RESOLUTION OF THE CITY OF EL PASO TO REQUEST THAT THE TEXAS STATE LEGISLATURE AND GOVERNOR OF TEXAS TAKE ACTION TO COMPEL PAYDAY AND AUTO TITLE LENDERS TO STOP USURIOUS LENDING AND COMPLY WITH THE SAME STANDARDS AS LICENSED CONSUMER LENDERS IN TEXAS

WHEREAS, the Mayor and City Council represent the citizens of the El Paso;

WHEREAS, the citizens of El Paso are deeply concerned about harmful effects of payday and auto title lending practices in El Paso and elsewhere in the state of Texas;

WHEREAS, in the state of Texas there are over 2,800 of these unlicensed and unregulated lending storefronts, making an estimated $3 billion in high-cost loans to Texas families each year;

WHEREAS, there are many of these loan outfits in our local community promising "easy credit" only to hurt people with annual percentage rates upwards of 500%, and loan terms that often pull people deeper into debt;

WHEREAS, 15 states and the District of Columbia have adopted a 36% or lower annual percentage rate cap for these small loans and the federal government has adopted a similar rate cap for payday and auto title loans to the military based on a Department of Defense finding that these loans "undermine military readiness, harm the morale of troops and their families, and add to the cost of fielding an all-volunteer fighting force"; and

WHEREAS, we see a crisis in our community and we need action at the state level to enforce fair consumer lending standards in Texas.

NOW, THEREFORE, BE IT RESOLVED that the City of El Paso urges the Texas State Legislature and the Governor of Texas to take action in the next regular session of the State Legislature in 2011 to enact laws that will:

1. Close the loopholes in state law that allows payday, auto title, and other consumer loans to carry annual percentage rates upwards of 500%;
2. Provide a level playing field by requiring all lenders and brokers of payday, auto-title, or other consumer loans to be licensed and to comply with the same standards and consumer protection laws of licensed lenders under Chapter 342 of the Texas Finance Code; and
3. Create a system to collect consumer loan data from lenders and brokers of consumer loans to ensure that these outfits engage in fiscally sound lending that supports the well being of our communities.

ADOPTED this _____ day of _________________, 2010.

CITY OF EL PASO

____
John F. Cook
Mayor

ATTEST:

____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

____
Sylvia Borunda Firth
Senior Assistant City Attorney

500% Interest is WRONG

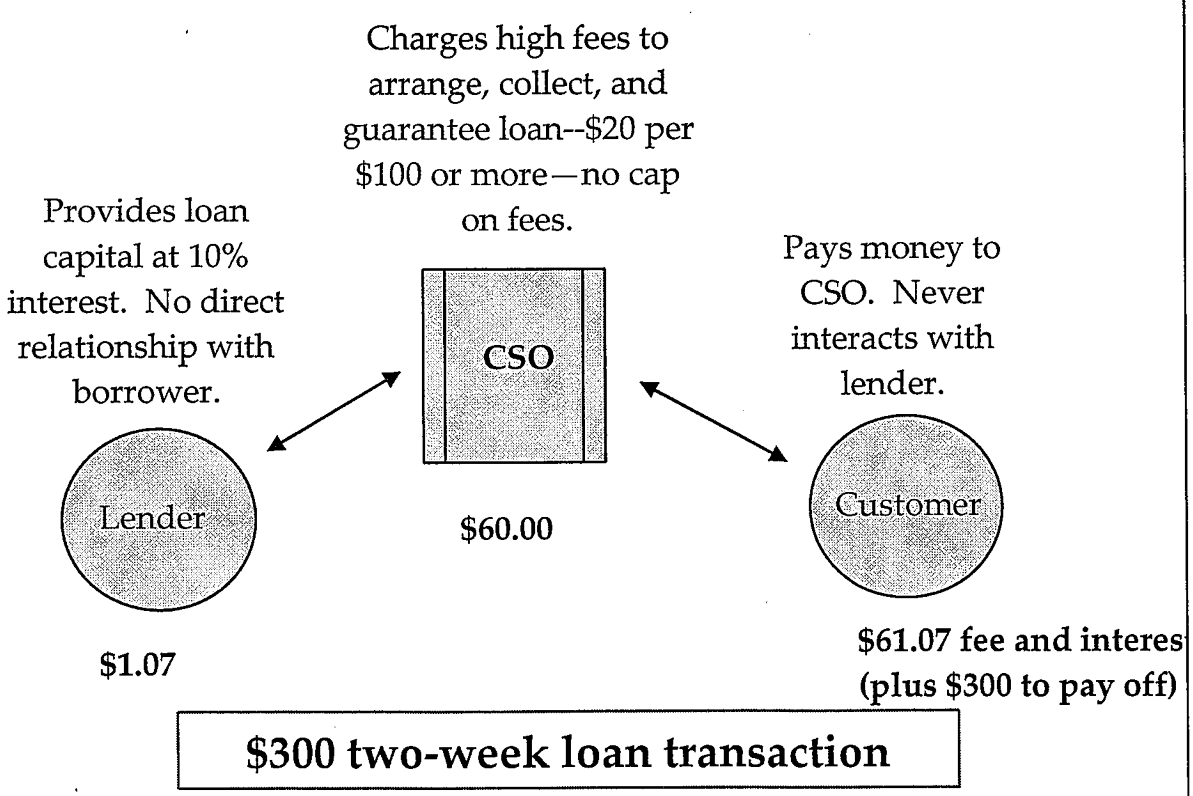
It hurts communities. Texas needs a law.

THE CSO LOOPHOLE: A "CREDIT SERVICE" THAT HURTS OUR COMMUNITIES

A CSO, or Credit Services Organization, is supposed to help people clean up bad credit. Instead of helping, the Texas law governing CSOs is being exploited as a **loophole**. Payday and auto title loan outfits use it to charge high fees for loans that trap people in debt. They use the **loophole** to get around Texas laws that cap rates and fees for consumer loans, by claiming that they are not lenders. They charge excessive fees to broker and guarantee high-cost loans.

For example, a customer who takes out a $300 payday loan owes $361.07 at the end of the two-week loan term. The CSO earns a $60 "fee" and the "lender" earns $1.07 in interest. If the borrower cannot pay the loan back in full, the same "fee" and interest charges apply again two-weeks later. CSOs often charge the $60 loan fee over and over again for the same loan. If the borrower must extend the loan nine times before paying it off, which often happens, the CSO earns $540 in fee income and the lender earns $9.63 on the $300 loan. Who is the real lender here?

The CSO Loophole in a Nut Shell



500% Interest *is Wrong*

It hurts communities. Texas needs a law.

Communities Can Support Fair And Responsible Lending

The damaging effects of payday and auto title loans have attracted the attention of state legislatures and local governments around the country. There is growing concern, because these high cost loans are draining community wealth and trapping consumers in a destructive cycle of debt.

What are payday and auto title loans?

Payday loans are small cash advances – due in full, plus interest and fees – by the borrower's next payday, typically in two weeks. These loans are secured by a borrower's post-dated check or electronic access to a debit account. If a borrower defaults, they incur both insufficient funds fees from the payday lender and overdraft fees from the bank. Average payday borrowers get back-to-back loans many times before they are able to pay the loan in full and end up paying many times the original loan amount. In Texas these loans carry annual percentage rates of upwards of 500%.

An auto title loan is almost the same as a payday loan, except that a car title is used to secure the loan instead of the borrower's next paycheck. Like payday loans, they carry extremely high interest rates and must be paid in full, plus interest and fees, by the end of a short loan term. Auto title loan borrowers can end up losing their car even after paying hundreds--or thousands—of dollars in fees and interest. In short, this is usury. Payday loans and auto title loans are defective products designed to keep consumers trapped in debt.

How do payday and auto title lenders hurt borrowers and communities?

Because of the high fees, short term and lump sum payments required by these loans, borrowers are unable to both pay back the loans and meet their monthly expenses. As a result, borrowers must repeatedly renew their loans in order to fill the gap in their family's budget caused by the payday loan. These lending outfits are proliferating in low to moderate income areas across Texas. Texas has more than 2,800 of these stores, more than all the McDonald's and Whataburgers combined. Payday and auto title loan outfits are also seen to contribute to decreasing land values and serve as magnets for crime.

How do Texas payday and auto title lenders get away with 500% loans?

Payday and auto title lenders operate a multi-billion dollar lending market in this state, yet, unlike most other lenders, they are not licensed, regulated or subject to any meaningful consumer protections. We have a law on the books, but these lenders do not want to follow it. Instead, they take advantage of a **loophole** that allows them to operate as "credit services organizations" (CSOs). In Texas, a CSO is only required to pay a $100 annual registration fee to the state and is subject to no regulatory oversight.

What can we do to hold these lenders accountable?

Local governments have a right and a responsibility to protect the economic health, welfare and safety of their communities. Fortunately, local governments have several options to hold payday and auto title lenders accountable. Local governments can amend city charters or pass ordinances that restrict CSO lending within the municipal boundaries. Recently, the cities of Mesquite, Richardson and Sachse have used zoning laws to limit where and how many of these lending outlets can operate. The City of San Antonio recently amended the city charter to require city review and approval of new payday loan outlets.

City government can also adopt resolutions calling on the state legislature to end the loophole currently in state law that allows payday and auto title lenders to operate without any regulatory oversight, licensing and consumer protections required of other Texas lenders.