Payday Lending, Bankruptcy **and Insolvency**

Richard Hynes*

Economic theory suggests that payday lending can either increase or decrease consumer welfare. Consumers can use payday loans to cushion the effects of financial shocks, but payday loans may also increase the chance that they will succumb to temptation or cognitive errors and seek instant gratification. Both supporters and critics of payday lending have alleged that the welfare effects of the industry can be substantial and that the legalization of payday lending can even have measurable effects on proxies for financial distress such as bankruptcy, foreclosure and property crime. Critics further allege that that payday lenders target minority and military communities, making these groups especially vulnerable. If the critics of payday lending are correct, we should see an increase (decrease) in signs of financial distress after the legalization (prohibition) of payday lending, and these changes should be more pronounced in areas with large military or minority populations. This article uses county-level data to test this theory. The results, like those of the existing literature, are mixed. Bankruptcy filings don't increase after states legalize payday lending, and filings tend to fall in counties with large military communities. This result supports the beneficial view of payday lending, but it may be due to states' incentives in enacting laws. This article tests the effect of a change in federal law that should have had a disparate impact according to the prior choice of state law. This second test does not offer clear support for either the beneficial or detrimental view of payday lending.

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In a typical payday loan, a consumer writes a $300 check that is payable in two weeks and receives $255 in cash.[1] These terms translate into an annual percentage rate in excess of 450% and a compounded interest rate in excess of 6,800% per year. Despite these extremely high rates, the loans are popular; some estimate that payday lenders extend as much as $50 billion in loans each year.[2]

Some scholars and consumer advocates call for strict usury limits or other laws designed to curtail or eliminate payday lending,[3] and a growing number of state legislatures have heeded their call.[4] We are also likely to see a substantial increase in federal regulation as the Dodd-Frank Wall Street Reform and Consumer Protection Act grants the new Bureau of Consumer Financial Protection authority over payday lenders.[5] This act prohibits the new bureau from setting an interest rate cap.[6] However, the new bureau might try to use its authority to regulate "unfair, deceptive or abusive" acts to sharply curtail payday lending on the grounds that these loans cause "substantial injury to consumers" without offering sufficient countervailing benefits.[7]

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[1] *See, e.g.*, Michael A. Stegman, *Payday Lending*, 21 J. ECON. PERSP. 169 (2007)("Thus, a typical example [of a payday loan] would be that in exchange for a $300 advance until the next payday, the borrower writes a postdated check for $300 and receives $255 in cash – the lender taking a $45 fee off the top")

[2] *Id.* at 170 ("Industry sources estimate more than a six-fold growth in payday loan volume in the last few years, from about $8 billion in 1999 to between $40 and $50 billion in 2004.")

[3] *See, e.g.*, Center for Responsible Lending, Springing the Debt Trap, *available at* http://www.responsiblelending.org/payday-lending/research-analysis/springing-the-debt-trap.html (last visited September 10, 2011)("36% Cap Springs the Debt Trap"), For a summary of this debate, *see, e.g.*, Ronald J. Mann & Jim Hawkins, *Just Until Payday*, 54 UCLA L. REV. 855 (2007).

[4] For example, in 2008 Ohio and New Hampshire set maximum annual interest rates below 50%. *See* National Conference of State Legislatures, Payday Lending 2008 Enacted Legislation, available at http://www.ncsl.org/programs/banking/PaydayLend_2008.htm (last visited September 12, 2011). For a list of other recent changes, *see infra* Table 1.

[5] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 214 Stat. 1376 (2010).

[6] *Id. at* § 1027.

[7] *Id. at* § 1031. For a recent article discussing the prospect for reform, *see* Jim Hawkins, *The Federal Government in the Fringe Economy*, 15 CHAPMAN L. REV. 23 (2011).

Some argue that payday loans only appear expensive if one assumes that the consumer has the same options available to the middle class critic – many payday loan borrowers are severely credit-constrained.[8] A payday loan may be less expensive than bouncing a series of checks, and payday loans may offer better credit terms than pawnshops and rent-to-own stores.[9] More importantly, payday lending may be better than no credit at all. If a payday loan allows the consumer to repair her automobile, it may save the consumer's job and prevent further financial difficulties.[10] Critics counter that payday loan borrowers do not repay their loans quickly and instead renew their loans repeatedly. Consumers can become ensared in a debt trap and incur hundreds of dollars in fees for each small loan and can lead to insolvency or bankruptcy.[11] Critics further allege that payday lenders target military and minority populations,[12] making these groups especially vulnerable. Some scholars take a more agnostic view of payday lending, arguing that this industry is unlikely to have a significant effect on the financial health of consumers because the dollar amounts involved are too small and the number of

[8] *See*, e.g., Mann & Hawkins, *supra* note 3, at 885 ("It is easy for middle-class academics that study the topic to think that this lending is unduly risky and that those that engage in it would be better advised to tighten their belts and resist the temptation to borrow."); Stegman, *supra* note 1, at 173 ("Most payday loan customers are highly credit-constrained.")

[9] *See* Mann & Hawkins, *supra* note 3, at 887-95; *See, e.g.,* Adair Morse, *Payday Lenders: Heroes or Villains*, 102 J. FIN. ECON. 28, 30 (2011)(". . . for the majority of people in my sample, no obvious alternative to a payday loan exists."

[10] *See* Morse, *supra* note 9, at 28 ("Without access to credit, these small-scale personal emergencies can lead to bounced checks, late fees, utility suspensions, repossessions, and, in some cases, foreclosures, evictions and bankruptcies."

[11] *See, e.g. See* Leslie Parrish and Uriah King, *Phantom Demand: Short-term due date generates need for repeat payday loans, accounting for 76% of total volume*, at 3 available at: http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-short-term-due-date-generates-need-for-repeat-payday-loans-accounting-for-76-of-total-volume.html (last visited September 10, 2011) ("Being trapped in payday loan debt can have dire consequences for the financial health of families and their communities. Excess fees of $3.5 billion per year are drained from trapped borrowers who vainly attempt to retire their payday loan debt. As a result, bank account closures, credit card delinquencies, delayed bill payment and medical care, and bankruptcies are more common among payday borrowers and in communities with access to payday lending and other high-cost forms of credit.").

[12] *See infra* notes 55-57, and accompanying text.

available alternatives is too great[13] or because payday lenders and other fringe credit providers take steps that ensure that their customers repay.[14] The existing empirical literature is inconclusive; some papers find results consistent with the debt trap hypothesis while others papers find results consistent with the positive or agnostic views of payday lending.

This Article adds to the empirical literature on payday lending in three ways. First, this Article makes use of the claim that payday lenders target military and minority populations. If payday lending does affect financial distress, its effect should not be uniform throughout the state. We should see a more pronounced effect in areas where payday lenders actually locate. Measuring the correlation between the actual location of payday lenders and financial distress may yield biased results because the expected amount of financial distress may affect where payday lenders choose to open their stores. We can, however, mitigate this bias by using proxies for their choice of location. This paper uses minority and military populations as proxies for the location of payday lenders. The use of these proxies also allows us to ask whether these groups are particularly vulnerable to payday lending.

The second contribution is the measure of payday lending. Like prior articles, this paper makes use of changes in state laws regulating payday lending across time. However, a review of the annual reports of public corporations reveals that, until recently, payday lenders had stores in states where their loans were illegal under state

[13] *See,* Mann & Hawkins, *supra* note 3, at 885-86 (". . . these small loans probably do not contribute substantially to financial distress and insolvency.")..

[14] Jim Hawkins, *Regulating on the Fringe: Reexamining the Link Between Fringe Banking and Financial Distress,* 86 Ind. L. J. 1361 (2011) (I argue that the link between fringe banking and financial distress is dubious. Because fringe creditors cannot rely on borrowers' credit scores to predict whether they will be repaid, creditors structure fringe credit products to virtually guarantee repayment. Because repayment is guaranteed by the structure of the transaction, it is nearly impossible for borrowers to take on unmanageable debt loads.")

law. Payday lenders were able to charge rates in excess of state usury limits by partnering with out-of-state banks,[15] but the FDIC effectively ended these partnerships in 2005.[16] This paper makes use of this change in federal law as a natural experiment; the change in federal law should have had little effect in states where payday lending was legal under state law.

This article follows the literature in using the bankruptcy filing rate as a proxy for financial distress. However, just the attorneys' fees for a bankruptcy filing can be more than a thousand dollars,[17] and many consumers may be too broke to file. This Article therefore supplements this measure with the rate at which landlords sue to evict their tenants and the property crime rate.[18]

This Article's results match the conflict currently found in the literature. The regressions that utilize changes in state law are more consistent with the beneficial view of payday lending than the debt trap hypothesis. When a state legalizes payday lending, bankruptcy filing rates tend to fall in counties with large military communities – the communities that payday lenders allegedly target. By contrast, the regressions that make

[15] For example, the 2004 Annual Report for Advance America state, "As of December 31, 2004, pursuant to our processing, marketing and servicing agreements with the lending banks, we are the processing, marketing and servicing agent for payday cash advances offered, made and funded by BankWest, Inc., a South Dakota bank ("BankWest"), in Pennsylvania, First Fidelity Bank, a South Dakota bank, in Michigan, Republic Bank & Trust Company, a Kentucky bank ("Republic"), in North Carolina and Texas and Venture Bank, a Washington bank, in Arkansas." *See* Advance America, Inc. 2004 Form 10-K, filed March 31, 2005, available at: *http://investors.advanceamerica.net/sec.cfm?DocType=Annual&Year=* (last visited September 12, 2011).

[16] *See* Mann & Hawkins, *supra* note 3, at 873 ("In July 2005, however, the FDIC issued its guidelines on payday lending. . . . In practice, these new regulations have made it impractical for state-chartered banks to continue partnering with the major national providers.") Stegman, *supra* note 1, at 179 (". . . in March 2005 the FDIC further tightened its guidance . . . render[ing] the rent-a-bank model obsolete.")

[17] *See*, *infra* note 82, and accompanying text.

[18] As discussed below, Morse also looks at property crime, *see* Morse, *supra* note 9, and Melzer uses various measures drawn from survey data. *See* Brian T. Melzer, *The Real Costs of Credit Access: Evidence from Payday Lending,* 126 Q. J. Econ. 517 (2011)

use of the change in federal law do not produce robust results that support either the beneficial view of payday lending or the debt trap hypothesis.

Section I reviews the current payday lending debate. Section II briefly describes the regulation of payday lending, and Section III presents the results. Section IV concludes.

I. The Payday Lending Debate

The fact that consumers use payday loans suggests that they believe that these loans will, on average, improve their welfare. Consumers who suffer income or expense shocks (e.g. a medical bill, a car repair, etc.) may lack the savings necessary to pay in cash. A payday loan could be a cost-effective means of paying these bills; the extremely high annual interest rates may overstate the true cost of payday loans for consumers who repay quickly. Much of the roughly $50 charged for a $300 loan may be needed to cover inherent transactions costs as other small-scale financial transactions require large fees. For example, Western Union charges $27 to send $300 within the United States.[19] The interest rate for a payday loan is dramatically higher than the rates charged by other lenders such as credit card issuers, but the consumer may have reached her credit limit, and she may be unable to find a loan on more attractive terms.[20] If the consumer is severely credit constrained, a payday loan can help her withstand these shocks and improve her welfare. On the other hand, research suggests that at least some payday loan borrowers were not credit-constrained and could have used credit cards or other sources

[19] This is the price for the on-line service. It is slightly cheaper, $24, to send money from one of their locations. *See* Compare and Price Western Union Services, *available at: https://wumt.westernunion.com/WUCOMWEB/shoppingAreaAction.do;jsessionid=dtee6Ms2Vg_nf8fQx0tCsfN?method=load&countryCode=US&languageCode=en&nextSecurePage=Y* (last visited September 10, 2011).

[20] *See* Morse, *supra* note 9, at 30 ("Research covering the last three decades finds that up to 20% of U.S. residents are credit constrained. . . When expense or income shocks arrive, banks and credit cards

to borrow more cheaply.[21] Moreover, a number of scholars allege that consumers may be unable to control their impulses or suffer from cognitive failures that cause them to unduly prefer current over future consumption.[22] For these debtors, a relaxation of their credit-constraint may reduce their welfare.

A number of prior studies have suggested that the legalization of payday lending can have substantial welfare effects and can even have measurable effects on proxies for financial distress such as the number of bankruptcy filings,[23] home foreclosures and property crimes.[24] Other scholars doubt these claims as a theoretical matter. In an earlier era some economists argued that usury limits had no real effect on debt levels because they merely caused consumers to switch to other forms of credit, such as retail store credit, that were effectively unregulated.[25] The same may be true of payday lending. In the absence of payday loans, consumers may have been able to use other substitutes to meet short term cash needs or to overspend.[26]

Some scholars suggest that the dollar amounts of payday loans are too small to have a material effect on financial hardship.[27] Those who argue that payday lending can have measurable effects claim that a problem that is small initially can lead to a much

[21] *See* Sumit Agarwal, Paige Marta Skiba & Jeremy Tobacman, *Payday Loans and Credit Cards: New Liquidity and Scoring Puzzles*, Working Paper (2009), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1327125; Susan P. Carter, Paige M. Skiba & Jeremy Tobacman, *Pecuniary Mistakes? Payday Borrowing by Credit Union Members*, (Working Paper 2010), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1707657*.
[22] *See, e.g.*, David Laibson, *Golden Eggs and Hyperbolic Discounting*, 112 Q. J. ECON. 443 (1997).
[23] *See, e.g.*, *See* Paige Marta Skiba & Jeremy Tobacman, *Do Payday Loans Cause Bankruptcy*, (Working paper 2009), *available at:* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1266215; Donald P. Morgan & Michael R. Strain, *Payday Holiday: How Households Fare After Payday Credit Bans*, (Working Paper 2007), *available at: http://www.newyorkfed.org/research/economists/morgan/papers.html*.; Petru S. Stoianovici & Michael T. Maloney, *Restrictions on Credit: A Public Policy Analysis of Payday Lending* (October 2008), *available at:* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1291278.
[24] *See* Morse, *supra* note 9, at 29.
[25] *See, e.g.*, Richard L. Peterson, *Usury Laws and Consumer Credit: A Note*, 38 J. FIN. 1299 (1983).
[26] *See* Mann & Hawkins, *supra* note 3, at 886-95.
[27] *See, e.g.* Mann & Hawkins, *supra* note 3, at 885-86 (". . . these small loans probably do not contribute substantially to financial distress and insolvency.").

larger problem. For example, Morse argues that if a consumer lacks access to payday loans and other forms of credit, even a small-scale emergency can lead to substantial delinquency fees that can in turn lead to major problems such as foreclosure, eviction to bankruptcy.[28] Industry critics argue that payday lending can ensnare consumers in a "debt trap".[29] Many debtors do not repay their loans quickly but instead roll-over their debt by taking out a new loan to repay the first loan. The Center for Responsible Lending suggests that these repeat borrowers account for the vast majority (76%) of payday loans.[30] In 2008 over twenty percent of Virginia's payday loan borrowers took out thirteen or more payday loans.[31] A recent study of Oklahoma borrowers suggest that in the first year after the average borrower takes out a payday loan, the borrower will be indebted 212 days.[32] Each time a consumer takes out a new loan, the consumer must pay a new set of fees. At roughly $15 to $30 per $100 for each two-week loan, the total fees can quickly exceed the amount originally borrowed. In a recent article Brian Melzer

[28] *See* Morse, *supra* note 9, at 29 ("Without access to credit, these small-scale personal emergencies can lead to bounced checks, late fees, utility suspensions, repossessions, and, in some cases, foreclosures, evictions and bankruptcies. The United States works very much on a fee-based system for delinquencies, such that once low-margin individuals get into distress, they often end up in a cycle of debt.")

[29] *See* Stegman, *supra* note 1, at 176 ("The strongest critics say that payday loans are the credit market's equivalent of crack cocaine; a highly addictive source of easy money that hooks the unwary consumer into a perpetual cycle of debt. . . . Empirical evidence of the rollover phenomenon and serial borrowing through payday lending abounds.")

[30] *See* Parrish and King, *supra* note 11, at 3.

[31] *See* Bureau of Financial Institutions, State Corporation Commission, Commonwealth of Virginia, The 2010 Annual Report of the Bureau of Financial Institutions: Payday Lender Licensees Check Cashers, at 7 (stating that 90,155 of 437,025 payday loan borrowers took out more than thirteen loans), available at: http://www.scc.virginia.gov/bfi/annual/ar04-08.pdf (last visited September 12, 2011). Virginia enacted new legislation that took effect in January of 2009, and the number of repeat borrowers (and the volume of payday lending in Virginia) declined precipitously. The total volume of payday loans declined from $1,327,345,367 in 2008 to just $170,998,829 in 2010. The number of individuals who received more than 13 loans declined from 309,951 in 2008 to just 1 in 2010. *Id.*

[32] *See* Uriah King & Leslie Parish, *Payday Loans, Inc.: Short on Credit, Long on Debt, available at http://www.responsiblelending.org/payday-lending/research-analysis/payday-loan-inc.pdf*

estimates that about forty percent of payday borrowers pay at least $500 in interest each year and that ten percent pay "upwards of $1000 in interest annually."[33]

In a recent article Jim Hawkins argues that "the link between fringe banking and financial distress is dubious . . . [b]ecause repayment is guaranteed by the structure of the transaction, [and] it is nearly impossible for borrowers to take on unmanageable debt loads."[34] The charge-off rate for payday loans is surprisingly low relative to other consumer loans.[35] For example, the charge-off rate for Virginia payday lenders in 2008 was about 3.2%,[36] well below the average national credit card charge-off rate of 5.5% reported by banks in that year.[37] To the extent that many payday loans are rolled-over, the low charge-off rates are very misleading. [38] Payday borrowers are not financially secure. Returning to the Virginia data again, payday lenders received approximately one bad check for every 2.5 individuals who took out a payday loan in 2008 and they charged off more than one bad check for every 4.2 individuals who took out a loan.[39] Virginia

[33] *See* Melzer, *supra* note 18, at 549.
[34] *See* Hawkins, *supra* note 14, at 1361.
[35] Some argue that the charge-off rate (bad loan losses divided by the total amount of loans made) for payday loans is so low that payday lenders need not worry about default and therefore the high interest rates are unjustified. *See, e.g.,* Stegman, *supra* note 1, at 180 ("And the payday lender doesn't have much to worry about, either. The ultimate default rate is 2% of gross loan receivables.")
[36] In 2008 Virginia's payday lenders charged-off $42,482,127 as uncollectible and extended $1,327,345,367 in payday loans. *See* Bureau of Financial Institutions, *supra* note 31, at 7.
[37] *See* Federal Reserve Board, Charge-off and Delinquency Rates on Loans and Leases at Commercial Banks, *available at:* http://www.federalreserve.gov/releases/chargeoff/chgallsa.htm (last visited September 12, 2011).
[38] To get a sense of scale, assume that there is a three percent chance that a consumer will default on each loan and that the probability of default does not depend on the number of loans. A consumer who borrows thirteen payday loans in a year has about a thirty-three percent chance of defaulting on at least one payday loan (This is just one minus 0.97 raised to the power of 13.). These assumptions are made for illustrative purposes; they are almost certainly incorrect. Consumers who take out more payday loans may be either more or less likely to default on a single loan than a consumer who just takes out one loan. In addition, the probability of default should be higher than the charge-off rate because the creditor may collect something after default. In fact, Virginia creditors are able to collect in full on more than half of the checks that initially return unpaid. *See* Bureau of Financial Institutions, *supra* note 31, at 7.
[39] 437,025 individuals took out a payday loan. 176,632 checks were returned as unpaid. The payday lenders received payments on 76,724 of these checks and they charged off 104,832 checks as uncollectible. *See* Bureau of Financial Institutions, *supra* note 31, at 7.

took steps to limit the number of loans that are rolled-over,[40] and the charge-off rate rose substantially to 9.6% in 2010,[41] slightly higher than the average credit card charge-off rate that year of 9.4%.[42] The rate at which lenders received bad checks fell slightly (one back check for every 4.3 borrowers in 2010).[43]

Payday lending did not cause the insolvency of all of these consumers. Many consumers use these loans for necessities and financial emergencies; these consumers were in financial trouble before they found their way to the payday lender. Those who defend high interest loans use this fact to argue that payday loans may even reduce financial distress by allowing the consumer to take care of immediate problems (such as overdue rent) before they can become a much worse problems (such as eviction).[44]

Whether payday lending causes or deepens financial distress or insolvency is a question that should play an important role in the policy debate. If no link is shown, critics of the industry could still argue that the tests or proxies are not sufficiently sensitive to find any effect. However, the absence of a measured effect makes it less likely that any effect is economically significant. Critics may also argue in favor of the elimination of these loans even in the absence of a rise in signs of financial distress by arguing that they are a horrible deal for consumers. However, there are a number of other goods and services that would appear to be a horrible deal for consumers in general, and

[40] For a summary of this legislation, *see http://www.ncsl.org/IssuesResearch/BankingInsuranceFinancialServices/2008EnactedPaydayLendingLegislation/tabid/12481/Default.aspx*

[41] *Id.* (showing that Virginia payday lenders extended $170,988,829 in payday loans and charged-off $16,406,588 as uncollectible).

[42] *See* Federal Reserve Board *supra* note 37

[43] *See* Bureau of Financial Institutions, *supra supra* note 31, at 7. (showing that 146,319 individuals took out a payday loan, that 50,455 borrower checks were returned unpaid and that 33,723 checks were ultimately returned as uncollectible).

[44] *See* Morse, *supra* note 9, at 29 ("Without access to credit, these small-scale personal emergencies can lead to bounced checks . . . repossessions, and, in some cases, foreclosures, evictions and bankruptcies.")

the poor in particular, and these products do not evoke the same level of passion of high interest loans.

A finding that payday loans increase financial distress or insolvency is also insufficient to show that these loans should be banned. We could probably reduce insolvency by banning consumer credit,[45] but this would almost certainly reduce welfare. If consumers consider the risk of insolvency when borrowing, no regulation is necessary. Policy-makers may, however, believe that consumers suffer from cognitive failure[46] or fail to consider the effect of their insolvency on third parties.[47] Policy-makers may, therefore, wish to have some idea of the magnitude of the effect that payday lending has on insolvency. Unfortunately, the results of the literature are inconclusive.

Some prior empirical studies support the debt trap hypothesis. Melzer uses a survey in which households report when they have difficulty paying their mortgage, rent or utility bill, when they move out of their home due to financial difficulties or when they delay medical or dental care due to financial circumstances.[48] He focuses on the response of households in three states that prohibit payday lending (Massachusetts, New Jersey and New York) and reports that households that live in counties that border states that

[45] I say probably because consumers may be rendered insolvent (at least on a cash flow basis) by involuntary claims such as tort judgments or quasi-voluntary claims such as medical bills. Consumer credit may reduce these forms of insolvency by allowing the consumer to use future earnings to pay current expenses.

[46] This argument is sometimes phrased in vague terms of "overoptimism." However, overoptimism can lead consumers to borrow either too little or too much. *See* Richard M. Hynes, *Overoptimism and Overborrowing*, 2004 BYU L. REV. 127.

[47] *See* Mann & *Hawkins*, *supra* note 3, at 884 ("Specifically, there is good reason to think that financial distress generates costs for society as a whole that are not borne by the parties to the transaction.") The effect of the externality of debt is theoretically ambiguous. Consumers may borrow too much because they fail to consider the effect of their insolvency on their friends, family or social safety net. They may also borrow too little because they fail to consider the benefits that their friends and family derive from the additional consumption possible due to the borrowing. They may also fail to consider the benefits to the social safety net if their borrowing allows them to recover from a financial shock more quickly and therefore not need as much social assistance.

[48] Melzer, *supra* note 18.

allow payday lending are more likely to report financial trouble than households in other parts of the state. He further tests whether households experience an unusual increase in financial trouble if they border a state that has recently legalized payday lending, and two of his nine measures of hardship show results that are statistically significant at the ten percent level.[49] Campbell, Jerez & Tafano examine the rate at which banks close accounts without the consent of the account holder, and they find that after Georgia banned payday lending this rate was lower in Georgia's counties than in the counties of the neighboring states.[50] Their results are consistent with the debt trap hypothesis, but they are also consistent with banks closing troubled accounts that are less profitable due to the loss of overdraft fees as consumers use a cheaper alternative – payday loans.[51]

Skiba and Tobacman use individual level data from a payday lender in Texas and find that applicants who were given a payday loan were more likely to file for Chapter 13 bankruptcy within one or two years than those who were denied the loan.[52] None of their specifications found a statistically significant effect on the rate at which consumers chose the more common form of bankruptcy, Chapter 7.[53] North Carolina banned payday lending in 2005, and a survey of low and middle income North Carolinians and former payday borrowers suggests that these groups overwhelmingly view the absence of payday

[49] "Moved out" and "Any care postponed" are statistically significant at the ten percent level, and "Any Family Hardship" and "Drug Purchase Postponed" are close.
[50] *See* Dennis Campbell, F. Asis Martinez Jerez & Peter Tufano, *Bouncing Out of the Banking System: An Empirical Analysis of Involuntary Account Closures,* (Harvard Business School Working Paper December, 2008).
[51] *See*, Brian Melzer & Donald P. Morgan, *Competition and Adverse Selection in Consumer Credit Markets: Payday Loans vs. Overdraft Credit* (Working Paper, 2008) (suggesting that the presence of payday loans may make deposit accounts riskier and less profitable), *available at:* http://www.kellogg.northwestern.edu/faculty/melzer/
[52] *See* Skiba & Tobacman, *supra* note 23.
[53] They suggest that because payday borrowers have income, they may be encouraged to file in Chapter 13 by either their lawyers or the bankruptcy judges. An alternative explanation is that these debtors may lack the cash necessary to pay the fees necessary to file in Chapter 7. By filing in Chapter 13 they can pay their attorneys over time.

lending as beneficial rather than harmful.[54] However, less than eight percent of those contacted completed the survey, and there is a very large risk that those who bothered to respond are not representative of the entire sample.

A few studies focus on the impact that payday lending has on military or minority populations. Graves and Peterson find that payday lenders tend to open stores in areas with large military populations.[55] Similarly, Stegman and Faris and the Center for Responsible Lending find that payday lenders are more likely to concentrate in areas with large minority populations.[56] My own empirical methodology relies on the accuracy of these results, but the results themselves are normatively ambiguous. It is possible that these are simply groups who have a greater need for short-term credit. Carrell and Zinman provide more direct evidence of a harmful effect; they find that payday lending reduces the performance and retention of Air Force personnel.[57]

The evidence in favor of the debt trap hypothesis must be balanced against a number of studies that are clearly inconsistent with the theory. Zinman measures changes in employment, and subjective descriptions of well-being in Oregon and Washington surrounding the imposition of a binding rate cap in Oregon in 2007.[58] His results suggest

[54] *See* University of North Carolina Center for Community Capital, *North Carolina Consumers After Payday Lending: Attitudes and Experiences with Credit Options*, *available at: http://www.nccob.org/NR/rdonlyres/4BB13853-F3B0-48E2-9A2B-1A59177018CF/0/NC_After_Payday.pdf*
[55] *See* Steven M. Graves & Christopher L. Peterson, *Predatory Lending and the Military: The Law and Geography of "Payday" Loans in Military Towns,* 66 OHIO STATE L J. 653 (2005).
[56] Michael A. Stegman & Robert Faris, *Payday Lending: A Business Model that Encourages Chronic Borrowing*, 17 ECON. DEVPT. Q. 8 (2003). *See also*, Wei Li, *et al*, *Predatory Profiling: The Role of Race and Ethnicity in the Location of Payday Lenders in California,* (Working Paper, March 26, 2009), *available at: http://www.responsiblelending.org/california/ca-payday/research-analysis/predatory-profiling.pdf*.
[57] Scott E. Carrell & Jonathan Zinman, *In Harm's Way? Payday Loan Access and Military Personnel Performance* (FRB of Philadelphia Working Paper No. 08-18, August 1, 2008).
[58] Jonathan Zinman, *Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap,* (FRB of Philadelphia Working Paper No. 08-32, December, 2008), *available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1335438*.Jonathan Zinman, *Restricting Consumer*

that Oregon's prohibition of payday lending caused: i) consumers to shift to more expensive sources of credit such as bank overdraft protection, ii) a fall in employment, iii) a fall in subjective measures of financial well-being, and iv) an increase in the rate at which telephones are disconnected. However, Zinman's data is taken from the first five months after the imposition of the rate cap, and he acknowledges that these short-run effects may differ from the long-term effects. Morse focuses on the ability of consumers to use payday lending to smooth income after a financial shock.[59] Specifically, she measures the resiliency of communities after natural disasters and finds that communities with greater concentrations of payday lenders see a smaller increase in the rate of foreclosure and a smaller increase in the crime rate. Morse acknowledges that her test focuses on the possibly beneficial effect of payday lending (helping the consumer withstand an income or expense shock) and that payday lending could also increase financial distress among consumers who suffer from cognitive failures.[60]

Morgan uses the Survey of Consumer Finance and finds that consumers who are deemed to be more vulnerable to predatory lending are less likely to report missing a debt payment if they live in a state that allows payday lending.[61] Critics of payday lending may argue, however, that a single missed debt payment does not adequately capture the concept of a debt trap. Payday lending may indeed help the consumer mitigate a temporary setback by allowing her to borrow more to pay old debts. However, an increased debt burden may increase the chance that the consumer experiences more

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Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap, 34 J. Banking & Fin. 546.

[59] *See* Morse, *supra* note 9, at 38-43.

[60] *Id.* at 29 ("Because I do not identify the net benefit of payday lending across the distribution of borrowers, my results . . . do not speak to the effect on those habitually falling to temptation. In this sense, payday lenders can be both heroes and villains.")

[61] Donald P. Morgan, *Defining and Detecting Predatory Lending*, (Working Paper, 2007), *available at: http://www.newyorkfed.org/research/economists/morgan/papers.html*.

serious credit problems. Morgan & Strain find that states that legalize payday lending tend to experience a decline in variables capturing household credit problems relative to other states, and that states that abolish payday lending experience an increase in these variables.[62] Specifically, they find that complaints against debt collectors, automobile and mobile home repossession rates, and bankruptcy filings all increase in states that ban payday lending and decrease in states that liberalize restrictions on payday lending. Their results rest on the effects of legal changes in just four states, but Stoinanovici & Maloney also use state level bankruptcy data and changes in the regulation of bankruptcy filing, and they too find no evidence that payday lending increases bankruptcy filings.[63] However, the use of state level data may mask any adverse effects on the groups that are allegedly the targets of payday lenders: minorities and the military. Lefgren & McIntyre use zip code level data and find no evidence in their cross-sectional regressions that payday lending impacts the bankruptcy filing rate.[64] However, they do not test for a possible interaction between payday lending and military and minority communities, and the use of a single time-period makes it much more difficult to control for the effect of omitted variables.

II. The Regulation of Payday Lending

Consumer advocacy groups provide thorough summaries of the laws regulating payday lending,[65] and so this section will only outline some basic elements of the law to

[62] *See* Morgan & Strain, *supra* note 23.
[63] *See* Stoianovici & Maloney, *supra* note 23.
[64] *See* Lars Lefgren & Frank McIntyre, *Explaining the Puzzle of Cross-State Differences in Bankruptcy Rates*, 52 J. L & ECON. 367 (2009).
[65] *See, e.g.*, Consumers Union, National Consumer Law Center & Consumer Federation of America, Small Dollar Loan Products Score Card, *available at:* http://www.consumerlaw.org/issues/payday_loans/index.shtml. Mann & Hawkins also provide a good overview of the law. *See* Mann & Hawkins, *supra* note 3, at 871-80.

motivate the tests presented below. Part A describes the state laws regulating payday lending, and Part B describes the federal law.

A. State Laws Regulating Payday Lending

Most states have usury laws that prohibit loans with very high interest rates. Early payday lenders argued that these laws did not apply because they were not making loans and that they were charging fees instead of interest.[66] Lenders have also sought to evade usury limits by disguising their loans. For example, the Consumers Federation of America claims that a growing number of lenders recharacterize payday loans as short term internet access contracts with up-front cash rebates.[67]

More recently, payday lenders have succeeded in lobbying for explicit regulations that exempt them from standard usury laws.[68] These laws vary along several dimensions including the requirements to obtain a license, the disclosures that a lender must provide to a consumer, the number of times that a lender can "roll-over" a loan, and the number of loans that a consumer can have at any one time. Some of these differences could have real effects on consumers, especially in states that have databases that allow the regulator to gather real-time data from all payday lenders. However, this Article will focus solely on whether payday lending is prohibited in a state.

This article makes use of the time-series variation in payday lending. Payday lending has always been illegal in some states and always legal in others due to a lack of usury restrictions. However, the wave of legislation exempting payday lenders from

[66] *See* Jean Ann Fox, *Unsafe and Unsound: Payday Lenders Hide Behind FDIC Bank Charters to Peddle Usury*, Consumers Federation of America, 2004, *available at: www.consumerfed.org/pdfs/pdlrentabankreport.pdf* .
[67] *Id.*
[68] *Id.*

usury laws occurred in the late 1990s and early years of this century (see the Appendix), and this paper matches these changes to measures of financial distress.

B. Federal Regulation

Many generally applicable consumer lending laws (such as the Truth in Lending Act) apply to payday loans, and in 2007 Congress prohibited lenders from charging more than 36% interest on loans to military personnel and their dependents.[69] However, the most significant federal legislation for the purposes of this paper's analysis is the ability that federal law grants to federal and state banks to charge interest in excess of the usury limits imposed by the state where the borrower resides. According to the National Bank Act, a nationally chartered bank can charge any rate permitted by the state where it is located,[70] and the Federal Deposit Insurance Act gives state chartered banks the same right.[71] Some lenders partnered with out of state banks so that they could lend in states with strict usury limits.[72] In 2000 and 2001 the Comptroller of the Currency took steps to prevent nationally chartered banks from forming partnerships with payday lenders, and in 2005 the FDIC adopted regulations designed to discourage state chartered banks from forming these partnerships.[73] According to Mann & Hawkins, "by early 2006, the era of charter-renting had come to an end."[74]

One could argue that payday lending was legal in every state until the FDIC eliminated the partnerships between payday lenders and out of state banks. However, this argument almost surely overstates the importance of these partnerships. First, the

[69] 49 U.S.C. §987. This law took effect in October of 2007.
[70] 12 U.S.C. § 85; *Marquette National Bank v. First Omaha Service Corporation,* 439 U.S. 299 (1978).
[71] 12 U.S.C. 1831d(a)
[72] *See supra* note 15.
[73] *See* Mann & Hawkins, *supra* note 3, at 873; Stegman, *supra* note 1, at 179.
[74] *See* Mann & Hawkins, *supra* note 3, at 877.

prior literature suggests that some states, such as New York, were able to effectively prohibit payday lending even before the FDIC reforms by challenging the claim that the out-of-state bank made the payday loan.[75] Second, very small firms dominated the payday lending market during the period studied by this article,[76] and these firms may have found it too costly to partner with an out of state bank. I therefore conduct two tests. The first uses a measure (*Payday*) that asks simply whether payday lending was legal under state law in the prior year. The second uses a measure (*FDIC*) that focuses solely on the change in federal law; this change should have had a much greater impact on counties in states that had laws prohibiting payday lending but were unable to enforce these laws.

III. Measuring the Effect of Payday Lending

This article searches for a correlation between the legalization of payday lending and various measures of financial hardship. I use three basic measures: bankruptcy, property crime rates and landlord-tenant disputes. I focus most heavily on bankruptcy because it is the more common measure of financial distress and, as a federal law, has a common meaning across states. Bankrupt consumers can choose to file under Chapter 7 or Chapter 13.[77] Chapter 7 offers the consumers a quick discharge of her unsecured debts, but the consumer can only keep assets used as collateral (the car, the home) if her secured creditor consents. Chapter 13 offers the consumer more protection against these

[75] *Id.* at 879-80 ("What raises our interest, however, is the utter absence of New York locations from the annual reports of the large national providers.")
[76] *Id.* at 866 ("On the other hand, the majority of stores in the industry are still small shops as large national providers have less than 5000 locations, far less than a quarter of the total stores. The mom-and-pop providers still dominate the market.")
[77] Consumers can also file under Chapter 11, but very few do. Of the 1,536,799 non-business bankruptcies filed in 2010, just 1,939 (one tenth of one percent) were filed in Chapter 11. *See* Administrative Office fo the U.S. Courts, Bankruptcy Statistics *available at* http://www.uscourts.gov/Statistics/BankruptcyStatistics.aspx (last visited September 17, 2011)

secured creditors, but if she is to receive a discharge the consumer must remain in bankruptcy and make payments for three to five years.[78] I do not have a strong theory that predicts that payday lending should have a different impact depending on the type of bankruptcy, and so I test for the effect on total non-business bankruptcies, non-business Chapter 7 bankruptcies and Chapter 13 bankruptcies. All measures are expressed per 100,000 individuals.[79] I use county-level data from 1998 through 2009 provided by the Administrative Office of the U.S. Courts.[80] Bankruptcy is, however, an imperfect measure of financial distress. The available evidence suggests that the vast majority of consumers who cannot or will not repay their debts do not file for bankruptcy.[81] Many debtors are simply too broke to file; attorneys' fees average more than a thousand dollars in Chapter 7, and in some jurisdictions Chapter 13 attorneys' fees average $4,000.[82] This is likely to be particularly true of consumers who take out payday loans. In 2008

[78] For a description of these options, *see* BARRY E. ADLER, DOUGLAS G. BAIRD & THOMAS H. JACKSON, BANKRUPTCY (4th ed. 2007)

[79] I used county population estimates from the Bureau of the Census. http://www.census.gov/popest/estimates.html Although I have bankruptcy data for 2010, county population estimates for 2010 were incomplete. I tested both the filing rate and the log of the filing rate though I do not have a strong theoretical reason to choose one over the other, and the residuals of each type of regression approximate a normal distribution due to the inclusion of both fixed county and fixed year effects. The results of the log regressions are similar to those of the untransformed variables and are available upon request.

[80] 2010 data is available as well, but I do not have population data for all counties in 2010. Specifically, I use bankruptcies listed in Report F5-A downloaded from PACER. The Administrative Office data lists a small number of filings in the "wrong" jurisdiction. For example, filings for Los Angeles County appear in multiple districts within California. I tried two approaches. First, I simply summed the number of bankruptcies for a given county regardless of where the petition was filed. Second, I used only the highest number of bankruptcies filed in a single district for that county. There is no real difference in the two approaches. Even after converting the data into filing rates (dividing by population), the correlation between the two measures is approximately 0.995. I therefore present the results for the measure that sums bankruptcies for each county across all districts.

[81] *See* Amanda Dawsey, Richard M. Hynes & Lawrence Ausubel, *Non-Judicial Debt Collection and the Consumer's Choice among Repayment, Bankruptcy and Informal Bankruptcy* (Working Paper, 2010).

[82] *See* U.S. Government Accountability Office, Bankruptcy Reform: Dollar Costs Associated with the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (2008) *available at* http://www.gao.gov/new.items/d08697.pdf.

Virginia's payday lenders charged-off 104,832 checks as uncollectible.[83] By contrast, Virginians filed 27,580 non-business bankruptcy petitions in 2008,[84] and it is likely that many bankrupt debtors never visited a payday lender.

Morse suggests that the presence of payday lending can have a measurable effect on the crime rate.[85] I test this by examining the change in the number of burglaries, larcenies, motor vehicle thefts and all property crimes after the legalization of payday lending.[86] All crime rates are expressed per 100,000 residents. Insolvent consumers may have difficulty paying their rent, and I test whether there is a change in the rate of eviction after the legalization of payday lending. Specifically, I look at the number of landlord-tenant disputes in Florida,[87] Maryland[88] and North Carolina.[89] Litigation rates vary dramatically from state to state due to differences in landlord-tenant and civil procedure rules,[90] and the model relies on fixed county effects to account for much of these differences. North Carolina prohibited payday lending in August of 2001, providing the basis of this test. I am also able to make use of the change in FDIC rules as this change and an increase in penalties for violating usury laws caused some national lenders to withdraw from the North Carolina market.

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[83] *See* Bureau of Financial Institutions, *supra* note 31, at 7.
[84] *See* Administrative Office of U.S. Courts, Table F-2: Business and Non-business Bankruptcy Cases Commenced by Chapter of the Bankruptcy Code During the Twelve Month Period Ended December 31, 2008, available at: http://www.uscourts.gov/bnkrpctystats/statistics.htm#calendar (last visited September 12, 2011).
[85] *See*, Morse, *supra* note 9.
[86] The number of these arrests are taken from the Uniform Crime Reporting Program Data, and I use data from 1996 to 2008. I test total property crimes, larceny, burglary and motor vehicle thefts.
[87] Statistics for evictions in County Civil Courts in Florida are available at: http://trialstats.flcourts.org/.
[88] Statistics for District Court landlord-tenant filings in Maryland are available at: http://www.courts.state.md.us/publications.html
[89] The North Carolina Courts sent statistics on Summary Ejectment by County by email. This data is available upon request. Georgia also makes county level eviction data available, but I do not use it in the presented regressions for reasons described below.
[90] For a discussion of these differences, *see* Richard M. Hynes, *Broke but Not Bankrupt: Consumer Debt Collection in State Court*, 60 FLA. L. REV. 1 (2008).

A. The Effect of Changes in State Laws Regulating Payday Lending

$$Equation\ 1: y_{it} = \propto +\beta_1 * Payday_{i,t-1} + \beta_2 * Unemp_{i,t-1} + \beta_3 * \left(Unemp_{i,t-1}\right)^2 + \beta_4 * Exemp_{i,t} + \beta_5 * \left(Exemp_{i,t}\right)^2 + \beta_6 * Payday_{i,t-1} * Military_i + \beta_7 * Payday_{i,t-1} * (Military_i)^2 + \beta_8 * Payday_{i,t-1} * Minority_i + \beta_9 * Payday_{i,t-1} * (Minority_i)^2 + \beta_{10} * Payday_{i,t-1} * Incl15_i + \beta_{11} * Payday_{i,t-1} * Inc1550_i + \beta_{12} * BAPCPA * Military_i + \beta_{13} * BAPCPA * (Military_i)^2 + \beta_{14} * BAPCPA * Minority_i + \beta_{15} * BAPCPA * (Minority_i)^2 + \beta_{16} * BAPCPA * Incl15_i + \beta_{17} * BAPCPA * Inc1550_i + u_i + v_t + \varepsilon_{it}$$

I begin first with regressions that focus solely on state laws. Equation 1 presents the full specification. All regressions include fixed county and year effects; the fixed county effects will account for any differences between counties that do not change over time and the fixed year effects will account for any macro-economic shocks or legal changes that affected all counties equally. All regressions also include the unemployment rate in the county in the prior year ($Unemp_{i,t-1}$) and regressions that use the bankruptcy filing rate as the dependent variable include the real value (adjusted for inflation) of property exemptions available in the state measured by the exemptions available to married homeowners with two children ($Exemp_{i,t}$).[91] To account for any non-linear effects (e.g. the effect of a ten thousand dollar increase in exemptions may not be equal to ten times the effect of a one thousand dollar increase in exemptions) I include the squared value of these terms. I use the county as the unit of observation, and county population varies tremendously. To avoid over-weighting rural areas, I weight by regression by the county population in 2000. All standard errors allow for clustering at the state level.

[91] Many states have exemptions that are limited by type rather than dollar amount. To minimize this problem, I consider only homestead exemptions, automobile exemptions, and exemptions that can be used to exempt cash ("wildcard" exemptions). Unfortunately, a few states have "unlimited" homestead or motor vehicle exemptions. To address this, I cap the value of a homestead exemption at $500,000 in 2005 and the motor vehicle exemption at $30,000. For other years I adjust the caps for inflation.

The regressions include a dummy variable equal to one if payday lending was legal in that state in the prior year ($Payday_{i,t-1}$);[92] I lag this variable as there is usually some delay between the time the onset of financial distress and the filing of a bankruptcy petition. [93] The coefficient on this dummy variable estimates the change in the measure of financial distress (bankruptcy, crime or landlord-tenant litigation) after a state legalizes payday lending.

Prior research suggests that payday lenders locate in areas with large military or minority populations.[94] If this is correct, we should expect the legalization or prohibition of payday lending to have a disproportionate effect in these areas. I therefore include the interaction between the dummy for payday lending and the percent of the population in 2000 that was non-white ($Payday_{i,t-1}*minority_i$) and the percent of the workforce that was in the military ($Payday_{i,t-1}*military_i$). [95] I include the square of each of these values to account for non-linear effects.

Prior research also suggests that the importance of payday lending should vary by income. Very low-income households are unlikely to use payday loans because they may not have employment and a bank account; most payday loan borrowers have incomes between $15,000 and $50,000.[96] I therefore interact the payday lending variable with the percentage of the county households that fell into various income categories (less than $15,000, $15,000 to $50,000, and more than $50,000) in 1999.

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[92] If payday lending were legal in only part of that year, I set the dummy variable equal to that fraction of the year in which payday lending was legal.
[93] *See, e.g.*, Ronald J. Mann & Katherine M. Porter, *Saving Up for Bankruptcy*, 98 GEO. L. J. 289 (2010).
[94] *See supra* note 55-56, and accompanying text.
[95] Because these measures do not change over time, there is no need to include the military and minority populations in a regression with fixed county effects.
[96] *See* Melzer, *supra* note x, at 523 ("Payday borrowers are not destitute, as very poor individuals generally fail to meet the bank account ownership and employment requirements of lenders. In surveys of payday borrowers, the vast majority of respondents report family income between $15,000 and $50,000, while only seven percent of borrowers report family incomes below $15,000.")

The 2005 bankruptcy reforms took effect in October of that year, and the number of bankruptcies filed dropped by about seventy percent between 2005 and 2006.[97] Fixed year effects will account for any effects of this law that were uniform across the country. However, the reforms may have had a disproportionate effect on the same groups that we are using to test the impact of payday lending. For example, the Government Accountability Office estimates that the average attorneys' fees for the simplest form of bankruptcy (Chapter 7) increased by fifty-one percent,[98] and this may have a disproportionate affect on lower-income or minority groups if these groups are more cash-constrained. Precisely which groups would be most affected is, however, theoretically ambiguous because the poorest debtors may have been already found bankruptcy to be too expensive. One existing empirical paper implies that this theoretical effect may have been practically insignificant. Elizabeth Warren and her co-authors searched the bankruptcy records and found that "that those who filed in 2007 largely have the same income profile as those who filed in 2001"[99]; they did not find evidence that suggests that the reforms had a disproportionate effect on lower-income households. I still control for a possible disparate effect by interacting a dummy variable that equals after BAPCPA took effect ($BAPCPA_{i,t}$) with the same variables used to interact with payday lending (minority & military populations & income).

[97] Non-business bankruptcy filings fell from 2,039,214 in the twelve months ended December 31, 2005 to 597,965 in the twelve months ended December 31, 2006. *See* Administrative Office of U.S. Courts, Table F-2: Business and Non-business Bankruptcy Cases Commenced by Chapter of the Bankruptcy Code During the Twelve Month Period Ended December 31, 2006 and December 31, 2005, available at: http://www.uscourts.gov/bnkrpctystats/statistics.htm#calendar (last visited September 17,, 2010).
[98] *See* U.S. Government Accountability Office, *supra* note 82.
[99] *See* Robert M. Lawless, *et al, Did Bankruptcy Reform Fail? An Empirical Study of Consumer Debtors*, 82 AM. BANKR. L. J. 349 (2008) ("The data indicate that those who filed in 2007 largely have the same income profile as those who filed in 2001.") The authors of this study stressed the absence of a change in the number of high-income filers rather than the absence of low-income filers.

Table 1 presents summary statistics and Table 2 presents the results. Although our focus is on payday lending, it is worth pausing to note that the coefficients on unemployment take the expected sign and are statistically significant. However, the coefficient on exemptions is not statistically significant. This is roughly consistent with prior literature which fails to show a robust connection between property exemptions and the filing rate.[100] It is also worth noting that the regressions suggest that the effect of the 2005 bankruptcy reforms may have varied significantly by county, and so the interaction terms are needed.

The regressions presented in Table 2 do not provide overwhelming support for either side of the debate, but they are more consistent with the beneficial view of payday lending than the debt trap hypothesis. The most basic regression (Column 1 of Table 2A) does not suggest that the legalization of payday lending has a statistically significant effect on the bankruptcy filing rate, and the interactions between payday lending and either the minority population or the percentage of the population with an income between $15,000 and $50,000 (the income range most likely to use a payday loan) is statistically insignificant in all specifications. However, the interaction between payday lending and the percentage of employment in the military is consistently negative and statistically significant. The results suggest that if a county's workforce were five percent military, the number of non-business bankruptcy filings per 100,000 would fall by between fifty-four and eighty-seven (twelve to nineteen percent) after the legalization of payday lending. The regressions allow for non-linear effects (the effect of moving from four to five percent need not be the same as moving from twenty-four to twenty-five

[100] *See, e.g.*, Richard Hynes & Eric Posner, *The Law and Economics of Consumer Finance*, 4 AM. L. E. R. 168 (2002) (surveying the literature).

percent). However, the predicted effect of legalization does not turn positive until military employment exceeds about twenty-one percent of the workforce. Only 5 of the 3,109 counties for which I have data have military populations that account for more than 21% of the workforce, and only one of these counties has a population that exceeds 100,000.

Table 2B shows that the results are fairly robust against alternative specifications. Only the interaction between payday lending and military employment shows consistently significant results. The first column of Table 2B demonstrates that basic results continue to hold whether one examines the log of the filing rate. Extremely large counties can have substantial of intra-county diversity, and extremely small counties may have too few residents to yield reliable results. Column 2 therefore excludes counties with year 2000 populations that exceed 1,000,000 or that fall below 10,000; the results remain largely the same. Military families may also be unusually reluctant to file for bankruptcy; perhaps they are simply more willing to endure the financial distress caused by payday lending without filing. However, the results do not materially change if I reduce the population of each county by the percentage of the workforce that is in the military. The bankruptcy reforms of 2005 had a profound affect on bankruptcy practice, at the interaction variables and fixed year effects may not adequately control for these changes. Column four therefore excludes all data from after 2004. The coefficient on the interaction between payday lending and the military population does fall and loses statistical significance. However, it remains negative and significant at the eleven percent level. Column five allows for state specific trends in the bankruptcy filing rate, and the basic results again do not change. Columns six and seven look only at Chapter 7

filings and columns eight and nine look only at Chapter 13 filings. It is only if one restricts attention to Chapter 13 filings that the interaction between payday lending and the military population loses its significance.

Table 2C examines the interaction between the legalization of payday lending and the crime rate and the number of eviction suits. The results are again more consistent with the beneficial view of payday lending. The basic specifications suggest that the crime rate (measured by all property crimes, burglary and larceny) tends to fall after the legalization of payday lending. However, we should expect any effect from the legalization of payday lending to be most concentrated where these lenders tend to locate, and most of the interaction terms are statistically insignificant. Only the interaction between the legalization of payday lending and the minority population is statistically significant, and this is only true for the regression using burglary as the dependent variable. While these regressions are more consistent with the beneficial view of payday lending, they provide only weak support for this view.

B. The Ending of the Rent-a-Charter Era

Although the state law analysis provides little support for the debt trap hypothesis, this may be due to the difficulty of determining the presence of payday lending. Some states that technically prohibited payday lending may have been unwilling to devote the resources necessary to enforce the law. Other states may have wanted to enforce the law but were unable to do so due to the ability of payday lenders to partner with out-of-state banks. Finally, states that expect the level of financial distress to increase due to other factors may be less likely to approve payday lending out of a fear that their citizens would be particularly vulnerable. This would bias the results against the debt trap

hypothesis. Of course, states that expect an increase in financial distress due to other factors may be more likely to approve payday lending to increase the availability of credit. This could bias the results in favor of the debt-trap hypothesis; the net direction of the bias is unknown.

This section presents the results of an alternative test that is less sensitive to these problems. Specifically, it looks to the FDIC regulatory changes that effectively eliminated the rent-a-charter era. This change should have had very little effect in states that allowed payday lending or in states (such as New York) that somehow managed to enforce their payday lending laws before the change. This test solves the problem created by the potential effect of financial distress on the choice of payday lending regulation, but it does so at the cost of statistical power. I exclude counties in states that changed their laws regulating payday lending during the window studied. I begin my window in 2003 to reduce the number of states lost. The counties in North Carolina and Pennsylvania are my treated observations.[101] Because this test focuses on changes in the laws of just two states, there is more of a risk that the results could be due to omitted variables.

The FDIC action should have had an effect similar to the prohibition of payday lending. To avoid confusion about the meaning of the sign of a variable, I define *FDIC* to be a dummy variable equal to zero if the FDIC action affected a state in a given year and one otherwise. If payday lending reduces financial distress, the coefficients on FDIC and the interactions with military and minority populations should be negative (as with

[101] Although payday lending has always been illegal in Georgia, the Georgia legislature made payday lending a felony in May of 2004. I exclude Georgia as a state that changed its laws on payday lending during the relevant period. The results are not very different if one includes Georgia, although a few more coefficients are statistically significant.

the prior regressions). The FDIC changes should have reduced financial distress in these treated states and this effect should have been most pronounced in counties with large military and minority populations.

Tables 3A and 3B examine changes in the bankruptcy filing rate, and the results do not offer significant support for either the beneficial or detrimental view of payday lending. Three specifications (Columns 1, 3 and 5 of Table 3B) do suggest that the FDIC's prohibition on the rent-a-charter arrangement reduced bankruptcies in counties with large military or minority populations relative to other counties within the state. However, is not very robust and does not hold in most specifications. Moreover, four specifications suggest that the FDIC action increased the number of bankruptcies in areas in which a large percentage of the households earn between $15,000 and $50,000, the very households that are likely to frequent payday lenders.

The regressions using the crime or eviction rate (Table 3C) do not offer clear support for either side in the debate, but they are once again more consistent with the beneficial view of payday lending. Only the larceny rate regression suggests an increase in the relative crime rate in states affected by the FDIC's change, though the total property crime rate comes close to significance at the ten percent level. Each regression that includes an interaction terms suggests that the change in the crime rate was more pronounced in areas with large military or minority populations.

IV. Conclusion

The recent debates over payday lending are the latest installment in a centuries old conflict over high interest loans. By now, the theoretical arguments are clearly defined. Those who oppose regulation cite the freedom of contract or claim that credit

can help smooth consumption and mitigate income and expense shocks. Those who support regulation claim that high interest loans ensnare consumers in a debt trap and increase financial hardship. Still others maintain that regulation is likely to be ineffective as consumers and lenders will find ways to evade the law. Given the theoretical ambiguity, empirical tests can play an important role in guiding policy-makers. Unfortunately, the existing empirical tests are inconclusive. Some studies find that payday loans increase signs of financial distress, some find that they reduce signs of distress, and still others fail to find a statistically significant effect.[102]

This paper uses the claim that payday lenders target military and minority populations to test the relationship between payday lending and evidence of financial hardship, and the results are similarly mixed. Consistent with the beneficial view of payday lending, this paper finds that as states legalize payday lending the bankruptcy filing rate tends to fall in counties with large military populations. While this result is robust against a variety of alternative specifications, I failed to find a statistically significant effect in areas with large minority populations.

I supplement this first test with another that examines the effect of the FDIC's efforts to end the partnership between banks and payday lenders in 2005.[103] This move should have had the effect of banning payday lending in some states where payday lending was otherwise illegal. These results provide less support for the beneficial view of payday lending, but they do not support the debt trap hypothesis either. On balance, the results do not suggest that the FDIC's reform caused a statistically significant change in bankruptcy filing rates in counties with large military or minority populations.

[102] *See supra* Section I.
[103] *See supra* note 16.

Table 1: Summary Statistics (Weighted by County Population in 2000)

Variable	Obs.	Mean	Std. Dev.
Payday: One if payday lending legal in prior year (1998-2009)	40,417	0.59	0.49
Non-business bankruptcies per 100,000	37,296	455	249
Chapter 7 non-business bankruptcies per 100,000	37,296	323	181
Chapter 13 bankruptcies per 100,000	37,296	131	140
Property Crime Arrests per 100,000	40,411	535	311
Burglary Arrests per 100,000	40,411	96	66
Larceny Arrests per 100,000	40,411	389	247
Motor Vehicle Theft Arrests per 100,000	40,411	45	44
Landlord tenant suits in lower court per 100,000	1,701	3,032	6,208
Unemployment rate in prior year	34,174	5.00	1.84
Exemptions: Sum of homestead and personal property exemptions available to married couple in tens of thousands of 2008 dollars with caps on unlimited exemptions	49,278	16.81	20.41
Military: military as percent of civilian and government workforce	3,109	0.53	1.83
Minority: Non-white as percent of population	3,109	24.9	17.1
Inc.<15: percent of households with income < $15,000 in 1999	3,109	16	6
Inc.15-50: percent with income between $15,000 and $50,000	3,109	42	7
Inc.>50: percent with income >$50,000	3,109	42	12

Table 2A: Bankruptcy Filing Rate after Legalization of Payday Lending

	(1)	(2)	(3)	(4)	(5)
Payday	5.52	57.16*	22.48	55.39*	48.03
	(0.81)	(0.05)	(0.22)	(0.06)	(0.67)
Payday*Military			-27.64**	-27.70**	-26.95**
			(0.01)	(0.02)	(0.02)
Payday*Military^2			1.15**	1.18**	1.15**
			(0.01)	(0.02)	(0.02)
Payday*Minority		-3.06		-2.17	-2.16
		(0.11)		(0.15)	(0.16)
Payday*Minority^2		0.03		0.02	0.02
		(0.34)		(0.30)	(0.34)
Payday*Inc.<15K					0.59
					(0.69)
Payday*Inc. 15K to 50K					-0.04
					(0.99)
BAPCPA*Military			-9.43**	-2.40	-2.40
			(0.02)	(0.50)	(0.50)
BAPCPA*Military^2			0.18	0.12	0.11
			(0.18)	(0.33)	(0.33)
BAPCPA*Minority		-1.48		-3.32*	-3.34*
		(0.42)		(0.08)	(0.07)
BAPCPA*Minority^2		0.01		0.02	0.02
		(0.76)		(0.45)	(0.44)
BAPCPA*Inc.<15K				3.219*	3.159*
				(0.06)	(0.08)
BAPCPA*Inc. 15K to 50K				-7.88***	-7.88***
				(0.00)	(0.00)
Unemp	52.17***	49.99***	51.93***	47.84***	47.90***
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Unemp^2	-1.53***	-1.48***	-1.54***	-1.43***	-1.43***
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Exemp	-5.36	-5.42	-5.55	-6.77	-6.75
	(0.51)	(0.51)	(0.49)	(0.35)	(0.35)
Exemp^2	0.09	0.09	0.09	0.09	0.09
	(0.41)	(0.43)	(0.40)	(0.34)	(0.34)
R-sq.	0.65	0.65	0.65	0.67	0.67

Dependent variable is all non-business bankruptcies per 100,000 population. All regressions have 3,107 county codes and 37,270 observations. All regressions included fixed year effects and fixed county effects. Standard errors are clustered by state. Robust p values in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Table 2B: Bankruptcy Filing Rate after Legalization of Payday Lending (Payday)

	(1) Log of filing rate	(2) "Medium" counties	(3) "Non-Military"	(4) Pre-2005	(5) State Trends	(6) Ch. 7	(7) Ch. 7	(8) Ch. 13	(9) Ch. 13
Payday	0.24	-1.49	46.63	-130.90	-50.86	6.26	78.41	-0.57	-28.95
	(0.45)	(0.99)	(0.68)	(0.36)	(0.40)	(0.80)	(0.48)	(0.95)	(0.30)
Payday*Military	-0.05**	-23.47**	-26.39**	-17.96	-16.47*		-22.89**		-4.09
	(0.01)	(0.02)	(0.02)	(0.10)	(0.08)		(0.02)		(0.47)
Payday*Military^2	0.003***	1.003**	1.136**	0.705*	0.721**		1.004**		0.15
	(0.01)	(0.02)	(0.02)	(0.07)	(0.04)		(0.01)		(0.50)
Payday*Minority	0.00	-2.14	-2.16	0.43	-0.28		-2.01		-0.16
	(0.39)	(0.21)	(0.16)	(0.74)	(0.86)		(0.13)		(0.79)
Payday*Minority^2	0.00	0.02	0.02	-0.02	-0.01		0.02		0.00
	(0.83)	(0.37)	(0.33)	(0.30)	(0.61)		(0.42)		(0.65)
Payday*Inc.<15K	0.009**	0.25	0.57	4.06**	3.39		1.09		-0.46
	(0.03)	(0.87)	(0.70)	(0.04)	(0.12)		(0.45)		(0.68)
Payday*Inc. 15K to 50K	-0.01	0.95	-0.01	2.57	0.66		-0.99		0.91
	(0.35)	(0.54)	(1.00)	(0.42)	(0.69)		(0.61)		(0.29)
Observations	36,957	28,750	37,270	21,749	37,270	37,270	37,270	37,270	37,270
R-squared	0.78	0.68	0.67	0.39	0.70	0.68	0.69	0.20	0.25
Number of ctycode	3,107	2,397	3,107	3,107	3,107	3,107	3,107	3,107	3,107

The dependent variable in column 1 uses the log of the bankruptcies filing rate. Column 2 excludes counties with a population in the year 2000 that was either greater than 1,000,000 or less than 10,000. Column 3 multiplies the bankruptcy filing rate by the percent of employment that is non-military. Column 4 uses only data from before 2005. Column 5 includes state specific trends as explanatory variables. Columns 6 and 7 examine the Chapter 7 filing rate and columns 8 and 9 examine the Chapter 13 filing rate. All regressions included fixed year effects and fixed county effects as well as the unemployment rate, exemptions and the square of the unemployment rate and exemptions. Regressions that include data from 2005 and after include interactions with BAPCPA. Standard errors are clustered by county. Robust p values in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Table 2C: Legalization of Payday Lending and Other Proxies for Distress

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
VARIABLES	All property crime		Burglary		Larceny		Motor vehicle theft		Eviction suits	
Payday	-56.05**	110.30	-12.74***	21.59**	-41.34**	79.18	-1.39	10.82	20.90	-814.9**
	(0.01)	(0.24)	(0.00)	(0.03)	(0.03)	(0.30)	(0.71)	(0.57)	(0.85)	(0.04)
Payday*Military		-2.49		0.40		-2.99		0.27		-31.83
		(0.66)		(0.75)		(0.58)		(0.87)		(0.10)
Payday*Military^2		0.24		0.01		0.24		-0.01		0.96
		(0.33)		(0.82)		(0.29)		(0.85)		(0.11)
Payday*Minority		-3.18		-0.674**		-2.26		-0.25		6.73
		(0.20)		(0.02)		(0.28)		(0.54)		(0.29)
Payday*Minority^2		0.02		0.00		0.01		0.00		-0.07
		(0.65)		(0.55)		(0.62)		(0.81)		(0.27)
Payday*Inc.<15K		3.59		0.12		3.37		0.13		0.82
		(0.31)		(0.87)		(0.28)		(0.80)		(0.88)
Payday*Inc. 15K to 50K		-3.51		-0.48		-2.93		-0.14		15.46
		(0.22)		(0.22)		(0.25)		(0.78)		(0.20)
Observations	40,384	40,384	40,384	40,384	40,384	40,384	40,384	40,384	1,701	1,701
R-squared	0.19	0.20	0.12	0.13	0.17	0.18	0.10	0.11	0.06	0.08
Number of ctycode	3,108	3,108	3,108	3,108	3,108	3,108	3,108	3,108	189	189

All dependent variables expressed per 100,000 population. All regressions included fixed year effects, fixed county effects, the unemployment rate and the square of the unemployment rate and interactions with BAPCPA. Standard errors are clustered by county. Robust p values in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Table 3A: Bankruptcy Filings after FDIC's Act to End "Rent-A-Charter" Era

	(1)	(2)	(3)	(4)	(5)
FDIC	43.25	-14.37	40.74	358.1***	319.5***
	(0.17)	(0.53)	(0.21)	(0.00)	(0.00)
FDIC*Military			6.95		4.53
			(0.18)		(0.55)
FDIC*Military^2			-0.30		0.01
			(0.23)		(0.97)
FDIC*Minority		2.05			0.13
		(0.33)			(0.95)
FDIC*Minority^2		0.01			0.02
		(0.65)			(0.31)
FDIC*Inc.<15K				7.52*	4.27*
				(0.08)	(0.10)
FDIC* Inc. 15-50				-10.32***	-8.70***
				(0.00)	(0.00)
R-squared	0.74	0.75	0.74	0.77	0.77

Dependent variable is all non-business bankruptcies per 100,000 population. All regressions have 2,587 county codes and 18,095 observations. All regressions included fixed year effects, fixed county effects, the unemployment rate, exemptions, the square of the unemployment rate and exemptions and interactions with BAPCPA. Standard errors are clustered by state. Robust p values in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Table 3B: Bankruptcy Filings after FDIC's Act to End "Rent-A-Charter" Era

	(1) Log of filing rate	(2) "Medium" counties	(3) State Trends	(4) Ch. 7	(5) Ch. 7	(6) Ch. 13	(7) Ch. 13
FDIC	0.40	230.7***	7.36	4.03	211.9*	45.73***	26.31
	(0.16)	(0.00)	(0.96)	(0.88)	(0.06)	(0.00)	(0.76)
FDIC*Military	0.01	8.41	9.35***		14.34**		-0.95
	(0.44)	(0.11)	(0.00)		(0.02)		(0.71)
FDIC*Military^2	0.00	-0.09	-0.11		-0.388*		0.02
	(0.82)	(0.66)	(0.20)		(0.07)		(0.79)
FDIC*Minority	0.00585*	0.18	2.80		0.26		0.60
	(0.08)	(0.93)	(0.13)		(0.89)		(0.48)
FDIC*Minority^2	0.00	-0.02	-0.04		-0.01		0.01
	(0.26)	(0.65)	(0.12)		(0.74)		(0.25)
FDIC*Inc.<15	0.01	0.28	6.27**		2.90		2.10*
	(0.22)	(0.91)	(0.02)		(0.22)		(0.07)
FDIC* Inc. 15-50	-0.01	-5.39***	-3.61		-6.28***		-0.93
	(0.14)	(0.00)	(0.22)		(0.00)		(0.69)
Observations	18,981	13,601	19,208	18,095	18,095	19,208	19,208
R-squared	0.861	0.768	0.817	0.763	0.793	0.298	0.343
Number of ctycode	2,745	1,945	2,746	2,587	2,587	2,746	2,746

The dependent variable in column 1 uses the log of the bankruptcies filing rate. Column 2 excludes counties with a population in the year 2000 that was either greater than 1,000,000 or less than 10,000. Column 3 includes state specific trends as explanatory variables. Columns 4 and 5 examine the Chapter 7 filing rate and columns 6 and 7 examine the Chapter 13 filing rate. All regressions included fixed year effects and fixed county effects as well as the unemployment rate, exemptions and the square of the unemployment rate and exemptions. Standard errors are clustered by county. Robust p values in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Table 3C: FDIC and Other Proxies for Distress

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	All property crime		Burglary		Larceny		Motor Vehicle Theft		Eviction Suits	
FDIC	-17.47	-0.92	1.25	0.33	-15.15***	-26.09	-3.36	22.90***	257.80	1,828*
	(0.12)	(0.98)	(0.78)	(0.99)	(0.01)	(0.27)	(0.42)	(0.00)	(0.41)	(0.07)
FDIC*Military		-5.263*		0.37		-4.30**		-1.57		-3.81
		(0.06)		(0.60)		(0.04)		(0.16)		(0.59)
FDIC*Military^2		0.15		-0.04		0.12		0.077*		0.50
		(0.27)		(0.18)		(0.24)		(0.08)		(0.42)
FDIC*Minority		-2.66***		-0.68**		-0.99*		-0.85***		-7.49**
		(0.00)		(0.02)		(0.09)		(0.00)		(0.03)
FDIC*Minority^2		0.05***		0.01		0.020**		0.014**		0.18***
		(0.00)		(0.20)		(0.03)		(0.04)		(0.01)
FDIC*Inc.<15		-2.09		-1.01		-1.87		0.86*		-6.31
		(0.37)		(0.16)		(0.13)		(0.10)		(0.54)
FDIC* Inc. 15-50		0.98		0.55		1.14*		-0.71***		-32.12*
		(0.42)		(0.43)		(0.08)		(0.00)		(0.09)
R-squared	0.04	0.04	0.01	0.01	0.05	0.05	0.22	0.28	0.09	0.18

All dependent variables expressed per 100,000 population. All regressions included fixed year effects, fixed county effects, the unemployment rate and the square of the unemployment rate and interactions with BAPCPA. All crime regressions have 2,588 county-codes and 15,513 observations. The landlord tenant regressions have 189 county-codes and 1,134 observations. Standard errors are clustered by county. Robust p values in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Appendix

State Laws on Payday Lending

State	Legal in Period	Citation
AL	6/30/2003	Ala. Code § 5-18A-1 et seq
AK	1/1/2005	Alaska Stat. § 06.50.400
AZ	4/1/2000-7/1/2010	Ariz. Rev. Stat. Ann. § 6-1251 ; http://www.azdfi.gov/news/AG_Letter_to_Payday_Lenders_060910.pdf
AR	4/7/1999-3/18/2008	Ark. Code Ann. § 23-52-101 et seq.; Ark. Const. art. 19, § 13; http://www.paydayloaninfo.org/elements/www.paydayloaninfo.org/File/08_07_attorney_general.pdf
CA	1/1/1997	Cal. Fin. Code §§ 23000 to 23106
CO	7/1/2000	Colo. Rev. Stats. § 5-3.1-101.
CT	Never	Conn. Gen. Stat. § 36a-563
DE	Always	Delaware enacted licensing legislation effective 7/9/2002. Ann. Tit. 5 § 2227 et seq.; Del. Code Ann.tit. 5 § 2744 (effective 7/9/2002). I code Delaware as always allowing payday lending due to an alleged lack of effective usury limits on small loans. http://www.consumerfed.org/pdfs/safeharbor.pdf
FL	Always	Fl. Stat. Ann. § 560.401 et seq.; Fla. Admin. Code Ann. R.3C-560.901 et seq (effective 10/1/2001). I code Florida as always allowing payday lending because prior law did allow check cashers to charge fees for cashing postdated checks. http://www.consumerfed.org/pdfs/safeharbor.pdf
GA	Never	Though payday lending has always been illegal in Georgia, the state did pass legislation effective in May of 2004 that made the practice a felony. Ga. Code Ann. §§ 16-17-1 to 16-17-10
HI	7/1/1999	Hawaii Rev. Stat. Ann. § 480F-1 et seq.
ID	Always	Idaho enacted legislation effective 7/1/2003. Idaho Code Ann. § 28-46-401 et seq (effective 7/1/2003). I code Idaho as always allowing payday lending due to an alleged lack of effective usury limits on small loans.

		http://www.consumerfed.org/pdfs/safeharbor.pdf
IL	Always	Illinois enacted legislation effective 12/6/2005. 815 Ill. Comp. Stat. Ann. § 122/1-1 et seq. (effective 12/6/2005).). I code Illinois as always allowing payday lending due to an alleged lack of effective usury limits on small loans. http://www.consumerfed.org/pdfs/safeharbor.pdf
IN	Always	Ind. Code Ann. § 24-4.5-7-101 et seq. (effective 3/14/2002). I code Indiana as always allowing payday lending because prior law allowed the lender to assess minimum fees of $33. http://www.consumerfed.org/pdfs/safeharbor.pdf
IA	Always	2 Iowa Code Ann. § 533D et seq.
KS	Always	Kan. Stat. Ann. § 16a-2-404
KY	Always	Kentucky Rev. Stat. Ann. § 368.010 et seq Renumbered: KRS 286.9-010 et seq.. Renumbered: KRS 286.9-010 et seq.
LA	8/15/1997	Acts 1997, No. 41, § 1 (repealed by Acts 1999, No. 1315, § 2); La. Const. art. 3, § 19.
ME	Never	Me. Rev. Stat. Ann. Tit. 9-A § 2-401; tit. 32 § 6138
MD	Never	Md. Code Ann. Com. Law § 12-306(a)(2)(1)
MA	Never	Mass. Gen. Law Ann ch 140 § 96 et seq.
MI	11/28/2005	Mich. Comp. Laws § 487.2121 et seq.
MN	Always legal	Minn. Stat. Ann. § 47.60
MS	7/1/1998	Miss. Code Ann. § 75-67-501 et seq.
MO	Always legal	Mo. Stat. Ann. § 408.500 et seq.; Mo. Code Regs. Ann. Tit. 4 § 140-11.010 et seq.
MT	Always legal	Mont. Code Ann. § 31-1-701 et seq (approved 4/21/1999). I code Montana as always allowing payday lending due to an alleged lack of effective usury limits on small loans. http://www.consumerfed.org/pdfs/safeharbor.pdf
NE	Always legal	Neb. Rev. Stat. § 45-904
NV	7/1/1998	Nev. Rev. Stat. § 604A.010 et seq., repealed and replaced Nev. Rev. Stat. § 604.010 et seq.
NH	1/1/2000 to 1/1/2009	N.H. Rev. Stat. Ann. § 399-A:1 et seq;
NJ	Never	N.J. Stat. Ann. 2C:21-19
NM	Always legal	N.M. Stat. § 58-15-33. I code New Mexico as always allowing payday lending due

		to an alleged lack of effective usury limits on small loans. http://www.consumerfed.org/pdfs/safeharbor.pdf
NY	Always illegal	N.Y. Penal Law § 190.40
NC	10/1/1997-8/31/1997	N.C. Gen. Stat. § 53-281 (1999), as amended by Act of July 31, 2001, ch. 323, § 1, 2001 N.C. Sess. Laws 960, 960 (expired Aug. 31, 2001)
ND	4/19/2001	N.D. Cent. Code § 13-08-01 et seq. as amended by 2005 N.D. Laws Ch. 127 (H.B.1321)
OH	9/1/2008	Ohio Rev. Code Ann. §§ 1315.35 et seq.
OK	9/1/2003	Okla. Stat. Ann. tit. 59 § 3101 et seq.
OR	Prohibited 7/1/2007	2007 Or. Laws, ch. 603 § 11, repealing Or. Rev. Stat. § 725.625
PA	Never	7 PA. Stat. Ann. § 6213
RI	7/12001	R.I. Stat. Ann. §§ 19-14.4-1 and 19-14.4-4 et seq. as amended by 2005 RI Laws 05-230 (05-H6-3A
SC	6/11/1998	S.C. Stat. Ann. 34-39-110 et seq
SD	Always	S.D. Codified Laws § 54-4-36 et seq. (effective 2/14/1998). I code South Dakota as always allowing payday lending due to a lack of an effective small loan usury cap. http://www.consumerfed.org/pdfs/safeharbor.pdf
TN	10/1/1997	Tenn. Code Ann. §45-17-101 et seq. and Tenn. Comp. R. & Regs. § 0180-28-.01
TX	9/1/1997	Tex. Fin. Code Ann. §§ 342.251 et seq. Industry trade groups list Texas as having unfavorable payday lending laws, but consumer advocacy groups list Texas as having laws that are too favorable to payday lending. The results are robust against a recoding of Texas as prohibiting payday lending.
UT	Always	Utah enacted payday lending legislation effective 5/3/1999. Utah Code Ann. § 7-23-101 et seq. (effective 5/3/1999). I code Utah as always allowing payday lending due to a lack of effective usury laws. http://www.consumerfed.org/pdfs/safeharbor.pdf
VT	Never	Vt. Stat. Ann. Tit. 9 § 41a
VA	7/1/2002	Va. Code Ann. § 6.1-444 et seq
WA	Always	Wash. Rev. Code § 31.45.010 et seq.

WV	Never	W. Va. Code § 46A-4-107(2)
WI	Always	Wisc. Stat. §§ 138.04 138.05
WY	7/1/1996	Wy. Stat. 40-14-362 et seq.