Texas Catholic Conference of Bishops
THE PUBLIC POLICY VOICE OF THE CHURCH

Agenda Topic 6:
Social Concerns

Brief: Payday & Auto Title Loans

86th Regular Session, Policy Paper No. 30 of 40 February 19, 2019

Key Points:
1. Lenders use a loophole that subverts the spirit of the Texas Constitution.
2. Low-income working Texans make good faith efforts to repay these loans.
3. We support HB 1258, SB 110, HB 190, & SB 186 to rein in payday lenders.

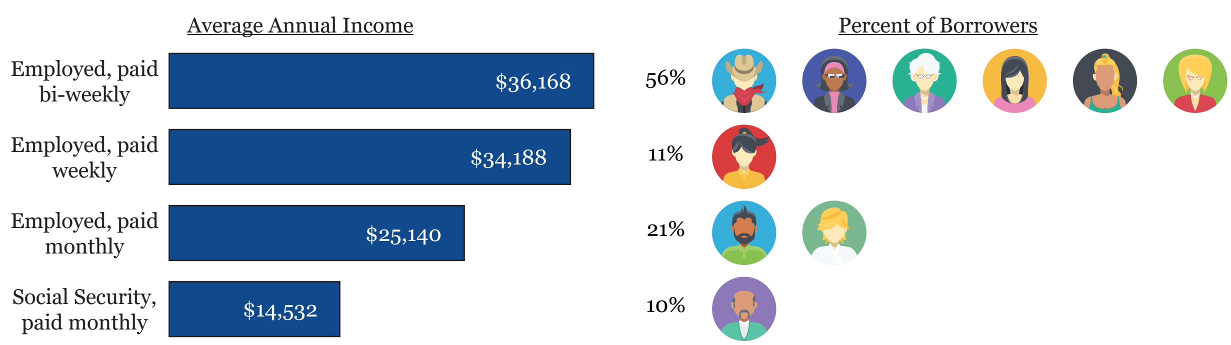
A Catholic perspective: We oppose usurious loans in accord with the Lord's order: "If you lend money to my people, the poor among you, you must not be like a money lender; you must not demand interest from them."[1] Usury includes not only excessive interest, but any interest that exceeds the principal.[2] However, civil law sometimes leaves acts unpunished not because they are just, but because they are advantageous; charging interest on loans has fallen into this category since at least the 15th century.[3] Yet Texans can at least improve laws which permit predatory lenders to oppress the poor with excessive interest and loans designed to trap borrowers in cycles of debt.

We have seen payday and auto title lending storefronts flood shopping centers and neighborhoods. Our parishes and Catholic Charities witness the high cost of being poor every day as we assist families forced into alarmingly high debt to cover unexpected expenses. Accordingly, we work to curtail such loans out of care for human dignity, the poor and vulnerable, and the common good.

Texas law and policy: Since 1891, the Texas Constitution's maximum legal interest rate has been 12 percent annually; all interest in excess of this is void.[4]

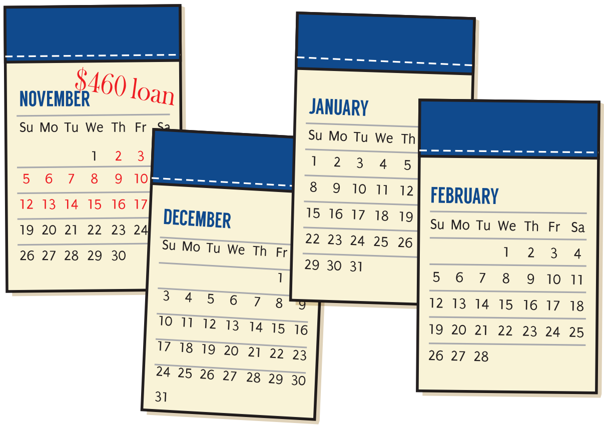
While the constitutional limit applies to interest charged by lenders, it does not apply to *fees* that are charged by *loan-brokers*, which are third party businesses that arrange, service, and guarantee a loan.[5] All payments and communication with a borrower are managed by lenders, but the borrower is also obligated to pay the loan-broker's fees. Thus, brokers effectively operate within a legal loophole which

Figure 1: Average Texas borrower income and percent of borrowers with listed income (2016)



Source: CFPB, *Supplemental findings on payday, payday installment, and vehicle title loans*. June 2016. Page 69 and 75, tables 9 and 10.

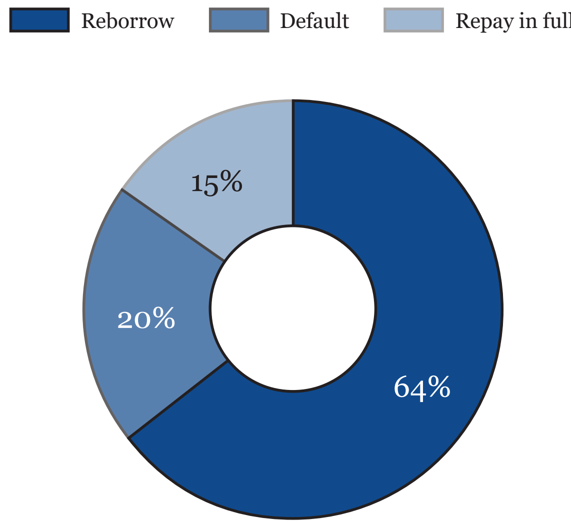
Figure 2: Average loan and time in debt (2016)



While the average *first* loan term is 17 days, borrowers in Texas averaged 6 loans per year and therefore spent an average of 115 days—one-third of a year—in debt.

Source: CFPB, *Supplemental findings on payday, payday installment, and vehicle title loans*. June 2016. 67.

Figure 3: Percent of first-time borrowers who reborrow, repay, or default (2014)



Source: CFPB, *Data Point: Payday Lending*. March 2014. 26.

contradicts the principles and spirit of the Texas Constitution. Texas is the only state in the Union permitting such a lending structure.

Payday and auto-title loans are marketed as short-term solutions that compassionately help Texans with unexpected expenses.[6] Market data indicates otherwise.

Figure 1 illustrates that the average annual income of Texans who use payday loans ranges from $36,000 to $14,500.[7] While the primary income for a majority of borrowers (56 percent) is a bi-weekly paycheck, a majority of borrowers (58 percent) also receive monthly government benefits as part of programs for the disabled, the elderly, and retired workers.[8]

The average payday loan debtor will borrow $460 and have an average loan term of 17 days, but because Texas borrowers average 6 loans annually, they spend 115 days—one-third of the year—in payday loan debt (Figure 2).[9] Figure 3 illustrates that 64 percent of this industry's customers are reborrowers.[10] Texas' case is not unique: national studies indicate that 90% of all loan fees are paid by consumers who borrowed seven or more times; 75% are paid by consumers borrowing 11 or more times.[11]

In sum, this industry receives its revenue primarily from low-income, working Texans who cannot fully repay their loans due to excessive fees, despite making repeated good faith efforts to do so, including frequently paying more in fees than the original loan principal.

Key bills summaries: **HB 1258, SB 110** would include loan fees in the Constitutional interest rate cap.

HB 190 requires that payday and auto-title lenders verify a borrower's ability to repay.

SB 186 limits the APR of payday and auto-title loans to 36 percent during a declared disaster.

Call to action: Please visit txcatholic.org/poverty to find and contact your lawmaker. Please also pray for Texas and for our legislators, that they may defend our poor and vulnerable neighbors as they work for the common good.

Endnotes

1. Ex. 22:24. See also: Ez. 18:17, 18:8; Ps. 14:5.

2. Pope Benedict XIV, *Vix Pervenit [On Usury or Other Dishonest Profits]*, The Vatican, Nov. 1, 1745. Sec. 3; Thomas Aquinas, *Summa Theologica*, II.II Q. 78 Art. 1. Answer. See also Art. 2, Reply 5.

3. Thomas Aquinas, *Summa Theologica*, II.II Q. 78 Art. 1. Reply 3.

4. Texas Const., Art XVI, Sec. 11. (1891); Senate Committee on Business and Commerce, *Texas Usury Laws and Credit Counseling Services*. 2.

5. State of Texas v. The Money Store, *Amicus Brief filed by Texas Appleseed*. 5-7.

6. Texans for Financial Choice, *Real vs. Fake News*. (accessed Mar. 17, 2019).

7. Consumer Financial Protection Bureau (CFPB), *Supplemental findings on payday, payday installment, and vehicle title loans*. June 2016. 69 and 75, tables 9 and 10.

8. CFPB, *Data Point: Payday Lending*. March 2014. 14.

9. CFPB, *Supplemental findings*. 67.

10. CFPB, *Data Point: Payday Lending*. March 2014. 26.

11. CFPB, *Payday Loans and Deposit Advance Products*. April 2013. 22; 81 Fed. Reg. at 47874.