit is already the law of the land for military servicemembers, it has been upheld by the FDIC for over a decade, and it is the state interest rate cap in many states. Erosion of this standard--like by (OCC-supervised) US Bank's "Simple Loan" product at 70% APR--will harm the consumers the FDIC most aims to help.

Finally, the FDIC must retain its 2013 guidance against unaffordable bank "deposit advance" loans. The evidence overwhelmingly shows that these were debt-trap payday loans that piled onto bank customers' existing unsustainable debt load. FDIC-supervised banks never made these loans, and for the Agency to encourage them now would be reckless.

Ultimately, banks must first do no harm, expanding access only to *affordable* credit. Given that many financially struggling consumers are already overburdened by credit, we urge the FDIC to encourage credit builder products and secured credit cards, and to take all needed to steps to root out abusive overdraft fees.. These initiatives would go a long way toward increasing economic inclusion among our nation's financially vulnerable.

Thank you for your consideration of our comments.

Sincerely,

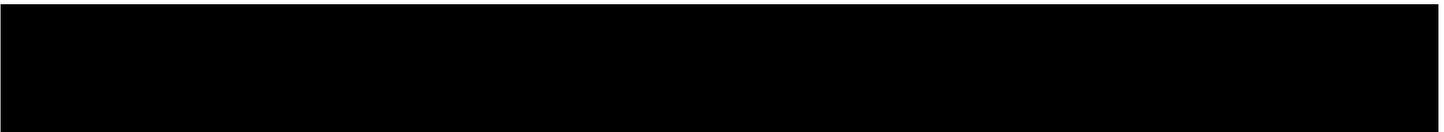
Nia Brown
Manager of Advocacy and Education





Making Small-Dollar Lending Safer for Georgians

Georgia Watch and
Georgia Financial Protection Coalition



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ACKNOWLEDGMENTS

Beth Stephens, J.D., Senior Director of Public Policy and Advocacy at Georgia Watch, oversaw the development of this paper.

Georgia Watch would like to recognize others who contributed to this paper, including our research assistant, Katie Woie-A-Sack, J.D., Georgia State University College of Law, Class of 2016; as well as our graduate student externs: Zoe Condon, J.D. Candidate, Emory University School of Law, Class of 2019; Jacob Berry, J.D. Candidate, Georgia State University College of Law, Class of 2020; CeRon Ford, M.P.H. Candidate, Morehouse School of Medicine, Class of 2019. We also thank Blake Davis and Professor Brennan Collins from the Student Innovation Fellowship at Georgia State University.

Georgia Watch also expresses gratitude to the Georgia Financial Protection Coalition (GFPC), an 80-member statewide coalition dedicated to understanding the financial products and services offered to Georgians and advocating for just and commonsense regulation of predatory and expensive financial products. We particularly thank the GFPC Steering Committee members who contributed to this paper, including: Venus Lockett, Urban Asset Builders; Belinda Eleby, Clayton County Library Services; Leatha Young, Boys & Girls Clubs of Mitchell County; Step-Up Savannah.

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EXECUTIVE SUMMARY

Making Small-Dollar Lending Safer for Georgians

Predatory small-dollar lenders prey on financially insecure consumers by providing quick cash loans with punishingly high interest rates and fees, making them all but impossible to pay on time. While Georgia has made progress in preventing predatory lending by prohibiting payday loans, state law still allows other forms of high-interest, small-dollar lending. In Georgia, predatory small-dollar loans can include car title loans that carry up to 300% interest and other installment loans of up to \$3,000 that can have interest rates and fees totaling more than 60% APR (“annual percentage rate”).

This paper takes an in-depth look at the types of small-dollar loans permitted in Georgia, how they are regulated, and who predatory lenders target. This paper also provides recommendations for changes to state law that will protect consumers, laying the groundwork for the advocacy efforts of Georgia Watch and the Georgia Financial Protection Coalition during the 2019 Georgia Legislative Session and beyond. The policy recommendations that Georgia Watch urges legislators to adopt include:

- Requiring small-dollar lenders to evaluate a borrower’s ability to repay before a loan is made—including an analysis of the borrower’s income and expenses;
- Requiring car title lenders to give a borrower any surplus remaining after the sale of a repossessed vehicle;
- Renaming the Industrial Loan Act the “Small Consumer Finance Loan Act” and moving car title lending under this Act so that title pawn transactions are regulated as small-dollar loans subject to Georgia’s usury law;
- Transferring authority to govern small-dollar loans, including car title loans, to the Department of Banking and Finance, rather than the Department of Insurance;
- Capping interest rates on small-dollar loans at 36% APR for all consumers to reflect the federal interest rate cap for military servicemembers and their families.

We have an incredible opportunity to strengthen consumer protections in Georgia and ease the financial burdens of our most vulnerable by reforming our small-dollar lending laws. This paper provides readers with the research and tools necessary to fully understand the predatory lending industries in Georgia, what changes can be made, and how Georgia Watch and the Georgia Financial Protection Coalition intend to fight for safer financial products for consumers in our state.

I. Introduction

In 2011, Shelby B. from Rockdale, Georgia pawned her car title for \$1,700. Four years and \$5,400 later, she finally made her last payment to get her title back. Shelby, like many Georgians, took out a small-dollar loan and suffered financial consequences that far exceeded her expectations. "I wouldn't encourage that loan to anybody. They get you in there by making it seem so easy. I was in a place in my life where I needed help, and they take advantage of people in tight positions. . . It's a shame that they do that. It's a bad deal." Unfortunately, Shelby's financial struggles are not unique. The path to financial security is filled with obstacles for most lower income Georgians. Many Georgia consumers not only lack opportunities for economic success, but they are preyed upon by industries that profit from stripping struggling families of their only assets.

Prosperity Now, which annually measures data on family financial health, ranks Georgia in the bottom, 49th out of 50 states and the District of Columbia, for the economic prosperity of its residents.¹ Many Georgians live in communities that have historically lacked access to brick and mortar banks. Decades of redlining and lack of investments in lower-income Black and Hispanic communities have resulted in safe financial products being largely unavailable to the Georgians that need them most. Predatory lenders have seized this opportunity to move into lower-income areas and exploit the most vulnerable families. Although Georgia has made important strides in consumer financial protection, further steps are needed to protect Georgia families from predatory lending practices and ensure their financial security.

Predatory lenders take advantage of consumers by advertising quick cash with no credit check, but these enticing loans come with absurdly high interest rates and fees, making them nearly impossible to repay. Borrowers who desperately need cash for an unexpected medical bill, car repair or other necessity find themselves in an escalating debt trap. Most payments go toward the exorbitant loan fees rather than the principal. Many borrowers are forced to extend their loans or take out new loans to keep up with their payments and avoid defaulting on other important bills such as rent and utilities. This never-ending debt cycle makes any opportunity for upward mobility even more unattainable for a Georgian in poverty.

Predatory loans can take several forms including payday loans, car title loans or small-dollar installment loans. Fortunately, Georgia protects consumers from the harms of payday lending. After years of consumer exploitation by payday lenders charging triple digit interest rates, Georgia Watch helped pass model legislation in 2004 to make payday lending illegal in Georgia and subject violators to substantial penalties. The payday lending ban in Georgia saves consumers here over \$284 million in fees annually.²

Despite success on the payday lending front, Georgia is still a sanctuary for other predatory lenders. Georgia is ground zero for car title lending, with three of the nation's largest car title lending companies headquartered in Georgia.³ TitleMax, headquartered in Savannah, has over 1100 stores in 16 states, with over 200 stores located in Georgia.⁴ In 2016, Georgia ranked sixth in the country for the number of car title loans.⁵

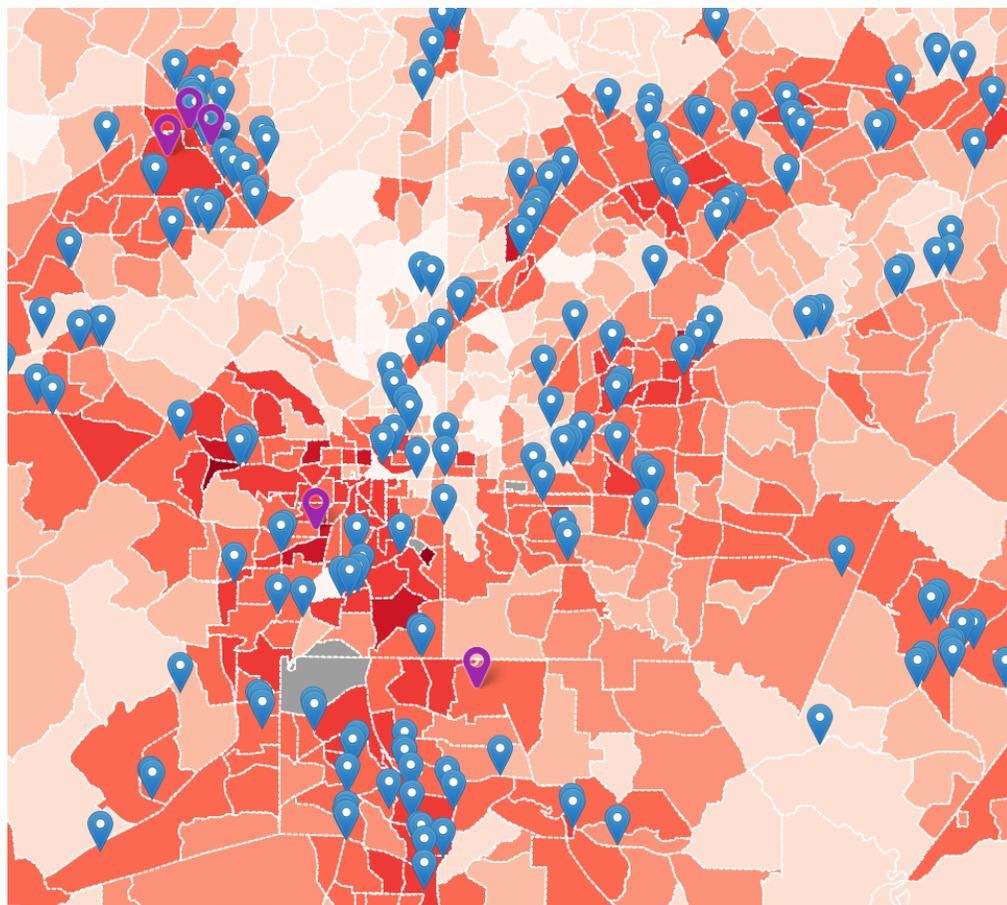
Interest rates for car title loans in Georgia can be as high as 300%. In addition to charging exorbitant interest rates, title pawn lenders are permitted to repossess a borrower's vehicle upon default of payment and keep any surplus profits from the sale. According to the data, one in five borrowers who obtain a car title loan has their vehicle repossessed.⁶

Predatory lenders also exploit consumers through small-dollar installment loans. Non-bank lenders in Georgia are permitted to charge as high as 60% in interest rates and fees on loans of \$3,000 or less, which is substantially higher than the 16% limit that state banks and credit unions must follow. Installment lenders in Georgia are also luring lower income consumers into high-interest loans by targeting them with "live checks" sent by mail to unsuspecting consumers who cash them, not realizing that they have just taken out a high-interest loan.

Predatory lenders cluster in areas where financial literacy is low and where people often live paycheck to paycheck. Georgia Watch worked with the Student Innovation Fellowship at Georgia State University to map title pawn lending locations across Georgia. The ATLMaps platform presented an opportunity to visualize and better understand the relationship between the presence of title pawn lenders and community data on household income. This project revealed an astounding 755 title pawn lending locations in the State of Georgia in 2018, with 74.4% operating in areas with a poverty rate above the national average.⁷

This map of metro Atlanta shows car title lenders (**blue icons**) cluster around:

- military installations (**purple icons**) such as Dobbins Air Force Base in Marietta;⁸
- along highways such as northeast Atlanta's Buford Highway - an area famous for its large and diverse immigrant community, and
- near lower wealth communities. The **darker the red**, the higher the poverty level of the census tract. Note a conspicuous lack of car title lenders in wealthier areas such as Fayette County, East Cobb, Buckhead, and North Fulton.



To protect military families from dangerous loan products, Congress enacted the Military Lending Act (MLA). All small-dollar lenders in Georgia, including car title lenders, are subject to this national regulation of loans made to active duty military families.⁹ The MLA sets a 36% annual rate cap, including interest fees and charges for ancillary products like credit insurance, for loans made to active duty military families.¹⁰ Since lenders are already subject to a rate cap for loans made to active duty military families, there is no reason why this protection should not be afforded to all consumers. It is crucial that we update our regulations to provide more protection for all Georgians, particularly those living in the most under-resourced and exploited communities. This policy paper provides an analysis of our small-dollar lending laws and proposes policy solutions to make Georgia a safer state for borrowers.

Shelby B. - Rockdale, GA

“I wouldn’t encourage that loan to anybody. They get you in there by making it seem so easy. I was in a place in my life where I needed help, and they take advantage of people in tight positions. . . It’s a shame that they do that. It’s a bad deal.”



II. Georgia's Current Law

Nearly 44% of Georgia households live in liquid asset poverty, meaning they do not have three months of expenses saved. Correspondingly, the most recent Metro Atlanta Speaks Survey conducted by the Atlanta Regional Commission found that only half of metro Atlanta's families could afford to pay an unexpected \$400 bill with cash or money in a bank account.¹¹ Those who could not afford to pay the \$400 in cash reported that they would delay paying the expense, put it on a credit card, borrow money, or pawn or sell items. A portion of consumers will take out high-interest, small-dollar loans, which often have steep interest rates that push families deeper into financial crisis. Although Georgia lawmakers have taken significant steps to curb payday lending, other predatory loans like car title and installment loans are prevalent in the state.

A. Payday Lending

A payday loan is a type of predatory loan in which the lender provides a cash advance to a borrower and then withdraws payment directly from the borrower's bank on the borrower's payday.¹² For borrowers, payday loans are associated with a cascade of financial consequences, such as increased likelihood of bankruptcy, bank fees, delinquency on other bills like rent and medical bills, delinquency on child support payments, and even involuntary bank account closures.¹³ These loans typically have interest rates in excess of 400%, making repayment nearly impossible for many. Payday lenders' business model depends on keeping consumers trapped in a cycle of debt. Nationally, in states where such loans are legal, 75% of all payday loan fees come from borrowers stuck in more than 10 loans a year.¹⁴ Thankfully, such abusive loans are no longer permitted under Georgia state law.

For years, payday lenders preyed on Georgia's most vulnerable citizens, charging triple digit interest rates. With strong support from consumer advocates, the Georgia General Assembly passed legislation in 2004 making payday lending illegal under Georgia law.¹⁵ Importantly, the Georgia Payday Lending Act of 2004 ("Georgia Act") protects Georgia's consumers by making it a violation of criminal law for banks to partner with payday lenders in order to make payday loans that would violate our state usury limits.¹⁶ This legislation was among the first of its kind nationally and has been considered a model consumer protection. In 2016, the Georgia Supreme Court ruled that this Act also extends to out-of-state Internet lenders making high-cost loans that are illegal under state law.¹⁷ The criminal and civil penalties¹⁸ outlined in the Georgia Act are the most important – and effective – protections against abusive payday lending in the state, saving Georgia consumers over \$284 million in fees annually.¹⁹ Georgia is one of 18 states, plus the District of Columbia, that have enacted similar rate caps to curb payday lending abuses.²⁰

B. Title Pawn Lending

Although installment lenders and others are subject to the state's usury limit, predatory lenders can charge exorbitant interest rates and fees to Georgia's consumers through car title pawn transactions. These are transactions in which a borrower gives the title to his or her vehicle to the lender to hold as collateral, allowing the lender to repossess the vehicle if the contract is not repaid.²¹

Car title lenders are the only lenders in Georgia allowed to charge more than the state's 60% usury cap on small consumer finance loans.²² Title lenders may charge over 187% annual interest on loans. Many other states, unlike Georgia, effectively protect consumers from the harms of car title loans by enforcing strict usury caps on these loan products.²³ In Georgia, car title lenders are classified as "pawnbrokers."²⁴ Georgia is one of only a few states to regulate car title loans as pawn transactions.²⁵ Pawnbrokers are exempted from both the Georgia Industrial Loan Act²⁶ and Georgia's criminal usury law,²⁷ which put a cap on interest rates charged to borrowers, and are instead only limited by Georgia's pawnbroker law.

Under Georgia's pawnbroker law, car title lenders are permitted to charge up to 25% interest per month (or 300% APR) for the first 90 days,²⁸ as well as additional fees.²⁹ Georgia does not require underwriting to determine a borrower's ability to repay before issuing a car title loan. These car title loans come at big costs to consumers. Nationally, average loan fees are more than double the amount of average loans.³⁰ Borrowers on average take \$1,042 in car title loans, yet they are charged an average of \$2,349 in fees by lenders.³¹ Most of a borrower's monthly payment goes toward loan fees and very little goes to pay off the principal. Borrowers in Georgia lose a total of \$199 million in fees for car title loans each year.³²

Ronald L. - Georgia

Ronald and his wife decided to borrow \$2,000 from a title lender to help with mortgage payments, but they had a tough time making the \$245 per month payment that went "just to interest." Ronald and his wife ended up paying over \$6,000 on the \$2,000 loan. To make matters worse, the car that they used to secure the loan stopped running. The couple wanted to trade the car in, but the title lending company held the title, leaving Ronald and his wife no choice but to rent a car for over 10 months so that his wife could get to work.

Title pawn loans must be issued for 30 days but may be extended in 30-day increments.³³ Like payday lenders, car title lenders' business model is dependent on keeping borrowers trapped in a cycle of debt. According to Georgia-based car title lender, TitleMax, the typical borrower renews their loan eight times. When borrowers are unable to make payments, they are faced with losing their vehicle. Further, Georgia lenders may charge fees to borrowers for repossession.³⁴ Georgia also allows lenders to keep all surplus funds from the sale of a repossessed vehicle and is the only state other than Alabama to allow this.³⁵ One in five borrowers who obtain a car title loan have their vehicle repossessed.³⁶ When borrowers lose their automobile, they may lose their only form of transportation which could result in job loss, further trapping them in a cycle of debt and poverty. Some borrowers will put off other necessary payments such as utilities, rent, or medical expenses to avoid defaulting on their car title loan.

Further complicating the regulatory framework for car title lending in Georgia, authority to enforce Georgia's pawnbroker laws is granted to municipal authorities.³⁷ Municipalities may regulate licensing, taxing and fair dealing of pawnbrokers as well as implement additional regulations for pawnbrokers in their respective communities.³⁸ Municipalities in Georgia generally use the local police department to enforce state and local pawnbroker laws.³⁹ This means that no state-level office currently regulates the title pawn industry, and regulation varies by municipality.

C. Georgia Industrial Loan Act

According to Georgia law, it is unlawful for any person to engage in the business of making loans of \$3,000 or less unless the lender meets certain exceptions.⁴⁰ The pawnbroker statute is one of those exceptions, as is the “Georgia Industrial Loan Act.” Passed in 1955, the Georgia Industrial Loan Act (or “GILA”) regulates businesses that make loans or cash advances of \$3,000 or less in the State of Georgia.⁴¹ GILA exempts several groups, including banks and credit unions, and most notably pawnbrokers, from regulation under this Act.⁴²

The Georgia Industrial Loan Act restricts loans to a maximum of 36 months and 15 days.⁴³ The GILA statute sets an allowable interest rate on loans up to \$3,000 but permits multiple fees that may be charged on a loan, including a “loan fee,” in addition to interest.⁴⁴ The fees added to the interest allow lenders to charge deceptively high rates on loans.⁴⁵ GILA lenders are ultimately limited by Georgia’s criminal usury law, which restricts interest rates to five percent per month,⁴⁶ or 60% total interest annually, including fees.⁴⁷ Lenders are also permitted to charge an additional maintenance fee of three dollars per month beyond the usury cap, which can result in an interest rate above 60%.⁴⁸ Including maintenance charges, the National Consumer Law Center calculates that lenders in Georgia may charge up to 61% annual percentage rate (“APR”) on a \$500, six-month installment loan, and 32% APR for a 2-year \$2,000 installment loan.⁴⁹

The Georgia Industrial Loan Act names the Commissioner of Insurance as the Industrial Loan Commissioner.⁵⁰ Georgia is the only state where small-dollar lending is regulated by the Department of Insurance. Consumers can file complaints against GILA lenders with the Commissioner of Insurance who has the power to investigate and take disciplinary action. The more commonsense choice of authority for regulating these loans would be the Department of Banking and Finance, which regulates financial institution lending in Georgia.

In recent years, some GILA lenders have been engaging in deceptive practices that turn desperate Georgia consumers into victims. These GILA lenders are sending “live checks” in the mail to elderly and low-income consumers in difficult financial situations who cash these checks, not realizing that they have taken out a high-interest loan. This practice has fueled the demand for stronger regulations governing GILA lending practices and increased enforcement to protect vulnerable consumers.⁵¹ Under the supervision of the Department of Banking and Finance, Georgia could employ more robust licensing and reporting requirements for installment lenders.

D. Banks and Credit Unions

State banks, credit unions, and financial institutions are regulated by the Department of Banking and Finance.⁵² These state institutions are subject to an interest rate cap of 16% annually on loans of \$3,000 or less.⁵³ This does not apply to national banks and federal credit unions, which are regulated by federal law. State institutions are also subject to penalties for violating Georgia’s criminal usury cap of 60% annual interest, which applies to all state financial institutions and persons or companies that provide loans up to \$250,000 in Georgia, except for pawnbrokers.⁵⁴

Federal credit unions are subject to a federal rate cap of 18% annually.⁵⁵ The National Credit Union Association (NCUA) provides an exception for loans made by federal credit unions under NCUA's "consumer-friendly Payday Alternative Loan Program," allowing interest rates up to 28%, plus a \$20 origination fee.⁵⁶ Payday Alternative Loans (PALs) are available from federal credit unions for loan amounts between \$200 and \$1000. These loans give borrowers a minimum of one month and up to six months to pay back their loans. Only one PALs loan can be taken out at a time, but up to three can be taken out during any six-month rolling period.⁵⁷ The NCUA has recently proposed the addition of a PALs II loan option. Consumer advocates oppose many elements of the PALS II proposal, including the elimination of a minimum loan amount, an increased \$2000 maximum loan amount, and an extended maximum payback period of 12 months. The PALS II program would also permit more than six application fees in twelve months.⁵⁸

Federal credit unions and state financial institutions in Georgia are currently subject to significantly more stringent rate caps than those allowed for other small-dollar lenders in the state. Yet, these institutions continue to profitably make small-dollar loans to consumers, an important fact that contradicts the claim often made by the title pawn and installment lending industries that high interest rates are necessary to enable them to continue doing business in Georgia.

E. Legislative Developments

i. Georgia

In 2016 and 2017, state laws protecting consumers from high cost installment loans came under attack. Predatory lenders, especially payday lenders, moved into states and attempted to pass bills that would weaken state laws that protect consumers from high-interest, small-dollar predatory loans.⁵⁹ In Georgia, car title lenders attempted to pass legislation to allow pawn transactions, including title pawn loans, to be longer term and more expensive for consumers. They craftily tacked an amendment onto a 2016 routine annual bill brought by Georgia's Department of Banking and Finance.⁶⁰ In 2017, title pawn lenders attempted to pass legislation in Georgia that would allow them to make long-term loans called "Fixed Term Pawn Transactions" for up to 24 months.⁶¹ Although the 2017 bill failed on the floor of the House of Representatives before Crossover Day, the language was amended onto an unrelated petroleum pipeline bill on the last day of the Legislative Session. In the final hours of Sine Die, with the support of legislative champions like State Representative Penny Houston (R – Nashville), Georgia Watch and others successfully defeated this legislation to protect consumers from harmful changes to state law.

At the same time that lenders moved to try to weaken state laws, consumer advocates such as Georgia Watch and others moved to strengthen them. House Bill 902, introduced during the 2017-2018 legislative session by State Representative Earl Ehrhart (R – Powder Springs), was a commonsense bill that proposed to transfer authority to govern small-dollar loans from the Industrial Loan Commissioner to the Department of Banking and Finance and to change the title of the Georgia Industrial Loan Act to the "Small Consumer Finance Loan Act."⁶² In the bill, small-dollar loans were renamed "small consumer finance loans."⁶³ Further, the bill proposed additional requirements for obtaining a license to issue small consumer finance loans.⁶⁴ The bill also ensured that payday lending remains illegal in Georgia.⁶⁵

Senate Bill 198, introduced by State Senator Elena Parent (D – Atlanta), would have prohibited GILA lenders from sending unsolicited live checks in the mail to consumers.⁶⁶ Georgia Watch supported this legislation to stop these dangerous loans. Unfortunately, House Bill 902 and Senate Bill 198 did not advance during the 2017-2018 Legislative Session. We recommend that the Georgia Legislature reintroduce and pass these bills during the 2019-2020 Legislative Session.

ii. Federal

The Consumer Financial Protection Bureau (CFPB) issued a final rule in October 2017 designed to protect consumers from payday and title pawn lending.⁶⁷ The rule stems from over five years of research, as the CFPB recognized the devastating harm that high-interest predatory lending causes millions of Americans. The new CFPB rule helps protect consumers by requiring lenders to establish a borrower's ability to repay the loan before making it. Once the rule is enforced when it goes into effect in August 2019, lenders will be required to conduct a "full-payment test" to determine whether the borrower can afford the loan payments and still meet basic living expenses and major financial obligations.⁶⁸ The rule also limits the number of times a lender may attempt to collect payment after the bank responds that the borrower has "insufficient funds," thus protecting the borrower from needless overdraft fees.⁶⁹

The rule is limited by the CFPB's lack of authority to set usury limits.⁷⁰ However, in the text of the final rule, the CFPB explicitly recognized the importance of state caps on fees and interest rates in protecting consumers.⁷¹ A resolution to overturn the CFPB's rule recently failed to garner enough support in Congress, but high-cost lenders have brought suit in an attempt to overturn the rule. There is also a danger that the CFPB itself will weaken the rule before it goes into effect. Georgia Watch and the Georgia Financial Protection Coalition are vigilantly monitoring these threats and acting to support enforcement of the CFPB rule.

Donyell E. - Conyers, GA

Donyell, a single mother of two needed help making ends meet so she took out a title pawn loan to pay bills, thinking she'd quickly pay it off. The title loan that Donyell took out was secured with her 2012 Toyota 4Runner. Donyell borrowed \$4,000 with an APR of 152%. When Donyell was only able to make partial payments, her car was repossessed. After meeting with the manager, Donyell was assured that they would not sell her car if Donyell was able to come up with the money she owed. Donyell collected the money necessary, but the car had already been sold. Under Georgia law, Donyell's lender was allowed to keep the profits from the sale of her car, leaving her without transportation and leaving the lender with an enormous profit.

III. Policy Recommendations and Conclusion

Overall, Georgia's regulations on small-dollar loans provide very limited protections for borrowers and do not adequately address the harms of predatory lending in the state. Even with caps on interest rates, some lenders can charge numerous additional fees resulting in much higher rates of interest.⁷²

To better protect Georgia consumers, Georgia Watch and the Georgia Financial Protection Coalition urge state policymakers to consider adopting the following five recommendations.

- Require small-dollar lenders to evaluate the borrower's ability to repay any credit that is extended—including an analysis of both the borrower's income and expenses.
- Require car title lenders to give borrowers the surplus from selling a repossessed vehicle. Any funds remaining after repaying the principal amount and fees should be returned to the borrower.
- Rename the Industrial Loan Act the "Small Consumer Finance Loan Act" and move car title lending under this Act so that these products are regulated as small-dollar loans that are subject to Georgia's usury law.
- Transfer authority to govern small-dollar loans, including title pawn loans, to the Department of Banking and Finance, rather than the Department of Insurance or municipalities, respectively.
- Cap interest rates on small-dollar loans at 36% APR for all consumers to reflect the federal interest rate cap for military servicemembers and their families.

In addition to these recommendations, Georgia Watch and the Georgia Financial Protection Coalition urge state policymakers to consider recommendations from the National Consumer Law Center (NCLC).⁷³ These recommendations include prohibiting or strictly limiting loan fees in order to prevent fees from being used to undermine the state interest rate cap and banning the sale of credit insurance and other add-on products which primarily benefit the lender and increase the cost of the credit.

Despite Georgia's model law prohibiting payday lending in the state, Georgia consumers continue to lose millions of dollars to other predatory lenders each year. The good news is that Georgia legislators can significantly improve the financial well-being of struggling Georgians by passing a few common-sense laws. Our Legislature could cap interest rates at 36% or lower for all consumer loans, including fees. Our Legislature could also change the title of the Georgia Industrial Loan Act to the "Small Consumer Finance Loan Act," and rename industrial loans "small consumer finance loans" to make the laws governing these loan products clearer for the public. Further, Georgia could regulate title pawn transactions as small-dollar loans, making them subject to the state usury cap.

Predatory lenders and their proponents argue that payday and title pawn loans are necessary to protect consumers' access to credit.⁷⁴ However, research has shown that regulating predatory lending at the state level has not resulted in a lack of access to credit.⁷⁵

Most former payday borrowers in North Carolina reported that North Carolina's payday ban in 2006 resulted in a positive impact on their household.⁷⁶ The Center for Responsible Lending estimates that states that prohibit or strictly enforce rate caps for payday and car title loans save the country a total of over five billion dollars in fees per year.⁷⁷

Georgia Watch and the Georgia Financial Protection Coalition believe that additional regulation of the small-dollar lending industry is crucial to protect Georgians, particularly our most vulnerable consumers from financial harm. Without additional state-level protections, Georgia consumers will continue to be exploited. Georgia Watch and the Georgia Financial Protection Coalition urge legislators to adopt the policies discussed herein to protect Georgia citizens.

Kiesha H. - Georgia

When Kiesha was laid off from her job, she fell behind on bills and decided to borrow \$2,000 against her car. The title pawn monthly payments were such that Kiesha could not keep up and had to renew the loan multiple times, incurring new fees with each renewal. When Kiesha went to the lender to make the final payment, employees encouraged her to skip this month and that they “wouldn't charge her interest.” Not dissuaded, Kiesha made her final payment and closed the loan. In total, she paid over \$6,000 for her \$2,000 loan.

End Notes

1. Prosperity Now Scorecard, Available at: https://scorecard.prosperitynow.org/?gclid=EAlalQobChMl5biMIYfZ3AlVhlmGCh22JgEFEAAAYASAAEgLXlfd_BwE.
2. "States without payday and car-title lending save over \$5 billion in fees annually", *Center for Responsible Lending*, June 2016, Available at: http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_fee_savings_jun2016.pdf.
3. Taylor, A., "Why it's so hard to regulate payday lenders", *The New Yorker*, August 3, 2016, Available at: <https://www.newyorker.com/business/currency/why-its-so-hard-to-regulate-payday-lenders>.
4. "About TitleMax Title Loans | Car Title Loans", *TitleMax*, Available at: <https://www.titlemax.com/about-us/>.
5. Taylor, A., "Why it's so hard to regulate payday lenders", *The New Yorker*, August 3, 2016, Available at: <https://www.newyorker.com/business/currency/why-its-so-hard-to-regulate-payday-lenders>.
6. "CFPB Finds One-in-Five Auto Title Loan Borrowers Have Vehicle Seized for Failing to Repay Debt", *Consumer Financial Protection Bureau*, May 18, 2016, Available at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-one-five-auto-title-loan-borrowers-have-vehicle-seized-failing-repay-debt/>.
7. This data was collected through a project with Georgia Watch and the Student Innovation Fellowship at Georgia State University. You can view the title lending locations in Georgia and poverty data by census tract at atlmaps.org/project/245.
8. Pope, M., "For Military Personnel, High-Interest Lenders Aren't Far Away", *WAMU*, Available at: https://wamu.org/story/15/10/07/for_military_personnel_lenders_arent_far_away/.
9. "Car-title lending: A road to nowhere", *Center for Responsible Lending*., Available at: <https://www.responsiblelending.org/state-lending/car-title-loans>.
10. "What are my rights under the Military Lending Act?", *Consumer Financial Protection Bureau*, October 2016, Available at: <https://www.consumerfinance.gov/ask-cfpb/what-are-my-rights-under-the-military-lending-act-en-1783/>; "What type of loans are covered under the Military Lending Act?", *Consumer Financial Protection Bureau*, October 2016, Available at <https://www.consumerfinance.gov/ask-cfpb/what-types-of-loans-are-covered-under-the-military-lending-act-en-1785/>.
11. "Metro Atlanta Speaks: Survey: 2016 Results", *Atlanta Regional Commission*., Available at: <http://documents.atlantaregional.com/research/metro-atlanta-speaks/dashboard/>.
12. "The CFPB's Payday Lending Proposed Rule: What Works, What Doesn't", *Center for Responsible Lending*, Available at: http://stopthedebttrap.org/wp-content/uploads/2016/06/stdt_payday_proposed_rule_works_jun2016.pdf.

13. B. Melzer, "The Real Costs of Credit Access: Evidence from the Payday Lending Market", (2011), *Oxford University Press*, Available at: <https://academic.oup.com/aje/article-abstract/126/1/517/1902774?redirectedFrom=PDF>; B. Melzer, "Spillovers from Costly Credit", (2010), Available at: http://www.kellogg.northwestern.edu/faculty/melzer/Papers/Spillovers_from_Costly_Credit_11_28_12.pdf; Agarwal, S., Skiba, P. M., & Tobacman, J., "Payday loans and credit cards: New liquidity and credit scoring puzzles?", NBER Working Paper (2009), Available at: <http://www.nber.org/papers/w14659>; D. Campbell, A.S. Jerez, & P. Tufano, "Bouncing Out of the Banking System: An empirical analysis of involuntary bank account closures", *Harvard Business School* (2011), Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1335873.
14. "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings," *Consumer Financial Protection Bureau*, April 24, 2013, Available at: https://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.
15. See Ga. Code Ann. § 16-17-1. The law is known as the "Georgia Act."
16. *Ibid.*
17. *W. Sky Fin., LLC v. State of Ga.*, 300 Ga. 340, 793 S.E.2d 357 (2016).
18. See Ga. Code Ann. § 16-17-1.
19. "States without payday and car-title lending save over \$5 billion in fees annually," *Center for Responsible Lending*, Available at: http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_fee_savings_jun2016.pdf
20. "Payday Loan Consumer Information," *Consumer Federation of America*, Available at: <https://paydayloaninfo.org/state-information>.
21. "The CFPB's Payday Lending Proposed Rule: What Works," What Doesn't, *Center for Responsible Lending*, Available at: http://stopthedebttrap.org/wp-content/uploads/2016/06/stdt_payday_proposed_rule_works_jun2016.pdf.
22. Ga. Code Ann. § 7-4-18.
23. "Car Title Loan Regulation," *Consumer Federation of America*, November 16, 2016, Available at: https://consumerfed.org/wp-content/uploads/2017/01/11-16-16-Car-Title-Loan-Regulation_Chart.pdf.
24. Ga. Code Ann. § 44-12-130.
25. Jim Hawkins, *Credit on Wheels: The Law and Business of Auto-Title Lending*, 69 Wash. & Lee L. Rev. 581 (2012).
26. Ga. Code Ann. § 7-3-6.
27. Ga. Code Ann. § 7-4-18
28. Ga. Code Ann. § 44-12-131.
29. "Pawnshops / Title Pawn," *Georgia Department of Banking and Finance*, Available at: <https://dbf.georgia.gov/pawnshops-title-pawn>.
30. "Car-title lending: A road to nowhere", *Center for Responsible Lending*, Available at: <https://www.responsiblelending.org/state-lending/car-title-loans>.
31. *Ibid.*
32. Ga. Code Ann. § 44-12-131.
33. *Ibid.*

34. *Ibid.*
35. "Car Title Loan Regulation," *Consumer Federation of America*, November 16, 2016, Available at: https://consumerfed.org/wp-content/uploads/2017/01/11-16-16-Car-Title-Loan-Regulation_Chart.pdf.
36. "CFPB Finds One-in-Five Auto Title Loan Borrowers Have Vehicle Seized for Failing to Repay Debt," *Consumer Financial Protection Bureau*, May 18, 2016, Available at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-one-five-auto-title-loan-borrowers-have-vehicle-seized-failing-repay-debt/>.
37. Ga. Code Ann. § 44-12-136.
38. *Ibid.*
39. "Pawnshops / Title Pawn," *Department of Banking and Finance*, Available at: <https://dbf.georgia.gov/pawnshops-title-pawn>.
40. See Ga. Code Ann. § 16-17-2.
41. See Ga. Code Ann. § § 7-3-1 to 7-3-29. For loans in excess of \$3,000, the Federal Debt Collection Practices Act applies. See Sabrina A. Parker, *Some Things to Know About the Georgia Industrial Loan Act*, LinkedIn (July 5, 2016), <https://www.linkedin.com/pulse/some-things-know-georgia-industrial-loan-act-sabrina-a-parker>.
42. See Ga. Code Ann. § 7-3-6.
43. See Ga. Code Ann. § 7-3-14.
44. *Ibid.*
45. Carolyn Carter et al., "Predatory Installment Lending in 2017," *National Consumer Law Center*, August 2017, Available at: <https://www.nclc.org/images/pdf/pr-reports/installment-loans/report-installment-loans.pdf>.
46. Ga. Code Ann. § 7-4-18.
47. Carolyn Carter et al., "Predatory Installment Lending in 2017," *National Consumer Law Center*, August 2017, Available at: <https://www.nclc.org/images/pdf/pr-reports/installment-loans/report-installment-loans.pdf>.
48. Ga. Code Ann. § 7-4-14.
49. Carolyn Carter et al., "Predatory Installment Lending in 2017," *National Consumer Law Center*, August 2017, Available at: <https://www.nclc.org/images/pdf/pr-reports/installment-loans/report-installment-loans.pdf>.
50. Ga. Code. Ann § 7-3-7.
51. Samler, Harry, "New push to stop live check solicitations," *CBS46*, Available at: <http://www.cbs46.com/clip/13025151/new-push-to-stop-live-check-solicitations>.
52. Ga. Code. Ann. § 7-4-2.
53. *Ibid.*
54. Ga. Code Ann. § 7-4-18; Ga. Code. Ann. § 7-4-2.
55. "Board extends 18 percent interest rate cap," *National Credit Union Administration*, February 23, 2017, Available at: <https://www.ncua.gov/newsroom/Pages/news-2017-board-extends-18-percent-interest-rate-cap.aspx>.
56. *Ibid.*
57. 12 C.F.R. § 710.21.

58. Prop. NCUA. Reg. 12 C.F.R. 701, *National Credit Union Administration*, Available at: <https://www.ncua.gov/About/Documents/Agenda%20Items/AG20180524Item3b.pdf>.
59. Carolyn Carter et al., "Predatory Installment Lending in 2017," *National Consumer Law Center*, August 2017. Available at: <https://www.nclc.org/images/pdf/pr-reports/installment-loans/report-installment-loans.pdf>.
60. HB 811, 153rd Gen. Assem., Reg. Sess. (Ga. 2016).
61. HB 353, 154th Gen. Assem., Reg. Sess. (Ga. 2017); SB 191, 154th Gen. Assem. Reg. Sess. (Ga. 2017).
62. Georgia Small Consumer Finance Loan Act, HB 902, 154th Gen. Assem., Reg. Sess. (Ga. 2018).
63. *Ibid.*
64. *Ibid.*
65. *Ibid.*
66. SB 198, 154th Gen. Assem., Reg. Sess. (Ga. 2017).
67. Payday, Vehicle Title, and Certain High-Cost Installment Loans, 82 Fed. Reg. 54472 (Nov. 17, 2017).
68. *Ibid.*
69. *Ibid.*
70. "Initial Analysis of CFPB's Final Rule to Address Payday & Car Title Loans," *Center for Responsible Lending*, October 18, 2017, Available at: <http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-initial-reaction-cfpb-payday-finalrule-oct2017.pdf>
71. Payday, Vehicle Title, and Certain High-Cost Installment Loans, 82 Fed. Reg. 54472 (Nov. 17, 2017).
72. Carolyn Carter et al., "Predatory Installment Lending in 2017," *National Consumer Law Center*, August 2017, Available at: <https://www.nclc.org/images/pdf/pr-reports/installment-loans/report-installment-loans.pdf>.
73. *Ibid.*
74. Cowley, Stacy, "Payday Lending Faces Tough New Restrictions by Consumer Agency," *The New York Times*, Oct. 5, 2017, Available at: <https://www.nytimes.com/2017/10/05/business/payday-loans-cfpb.html>.
75. "States without payday and car-title lending save over \$5 billion in fees annually," *Center for Responsible Lending*, June 2016, Available at: http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_fee_savings_jun2016.pdf.
76. "North Carolina Consumers after Payday Lending: Attitudes and Experiences with Credit Options," *UNC Center for Community Capital*, Nov. 2017, Available at: https://communitycapital.unc.edu/files/2007/11/NC_After_Payday.pdf.
77. "States without payday and car-title lending save over \$5 billion in fees annually," *Center for Responsible Lending*, June 2016, Available at: http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_fee_savings_jun2016.pdf.



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