City of FRESNO

REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VII-C
COMMISSION MEETING 5-21-14
APPROVED BY
JENNIFER K. CLARK, AICP *DEPARTMENT DIRECTOR*

May 7, 2014

FROM: MIKE SANCHEZ, Planning Manager
Development Services Division

BY: SOPHIA PAGOULATOS, Supervising Planner
Development Services Division

SUBJECT: CONSIDERATION OF TEXT AMENDMENT APPLICATION NO. TA-14-001 AND RELATED ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. TA-14-001 RELATING TO PAYDAY LENDING ESTABLISHMENTS

RECOMMENDATION

The appropriateness of the proposed text amendment has been examined pursuant to Section 12-402, and the Director has determined that the proposed text amendment is consistent with the goals and policies in the 2025 Fresno General Plan. Therefore, staff recommends the Planning Commission take the following actions:

1. **RECOMMEND APPROVAL to the City Council** that Environmental Assessment No. TA-14-001 be adopted for the project, which finds that pursuant to CEQA Guidelines section 15061(b)(3), there is no possibility that this project may have a significant effect on the environment.

2. **RECOMMEND APPROVAL to the City Council** that Text Amendment No. TA-14-001, amending Sections 12-220.3, 12-222.3, 12-231.5, 12-105.P, and 12-306.N.17 of the Fresno Municipal Code, be adopted.

EXECUTIVE SUMMARY

Text Amendment No. TA-14-001 was initiated by City Council Resolution No. 2013-199 on November 21, 2013 (see Attachment A). The text amendment proposes to amend Sections 12-220.3, 12-222.3, 12-231.5, 12-105.P, and 12-306.N.17 of the Fresno Municipal Code to establish a definition for Payday Lenders and limit the location of new Payday Lenders to the C-C (*Civic Center*), C-4 (*Central Trading*), and C-6 (*Heavy Commercial*) zone districts as a conditional use. Existing Payday Lenders would be required to obtain a conditional use permit for any expansion of use and would be prohibited from locating within 1,320 feet (0.25 mile) from an existing Payday Lending Establishment.

In addition, whenever the rights granted by a conditional Use Permit for a Payday Lending Establishment are discontinued for a continuous period of ninety (90) days, the Conditional Use Permit would be considered terminated. Staff supports the proposed text amendment (see Attachment B for proposed text amendment).

BORDERING PROPERTY INFORMATION

City-wide application.

ENVIRONMENTAL FINDING

The State Guidelines for the implementation of the California Environmental Quality Act provide for the exemption of projects which will clearly have no significant effect on the environment. More specifically, Section 15061(b) (3) of the State CEQA Guidelines states:

> "...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

It has been determined that there is no possibility of significant adverse effects as a result of this proposal (see Attachment C).

BACKGROUND/ANALYSIS

The zoning ordinance of the FMC does not currently regulate Payday Lending Establishments as a specific use. Currently, these types of businesses are considered banks or financial institutions and are allowed by right in most commercial zone districts (C-1 through C-6) and as a conditional use in the C-L zone district.

The proposed ordinance would define Payday Lending Establishments as a new land use as follows:

> A business owned or operated by a "licensee" as defined by California Financial Code Section 23001(d), as may be amended, that offers, originates, or makes deferred deposit transactions in which the lender defers depositing a customer's personal check or electronically accessing a bank account until a specific date for a fee or other charge.

As proposed in the text amendment, new Payday Lending Establishments would only be allowed in the C-C, C-4 and C-6 zone districts as a conditional use and would be prohibited from locating within 1,320 feet (0.25 mile) from an existing Payday Lending Establishment.

In addition, whenever the rights granted by a conditional Use Permit for a Payday Lending Establishment are discontinued for a continuous period of ninety (90) days, the Conditional Use Permit would be considered terminated.

As of December 31, 2012, there were 67 sites (see map in Attachment D) in the City of

Fresno licensed by the California Department of Business Oversight to conduct "deferred deposit transactions" (commonly known as "payday lending").

Payday Lenders and Consumers

California law permits deferred deposit transactions, in which the lender defers depositing a customer's personal check or electronically accessing a bank account until a specific date, for a fee or other charge; those charges are not "interest," and may legally amount to the equivalent of a 459% annual percentage rate.[1]

The State of California, through the Department of Business Oversight, licenses payday lenders pursuant to California Financial Code § 23000, *et seq.* Each license is granted for a specific site; however the Department of Business Oversight does not alert the City of Fresno when it receives an application for a new license under the DDTL with a Fresno address.

Nationally, the consumers who borrow from payday lenders are 52% women, and 55% white; 42% own their homes; 85% do not have a four-year college degree; 72% have a household income of less than $40,000; 52 % are between 25 and 44 years old.[2]

Commonly, the consumer cannot repay the loan in the short time allowed, and obtains another loan to repay the first loan—incurring another round of fees without reducing the principal. The Department of Corporations has found that repeat borrowers make up 73% of payday borrowers statewide.[3] The high fees and short-term lump-sum payment trap puts borrowers in a lengthy cycle of debt.

Economic Impact on City of Fresno

Between April 1, 2011 and March 31, 2012, payday lenders in the City of Fresno generated gross receipts of $19.7 million, and paid $29,467 in business taxes to the City; over the 12-month period ending March 31, 2013, they reported gross receipts of $17.8 million, and paid $22,603 in City business taxes.

Payday loan fees (by law as high as 459%) funnel dollars out of consumers' pockets—dollars they cannot then re-inject into the local economy; meanwhile, payday lenders' local employees contribute by spending their earnings locally. But Fresno does <u>not</u> reap an economic boost from these businesses' profits: profits from almost 90% of payday lending stores in Fresno are siphoned to corporations outside of Fresno.

Several studies have drawn conflicting conclusions about the economic impact of this

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1 California is one of several states allowing lenders to charge triple-digit interest rates for loans secured by access to the borrower's account (by check or electronically). Payday lenders may charge $15 for a bounced check; they are not permitted to take any criminal action against the borrower, but it is common for them to repeatedly resubmit NSF checks, imposing an additional fee for each time the bank rejects the check on top of the bank's own bounced-check fee.

2 Pew Charitable Trusts, *Safe Small-Dollar Loans Research Project*, " Payday Lending in America: Who Borrows, Where They Borrow, and Why," (available at wwwpewtrusts.org/small-loans), p. 8.

3 See, California Budget Project, "Recent Reports on Payday Lending in California Should Be Used with Caution," May 1, 2008, p. 15.

industry. One study, commissioned by the DDT industry, analyzed only the beneficial impact of the industry as an employer (employees' income infused into the economy); other studies have also taken into account borrowers' reduced spending power, and have estimated a net economic loss per DDO establishment in California of $54,569 in 2011.[4]

The most recent study (Lohrentz, March 2013) shows a net economic loss to the City of Fresno of at least $3.6 million. However the $3.6 million figure almost certainly understates actual loss to our local economy:

- It does not take into account the fact that a larger proportion of Fresno residents are likely to use DDT services, because we have higher rates of unemployment and relative poverty than the rest of the state;
- It does not take into account that almost 90% of the DDT lenders in Fresno are corporations in other parts of the state and country, so that these lenders' profits end up reinvested in other economies than ours.

Not surprisingly, the local businesses most likely to feel the impacts of families' reduced spending are health care providers, insurers and consumer trade.[5] Consumers' loss of spending power to purchase these services reduces these businesses' incomes. As importantly, it also creates real risks to the health and welfare of the entire community: for example, deferred health care results in public health risks from communicable diseases and public spending for increased emergency room visits, and drivers unable to pay for auto insurance transfer to the public the costs of automobile accidents.

Other Jurisdictions' Regulations

It is possible for local jurisdictions to regulate payday lending establishments through land use regulations and zoning, as has been done by an increasing number of cities in the state and nationwide. A number of local jurisdictions throughout California have also imposed regulations on payday lending businesses. Specific measures instituted by other California communities have included one or more of the following land use related requirements:

- Distance or separation requirements (e.g., 300 feet or half mile) between payday lending/check cashing businesses to prevent overconcentration in specific areas;
- Distance requirements separating the businesses from residential areas and/or other sensitive or specified uses (i.e., schools or liquor stores);
- A numerical cap on the total number of such businesses within the jurisdiction;
- Limitation to certain zoning districts;
- Requirement to obtain a conditional use or special use permit;
- Lighting and/or security requirements;

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4 See, e.g., Lohrentz, "The Net Economic Impact of Payday Lending in the U.S.," Insight Center for Community Economic Development, March 2013 (hereafter, "Lohrentz"); pp. 3-4, Figures 2 and 3 (Value Added to Economy).

5 See Lohrentz, p. 8, Figure 5, "Sub-sectors Most Negatively Affected by Payday Lending in the U.S. in 2011."

- Graffiti clean-up requirements.

A summary of payday lending zoning laws in cities across the country is included in Attachment E.

PUBLIC NOTICE AND INPUT

In accordance with Fresno Municipal Code Section 12-402-B, a notice of public hearing was published in the Fresno Bee on April 25, 2014, 10 days prior to the Planning Commission hearing. Several comments have been received by staff as outlined below and attached:

Support (see Attachment F)

All active Council District Implementation Committees recommended approval of the text amendment. The District 2 and District 5 Committees recommended ½ mile spacing between establishments (as compared to the ¼ mile currently included in the text amendment) with District 2 further recommending 500 foot spacing between the establishments and churches or schools. The District 3 Committee recommended approval with no further recommendations. The District 4 Committee recommended more security at existing establishments. The District 6 Committee recommended that auto title loans be included in the text amendment.

The Airport Land Use Commission reviewed the text amendment on April 7, 2014 and found it consistent with the airport land use plans within the City of Fresno.

California Reinvestment Coalition, letter dated April 1, 2014
United Way of Fresno County, letter dated April 3, 2014
Faith In Community, letter received on April 4, 2014
Central California Legal Services, Inc. letter dated April 21, 2014

Opposition (see Attachment G)

It should be noted that the entities listed below as being in opposition do not oppose the enactment of some level of zoning oversight for payday lenders, however they do oppose various fundamental elements of the proposed text amendment as outlined below.

California Financial Service Providers Association (CFSP), letter dated April 3, 2014
California Consumer Finance Association, letter dated April 4, 2014

A meeting was held between industry representatives and city staff on April 30, 2014 to discuss the proposed text amendment. The concerns of the industry are those enumerated in the opposition letters and described below:

1. Payday lending establishments should be allowed in additional zone districts.

Staff Response: The proposed zone districts of C-C, C-4, and C-6 are considered to be adequate, as they provide ample geographic coverage of the city. The C-C and C-4 zone districts apply to the central area (downtown), and the C-6 zone district is a heavy commercial designation that fronts onto many of the city's major commercial corridors, including Blackstone, Kings Canyon, Belmont and locations on West Shaw and Herndon Avenues. The total acreage of C-C, C-4 and C-6 zoning available according to the current Fresno Zoning Map is 2,660.95 acres. This is considered adequate.

2. Existing payday lending establishments should be allowed to expand square footage or extend hours of operation without a conditional use permit.

   Staff Response: This requirement applies to many other conditional uses in the city (including alcohol uses) and the purpose of inclusion of this rule in the text amendment is to ensure consistency with regulation of other conditional uses.

3. The 1,320 foot spacing requirement is excessive and should be reduced to 500 feet.

   Staff Response: Other cities have enacted rules ranging from outright bans of payday lending institutions to 1-mile, ½-mile and ¼ mile spacing requirements, with additional spacing requirements for specific land uses (i.e. 500 feet from residential uses is a common requirement). Given the proliferation of these uses in Fresno, the 1,320 foot spacing requirement (1/4 mile) is appropriate.

2025 Fresno General Plan Goals

Goal 1:

Enhance the quality of life for the citizens of Fresno and plan for the projected population within the moderately expanded Fresno urban boundary in a manner which will respect physical, environmental, fiscal, economic and social issues.

The proposed text amendment is consistent with this goal, as it uses planning tools to address an issue which is causing negative economic impacts to local households, local business and to the city as a whole. The data in this report outline the cycle of debt that is created or increased to local households by Payday Lending establishments and the corresponding reduction in funds available to support local businesses due to reduced spending power of these households.

Goal 13:

Plan for a healthy business and diversified employment environment, and provide adequate timely services to ensure that Fresno is competitive in the marketplace.

The proposed text amendment is consistent with this goal. The data referenced in the staff report notes that the profits generated by these establishments are mostly destined for out-

City of
FRESNO

DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT
DEVELOPMENT SERVICES DIVISION **PROOF OF SERVICE BY MAIL**

SUBJECT: NOTICE OF CITY COUNCIL PUBLIC HEARING FOR
Plan Amendment No. A-13-008 Fulton Mall Reconstruction Project

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I am an employee of the City of Fresno.

On February 14, 2014, I served the attached notice pursuant to Section 12-401-C-2 of the Fresno Municipal Code on the persons named thereon or attached thereto by placing a true copy thereof with postage thereon fully prepaid in the United States mail. I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on February 14, 2014, at FRESNO CITY HALL.
(date)

_____
Planner

Attachments: 1. Legal Notice
2. Property List

of-state corporate headquarters and therefore do not contribute to the local economy. This has been verified for the payday lending establishments in Fresno, which are headquartered in South Carolina, Tennessee, Texas, and Pennsylvania. In addition, the impact these establishments have on the fiscal well-being of local households does not contribute to a healthy business climate for the reasons noted above.

Goal 14:

Protect and improve public health and safety.

For reasons noted above, the proposed text amendment is consistent with this goal, as it would limit payday lending establishments, thereby reducing the potential negative impacts to households fiscal health that are caused by same.

Conclusion

Staff believes that the proposed text amendment is in the best interest of the City of Fresno. and supports Text amendment No. TA-14-001 as proposed in the attached Ordinance.

Attachments:

A: City Council Resolution No. 2013-199
B. Text Amendment No. TA-14-001
C. Environmental Assessment No. EA-14-014 dated May 1, 2014
D: Map of Existing Payday Lending Establishments in Fresno
E. Payday Lending Zoning Laws/Legislation
F. Letters in Support
G. Letters in Opposition

Attachment A
City Council Resolution No. 2013-199

RESOLUTION NO. 2013-199

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, INITIATING A TEXT AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF FRESNO PURSUANT TO FMC SECTION 12-402 TO ESTABLISH ZONING AND USE REGULATIONS FOR NEW PAYDAY LENDING ESTABLISHMENTS WITHIN THE CITY OF FRESNO

WHEREAS, California law permits deferred deposit transactions, in which the lender defers depositing a customer's personal check or electronically accessing a bank account until a specific date, for a fee or other charge; and

WHEREAS, Deferred Deposit Originators, known as Payday Lending Establishments are licensed by the California Department of Business Oversight pursuant to California Financial Code § 23000, *et seq*; and

WHEREAS, the fees charged by Payday Lending Establishments are not considered interest and are allowed to be in excess of the annual percentage rate when compared to traditional banking transactions; and

WHEREAS, consumers of Payday Lending Establishments who are unable to repay the loan in the time allowed can become repeat borrowers, thus preventing those consumers from spending funds committed to payday lending fees on goods within the local economy; and

WHEREAS, the California Department of Business Oversight issues a license for each payday lender for a specific site; and

WHEREAS, there is currently no known procedure wherein California Department

Date Adopted: 11/21/2013
Date Approved: 11/21/2013
Effective Date: 11/21/2013

of Business Oversight notifies the City of Fresno prior to issuing a license for a Payday Lending Establishment; and

WHEREAS, the current zoning ordinance for the City of Fresno does not contain particular provisions related to Payday Lending Establishments; and

WHEREAS, pursuant to California Government Code Section 65850 the Council of the City of Fresno has the authority to regulate the use of buildings, structures and land within the City; and

WHEREAS, the City Council desires to formally define Payday Lending Establishments within the Zoning Ordinance and ensure that Payday Lending Establishments are located in areas where their use will be consistent with the existing uses in the underlying zone district.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Pursuant to Fresno Municipal Code, Sections 12-402-A and 12-401-A-1, the Council initiates the necessary proceedings to amend the text of the City of Fresno's Zoning Ordinance so as to formally define Payday Lending Establishments, articulate the zone districts in which Payday Lending Establishments may be operated and set forth the minimum requirements for Conductional Use Permits with respect to Payday Lending Establishments.

* * * * * * * * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 21st day of November, 2013.

AYES : Baines, Brand, Quintero, Xiong
NOES : Brand, Caprioglio, Olivier
ABSENT : None
ABSTAIN : None

YVONNE SPENCE, CMC
City Clerk

BY: Yvonne Spence
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Talia Kolluri-Barbick
Deputy City Attorney
Dated: 11/27/13

TKB:cg[63105cg/RESO] 10.15.13

Attachment B
Text Amendment No. TA-14-001

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING CHAPTER 12 OF THE FRESNO MUNICIPAL CODE, SECTIONS 12-220.3, 12-222.3, 12-231.3, 12-105.P, AND 12-306.N.17, RELATING TO PAYDAY LENDING ESTABLISHMENTS.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 12-220.3.B of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:

[15.1. Payday Lending Establishments, subject to FMC 12-306.N.17.]

SECTION 2. Chapter 12-222.3.B of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:

[29.1. Payday Lending Establishments, subject to FMC 12-306.N.17.]

SECTION 3. Chapter 12-231.3.B of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:

[14.1. Payday Lending Establishments, subject to FMC 12-306.N.17.]

SECTION 4. Chapter 12-105.P of the Fresno Municipal Code is amended to add a new part, to be numbered and to read as follows:

[7.1. PAYDAY LENDING ESTABLISHMENT shall mean a business owned or operated by a "licensee" as defined by California Financial Code Section 23001(d), as may be amended, that offers, originates, or makes deferred deposit transactions in which the lender defers depositing a customer's personal check or electronically accessing a bank account until a specific date for a fee or other charge.]

SECTION 5. Chapter 12-306.N.17 of the Fresno Municipal Code is amended to read as follows:

17. [PAYDAY LENDING ESTABLISHMENTS. The location and operation of Payday Lending Establishments shall be subject to and shall comply with all of the restrictions and conditions set forth in this Section, in addition to those restrictions and conditions that may be imposed on a Payday Lending Establishment under or pursuant to other provisions of the Fresno Municipal Code or any other applicable

federal, state, or local laws, regulations, or policies.

[a. **Discontinuance and Termination**.

Any Payday Lending Establishment whether existing or subsequently granted under this Section that voluntarily discontinues active operation for more than ninety consecutive days, does not maintain a valid city business license for more than ninety consecutive days, or ceases to be licensed by the State of California under the California Deferred Deposit Transaction Law, as may be amended, shall result in a termination of the conditional use permit or use. Likewise, if the Payday Lending Establishment adds capacity, floor or land area, or extends the hours of operation, such changes shall result in a termination unless authorized by a new or amended conditional use permit. The Licensee shall be notified by the Director of the termination of the conditional use permit, or any other right of use related to the Payday Lending Establishment, and shall be informed of the Licensee's right to appeal the Director's decision. The process used in Section 12-405-E ("Revocation of Rights") of this Code, as may be amended, shall apply. For existing Payday Lending Establishments that originally did not need a special permit to lawfully operate, the same revocation process shall apply except that it shall be for a revocation of rights for use as a Payday Lending Establishment instead of a revocation of rights granted under a special permit.]

b. **Zone Districts**

1) Payday Lending Establishments approved on or after the effective date of this ordinance shall be limited to the C-4, C-6 and CC zone districts, subject to a Conditional Use Permit and subject to the provisions of FMC 12-405.

2) Notwithstanding the provisions of FMC 12-405-D-2, whenever the rights granted by a Conditional Use Permit for a Payday Lending Establishment are discontinued for a continuous period of ninety (90) days, the Conditional Use Permit shall be considered terminated.

c. **Conditions**

Any Conditional Use Permit for a Payday Lending Establishment shall incorporate the following additional conditions:

(1) Payday Lending Establishments shall be separated by at least 1,320 feet (0.25 mile) as measured directly from property line to

property line from any parcel on which an existing Payday Lending Establishment is located or on which a conditional use permit for a Payday Lending Establishment has been approved which has not been terminated or revoked pursuant to 12-405-D or 12-405-E.

(2) Payday Lending Establishments shall hold, maintain and be in compliance with a valid license issued by the State of California under the California Deferred Deposit Transaction Law, as may be amended.

(3) Payday Lending Establishments shall hold, maintain and be in compliance with a Business License issued pursuant to Section 7-1001 through 7-1301, as may be amended.]

SECTION 6. The Department of Development and Resource Management is directed to incorporate the provisions of this ordinance into any proposed comprehensive update of the zoning ordinance.

SECTION 7. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * * * * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY:_____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY:_____
Talia Kolluri-Barbick, Deputy
Dated:

TKB:cg[62964cg/ORD]10/10/13

Attachment C
Environmental Assessment No. EA-14-014

CITY OF FRESNO
ENVIRONMENTAL FINDING OF NO POSSIBILITY OF SIGNIFICANT EFFECT
ENVIRONMENTAL ASSESSMENT NO. EA-14-014

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO HAVE NO SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 5 OF THE STATE OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES

APPLICANT: City of Fresno
Development and Resource Management Department
2600 Fresno Street, Third Floor Rm 3076
Fresno, CA 93721-2760

PROJECT LOCATION: Citywide

PROJECT DESCRIPTION: Text Amendment No. TA-14-001 proposes to amend Sections 12-220.3, 12-222.3, 12-231.5, 12-105.P, and 12-306.N.17 of the Fresno Municipal Code to establish a definition for Payday Lenders and limit the location of new Payday Lenders to the C-C, C-4, and C-6 zone districts as a conditional use. Existing Payday Lenders would be required to obtain a conditional use permit for any expansion of use and would be prohibited from locating within 1,320 feet (0.25 mile) from an existing Payday Lending Establishment.

In addition, whenever the rights granted by a conditional Use Permit for a Payday Lending Establishment are discontinued for a continuous period of ninety (90) days, the Conditional Use Permit would be considered terminated.

This project is exempt under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: In accordance with section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, the project has been determined not to be subject to the requirements of CEQA as City staff can state with certainty that there is no possibility that the adoption of the proposed text amendment may have a significant adverse effect on the environment. Currently, payday lending establishments function as an office use, range from 700 – 3,000 square feet in floor area, and frequently locate in existing buildings in commercial zones where permitted. The use does not involve significant amounts of traffic, noise, or hazardous materials. The proposed text amendment would limit the zone districts where such establishments may locate, thereby reducing any already less than significant impact that may be caused by these establishments. All existing and new establishments must comply with current general plan and zoning provisions contained in the Fresno Municipal Code.

The proposed text amendment is consistent with the goals of the 2025 Fresno General Plan.

Date: May 1, 2014

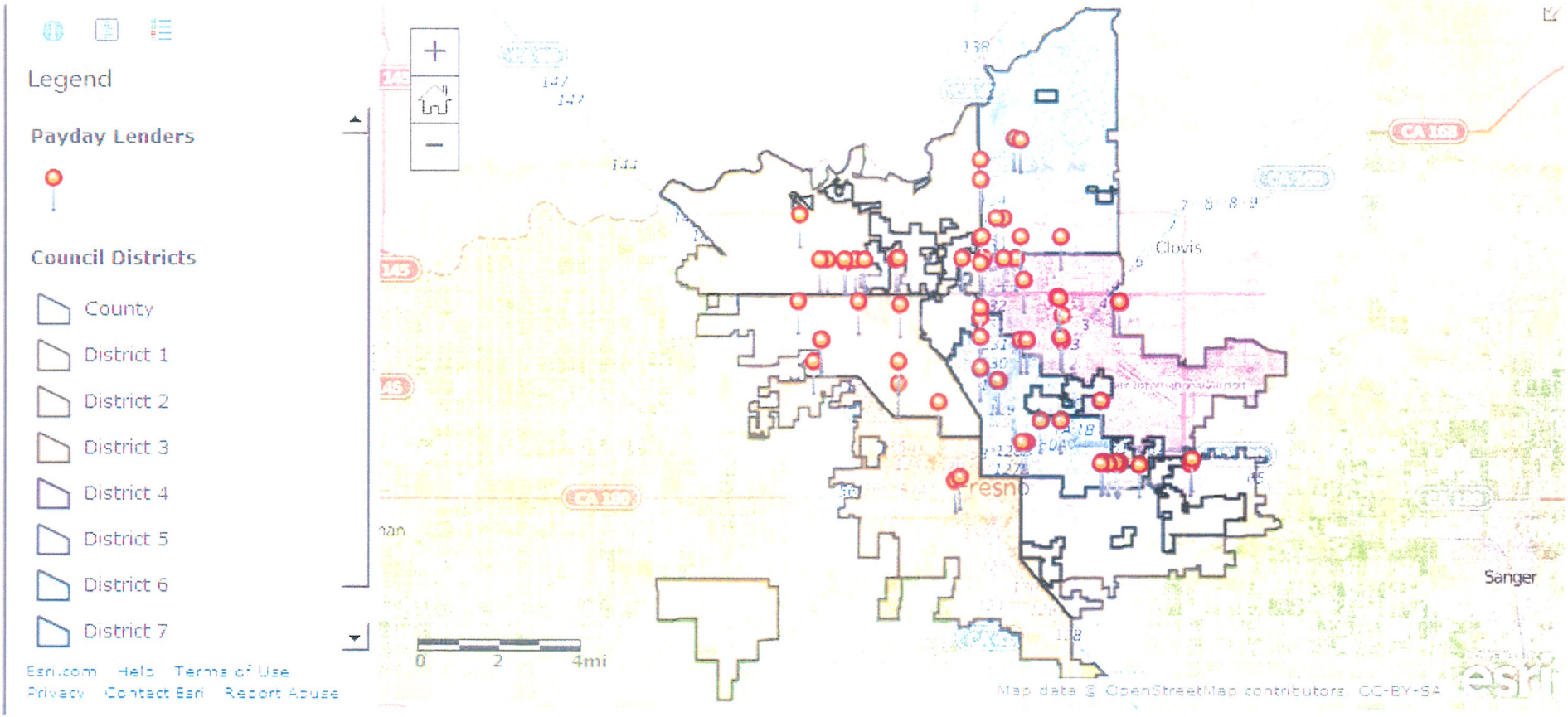
Prepared By: Sophia Pagoulatos
Supervising Rlanner

Submitted By: Sophia Pagoulatos

Sophia Pagoulatos
Supervising Planner
City of Fresno
Development and Resource Management Department
(559) 621-8062

Attachment D
Map of Existing Payday Lending Establishments in Fresno

[Type text]


Legend
Payday Lenders
Council Districts
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District 5
District 6
District 7
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Map data © OpenStreetMap contributors, CC-BY-SA
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Attachment E:
Payday Lending Zoning Laws/Legislation

PAYDAY LENDING ZONING LAWS/LEGISLATION

APPENDIX 1 – List of Payday Lender Ordinances

JURISDICTION	BASIS FOR LIMITS	DETAILS	CITATION
Homewood, AL	Permit	Restrictions on new payday lender businesses	Citation not available
Mobile, AL	Moratorium	6 month moratorium on payday loan outlets as of April 2010	City Code Chapter 64
Casa Grande, AZ	Distance	Cannot operate within 1,320 feet of same - regardless of whether same is located within city limits or another jurisdiction	Title 17, Chapter 17.12, Section 17.12.415
Gilbert, AZ	Distance/Permit	Cannot operate within 1,000 feet of each other. Must apply for conditional use permit after going through public hearing for approval.	Citation not available
Mesa, AZ	Permit	Payday businesses must get a special permit	Title 11 "Zoning", Section 11-1-6
Phoenix, AZ	Distance	Cannot operate within 1,320ft of each other and within 500ft of residential areas	Ordinance G-4817
Pima County, AZ	Permit/Density	New payday lenders not allowed to locate within 1,320ft (one quarter mile) of existing operations or 500ft. of homes or residentially zoned property. Also requires a special permit.	Chapter 18.45.040
South Tucson, AZ	Zoning/Density	Limited to three business zones. Cannot open within 1,000ft. of existing operations or within 500ft. of residence districts, schools, playgrounds,	City Ordinance Section 24-526

		or parks. Application required.	
Tempe, AZ	Density	Cannot operate within 1,320ft. of each other and 500ft. of residential areas	Chapter 4, Section 3-423
Tucson, AZ	Density	No payday lender within 1,320 feet of same; at least 500 feet from R-3 or more restrictive zoning	Article 3, 3.5.4.5. – Financial Service
Youngtown, AZ	Moratorium	Banned in Town Limits	Section 17.16.040
La Mirada, CA	Distance	Cannot operate within 1,000 feet of each other. Must be 500 feet from residential areas. Hours are limited to 7am-7pm. Restrictions on building.	Municipal Ordinance 21.45.010
Long Beach, CA	Permit	Check Cashing institutions must be located in commercial districts.	Municipal Ordinance 21.15.480
Los Angeles, CA	Increase credit unions	Ordinance provides incentives for credit unions to expand into areas where payday lenders are prevalent	No citation.
National City, CA	Moratorium	Check cashing and payday advance business moratorium.	Ordinance 2232
Norwalk, CA	Distance/ Prohibition	Outlets must be 1320ft. apart from each other. No more than 8 outlets in the city.	Municipal Ordinance 17.04.095
Oceanside, CA	Permit	Requires special operating permit, payday lenders classified as adult businesses, not permitted within 1000ft. of similar businesses or within 500ft. of home, church, park, or school.	*[6]
Oakland, CA	Permit	Special Permit, must	Oakland

[6] Citation not available

		not be closer than 1000ft. from another check casher/payday lender; must be at least 500ft. away from: 1) community education civic activities (schools) 2) state or federally chartered banks, savings associations, credit unions, or industrial loan companies 3) community assembly civic activities (churches) 4) liquor stores (excluding full service restaurants or liquor stores with 25 or more full time employees).	Planning Code 17.102.430
Pico Rivera, CA	Distance/Zoning	Outlets must be 2,640ft. from each other.[7] Zoned to certain areas.	City Ordinance 1057
Rialto, CA	Permit	Must go before planning commission to receive approval and conditional use permit.	City Ordinance 18.66.030
Sacramento, CA	Distance	Bans Payday Lender from being within 1000ft of another lender, check casher, church, school or bank. Prohibits new stores from opening within 500ft of homes and limits hours from 7 a.m. to 7 p.m.	City Ordinance 17.24.050
San Diego, CA	Zoning	Restricted to commercial zones.	Municipal Code Section 158.0302
San Francisco, CA	Special District	Referred to as "Fringe Financial Services". Outlets must be in specified districts.[8]	Municipal Code section 249.35

[7] Changed from a year long moratorium on payday advance establishments.
[8] Changed from no law concerning payday advance establishments

Washington, DC	Interest Rate	Pay day lenders can charge no more than 24% interest on a loan not secured by real property and under $2500.	DC Stat. 28-3301
Ft. Lauderdale, FL	Permit	City Zoning Code does not prohibit or permit check cashing serves-decision on a case-by-case basis. Special Permit required.	*[9]
Pembroke Pines, FL	Permit	City Zoning Code does not prohibit or permit check cashing serves-decision on a case-by-case basis. Special Permit required.	*[10]
Columbus, GA	Business restrictions/zoning	Payday lenders must have borrower database, loan caps, and a ban on multiple loans in a seven day period. Zoned to certain areas.	Municipal Code Section 3.1.5
Belleville, IL	Permit/Outlet Cap	Outlets require permit. City limits number of outlets in city to three,	Municipal Ordinance 7-24
Bellwood, IL	Permit	Outlets required to go through special licensing process	City Ordinance section 117.187
Chicago, IL	Zoning	Outlets may only be in specified districts	City Code Chapter 17-3
Fairview Heights, IL	Permit/Outlet Cap	Outlets requires permit which are limited to 2 stores within the city limits.	Article XI
Glendale Heights, IL	Permit	Special use permit required.	City Code Title 4, chapter 1
Springfield, IL	Distance	Requires that outlets are at least 1500ft. apart	City Ordinance Section 8155.048.1

[9] Citation not available
[10] Citation not available

Des Moines, IA	Moratorium	Temporary 3 month ban beginning May 2010	Citation not available
DeSoto, KS	Distance/Permit	Requires a Permit at a cost of $250 annually. Requires that outlets are at least 5280ft. apart and 500ft. from residential districts. Periodic inspections may be made however, the inspection must be reasonable and cannot unreasonably interfere with business.[11]	Article 5 of the Municipal Ordinances
Kansas City, KS	Zoning	Prohibits payday lending or check cashing on parkways or boulevards.	Citation not available
Shawnee, KS	Distance/Permit	Requires a Permit at a cost of $300 annually. Requires that outlets are at least 5280ft. apart and 200ft. from residential districts. Periodic inspections may be made however, the inspection must be reasonable and cannot unreasonably interfere with business.[12]	Municipal Ordinances Section 5.53.000
Smithville, KS			
Prince George, MD	Permit	Restrictions on new check cashing businesses.	Municipal Code Section 27-341.01
Arnold, MO	Permit	Conditional Use Permit for "small loan business to certain commercial areas.	Appendix B Zoning
Bellefontaine, MO	Moratorium	Ban on check cashing businesses and predatory lenders.	Municipal Code Section 29-9

[11] Changed from complete prohibition of Cash Advance businesses within the city limits.
[12] Changed from prohibition of Cash Advance businesses on the eastern side of the city

Berkeley, MO	Permit	Requires that outlets (including cash advance, pawnshops and similar businesses) are at least 1400ft. and not within 300ft. from place of worship, schools, or residential zone property.[13]	Municipal Code section 400.130(d)(19)
Blue Springs, MO	Permit	Outlets must have permits and be in proper districts.[14]	Municipal Code Chapter 405
Fairview Heights, MO	Density/Permit	Must be not more than 2 payday lenders within city limits.	Article XI of City Code
Gladstone, MO	Density	One mile between outlets, 200ft. from residential area, outlet must be in a multi-tenant commercial building housing at least four separate entities.	Municipal Code section 7.135.020
Kansas City, MO	Permit	Outlets are required to have a permit. Ordinance allows city to inspect the outlets.[15]	City Ordinances Section 43-1
City of North Kansas City, MO	Permit/Distance	Requires Permit. At time of establishment must be: 1) one mile apart from each other 2) must be one mile from any hotel or motel 3) must be 1000ft. from liquor store, school, religious institution, senior citizen housing development, museum, or landmark/historic property or district 4) No accessory services may be offered 5) May not be across the street from specified residential districts 4) Applicant for new establishment	City Ordinances section 7.135.020

[13] Creates a classification for payday loan establishment different from "financial institutions."
[14] Previously cited as having distance requirements however, no citation was provided and no matching ordinance was found.
[15] Changed from total ban on payday loan establishment in certain districts.

		must demonstrate no negative impact on property within 500ft. of proposed location 5) permit limited to 2 years.	
Oak Grove, MO	Permit	Outlets limited to 1 outlet per 5000 residents and requires a special permit.	Citation not available
St. Ann, MO	Outlet Cap	No more than 3 payday lenders allowed within city limits.	Municipal Code Section 400.390
St. John, MO	Outlet Cap	No more than 2 payday lenders allowed within city limits.[16]	Municipal Code section 636.010
St. Joseph, MO	Density	Per capital limit of 1/15,000 residents.	No citation
St. Louis, MO	Density	Applies to "small loan business" and check cashing establishments. Conditional land use permits required. Must be 1 mile from each other and 500 feet from residence, school, or church	Municipal Code section 26.08.101; 26.08.384
St. Louis County, MO	Distance	Outlets must be 5280ft. apart from each other and 300ft. residential districts.[17]	Municipal Code section 1003.133
Valley Park, MO	Permit	Must obtain permit. Hours limited to 7a.m. – 9p.m. Outlets must be 1,000 feet from each other.	Municipal Code section 605.340 et.seq
Byram, MS	Moratorium	Moratorium beginning November, 2009.	Citation not available
Canton, MS	Moratorium	Moratorium on new check cashing businesses	Citation not available
Clinton, MS	Moratorium	90 day moratorium beginning March 2, 2010.	Citation not available

[16] Changed from creating a special licensing procedure.
[17] Changed from requiring a conditional use permit with a public hearing.

Flowood, MS	Zoning	Payday lending businesses are restricted to industrial zoned areas.	Municipal Code section 207.07
Starkville, MS	Moratorium	12 month moratorium beginning in 1/10.[18]	*
Clark County, NV	Permit/Density	Special use permit required. May not be within 200ft. of residences. Must be 1000ft. from other financial institutions, auto title loan businesses, and pawn shops. Restricted hours.	Municipal Ordinance Title 19.06
Henderson, NV	Distance	Outlets must be 1000ft. apart and 200ft. from residential district.[19]	Municipal Ordinance section 19.4.3
Las Vegas, NV	Permit/Density	Special use permit required. May not be within 200ft. of residences. Must be 1000ft. from other financial institutions, auto title loan businesses, and pawn shops. Restricted hours.	Municipal Ordinance Title 19.06
North Las Vegas, NV	Distance	Outlets must be 2500ft. apart from each other (or like business) and must be 500ft. from residential districts.[20]	Municipal Ordinances Chapter 17.24(25)
Hackettstown, NJ	Permit	Payday lenders must get permission from city council to open downtown.	Citation not available
Clayton City, OH	Permit/Distance	Permit is required and operation hours are confined to 8 a.m. till 6 p.m.. The loans given:	Municipal Ordinance 1124.93

[18] http://www.mpbonline.org/news/story/cities-crack-down-new-payday-lenders

[19]

[20] Changed from a 6 month moratorium on new payday lenders which started on July 2005

		must not exceed $500, must be less than 6 months, the interest rate must not exceed 36%, and all terms and conditions must be written. Outlets must be 1000ft. apart and 1000ft. from residential districts.	
Cleveland, OH	Density	Ordinance limits outlets to one per 20000 residents, must be at least 1000ft. apart.	Citation not available
Cuyahoga Falls, OH	Density	Ordinance limits outlets to one per 10,000 residents, must be at least 1000ft. apart.	Citation not available
Lakewood, OH	Density/permit	Ordinance defines number of terms and limits location of payday loan business. They cannot be within 750ft. of any other payday loan or similar business.	Municipal Ordinance 1365-2006
Parma, OH	Density/Prohibitions	Stores cannot exceed one per 10,000 residents or locate within 1,000 feet of same. Limited to certain zoning districts.	Chapter 1170
Xenia, OH	Distance/Zoning/ Permit	Outlets must be 5,000 ft. apart, restricted to certain zones, and a permit is required	Municipal Ordinance 1294.21
Oklahoma City, OK	Zoning	Restricted to certain zones.	Municipal Ordinance 8300.57
Beaverton, OR	Loan Restriction	Borrower may cancel loan within close of next business day with restrictions. Lenders may not renew loans more than twice. Lender may not renew	Title 7, Chapter 7.12, Sections 7.12.005 - 7.12.060

		unless borrower has paid at least 25% of principle plus interest on balance. After max number of rollovers, lender shall allow borrower to convert to payment plan prior to default with no additional fees assessed. Passage of 2007 Oregon state law capping rates at 36% had no effect on local ordinances.	
Bend, OR	Loan Restriction	Same as Beaverton, OR	Chapter 7, Sections 7.850 - 7.895
Eugene, OR	Loan Restriction	Same as Beaverton, OR	Chapter 3, Sections 3.550 - 3.560
Gresham, OR	Loan Restriction	Same as Beaverton, OR	Chapter 9, Sections 9.90.010 – 9.90.110
Oregon City, OR	Loan Restriction	Same as Beaverton, OR	Title 5, Chapter 5.32, Sections 5.32.010 – 5.32.100
Portland, OR	Loan Restriction	Same as Beaverton, OR	Title 7, Chapter 7.26, Sections 7.26.010 – 7.26.110
Troutdale, OR	Loan Restriction	Same as Beaverton, OR	Title 5, Chapter 5.06, Sections 5.06.010 – 5.06.110
Pittsburgh, PA	Density	Operating hours restricted. Cannot locate within 1,000 feet from same/pawn shop/gaming enterprise or within 500 feet from residential zone.	Chapter 911, Section 911.04.A.93
Providence, RI	Prohibition	Restrictions on any city dealings with predatory lenders	Municipal code section 2-18.2

Easley, SC	Cap	Restrictions on new payday lender businesses.	Citation not available
Greenville, SC	Density	Cannot locate less than 3,000 feet from same. Location must be in a shopping center/grocery store which has a minimum of 30,000 square feet. Lender cannot have separate exterior access.	Chapter 19, Article 19-4, Section 19-4.3.3(D)(6)
East Ridge, TN		Studying check cashing outlet restrictions	Citation not available
Memphis City and Shelby County, TN	Distance	Outlet must be 1000ft apart and 1,320 from residential or landmark district.	Appendix A (24)
Nashville, TN	Zoning	Zoning restrictions.	Ordinance BL2008-169 [21]
Brownsville, TX	Moratorium	6 month moratorium running through 5/10	
Irving, TX	Distance	Outlets must be 1000ft. apart from each other and more than 200ft. away from residential district.[22]	Municipal code Section 52-35
Little Elm, TX	Distance/ Prohibited District	Outlets must be 1000ft. apart from each other and must be 500ft from residential districts. Outlets are prohibited in town center and must be a free standing structure	Municipal Code Section 106-7

[21] In East Nashville lawsuit filed by title lender Tennessee Quick Cash in June 2010
[22] Changed from no statutes concerning payday lenders

Mesquite, TX	Distance/ Prohibited District	Outlets must be 1000ft. apart, in freestanding buildings, at least 200ft. from residential areas and 500ft. from freeways. Cannot be in special "overlay" district.	Municipal Code Section 3-505
Richardson, TX	Distance	Outlets must be 1000ft. apart.[23]	Municipal Ordinance Supplemental regulations for certain uses section 9
Sachse, TX	Permit/Distance/ Prohibition	Permit required. Payday Cash advance business (and like businesses) must be 1000ft. apart. Outlets are prohibited 500ft. from city line and George Bush Highway. Additionally, a cap of 36% annually is put on loans.[24]	Municipal Ordinance Article 3 section 11
San Antonio, TX	Permit	Requires outlets to get special authorization from city council. Operating hours are controlled by city council and no outdoor service is permitted.	Municipal Codes chapter 35
American Fork, UT	Density	Limited to 1/10,000 residents	Municipal Code chapter 5.30
Brigham City, UT	Density	Cannot locate within 5,280 feet of same inside or outside city limits. Stores cannot exceed one per 10,000 residents.	Title 29, Chapter 29.13, Section 29.13.020
Logan, UT	Density	Defined as "nondepository lender" and restricted to 1/10,000 residents	Municipal Code 5.19.020
Murray, UT	Moratorium	Payday lenders not permitted in mixed use zone.	Title 17, Chapter 17.146, Section 17.146.020

[23] Changed from limit on number of outlets
[24] Changed from requiring only a permit

Ogden, UT	Density	Limited to 15 outlets. Must be 1,000 ft from each other and 660 ft from pawnbroker or sexually oriented business. Must have sign that says that short terms loans should not be used as a long term solution	Not yet codified – passed 6/10
Orem, UT	Density	Cannot locate within ½ mile of same. Stores cannot exceed one per 10,000 residents.	Chapter 22, Article 22-14, Section 22-14-21
Roy, UT	Moratorium	No new payday cash advance business.	Article from Standard-Examiner
Salt Lake County (unincorporated)	Density	Stores cannot exceed one per 10,000 residents.	Title 5, Chapter 5.73, Sections 5.73.010 – 5.73.030
Sandy, UT	Density/Zoning/Distance	Outlets must be 5,280 ft from each other. Limited to 1/10,000 residents. Conditional use permit. Zoned to certain areas.	Chapter 15A-11-20
South Salt Lake City, UT	Density	Cannot locate closer than 600 feet of same or residential zone. Stores cannot exceed one per 5,000 residents.	Title 17, Chapter 17.26, Section 17.26.030
South Jordan, UT	Density	Cannot locate within 1 mile of same.	Title 17, Chapter 17.52, Section 17.52.030
Taylorsville, UT	Density	Cannot locate within 600 feet of same. Stores cannot exceed one per 10,000 residents.	Title 13, Chapter 13.04, Section 13.04.103
West Jordan, UT	Density	Cannot locate within 1,000 feet from same. Maximum of 12 stores allowed in city.	Title 13, Chapter 13.5, E-5
West Valley City, UT	Density	Cannot locate within 600 feet of same. Stores cannot exceed one per 10,000 residents.	Title 7, Chapter 7.1, Section 7.1.103

Chesterfield County, VA	Zoning	Stores cannot have separate exterior entrance. Limited to certain commercial zones.	Chapter 19, Sections 19.145 & 19.175
Norfolk, VA	Permit	Must receive permission form the city council in the form of "special exception use" permit	Chapter 6-4
Green Bay, WI	Density	Cannot locate within 5,000 feet of same or 150 feet of residential zone. Cannot operate between the hours of 9 p.m. – 6 a.m.	Chapter 13, Section 13.1606
Madison, WI	Density	Cannot locate within 5,000 feet of same.	Chapter 28, Section 28.09
Milwaukee, WI	Density	Cannot locate within 1,500 feet of same or within 150 feet of residential zone.	Subchapter 6, Section 6.295.603
Racine, WI	Density	Cannot locate within 2,500 feet of same or within 250 feet of residential zone.	Chapter 114, Article V, Division 3, Section 114.468
Superior, WI	Zoning/Density	Limited to commercial highway zones only. Cannot locate within 2,500 feet of same or within 300 feet of residential zone. Stores cannot exceed one per 5,000 residents. Hours of operation limited to 8 a.m. – 10 p.m.	Chapter 122, Article V, Section 122.614
Wauwatosa, WI	Density	Cannot locate within 2,500 feet of same or within 250 feet of residential zone. Cannot operate between the hours of 9 p.m. – 9 a.m.	Title 24, Chapter 24.46, Section 24.46.100
West Allis, WI	Distance	Outlets must be 3,000 ft apart and restricted to regular business hours	City Ordinance 9.32 and 12.43

Attachment F
Letters in Support

CALIFORNIA REINVESTMENT COALITION

SENT VIA E-MAIL

April 1, 2014

Fresno City Council
Honorable Mayor and Council Members
Fresno City Hall
2600 Fresno Street, Room 2097
Fresno, CA 93721

Dear Mayor Swearengin and Members of the City Council:

I'm writing on behalf of the California Reinvestment Coalition (CRC). CRC advocates for the right of low-income communities and communities of color to have fair and equal access to banking and other financial services. We have a membership of over 300 nonprofit organizations and public agencies across the state. CRC has been a leading voice in the struggle against predatory payday lending in local jurisdictions and at the state Capitol.

CRC was instrumental in working with concerned residents, community organizations, council members and city staff in San Francisco, Sacramento, San Jose, Long Beach and other places to enact land use restrictions on the payday loan industry. In the past 6 months, the cities of Gilroy and Sunnyvale have adopted a "cap" on the number of payday loan outlets allowed within their jurisdictions, and the San Mateo City Council has directed staff to develop an ordinance for their consideration later this year.

We strongly support the proposed text amendment to the zoning ordinance to define and establish guidelines for payday lending locations in Fresno. We urge the Planning Commission and City Council to adopt the most restrictive ordinance possible. We stand in solidarity with clergy and lay leaders with Faith in Community (FIC) and other local community-based organizations who are appealing to the Council to take strong policy action on this issue. Given the impact of this industry on consumers, we believe it is in the interest of Fresno residents and communities for the Council to approve the strongest ordinance possible to limit the number of payday lenders in the City. Given the existing over-proliferation of payday lenders in Fresno, and the strong policy precedent set by other cities, we encourage the Planning Commission and the Council to consider a formal "cap" on the number of payday loan locations.

We believe there are several reasons for land use restrictions:

1. Momentum towards regulation of the payday loan industry is growing across the state and nationally. Federal bank regulators are cracking down on mainstream banks that offer payday loan products known as "deposit advances". Wells Fargo and US Bank, the only mainstream banks offering payday loans in CA, recently announced their plans to

discontinue their deposit advance loans by June 2014, a major victory for consumers and financial justice advocates. In addition, both the state's Department of Business Oversight (DBO) and the federal Department of Justice (DOJ) are scrutinizing banking institutions that process payments for potentially illegal online payday lenders, and have notified banks that they should cease enabling illegal online transactions. Finally, the federal Consumer Financial Protection Bureau (CFPB) has examined the payday loan industry, identified hazardous financial practices (documented in their "White Paper" and "Data Point" reports), and will propose new consumer protection rules later this spring for public commentary. As previously stated, numerous municipalities have enacted local land use ordinances that restrict the expansion of brick and mortar payday loan stores. Major news publications including the *Fresno Bee*, *Sacramento Bee*, *Los Angeles Times*, *Mercury News*, and others have editorialized positions in favor of payday loan reform. The state's DBO is also considering possible changes to the Department's rules pertaining to deferred deposit transactions, to be determined later this year. The time to act is now.

2. In a 2007 payday loan study by the state Department of Corporations, researchers found that 24% of borrowers found out about their payday lender because they "saw a payday location and went in." We know that payday loan consumers utilize this product because of the easy accessibility. When neighborhoods have an abundance of payday lenders and other high cost financial services, they will often use those services because it's "convenient," even if it's to their financial detriment. By restricting the proliferation of such asset-stripping entities, the City makes it more difficult for payday lenders to prey upon economically vulnerable consumers.

3. In a national study by Pew Charitable Trusts, "Payday Lending in America," researchers found 73% of payday loan consumers exclusively use storefront payday lenders. This study also found that in states with laws that restrict storefront payday lending, 95 out of 100 would-be borrowers elect not to use payday loans at all, and just 5 borrow online or elsewhere. In California, the state legislature has failed to enact any real consumer protections and restrictions on high cost payday lending. This creates an imperative for cities to use all authority available to restrict this harmful financial practice and make it less convenient for consumers to access these loans and more difficult for lenders to inundate consumers with this product in their neighborhoods.

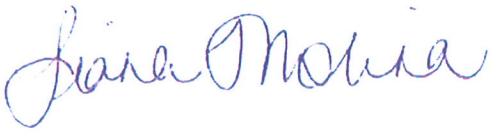
4. A 2009 study by the Center for Responsible Lending found that payday lenders are eight times as concentrated in neighborhoods with the largest shares of African Americans and Latinos as compared to white neighborhoods. Even after controlling for income and other important factors, payday lenders are 2.4 times more concentrated in African American and Latino communities. This data suggests that the industry targets ethnic minority communities. Cities must set restrictions to ensure that certain neighborhoods are not being disproportionately and unfairly burdened by this industry.

Unfortunately, the City Council cannot take any action to address the usurious 459% APR interest rates on payday loans and the inescapable cycle of debt the loans create for borrowers. However, you can to take steps to limit the easy accessibility of this product, especially to

individuals who can least afford the loans. Since there's enough evidence to suggest that these businesses target low and moderate-income neighborhoods and communities of color, it makes sense for local policy makers to implement safeguards to prevent the over-proliferation of these businesses.

We commend Faith in Community's leadership in advocating for this policy change within the context of their broader social and economic justice work. We support their call for the most restrictive permanent policy possible. We respectfully urge the Council's support and adoption of these proposals. If you have any questions, please don't hesitate to contact us.

Thank you for your time and consideration.



Liana Molina, Organizer
California Reinvestment Coalition

Cc: Joann Zuniga, Development and Resource Management Analyst
Sophia Pagoulatos, Staff Planner
Andy Levine, Executive Director, Faith in Community

United Way
United Way of Fresno County

SENT VIA E-MAIL

April 3, 2014

Fresno City Council
Honorable Mayor and Council Members
Fresno City Hall
2600 Fresno Street, Room 2097
Fresno, CA 93721

Dear Mayor Swearengin and Members of the City Council:

I'm writing on behalf of the United Way of Fresno County. The mission of our organization is to improve the quality of life in our communities through our vision that all families will have access to a quality education that leads to a good job with enough income to support a family through retirement. The United Way of Fresno County believes that these are the building blocks to a good life in our county: Income, Education and Health.

With this mission and vision in mind, we are writing to you regarding "Text Amendment Application No. TA-14-001" which pertains to payday loan establishments. We support the proposed text amendment to the zoning ordinance which would define and establish operational and geographical parameters for payday lenders. We urge the Planning Commission and City Council to approve this policy to help restrict the growth of predatory payday lenders in our communities.

We're concerned about the high-cost loans sold by these businesses, and the sheer number of payday lenders in Fresno. Our city already has one of the highest poverty rates in the nation. Allowing the over-proliferation of fringe financial entities like payday lenders only exacerbates financial hardships faced by struggling residents. Fresno is currently home to 66 payday lenders, the third largest number of payday loan locations in the state, after Los Angeles and Sacramento.

Just in the last several months, a new "Fast Auto and Payday Loan" store has sprouted up on Shaw and West, an area that certainly doesn't need any more of these businesses. This is an example of why we support a quarter mile distance separation between payday lenders. It does not serve our community or the businesses themselves when they are located in such close proximity to one another.

We have found that these lenders seem to target low and moderate-income communities, and tend to cluster in economically vulnerable neighborhoods. In Fresno, most of these shops are located in the southeast part of town where our office is located, although they're scattered throughout the city. For example, only 11 payday lenders are located north of Shaw Ave. Adopting permitting requirements and zoning restrictions for these businesses would help address this, while allowing communities to weigh in on any future proposals for new payday lenders.

4949 E. Kings Canyon Road :: Fresno, California 93727-3812 :: tel 559.244.5710 :: fax 559.228.8159 :: www.unitedwayfresno.org

Our United Way offers direct services to our low-medium income families facing financial shortfalls, including the free preparation and filing of tax returns through our VITA (Volunteer Income Tax Assistance) program; referrals to food distribution and energy utility assistance through our 2-1-1 Information and Referral Line available 24 hours a day, six days a week and our SparkPoint program that helps families take control of their finances and achieve their financial goals with one-on-one financial literacy guidance. The United Way of Fresno County also provides grant funding for partner agencies that provide services to our low-medium income Fresno families, so we are keenly aware of the challenges facing many people in our community. This is why we care so much about seeing that our citizens continue to have positive financial opportunities and that they have equal access to economic security.

For all of the reasons listed above, we respectfully urge the Planning Commission and City Council to adopt these reasonable changes to our land use and zoning policies.

Thank you for your time and consideration,

Sincerely,

R. Michael Alexander
President and CEO
United Way of Fresno County

Cc: Joann Zuniga, Development and Resource Management Analyst
Sophia Pagoulatos, Staff Planner

Faith In Community
2101 N. Fruit Avenue, Fresno, CA 93705

Dear Ms. Zuniga and Ms. Pagoulatos:

As clergy and religious leaders, each of our faith teachings is clear on the seriousness of usury, exploiting one's neighbor for personal financial gain. Luke 4 compels those who follow the way of God's shalom to bring good news to the poor, release to the captives, and freedom to the oppressed. Proverbs 22:22, from the Old Testament, tells us to "not rob the poor because they are poor." From the Torah, Leviticus 25:37 tells us "You shall not lend them your money at interest taken in advance, or provide them food at a profit." Today, we are compelled to stand united against usury in our own backyard in the form of payday lenders.

Specifically, we, the undersigned, applaud the City Council majority's vote last November to pass the resolution initiating a process of instituting some form of land use regulation over the future growth of these stores – just as we already do with most all other industries. As you heard that day in November, over a year ago, some of us affiliated with Faith in Community began counting and growing increasingly shocked by the number of payday loan stores in our communities: at least 66 in all, all but 11 either on or south of Shaw, and eight alone on a half-mile stretch of Kings Canyon Road. Contrary to perhaps popular belief, we were also concerned by what we saw when we overlay those stores onto a map of neighborhood-level poverty: the clear concentration of these stores not in extreme poverty neighborhoods, but instead in those considered more "working poor" – where our neighbors are barely getting by and one missed payment away from serious trouble. Naturally, this suggested to us grave implications not only for those individuals at risk of falling into the debt trap of high-interest payday loans (459% APR), but also the economic stability of our city as a whole.

That was why we were grateful that Councilmember Baines decided to bring forth a proposal, one that includes very reasonable land use parameters for any new stores: limit of at least ¼-mile from any existing stores, zoned to specific commercial areas, and a required CUP as part of any application. We believe these regulations to be exceedingly fair. When the ordinance with these specific components comes back before Council for a final vote, we urge our Councilmembers to approve *all three of them*.

Finally, in the time since the initial discussion last November, it has come to our attention that the Fresno Area Express (FAX) transit map lists several payday loan stores – alongside schools and hospitals – with the rationale being that they are bus "pass outlet locations." Given the high-interest rates of these stores and the research clearly showing a debt spiral (of at least 6 months) caused for the overwhelming majority of consumers, we find this arrangement - be it formal or informal - whereby the City is essentially directing its ridership to those stores identified to be worrisome. We strongly urge and ask you to direct FAX to remove these stores from its transit map.

Thank you for your time, leadership, and service to our city.

In Community,

Rev. Booker T. Lewis II, Rising Star Missionary Baptist Church
Rev. Steve Ratzlaff
Rev. Dr. Christopher Breedlove, College Community Congregational Church UCC
Dr. Randy White, Center for Community Transformation, Fresno Pacific University
Rev. Sofia Betancourt, Unitarian Universalist Church of Fresno
Rev. Natalie Chamberlain, United Christian Church
Dr. Don Simmons, Humanics Program, Fresno State University
Rev. Phil Skei, On Ramps Covenant Church
Rev. Andrew Feil, The Well Community Church
Dr. Matthew Jendian, Fresno State University
Rev. Lawrence Chisom, St. Matthew Baptist Church
Deacon William Lucido, St. Paul Newman Center
Rev. William Knezovich, Our Saviour's Lutheran Church
Rev. Sophia DeWitt, Fresno Interdenominational Refugee Ministries
Rev. Tom Sims, 4141 Ministries
Jim Grant, St. Paul Newman Center
Beth Paz, Fresno Institute for Urban Leadership
Rev. Norman Broadbent, First Congregational United Church of Christ
Senior Pastor Jim Rodriguez, United Faith Christian Fellowship, MB
Dr. Gordon Smith, Mennonite Community Church

Cc: Bruce Rudd, City Manager

CCLS
Central California Legal Services, Inc.

Serving the Community Since 1966!

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APR 22 2014

April 21, 2014

Oliver L. Baines III, Council Member
Fresno City Council
Fresno City Hall
2600 Fresno Street, Room 2097
Fresno, CA 93721

Dear Mr. Baines:

Thank you for your invitation to Central California Legal Services, Inc. (CCLS) to comment on the issue of payday lending in Fresno. Established in 1966, CCLS is the premier provider of free civil legal services to low-income residents in the central valley. Our daily work with low-wage working families and individuals enables us to be aware of the challenges they face.

Payday loans target low income and minorities and exasperate poverty in Fresno. Fresno City has the dubious honor to be the third in the state in the number of payday loan establishments after Los Angeles and Sacramento. The industry preys on people in desperate situations and traps them in a vicious cycle of debt. In a survey of our clients who used or are using payday loans, 100% of the participants reported that they had difficulties paying off their payday loans without having to re-borrow.

Proponents of payday lending claim that that there is a strong demand for their product, and that 90 percent or more of the loans are repaid. However, a 2009 study published by the Center of Responsible Lending describes this as a "phantom demand". It reports that a full three quarters of payday loans are generated by the payday loan itself - borrowers need to open a new loan shortly after repaying a previous loan because the repayment left them with inadequate funds for other needs - and loans to non-repeat borrowers account for just two percent of the loan volume.

The unique structure of the payday loan with a short term balloon payment due in just two weeks sets borrowers up to need a new loan to fill the financial gap which results by paying off the first in its entirety. [1]

---

[1] Does Fringe Banking Exacerbate Neighborhood Crime Rate: Social Disorganization and the Ecology of Payday Lending, supra.

Moreover, a study reported in the Quarterly Journal of Economics found no evidence that payday loans alleviate economic hardship. To the contrary, loan access increases the difficulty in paying mortgage, rent, and utilities bills by 25%, and delay needed health care. Thus, contrary to the view that improving credit access facilitates important expenditures, the study shows that for low income households, the debt burden inhibits their ability to pay important bills.[2]

Payday loan establishments are disproportionately located in low income, minority neighborhoods, and disproportionately serve minority customers. In California, they are eight times as concentrated in African-American and Latino neighborhoods than in white neighborhoods. Even controlling on income, poverty rate, population, education, and other socio-economic factors, the racial disparity persists at 2.4. Thus, it is mostly the minority population that is paying the financial and social costs of payday lending.

It should be noted that payday lending has a likely negative impact on the community at large. A concentration of payday lenders is likely to reduce property values (it is difficult to imagine that it would increase values). Thus, the equity and wealth of property owners would be depressed. This in turn leads to a decline in property tax revenues from which the community at large eventually suffers, in form of reduced critical public services, or higher taxes. In addition, the vast majority of the payday lending establishments is owned by non local interests, and the earnings, in the form of exorbitant fees paid for these loans, are being siphoned off outside the local economy.

The predatory nature of payday lending and the oppressive community costs associated with them was recognized by fifteen states and the District of Colombia who have enacted small loan usury laws or rate caps that effectively prohibit payday lending at triple interest rates. And in 2006, Congress prohibited payday lending to military members and capped at 36 percent the interest rate that could be charged to them.

Local governments also recognize that they have the right and the responsibility to protect the economic health, welfare and safety of their communities using whatever tools they have available to them. Thus, many municipalities and cities moved to protect their residents and neighborhoods from the negative impacts of payday lending through land use code amendments, including, Alabama: Birmingham, Midfield, Homewood, and Mobile; in Arizona: Casa Grande, Gilbert, Mesa, Phoenix, South Tucson, Tempe, Tucson, Youngtown, and Pima County; in California: La Miranda, Contra Costa, East Palo Alto, Long Beach, Los Altos, National City, Norwalk, Oceanside, Oakland, Pacifica, Pico Rivera, Rialto, Sacramento, San Diego, San

[2] A complete list is attached to this letter: "Payday Lending Zoning Laws/Legislation. Appendix 1, List of Payday Lender Ordinances, included in "Controlling the Growth of Payday Lending Through Local Ordinances and Resolutions, A Guide for Advocacy Groups and Government Officials, October 2012.

Francisco, San Jose, Santa Clara County, Santa Monica, South Gate, and Redwood City; to name a few.[3]

While payday lending may work as a business model, it's corrupt as a social model. It burdens those who can least afford it with exorbitant fees and make them poorer, it reduces capital crucial to local economic development, and subject neighborhoods to increase crime.

Thank you for your time and consideration,

Chris A. Schneider
Executive Director

[3] A complete list is attached to this letter: "Payday Lending Zoning Laws/Legislation. Appendix 1, List of Payday Lender Ordinances, included in "Controlling the Growth of Payday Lending Through Local Ordinances and Resolutions, A Guide for Advocacy Groups and Government Officials, October 2012.

Fresno Economic Opportunities Commission

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Executive Office
1920 Mariposa Mall,
Suite 300
Fresno, CA 93721

(559) 263-1000
www.fresnoeoc.org

1 April 2014

Honorable Mayor and Council Members
Fresno City Hall
2600 Fresno Street, Room 2097
Fresno, CA 93721

Dear Mayor Swearengin and Members of the City Council:

I am writing on behalf of Fresno Economic Opportunities Commission (Fresno EOC). Fresno EOC is a private, non-profit 501(c)3 organization, one of the largest and most effective poverty-fighting organizations in the country. Fresno EOC touched the lives of more than 145,000 residents of Fresno County in 2012 through programs that make a real, measurable difference, giving families the immediate help they need to weather day-to-day crises and the long-term support that allows them to build better lives.

We are writing in regards to "Text Amendment Application No. TA-14-001" applicable to payday loan establishments. We support the proposed text amendment to the zoning ordinance which would define and establish operational and geographical parameters for payday lenders. We urge the Planning Commission and City Council to approve this policy to help restrict the growth of predatory payday lenders in our community.

We are concerned about the high-cost loans sold by these businesses, and the sheer number of payday lenders in Fresno. Our city already has one of the highest poverty rates in the nation. Allowing the over-proliferation of fringe financial entities like payday lenders only exacerbates financial hardships faced by struggling residents. Fresno is currently home to 66 payday lenders, the third largest number of payday loan locations in the state, after Los Angeles and Sacramento.

Just in the last several months, a new "Fast Auto and Payday Loan" store has sprouted on Shaw and West, an area that certainly doesn't need any more of these businesses. This is an example of why we support a quarter mile distance separation between payday lenders. There is no reason they should be located in such close proximity to one another. We are especially concerned that these lenders seem to target low and moderate-income communities, and tend to cluster in economically vulnerable neighborhoods. In Fresno, most of these shops are located in the southeast part of town, although they are scattered throughout the city. Only 11 payday lenders are located north of Shaw Ave. Adopting permitting requirements and zoning restrictions for these businesses would help address these issues, and would allow for communities to weigh in on any future proposals for new payday lenders.

Fresno EOC has been helping low- to moderate-income families facing financial shortfalls since 1964, offering services such as emergency food and utility assistance, financial literacy classes, and access to capital for small businesses, to name a few. We are also in the process of creating a credit union targeting low-income families to help them establish credit and manage their money so they have less need for payday lenders. Working with multiple organizations, we hope that we will be able to provide our clients with stable, safe, and affordable financial services that are currently unavailable to them. We recognize that financial opportunity and economic security are key to eliminating poverty and creating vibrant communities.

We respectfully urge the Planning Commission and City Council to adopt these reasonable changes to our land use and zoning policies.

Thank you for your time and consideration,

Brian Angus
Chief Executive Officer

Cc: Joann Zuniga, Development and Resource Management Analyst
Sophia Pagoulatos, Staff Planner

community Action Partnership

Attachment G
Letters in Opposition

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Kathy Mason
Craig Wells

April 3, 2014

City of Fresno
Development Resource Center
ATTN: Joann Zuniga, Development & Resource Management
2600 Fresno Street, Third Floor
Fresno, California 93721

Dear Ms. Zuniga:

Thank you for the opportunity to respond to your request for comments regarding Text Amendment Application No. TA-14-001.

The California Financial Service Providers Association (CFSP) represents California businesses that offer check cashing, consumer loans, and other financial services. All member businesses are state regulated with check cashing permits issued by the Department of Justice and/or Deferred Deposit Transaction licenses by the Department of Corporations. CFSP members are committed to serve customers in a transparent, consumer-friendly and ethical manner as defined by the association's Best Practices.

CFSP members from our association that have stores in Fresno and have always worked with legislators and local government officials to create laws and regulations that allow for this regulated credit option to best serve the needs of California residents.

With respect to Text Amendment Application No. TA-14-001, we have the following comments:

- Zone C-2 should be added back to permissible zones
- 17 a) – Licensee should be given the opportunity to extend hours of operation, expand site, or remodel as a regular course of business.
- The third "Whereas" clause in Resolution No. 2013-199 should be removed. Ours in considered interest, we must state as an APR as opposed to banks with this product who only state as fee without APR.
- The fourth "Whereas" clause in Resolution No. 2013-199 should be removed. Social statements like these are biased and unsubstantiated

Thank you for your consideration regarding this matter. If we can be of further assistance to you on these or any other matters of concern, please do not hesitate to contact us.

Sincerely,

California Financial Service Providers| 7909 Walerga Rd. Suite 112-161| Antelope |CA | 95843
www.cfsponline.com | (916) 910-9769 | cfsp@wisemgts.com

April 4, 2014

City of Fresno Development Resource Center
ATTN: Joann Zuniga
Development and Resource Management
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

RE: Text Amendment Application No. TA-14-001

Dear Ms. Zuniga:

This letter is in response to the proposed resolution and ordinance routed on March 21, 2014 with a comment deadline of April 4, 2014.

The members of the California Consumer Finance Association (CalCFA) are committed to providing access to a range of affordable, state-regulated, small dollar credit services so consumers and small businesses can choose the product that suits their own individual financial needs. CalCFA member companies have always worked with legislators and local government officials to create laws and regulations that allow regulated credit options that serve the needs of California residents.

Our association believes there should be a variety of financial options in the community, among them payday loans. Those who obtain payday loans must have an existing bank account. In fact, among other credit options, a payday loan may be the best choice when consumers consider the often higher costs of bouncing a check, paying overdraft protection fees, or incurring late payment penalties. Consumers want and benefit from having more alternatives, not fewer, and this need is better served in a competitive marketplace.

According to the proposed resolution and ordinance, we have the following concerns:

1) Payday Lending Establishments shall be limited to the C-4, C-6, and CC zone districts
2) Payday Lending Establishments shall be separated by at least 1,320 feet (.25 mile)
3) If the Payday Lending Establishment adds capacity, floor or land area, or extends the hours of operation, such changes shall result in a termination unless authorized by a new or amended conditional use permit.

1201 K Street, Suite 1840 Sacramento, CA 95814 P: 916.491.4094 F: 916.491.4098

We believe the C-1, C-2, and C-3 zone districts should be included in the proposed ordinance. Payday lending establishments currently operate within these zone districts and service the needs of both businesses and consumers within the surrounding areas.

- The C-1 zone district is intended to serve as planned unified shopping centers. Currently, there are five CalCFA member payday lending establishments operating within this C-1 zone district that fit into the residential pattern of development and do not create architectural or traffic conflicts.

- The C-2 zone district, intended to serve as a planned unified shopping center for a community, provides consumers with access to financial service products in and around the communities which they live, work, and are accessible by public transit. Currently, there are 10 CalCFA member payday lending establishments operating within this C-2 zone district that fit into shopping center of developments and do not create architectural or traffic conflicts.

- The C-3 zone district, intended to provide the facilities of a General Commercial District in a planned shopping center, permits the use of financial institutions. Although a payday lending establishment is not a traditional bank, these businesses provide many of the same services and products as banks, including but not limited to money remittance and check cashing. Even when customers have equal access to, and can choose, traditional banking products, such as overdraft credit protection, the associated fees and interest can be more expensive than payday loans. Currently, there are nine CalCFA member payday lending establishments operating within this C-3 zone district that fit into general commerce districts of developments and do not create architectural or traffic conflicts.

With regards to Item 2, we believe the 1,320 feet (0.25 mile) separation requirement proposed is an overly stringent site requirement. On its own, this would be placing a de facto ban on payday lending establishments. We believe a 500 feet separation requirement addresses many concerns without damaging existing businesses and depriving Fresno residents of a legal and regulated source of short term credit. Restricting consumers' access to certain forms of short-term credit through increased separation requirements stifles competition, removes a large segment of the community's only access to capital, and does nothing to address their continued need for credit.

By limiting consumer's options to storefront payday lending establishments, consumers are often forced to turn to illegal, unregulated online payday lenders. Please see the attached article, "Illegal online lenders plague payday loan industry", by Claudia Buck published in *The Sacramento Bee* (October 15, 2015). In addition, the Department of Business Oversight issued a media release warning banks and credit unions of risks of doing business with online, unregulated payday lenders (October 7, 2013). On behalf of all CalCFA members, we fully support the Department's efforts to crack down on these illegal practices.

Last, according to the proposed ordinance, "If any existing or subsequently granted Payday Lending Establishment adds capacity, floor or land area, or extends the hours of operation, such changes shall result in a termination unless authorized by a new or amended conditional use permit". This is a significant concern to our member companies because this provision would make it more difficult for all current payday lending establishments in Fresno to expand or extend the hours of operation. Without knowing exactly what process it will take for a current storefront to amend its conditional use permit, their operations are put at risk.

The bottom line is that payday loans are a much-needed product and without these "non-traditional" financial products, many Fresno residents would not be able to access cash when they need it most. We recognize and appreciate the serious economic challenges many Californians face today. However further restricting "non-traditional" lenders and forcing customers to the unregulated, unlicensed internet is not the answer.

We urge you to reconsider allowing payday lending establishments in the C-1, C-2, and C-3 zone districts; changing the distance requirement to 500 feet; and removing the language requiring a new or modified conditional use permit in order to add capacity, floor or land use area, or extend the hours of operation of an existing establishments. These changes will enable individuals and small businesses to have continued access to an important option for regulated, short-term credit.

We appreciate your consideration of our concerns regarding the issues discussed in this letter and thank you for the opportunity to submit comments. We look forward to future opportunities to meet with you and members of the Planning Commission, City Council, and staff.

Please let us know if you have any questions concerning the matters outlined in this letter.

Sincerely,

Natasha Fooman
President
California Consumer Finance Association (CalCFA)

CC: City of Fresno, City Council
City of Fresno, Planning Commission
City of Fresno, City Manager
City of Fresno, Attorney
City of Fresno, City Clerk

Attachments: Sacramento Bee Article
Wall Street Journal Article
Department of Business Oversight Press Release

1201 K Street, Suite 1840 Sacramento, CA 95814 P: 916.491.4094 F: 916.491.4098

html
THE SACRAMENTO BEE sacbee.com

Personal Finance: Illegal online lenders plague payday loan industry

cbuck@sacbee.com

Published Sunday, Sep. 15, 2013

Payday lenders have been around for years, offering quick-but-pricey loans to distressed borrowers. From hundreds of walk-in storefront offices, they loan out small amounts – up to $300 in California – to be paid back from the borrower's next paycheck.

Today, they're getting elbowed aside by a growing cadre of online competitors who aren't licensed and who increasingly are accused of ripping off consumers. Last month, the state Department of Business Oversight warned Californians to beware of rogue online lenders – often located offshore or overseas – who offer enticing come-ons from splashy websites but who may leave borrowers little recourse if something goes wrong.

"It's like whack-a-mole," said Mark Leyes, spokesman for the state Department of Business Oversight (formerly Department of Corporations). "We're trying to compile a list of unlicensed companies, but they change their company name from one week to the next."

Payday lending is no small-change industry. In 2011, the most recent year for state data, payday lenders in California doled out a total of $3.28 billion in loans to 1.7 million customers. The average amount of those individual loans: $263.

And while the number of walk-in payday loan locations has dwindled statewide in recent years, the number of online sites has "mushroomed," along with a "slow but steady" increase in complaints about web-based lenders, Leyes said.

"It's a problem. The risks are high," he said. "If it's a storefront payday lender, you walk in and look someone in the eye. But when you go online, you don't know who you're dealing with, where they're located or what their intentions are."

Since January 2013, the DBO says it has taken action against 11 illegal online lenders operating here and overseas, including in Belize, Costa Rica, Malta and the United Kingdom. The DBO's website also posts consumer alerts against U.S.-based online payday lenders with names like EZ Cash, Cash Express Loan and Mobiloans, which are operating without state-required licensing.

In dealing with online lenders, "We can issue sanctions, but they're very difficult to enforce," Leyes said.

The California Financial Service Providers Association, which represents about 1,470 walk-in payday loan locations statewide, says the unscrupulous online guys are a problem.

"We are very concerned about unlicensed, unregulated Internet lending," said CFSPA spokesperson Greg Larsen. "If you type in 'payday lending' (on a search engine), you instantly get hundreds of

thousands of hits. But who knows how many of those are offshore ... out of the reach of state licensing?"

Taking a loan from an unlicensed payday lender puts consumers at bigger risk of financial trouble, the DBO says. Among them: higher interest rates than allowed under California law; funds siphoned from your bank account without permission; personal financial data sold or pirated by the lender, even if a loan hasn't been formalized; losing the ability to track down, prosecute and recover lost funds.

The FTC notes that filling out a payday loan form online - even if you don't hit "submit" - can put you at risk for bank account fraud. In some cases, consumers who never officially took out a payday loan still had their funds stolen from their accounts.

Enforcement actions against illegal payday lenders have stepped up recently. A week ago, the Federal Trade Commission announced it shut down a Tampa, Fla.-based payday loan broker accused of pilfering $5 million from U.S. consumers. The company, operating under multiple names such as Loan Tree Advances and Your Loan Funding, said it represented a network of 120 payday lenders and promised to help consumers obtain loans in "as little as one hour." Instead, according to the FTC's complaint, it sucked funds from the bank accounts of tens of thousands of customers. The company's two owners allegedly used the money to support a lavish lifestyle that included a 2012 Maserati, a 2011 Rolls Royce Ghost and a 2006 Ferrari 430.

On other fronts, state officials in New York have cracked down on payday lenders that elude state scrutiny by affiliating with U.S. Indian tribes, which operate outside the jurisdiction of state and local governments. And the Consumer Financial Protection Bureau recently warned against illegal payday lenders.

Given the number of cash-stressed borrowers, demand for payday loans is not going to go away, said industry spokesman Larsen.

A payday loan is "not always the right answer, but at times it may be the least expensive option for people to turn to," he said. "For example, if you have two bills for $50 and $75 that are going to be late, those late fees are $35 each. That's $70." Instead, a consumer takes out a $125 payday loan to pay off those bills and the fee is only $21.25, or 15 percent of the loan amount. "They make an absolute, short-term, dollar-and-cents choice," Larsen said. "That's how people look at it."

The problem, critics say, is that a payday loan's short turnaround - typically two weeks - leaves many low-income borrowers unable to repay the full amount and still cover their other household expenses, such as rent, utilities, food, etc. That traps many on a so-called "debt treadmill" -where they continue to take out new payday loans to cover their bills.

According to new numbers released last week by the Center for Responsible Lending, a consumer group that opposes payday loans, American borrowers pay $3.4 billion in fees every year on payday loans. Of that, Californians' share of payday loan fees is $578 million.

According to the Center for Responsible Lending, 82 percent of total annual California payday loan fees - $474 million - come from borrowers taking out a new loan within two weeks of paying off their last loan.

In April, a payday loan reform bill, SB 515, was defeated in the state Senate Banking and Financial Institutions Committee. Among its provisions, it would have capped the number of payday loans allowed per person to six in one year.

Consumer groups urge financially stressed individuals to consider alternatives to payday loans. And state officials are simply trying to get the word out: Before you take out a payday loan, check to be sure the company is licensed.

"If they're licensed, it doesn't mean it's a good economic decision (to take out a payday loan). But at least there's some recourse," said DBO spokesman Leyes. When dealing with an unlicensed online

lender, "you're at their mercy. ... Be very cautious."

Call The Bee's Claudia Buck at (916) 321-1968.

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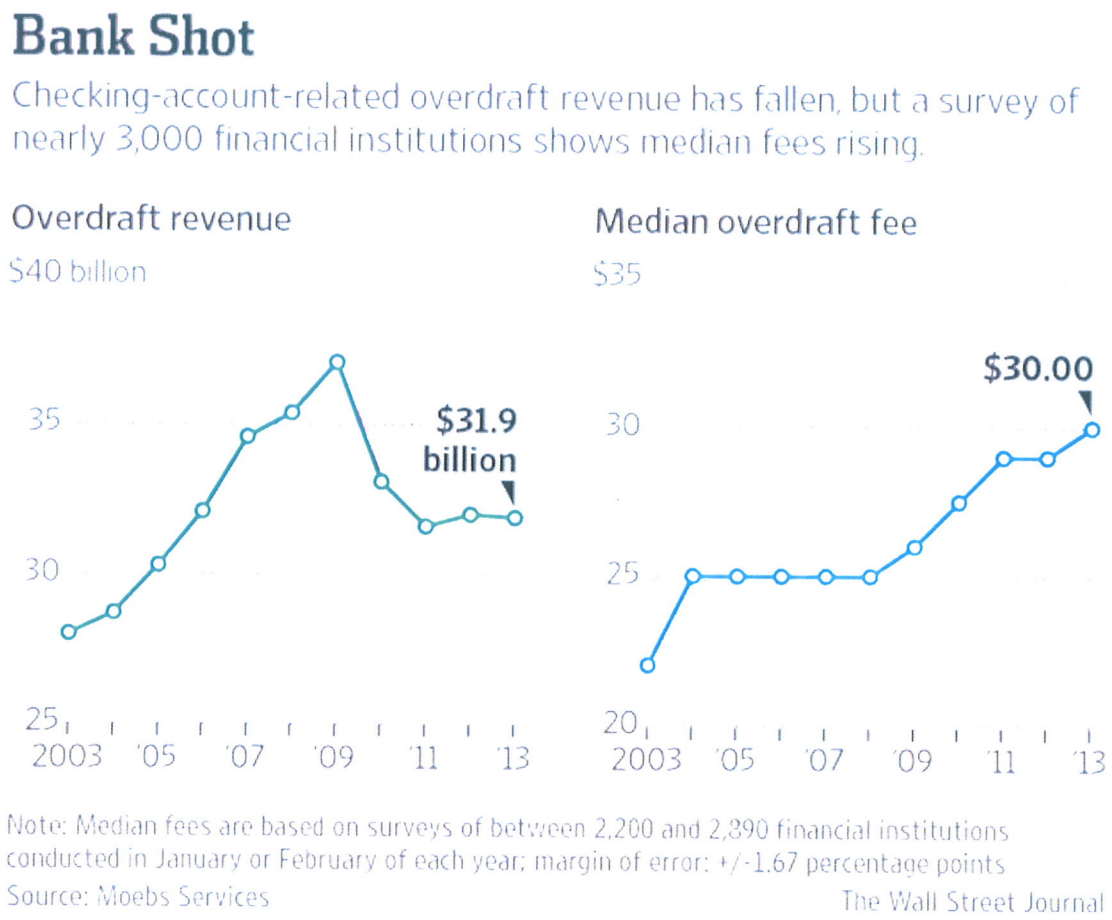
MARKETS

Overdraft Fees at Banks Hit a High, Despite Curbs

Median Charge for Writing Checks With Insufficient Funds Reaches a Record

By ANNAMARIA ANDRIOTIS

April 1, 2014 7:28 p.m. ET



Squeezed by falling revenue on deposit accounts, banks are turning to a familiar source of income: overdraft fees.

Nearly four years after regulators tried to curb the fees, banks are lifting them to new heights. The median fee for withdrawing more from a checking account than a customer has on deposit increased to an estimated $30 in

2013—a record—up from $29 in 2012 and $26 in 2009, based on a survey of 2,890 banks and credit unions by Moebs Services Inc., an economic-research firm in Lake Bluff, Ill.

Squeezed by falling revenue on deposit accounts, banks are turning to a familiar source of income: overdraft fees. AnnaMaria Andriotis reports on MoneyBeat. Photo: Getty Images.

"Banks have a revenue gap that needs to be recouped," said Greg McBride, chief financial analyst at Bankrate.com, which tracks overdraft fees and other charges.

WSJ Radio

AnnaMaria Andriotis has more about the increasing overdraft fees charged by banks with WSJ Radio's Hank Weisbecker.

00:00 | 05:22

Banks' fee revenue from checking, savings and other deposit accounts has been sliding since several regulations took effect. The Federal Reserve in 2010 stopped banks from automatically charging customers overdraft fees on debit-card and automated-teller-machine transactions. In addition, the Dodd-Frank financial-overhaul law included an amendment that went into effect in 2011 lowering a debit-card fee large financial institutions charge merchants.

The recent regulations "have forced banks to raise fees where they ordinarily would not have done so," said Richard Hunt, chief executive of the Consumer Bankers Association, which represents retail banks with more than $1 billion in assets and is based in Washington.

At the same time, years of low rates on mortgages and other loans have eaten into the income banks collect from interest charges, an important driver of bank earnings.

To help make up for lost revenue, experts say banks are raising overdraft fees and pitching related services, hoping to increase the pool of customers who can incur such fees.

"They're doing a better job of getting them to sign up," said Ron Shevlin, senior analyst at Aite Group LLC, a research and advisory firm in Boston.

There were 7.1 overdraft incidents per checking account on average last year, according to Moebs, down from 7.4 in 2012 and 9.8 in 2009. Such incidents include overdrafts caused by debit-card transactions, ATM withdrawals, checks and bill paying linked to a checking account.

Overdraft fees make up the bulk of checking-account fee revenue, said Jefferson Harralson, a banking analyst at Keefe, Bruyette & Woods Inc. in Atlanta. Financial institutions generated $31.9 billion in overdraft revenue in 2013, compared with $32 billion in 2012, said Moebs. It had fallen to a recent low of $31.6 billion in 2011, from a peak of $37.1 billion in 2009. The fees can reach as much as $50 per transaction, according to the Moebs survey.

Consumers had an average of $4,434 in checking accounts last year, up from $4,036 in 2012 and $2,010 in 2009, according to data from Moebs and the Federal Reserve.

Steve Smith, an attorney in Little Rock, Ark., said he opted into a standard overdraft program after his local bank informed him by mail about the service. Mr. Smith, 50 years old, said he pays a $17.50 fee each time he overdraws his checking account, which is roughly 12 to 15 times a year.

He prefers incurring the fee if it means his bills will be paid on time. "I think of this as damage control," Mr. Smith said. "If there are insufficient funds, there are consequences at my bank, but they stop there."

Overdraft fees came under fire during the recent recession. Critics charged that most checking accounts allowed overdrafts even if consumers didn't ask for the service—and that many banks processed debit-card and other transactions in a particular order to maximize the number of overdraft fees consumers would incur.

The 2010 Fed regulation required customers to give banks permission to allow overdrafts for debit-card and ATM transactions. Those who don't opt in aren't able to use their debit cards or make withdrawals if they don't have the available funds. Overdraft fees linked to checks and some online bill paying don't require a customer to give their approval.

The overdraft-fee increases come as the Consumer Financial Protection Bureau, concerned about consumer confusion regarding overdraft services, said it is studying the matter and looking into issuing its own set of rules. The bureau declined to comment further.

"Banks lost significant fee income over the past few years, but in 2013 there was stabilization, [and] going forward revenue will grow slightly," said Keefe, Bruyette's Mr. Harralson. "Banks are continuing to try to recoup the lost revenue by getting customers to use overdraft services and perhaps by nudging fees selectively."

Banks have been pushing overdraft-related services to customers in their branches, on their ATMs and on their websites to encourage customers to sign up.

U.S. Bancorp began charging $36 in overdraft fees in August, up from $35, while eliminating the fee for transactions of $5 or less that trigger an overdraft. Boston Private Bank & Trust Co., a subsidiary of Boston Private Financial Holdings Inc., began charging $30 in August, up from $25. U.S. Bancorp said rising fees reflect the rising cost of handling checking accounts. Boston Private Bank said its fee increase was the first in more than 10 years.

Beyond standard overdrafts, many banks, including Wells Fargo & Co. and J.P. Morgan Chase & Co., offer so-called overdraft-protection programs that allow customers to link a checking account to another account they have with the bank. Funds can then be automatically transferred to the checking account should an overdraft occur. In most cases, banks charge a fee for each day that transferred funds are needed to cover an overdraft.

A spokeswoman for Wells Fargo said this service, which costs $12.50 each day it is used, is a "backup plan" for customers who don't want their transactions to be declined because of insufficient funds and don't want to incur the bank's standard $35 overdraft penalty, which can be levied up to four times a day.

Chase alerts customers whose previous checking transactions suggest they are likely to overdraw often, said a spokeswoman. Bank representatives suggest the service, which costs $10 each day it is used, to such customers in branches and online. (Its standard overdraft fee, in contrast, is $34 with a cap of three times a day.)

Wells Fargo and Chase say customers can add funds to their checking accounts by a designated time each night to avoid overdraft fees.

The banks waive overdraft fees for certain transactions as well.

More banks and credit unions are making similar moves. RBS Citizens Financial Group Inc., a unit of Royal Bank of Scotland Group PLC, and Navy Federal Credit Union—which is based in Vienna, Va., and is the largest credit union in the U.S., with more than $57 billion in assets—recently began waiving overdraft fees for transactions of $5 or less that result in an overdrawn checking account.

RBS Citizens said it is responding to consumers' expectations to not have to pay a fee for small purchases.

Michael Christian, assistant vice president of savings and checking accounts at Navy Federal, said the credit union is trying to provide low-cost overdraft options and that more checking-account customers have been signing up.

Write to AnnaMaria Andriotis at AnnaMaria.Andriotis@wsj.com

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DEPARTMENT OF BUSINESS OVERSIGHT

Ensuring a Fair and Secure Financial Services Marketplace for all Californians

JAN LYNN OWEN
Commissioner of Business Oversight

MEDIA RELEASE

For Immediate Release
October 7, 2013

Contact:
Mark Leyes (916) 322-7180

State Banks and Credit Unions Warned of Illegal Payday Loan Risks

SACRAMENTO (October 7, 2013) – The California Department of Business Oversight (Department) has alerted banks and credit unions of the Department's ongoing efforts to stop illegal unlicensed online payday lending activity and their obligation to identify and report any suspicious activity.

In a letter dated October 7, 2013, Commissioner Jan Lynn Owen directed banks and credit unions licensed by the Department to monitor transactions with any unlicensed lender and immediately report potential violations.

The Department will examine banks and credit unions to ensure safeguards are in place to prevent unlicensed payday lenders from gaining access to the Automated Clearing House (ACH) network. By accepting debit and credit transactions from unlicensed payday lenders through the ACH network, financial institutions are, knowingly or unknowingly, enabling illegal payday loan transactions to occur in California.

"Protecting consumers from illegal online payday lending is a central focus of the Department's enforcement efforts," said Commissioner Owen. "With the recent consolidation of the state's payday lending regulator with the banking and credit union regulator into the Department of Business Oversight, we are now better equipped to protect both borrowers and financial services businesses. We are reaching out to our licensees and stakeholders to try and combat this growing threat to consumers."

Payday loans are transactions in which a borrower writes a check for the amount they need and the lender defers depositing the check until a specific date, for a fee, pursuant to a written agreement. Online payday lending transactions are based on an electronic equivalent, which is transmitted via the ACH network. Online lenders who fail to obtain a license from the Department typically violate laws designed to protect borrowers, such as charging rates higher than allowed under California statute. Additionally, many are based overseas, meaning there is much less legal recourse for unsatisfied customers.

The Department encourages any Californian contemplating a payday loan to verify with the Department that the lender is licensed and in good standing with the State of California. Any borrower who feels they have been the victim of an unlicensed lender should file a complaint with the Department. Complaints can be filed electronically, or complaint forms obtained, at http://www.dbo.ca.gov/Consumers/consumer_services.

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CALIFORNIA CONSUMER FINANCE ASSOCIATION

May 7, 2014

City of Fresno Planning Commission
Development and Resource Management
2600 Fresno Street, Room 3065
Fresno, CA 93721

Dear Planning Commissioners:

This letter is in response to the proposed payday lending ordinance and staff report dated May 2, 2014.

The members of the California Consumer Finance Association (CalCFA) are committed to providing access to a range of affordable, state-regulated, small dollar credit services so consumers and small businesses can choose the product that suits their own individual financial needs. CalCFA member companies have always worked with legislators and local government officials to create laws and regulations that allow regulated credit options that serve the needs of California residents.

Our association believes there should be a variety of financial options in the community, among them payday loans. Those who obtain payday loans must have an existing bank account. In fact, among other credit options, a payday loan may be the best choice when consumers consider the often higher costs of bouncing a check, paying overdraft protection fees, or incurring late payment penalties. Consumers want and benefit from having more alternatives, not fewer, and this need is better served in a competitive marketplace.

According to the proposed ordinance, we have the following concerns:

1) Payday Lending Establishments shall be limited to the C-4, C-6, and CC zone districts
2) Payday Lending Establishments shall be separated by at least 1,320 feet (.25 mile)
3) If the Payday Lending Establishment adds capacity, floor or land area, or extends the hours of operation, such changes shall result in a termination unless authorized by a new or amended conditional use permit.

1201 K Street, Suite 1840 Sacramento, CA 95814 P: 916.491.4094 F: 916.491.4098

We believe the C-1, C-2, and C-3 zone districts should be included in the proposed ordinance. Payday lending establishments currently operate within these zone districts and service the needs of both businesses and consumers within the surrounding areas. Although the staff report references that the proposed zone districts "are considered to be adequate, as they provide ample geographic coverage of the city", we do not believe this to be the case.

- The C-1 zone district is intended to serve as planned unified shopping centers. Currently, there are five CalCFA member payday lending establishments operating within this C-1 zone district that fit into the residential pattern of development and do not create architectural or traffic conflicts.

- The C-2 zone district, intended to serve as a planned unified shopping center for a community, provides consumers with access to financial service products in and around the communities which they live, work, and are accessible by public transit. Currently, there are 10 CalCFA member payday lending establishments operating within this C-2 zone district that fit into shopping center of developments and do not create architectural or traffic conflicts.

- The C-3 zone district, intended to provide the facilities of a General Commercial District in a planned shopping center, permits the use of financial institutions. Although a payday lending establishment is not a traditional bank, these businesses provide many of the same services and products as banks, including but not limited to money remittance and check cashing. Even when customers have equal access to, and can choose, traditional banking products, such as overdraft credit protection, the associated fees and interest can be more expensive than payday loans. Currently, there are nine CalCFA member payday lending establishments operating within this C-3 zone district that fit into general commerce districts of developments and do not create architectural or traffic conflicts.

With regards to Item 2, we believe the 1,320 feet (0.25 mile) separation requirement proposed is an overly stringent site requirement. On its own, this would be placing a de facto ban on payday lending establishments. According to the State of California Employment Development Department, the unemployment rate in Fresno County was 13.8% in March 2014 (much higher than the unemployment rate for California at 8.4%). The City of Fresno should welcome the opportunity for new businesses to locate in Fresno, instead of precluding payday lenders from establishing due to restrictive zoning and distance requirements.

We believe a 500 feet separation requirement addresses many concerns without damaging existing businesses and depriving Fresno residents of a legal and regulated source of short term credit. Restricting consumers' access to certain forms of short-term credit through increased separation requirements stifles competition, removes a large segment of the community's only access to capital, and does nothing to address their continued need for credit.

By limiting consumer's options to storefront payday lending establishments, consumers are often forced to turn to illegal, unregulated online payday lenders. Please see the attached article, "Illegal online lenders plague payday loan industry", by Claudia Buck published in *The Sacramento Bee* (September 15, 2013). In addition, the Department of Business Oversight issued a media release warning banks and credit unions of risks of doing business with online, unregulated payday lenders (October 7, 2013). On behalf of all CalCFA members, we fully support the Department's efforts to crack down on these illegal practices.

Lastly, according to the proposed ordinance, "If any existing or subsequently granted Payday Lending Establishment adds capacity, floor or land area, or extends the hours of operation, such changes shall result in a termination unless authorized by a new or amended conditional use permit". This is a significant concern to our member companies because this provision would make it costly and time consuming for all current payday lending establishments in Fresno to expand square footage or alter the hours of operation due to the requirement for a conditional use permit. Staff's response was that "this requirement applies to many other conditional uses in the city (including alcohol uses) and the purpose of inclusion of this rule in the text amendment is to ensure consistency with regulation of other conditional uses". Prior to this text amendment, payday lending establishments had similar conditions as banking and other financial institutions. Now, however, payday lending establishments are required to apply for a conditional use permit to extend hours of operation, similar to liquor stores. Are banking and other financial institutions being treated in a similar fashion, and if not, is this truly ensuring consistency with regulation as the staff report would imply?

The bottom line is that payday loans are a much-needed product and without these "non-traditional" financial products, many Fresno residents would not be able to access cash when they need it most. We recognize and appreciate the serious economic challenges many Californians face today. However further restricting "non-traditional" lenders and forcing customers to the unregulated, unlicensed internet is not the answer.

Finally, we had some serious concerns and clarifications regarding some statements referenced within the staff report to include the following:

- "Commonly, the consumer cannot repay the loan in the short time allowed, and obtains another loan to repay the first loan – incurring another round of feeds without reducing the principal".
    - In California, it is illegal for a consumer to repay a loan with another loan from the same company. In California, a payday loan must be paid in full prior to obtaining a new loan.
    - A payday lender cannot make a new loan to pay off an existing loan (State of California, Department of Business Oversight).
- "Fresno does not reap an economic boost from these businesses' profits"
    - Contrary to the staff report, many CalCFA members invest community dollars to local nonprofit groups, charities, and organizations within the city of Fresno.

We urge you to reconsider allowing payday lending establishments in the C-1, C-2, and C-3 zone districts; changing the distance requirement to 500 feet; and removing the language requiring a new or modified conditional use permit in order to add capacity, floor or land use area, or extend the hours of operation of an existing establishments. These changes will enable individuals and small businesses to have continued access to an important option for regulated, short-term credit.

We appreciate your consideration of our concerns regarding the issues discussed in this letter and thank you for the opportunity to submit comments. We look forward to future opportunities to meet with you and members of the City Council and staff.

Please let us know if you have any questions concerning the matters outlined in this letter.

Sincerely,

Natasha Fooman
President
California Consumer Finance Association (CalCFA)

CC: City of Fresno, City Council
City of Fresno, City Manager
City of Fresno, Attorney
City of Fresno, City Clerk

Attachments: Sacramento Bee Article
Wall Street Journal Article
Department of Business Oversight Press Release
Department of Business Oversight Brochure

html

THE SACRAMENTO BEE

Personal Finance: Illegal online lenders plague payday loan industry

cbuck@sacbee.com

Published Sunday, Sep. 15, 2013

Payday lenders have been around for years, offering quick-but-pricey loans to distressed borrowers. From hundreds of walk-in storefront offices, they loan out small amounts – up to $300 in California – to be paid back from the borrower's next paycheck.

Today, they're getting elbowed aside by a growing cadre of online competitors who aren't licensed and who increasingly are accused of ripping off consumers. Last month, the state Department of Business Oversight warned Californians to beware of rogue online lenders – often located offshore or overseas – who offer enticing come-ons from splashy websites but who may leave borrowers little recourse if something goes wrong.

"It's like whack-a-mole," said Mark Leyes, spokesman for the state Department of Business Oversight (formerly Department of Corporations). "We're trying to compile a list of unlicensed companies, but they change their company name from one week to the next."

Payday lending is no small-change industry. In 2011, the most recent year for state data, payday lenders in California doled out a total of $3.28 billion in loans to 1.7 million customers. The average amount of those individual loans: $263.

And while the number of walk-in payday loan locations has dwindled statewide in recent years, the number of online sites has "mushroomed," along with a "slow but steady" increase in complaints about web-based lenders, Leyes said.

"It's a problem. The risks are high," he said. "If it's a storefront payday lender, you walk in and look someone in the eye. But when you go online, you don't know who you're dealing with, where they're located or what their intentions are."

Since January 2013, the DBO says it has taken action against 11 illegal online lenders operating here and overseas, including in Belize, Costa Rica, Malta and the United Kingdom. The DBO's website also posts consumer alerts against U.S.-based online payday lenders with names like EZ Cash, Cash Express Loan and Mobiloans, which are operating without state-required licensing.

In dealing with online lenders, "We can issue sanctions, but they're very difficult to enforce," Leyes said.

The California Financial Service Providers Association, which represents about 1,470 walk-in payday loan locations statewide, says the unscrupulous online guys are a problem.

"We are very concerned about unlicensed, unregulated Internet lending," said CFSPA spokesperson Greg Larsen. "If you type in 'payday lending' (on a search engine), you instantly get hundreds of

thousands of hits. But who knows how many of those are offshore ... out of the reach of state licensing?"

Taking a loan from an unlicensed payday lender puts consumers at bigger risk of financial trouble, the DBO says. Among them: higher interest rates than allowed under California law; funds siphoned from your bank account without permission; personal financial data sold or pirated by the lender, even if a loan hasn't been formalized; losing the ability to track down, prosecute and recover lost funds.

The FTC notes that filling out a payday loan form online – even if you don't hit "submit" – can put you at risk for bank account fraud. In some cases, consumers who never officially took out a payday loan still had their funds stolen from their accounts.

Enforcement actions against illegal payday lenders have stepped up recently. A week ago, the Federal Trade Commission announced it shut down a Tampa, Fla.-based payday loan broker accused of pilfering $5 million from U.S. consumers. The company, operating under multiple names such as Loan Tree Advances and Your Loan Funding, said it represented a network of 120 payday lenders and promised to help consumers obtain loans in "as little as one hour." Instead, according to the FTC's complaint, it sucked funds from the bank accounts of tens of thousands of customers. The company's two owners allegedly used the money to support a lavish lifestyle that included a 2012 Maserati, a 2011 Rolls Royce Ghost and a 2006 Ferrari 430.

On other fronts, state officials in New York have cracked down on payday lenders that elude state scrutiny by affiliating with U.S. Indian tribes, which operate outside the jurisdiction of state and local governments. And the Consumer Financial Protection Bureau recently warned against illegal payday lenders.

Given the number of cash-stressed borrowers, demand for payday loans is not going to go away, said industry spokesman Larsen.

A payday loan is "not always the right answer, but at times it may be the least expensive option for people to turn to," he said. "For example, if you have two bills for $50 and $75 that are going to be late, those late fees are $35 each. That's $70." Instead, a consumer takes out a $125 payday loan to pay off those bills and the fee is only $21.25, or 15 percent of the loan amount. "They make an absolute, short-term, dollar-and-cents choice," Larsen said. "That's how people look at it."

The problem, critics say, is that a payday loan's short turnaround – typically two weeks – leaves many low-income borrowers unable to repay the full amount and still cover their other household expenses, such as rent, utilities, food, etc. That traps many on a so-called "debt treadmill" –where they continue to take out new payday loans to cover their bills.

According to new numbers released last week by the Center for Responsible Lending, a consumer group that opposes payday loans, American borrowers pay $3.4 billion in fees every year on payday loans. Of that, Californians' share of payday loan fees is $578 million.

According to the Center for Responsible Lending, 82 percent of total annual California payday loan fees – $474 million – come from borrowers taking out a new loan within two weeks of paying off their last loan.

In April, a payday loan reform bill, SB 515, was defeated in the state Senate Banking and Financial Institutions Committee. Among its provisions, it would have capped the number of payday loans allowed per person to six in one year.

Consumer groups urge financially stressed individuals to consider alternatives to payday loans. And state officials are simply trying to get the word out: Before you take out a payday loan, check to be sure the company is licensed.

"If they're licensed, it doesn't mean it's a good economic decision (to take out a payday loan). But at least there's some recourse," said DBO spokesman Leyes. When dealing with an unlicensed online

lender, "you're at their mercy. ... Be very cautious."

Call The Bee's Claudia Buck at (916) 321-1968.

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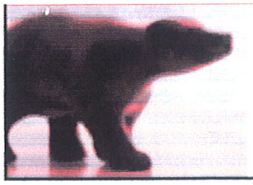

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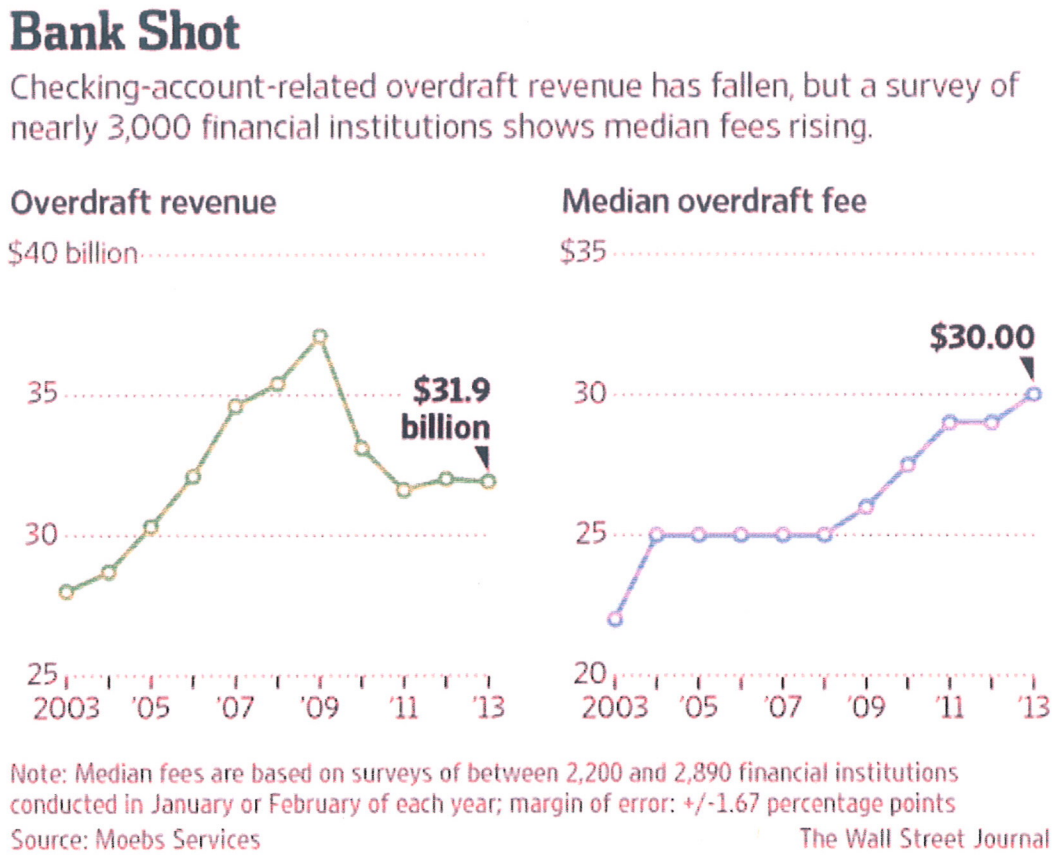
MARKETS

Overdraft Fees at Banks Hit a High, Despite Curbs

Median Charge for Writing Checks With Insufficient Funds Reaches a Record

By ANNAMARIA ANDRIOTIS

April 1, 2014 7:28 p.m. ET



Squeezed by falling revenue on deposit accounts, banks are turning to a familiar source of income: overdraft fees.

Nearly four years after regulators tried to curb the fees, banks are lifting them to new heights. The median fee for withdrawing more from a checking account than a customer has on deposit increased to an estimated $30 in

2013—a record—up from $29 in 2012 and $26 in 2009, based on a survey of 2,890 banks and credit unions by Moebs Services Inc., an economic-research firm in Lake Bluff, Ill.

Squeezed by falling revenue on deposit accounts, banks are turning to a familiar source of income: overdraft fees. AnnaMaria Andriotis reports on MoneyBeat. Photo: Getty Images.

"Banks have a revenue gap that needs to be recouped," said Greg McBride, chief financial analyst at Bankrate.com, which tracks overdraft fees and other charges.

WSJ Radio

AnnaMaria Andriotis has more about the increasing overdraft fees charged by banks with WSJ Radio's Hank Weisbecker.

00:00 | 05:22

Banks' fee revenue from checking, savings and other deposit accounts has been sliding since several regulations took effect. The Federal Reserve in 2010 stopped banks from automatically charging customers overdraft fees on debit-card and automated-teller-machine transactions. In addition, the Dodd-Frank financial-overhaul law included an amendment that went into effect in 2011 lowering a debit-card fee large financial institutions charge merchants.

The recent regulations "have forced banks to raise fees where they ordinarily would not have done so," said Richard Hunt, chief executive of the Consumer Bankers Association, which represents retail banks with more than $1 billion in assets and is based in Washington.

At the same time, years of low rates on mortgages and other loans have eaten into the income banks collect from interest charges, an important driver of bank earnings.

To help make up for lost revenue, experts say banks are raising overdraft fees and pitching related services, hoping to increase the pool of customers who can incur such fees.

"They're doing a better job of getting them to sign up," said Ron Shevlin, senior analyst at Aite Group LLC, a research and advisory firm in Boston.

There were 7.1 overdraft incidents per checking account on average last year, according to Moebs, down from 7.4 in 2012 and 9.8 in 2009. Such incidents include overdrafts caused by debit-card transactions, ATM withdrawals, checks and bill paying linked to a checking account.

Overdraft fees make up the bulk of checking-account fee revenue, said Jefferson Harralson, a banking analyst at Keefe, Bruyette & Woods Inc. in Atlanta. Financial institutions generated $31.9 billion in overdraft revenue in 2013, compared with $32 billion in 2012, said Moebs. It had fallen to a recent low of $31.6 billion in 2011, from a peak of $37.1 billion in 2009. The fees can reach as much as $50 per transaction, according to the Moebs survey.

Consumers had an average of $4,434 in checking accounts last year, up from $4,036 in 2012 and $2,010 in 2009, according to data from Moebs and the Federal Reserve.

Steve Smith, an attorney in Little Rock, Ark., said he opted into a standard overdraft program after his local bank informed him by mail about the service. Mr. Smith, 50 years old, said he pays a $17.50 fee each time he overdraws his checking account, which is roughly 12 to 15 times a year.

He prefers incurring the fee if it means his bills will be paid on time. "I think of this as damage control," Mr. Smith said. "If there are insufficient funds, there are consequences at my bank, but they stop there."

Overdraft fees came under fire during the recent recession. Critics charged that most checking accounts allowed overdrafts even if consumers didn't ask for the service—and that many banks processed debit-card and other transactions in a particular order to maximize the number of overdraft fees consumers would incur.

The 2010 Fed regulation required customers to give banks permission to allow overdrafts for debit-card and ATM transactions. Those who don't opt in aren't able to use their debit cards or make withdrawals if they don't have the available funds. Overdraft fees linked to checks and some online bill paying don't require a customer to give their approval.

The overdraft-fee increases come as the Consumer Financial Protection Bureau, concerned about consumer confusion regarding overdraft services, said it is studying the matter and looking into issuing its own set of rules. The bureau declined to comment further.

"Banks lost significant fee income over the past few years, but in 2013 there was stabilization, [and] going forward revenue will grow slightly," said Keefe, Bruyette's Mr. Harralson. "Banks are continuing to try to recoup the lost revenue by getting customers to use overdraft services and perhaps by nudging fees selectively."

Banks have been pushing overdraft-related services to customers in their branches, on their ATMs and on their websites to encourage customers to sign up.

U.S. Bancorp began charging $36 in overdraft fees in August, up from $35, while eliminating the fee for transactions of $5 or less that trigger an overdraft. Boston Private Bank & Trust Co., a subsidiary of Boston Private Financial Holdings Inc., began charging $30 in August, up from $25. U.S. Bancorp said rising fees reflect the rising cost of handling checking accounts. Boston Private Bank said its fee increase was the first in more than 10 years.

Beyond standard overdrafts, many banks, including Wells Fargo & Co. and J.P. Morgan Chase & Co., offer so-called overdraft-protection programs that allow customers to link a checking account to another account they have with the bank. Funds can then be automatically transferred to the checking account should an overdraft occur. In most cases, banks charge a fee for each day that transferred funds are needed to cover an overdraft.

A spokeswoman for Wells Fargo said this service, which costs $12.50 each day it is used, is a "backup plan" for customers who don't want their transactions to be declined because of insufficient funds and don't want to incur the bank's standard $35 overdraft penalty, which can be levied up to four times a day.

Chase alerts customers whose previous checking transactions suggest they are likely to overdraw often, said a spokeswoman. Bank representatives suggest the service, which costs $10 each day it is used, to such customers in branches and online. (Its standard overdraft fee, in contrast, is $34 with a cap of three times a day.)

Wells Fargo and Chase say customers can add funds to their checking accounts by a designated time each night to avoid overdraft fees.

The banks waive overdraft fees for certain transactions as well.

More banks and credit unions are making similar moves. RBS Citizens Financial Group Inc., a unit of Royal Bank of Scotland Group PLC, and Navy Federal Credit Union—which is based in Vienna, Va., and is the largest credit union in the U.S., with more than $57 billion in assets—recently began waiving overdraft fees for transactions of $5 or less that result in an overdrawn checking account.

RBS Citizens said it is responding to consumers' expectations to not have to pay a fee for small purchases.

Michael Christian, assistant vice president of savings and checking accounts at Navy Federal, said the credit union is trying to provide low-cost overdraft options and that more checking-account customers have been signing up.

Write to AnnaMaria Andriotis at AnnaMaria.Andriotis@wsj.com

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DEPARTMENT OF BUSINESS OVERSIGHT

Ensuring a Fair and Secure Financial Services Marketplace for all Californians

JAN LYNN OWEN
Commissioner of Business Oversight

MEDIA RELEASE

For Immediate Release
October 7, 2013

Contact:
Mark Leyes (916) 322-7180

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Common Sense Financial Tips

Avoid Future Money Problems:

- Create a budget (list all sources of income and all monthly expenses, including total owed).
- Prioritize your debts (pay most expensive interest rates first); cut all unnecessary expenses.
- Build up a rainy day fund by setting aside a small amount per paycheck in a savings account. Get into the habit of making regular deposits.
- Contact a local consumer credit counseling service for help developing a monthly budget or a debt repayment plan with creditors.

Online Payday Loans: CAUTION!

The Department strongly urges consumers to verify a lender is licensed before sharing personal information. You can verify licensure by checking **www.dbo.ca.gov** or calling 1-866-275-2677.

- Unlicensed lenders may illegally collect from your bank account directly without your permission, even if you are unable to repay the loan.
- You might be illegally charged an interest rate far higher than California law allows.
- Unlicensed Internet payday lenders might sell or pirate personal financial information.
- Lenders may be operating out-of-state or offshore, making it hard to track them down and recover your lost funds if they violate the law.

If you wish to file a formal complaint against an unlicensed lender, visit **www.dbo.ca.gov** and submit a Consumer Complaint Form with the Department of Business Oversight.

TOLL-FREE 1-866-275-2677

CALIFORNIA
DEPARTMENT OF BUSINESS OVERSIGHT

DEPARTMENT OF
BUSINESS OVERSIGHT

State of California
Business, Consumer Services and Housing Agency

What You Need to Know About Payday Loans

Contact the California Department of Business Oversight to check the licensing status of a payday lender, history of disciplinary actions against a payday lender or to file a complaint against a payday lender.

For additional copies of this publication, please e-mail your request to forms@dbo.ca.gov

CALIFORNIA
DEPARTMENT OF BUSINESS OVERSIGHT

Toll-Free 1-866-275-2677
TTY 1-800-735-2922

www.dbo.ca.gov

CDDTL 001 (REV. 7/13)

DEPARTMENT OF
BUSINESS OVERSIGHT

State of California
Business, Consumer Services and Housing Agency

What is a Payday Loan?

Payday loans are also called "cash advances" or "deferred deposits." With a payday loan, a borrower writes a check to a lender in exchange for a short-term cash loan. For example, a borrower writes a $300 check, pays the $45 fee, and receives $255 in cash. The lender does not cash the check until the borrower's next payday, up to 31 days.

Fees for Payday Loans:

Under California law, the maximum loan amount a consumer can borrow in a payday loan is $300. The maximum fee a payday lender can charge is 15% of the face amount of the check (up to a maximum of $45). Additional fee restrictions apply for military servicemembers and their dependents.

A 15% fee is equivalent to an annual percentage rate (APR) of 460% for a two-week loan. By comparison, a loan for a new car generally has an APR of between four and seven percent.

APR is the total annual interest rate that a borrower pays on a loan, including all fees and charges. APR is used to reveal the total cost of borrowing money.

If You Take Out a Payday Loan:

Borrow only as much as you can afford to pay back in full on your next payday. On the loan due date, some borrowers find they cannot afford to pay back the loan. Borrowers are encouraged **not** to take out a second loan from another payday lender to repay the first, as this can lead to a cycle of debt from which it will be expensive and difficult to recover.

Loans to Military Members and their Dependents:

Because of recent changes in federal and California law that restrict payday loan fees for military servicemembers and their dependents, some payday lenders may choose not to make loans to servicemembers and their dependents.

California Laws Protect You:

- In California, all payday lenders - whether a storefront or online - must be licensed by the Department of Business Oversight if they are going to do business in the state. Visit the Department's website to verify a lender's license.
- A payday lender may only make you **one** loan (which cannot exceed $300), and may only charge a **maximum fee** of 15% of the total amount of the check (up to $45). Additional fee restrictions apply for military servicemembers.
- Payday lenders must post their California license and a fee schedule at every location.
- A payday lender **cannot** make you a new loan to pay off an existing loan.
- A payday lender **cannot** make you a new loan while an existing loan is outstanding, even if the combined balance of the existing loan and the new loan does not exceed $300.
- If your check bounces, the payday lender may charge only **one** bounced check fee (up to $15). (Be aware - your bank may charge you additional fees for insufficient funds.)
- Additional fees **cannot** be charged if you request an extension of time or payment plan. However, the payday lender is not legally required to grant your request.
- By law, the contract for a payday loan **must** be provided to you in the language you primarily used to negotiate with the lender.
- A payday lender **cannot** threaten to prosecute you in criminal court for insufficient funds.
- You may also have other legal protection under California law. If you need help or suspect violations of the law, please contact the Department of Business Oversight.

If You Have Credit Problems:

Call your creditors and ask to waive late fees, reduce the interest rate, and/or work with you to establish a re-payment schedule that will work for you.

If you have missed bill payments or have other credit troubles, you may benefit from the services of a financial counselor. Counselors help review your entire financial situation and help you develop a personalized money management plan. Be aware — just because a debt management agency claims to be "non-profit" doesn't guarantee the services are legitimate or affordable.

A reputable agency should send you free information without requiring you to provide any personal details. Look for a range of services, including budget counseling and savings and debt management classes. Avoid any that push a debt management plan as your only option before they analyze your financial situation.

Visit the **National Foundation for Credit Counseling (NFCC)** website www.nfcc.org or call Toll-Free **1-800-388-2227** for assistance with credit problems and creditors.

If You Are Facing Bankruptcy:

Recent Federal law requires mandatory credit counseling before you can declare bankruptcy. Go to: http://www.consumer.ftc.gov/articles/0224-filing-bankruptcy-what-know for help and information about Credit Counseling.

The U.S. Department of Justice Trustee Program approves organizations to provide mandatory counseling *before* you can declare bankruptcy and mandatory debtor education *after* you declare bankruptcy.

Go to: http://www.justice.gov/ust/eo/bapcpa/ccde/ to find an approved organization near you.