

Payday Lenders' Attempted Evasions and Effective Enforcement in Pennsylvania

<p>Attempted Evasion:</p> <p>Check cashers claimed they were not making loans, instead they were just charging fees for delaying presentment of a check.</p>	<p>Effective Enforcement:</p> <ul style="list-style-type: none"> • Courts saw through this ruse. • Pennsylvania General Assembly prohibited the practice by statute. 1998, Feb. 18, P.L. 146, No. 22, § 505, codified at 63 P.S. § 2325 (a)
<p>Attempted Evasion:</p> <p>Payday lenders attempted to disguise the interest paid on the loan as a fee for purchasing a useless product or service.</p>	<p>Effective Enforcement:</p> <ul style="list-style-type: none"> • AG and Banking Dept. action took action against Ace Pays. (2005) <p><i>"It's clear to us that the web-based membership program was a ruse to engage in an illegal payday loan operation...."</i></p> <p style="text-align: right;">-Tom Corbett, as Attorney General</p>
<p>Attempted Evasion:</p> <p>"Rent-a-bank:" Payday lenders claimed to be only servicing the loan for a bank that does not have to comply with Pennsylvania law, but the bank's only significant participation in the loan transaction was to "rent" its name and its charter to third parties seeking to avoid the usury limits in states where they operated.</p>	<p>Effective Enforcement:</p> <ul style="list-style-type: none"> • Pennsylvania store fronts shut down when federal banking regulators took action against the banks. <p style="text-align: right;">Todd Mason, <i>Payday Lenders are Squeezed by FDIC</i>, Philadelphia Inquirer (Mar. 10, 2006).</p>
<p>Attempted Evasion:</p> <p>In 2006, after failing to pass legislation that would legalize payday lending at triple-digit interest rates, Advance America offered a "line of credit" product.</p> <p>5.98% interest but a \$149.95 monthly "participation fee"</p>	<p>Effective Enforcement:</p> <ul style="list-style-type: none"> • Pennsylvania Banking Department sued and the Pennsylvania Supreme Court unanimously held these were illegal loans. <i>PA Dept. of Banking v NCAS of Delaware, LLC</i>, 948 A.2d 752, 759 (Pa. 2008).
<p>Attempted Evasion:</p> <p>Payday lenders asserted that they could evade our law if they did not have a physical presence in the state and only made loans over the Internet to Pennsylvania residents.</p>	<p>Effective Enforcement:</p> <ul style="list-style-type: none"> • Banking Department issued interpretation: PA law applies to loans made over the Internet to Pennsylvania residents. • Cash America sued the Banking Dept. • The PA Supreme Court unanimously ruled that Pennsylvania law applies to loans made over the Internet to Pennsylvania residents, even if the lender is located in another state. <i>Cash America Net of Nevada, LLC v. PA Dept. of Banking</i>, 8 A.3d 282 (Pa. 2010)

Payday Lenders' Claims and The Facts

<p>Payday Lenders' Claim:</p> <p>2005: Payday lenders and their allies claim rent-a-bank payday lending will continue in Pennsylvania as justification for legalizing payday lending in the Commonwealth.</p> <p>“[T]he bill's sponsor, believes the banking partnerships will continue and said the bill is needed to address abuses...” <i>Dave Davies, Legit Lenders or Loan Sharks?, Philadelphia Daily News (Jun. 21, 2005)</i></p>	<p>The Facts:</p> <p>2006: Federal regulators crack down on the rent-a-bank scheme and payday storefronts close. The Pennsylvania Banking Department announces that it does not support legislation to authorize the loans, and the bill dies.</p> <p style="text-align: right;"><i>Todd Mason, Payday Lenders are Squeezed by FDIC, Philadelphia Inquirer (Mar. 10, 2006).</i> <i>Todd Mason, PA Senate Panel Shuns Bill Legalizing Payday Loans, The Philadelphia Inquirer, (Mar. 16, 2006).</i></p>
<p>Payday Lenders' Claim:</p> <p>2012: Payday lenders and their allies claim payday loans have “gone to the Internet, where they are impossible for us to regulate.”</p> <p style="text-align: right;"><i>Co-sponsorship Memo, HB 2191 January 17, 2012.</i></p>	<p>The Facts:</p> <p>In 2010, the Pennsylvania Supreme Court held that Pennsylvania’s usury law applies to payday loans that are made over the Internet to Pennsylvania residents, and the Banking Department successfully stops Cash America from making illegal loans to Pennsylvania residents.</p> <p style="text-align: right;"><i>Cash America Net of Nevada, LLC v. PA Dept. of Banking, 8 A.3d 282 (Pa. 2010)</i></p>
<p>Payday Lenders' Claim:</p> <p>2013: Payday lenders and their allies claim a new bill would create “micro-loans,” and the legislation “ends the practice of payday lending forever.”</p> <p style="text-align: right;"><i>Co-sponsorship Memo, SB 975 May 7, 2013</i></p>	<p>The Facts:</p> <p>SB 975 would have authorized 8 “consecutive short-term” debt-trap payday loans. And, the 8 loan limit was no limit at all since it was never triggered if a borrower simply waits 3 business days before re-borrowing, thus allowing the cycle to continue without end.</p> <p>It also would have authorized high-cost installment payday loans made without regard to a borrower’s income and expenses.</p> <p style="text-align: right;"><i>SB 975, 2013-14 Session Section 5102, definition of “consecutive short-term loan.”</i></p>
<p>Payday Lenders' Claim:</p> <p>2014: Payday lenders and their allies distribute a news article to some Pennsylvania legislators which describes a report from the Pew Charitable Trusts as “recommending changes to payday loans nationwide” and that “showcased Colorado as the way to reform payday lending,” without additional information clarifying that Pew did not recommend any changes to Pennsylvania’s law.</p> <p style="text-align: right;"><i>Erin E. Arvedlund, Your Money: Pew Urges Payday-loan Reform, Cites Colo. Changes The Philadelphia Inquirer, (Nov. 26, 2013.)</i></p>	<p>The Facts:</p> <p>Staff from the Pew Charitable Trusts send a letter to members of the Pennsylvania State Senate stating, “Pew does not recommend law changes in the 15 states, including Pennsylvania, that do not have payday lending, because the bulk of evidence does not suggest that introducing high-cost lending will be beneficial to consumers.”</p> <p style="text-align: right;"><i>June 11, 2014 Letter to PA State Senate Nick Bourke, The Pew Charitable Trusts</i></p>