The New Face of Payday Lending in Ohio

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About the Housing Research & Advocacy Center

The Housing Research & Advocacy Center (the "Housing Center") is a 501(c)(3) non-profit organization whose mission is to eliminate housing discrimination and assure choice in Northeast Ohio by providing those at risk with effective information, intervention, and advocacy. The Housing Center works to achieve its mission through work in three primary areas: research and mapping, education and outreach, and enforcement of fair housing laws through testing and litigation. In addition to addressing traditional issues of housing discrimination and segregation, the Housing Center also provides research, education, and analysis of subprime and predatory lending practices and trends in the region.

Executive Summary

In 2008, the Ohio legislature passed House Bill 545, which was intended to cap the 391% interest rate charged on payday loans in the state through the enactment of the new Short-Term Loan Act that set a maximum interest rate of 28%. Even though the legislature's actions were upheld by the voters of Ohio through the passage of Issue 5 in November 2008, payday lenders are continuing to operate throughout the State of Ohio, charging rates as high as 680% – 24 times more than the rate that was approved by the legislature for such lending and one and three-quarters times the rate under the prior law. Using data provided by the Department of Financial Institutions in Ohio's Department of Commerce, the Housing Research & Advocacy Center analyzed the locations of payday lenders who have obtained new licenses in order to keep making these high-cost loans. Among the findings:

- Only 19 licenses have been issued to former payday lenders under the Short-Term Loan Act, which caps the interest rate (APR) of loans at 28%.
- To avoid the 28% rate cap of the new Short-Term Loan Act, the majority of former payday lenders in Ohio have obtained licenses under Ohio's Small Loan Act and/or the Mortgage Loan Act. There are 1,020 storefronts in Ohio making short-term loans under these two statutes.
- Since May 1, 2008, 632 licenses have been issued under Ohio's Small Loan Act (SLA) to former payday lenders and others. Under the SLA, interest and fees on a $100.00 loan are even higher than under Ohio's former payday lending statute, with an APR of 423% on a 14-day loan.
- Some lenders making loans under the Small Loan Act have used technicalities in the Act to greatly increase costs to borrowers. For example, at least one company will not make a loan for $500.00 but will make one for $505.00, because the Small Loan Act allows them to increase the origination fee by $15.00 on loans of more than $500.00. Increasing the loan amount by $5.00 increases the cost to the borrower by $15.22 and raises the APR from 107% to 185%.
- Since May 1, 2008, 653 licenses have been issued under Ohio's Mortgage Loan Act (MLA), which allows lenders to make unsecured loans. Under the MLA, interest and fees on a $100.00 loan can be $26.10, with an APR of 680% on a 14-day loan.
- An additional 125 stores have obtained licenses under the Pawnbroker Act in Ohio. Pawnbrokers may charge interest and fees on a $100.00 loan amounting to 112% APR for loans, which are typically for 30 days, rather than the 14-day term of most payday loans.
- Although the total number of storefronts offering payday loans has decreased from 2007 to 2009, such stores remain in 81 of Ohio's 88 counties. The counties with the most storefronts are Cuyahoga (121), Franklin (116), and Hamilton (87). Per 10,000 residents, the counties with the most storefronts are Fayette (6 stores, or 2.11 per 10,000 residents), Washington (12 stores, or 1.90 per 10,000 residents), and Hancock (12 stores, or 1.68 per 10,000 residents).
- In 2007, the top 10 payday lenders in Ohio operated a total of 906 stores. In the past year, none of these stores obtained a license to lend under the Short-Term Loan Act. Instead, these companies obtained a total of 978 licenses to loan under the Small Loan Act and the Mortgage Loan Act and an additional 114 licenses under the Pawnbroker Act.

The report ends by calling for the State of Ohio to enact legislation to (1) increase the minimum term of loans under the Small Loan Act and Mortgage Loan Act to 90 days so as to allow legitimate loans to be made under those statutes, while requiring payday lenders to use the Short-Term Loan Act for loans of between 31 and 90 days; (2) prohibit payday lenders from issuing a loan in the form of a check and then charging a borrower an additional fee to cash that check; and (3) extend the protection of the Consumer Sales Practices Act to loans made under the SLA and MLA to provide greater protection to Ohio's consumers.

Introduction

In two previous reports, the Housing Research & Advocacy Center and Policy Matters Ohio examined and analyzed the vast expansion of payday lending[1] across the State of Ohio, finding that after payday lending was legalized in Ohio in 1996, the number of stores grew quickly, reaching 1,638 stores by 2007 – a fourteen-fold increase in just eleven years.[2] The earlier research also found that payday lenders could be found across the state, in 86 of Ohio's 88 counties.

Until late 2008, payday lenders operated under Ohio's Check-Cashing Lender Act, which allowed lenders to make short-term loans of up to $800.00 payable on the date of a borrower's next paycheck, typically 14 days. Under these laws, lenders charged fees and interest at an annual percentage rate (APR) of up to 391%. (See Table 1.)

Table 1
Payday Loan Costs in Ohio Under Previous Law, 14-Day Loan

Amount Borrowed	Origination Fee	Interest Charge	Total Amount Due	APR
$100.00	$10.00	$5.00	$115.00	391%
$500.00	$50.00	$25.00	$575.00	391%
$800.00	$72.50	$40.00	$912.50	367%

Source: Housing Center's calculations based on previous Ohio law.

The extremely high interest rates associated with payday lending, combined with the short term of the loans, led many individuals to become trapped in a cycle of debt, often taking out additional payday loans to pay off previous ones.[3] In addition, previous research showed the tremendous difficulty many borrowers faced in attempting to pay off a loan in such a short time, particularly individuals on a fixed income.[4]

Although the Ohio legislature and Ohio voters both affirmed their intent to cap short-term lending at an annual percentage rate of 28%, our research shows that the vast majority of payday lenders have continued to operate in Ohio, often making loans at rates *higher* than under the old law. Between May of 2008, when the legislature passed H.B. 545 capping the APR of short-term lending, and February of 2009, lenders in Ohio have obtained 632 new licenses under the Small Loan Act and 653 new licenses under the Mortgage Loan Act. Under these laws, lenders are making loans at rates of up to 680% for a 14-day loan, 24 times the rate contemplated by the legislature and people the of Ohio and nearly one and three-quarters the previous rate of 391%.

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[1] Although Ohio law refers to these types of loans as "check cash loans," we use the most common term "payday loan," as the loans are typically due on the date of a borrower's next paycheck.
[2] Housing Research & Advocacy Center and Policy Matters Ohio, "Trapped in Debt: The Growth of Payday Lending in Ohio" (2007) and "The Continued Growth of Payday Lending in Ohio" (2008).
[3] Id.
[4] Id. Research also suggests that many payday lenders targeted low-income, elderly, and disabled borrowers. *See* Ellen E. Schultz and Theo Francis, "High-Interest Lenders Tap Elderly, Disabled," *The Wall Street Journal*, February 12, 2008.

House Bill 545: Ohio's Attempt to Regulate Payday Lending

The drastic increase in the number of payday lenders from 1996 to 2007, combined with the usurious terms on these loans, raised concerns of the negative impact the payday lending industry was having on individuals, families, and communities in Ohio. These factors gave rise to what ultimately became House Bill 545, a bipartisan effort to regulate the payday lending industry in Ohio.

House Bill 545 aimed to protect consumers from the harmful fees and terms of payday loans by repealing the previous Check-Cashing Lender Act and replacing it with a new Short-Term Loan Act. Under this new law, the fees and interest charges on short-term loans are capped at a 28% APR. In addition, loans may not be for less than 31 days, allowing borrowers a greater chance to improve their financial situation and repay the loan without needing to obtain another one, and borrowers are limited to a maximum of four short-term loans per year.[5] (See Table 2).

House Bill 545 was passed by the legislature on May 20, 2008, and signed by Governor Ted Strickland on June 2, 2008. Because of an attempt by the payday lending industry to repeal the law through an initiative placed on the ballot, the law did not become fully effective until after the November 2008 election.

TABLE 2
COMPARISON OF OHIO'S OLD CHECK-CASHING LENDER ACT AND NEW SHORT-TERM LOAN ACT

Loan Terms	**Check-Cashing Lender Act** (Former R.C. 1315.39 & 1315.40)	**Short-Term Loan Act** (New R.C. 1321.39 & 1321.40)
Maximum loan amount	$800.00	$500.00
Duration of a loan	Not more than 6 months	Not less than 31 days
Requirement that copy of loan contract be given to the borrower	No provision	Yes
Maximum annual percentage rate (APR) of loan	391% for 14-day loan up to $500.00; 367% for 14-day loan of $800.00	28%, regardless of amount

Source: Housing Center analysis, based on information provided by Ohio Legislative Service Commission.

The Payday Industry's Response: New Forms of Short-Term Lending

Despite the passage of H.B. 545 and Issue 5, many payday lenders in Ohio have continued business, often making loans at higher rates than before the new law was enacted.[6] They have accomplished this by obtaining licenses to lend under the Small Loan Act and/or the Mortgage

[5] H.B. 545 also requires the Superintendent of Financial Institutions to establish a statewide database to track all loans made by lenders holding Short-Term Loan licenses once that number reaches 400, and set up the Financial Literacy Education Fund to increase adult financial literacy programs and educate Ohioans on their rights and responsibilities as consumers. O.R.C. 1321.21 and 1321.46.

[6] See e.g. Sheryl Harris, "Time for a true fix to payday problem." *Cleveland Plain* Dealer, February 22, 2009; Marc Kovac, "Payday Lenders finding loopholes," *Ashland Times-Gazette*, February 23, 2009; Jim Siegel, "Fixing payday-loan law is legislators' job, state says," *The Columbus Dispatch*, February 20, 2009.

Loan Act and virtually ignoring the new Short-Term Loan Act enacted by the Ohio legislature in 2008: as of February 18, 2009, there were only 19 active licenses statewide under this law.[7]

In contrast, since May 2008, a total of 632 licenses have been issued under the Small Loan Act and an additional 653 have been granted under the Mortgage Loan Act in Ohio. Some stores have more than one license, so there are 1,020 new storefronts making high-cost short-term loans under these two laws in Ohio.[8]

Although there are legitimate uses for such licenses in Ohio, the majority of stores that obtained these licenses in the past nine months have utilized them to continue making payday loans at excessive interest rates, in contrast to what the laws originally intended. Interestingly, payday lenders began obtaining these licenses in large numbers in May 2008, even before Governor Strickland signed H.B. 545 and well before the industry's unsuccessful campaign to allow lenders to continue operating under the prior law: From May 1, 2008, through November 4, 2008 (election day), lenders obtained 569 licenses under the Small Loan Act and an additional 387 license under the Mortgage Loan Act.

In addition, 125 stores have also obtained licenses under the Pawnbroker Act. Pawnbrokers operate in a much different manner than payday lenders do, but since so many payday lenders have obtained these licenses, we have included this data in the tables below.[9]

Of the 86 counties that had payday lenders operating in 2007, 78 experienced a decrease in the number of stores, two experienced an increase, and in six counties, the number of stores remained the same. Although most counties had a decrease in the number of stores, we have found that payday lending stores are operating in 81 of Ohio's 88 counties. The counties with the most storefronts are Cuyahoga (121), Franklin (116), and Hamilton (87). (See Table 3.) Per 10,000 residents, the counties with the most storefronts are Fayette (6 stores, or 2.11 per 10,000 residents), Washington (12 stores, or 1.90 per 10,000 residents), and Hancock (12 stores, or 1.68 per 10,000 residents). (See Table 4.) Data with the number of stores and licenses for each of Ohio's 88 counties can be found in Appendix A.

This distribution of stores is consistent with the findings of our previous research: while the most populous counties have the most stores overall, on a per capita basis, more stores are located in less populated, rural counties in the state.

[7] This small number is not enough to trigger the provision of the law for a statewide database to track the loans made under the statute.

[8] This does not include stores that *previously* held licenses to lend under the Small Loan Act or the Mortgage Loan Act but only new licenses issued to operators of former payday lending stores or others in Ohio since May 2008. Of the 632 new SLA licenses, six were issued to companies located outside of Ohio. Of the 653 new MLA licenses, 45 were issued to companies located outside of Ohio. The 1,020 storefronts include only new storefronts in Ohio offering loans under the SLA and/or the MLA and not license-holders under the Pawnbroker Act, the new Short-Term Loan Act, or the out-of-state license-holders.

[9] In addition, as of February 10, 2009, six former payday lenders have obtained precious metal dealer licenses, and 10 obtained credit service organization licenses. Data provided by Division of Financial Institutions.

Table 3
Ohio Counties with the Largest Number of Payday Lenders, February 2009

Rank	COUNTY	Population	Total Number of Stores
1	Cuyahoga County	1,393,978	121
2	Franklin County	1,068,978	116
3	Hamilton County	845,303	87
4	Montgomery County	559,062	62
5	Summit County	542,899	50
6	Lucas County	455,054	44
7	Stark County	378,098	36
8	Mahoning County	257,555	34
9	Trumbull County	225,116	29
10	Butler County	332,807	25
10	Lake County	227,511	25
10	Lorain County	284,664	25

Source: Housing Center analysis of data from Ohio Division of Financial Institutions, Department of Commerce.

Table 4
Ohio Counties with the Largest Number of Payday Lenders
Per 10,000 People, February 2009

Rank	COUNTY	Population	Total Number of Stores	Number of stores per 10,000 residents
1	Fayette County	28,433	6	2.11
2	Washington County	63,251	12	1.90
3	Hancock County	71,295	12	1.68
4	Muskingum County	84,585	14	1.66
5	Gallia County	31,069	5	1.61
6	Huron County	59,487	9	1.51
7	Madison County	40,213	6	1.49
8	Crawford County	46,966	7	1.49
9	Guernsey County	40,792	6	1.47
9	Union County	40,909	6	1.47

Source: Housing Center analysis of data from Ohio Division of Financial Institutions, Department of Commerce.

In 2007, the top 10 payday lenders in Ohio operated a total of 906 stores.[10] In the past year, none of these stores has obtained a license to lend under the Short-Term Loan Act; instead, these companies obtained a total of 978 licenses to loan under the Small Loan Act and Mortgage Loan Act and an additional 114 licenses to lend under the Pawnbroker Act.[11] (See Table 5.)

TABLE 5
CHANGES AMONG TOP OHIO PAYDAY LENDERS

Top Payday Lenders	2007 Check-Cashing Lender Licenses	February 2009			
		Small Loan Licenses	Mortgage Loan Licenses	Pawnbroker Licenses	Short-Term Loan Licenses
Advance America, Cash Advance Centers of Ohio, Inc.	245	243	0	0	0
Cashland Financial Services, Inc.	144	0	123	114	0
Valued Services of Ohio, LLC	111	92	92	0	0
Check into Cash of Ohio, LLC	94	61	0	0	0
Buckeye Check Cashing, Inc.	88	101	106	0	0
Great Lakes Specialty Finance, Inc.	72	39	0	0	0
Ace Cash Express, Inc.	62	0	57	0	0
Rent-A-Center East, Inc.	53	0	54	0	0
Fast Cash of America, Inc.	37	0	10	0	0
Total	906	536	442	114	0

Source: Housing Center analysis of data from Ohio Division of Financial Institutions, Department of Commerce.

Although both the Small Loan Act and the Mortgage Loan Act permit the type of lending being done by payday lenders, these businesses are utilizing the statutes in ways that were not intended by the legislature when they originally passed the statutes. For example, some payday lenders making loans under the Small Loan Act originate loans at $505.00 or $501.00, rather than $500.00. This tactical increase takes advantage of a provision in the statute which allows an origination fee of $30.00 for loans of more than $500.00, but only $15.00 if the loan is $500.00 or less. By refusing to offer a loan for $500.00, these lenders make an additional profit of $15.22 per loan and increase the APR paid by the borrower from 107% to 185%.[12]

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[10] See Housing Research & Advocacy Center and Policy Matters Ohio, "The Continued Growth of Payday Lending in Ohio," p. 8. The numbers for Advance America includes those of its subsidiary, McKenzie Check Advance of Ohio, LLC, that operated 68 locations in 2007. See Advance America 10-K with Securities and Exchange Commission, available at http://www.secinfo.com/dVut2.t1Va.d.htm#1stPage.

[11] These lenders obtained a total of 536 licenses under the Small Loan Act, 442 licenses under the Mortgage Loan Act, and 114 licenses under the Pawnbroker Act.

[12] These calculations assume that the origination fee of $15.00 is financed in the loan, as is permitted under the Small Loan Act. On a loan of $500 (with an additional $15.00 origination fee) the annual interest payment at 28% APR is $144.20, or $0.40/day. For 14 days, this corresponds to $5.53 in interest, making the total cost of the loan $520.53. The total cost of a loan of $505 is $540.75. (See Table 6, below.)

In addition, some lenders appear to be further increasing fees by issuing a check to individuals, rather than offering them their loans in cash.[13] In doing so, these businesses are then offering to cash the check for these individuals for another fee. Charging this extra fee – which was not done under prior law – represents another example of payday lenders exploiting provisions of the Ohio law to obtain the highest possible profits at the expense of Ohio consumers.

Small Loan Act

Ohio's Small Loan Act[14] allows registered companies to make loans for up to $5,000.00.[15] Interest rates are capped at 28% for loans of up to $1,000.00 and at 22% for amounts of more than $1,000.00.[16] In addition, lenders may charge origination fees of up to $15.00 for loans in an amount of up to $500.00. For loans of more than $500.00, lenders may charge an origination fee of $30.00 or 1% of the loan amount, whichever is greater.[17] Lenders are allowed to include origination charges in the principal of the loan, thereby increasing loan size and interest charges to the borrower.[18]

Since origination fees under the Small Loan Act increase for loans of more than $500.00, a loan for $505.00 (or $501.00) is much more profitable for a lender than a loan for $500.00, allowing a $15.00 increase in the origination fees. There is evidence that some former payday lenders are utilizing this loophole in the law by offering loans of $505.00 (or $501.00), but not $500.00, to maximize their profits to the detriment of borrowers.[19]

The Small Loan Act does not place any limits on the length of a loan term or on how many payments are required or permitted. Thus, lenders can structure a loan to be as short or long as they like.[20]

Under the Small Loan Act, an individual obtaining a $100.00 loan for 14 days – a typical term for a payday loan – would be required to pay up to $15.00 in an origination fee and $1.24 in interest, for a total payment of $116.24.[21] This amount works out to an annual percentage rate of

[13] Sheryl Harris, "Time for a true fix to payday problem." *Cleveland Plain* Dealer, February 22, 2009.
[14] O.R.C. 1321.01, *et seq.*
[15] O.R.C. 1321.02.
[16] O.R.C. 1321.13(A).
[17] O.R.C. 1321.13(I)(1) and (2).
[18] *See* Richard K. Schwartz, "Small Loan and Mortgage Loan Lending," in *Ohio Consumer Law*, Harold L. Williams, ed., 2007 Edition, at 541. Although the amount of interest on such a charge would be small for an individual loan – the interest on an additional $15.00 in principal at 28% interest for 14 days amounts to $0.16 – a lender making a large number of loans would increase profitability over time.
[19] *See* Check 'n Go, "Ohio SLA: Store Training," November 6, 2008, p. 1, noting that the company makes loans in amounts from "$100 to $200 in $5 increments or $505." By increasing the loan amount by $5.00, the origination fee increases by $15.00 and the APR jumps from 107% to 185%.
[20] The Small Loan Act states that with regarding to interest-bearing loans, interest shall be computed "from time to time, for the time outstanding." "Precomputed loans" are repayable in "substantially equal and consecutive monthly installments." *See*, e.g., O.R.C. 1321.13(C) and (D).
[21] These calculations assume that the origination fee of $15.00 is financed in the loan, as is permitted under the Small Loan Act. On a loan of $100.00 (with an additional $15.00 origination fee) the annual interest payment at 28% APR is $32.20, or $0.0882/day. For 14 days, this corresponds to $1.24 in interest.

423%, which is higher than the 391% allowed under Ohio's former payday loan law.[22] A loan of $200.00 for 14 days would have the same $15.00 origination fee, with $2.31 in interest, for a total amount due of $217.31, corresponding to an APR of 226%.[23] A loan of $505.00 for the same 14-day term would involve an origination fee of $30.00 and interest payments of $5.75, for a total payment of $540.75.[24] This corresponds to an APR of 185%. (See Table 6.)

Table 6
Small Loan Act Costs in Ohio, 14-Day Loan

Amount Borrowed	Origination Fee	Interest Charge	Total Amount Due	APR
$100	$15.00	$1.24	$116.24	423%
$200	$15.00	$2.31	$217.31	226%
$505	$30.00	$5.75	$540.75	185%

Source: Housing Center calculations based on Ohio law.

Mortgage Loan Act

Ohio's Mortgage Loan Act,[25] also referred to as the Second Mortgage Loan Act, allows registered companies to make loans secured by real estate and personal property in addition to unsecured loans.[26] Interest rates are capped at 25% for loans.[27] In addition, lenders may charge origination fees of up to $15.00 for unsecured loans less than $500.00.[28] For unsecured loans of $500.00 but less than $1,000.00, lenders may charge an origination fee of $30.00.[29] Loan origination charges may be included in the principal amount of the loan, thereby increasing the loan amount and the interest charges to the borrower.[30] In addition, the Mortgage Loan Act permits lenders to charge a "credit investigation" fee of up to $10.00 per loan.[31]

[22] Loans with terms shorter than 14 days would have higher APRs, while loans of longer than 14 days would have lower APRs.
[23] These calculations assume that the origination fee of $15.00 is financed in the loan, as is permitted under the Small Loan Act. On a loan of $200.00 (with an additional $15.00 origination fee) the annual interest payment at 28% APR is $60.20, or $0.165/day. For 14 days, this corresponds to $2.31 in interest.
[24] These calculations assume that the origination fee of $30.00 is financed in the loan, as is permitted under the Small Loan Act. On a loan for $505.00 (plus an origination fee of $30.00) the annual interest payment at 28% APR is $149.80, or $0.410/day. For 14 days, this corresponds to $5.75 in interest.
[25] O.R.C. 1321.20, 1321.21, 1321.51-1321.60, and 1321.99.
[26] *See* O.R.C. 1321.57(J)(1)(a) and (b).
[27] O.R.C. 1321.571. Although the Act sets out a maximum interest rate of 21% in one section, O.R.C. 1321.57(A), in a later section it states that as an "alternative" to the 21% interest rate permitted under Section 1321.57, a lender "may contract for and receive interest at any rate or rates agreed upon or consented to by the parties to the loan contract … but not exceeding an annual percentage rate of twenty-five per cent." O.R.C. 1321.571.
[28] O.R.C. 1321.52(C).
[29] O.R.C. 1321.57(J)(1)(b). The Act also allows an origination fee of up to $100.00 for loans of at least $1,000.00 but less than $5,000.00. For loans of $5,000.00 or more, an origination fee of $250.00, or 1% of the loan amount, whichever is greater, is permitted. O.R.C. 1321.57(J)(1)(b).
[30] O.R.C. 1321.51(D) and 1321.57(J)(3).
[31] O.R.C. 1321.57(H)(c).

The Mortgage Loan Act also does not place any limits on the length of a loan term or on how many payments are required or permitted. Thus, as with the Small Loan Act, lenders utilizing the Mortgage Loan Act can structure a loan to be as short or long as they like.

Under the Mortgage Loan Act, an individual making a $100.00 loan for 14 days – a typical term for a payday loan – would be required to pay up to $15.00 in an origination fee, $10.00 in a credit investigation fee, and $1.10 in interest, for a total payment of $126.10.[32] This amount works out to an annual percentage rate of 680%, which is substantially higher than the 391% allowed under Ohio's former payday loan law.[33] A loan of $200.00 for 14 days would have the same $15.00 origination fee and $10.00 credit investigation fee, with $2.06 in interest, for a total amount due of $227.06, corresponding to an APR of 353%.[34] A loan of $505.00 for the same 14 day term would involve an origination fee of $30.00, a credit investigation fee of $10.00, and interest payments of $5.13, for a total payment of $550.13.[35] This corresponds to an APR of 233%. (See Table 7.)

Table 7
Mortgage Loan Act Costs in Ohio, 14-Day Loan

Amount Borrowed	Origination Fee	Interest Charge	Credit Investigation Fee	Total Amount Due	APR
$100	$15.00	$1.10	$10.00	$126.10	680%
$200	$15.00	$2.06	$10.00	$227.06	353%
$505	$30.00	$5.13	$10.00	$550.13	233%

Source: Housing Center's calculations based on Ohio law.

<u>Pawnbroker Act</u>

Although pawnbrokers are often thought of as lenders of last resort, charging extremely high fees, our research shows that the rates charged for 14-day loans under the Small Loan Act and the Mortgage Loan Act far exceed those of a pawn loan.

Under Ohio's Pawnbroker Act,[36] individuals can obtain credit by pledging personal property as collateral. Interest rates are five percent (5%) for each month or portion of a month.[37] In addition, pawnbrokers can charge individuals up to $4.00 per month as a storage fee.[38]

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[32] These calculations assume that the origination fee of $15.00 is financed in the loan, as is permitted under the Mortgage Loan Act, but that the credit investigation fee is not financed. On a loan of $100.00, the annual interest payment at 25% APR is $28.75, or $0.0788/day. For 14 days, this corresponds to $1.10 in interest.

[33] Loans with terms shorter than 14 days would have higher APRs, while loans of longer than 14 days would have lower APRs.

[34] These calculations assume that the origination fee of $15.00 is financed in the loan, as is permitted under the Mortgage Loan Act, but that the credit investigation fee is not financed. On a loan of $200.00, the annual interest payment at 25% APR is $53.75, or $0.1473/day. For 14 days, this corresponds to $2.06 in interest.

[35] These calculations assume that the origination fee of $30.00 is financed in the loan, as is permitted under the Mortgage Loan Act, but that the credit investigation fee is not financed. On a loan for $505.00, the annual interest payment at 25% APR is $133.75, or $0.3664/day. For 14 days, this corresponds to $5.13 in interest.

[36] O.R.C. 1321.20 and 4727.01-4727.99.

[37] O.R.C. 4727.06(A).

[38] O.R.C. 4727.06(B)(1).

Under the Pawnbroker Act, an individual obtaining a $100.00 loan for 30 days – a typical term for a pawn – would be required to pay $5.20 in interest and $4.00 in fees, for a total payment of $109.20.[39] This amount works out to an annual percentage rate of 112%. A loan of $200.00 would have interest payments of $10.20 and $4.00 in fees, for a total payment of $214.20 and an annual percentage rate of 86%.[40] A loan of $505.00 would have interest payments of $25.45, $4.00 in fees, and a total payment of $534.45, corresponding to an APR of 71%.[41] (See Table 8.)

Table 8
Pawnbroker Act Costs in Ohio, 30-Day Loan

Amount Borrowed	Origination Fee	Interest Charge	Storage Fee	Total Amount Due	APR
$100	n/a	$5.20	$4.00	$109.20	112%
$200	n/a	$10.20	$4.00	$214.20	86%
$505	n/a	$25.45	$4.00	$534.45	71%

Source: Housing Center's calculations based on Ohio law.

Summary of Borrowing Costs

For loans of $100.00, payday lenders are now making even higher profits than under Ohio's former law, charging interest rates of up to 680% under the Mortgage Loan Act or 423% under the Small Loan Act, compared to the previous maximum amount of 391%. For larger loans, the APRs are lower than under the former law, although they remain extremely high: 233% for a loan of $505.00 under the Mortgage Loan Act and 185% under the Small Loan Act. (See Table 9.) These rates, which far exceed rates under Ohio's new Short-Term Loan Act, as well as typical credit card rates and even rates allowed under the Pawnbroker Act, clearly illustrate that the state has not adequately regulated short-term credit costs for individuals.[42]

Table 9
Cost of Borrowing

Statute	$100	$200	$505
Check-Cash Lender Act (repealed)	391%	391%	388%
Short-Term Loan Act	28%	28%	28%
Small Loan Act	423%	226%	185%
Mortgage Loan Act	680%	353%	233%
Pawnbroker Act	112%	86%	71%

Source: Housing Center's calculations based on Ohio law.

[39] These calculations assume that the storage fee of $4.00 is financed in the loan. On a loan of $100.00, the monthly interest payment at 5% per month APR is $5.20.
[40] These calculations assume that the storage fee of $4.00 is financed in the loan. On a loan of $200.00, the monthly interest payment at 5% per month APR is $10.20.
[41] These calculations assume that the storage fee of $4.00 is financed in the loan. On a loan of $505.00, the monthly interest payment at 5% per month APR is $25.45.
[42] The APRs calculated in Table 10 reflect loan terms of 14 days for all loans except for those made under the Pawnbroker Act, which are calculated based on a 30-day term.

Conclusions & Recommendations

After allowing payday lending to flourish in Ohio for 11 years, in 2008, the legislature, Governor Strickland, and the people of the State of Ohio clearly expressed their intent to limit the cost of such short-term loans. However, the payday lending industry has evaded these restrictions, virtually ignoring the Short-Term Lending Act and its 28% rate cap. Instead, they have been using Ohio's Small Loan Act and Mortgage Loan Act in ways that allow interest charges as high as 680% on a $100.00 loan, even higher than those under Ohio's former law. Such an outcome is inconsistent with the intent of the legislature as well as the voters.

The Small Loan Act and the Mortgage Loan Act were enacted to provide Ohio consumers with options to obtain small amounts of credit. When used responsibly by lenders, these laws allow borrowers to access credit at fair rates. However, in the past year, payday lenders have used the provisions of these laws to originate loans for very short terms and with extremely high interest rates.

In order to prevent these laws to be used by the payday lending industry to continue making such high-cost loans, the Housing Research & Advocacy Center recommends the following:

1. **Increase the minimum terms for loans under the Small Loan Act and the Mortgage Loan Act to 90 days.** In passing H.B. 545, the legislature made clear that short-term loans must have a term of at least 31 days and have an APR (including fees) of no more than 28%. Increasing the minimum term of loans made under the SLA and MLA would allow legitimate lenders to continue using those laws to make short and medium-term loans while making all loans of between 31 and 90 day subject to Ohio's Short-Term Loan Act. This 90-day minimum term is consistent with guidance from the Federal Deposit Insurance Corporation (FDIC) on small loans which "encourage[s] institutions to utilize a reasonable time frame for the repayment of closed-end credit, e.g., at least 90 days."[43] Furthermore, increasing the loan term under these laws will also have the effect of decreasing the APR of loans made under them. For example, a $100 loan made under the SLA for 90 days would have an APR of 66%, compared to the 423% for a 14-day loan under the same law.

2. **Revise the Consumer Sales Practices Act (CSPA) to cover lenders making loans under the Small Loan Act and Mortgage Loan Act.** Ohio's Consumer Sales Practices Act is intended to ensure that consumers in the state are not unfairly taken advantage of by unscrupulous businesses. In enacting H.B. 545, the legislature explicitly made the CSPA applicable to lenders making loans under the Short-Term Loan Act, believing that this would ensure that all lenders making such short-term loans were covered by the law. Payday lenders in Ohio have evaded these restrictions, which provide important protection to Ohio consumers, by not obtaining licenses under this statute. Amending the CSPA to extend its application to SLA and MLA license-holders can help protect Ohio consumers from unfair and deceptive practices

[43] FDIC, "Affordable Small-Dollar Loan Guidelines," Press Release, June 19, 2007, available at www.fdic.gov/news/newspress/2007/pr07052a.html. Although the guidance is not binding on payday lenders, who are not FDIC-regulated, the principles behind it are equally applicable to all short-term lenders.

and will enable the Ohio Attorney General will have the means to enforce the full spectrum of Ohio's consumer laws against businesses that attempt to deceive consumers. Such a change is consistent with the recommendations of a recent report by the National Consumer Law Center which noted that by "excluding most lenders," Ohio's law has "significant gaps in coverage."[44]

3. **Amend Ohio's check cashing statute to prohibit lenders from issuing a loan in a check and then charging a borrower a fee to cash that same check.** News reports indicate that payday lenders in Ohio have exploited every opportunity to "nickel and dime" their customers, issuing them loan checks and then charging them to cash those checks. Charging 3% of the value of a $100.00 check to cash it can make the cost of a $100 loan reach 502% (under the Small Loan Act) to 759% (under the Mortgage Loan Act). Such a practice should be clearly prohibited under Ohio law.

[44] Carolyn Carter, "Consumer Protection in the States: A 50-State Report on Unfair and Deceptive Acts and Practices Statutes," National Consumer Law Center, February 2009, p. 14.

Appendix A

Number of Payday Lenders and Types of License by County								
		#	New Licenses from 5/1/08-2/19/09					
County	**Population in 2000**	**Payday Lenders 2007**	**Short Term**	**Small Loan**	**Mortgage Loan**	**Pawn Broker**	**Total New Licenses**	**Total Stores**
Adams County	27,330	3	0	0	1	1	2	1
Allen County	108,473	12	1	5	5	2	13	10
Ashland County	52,523	10	0	2	1	0	3	3
Ashtabula County	102,728	12	0	7	6	1	14	11
Athens County	62,223	7	0	2	1	0	3	3
Auglaize County	46,611	5	0	3	3	1	7	5
Belmont County	70,226	25	0	5	4	1	10	9
Brown County	42,285	3	0	0	2	1	3	2
Butler County	332,807	40	0	16	16	2	34	25
Carroll County	28,836	6	0	1	0	0	1	1
Champaign County	38,890	6	0	2	3	2	7	4
Clark County	144,742	17	0	10	7	2	19	13
Clermont County	177,977	16	0	6	4	1	11	8
Clinton County	40,543	8	0	2	2	1	5	3
Columbiana County	112,075	20	0	7	6	3	16	13
Coshocton County	36,655	5	0	1	2	1	4	3
Crawford County	46,966	10	0	6	4	1	11	7
Cuyahoga County	1,393,978	163	2	81	66	3	152	121
Darke County	53,309	6	0	1	2	1	4	3
Defiance County	39,500	7	0	2	1	1	4	3
Delaware County	109,989	6	0	3	3	2	8	6
Erie County	79,551	10	0	4	4	1	9	7
Fairfield County	122,759	12	0	6	5	1	12	8
Fayette County	28,433	6	0	2	5	1	8	6
Franklin County	1,068,978	189	8	54	78	8	148	116
Fulton County	42,084	7	0	1	1	0	2	2
Gallia County	31,069	8	0	3	3	1	7	5
Geauga County	90,895	4	0	3	1	0	4	3
Greene County	147,886	16	0	5	7	1	13	9
Guernsey County	40,792	10	0	2	5	0	7	6
Hamilton County	845,303	125	5	47	52	6	110	87
Hancock County	71,295	11	0	8	6	1	15	12
Hardin County	31,945	4	0	2	2	1	5	3
Harrison County	15,856	2	0	0	1	0	1	1
Henry County	29,210	4	0	1	2	1	4	2
Highland County	40,875	7	0	2	4	1	7	5
Hocking County	28,241	6	0	2	3	1	6	4
Holmes County	38,943	3	0	1	1	0	2	2
Huron County	59,487	11	0	3	6	2	11	9
Jackson County	32,641	6	0	1	2	1	4	2
Jefferson County	73,894	18	0	6	3	1	10	8
Knox County	54,500	9	0	2	4	1	7	6
Lake County	227,511	40	0	19	15	2	36	25
Lawrence County	62,319	15	0	3	4	2	9	6
Licking County	145,491	18	0	8	11	1	20	16
Logan County	46,005	6	0	3	5	1	9	6

Lorain County	284,664	34	1	14	15	2	32	25
Lucas County	455,054	67	1	26	20	6	53	44
Madison County	40,213	8	0	2	4	1	7	6
Mahoning County	257,555	50	0	22	22	2	46	34
Marion County	66,217	13	0	3	4	1	8	6
Medina County	151,095	14	0	6	5	1	12	10
Meigs County	23,072	3	0	0	1	1	2	1
Mercer County	40,924	4	0	2	3	1	6	4
Miami County	98,868	18	0	7	3	2	12	10
Monroe County	15,180	2	0	0	0	0	0	0
Montgomery County	559,062	89	1	35	34	13	83	62
Morgan County	14,897	1	0	0	0	0	0	0
Morrow County	31,628	2	0	0	0		0	0
Muskingum County	84,585	16	0	8	8	2	18	14
Noble County	14,058	1	0	0	0	0	0	0
Ottawa County	40,985	0	0	0	0	0	0	0
Paulding County	20,293	1	0	0	0	0	0	0
Perry County	34,078	5	0	0	1	1	2	1
Pickaway County	52,727	9	0	3	4	1	8	5
Pike County	27,695	5	0	1	2	1	4	3
Portage County	152,061	8	0	3	2	1	6	5
Preble County	42,337	3	0	2	2	1	5	3
Putnam County	34,726	2	0	1	0	0	1	1
Richland County	128,852	22	0	8	8	1	17	14
Ross County	73,345	12	0	5	6	1	12	10
Sandusky County	61,792	6	0	3	3	1	7	5
Scioto County	79,195	12	0	4	4	1	9	8
Seneca County	58,683	7	0	3	4	0	7	6
Shelby County	47,910	7	0	2	2	1	5	4
Stark County	378,098	67	0	29	18	4	51	36
Summit County	542,899	68	0	39	23	4	66	50
Trumbull County	225,116	39	0	18	16	2	36	29
Tuscarawas County	90,914	14	0	4	2	1	7	5
Union County	40,909	7	0	3	4	1	8	6
Van Wert County	29,659	1	0	2	2	0	4	3
Vinton County	12,806	0	0	0	0	0	0	0
Warren County	158,383	16	0	5	6	2	13	9
Washington County	63,251	19	0	7	5	3	15	12
Wayne County	111,564	18	0	4	3	1	8	6
Williams County	39,188	7	0	1	1	1	3	2
Wood County	121,065	10	0	4	1	2	7	6
Wyandot County	22,908	3	0	0	1	0	1	1
Total	11,353,140	1,624	19	626	608	125	1,378	1,056

Source: Housing Center analysis of data from Ohio Division of Financial Institutions, Department of Commerce.

Notes: "Total Stores" column does not include stores that obtained a license under the SLA or MLA prior to May 1, 2008. An additional six lenders located out-of-state obtained licenses under the SLA and an additional 45 lenders located out-of-state obtained licenses under the MLA since May 1, 2008. These stores are included in the total number of licenses listed in the report but are not included in the Ohio storefront data.