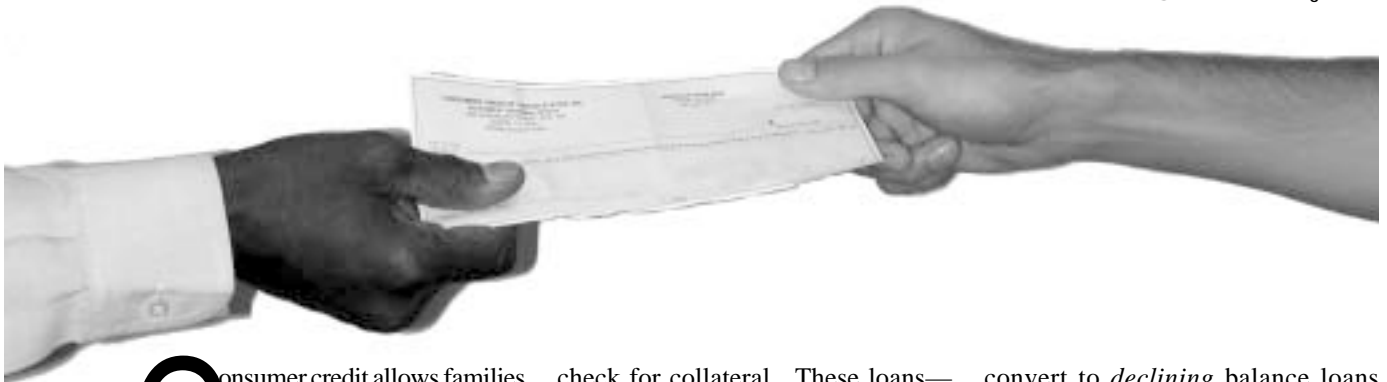


Usury Loopholes

Texas closed the loopholes that allowed predatory pay day loans, but now out-of-state banks want to export usurious interest rates from other states.



Consumer credit allows families to manage their budgets and pay for unexpected expenses. Texas' Consumer Credit Code limits the rate of interest that lenders can charge and prohibits abusive loan terms. Throughout our history, Texas has recognized that desperate borrowers sometimes will agree to unconscionable terms or interest rates, and the state has historically protected borrowers against such abuses.

Such usury limits balance the interest of lenders with those of borrowers and prevent "loan sharking" and other abusive practices. Though current statutory limits on interest rates still allow lenders to charge high rates to riskier borrowers, lenders have used loopholes to increase interest charges far above the statutory caps or to

In Short

Some states have adopted "anti-brokering laws" that prohibit lenders from attempting to avoid state usury law by associating with an out-of-state bank. Such a law would require a payday lender to comply with existing Texas payday loan regulations.

avoid consumer protections.

Despite our longstanding usury laws, a national problem has also become a Texas problem—high cost, short-term loans that use a personal

check for collateral. These loans—termed "**payday loans**" often carry interest rates of several hundred percent or more.

To make sure borrowers pay these usurious rates, lenders require a personal check, so if the borrower can't make a payment, the lender can cash or threaten to cash the check. Without sufficient funds to cover the check, the borrowers risk bouncing other important checks, like rent or a car payment—or losing their checking account—if they cannot keep up with the steep interest charges.

Indeed, it is not only the usurious interest, but also the threat a live check imposes that make these loans particularly abusive. Compounding the problem is the fact that some lenders are partnering with out-of-state banks to "export" these loans into Texas. Though federal bank regulators have started closing down some of these schemes, when left unchecked they permit lenders to avoid Texas' existing rules limiting costs and abusive practices.

Texas regulations permit check-secured "payday" loans under Texas laws. Though these rules allow for very high interest rates, they assure some basic protections for borrowers. For example, in other states, payday loan borrowers, on average, refinance their loans between 10 and 12 times. The Texas rules address multiple rollovers and require the loans to

convert to *declining* balance loans that pay down the principal over time.

In a nutshell, very high interest rates financially devastate Texas families. Such abusive lending practices provide a glimpse into what might happen if Texas were to repeal its existing usury limits for consumer loans.

Some states have adopted "anti-brokering" laws that prohibit lenders from attempting to avoid state laws by associating with an out-of-state bank. Adopting such a law would require a payday lender to comply with existing Texas laws that permit check-secured loans, but with terms that address some of the main abuses found in other states.

RECOMMENDATIONS:

- Maintain existing consumer protections for consumer loans. Usury limits on loans of only a few hundred dollars are already quite high, and should not be increased. Loopholes that allow abusive practices—like lenders "exporting" loans into Texas through national banks—should be closed.
- Assure Texas consumers that they are paying reasonable rates, under fair terms, when they borrow money.