



## Position Statement on Predatory Loans Recommendations by the Voice of the Poor Committee Council of the United States

### Message From Our President

Dear Brother and Sister Vincentians,

The predatory lending business is thriving, causing untold pain to thousands of individuals and families. Unreasonable and excessive economic tactics used by payday lenders, rent-to-own companies, and predatory mortgage lenders and brokers must not be tolerated.

Part 7.6 of the Rule of the Society is clear. We are called to speak out clearly against unjust economic structures, always with charity, with the aim of contributing to and demanding improvements. Please join me as a voice of the poor.

Yours in Christ,  
Joseph Flannigan, National President

### Situation

Research shows that the poor pay higher prices for goods including mortgages, auto loans and even basics, such as groceries, insurance, and financial services. (1) When funds are needed, alternative finance services, such as payday lenders, check cashers, money transmitters, title lenders, rent-to-own providers, pawn shops and tax preparation services that provide refund anticipation loans, proffer funding options.

While commercial check-cashing outlets have been in the United States since the 1930s, payday operations began in the early 1990s. Prior to that time, short-term loans had been available through pawn shops, auto title lenders, retail installment credit, and loan sharks. By 2000, the payday lending business was prospering with more than 10,000 payday lenders doing business in the United States, accounting for about 2 billion dollars in revenue. Some pawn chains have also entered the payday lending business.(2)

Payday loans, also called cash advance loans, post-dated-check loans, deferred deposit check loans, deferred presentment loans or check advance loans, offer quick money, easy financing, and nothing down. These lenders operate from storefront shops in low-income neighborhoods across the country. Borrowers without an established credit history, with damaged credit, with no other resource when cash is urgently needed become trapped when they are unable to repay the loan on time.

In the typical scenario, a customer borrows up to \$500 and promises to repay the debt within a short timeframe, such as out of their next paycheck. The agreement may be made without reasonable underwriting guidelines or without consideration of whether the borrower will be able to re-pay the loan. The lender is given a post-dated check for the amount borrowed and the check is held until the borrower's next payday. When the loan is repaid, the post-dated check is returned and the borrower is charged a 10-15 percent fee on the amount borrowed. A verification fee may also be charged. If the loan cannot be paid on time, the consequences of the deal quickly escalate. Large fees and extremely high interest rates begin to accrue, sometimes with no loan cap, that soar into the triple digits. Unlike conventional consumer loans, payday loans have a repayment period of generally 60 days or less. Two week repayment periods are common. The loan rolls over if the borrower is unable to repay the entire amount due. Additional fees and interest accrue. Sometimes the borrower goes to multiple lenders to try to pay off the first loan. The borrower is trapped with no ability to pay the principal, plus interest, plus fees which continue to spiral out of control. The short term loan becomes an expensive, long-term ordeal. (3)

Studies by several states found that customers who use payday loans have an average annual income of about \$25,000. (4) Most customers are below the age of 45 and roughly 10% of payday loans are made to people ages 18-25. Young adults typically take out payday loans for three reasons: they have bad or no credit histories and can't get loans from credit unions or banks, they don't understand how expensive these loans are, and it's easier and quicker than applying for traditional loans. (5)

A study of socioeconomic variables indicated that African-American families, families who bounced one or more checks in the past five years, and families in neighborhoods where new check cashing and payday lending businesses had opened were significantly more likely to borrow from a payday lender. (6) Over 90% of payday revenues are made up of borrowers who take out five or more loans annually, and more than 55% of revenues are generated from borrowers with 13 or more payday loans in a year. (7) In a survey of payday loan users in Oregon, borrowers indicated that they acquired these loans for basic needs including paying bills (60%), buying groceries (30%), for car repairs (25%), and medical bills (19%). (8) (9)

Payday loan facilities are often located near military bases to capitalize on the inexperience of young, cash-strapped soldiers and sailors. The Pentagon has reported that military people are three or four times more likely to be users of payday lenders. Security concerns have pushed Congress to address payday loans made to military service members because their financial problems could distract them from their duties or make them vulnerable to bribery. A report by the Pentagon in 2006 called for a 36 percent ceiling on interest on payday loans to members of the military, the same cap many states impose in their usury laws to ban loan sharks. (10)

Payday loans are big business. In Oregon, research showed two-thirds of payday loan storefronts are owned by large out-of-state corporations. National payday loan figures show the industry made \$6 billion in fees on \$40 billion in 2005 loans. Loan volume from 2004 to 2005 increased by 24 percent among six publicly traded companies in the business.(11) Earnings estimates for fiscal year 2007 show a 28% increase over the prior year. (12)

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## Church Teaching

The Catechism of the Catholic Church is clear: "Those, whose usurious and avaricious dealings lead to the hunger and death of their brethren in the human family, either directly or indirectly commit homicide, which is imputable to them."(16) The *Compendium of the Social Doctrine of the Church* states, "Although the quest for equitable profit is acceptable in economic and financial activity, recourse to usury is to be morally condemned. (17)

The Church's condemnation extends to international economic relations in which less advanced countries suffer exploitation under "abusive if not usurious financial systems."(18) Pope John Paul II described usury as "a scourge that is also a reality in our time and that has a stranglehold on many people's lives."(19) In a presentation on African countries in crisis Cardinal Tarsicio Bertone stated that debt "becomes usury when it harms the inalienable right to life, namely, all those rights that have not been given to man but that belong to him by nature." (20)

## Vincentian Response to Predatory Lending

Every consumer deserves access to fair, responsible, affordable credit that provides clear, realistic terms and practical repayment periods. Laws to protect those who are poor from unscrupulous practices are needed. Government must be urged to enforce truth in lending and strict usury limits for all consumer loans including: reasonable lending caps and loan terms; consideration of a consumer's ability to pay; bans on internet payday lending and out-of-state charter arrangements that allow companies to get around state laws; providing consumers with legal recourse in disputes. It is the responsibility of government to legislate change by tightening loopholes that allow financial predators to victimize the poor and vulnerable in the community.

Through the Rule of the Society, Vincentians are drawn "to follow Christ through service to those in need and so bear witness to his compassionate and liberating love." (Part 1, Section 1.2) They are called to defend the rights and the dignity of the needy by recognizing that peoples' lives are affected by the social, economic and political environment within which they live.

Today members of the Society seeking a better world must embrace both charity with justice. Like our Founder Frederic Ozanam, members are called to the service of truth. They are called to convey the experience of the poor in civic dialogue of economic and industrial policy, and to demand change in the legal system. Every person deserves to live in dignity, free from the deceptive and unconscionable practices of predatory lenders.

### **Rule of the Society Calls Vincentians to Action**

The *Rule of the Society* (21) continues to call members to adapt to changing conditions affecting those who are poor by striving for charity and justice.

Faithful to the spirit of its founders, the Society constantly strives for renewal, adapting to changing world conditions. It seeks to be ever aware of the changes that occur in human society and the new types of poverty that may be identified or anticipated. It gives priority to the poorest of the poor and to those who are most rejected by society.

(Part 1, Section 1.6)

Section Seven of the *Rule*, "Relationship with Civil Society—Work for Social Justice," beckons members to action.

The Society gives immediate help, but also seeks mid-term and long-term solutions. The Society is concerned not only with alleviating need but also with identifying the unjust structures that cause it. It is, therefore, committed to identifying the root causes of poverty and to contributing to their elimination. (Part 1, Section 7.1)

The Society helps the poor and the disadvantaged speak for themselves. When they cannot, the Society must speak on behalf of those who are ignored. (Part 1, Section 7.5)

Where injustice, inequality, poverty or exclusion are due to unjust economic, political, or social structures, or to inadequate legislation, the Society should speak out clearly against the situation, always with charity, with the aim of contributing to and demanding improvements. (Part 1, Section 7.6)

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### **Situation** *continued from page 1*

A variety of financial schemes are used by predatory lenders to engage in deception or fraud, to manipulate the borrower through aggressive sales tactics, or take unfair advantage of a borrower's lack of understanding about loan terms.(13) Elderly fixed-income homeowners victimized by predatory mortgage lenders and brokers who push unjustifiably expensive refinance loans and steal home equity are one example. The lender makes the loan based on the asset and not on the ability of the borrower to repay. The lender knows that the loan can never be repaid based on the borrower's income. The victim defaults on the loan and the lender forecloses. Typically, the purpose of these loans is to fund home repairs or to consolidate debts. Balloon payments, high prepayment penalties, negative amortization and arbitration are other means used by lenders to steer unwitting borrowers into high priced loans that can lead to forced refinancing at soaring rates or foreclosure. The US Department of Housing and Urban Development provides local information on predatory lending practices by state.(14) Information is also available from The Center for Responsible Lending. (15)

Quality of public policy and legislation determines whether the weakest members of the community are respected and valued. While several states have moved to enact laws to set limitations and take measures to enforce state usury laws, there are places where no laws exist and questionable practices are permitted to thrive. Rather than waiting for the state and federal government to act some cities, such as, Los Angeles and Oakland have passed local anti-predatory lending ordinances. Much more is needed to protect the poor and vulnerable from abusive financial practices.

## SVDP Case Study:

### “One Voice on One Subject” Gets Bill Passed in the Oregon State Legislature

Oregon Vincentians learned that unregulated pay day loans in the State of Oregon could cost between 200 and 300% interest for a year and often never let the debtor pay off the principle. In one situation a loan of \$496 escalated to \$1,876.00 owed just 30 days later. The local Voice of the Poor brought this concern to light meeting at the Archdiocese level and informing District Councils of the problem. Because predatory loans take resources from those in need, it was agreed that the Society had to try and help.

Stories from the poor were collected. The local state representative, who was running again for office was contacted with members asking: “How can you let this happen?” The local state representative arranged for a hearing on the subject and members of the press were invited. Vincentians, parishioners, homeless advocates and others showed up at the hearings. Their stories were told, and the press let the public know. Oregon’s Governor jumped in by noting that predatory loans were hurting the State’s efforts with public assistance. Other members of the Legislature took notice.

Vincentians returned to their communities and talked to other Vincentians asking members of the VOP and members of all the District Councils and Conferences around the State to call and speak to their Representatives and Senators about this problem. They told the truth about what was happening in their community. The politicians were asked to look into this problem. The common thread was the local Voice of the Poor realized that this problem hurt Vincentian efforts in the local communities. It was happening all over the State and most of members knew or could meet a State Senator or Representative in their area.

**The Result:** “One Voice on One Subject” from all over the state got the Payday Loan Reform Act passed by Oregon lawmakers in April 2006. The new legislation is intended to cap loans at 36 percent annual interest, limit fees to \$10 per \$100 on the first loan, and extend the payback period to 31 days. With the new legislation a \$300 loan costs \$39 for 31 days instead of \$120, which had been the current going rate for payday lenders. While Oregon was able to pass legislation in special session, additional work is needed as predatory lenders continue to develop “new products” that are unregulated. In Oregon the latest loophole is for payday lenders to move from the short term loan to traditional consumer loans which carry no interest cap.

### Recommendations for Councils and Conferences

Always keep in mind the story of the Good Samaritan in Luke 10: 29-37 when it comes to caring for victims.

- ♥ Educate Vincentians. Invite a specialist to speak on predatory lending at a Council meeting. Encourage your parish to bring in a speaker, to talk about the dangers of predatory mortgages, particularly with the elderly in the parish. Offer to help organize a presentation. We should also work to pass state and federal legislation to restructure or ban predatory loans.
- ♥ Train members to ask the right questions and listen for situations of financial abuse when on homevisits. Develop a simple questionnaire for use as appropriate when meeting with families in dire straits due to these loans. Be aware that it is not usually the first reason for need that is mentioned. They are embarrassed and fearful of having these loans.
- ♥ Provide simple budgeting assistance that can be offered to low income families. Encourage the establishment of a plan to save for emergencies and expenses, when possible. Warn families of the danger of predatory lenders. Seek out community assistance beyond the emergency help of the Society. Investigate available local resources and the rights of borrowers. (22) Ask qualified financial advisors to provide education about finances, how to shop carefully for loans with lower interest rates, and where to locate consumer-credit counseling services if needed with debt restructuring or repayment. Check with a local bank about alternative lower cost, lower risk products available to those your Council serves.
- ♥ Investigate options available to the needy in emergency situations. Besides borrowing from family and friends, other considerations may include requesting an advance from an employer, credit unions, negotiating bill payments with creditors and service companies, lines of credit from finance lenders, or seeking overdraft protection from banks on small short-term loans.
- ♥ Sometimes a little help from the Conference or Council can mean the difference between a quick loan that goes bad and a temporary bridge to get through a difficulty.
- ♥ Become aware of the law in your community regarding predatory lending. Speak out for those trapped by unscrupulous lenders and for laws to tighten the practice such as protections against rollover loans, improved consumer disclosures, greater regulatory oversight by the Department of Justice. Help those trapped file a complaint with appropriate oversight agencies.
- ♥ Keep track of needs. In Phoenix the VOP gathered stories about payday loans collected by Conferences members from families requesting rental and utility assistance. These were used as part of testimony at the Arizona legislature. Support tightening legal loopholes and encourage protection of the poor and vulnerable from predatory practices by speaking out for better legislation
- ♥ Continue to spread the word about these predatory loan practices in the greater community. Find out if the bank you use is connected to predatory lending. They can be encouraged to disaffiliate with payday lenders. SunTrust, the largest bank in Central Florida, discontinued business loans to companies that make payday loans or car-title loans. Their reason was “potential reputational risks and consumer harm.” (23) Encourage landlords in the community not to rent to predatory lenders.



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## **10 Points for Economic Life by the United States Catholic Conference of Bishops**

1. The economy exists for the person, not the person for the economy.
2. All economic life should be shaped by moral principles. Economic choices and institutions must be judged by how they protect or undermine the life and dignity of the human person, support the family, and serve the common good.
3. A fundamental moral measure of any economy is how the poor and vulnerable are faring.
4. All people have a right to life and to secure the basic necessities of life (e.g., food, clothing, shelter, education, health care, safe environment, economic security.)
5. All people have the right to economic initiative, to productive work, to just wages and benefits, to decent working conditions as well as to organize and join unions or other associations.
6. All people, to the extent they are able, have a corresponding duty to work, a responsibility to provide for the needs of their families and an obligation to contribute to the broader society.
7. In economic life, free markets have both clear advantages and limits; government has essential responsibilities and limitations; voluntary groups have irreplaceable roles, but cannot substitute for the proper working of the market and the just policies of the state.
8. Society has a moral obligation, including governmental action where necessary, to assure opportunity, meet basic human needs, and pursue justice in economic life.
9. Workers, owners, managers, stockholders and consumers are moral agents in economic life. By our choices, initiative, creativity and investment, we enhance or diminish economic opportunity, community life, and social justice.
10. The global economy has moral dimensions and human consequences. Decisions on investment, trade, aid and development should protect human life and promote human rights, especially for those most in need wherever they might live on this globe.

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