

GROWING THE MIDDLE CLASS

Anti-Payday Lending State Legislative Strategies

Derek Douglas

States should protect all working families from predatory 'payday lending,' as has recently been done for military families.

Background

Every year, payday lenders strip \$4.2 billion in excessive fees from Americans and their families. Payday lending (sometimes called cash advance) is the practice of using a post-dated check or electronic checking account information as collateral for a short-term loan. Payday lenders *do not* assess the borrower's ability to repay the loan. Instead, borrowers need only provide personal identification, a checking account, and an income from a job or government benefits, like Social Security or disability payments. Research shows that the payday lending business model is designed to keep borrowers in debt, not to provide one-time assistance during a time of financial need. According to the recent studies by the Center for Responsible Lending, borrowers who receive five or more loans a year account for **90 percent** of the lenders' business

What States Can Do:

This fall, Congress passed, and the President signed, anti-payday lending legislation designed to protect military servicemen and women from predatory payday lenders. A recent poll by the Center for American Progress shows that policies designed to protect families from abusive lending practices garner wide bipartisan support from the public. Congress' recent action has created additional momentum for states to take steps to extend these protections to all Americans. Indeed, prior to this recent federal legislation, most of the action in terms of prohibiting payday lending has taken place on the state level.

The payday lending industry has proven itself very adept and circumventing legislation designed to end payday lending, therefore, in pursuing a legislative strategy to prohibit payday lending, states should take a comprehensive approach. This would include:

- Pass legislation to cap interest rates on small sum loans (e.g., North Carolina, Georgia)
- Cutoff payday lenders' ability to evade these caps by prohibiting payday lenders from "renting a charter," or using out of state banks. This is most effective when combined with a strong banking commissioner or state financial institutions that prohibit banks from partnering with payday lenders to lend payday loans (e.g., North Carolina, Georgia)

- Limit the number of loans a person can borrow in a given period, like six months or a year (e.g., Utah, Oregon)
- Limit the number of payday lenders in a given area or neighborhood (e.g., Arizona)
- Define and prohibit "payday loans" (e.g. Oregon, Texas)
- Promote fair, non-predatory alternatives to payday lending (e.g., Credit Unions) to address the short-term financial needs of families

Over the past few years, rising debt has had a crippling effect on the financial livelihood of millions of American families. Among the most predatory practices in existence today is payday lending. It makes good sense (both political and policy-wise) for states to work to end this practice.

Derek Douglas is the Associate Director for Economic Policy at the Center for American Progress. At the Center, he also directs the Economic Mobility Program, which focuses on issues that bear directly on the economic mobility and security of low- and middle-income families—such as debt, housing, and higher education. Prior to joining the Center, he was Counsel in the Strategic Counseling Practice Group at O’Melveny & Myers LLP, Assistant Counsel at the NAACP Legal Defense and Educational Fund, Inc. (LDF), and worked in the Economic Studies Program at The Brookings Institution as a Research Assistant to Dr. Charles Schultze. He has been a frequent guest on numerous television and radio programs. He graduated from the University of Michigan with Highest Honors in Economics, and from the Yale Law School. After graduating from Yale, he clerked for The Honorable Timothy K. Lewis on the United States Court of Appeals for the Third Circuit.