



SUSIE SCHOOFF
Director of Government Affairs

2475 Branch Street
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May 21, 2018

The Honorable Irene Bustamante Adams
Chair
Nevada Task Force on Financial Security
Nevada State Assembly
3800 Reflection Way
Las Vegas, NV 89147-4442

Dear Chairwoman Adams:

Thank you for the opportunity to submit a comment on behalf of Advance America regarding the short-term lending industry in the state of Nevada. Advance America provides consumers with critical access to credit in the form of short-term, small-dollar loan options, more commonly referred to as “payday” loans. Founded in 1997, we currently operate in 28 states, including 11 storefronts in Nevada.

Who Borrows and Why

According to the federal Consumer Financial Protection Bureau’s (CFPB) National Financial Well-Being Survey, more than 40 percent of American adults struggle to make ends meet.¹ As a result, they rely on a variety of credit solutions to manage their finances, including those offered by Advance America. Our services help hardworking Nevadan families manage periodic financial challenges and unplanned financial obligations, from medical expenses to car and home repairs.

Advance America’s customers are from middle-income, educated, working families. They are hardworking individuals – teachers, nurses, first responders, your neighbors and friends – with a median household income over \$49,000. Seventy percent of our customers own their own home, and 93 percent have a high school diploma or higher.² In order to use our services, they must have an active checking account and source of income.

Customers choose short-term, small-dollar loans because they are reliable, transparent and cost-effective. They examine their options and choose the financial service that will help them overcome their challenges most effectively. Short-term loans are often less expensive than bank and credit union programs such overdraft protection, as well as the consequences of insufficient funds and missed payments such as bounced check fees and late penalties. For many consumers, a short-term loan makes personal and economic sense, helping to bridge a gap in their finances when other financial solutions are unavailable to them.

¹ Consumer Financial Protection Bureau. (2017) Financial well-being in America. Retrieved from https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_financial-well-being-in-America.pdf

² Based on company records for 484,126 customers from March 2015 to February 2016

Our Services

The short-term loans Advance America offers involve a simple, one-time, flat fee – \$18.50 per \$100 borrowed in Nevada – that does not compound interest. The loan is typically repaid in two weeks. Whether a customer repays their loan in three days or 30 days, they pay the same one-time fee. Customers applying for a loan must provide proof of identification and source of income, as well as a bank statement.

Advance America wants to help our customers be successful borrowers who repay their loans. In fact, our business depends on it. We use a two-step qualification process to evaluate each and every customer's ability to repay a short-term loan. Our first step is to determine whether a prospective borrower is eligible to borrow. We base this decision on income, past credit performance and eligibility under all applicable state and federal lending laws. Once found to qualify, we utilize a proprietary scoring model to determine a maximum loan amount (as permitted under state limits). Using proof of income, information provided on the customer's application and external data sources, we examine dozens of different factors to determine the borrower's maximum allowable loan under both Advance America and state standards. We do not authorize loans that are more than a customer can afford to repay; doing so would make very little business sense.

Our employees sit down with every customer to assess their needs, whether it is an emergency expense or help smoothing their income over a period of time to help bridge the gap between paychecks. Many borrow from us once, repay their loan and we never see them again. Customers borrow short-term loans as often as they need to – and only as often as they need to – in order to make ends meet during times of income and expense volatility.

Further, Advance America has a long-standing commitment to offering affordable, reliable and fully disclosed short-term credit and to leading the financial services industry in consumer-friendly disclosure. We provide customers with a Simplified Disclosure, a single piece of paper designed to provide consumers even greater clarity. This straightforward document clearly lays out the obligations customers enter into when borrowing, suggests alternative products for consideration and provides contact information for industry regulators. The Simplified Disclosure was informed by customer feedback and developed in close consultation with federal and state legislators and regulators.

Customer Satisfaction

As a company, we are proud of the value we bring to our customers – reflected in our high customer satisfaction rates and low complaints filed with state and federal regulators. According to recent company data, 97 percent of customers who visit an Advance America center rate their experience as good or excellent and 93 percent of customers say they will consider Advance America in the future.

The high level of customer satisfaction is consistent across the nation and our industry and reflects how well existing short-term lending regulations effectively balance consumers' ability to access credit with meaningful consumer protection. A national survey conducted by premier polling firms Global Strategy Group and Tarrance Group found that borrowers value having this credit option, are satisfied with their experience and feel the current level of regulations suffice to protect consumers.³ In fact, 94 percent of

³ Community Financial Services Association of America. (2016) Press Release: New Survey: Payday Borrowers Are Far More Favorable Toward and Informed About Payday Loans than Voters without Payday Loan Experience.

those surveyed feel that payday loans can be a sensible decision when consumers are faced with unexpected expenses.

In Nevada, Advance America was the subject of only two complaints to state regulators in 2016, and five in 2017, out of thousands of annual transactions. Our company consistently receives “satisfactory” results—the highest possible— in exams and audits conducted by the Nevada Department of Financial Institutions. Similarly, at the federal level, short-term lending accounts for just 1.3 percent of all complaints ever filed with the CFPB, and just 0.26 percent of the 2.7 million consumer complaints received by the Federal Trade Commission in 2017.

Existing Regulations

Advance America strongly believes that a competitive, regulated financial services environment is in the best interest of our customers. Nearly every aspect of our business is regulated at the state and federal levels and we operate under strict compliance with all applicable laws. We are founding members of the Community Financial Services Association of America (CFSA), the association for the short-term lending industry. CFSA works to ensure consumer confidence in the industry through a code of “Best Practices,” which sets the standard for responsible lending with strong consumer protections and full compliance with federal and state laws.⁴

Nevada’s existing short-term lending statute features a number of critical, effective consumer protections while preserving Nevadans’ ability to access credit when they need it most. Short-term loans cannot exceed 25 percent of the borrower’s gross monthly income, and a loan cannot be extended more than 10 weeks after the end of the initial loan period. Lenders offer an Extended Payment Plan, which allows customers a longer repayment period at no additional charge. No other financial service allows customers to unilaterally change the terms of their loan after the fact.

At the federal level, a number of laws and agencies regulate our business and help protect our customers. The CFPB is our primary federal regulatory, with supervisory authority to implement consumer protections across financial service providers, including non-bank entities.

In October 2017, the CFPB released its final rule governing the short-term lending industry nationwide. This federal rule offers a new set of arbitrary and overly complex requirements and will significantly restrict Americans’ ability to borrow short-term loans. While currently under review by the Bureau, the rule as finalized is scheduled to go into effect in mid-2019, preempting existing state laws governing short-term lending and harming millions of Americans’ ability to access credit.

In addition to its own rulemaking authority, the CFPB has responsibility for overseeing and enforcing the following federal laws:

Retrieved from <https://www.prnewswire.com/news-releases/new-survey--payday-borrowers-are-far-more-favorable-toward-and-informed-about-payday-loans-than-voters-without-payday-loan-experience-300235446.html>

⁴ Community Financial Services Association of America. Member Best Practices. Retrieved from <https://www.cfsaa.com/member-best-practices>

- Federal Truth in Lending Act (TILA): Advance America clearly defines key terms of the customer loan agreements and fully discloses all associated fees and charges, ensuring that consumers are able to compare the costs of credit options.
- Fair Debt Collection Practices Act (FDCPA): Even though the FDCPA does not apply to Advance America as a first-party collector, Advance America is committed to using legal, professional and non-aggressive collection practices.
- Fair Credit Reporting Act (FCRA): Advance America does not report negative payment information to credit agencies or use traditional credit scores. However, we do notify consumers when a credit denial is based on information from their credit report, and we provide them with the identity of the provider of the report in order to verify its accuracy.
- Equal Credit Opportunity Act (ECOA): We do not discriminate based on race, color, religion, national origin, sex, marital status, age or because someone receives public assistance.
- Gramm-Leach Bliley Act (GLBA): Advance America has technological and operational safeguards in place to protect our customer's information. Additionally, we notify consumers of how their information may be shared and allow them to opt out of this sharing.
- Electronic Funds Transfers Act (EFTA): Advance America ensures all electronic payments and check conversions are properly authorized by the customer. Furthermore, we do not require electronic payment authorizations for a product involving multiple payments.
- Unfair, Deceptive, Abusive Acts and Practices (UDAAP): Advance America is committed to transparency and clear disclosures regarding all costs and material terms of our products. We believe in truthful marketing and non-abusive collection efforts.

Beyond those laws overseen by the CFPB, the John Warner National Defense Authorization Act limits the total charges on a small loan of 91 days or fewer to a 36 percent Military Annual Percentage Rate. We do not offer loans to military personnel.

Unintended Consequences of Overregulation

Some state and federal policymakers have called for even more stringent regulations governing short-term loans. But consumers' need for credit does not disappear once regulated short-term credit is restricted or eliminated through overregulation. Instead, they must suffer the consequences of unmet financial obligations, or be forced to choose costlier or less regulated options, such as expensive overdraft programs, unregulated internet loans or even bankruptcy. States with prohibitions and excessive restrictions on regulated payday loans have reported substantial increases in the number of residents borrowing illegal, unregulated short-term loans.

Yet despite clear consumer need, high satisfaction and few complaints, critics of the short-term lending industry consistently push for "reforms," such as proposals to cap the annual percentage rate (APR). While commonly used to represent the cost of long-term loans, APR is an inappropriate measure of the cost of a short-term loan, as it represents the implied annual interest rate, and assumes that a short-term loan is extended 26 times – or every two weeks – during a year, with the customer paying a new fee each time. APR caps create an environment that is not economically viable for many lenders, as they are unable to cover basic operating costs, such as wages, rent and utilities. For example, under a 36 percent APR cap, a \$100 two-week loan would yield just a \$1.38 fee – less than 10 cents per day. No business – not a credit union, not a bank – can lend money at that rate without being subsidized.

Instituting an APR cap on the fees for short-term loans is an effective ban of the service and fails to address consumers' need for credit, instead leaving them with one less credit option. In fact, after Georgia and North Carolina implemented an interest rate cap and regulated lenders ceased operations in both states, the Federal Reserve Bank of New York found that consumers "bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 ('no asset') bankruptcy at a higher rate."⁵ Oregon reported similar unintended consequences to its rate cap, with complaints about unregulated Internet lenders doubling.⁶

South Dakota is the most recent state to effectively ban short-term loans. A survey conducted in the months following the ban found that former customers are being set back financially. Over one-third of those surveyed needed a loan in the five months after the law was approved, with 58 percent of those consumers being forced to pay late fees to address short-term financial needs, and 53 percent opting to not pay utilities, cell phone, cable, and similar monthly bills.⁷ And a little over a year later, reports found that at least 162 short-term lenders did not renew their licenses, with regulators estimating that only a few dozen licensed lenders remain. Credit counselors in the state suspect borrowers simply migrated to online lenders, while pawn shops reported a rise in business.⁸

Economic Impact

In addition to being a source of credit for thousands of Nevadan residents, the short-term lending industry makes significant contributions to the state's economy. As of 2012, the last year for which economic data is available, the short-term lending industry added \$926.6 million to the state's gross domestic product, and paid \$7 million in taxes and \$66.8 million in labor income to 2,878 employees. Today, Advance America employs nearly 27 people across Nevada.

Thank you again for the opportunity to share Advance America's experience and perspective on short-term lending. We look forward to working with you and the Nevada Task Force on Financial Security to ensure Nevadans continue to have access to the credit options they need and value, while providing meaningful consumer protections. Please do not hesitate to contact me with any questions; I can be reached at sschoof@advanceamerica.net.

Sincerely,

Susie Schooff
Director of Government Affairs

⁵Morgan, D. and Strain, M. (2007) Payday Holiday: How Households Fare After Payday Credit Bans. Federal Reserve Bank of New York. Retrieved from http://www.newyorkfed.org/research/staff_reports/sr309.pdf

⁶ Kish, M. (2011, February 11) Borrowers Flock to Online Payday Lenders. *Portland Business Journal*. Retrieved from <https://www.bizjournals.com/portland/print-edition/2011/02/11/borrowers-flock-to-shady-payday-lenders.html>

⁷ Advance America. (2017, April) Short-term Loan Ban Impact Study. Retrieved from <https://www.advanceamerica.net/news/study-shows-consumers-suffer-after-short-term-lending-ban>

⁸ Pfankuch, B. (2018, March 19) Analysis: Borrowers seek other sources after payday lenders. *South Dakota News Watch*. Retrieved from <https://www.sdnewswatch.org/stories/payday-loans-gone-but-need-for-quick-cash-remains/>