The Florida Model: Baseless and Biased Attacks are Dangerously Wrong on Florida Payday Lending

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The deceptively named Center for Responsible Lending ("CRL") recently issued its most biased and unsubstantiated "research" on payday lending to date. Its March 2016 report, erroneously titled "Perfect Storm: Payday Lenders Harm Florida Consumers Despite State Law," exposes the organization's dangerous mission to eliminate financial choice for consumers in need of short-term financial assistance.

This white paper aims to more accurately inform policymakers about Florida regulations governing the short-term small-dollar loans, commonly referred to as “payday loans” or “cash advances.” It will clearly and definitively refute CRL claims of alleged harm to Florida consumers, and prove that Florida’s regulatory system can indeed serve as an effective model for the nation.

**Background on Florida payday lending regulations**

Florida's payday lending regulations are among the most consumer-friendly in the nation. They offer multiple levels of consumer protection and effectively preserve options for residents who need short-term financial assistance.

The Key Features of Florida's consumer protections include:

- Borrowers are evaluated for ability to repay prior to being approved for a loan.
- Fees are capped at $10 per $100 borrowed. (*This is 30-40% less than the national average and a fee that has not been adjusted for inflation since the law was passed in 2001.*)
- Loan Verification costs are capped at $5 per loan, of which $1 is remitted to the state regulator. (*Most lenders in Florida charge only the $1.00 out of allowed $5.00 and earn nothing from it.*)
- A statewide database enforces consumer protections in real time preventing multiple loans at same time.
- Providers are prohibited from pursuing criminal action against borrowers for bad checks.
- No-rolling over or renewing loans.
- 60-day grace period in which borrowers may receive free credit counseling and set up a viable repayment plan, with the provider paying the full cost for that process.
- Requires a 24-hour cooling-off period between loans.
- Strict $500 limit on any loan.

The CRL's attempt to undermine Florida's regulations relies on alarming falsehoods and gross distortions of facts. These types of misrepresentations could seriously impede the ability of low-income Floridians to safely access capital and cause significant consumer harm by forcing consumers to turn to dangerous and costly underground alternatives.
The following provides a brief summary of CRL's main points – most of which are repeated countless times in numerous forms throughout its March 2016 report. They are then followed by fact-based data and rebuttals that demonstrate the credibility and strength of Florida payday lending regulations which have been well tested for over a decade, and proven to be successful and safe for consumers.

**Myth 1: Payday Loans in Florida Carry Excessive Fees**

**Claim:** "Payday lenders impose excessive fees on loans that many borrowers are unable to pay back when due." (p. 1)

**Fact:** This is wholly false in Florida.

Florida borrowers owe a flat fee no greater than 10% of the principal value of the loan, and a database transaction cost no greater than $5.00. No additional fees can be assessed under state law. No interest is added. Inability to repay a payday loan in Florida results only in the consumer's inability to take out a subsequent loan.

In comparison, let’s consider the fees associated with bouncing just one check. The following scenario, put forth by researchers from the University of Massachusetts at Dartmouth, describes the strategic use of payday loans to avoid significantly greater consequences during times of immediate financial need:

> From Anderson and Jackson, "Perspectives on Payday Loans: the Evidence from Florida" (University of Massachusetts at Dartmouth):

For example, a consumer purchasing a $400 washing machine on August 1, 2010 on a Sears’s credit card must submit payment of $400 at the end of the month.

If payment is made with a check drawn on a Bank of America (BOA) account that is returned due to insufficient funds then Sears assesses a late fee of $35 plus a returned check fee of $39 while BOA automatically deducts $35 from the checking account per returned item.

Assuming the consumer is able to write a check with sufficient funds on “payday” September 15, 2010 then an interest charge of $12.62 is due to Sears for 1.5 months based on the current Sears APR of 25.24%.
Adding fees, penalties and accrued interest paid to Sears and BOA the consumer incurs a total cost of $521.62. The credit rating agencies will also likely receive notification of this event and lower the individual’s FICO credit score. This example is not hypothetical in the current trend towards fee-based banking and fee-based credit card services.

By comparison, the same consumer transacting a $400 payday loan on August 30, 2010 could pay the Sears credit card balance on time and write a valid check dated September 15 for $443.00 to repay the 10% loan interest and the $3 verification fee.

In this scenario, the payday loan was used strategically to pay a certain $443.00 rather than assume the risk of incurring a cost of $521.62.

Payday lending in Florida is not a high profit margin business, particularly compared with other financial products and services at other financial institutions.

**Myth 2: Florida Payday Borrowers Become Trapped in Cycles of Borrowing**

**Claim:**
"Due to the unaffordable terms payday loans carry, many borrowers are forced into a cycle of borrowing and re-borrowing just to cover the shortfall created by the previous loan." (p. 1)

"Additionally, a full 83% of total payday loan transactions were generated by borrowers trapped in 7 or more loans; 57% of loan transactions were generated by borrowers stuck in 12 or more loans." (p. 4)

**Fact:**
The use of the terms "trapped" and "stuck" is misleading as there is no evidence or data to support them. They are emotionally-charged terms used to deceptively imply harm where none exists. In the absence of facts and data, they are used to incite false outrage through emotion in an effort to prevent an objective evaluation of baseless allegations.

In Florida, cash advances must be paid off prior to borrowing a subsequent loan, and there is a required 24-hour cooling-off period between paying off one loan and taking out another.

If borrowers were taking out subsequent loans to pay for the first (as sometimes alleged by CRL), we would begin to see one or more of the following trends:

1. Increased rates of repeat borrowers not repaying loans and being locked out in the statewide database
2. Repeat borrowers increasing their loan amounts in subsequent loans.
Neither of these trends is apparent in Florida. To the contrary, 96% of loans are paid off within a 30-day period, and only 1.5% of loans result in default. Significantly, over 70% of all borrowers discontinue payday borrowing within a five-year period. After the first year of usage, over 20% of borrowers never use the product again, and 50% no longer use the product after two years.

This high payoff rate demonstrates that borrowers use payday loans strategically to cover expenses at a far lower cost than accessing other forms of small dollar credit (or, as the Dartmouth researchers noted, the effects of bouncing multiple checks).

Indeed, most criticism of payday lending centers around the likelihood of borrowers rolling over loans repeatedly – something that is specifically prohibited in Florida.\textsuperscript{i}

The CRL attempts to get around this fact by redefining rollovers as any subsequent transaction by the same borrower, even after paying off a prior loan in full in cash. This definition runs counter to logic and runs counter to data: there is no statistical evidence that borrowers increase loan amounts over time to compensate for prior fees. To the contrary, there is a complete absence of any evidence that would lead to such a conclusion.

This is one more example that validates what economists with the Federal Reserve System have found. They write that the main criticisms of payday lending "don't hold up under scrutiny and the weight of evidence"\textsuperscript{iii} and this is particularly in states like Florida.

**Myth 3: Florida Lenders Prevent Other Bills From Being Paid**

**Claim:** "If the borrower fails to pay back the loan in full when due, the lender can cash the check or debit the account for repayment. This direct access to a borrower’s bank account ensures that the lender is first to get paid, before other bills and necessities." (p. 1)

**Fact:** This is completely false.

First, approximately 85% of all transactions in Florida are paid off in cash. Of those that are not, almost 100% of checks are converted with the customer’s express consent to Image Cash Letters via Check 21 -- a system put in place by Congress that allows financial institutions to process checks electronically. This system reduces the costs of document handling, helps identify fraud sooner, improves accuracy, and most importantly, affords no precedence for payday lenders.\textsuperscript{iv} In other words, checks submitted by payday lenders are not processed before checks or debits by any other creditor. In fact, this myth is an old issue that is no longer applicable, and its inclusion in the CRL report calls into question the thoroughness and relevance of the research, if any, behind their report.
Using the same Veritec report that the CRL distorts to serve its own purposes, the following facts are clear:

- Less than 5% of all Florida checks used to secure payday loans are returned due to insufficient funds or invalid accounts; and
- Of those, greater than 50% of the returned check transactions are resolved within the year.
- Further, less than 1% of all transactions are placed into a “pending” status during the grace period; and
- Of those, more than 75% are closed within the year.

### Myth 4: Florida Payday Lenders Lend Money to Unqualified Borrowers

**Claim:** "Payday lenders do not assess a borrower’s ability to repay the loan in light of the borrower’s other expenses." (p. 2)

**Fact:** False. In Florida, a borrower's ability is based on his or her repayment history, and the loan may not exceed a certain portion of monthly income. The state approves every loan prior to origination, and every detail of the loan is explained in a written agreement given to the customer.

One in every six payday loan requests is denied due to ineligibility, a rate that demonstrates a robust assessment process. Finally, the fact that 95.7% of loans are paid off within 30 days and that in 2015, there was an industry-wide "loan loss" rate of about 1.5%, again demonstrates that borrowers are qualified and able to repay.

### Myth 5: Payday Loans in Florida Have Outrageously High “APR” Levels

**Claim:** "Looking to the most recent reported one-year period – ending May 2015 – the average payday loan was for $399.35 and carried total fees averaging $42.73. Assuming a 14-day term, this means that the average payday loan in Florida carried a 278% APR." (p. 3)

**Fact:** The term "APR" is meaningless and misleading in the context of payday loans. It is only meaningful relative to the length of time a person holds a loan – not the amount they owe on it. Payday loans do not accrue interest.

In Florida, payday loan fees are capped at $10 per $100 borrowed, plain and simple.

Assuming a 365-day loan period, the APR is actually a flat 10%. Assuming a 2-year loan period, the APR is 5%. In other words, since Florida payday loans accrue zero interest, the borrower can have their loans outstanding indefinitely and continue to lower their so-called “APR.”
If a chief critique of payday lending is that borrowers must repay loans in short periods such as 15 days to one month, this concern should be alleviated by the fact that no matter how long a borrower keeps a loan outstanding, no additional fees are imposed.

Nevertheless, even when applying CRL's distorted logic on APR, payday loans in Florida look far more favorable for consumers than accruing debt on credit cards or in overdrawn bank accounts. The example provided by the Dartmouth researchers is applicable here as well.

Finally, payday borrowers are highly satisfied with Florida products. Both through public opinion survey and through an analysis of complaint data with Florida regulators, this is apparent. In 2015 in Florida, only 27 complaints were filed with regulators against licensed payday lenders out of millions of payday loan transactions.

**Myth 6: Most Payday Borrowers in Florida Take Out More than 8 Loans Each Year**

**Claim:** "Florida data clearly shows that the overwhelming majority of payday loan volume comes from repeat lending. According to the 2015 Veritec report, the average borrower takes out more than 8 loans per year." (p. 4)

**Fact:** The CRL misinterprets the meaning of data in the 2015 Veritec report. In truth, this report makes clear that the most common payday borrowing experience in Florida is taking out just one loan in a year (15%), followed by 2 loans (9%).

Further, data from Florida's Office of Financial Regulation makes clear that three-quarters of borrowers leave the product within 5 years and half leave the product within 2 years. This further demonstrates that even for borrowers who use multiple loans within a year, nearly all do so for only a short time period.

**Myth 7: Most Payday Borrowers in Florida Take Out More than 8 Loans Each Year**

**Claim:** "The budget shortfall from payday fees leads to delinquency on credit cards and other bills,18 as well as delayed medical care and prescription drug purchases."19 (p. 5)

**Fact:** As is described in detail below, the CRL selectively cites papers that feed its biased narrative without citing equally or more credible research that establishes the opposite.
For example, researchers from the University of Chicago find that access to payday lending mitigates individual financial distress following natural disasters, as well as minimizes the rate of larcenies.\textsuperscript{vii}

Other economists find that "returned check numbers and overdraft fee income at banks increase after payday credit bans" – in other words, if you eliminate payday loans, you increase the rate of bounced checks and overdraft fees. These authors affirm that bouncing a check is often more costly than a payday loan, and suggest that access to payday credit may help households avoid costlier alternatives.\textsuperscript{viii}

Finally, research from Dartmouth College finds that restrictions on payday lending may result in borrowers shifting to reportedly "inferior substitutes" including bank overdrafts and late bill payments, and that this shift is associated with overall financial deterioration among impacted households.\textsuperscript{ix}

The CRL selectively avoids making reference to studies such as these that contradict the conclusions it wishes to reach. Instead, the CRL cites the following highly flawed papers in support of its unsound argument:

**CRL source 18 shortcomings:** This paper does not utilize any data from Florida. Only Texas borrower data is included.

Unlike Florida law, Texas law places no rate caps on what lenders may charge. According to a 2014 Pew Charitable Trust report, Texas consumers pay among the highest prices in the country for what they borrow.\textsuperscript{xi}

Therefore, these findings are completely irrelevant in the Florida context and call into question the accuracy and validity of the entire CRL report.

**CRL source 19 shortcomings:** There are so many problems with this source that it is difficult to know where to begin.

The authors’ attempt to correlate self-reported delays in medical care with geographic "access" to payday loans.

The dependent variables are survey responses to questions on whether medical care was delayed in a given year, and on other economic hardships a person’s family has faced in the prior 12 months.
One might assume that the independent variables of interest on payday borrowing history are also culled through individual-level survey data; but this is not so. Astoundingly, this study does not ask whether a respondent actually utilized a payday loan. Instead, it relies on a conceptual measure of "access" to payday borrowing based on the geographic distance from the border of the respondent's home county to the border of a state that allows payday lending. This is a major methodological limitation that undercuts any attempt to correlate economic hardship to payday lending.

Further, this study uses data from only 13 states (Alabama, California, Colorado, Florida, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New York, Texas, Washington, and Wisconsin). This strongly limits the ability to deduce antecedents of economic hardship, whether related to payday lending or any other variable of interest.

**Myth 8: Payday Loans in Florida Result in More Overdraft Fees at Banks**

**Claim:** "Given the lenders’ direct access to the bank account, payday loans lead to increased likelihood of overdraft fees and loss of bank accounts."20 (p. 5)

**Fact:** CRL source 20 shortcoming:xiii Once again, the CRL uses a study that relied on non-Florida data to suggest impacts on Florida's communities. This study utilizes data from a natural experiment in Georgia as well as a national cross-section of data to derive its conclusions.

During the study period used in this research, payday lending was unregulated in Georgia – the very opposite of what Florida consumers face today.

The Georgia State University Law Review, in an extensive analysis of payday lending practices in that state, described how Georgia went from a fully unregulated environment prior to 2004 to one in which payday lending was fully banned by the Legislature after that year.xiv

This is hardly a comparable context for Florida, where the Legislature enacted strict consumer-friendly regulations.

Finally, additional research suggests that in states where payday lending becomes restricted, consumers shift to other forms of high-interest credit such as pawnshops and not to traditional credit instruments, such as credit cards.xv

This finding is important because it underscores the ultimate question: if a consumer needs a short-term loan, what options do they have and at what cost? Payday lending in Florida offers a solution that is more reliable, lower cost, and less risky than what consumers in other states may access.
Myth 9: Payday Loans in Florida Increase Likelihood of Bankruptcy

Claim: "Payday borrowers are also more likely to file for bankruptcy."21 (p. 5)

Fact: CRL source 21 shortcomings: Once again, this paper does not utilize any data from Florida. Only Texas borrower data is included. As described above, Texas law places no rate caps on payday lending, and consequently, Texas borrowers pay among the highest rates in the nation. CRL's application of this study to the Florida context is highly misleading.21

Further, the CRL fails to cite competing studies in which payday borrowing is shown to be completely unrelated to credit scores, new delinquencies, or overdrawn credit lines. For example, a 2013 study on payday lending finds that despite incurring higher interest rates on short-term loans, payday borrowers do not suffer from greater hits on credit scores, do not incur greater payment delinquencies, and do not have any greater likelihood of overdrawing a credit line.22

Perhaps even more telling are studies that demonstrate the impact of payday lending restrictions on credit union profits. Indeed, research suggests that credit unions' overdraft activities become more profitable in those areas where payday loans are prohibited.23

The CRL, formed and funded by the Self-Help Credit Union, stands to benefit substantially from limiting competition in this market. In a double whammy to would-be payday borrowers, this research further finds that credit unions reduce overdraft credit limits when payday credit (a possible substitute) is prohibited. In other words: the CRL has motive to eliminate consumer access to payday loans and, if successful, their partners may respond to this restricted environment by further limiting overdraft protections and bringing in more revenue from them.

Myth 10: Payday Loans in Florida Diminish Economic Activity in the State

Claim: "In 2013, the Insight Center for Community Economic Development examined the net impact payday lending had, in terms of value added, on the national economy and jobs. According to this study, in 2011 payday lending in Florida had a negative impact of more than $76 million in lost economic activity, and resulted in the estimated loss of 1,117 jobs."23

Fact: CRL source 23 shortcomings: This is an intellectually dishonest study. It attempts to suggest that if borrowers had not paid fees on payday loans, these same dollars would have been added to household income and utilized for household spending, and therefore would have "induced" economic activity in communities.
This assumption completely ignores the very point and necessity of a payday loan. Those borrowing in advance of their paycheck would not be spending these fees on anything other than paying late fees, bounced check fees, or other costs associated with the fact that they did not have adequate capital to cover an expense in that month.

Using the CRL's twisted logic here -- the false premise that every opportunity cost is somehow the "stripping" of wealth from individuals and communities -- Starbucks should be required to charge what McDonalds does for a cup of coffee, as that extra dollar or two per transaction is costing the community "jobs". The point is this: people make rational choices based on the costs and utility of options. A service having a cost is not evidence of harm, particularly when the alternatives are even more costly.

Notably, in terms of assessing alternatives to payday lending, this study fails to account for any consequence to the consumer of losing access to payday lending options. That side of the equation is hugely important in estimating any true economic impact to individuals and communities.

Finally, this report acknowledges that only one study has used borrower-level data in the attempt to link payday lending to financial consequences. This study (Skiba and Tobacman) is the same source used by the CRL, relying solely on Texas data, and therefore is irrelevant to the Florida context.

**Myth 11: Payday Loans in Florida Prey on Minority Consumers**

**Claim:**
"The maps and the analysis below are based on payday loan locations provided by the OFR [Florida Office of Financial Regulation], as of January 2016, reflecting more than 1,100 stores. Two payday lenders – Amscot and Advance America – own nearly 500 of these stores. By comparison, Starbucks has 642 Florida locations." (p. 6)

"When comparing areas at both ends of the income spectrum, store concentrations are notably higher in high-minority census tracts when compared to their low-minority counterparts." (p. 6)

**Fact:**
As an initial point, it is highly misleading to compare one entire industry (payday lending) against a single company (Starbucks), no matter how ubiquitous. There are over 25,000 coffee shops in Florida. There are also more than 1,800 pawn shops, and thousands of fast-food restaurants. None of this is relevant whatsoever.

While CRL attempts to suggest that payday lenders intentionally prey on minority neighborhoods, other sources – including those cited by the CRL itself – indicate the opposite. These were not highlighted in the CRL report, potentially because they refute the very premise of what CRL is attempting to claim.
CRL source 19 states: "At the county level, areas with payday loan access are higher income, lower unemployment, more populous and more urban. Individuals with payday loan access have, on average, higher family incomes, higher asset ownership (home and car), and higher rates of health insurance. Demographically, they are more likely to be white, and less likely to be foreign born, African-American or Hispanic."

CRL selectively ignores these sections of the report, as they contradict the organization's biased narrative.

Multiple other studies have also affirmed that the geographic distribution of payday loan storefronts is not related to racial characteristics of neighborhoods. Further, studies have demonstrated that African-Americans and Hispanics are no more likely to take out payday loans than are whites who are experiencing the same financial circumstances – for example, having been rejected for credit or missing rent payments.

Finally, it can be easily argued that greater access to payday loan locations results in better conditions for consumers, as competition of the free market increases with more providers in an area. This hypothesis was affirmed by researchers from the University of Kansas and Colorado State University, who found that each additional payday lender per 1,000 residents in a given ZIP code was associated with a meaningful decline in fees.
Conclusion

The Center for Responsible Lending does not appear to be interested in conducting a fair and accurate evaluation of the payday lending industry in Florida and the way in which Florida’s regulatory system protects consumers who utilize the industry’s services.

This may not be surprising in light of the fact that CRL is in fact an organization formed and funded by credit unions, which stand to benefit substantially from seeing severe limits place on competition in the market for smaller, shorter-term loans. The CRL bias against payday lending may be explained by studies that demonstrate how credit unions' overdraft activities become more profitable in those areas where payday loans are prohibited.

Whatever its motivation, CRL has produced a study that falls woefully short of the scientific rigor and data analysis that should be a part of any meaningful analysis and credible, evidence based reporting. In some cases, these shortcomings are apparent within the sources cited by CRL itself. As documented in the preceding pages, the many flaws that permeate the CRL report include:

- Florida payday lenders are not allowed by law to charge “excessive fees.” Fees are carefully established by law, and in all cases are less than the fees that would be incurred via the too-common practice of “bounced check” fees.
- CRL focuses much of its ire at the “annual percentage rates” of payday loans. However, this argument is spurious, as APR is meaningless and misleading in the context of payday loans. A consumer seeks a payday loan to secure a specified amount of cash in exchange for a specified fee, with repayment due at a specified time. The fee amount does not change over time, and a delay in repayment will not cost the consumer any additional fee – the hallmarks of an APR-based loan.
- Contrary to the CRL assertion that “unaffordable terms” force borrowers to become “stuck” in an endless cycle of payday loans, 96% of payday loans in Florida are paid off within 30 days. One in five consumers stop utilizing payday loans within a year, and half discontinue their use within two years.
- Much of CRL’s criticism of payday lending centers around the likelihood of borrowers rolling over loans repeatedly. While rolling over loans is in fact a major problem with lending regulations in OTHER states, this is specifically prohibited in Florida.
- Contrary to CRL’s claim that payday lenders provide loans to unqualified borrowers, the State of Florida approves every loan prior to origination, and a consumer’s ability to borrow is based on his or her repayment history. One in every six payday loan requests is denied due to ineligibility, which clearly illustrates a thorough review process.
- Despite CRL’s claim that payday lenders prey on minority consumers and target predominantly minority neighborhoods, a study used as one of CRL’s own sources refutes this claim.
Additionally, many of CRL’s conclusions are based on studies that do not include data from Florida. Therefore, they can have no relevance in an examination of whether, and how well, Florida’s payday lending regulatory system works to protect consumers.

Thus, a careful analysis can lead to only one conclusion: The CRL study is premised on inaccurate and distorted data used to create conclusory statements with no real evidence to back it up. It is wrong, misleading, and most importantly dangerous in its potential negative effects on consumers should it be relied on, and thus should be disregarded accordingly.
References

2. See Florida Statutes, Chapter 560, Part IV.
6. See Veritec, above.
17. Sumit Agrawal et al, above.