



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

**MEMORANDUM**

DATE: May 6, 2020

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Mr. J. Todd Webb, Chairperson *JTW*  
State Council for Persons with Disabilities

RE: H.B. 279 (Cap on Short-Term Consumer Loan and Title Loan Interest Rates)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 279, which seeks to amend the short-term consumer loan and motor vehicle title loan statutes by imposing a limit on the interest rates that can be charged by the lender. Short term consumer loans are also known as pay day loans. They are loans of a \$1,000.00 or less, the repayment period is sixty (60) days or less, and the loans are not secured by a title to a motor vehicle.<sup>1</sup>

Delaware is one of a majority of states that permit short-term or pay day loans. Nevertheless, Delaware is one of only a few states that impose no limit on the interest rates that can be charged. Those other states are Idaho, Nevada, South Dakota, Utah, and Wisconsin. However, there are a growing number of states that prohibit short-term high cost loans, and they include Connecticut, Maryland, Massachusetts, Pennsylvania, Vermont, West Virginia, and Washington D.C.

The synopsis to the bill mentions unconscionability that can be asserted as a defense to the high

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<sup>1</sup> See <https://www.nclc.org/images/pdf/rpt-InstallmentLoans-feb-2020.pdf> for a good explanation of the perils of short term consumer loans and other states' practices.

interest rate. In *James v. National Financial, LLC*, 132 A.3d 799 (Del. Ch. 2016), the court found a \$200.00 loan with an APR of 838.45% unconscionable on both procedural and substantive grounds and, therefore, unenforceable. This is an example of the short term consumer loans that are prevalent in Delaware. Unfortunately, very few are challenged in court as was done by Gloria James.

Title loans are loans that are secured by the title to the motor vehicle, the repayment period is one hundred and eighty (180) days or less, and the loan is not used to purchase the vehicle used as security. Delaware is one of minority of states that permit title loans. These states include Alabama, Arizona, Georgia, Idaho, Texas, South Dakota, Utah, and Wisconsin. A majority of states have outlawed or prohibit title loans. This bill would make limit the interest rate for both short term consumer loans and title loans to no more than 20%. While this is a major step forward, SCPD is recommending an even lower rate as a cap.

The average interest rate for a car loan of 60 months is 5.27%. The average APR on credit cards is 21.21%. The fixed rate for a 30 year mortgage is 3.29%. The federal discount rate is 1.75%. Against this backdrop, even 20% is extraordinarily high considering the population that avails themselves of these loans. The Court in *James* referred to these individuals as the “working poor.” This vulnerable population would not qualify for a credit card, mortgage, or car loan at competitive rates. They are forced to go to lenders that can charge whatever rate of interest they want and in the case of a title loan, the lender obtains a security interest in the vehicle, and can ultimately repossess the vehicle if the payments are not made.

SCPD is endorsing this bill but urges the Legislature to make the interest rate even lower than 20% or better still to prohibit these loans in Delaware.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position or observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

HB 279- cap on short-term consumer loan and title loan interest rates 5-6-20