

whichever is less).

### **CAN A PAYDAY LENDER BRING CRIMINAL CHARGES?**

No. A payday lender **can't** threaten or start criminal proceedings against you if your check bounces or if you do not pay back the loan.

### **IF THE LOAN ISN'T PAID, WHAT CAN A PAYDAY LENDER DO?**

If you don't pay back a payday loan, the lender can ask for and collect only these things.

- The amount you borrowed and didn't pay back.
- The lender's fee (\$15 for each \$100 borrowed).
- A bad check fee of no more than \$25 if your check bounced or you stopped payment on your check or you closed the account.
- Court costs if you are sued in court and lose.
- Attorney's fees of no more than \$250 if you are sued in court and lose.

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# **PAYDAY LENDING**

This pamphlet contains general information about your rights. Consult a lawyer if you have specific questions.

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CVLAS is a non-profit organization providing free legal advice, and representation to low income or elderly people in Central Virginia. Contact us Monday - Thursday 9-12 to see if you qualify for services.

This project financially assisted by the Virginia Law Foundation.



## WHAT IS PAYDAY LOAN?

A payday loan is a small, short term, high interest rate loan. These loans go by many names: payday loans, cash advance loans, check advance loans, post dated check loans, or deferred deposit check loans. Payday lenders loan \$100 to \$500 for very short time periods. Usually, the loan is for one or two weeks, the time between pay periods. Since July 1, 2002, payday lending has been legal in Virginia.

## WHY IS A PAYDAY LOAN A BAD IDEA?

Payday lending is a bad idea because you are set up to fail. If you need and do not have \$500 today, you are not very likely to have and be able to repay \$575 in one or two weeks. Because the payday lender holds your check, the lender usually will be paid first. You know that if you don't pay, your check may be cashed and other checks you wrote may bounce.

## HOW DOES A PAYDAY LOAN WORK?

For example, suppose you want to borrow \$500. You write a check for \$575 and give it to the lender. The lender gives you \$500 in cash. The lender holds your check until your next payday. On your next payday, you either must come back and pay the \$575, or allow the lender to cash your check. The interest rate is forty to eighty times higher than the interest rates charged by credit cards, banks, and other lenders.

## WHAT CAN I DO INSTEAD OF A PAYDAY LOAN?

You have options other than payday loans. You should consider the following ways to get a short term loan before you choose a pay-

day loan.

- Get a loan from your credit union or a small loan company.
- Ask for advance on pay from your employer.
- A personal loan from family or friends.
- Get cash advance on a credit card.
- Ask your creditors for more time to pay your bills, and ask what they will charge for that service, such as a late charge, extra finance charge, or higher interest rate.
- Make a realistic budget and figure your monthly and daily expenses. Avoid unneeded purchases, even small daily items. Their costs add up.
- Look into a no cost consumer credit counseling service.

## ARE THERE RULES FOR PAYDAY LOANS?

Yes. In Virginia, there are certain rules for payday lending:

- A payday lender must give you the loan in cash, or by a check that you can cash without any additional fee.
- You can't borrow more than \$500 from any single payday lender at any time.
- A payday lender can't make you more than one loan at any time.
- A payday lender can't hold more than one check from you at any time.
- A payday lender can't charge you more than \$15 for each \$100 you borrow.
- A payday lender must give you at least 7 days to pay back the loan.
- The payday loan lender also must give you a pamphlet titled Payday Lending in the Commonwealth of Virginia - Borrower Rights and Responsibilities.
- Before you take out a payday loan, the lender must give you warning notice. This

must be a separate printed notice on 8½ x 11 inch paper. The notice must be in big,

24 point type. **(This type is 24 point type.)** This warning notice must be signed and dated by each borrower. The warning notice must say these things: "WARNING: A payday loan is not intended to meet long-term financial needs. It is recommended that you use a payday loan only to meet occasional or unusual short-term cash needs." and "I acknowledge that I have received a copy of this notice and the pamphlet entitled Payday Lending in the Commonwealth of Virginia - Borrower Rights and Responsibilities."

Also, a payday lender **can't** do any of the following things:

- Get a Power of Attorney from you, or any authority that says you agree to a judgment against you.
- Get your agreement that you will be sued outside of Virginia.
- Get your agreement to give up any of your legal rights under Virginia law.
- Refinance, renew, extend, or roll over any payday loan. You must pay off the old loan before the payday lender is allowed to make you a new loan.
- Ask for or hold a post-dated check.
- Hold anything to stand good for the loan other than your check.
- Sell or turn over your check to anyone else.
- Sell you any other product or service.
- Ask for or collect the penalty allowed under the "bad check law," (which is \$250, or three times the amount of the check,