

PAYDAY LENDING AND THE LAW

WHO ARE “PAYDAY LENDERS”?

“Payday lenders” loan money for a fee when you write them a personal check, and the lender promises not to deposit your check from 14 to 31 days. The check you write to them will be for the amount borrowed plus the fee.

SAY I NEED \$100. HOW CAN A PAYDAY LENDER CHARGE ME TO BORROW?

The law in South Carolina says that payday lenders can only charge you up to \$15 per \$100. So, if you need \$100, the check will be for \$115. If you need \$200, then the check will be for \$230. Even though payday lenders call this charge a fee, it has a 391% APR (Annual Percentage Rate) on a two-week loan.

HOW MUCH MONEY CAN A PAYDAY LENDER GIVE ME?

Up to \$550. When the lender makes the loan he must tell you in writing how much he is charging for the loan and the APR or interest rate on the loan. If you are not given this written contract, the lender has broken the law. It is illegal for them to give you more than that. If you borrow \$550 you will owe the lender \$632.50.

HOW MANY PAYDAY LOANS MAY I HAVE AT A TIME?

You can only have one payday loan at a time. That loan must be paid in full before you can takeout another.

HOW WILL A PAYDAY LENDER KNOW IF I ALREADY HAVE A LOAN?

When the lender makes the loan he will have to put your information into a data base used only by other payday lenders and the state agency that watches over them. The payday lender must tell you that he is putting your information in the data base and that you cannot get another loan until it is paid back. If you still owe on a payday loan and go to another lender, that lender will check the data base and by law must deny you the loan.

HOW LONG WILL I HAVE TO WAIT ONCE I PAY OFF MY PAYDAY LOAN UNTIL I CAN TAKEOUT ANOTHER ONE?

Once you pay off your payday loan, you can get a new one the next business day. After you get seven payday loans in a row, you will have to wait two days before you can takeout a new loan.

CAN THE PAYDAY LENDER HAVE ME ARRESTED IF MY CHECK DOESN'T CLEAR?

No. They can't even tell you that you can be arrested or put in jail. If your check doesn't clear, then your bank will charge you for “bouncing” a check, and the lender can bring you to Civil Court to collect the money you owe. Of course, if a payday lender deposits the check, it could cause other checks you have written to bounce. You are then responsible for any of those bad checks. In addition, you cannot be arrested by a payday lender for a “stop payment” or for closing your account.

ARE THERE OTHER RULES ABOUT WHAT PAYDAY LENDERS CAN AND CAN'T DO?

Payday Lenders must give you a written contract spelling out all of the terms. The law says that payday lenders can't sell other things to you. There are a few exceptions to this rule, such as: money orders, postage stamps, and vending machine items. Payday lenders can also provide fax services, provide wire money services or rent a P.O. Box to you. They may also accept your utility bill payments – without charging a fee.

CAN PAYDAY LENDERS DO REGULAR CHECK CASHING SERVICES TOO?

Yes, and most of them do. With regular check cashing, the business does not “hold” the check before cashing it, but cashes it immediately for a fee. They may cash your own personal check or a check made out to you by someone else.

HOW MUCH CAN THEY CHARGE ME TO JUST CASH A CHECK RIGHT THEN?

It depends on the type of check. If you want to cash a preprinted paycheck or government check for \$150 or less, then they can charge you \$3.00 or 2% of the check's Face value, whichever is greater.

That means, for all checks less than \$150, they can charge you \$3.00, and if the check is for more than \$150, then they'll charge you 2% of its value. So, if you want to cash a check for \$500, the most they can charge you is \$10. For all handwritten checks or money orders, they can charge you either \$5.00 or 7% of the check's face value, whichever is greater. That means, for all checks worth \$71.43 or less, they can charge \$5.00 to cash it. If the check is worth more than that, they can charge you up to 7% of the face value. So, if you had a handwritten paycheck for \$500, they could charge you \$35.00 to cash it. Some companies only provide check cashing services and cannot act as payday lenders. It depends on the type of license they hold.

IF I WRITE A CHECK TO A PAYDAY LENDER, WHEN WILL THEY CASH IT?

Payday lenders can cash your check any time up to one month after you write it, so be sure to ask! Most payday loans are for only 14 days. The date they cash the check must be on the contract they are required to give you. The law doesn't say when exactly they have to cash your check, but it does say they can't keep it for more than 31 days. So, if you borrow money on the July 1, they cannot contract to cash your check past August 1.

IF I STILL DON'T HAVE THE MONEY TO COVER THE CHECK, CAN I STOP THE PAYDAY LENDER FROM DEPOSITING MY CHECK BY PAYING THEM A FEE?

No, the law does not allow the borrower to pay the lender to keep your check and take a fee to keep it from being deposited. A payday lender may agree to hold the check for a longer period of time without charging you, and you should ask him if he is willing to do so, but he is under no obligation to help you. He may not ask for, or take additional money to hold your check. You can request an Extended Payment Plan (EPP), but you must ask before the due date of the loan.

WHAT IS AN EXTENDED PAYMENT PLAN?

An Extended Payment plan (EPP) lets you pay your loan in equal installments when you cannot afford to pay it all at once. You have the right to enter into an EPP with each of your payday lenders at least one time per 12-month period. You must ask for an EPP before the due date of the loan. The EPP will allow you to pay off the entire loan in at least four equal payments. For example, the maximum payday lender loan allowed by law, \$632.50, can be split up into four installments of \$158.13 every two weeks rather than paying the full amount in the same time period. It may seem more expensive to enter into an EPP than to borrow money. This is because when you flip or renew your loan it is only the fee of \$82.50 that comes out of your pocket that week instead of the higher amount of the EPP installment payment. But, in the long run it is better to sign an EPP, because it will allow you more time to pay back the loan and keep you from borrowing and paying additional fees.

CAN I JUST WRITE THE MAN ANOTHER CHECK IF THE LENDER PROMISES NOT TO CASH IT TO PAY FOR THE FIRST CHECK?

No, this is called renewing or "flipping" the contract, and it's illegal for a payday lender to do that too. The lender also cannot make a loan to you on the same day you have paid off your previous loan in full. If you have had seven loans in a row, you will have to wait two days to get your eighth loan. This is called a "cooling off period" to give you a rest from constantly renewing the same loan. You are limited to just one loan at any given time, and you can't go to another lender to borrow money to pay off another payday lender. The law says that lenders must check a data base to make sure you only have one loan at a time. Continually receiving loans from payday lenders can lead to a cycle of debt, where a consumer is trapped. Some payday lenders may try to talk you into borrowing from a company affiliated with their store so you can have more than one loan. These lenders also charge very high rates and ask you for your bank account number so they can take the money out of your checking account every two weeks.

Remember: You cannot borrow your way out of debt!

This brochure is for information only. If you have problems with a "Payday Lender" or check casher, you may want to contact your local legal services program by calling the Legal Assistance Telephone Intake Service for a referral at 744-9430 in Columbia or toll free (888) 346-5592 from other places in the state.

If you are finding yourself in trouble with debt, you may also contact your local United Way for the name and number of the consumer credit counseling agency in your area. They may be able to assist you with working out a payment plan with your creditors.

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