Report: States Battle to Restrain High-Cost Installment Loans

FOR IMMEDIATE RELEASE: AUGUST 29, 2017 || CONTACT: Jan Kruse (jkruse@nclc.org) 617.542.8010

NCLC's 50 State Survey Finds Gains and Losses of Consumer Protections Since 2015

Updated analysis of the laws of 50 states and Washington, D.C., plus maps, charts, tables, and the complete list of recommendations, tips for consumers, and an online interactive map and table sortable by state or loan amount are available at: http://bit.ly/2vRZkEf

BOSTON – The fight to rein in predatory installment loan laws in the 50 states and the District of Columbia has resulted in significant gains but also some losses for consumers over the last two years, according to an updated analysis by the National Consumer Law Center (NCLC).

"In state after state, high-cost lenders have sought to weaken state laws that protect consumers from high-cost installment loans by non-banks," said Carolyn Carter, deputy director at the National Consumer Law Center and co-author of Predatory Installment Lending in 2017: States Battle to Restrain High-Cost Loans. "Although there are some notable exceptions, consumers and their advocates have not only persuaded legislators to vote down most of these proposals, but have also won improvements in existing state laws." She cautioned, though, that the fight is by no means over–payday lenders can be expected to be back in force when legislative sessions reopen, pushing for state laws to open the floodgates to predatory installment loans.

The most striking gain for consumers is in South Dakota, which formerly placed no caps on interest rates or fees. In 2016, voters there passed a ballot initiative–by a landslide–that caps interest and fees for all loans made in the state at 36%, thereby throwing both payday lenders and high-cost installment lenders out of the state and saving South Dakotans $82 million a year. Maryland placed a firm 33% cap on credit card and other open-end lending by non-banks, so there is no longer a danger that lenders can charge a reasonable-sounding interest rate but then add on sky-high fees.

On the other hand, Mississippi legislators enacted the misleadingly named Mississippi Credit Availability Act, which allows an APR of 305% for a $500 loan repayable over six months. The state joins Tennessee, which amended its lending laws in 2014 to allow non-bank lenders to make cash advances at 279%. In recent years, these two states have done the most to open their doors even wider for predatory lending practices that gouge their citizens.

Nationally, as of mid-2017, for a $500 six-month loan:

- 21 states (up one from 2015) now cap the full APR at 36% or less,
- 12 states (down one from 2015) cap it at 36% to 60%,
- 11 states (up one from 2015) cap it at over 60%,
- 4 states have no cap other than unconscionability (a rate so high that it shocks the conscience), and
- 3 states (down one from 2015) have no cap.

For a $2000 two-year loan:

- 33 states and the District of Columbia (up one from 2015) now cap the APR at 36% or less,
- 6 states cap it at 36% to 60%,
- One state caps it at over 60%,
- 6 states have no cap other than unconscionability, and
- 4 states (down one from 2015) have no cap at all.

The report also provides the same analysis for loans structured as credit card cash advances or other open-end lines of credit. The report is a follow-up to NCLC's 2015 report, Installment Loans: Will States Protect Borrowers from a New Wave of Predatory Lending?, which found that predatory installment lenders were moving into the states, seeking statutory authority to make consumer installment loans with shockingly high interest rates. The survey analyzed which states allowed high-cost installment lending and which did not, and warned that state laws that protect citizens from predatory high-cost lending were under attack and many had dangerous loopholes.

Key Recommendations for States

With respect to state laws that affect the interest rates or fees that can be charged for consumer loans, states should:

- **Examine consumer lending bills carefully.** Predatory lenders often propose bills that obscure the high cost of the loans the bill would authorize. For example, the flex loan bill that Tennessee passed in 2014 facially allows just a 24% interest rate but, in fact, the APR is 279%. Get a calculation of the full APR, including all interest, all fees, and all other charges, and reject the bill if it is over 36%.
- **Place clear, loophole-free caps on interest rates for both installment loans and open-end credit**, in addition to closed-end, short-term payday and car title loans. A maximum APR of 36% is appropriate for smaller loans, such as those of $1000 or less, with a lower rate for larger loans.
- **Prohibit or strictly limit loan fees** in order to prevent fees from being used to undermine the interest rate cap and acting as an incentive for loan flipping.
- **Ban the sale of credit insurance and other add-on products**, which primarily benefit the lender and increase the cost of credit.

This report builds on NCLC's extensive work of predatory lending. For more information, please visit: https://www.nclc.org/issues/usury.html