

# Indiana's Uniform Consumer Credit Code:

Reflections on key provisions

# Access to Credit

## Positives

- Homeownership
- Education
- Start a business
- Vehicle purchase
- Manage day-to-day transactions

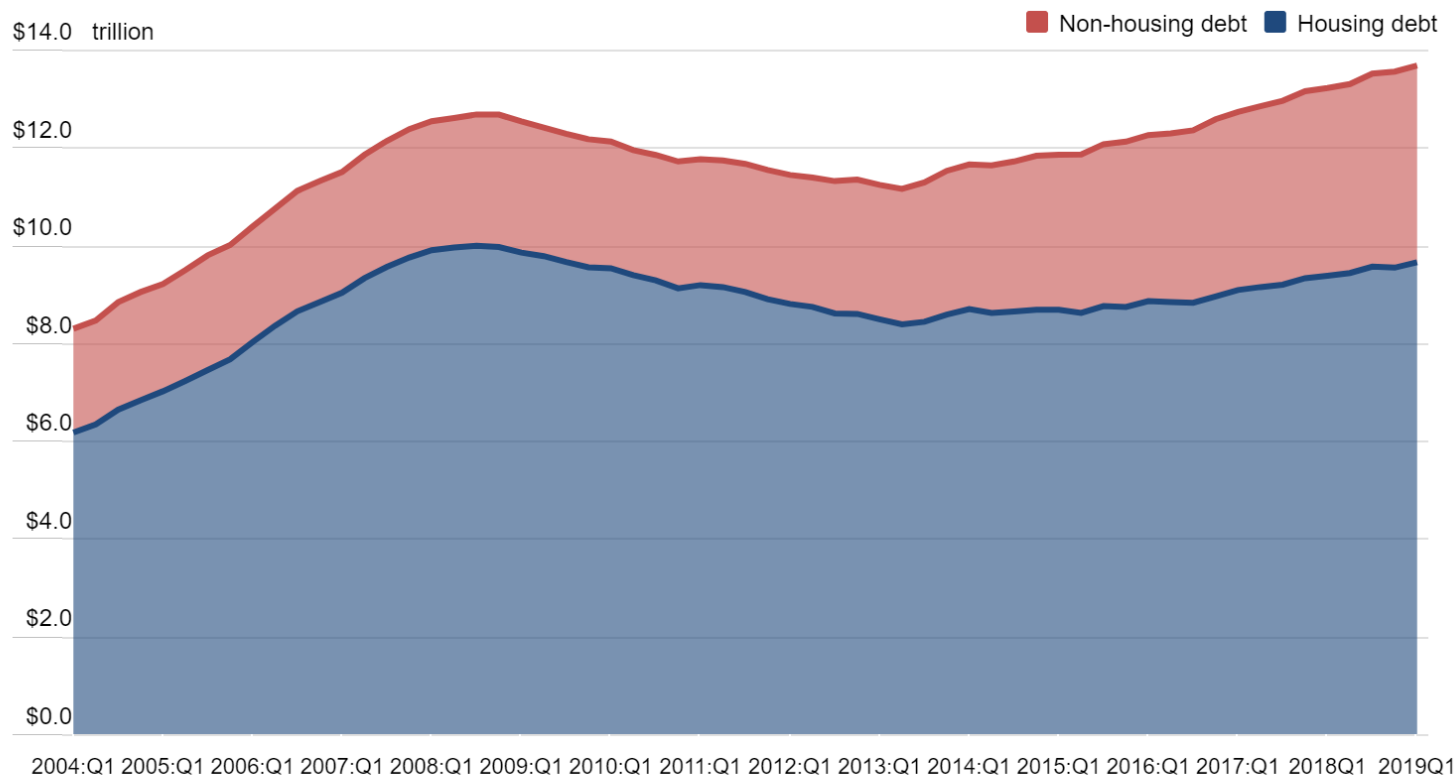
## Negatives

- Damaged credit
- Bankruptcy
- Lost housing
- Stress
- Negative health effects
- Lost vehicles
- Ripple effects on the economy

## Ability to Repay

# Current State of National Debt

## Total Debt Balance



Source: FRBNY Consumer Credit Panel/Equifax

Source: [NY FED, 2019](#)

# Debt in America: An Interactive Map

Credit can be a lifeline during emergencies and a bridge to education and homeownership. But debt, which can stem from credit or unpaid bills, often burdens families and communities and exacerbates wealth inequality. This map shows the geography of debt in America at the national, state, and county levels. How does your community compare?

Location  
Indiana X

Click on the variables below to see how debt affects people across the US

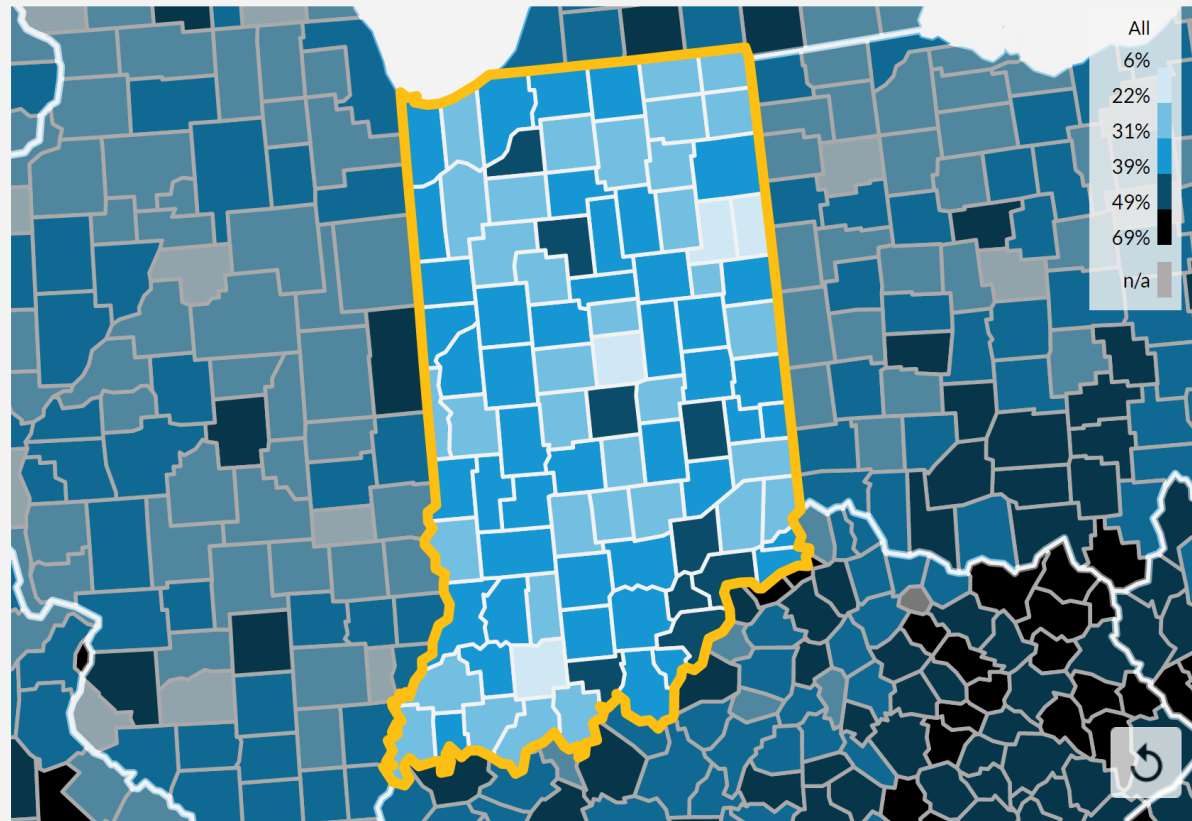
Share with any debt in collections <sup>a</sup>		
<b>34%</b>	<b>31%</b>	<b>56%</b>
ALL	WHITE	NONWHITE

Median debt in collections <sup>a</sup>		
<b>\$1,509</b>	<b>\$1,529</b>	<b>\$1,472</b>
ALL	WHITE	NONWHITE

Share with medical debt in collections <sup>a</sup>		
<b>22%</b>	<b>21%</b>	<b>33%</b>
ALL	WHITE	NONWHITE

Median medical debt in collections <sup>a</sup>		
<b>\$733</b>	<b>\$751</b>	<b>\$667</b>
ALL	WHITE	NONWHITE

Nonwhite population share		
<b>20%</b>		
ALL		



Source: [Urban Institute](#)

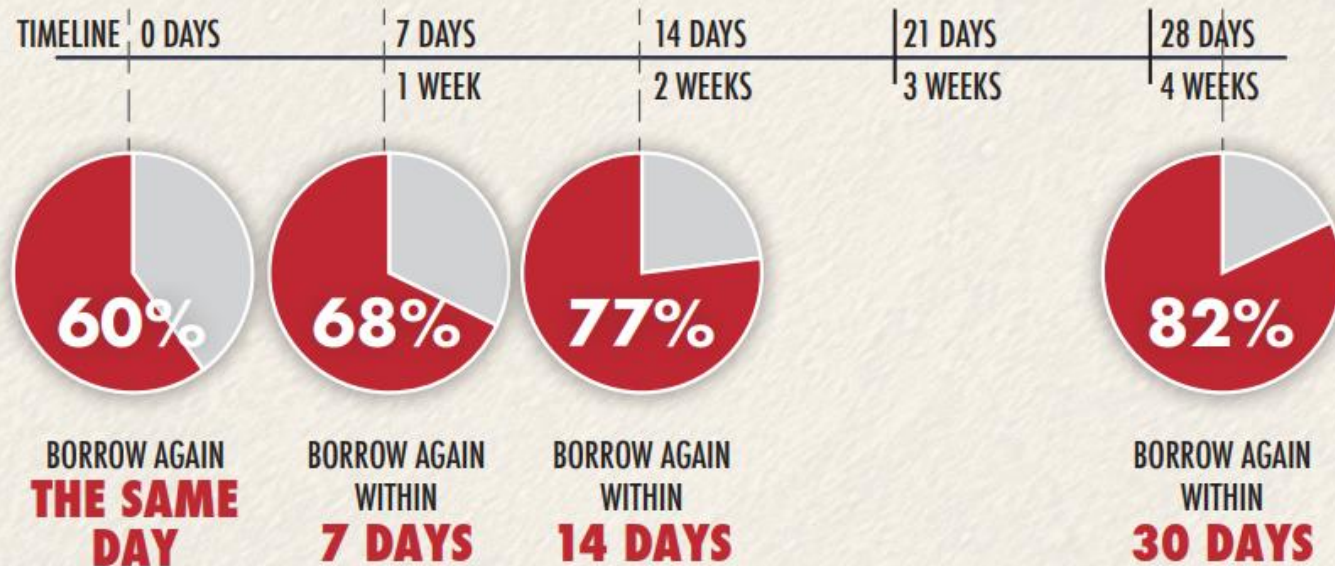
# Characteristics of Payday Borrowers

- Only 14% have enough in their monthly budget to repay the average payday loan
- A mixture of unrealistic expectations and desperation drive borrowing, with borrowers expressing a desire to stay out of long-term debt and 37% saying they would take a loan on any terms.
- 41% of borrowers turn to the same option they could have used instead of a payday loan to pay it off – such as help from a family member or selling a personal possession. One in six uses a tax refund.
- By a 3-to-1 margin, payday borrowers support more regulation.

# Indiana Payday Loan Re-borrowing Rates

82 percent of payday loan borrowers borrow another loan within 30 days of paying off the first. That initial loan, intended to be a short-term cover for financial shortfall, can easily become a long-term financial burden.

## Days Passed Since Paying Off Payday Loan Before Borrower Borrows Again



# Florida Payday Loan Trends:

*The vast majority of fees collected are from borrowers in a cycle of debt.*

	2015	2014	2013	2012	2011	2010	2009
Loans to borrower with 7 or more per year	83%	84%	85%	85%	85%	85%	84%
Loans to borrowers with 12 or more per year	57%	59%	61%	62%	63%	63%	61%

*NOTE: Detailed data does not exist for Indiana, but Florida law is similar.*

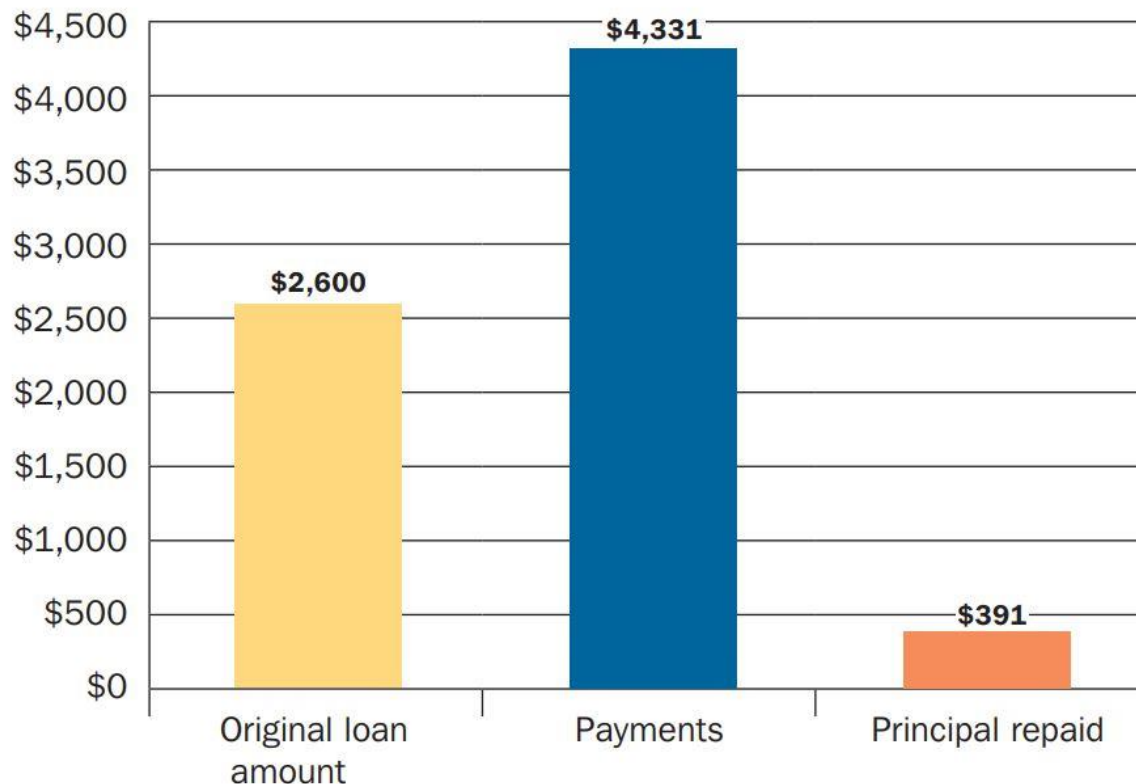
Source: [Perfect Storm: Payday Lenders Harm Florida Consumers Despite State Law](#) (citing Veritec data)

# High Interest Rates = Lender Success Even When Borrower Defaults

CHART 3

## Default After 20 Months: Payments Made & Principal Repaid

\$2,600, 96%, 42-Month Loan

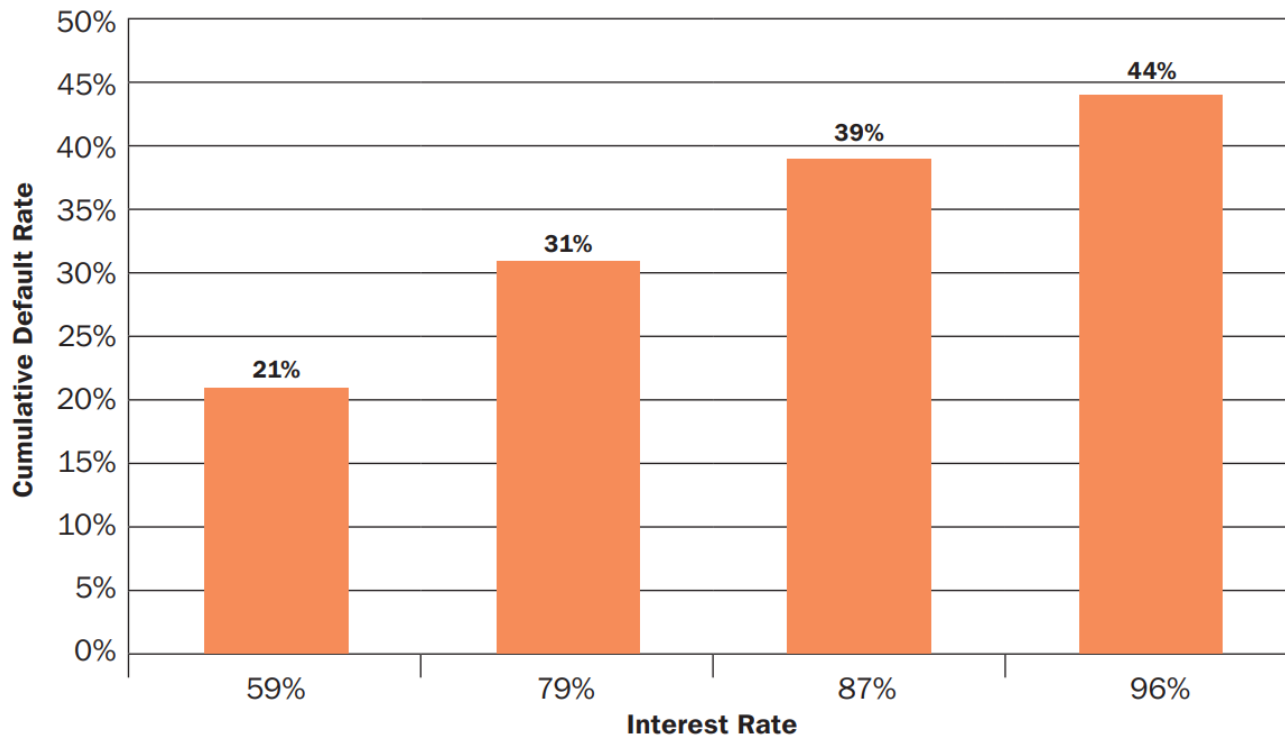


Source: [National Consumer Law Center](#)



# At Higher Rates, Lenders Can Sustain More Defaults

**CashCall's Cumulative Default Rates  
by Interest Rate for \$2,600 Loans**

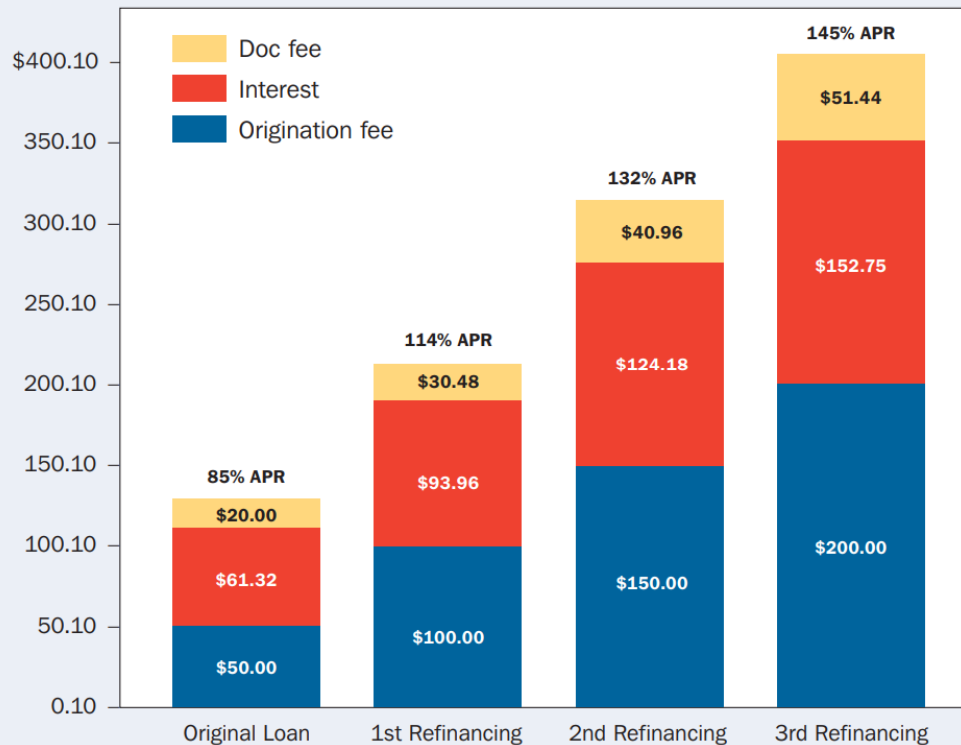


Source: Expert Report of Bruce McFarlane, De la Torre v. CashCall.

Source: [National Consumer Law Center](#)

# Loan Flipping

CHART 4  
Effect of Refinancing a \$500 Six-Month Louisiana Loan Three Times



The example assumes that 1) the borrower refinanced the loan three times, each time after making the second payment; and 2) the borrower did not obtain any new money upon refinancing, but simply refinanced the remaining balance each time so that it would be repayable over six months. The result of the three refinancings is an increase in the repayment period from 6 months to 12 months.

# Competition Doesn't Drive Pricing

State	Max charge allowed on \$300 for two weeks	Average cost to borrow \$300 for two weeks	APR
Colorado* (pre-36% cap)	\$16	\$16	129%
Florida	\$35	\$35	304%
Michigan	\$42	\$42	369%
<b>Indiana</b>	<b>\$44</b>	<b>\$44</b>	<b>382%</b>
Alabama	\$53	\$53	461%
North Dakota	\$61	\$61	530%

Source: [Pew Charitable Trusts](#)

# Indiana Licensees & Storefronts

Indiana has:

- 29 licensees
- 263 branch locations
- 228 branches: out-of-state companies

Most storefronts:

- Advance America (76)
- Check into Cash (59)



# Bank Deposit Advance Products

- Until 2013, several major banks offered “deposit advance products” similar to payday loans.

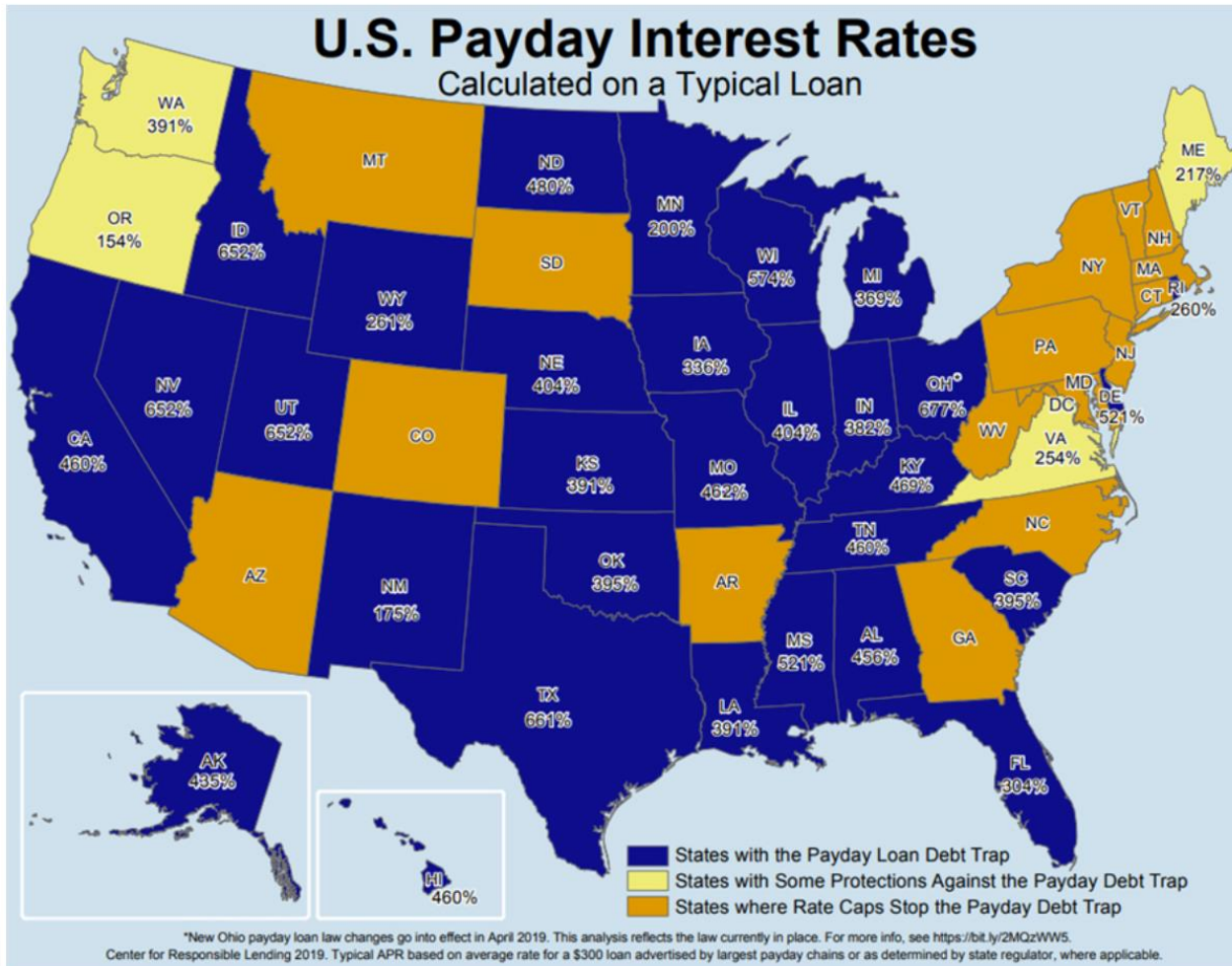
Median # Advances	Median Days Indebted
14	112

Source: [Consumer Financial Protection Bureau](#)

“...bank payday loan borrowers represented 8% of all eligible account holders but incurred 40% of debits by likely payday lenders—showing that bank payday loans were not rescuing bank customers from nonbank payday loans.

More globally, bank payday lending was not shown to have reduced nonbank payday lending...[there is no evidence that bank payday loan] volume drove down the cost or volume of nonbank payday lending, rather than adding to already unsustainable debt burdens and compounding substantial injury.” –[Comment on Proposed Recission of Ability to Repay](#)

# States Implementing Rate Caps



Source: [Center for Responsible Lending](https://bit.ly/2MQzWW5)

# In States With Rate Caps...

- Former borrowers generally report that they are better off without payday loans and express relief that the loans are no longer available
  - *93.3% of individuals who experienced financial shortfall in NC thought prohibiting payday lending either had no effect or a positive effect*
- People use a variety of strategies to manage their finances, including negotiating with current creditors, borrowing from family and friends, and using pawn shops or traditional credit products like credit cards.
  - *Arkansas borrower: "I found that I really could do without them. I work terms with my creditors. They are willing to accept something from you. I have actually paid off debts by a little at a time. I keep more money in the home and not having to pay back loans that triple the amount borrowed."*

[North Carolina Consumers After payday Lending: Attitudes and Experiences with Credit Options, Into the Light: A Survey of Arkansas Borrowers](#)  
[Who Borrows, Where they Borrow and Why](#)  
[Shark-Free Waters: States are Better off Without Payday Lending](#)  
[After Payday Loans: How do Consumers Fare When States Restrict High-Cost Loans](#)

# North Carolina After Payday Lending

## PERCENT



- Nearly nine out of ten low & moderate-income households thought payday lending was a bad thing
- Researchers concluded “no significant impact on availability of credit”
- Finance companies increased small dollar lending at 36%
- Survey respondents who experienced a financial shortfall after payday lending was no longer available used a variety of options to address them.



# Do Restrictions Drive People Online?

EXHIBIT 9:

## METHOD OF ACQUIRING PAYDAY LOANS BY STATE LAW TYPE

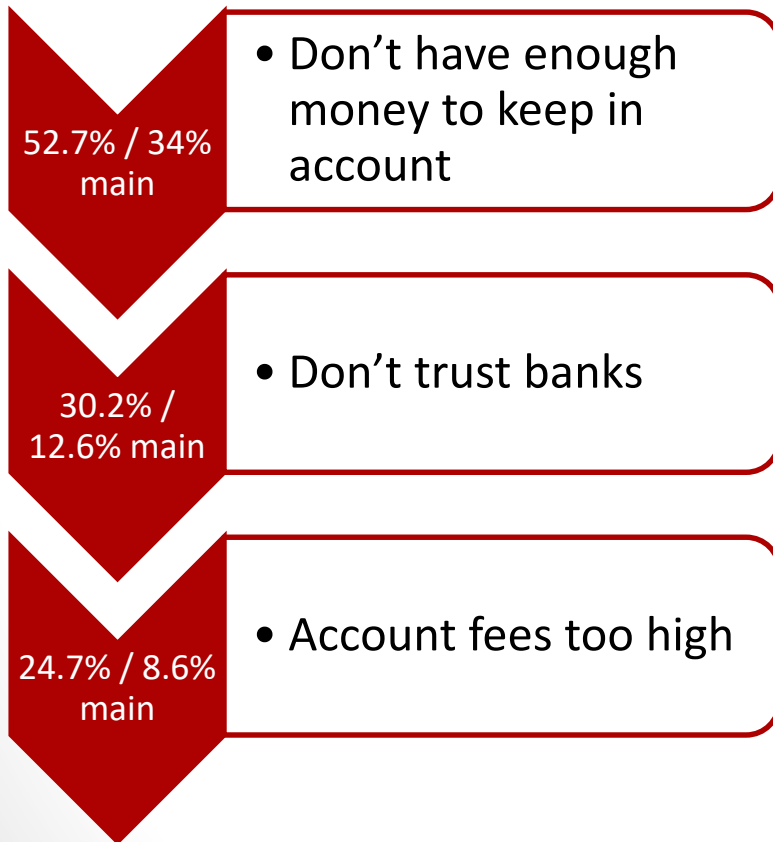
Percentage of adults reporting payday loan usage in the past five years

	BORROW FROM STOREFRONT ONLY	BORROW FROM ONLINE OR OTHER*	NUMBER OF INTERVIEWS
National	4.01%	1.48%	33,576
Permissive states	5.22%	1.37%	17,881
Hybrid states	5.06%	1.28%	5,565
Restrictive states	1.29%	1.58%	10,130

Source: [Pew Charitable Trusts 2012](#)

# Bankability -> Prime Credit

## Banked



Source: [FDIC Survey of Unbanked](#)

## Prime Credit

### Credit Invisible

- Credit building products
- Secured credit cards
- Rent-reporting services
- Push to include utility payments & cell phones

### Subprime Credit

- Fix errors
- Pay bills on time
- DON'T OPEN NEW LOANS OR LINES OF CREDIT
- PAY OFF DEBT RATHER THAN MOVE IT AROUND
- See a credit counselor

Sources: [Aspen Institute](#), [NCLC](#), [CFPB](#), [MyFICO](#)

# Recommended Practices

## Transparency

- Loan terms are clear & well understood (financial literacy)

## Freedom from Exploitation & Discrimination

- Loans are available on fair terms based on ability to repay
- Inclusive rate cap of 36% for small loans, lower for larger loans
- Prevent loan flipping with pro rata refunds & simple interest

## Adequate Redress / Enforcement

- There is accountability, access to courts
- Adequate funding for enforcement efforts
- Clear and easy complaint processes
- Debtors are offered reasonable protections

## Recognize the Public Effects

- Consumer contracts don't only affect the lender & debtor

# Christopher Peterson

- The John J. Flynn Endowed Professor of Law at the University of Utah's S.J. Quinney College of Law where he teaches contracts, commercial law, and consumer protection courses.
- Testified in Congressional hearings & has presented his research to the Federal Deposit Insurance Corporation, Federal Reserve Board of Governors, and at the White House in both Democratic and Republican administrations.
- Won Department of Defense's Office of the Secretary of Defense Award for Excellence--both bestowed in recognition of his role in promoting an Act of Congress and subsequent implementing regulations that protect military service members from predatory lending practices.

## **Select Publications:**

- *American Usury Law and the Military Lending Act*, 31 Loyola Consumer L. Rev. 498 (2019) (with Paul E. Kantwill).
- *Comment, Failed Markets, Failing Government, or Both? Learning from the Unintended Consequences of Utah Consumer Credit Law for Vulnerable Debtors*, 2001 Utah L. Rev. 543