PREYING ON PORTLANDERS
Payday Lending in the City of Portland

A Survey of Payday Lending in the City of Portland

November 2005

Surveyors: Alissa Cordner, Amber Dawn Hallet, Liz Karas, Maggie Kindschuh, Rob Nipko, Chris Seftick

Survey Compilation & Report: Shannon Callahan, Staff Attorney, OSPIRG
and
Ed Mierzwinski, Consumer Program Director, OSPIRG

The authors would like to acknowledge Jean Ann Fox
of Consumer Federation of America.

OSPIRG Education Fund
1536 SE 11th Avenue
Portland, OR 97214
info@ospirgstudents.org

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Results of the Survey of Payday Lending in the City of Portland

In August of 2005, our staff surveyed 21 licensed payday lending storefronts in the City of Portland. Because many of the payday lending storefronts are owned and operated by the same payday lender, the survey is representative of approximately ninety-five percent (95%) of the licensed active payday lending storefronts in the City of Portland.

The survey aimed to determine the interest rate most commonly charged in the City of Portland, based on a $300 loan principal for a 14-day term. In addition, the survey aimed to determine compliance with a state administrative rule, which requires that "the Annual Percentage Rate shall be posted prominently inside the lender's office where customers can easily see it."[1] The lender is required, however, only to disclose the annual percentage rate for a typical loan,[2] the actual annual percentage rate the borrower may be charged can far exceed the posted rate.

Our survey results indicate that in the City of Portland:

The most common annual percentage rate charged by payday lenders, based on a $300 loan principal for a full 14-day term is five hundred twenty-one percent (521%).

Most Commonly Charged APR for a $300 loan for 14-days*
521%

*** NOTE: Most lenders charge a flat fee based on the loan amount even though the length of the loan may only be a few days. Thus, the actual interest rates charged to a borrower can approach and exceed 1000%.**

[1] OAR 441-730-0270(d)
[2] Id.

Twenty-four percent (24%) of lenders surveyed had no visible posting of the annual percentage rate of the loan.

An additional twenty-four percent (24%) of lenders surveyed who did post the annual percentage rate of loan, placed the posting in an area which made it difficult to locate and read the posting.

Thus, nearly half (48%) of those lenders surveyed either did not visibly post the annual percentage rate (APR) at all or posted it where customers could not easily see it.

No Posting of APR	**APR Posting Difficult to Locate & Read**	**Total APR Posting Not Easily Visible**
24%	**24%**	**48%**

The full results of our survey accompany this report.

The remainder of this report is designed to provide context to the results of this survey, including a description of the typical structure of a payday loan; a story of a Portland family's experience with the payday lending industry; a look at the payday lending industry and its recent rapid growth; and a general look at the regulatory scheme in the state of Oregon.

Overview of Payday Loans: Designed to Trap Borrowers In Debt

Payday loans are short-term, high interest rate loans (also called deferred deposit loans) aggressively marketed to cash-strapped consumers struggling between paychecks. To obtain a loan, payday lenders require borrowers to submit a post-dated check or electronic checking account information. To meet the requirements for a loan, borrowers must provide proof that they have a job or steady source of income, and a checking account. As well, they must verify their identity.[3]

In combination, the typical terms of a payday loan create a business model that traps borrowers in a spiral of ever-increasing debt.

HOW A PAYDAY LOAN TRAPS A BORROWER IN DEBT

- Borrower gives lenders a postdated check for $360 – for which borrower receives $300 in cash.
- Lender holds check until payday, less than14 days later.
- Lender requires payment in full, if borrower does not have full $360, borrower must pay another $60 in fees (called a rollover) OR default on loan.
- Pressure not to default on loan includes personal sense of responsibility along with the threat of bounced check fees, aggressive collection tactics, and even the threat of criminal prosecution.
- To avoid default borrower pays another $60 in fees.

High Interest Rates

Once approved for a loan, borrowers receive a cash advance for which the lender charges a flat fee. However, these fees amount to annual interest rates that well exceed five hundred percent (500%). In the City of Portland, the most common annual interest rate charged for a $300 loan principal, 14–day payday loan was five hundred twenty-one percent (521%) per annum.[4] An interest rate of 521% equates to a flat fee of twenty-dollars ($20) for every hundred dollars ($100) borrowed. However,

[3] Jean Ann Fox, "The Growth of Legal Loan Sharking: A Report on the Payday Loan Industry", Consumer Federation of America, November 1998, p. 2.

[4] 9 storefronts charged 521% APR. The "most common result" is also known statistically as the mode: the average interest rate for the 21 lenders surveyed was 480% APR.

the length of a payday loan can be less than 14 days, timed to coincide with the borrower's next paycheck. Many lenders will charge the same flat fee even if the loan period is less than 14 days. Thus, interest rates actually charged to borrowers can approach and sometimes exceed one thousand percent (1000%).[5]

Short Length of Loan

The short loan period of a payday loan leaves borrowers very little time come up with the funds to repay the loan when due. Frequently, borrowers are unable to repay the entire loan on their next payday as repaying the entire loan in one balloon payment would leave them without the financial resources to pay for such necessities as food, rent, and utility bills. A survey conducted by the Oregon State Department of Consumer and Business Services confirms this fact. In a survey of payday loan customers in 2004, 74% were unable to repay their loan when it became due.[6]

74% of borrowers were unable to repay their payday loan when due.

Single Balloon Payment

In addition to the exceedingly high interest rates charged to borrowers and the short-term of the loan, payday loans must typically be repaid in a single balloon payment. When borrowers find themselves unable to pay the single balloon payment, payday lenders then encourage the borrowers to renew or rollover the loan with another loan.[7] The only other

[5] Missouri Attorney General Jay Nixon, "Nixon says report on payday loans in Missouri — with an average APR of 408 percent — indicates need for reform" January 19, 2005. http://www.ago.state.mo.us/newsreleases/2005/011905.htm

[6] State of Oregon Department of Consumer & Business Services (DCBS), "Policy Review of Consumer Finance & Payday Lending" (July 2004). DCBS conducted two surveys of payday loan customers. One survey was given to state employees who had taken payday loans, the other of payday loan customers in the general population. In the general population, 74% of payday loan customers were unable to repay their original payday loan and had to rollover the loan.

[7] A federal examination of the one of the nation's largest payday lenders found that the lender, Dollar Financial, actually provided financial incentives to its employees to

option available to borrowers if they cannot make the entire single-balloon payment is to default on the loan. Besides the personal sense of responsibility most borrowers have not to default, borrowers also face an enormous amount of pressure from the lenders not to default. Pressure not to default includes the threat of bounced check fees, aggressive collection tactics and even the threat of criminal prosecution.[8]

The Rollovers

To rollover the loan lenders typically require payment of only the original interest or fee. Frequently, lenders discourage a borrower from making a partial payment by charging a prohibitive penalty,[9] forcing the borrower to either default on the entire loan, or rollover the entire original principal.

THE ROLLOVERS

Cash to Borrower = $300 + $60 in fees to lender

1st Rollover = $60 additional interest fees
2nd Rollover = $60 additional interest fees
3rd Rollover = $60 additional interest fees

8 weeks from date of original loan $240 in fees

The borrower then is responsible for another round of fees, again at interest rates which may exceed five hundred percent (500%). Thus, the borrower continually pays fees and receives no additional cash in return. In a very short period of time the fees mount, often equaling the amount borrowed.

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encourage rollovers or loan renewals. Comptroller of the Currency Administrator of National Banks: US Department of the Treasury, OCC Orders Eagle to Cease Payday Lending Program, January 3, 2002. http://www.occ.gov/ftp/release/2002-01.txt

[8] Comptroller of the Currency Administrator of National Banks: US Department of the Treasury, OCC Advisory Letter, November 27, 2000, to Chief Executive Officers of All National Banks, Department Division Heads, and All Examining Personal. http"//www.occ.treas.gov/ftp/advisory/200-10.txt

[9] See "Abusive Loan Clauses" on page 6 of this report.

Abusive Loan Clauses

Payday lenders insert clauses in loan contracts designed to trap borrowers. Such clauses include penalties for prepayment; penalties for installment payments; and acceleration clauses.

Prepayment clauses financially penalize borrowers who wish to pay off their loan early. For example, one such clause assessed the borrower ten percent (10%) of the amount financed for prepayment of the loan. The loan amount was two hundred sixty dollars ($260), so the borrower would have been penalized twenty-six dollars ($26) just to terminate the loan in less than the 8-day loan period.[10]

Lenders may also not allow a borrower to make installment payments, or insert clauses to penalize the borrower if they do make an installment payment. Similarly to the prepayment penalty, a borrower may be assessed a ten-percent (10%) penalty of the amount financed if they attempt to make installment payment.[11]

Lenders may also trap borrowers into paying additional fees through the use of an acceleration clause. Lenders often insert theses clauses, which accelerate the due date of the loan. A clause may state, for example, that if the "Lender reasonably believes itself to be insecure in the repayment of the note, Lender may, at its option, declare the entire unpaid balance of this Note to be due immediately and payable without notice or demand."[12] Thus, a lender may present a borrower's check at the borrower's bank even before the borrower has received their next paycheck. Because the borrower has not yet received their paycheck and does not have the funds available in their bank account, the borrower will then incur non-sufficient funds (NSF) fees with their bank, and will likely owe additional fees to the lender as an NSF charge.

[10] Loan Mart, Promissory Note, executed January 2004. On file with OSPIRG.
[11] Id.
[12] High Speed Cash, Promissory Note, executed February 2004. On file with OSPIRG.

A Portland Family's Experience with Payday Loans

Dena & Michael's Story

Dena & Michael found themselves with serious health problems and no medical insurance. Needing to pay for medications, they faced having to choose between paying for these necessary medications and paying their rent. They took out their first payday loan to be able to meet their rent obligations.

Dena & Michael thought they could pay off the payday loan with his next paycheck. But, they were unable to make the payment and found themselves rolling over or renewing the loan. To make matters worse, the payday loan company had inserted a clause in the contract to allow the lender to send Dena & Michael's check through before the loan due date. Dena & Michael then were responsible for paying NSF charges to the bank and NSF fees to the payday lender.

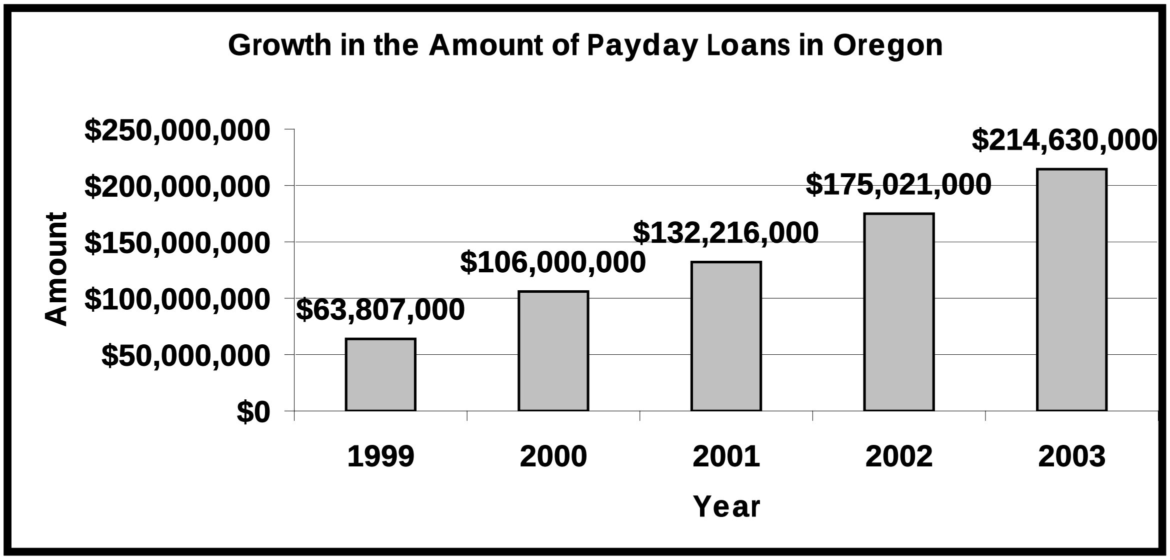
The lender would not allow them to make any payment arrangements. The lender just kept putting their checks through, racking up more NSF charges and fees. Dena & Michael took out additional loans from other lenders just to keep paying the mounting interest payments, fees, and charges. But, they were still left with no money on paydays to live on.

Dena & Michael were caught in a trap. Although they had paid more in interest and fees than they had ever gotten in cash, they were sued. Over a year and a half later, they were still having their paychecks garnished.

The Payday Loan Industry's Explosive Growth

Nationwide, the payday loan industry has grown astronomically in a very short period of time. The industry, virtually non-existent in the early 1990's, has blossomed into a multi-billion dollar industry.[13] In 1993 there were only 200 payday lenders nationwide, but by the end of 2004 more than 22,000 payday lending outlets were operating in the United States.[14]

There are currently seven publicly traded payday lenders in the nation. These are First Cash Financial Services, EZ Corp, Cash America International, QC Holdings, ACE Cash Express, Dollar Financial, and Advance America.



At least three of these publicly traded entities have a presence in the City of Portland, including QC holdings with 4 stores, ACE Cash Express with 4 stores, and Advance America with 9 stores. Advance America is the nation's single largest payday lender; it is also the largest operator of payday lending storefronts in the City of Portland. Advance America controls approximately fifteen percent (15%) of the market in the City.

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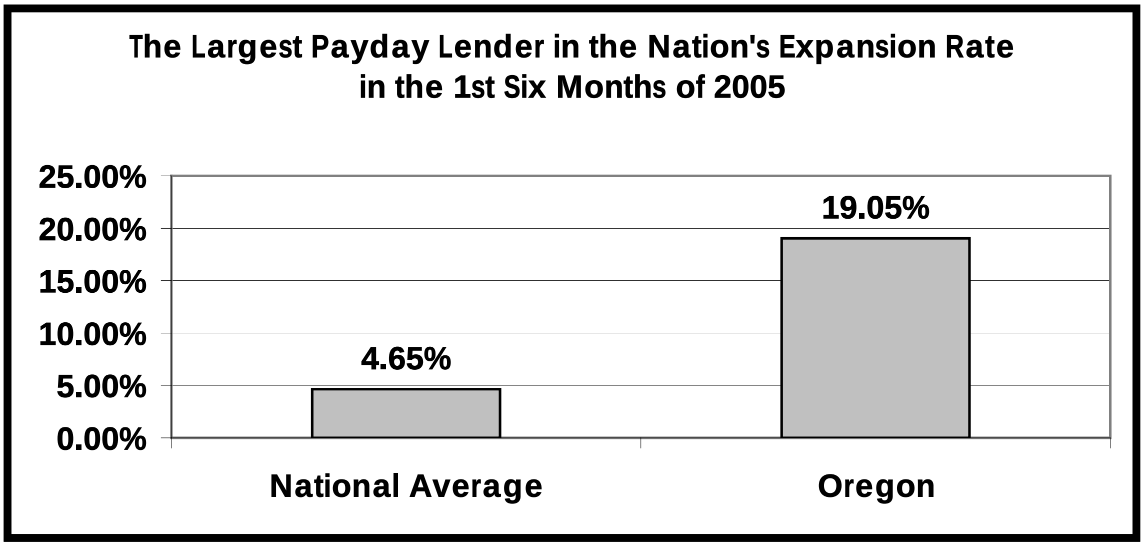
[13] Center for Responsible Lending, "Quantifying the Economic Costs of Predatory Payday Lending" (Revised February 24, 2004).
[14] Annie E. Casey Foundation "Low-Cost Payday Loans: Opportunities and Obstacles" June 2005. See also Bloomberg News, "JP Morgan, Banks Back Lenders Luring Poor with 780 Percent Rates," November 3, 2004 http://quote.bloomberg.com/apps/news?pid=nifea&&sid=ayYDo5tpjTY8.

Oregon has experienced a 235% increase in the amount of payday loans in just a five-year period.[15] In 2003, the Oregon Department of Business & Consumer Services documented over 677,215 payday loans originating in the state, resulting in nearly $215 million in payday loans. In the City of Portland, approximately 60 storefronts operate under state licenses issued to payday lenders.[16] These storefronts are consolidated, however, into larger lending operations.



Oregon is experiencing one of the fastest growth rates in payday lending operations in the nation. The nation's largest payday lender, the publicly traded Advance America, which as of June 30, 2005 operated 2,520 stores in 36 states has expanded by an average rate of four point six-five percent (4.65%) in the first six-months of 2005.[17] However, in the state of Oregon, the expansion rate for Advance America was nearly twenty percent (20%).[18] Thus, Advance America, in just six months alone, expanded its Oregon operations five times faster than the nation's average.

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[15] State of Oregon Department of Consumer & Business Services, "Policy Review of Consumer Finance & Payday Lending" (July 2004), from $64 Million in 1999 to $215 Million in 2003.
[16] Oregon Department of Consumer & Business Services, as of August 18, 2005.
[17] Analysis from Advance America, Cash Advance Centers, Inc. Securities and Exchange Commission Form 10-Q Quarterly Report, Filed 8/15/2005 for the period ending 6/30/2005.
[18] Only three other states had expansion rates greater than Oregon – Kansas, Iowa, and Indiana.

Oregon's Minimal Statutory Scheme

The State of Oregon only minimally statutorily regulates payday lenders. This stands in sharp contrast to other states, which either require an interest rate cap on payday loans, or significantly regulate loans by limiting the amount of such loans. Oregon is one of only 14 states which does not have specific legislation regulating payday lenders or requiring interest rate caps.[19] Legislation before the Oregon Legislature in 2005, Senate Bill 545A-Engrossed, would have regulated payday lending by capping the maximum allowable interest rates, requiring repayment of a portion of the principal before renewal of the loan, limiting the maximum amount of a loan, giving the borrower a right to rescind the loan, and giving the borrower a right to a payment plan after three successive rollovers. However, Senate Bill 545 A-Engrossed failed to pass the legislature.

The State of Oregon does require that payday lenders receive licenses from the Department of Consumer and Business Services. As well, the number of rollovers is limited to three[20] and lenders are prohibited from giving a borrower who has reached the limit of three rollovers a new loan on the same day.[21] However, the survey results of payday loan customers conducted by the Department of Consumer and Business Services indicated 12% of borrowers indicated they had rolled-over payday loans four or more times.[22] Moreover, the majority of the respondents indicated they had renewed their loans to the maximum allowable limit of 3 rollovers.[23] In addition, data suggests that limitations on rollovers, without limiting the number of loans which can be obtained from different

[19] According the National Conference of State Legislatures (June 25th, 2005) Oregon is one of only 14 states that do not have specific payday lending legislation or require lenders to comply with interest rate caps. http://www.ncsl.org/programs/banking/PaydayLend-Intro.htm#Laws (The other 13 states are Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Pennsylvania, Texas, Vermont and West Virginia.)
[20] ORS 725.622(4)
[21] ORS 725.622 (5)
[22] See "Policy Review of Consumer Finance & Payday Lending" Survey of Other Payday Loan Customers, Appendix 0-3.
[23] Id. (52% of individuals not employed by the State of Oregon)

lenders, are ineffective.[24] A borrower who cannot repay a loan after successive rollovers, may resort to repaying the loan and fees by seeking a loan from another lender.

In addition to the limited statutory scheme, the Department of Consumer and Business Services has by administrative rule regulated some aspects of payday lending. In particular, the Department of Consumer and Business Services requires that the Annual Percentage Rate (APR) of the loans be "posted prominently inside the lender's office where customers can easily see it."[25] However, the lender is required only to disclose the Annual Percentage Rate for a typical loan.[26] The actual Annual Percentage Rate the borrower may be charged can far exceed the posted rate.

Nevertheless, forty-eight percent (48%) of lenders surveyed for this report did not comply with this most basic of requirements to post the Annual Percentage Rate for a typical loan. Approximately twenty-four percent (24%) of the surveyors could not locate the APR posting, and an additional twenty-four percent (24%) of the lenders' postings were not easy for the surveyors to locate or read.

[24] Michael A. Stegman, Robert Faris "Payday Lending A Business Model that Encourages Chronic Borrowing" Economic Development Quarterly, February 2003, p. 20.
[25] OAR 441-730-0270
[26] Id.

OSPIRG's Recommendations

Policymakers and regulators should take steps to rein in the predatory practices of payday lenders. To help solve the problems highlighted in this report, solutions to consider should include:

- Capping interest rates;
- Requiring a portion of principal be repaid prior to the rollover or renewal of the loan, if rollovers are to be allowed;
- Requiring that such loans allow for a payment plan, eliminating the single balloon payment structure that is commonly used by lenders; Alternatively, a payment plan could be required after a certain number of rollovers, if the single balloon payment structure is to be retained;
- Giving borrowers the right to rescind or cancel the loan, which is a term common in many loans, and would add a layer of protection for consumers;
- Lengthening the minimum loan term, to allow borrowers adequate time to repay the loan without the need to renew or rollover the loan;
- Stopping simultaneous borrowing from multiple lenders, by the use of a shared database, which is a solution currently in use in many states;
- Limiting rollovers to less than the current statutory maximum of three;
- Prohibiting the use of abusive clauses in loans; and
- Prohibiting the use of post-dated checks or electronic access to bank accounts; Alternatively, prohibiting multiple non-sufficient funds charges and fees for the same loan transaction and its associated rollovers, as well as, further limiting or prohibiting statutory damages for dishonored checks associated with payday loans.

While state policies may preclude local governments from regulating certain aspects of payday lending, government leaders at all levels should examine all available options for regulating lenders operating in their communities.

The Survey of Payday Lending in the City of Portland

Methodology: In August of 2005, information obtained from the Oregon Department of Consumer and Business Services indicated that more than 60 payday lending storefronts were licensed in the City of Portland. Results from our survey and research indicated that 60 licensed payday lending storefronts were actively operating in the City.

The survey was conducted by in-person visits to payday lending storefronts licensed by the Oregon Department of Consumer and Business Services. The survey was conducted in August of 2005. Information gathered from the survey was confirmed on a select basis by OSPIRG staff in November of 2005 through follow-up visits.

The survey was designed to determine the interest rate most commonly charged in the City of Portland for loan principal of three hundred dollars ($300) for a 14-day term. Because, however, most lenders charge a flat fee based on the loan amount despite the fact that the loan period may only be a few days, the actual interest rates charged to a borrower can well exceed the most commonly charged interest rate.

As well, the survey was aimed at determining compliance with a state administrative rule, which requires that “the Annual Percentage Rate (APR) shall be posted prominently inside the lender's office where customers can easily see it.” Surveyors were instructed to look carefully for the APR posting noting when it could and could not be found, and when if found it was difficult to see. The following are the reasons the surveyors determined the APR postings were not easy to see:

- Behind desk, behind bullet-proof glass
- Behind glass, behind desk with a long list of other items
- Small printed sheet next to counter, hard to see
- Next to the door, behind a potted plant
- High in the back dark corner

The survey was designed to represent as much of the payday lending market as possible. Our staff surveyed 21 licensed payday lending storefronts in the City of Portland. Because the same payday lenders own and operate many of the payday lending storefronts, the survey results are representative of approximately ninety-five percent (95%) of the licensed active payday lending storefronts in the City of Portland as of August of 2005.

Percentages for non-compliance with annual percentage rate (APR) postings are calculated using the number of stores actually surveyed. Thus, the percentage for non-compliance with the APR posting use the 21 lenders surveyed to derive the percentage.

Percentages for the most common APR interest rate are calculated using the number of storefronts surveyed. The results of the survey indicated that 9 out of 21 lenders surveyed charge 521% APR for a payday loan.

The method for calculating interest rates not posted uses a 365-day calculation. This calculation method is the method required of payday lenders by Oregon state administrative rule, OAR 441-730-0270(b).

	DBA Name of Payday Lender	Address Surveyed	Locations	Fee per $100	APR	APR Posting Noticed	Posting Easy to See
1	Advance America	9141 SE Powell	9	$18.00	469%	Yes	Yes
2	Agbora Naanee	6544 SE Foster Rd.	1	$20.00	521%	Yes	Yes
3	Ace Cash	2722 N Lombard	4	$17.00	443%	Yes	**No**
4	AnyDay's PayDay	4328 SE 82nd	2	$18.00	469%	Yes	**No**
5	Cash & Go	1444 NE 102nd	2	$15.00	391%	Yes	Yes
6	Cash Connection	11902 SE Stark	1	$18.00	469%	Yes	Yes
7	Cash Loans	4718 SE 82nd	1	$22.00	597%	Yes	Yes
8	CashConnection (Oak Brook)	5600 NE MLK	4	$18.00	470%	Yes	**No**
9	Check Into Cash	7901 SE Powell	3	$20.00	521%	Yes	Yes
10	Checks R Us	2613 SE 122nd	3	$17.65	460%	**No**	
11	Fastbucks	2721 N Lombard	2	$20.00	521%	Yes	**No**
12	High Speed Cash	4911 NE Sandy	1	$20.00	521%	Yes	Yes
13	Pacific Finance	4059 NE Sandy	3	$11.65	303%	**No**	
14	Paycheck Advance	832 NE Broadway	2	$20.00	521%	Yes	Yes
15	Quick Cash	1234 NE 102nd	4	$20.00	521%	**No**	
16	Quick Loan	5008 N Interstate	1	$20.00	521%	Yes	**No**
17	Rapid Cash (Pronto Capital)	3849 SE Powell	1	$15.00	391%	Yes	Yes
18	Rapid Cash (Evergreen Financial)	12131 SE Powell	2	$17.65	460%	**No**	
19	The Cash Store	3234 SE Powell	4	$20.00	521%	Yes	Yes
20	Urgent Cash (Oak Brook)	8028 SE Powell	2	$18.00	469%	Yes	Yes
21	US Title Loan	816 NE Grand	5	$20.00	521%	**No**	

Number of Payday Lending Storefronts Operating in the City of Portland	60
Number of Payday Lending Storefronts Surveyed	21
Number of Lenders Represented by Survey	57
Percentage of Lenders Represented in Survey	95%
Number of Storefronts Surveyed where APR was Not Noticed	5
Percentage of Storefronts Surveyed where APR was Not Noticed	24%
Number of Payday Lending Storefronts where APR posting was Not Easy to Read	5
Total Percentage of Payday Lending Storefronts where APR posting was Not Easy to Read	24%
Most Frequently Charged APR based on $300 loan for a 14-day term	521%