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Payday Businesses Unlawfully File 1,500 Criminal Complaints Against Borrowers to Collect Money

AUSTIN, Texas —Texas Appleseed today filed a complaint with state and federal regulators of the payday loan industry after obtaining data showing that Texas borrowers are facing threats of criminal prosecution, arrest warrants, court appearances, jail time and fines stemming from the industry's illegal practice of using the criminal justice system to collect on debts.

This complaint comes amidst local, state, and national scrutiny of payday lending practices that too often trap desperate borrowers in high-cost debt. Many borrowers find themselves incapable of repaying the loans in full due to the onerous fees and terms. In Texas, payday loans carry average APRs in excess of 500 percent.

"In addition to their outrageous rates and lending practices, payday loan businesses are illegally using the criminal justice system to coerce repayment from borrowers," said Ann Baddour, director of the Fair Financial Services Project at Texas Appleseed. "This directly contravenes state and federal law, which eliminated debtor's prisons long ago. In fact, Texas' Bill of Rights guarantees that 'No person shall ever be imprisoned for debt.'"

Postdated Checks and Payday Lenders

Payday loan businesses generally provide short-term loans to borrowers who present a postdated personal check or authorize electronic debits from a bank account. Once the term of the loan expires — typically the borrower's next payday — the loan may be repaid by the borrower in several ways: allowing the check to be deposited by the payday loan business, allowing the business to debit their account, or by paying a new finance charge and rolling the loan over for another pay period. Data obtained by Texas Appleseed shows that a number of payday loan businesses are filing *criminal* "theft by check" or "bad check" complaints against borrowers who have insufficient funds to repay the loan by check or debit once the loan expires.

New Data Shows Unlawful Practices

The debt collection data shows that more than 1,500 criminal complaints were filed by 13 payday loan businesses in Texas from January 2012 through May 2014. The problem persists despite a 2012 change in state law designed to affirmatively end this practice. The data covers Texas' most populous counties and was obtained via open records requests and by analyzing data from individual cases and complaints.

Texas Appleseed found two companies were responsible for the majority of complaints filed: PLS Loan Store, with over half the total documented criminal complaints, and Cash Zone/Cash Biz with 304 complaints filed. Criminal complaints filed by the 13 payday businesses resulted in borrowers paying over \$166,000. Of the eight counties that reported at least one instance where a letter was sent to or charges were filed against the borrower, six of them have explicit policies against this practice.

County-Specific Data

- Harris Co: 107 complaints filed, with \$3,255 collected. Forty-two percent (42%) of the complaints resulted in an arrest warrant issued, and 5.6% resulted in jail time to pay the fines.
- Collin Co: Most complaints filed (740), with \$131,836 collected.
- Dallas Co: Second-highest number of complaints filed (470), with \$8,231.49 collected.
- Bexar Co: 191 complaints filed, with \$22,699 collected.
- Travis Co: 52 complaints filed.
- Potter Co: 14 complaints filed, all by Fast Cash.
- Williamson & El Paso Counties: One complaint filed each.

Texas Appleseed Complaint Urges Quick Action

Texas Appleseed documented the unlawful practices in an open complaint, accompanied by more than 700 pages of supporting documents, to the Federal Trade Commission, the Consumer Financial Protection Bureau and Texas regulators, urging these agencies to intervene to protect borrowers. In addition to regulatory action, Texas Appleseed asks for the payday lenders to be required to pay restitution to the borrowers or erase the debts, and proposes that payday businesses be fined for the illegal conduct.

Borrower Rights

Texas has a long history of not criminalizing debts, with a number of protective laws in place. In addition to the Bill of Rights protections and exemptions for postdated checks in the criminal statutes, the Texas Legislature further emphasized in a 2011 law that payday businesses are largely prohibited from pursuing criminal charges related to a check or debit authorization.

“We believe that the cases we documented are just the tip of the iceberg, and it’s very likely much more pervasive,” said Deborah Fowler, deputy director of Texas Appleseed. “The data does not include information from every Texas county and covers only a handful of the more than 800 Justice Courts in Texas. Where this is occurring, it’s a wrongful use of taxpayer-funded law enforcement and court resources; we need the help of federal and state agencies to rein in this abusive and illegal practice.”

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About Texas Appleseed

Texas Appleseed is a nonprofit organization that has been helping vulnerable Texans for the past 19 years. Texas Appleseed’s mission is to promote social and economic justice for all Texans by leveraging the skills and resources of volunteer lawyers and other professionals to identify practical solutions to difficult, systemic problems. For more information, visit TexasAppleseed.net.