Policy Matters Ohio

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Keys for Collateral

How auto-title loans have become another vehicle for payday lending in Ohio

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Beginning in 2012, Policy Matters and other observers around Ohio began tracking auto-title lending as a troubling development in payday lending. Our subsequent investigation reveals that at least two companies are making payday loans in Ohio using vehicle titles as collateral.

Like storefront payday lending, auto-title lending carries a triple-digit annual percentage rate (APR), has a short payback schedule, and relies on few underwriting standards. But the new loans may be even more dangerous for struggling families than the more established storefront payday loans – auto-title loans are often larger and risk repossession of vehicles upon which many Ohioans depend for their livelihood.

Key findings

- At least two lenders are selling auto-title loans, circumventing Ohio's payday-loan regulations.
- Like "traditional" payday loans, auto-title loans have high interest rates and short payback periods.
- Auto-title loans are often larger than payday loans, and risk vehicle repossession.

A brief history

Policy Matters has researched payday lending for five years. Our initial investigation found more than 1,600 payday stores, located in all but two of Ohio's 88 counties. Prior state law legalized payday lending in 1996, allowing lenders to charge an APR of 391 percent – a total of $15 for every $100 borrowed. Families on an annual budget of less than $45,000 would be ill-equipped to pay back payday loans given their short time frame and high cost. In fact, families facing a shortfall would barely have the money to pay back the principal in two weeks, much less interest and fees.

In 2010, the Ohio legislature passed the Short-Term Loan Act, which imposed an APR cap of 28 percent on fees and interest; a 31-day minimum term; a cap of four loans per year; and a maximum of $500 per loan. Voters supported the new law by a two-to-one ratio.

Despite this legislation, payday lending in Ohio remains virtually unchanged. Instead of registering and operating under the new law, lenders have circumvented the legislation and begun operating under laws intended for other purposes. In terms of transparency and cost, they may even have gotten worse. Lenders using the Small Loan Act and the Mortgage Loan Act have been found to:

- Issue loans as checks or money orders and charge cashing fees up to 6 percent, which allows the cost of a $200 loan to climb above 600 percent APR;
- Sell online loans that carry larger principal and are even more expensive. On a $200 loan, a borrower could pay between $24 and $34 more for a loan online than in a company's store;
- Accept unemployment, Social Security, or disability checks as collateral.

Credit Service Organizations

Laws regulating Credit Service Organizations (CSOs) were meant to protect consumers from companies that charge high fees but provide little in the way of credit relief or assistance. Ohio law allows CSOs to take payment for improving buyers' credit ratings, obtaining credit for a buyer, providing advice, and other services.

The CSO payday lending model has opened the door to auto-title lending. Some lenders, including Ohio Neighborhood Finance, LLC (doing business as Cashland), have a minimum loan amount for their CSO auto-title loan of $1,500. The CSO model is being used specifically to get around Ohio's payday loan law, is more expensive than traditional payday loans, and allows for bigger loans.

Our investigation also found that companies operating under the CSO statute are flouting the requirement that requires the arranger and provider of credit to be separate entities. Since the CSO model is used solely to evade Ohio's 28 percent rate cap, there is no evidence that legitimate credit repair services are being offered to or provided for borrowers.

Auto-title lending

Auto-title lenders in Ohio are selling loans under two state lending laws. One company, Ace Cash Express, directly sells auto-title loans using the Ohio Mortgage Loan Act. Except for Ace's use of auto titles rather than post-dated checks as collateral, these loans look like traditional storefront payday loans. Through store visits, phone calls, public records requests, and online research, Policy Matters explored how this model of auto title lending currently works in Ohio.

One licensed CSO, LoanMax, sells auto-title loans by brokering loans with third parties. There are several differences between using a CSO license and the Ohio Mortgage Loan Act license that Ace uses to sell its loans. LoanMax's 30-day loan term is longer than the term of two weeks or less at Ace and storefront lenders. The amount of the CSO auto-title loan can be much higher, with quotes ranging from $2,500 to $10,000. The loan amount depends on the value and condition of the automobile, store policy, and the amount requested.

Court rulings

Ohio's Ninth District Court of Appeals ruled in favor of a lower court decision that a payday lender could not use the mortgage law to collect interest on a short-term, single payment loan. The court said a lender must be licensed under the Short-Term Loan Act to charge 28 percent interest; if the lender does not have the correct license, it can only collect interest at the usury rate of 8 percent. This ruling would appear to prohibit use of CSOs or the Mortgage Loan Act to make auto-title loans at current interest rates. While this decision currently applies only to Lorain, Medina, Summit, and Wayne counties, a supportive ruling by the Ohio Supreme Court would set precedent statewide.

Recommendations

The Ohio Department of Commerce and the state's attorney general have the authority and documentation to prohibit companies from making payday and auto-title loans under the CSO statute, and they should do so. In addition, the Ohio General Assembly should take steps to specifically prohibit auto-title lending. These basic steps would go a long way toward protecting Ohioans from predatory lending practices, which are opposed by an overwhelming majority of voters in the state.