

What if I think they violated the law?

FILING COMPLAINTS

One of the first things you should do if you think that your rights have been violated is to file complaints with the proper state agencies. The first place to go to file a complaint is the California Department of Corporations. The department's number and website to obtain and file a complaint are listed on the back of this brochure.

Other agencies that should be contacted include the State Attorney General's Office and the Department of Consumer Affairs

Rights to Remember:

- All fees including maximum fee must be posted in the office.
- You must have a written contract that states the exact date when your loan ends.
- Off site item must be returned in 2 days.
- You cannot be charged fees not stated in the law or more than those stated in the law.
- At the end of 4 months you get a 10 day notice within 30 days.
- If no notice within 30 days, then no more interest is charged.

PENALTIES AND REMEDIES

The law states that it is a misdemeanor if a Pawnbroker violates any of the requirements for notices, fees, redemption rights, etc. If there is a pattern of conduct a pawnbroker could lose his license. If you have been cheated, then you can sue for up to three times your actual damages, your legal fees and costs and possibly punitive damages, depending on the facts and law.

Where can I go for Help?

Consult an attorney if you think that your rights have been violated. Also contact the state agencies mentioned above and listed on the back of this pamphlet. But remember that they can't give you legal advice about your particular situation.

If you qualify, you can get **free legal advice** about your case through Inland Counties Legal Services.

Resources

Legal Services Corporation (www.lsc.gov) Their mission is to promote equal access to justice in our nation and to provide high quality civil legal assistance to low-income persons. 3333 K Street, NW, 3rd Floor Washington, DC 20007-3522 (202) 295-1500

California Attorney General (www.ag.ca.gov) Assistance and guidance in filing consumer complaints. (800) 952-5225

California Department of Consumer Affairs (www.dca.ca.gov) The department takes consumer complaints. (800) 952-5210

California Department of Corporations (www.corp.ca.gov) This department is where you report Banks or retailers for violating the law. (866) 275-2677 or 866 ASK CORP

Inland Counties Legal Services:

Riverside Office: (951) 368-2555

Indio Office: (760) 342-1591

San Bernardino Office: (909) 884-8615

Rancho Cucamonga Office: (909) 980-0982

Victorville Office: (760) 241-7073

About This Publication

This publication was created by Inland Counties Legal Services (ICLS) Consumer Unit and made possible by a grant from the State Bar of California Equal Access Fund.

This Publication is NOT Legal Advice

This publication is a general overview of your rights and remedies dealing with Pay Day Loans. This is not legal advice. If you need specific legal advice you should consult an attorney. Changes in the law could effect the information in this guide.

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ICLS is a non-profit 501(c)(3) corporation serving Riverside and San Bernardino Counties and receives federal, state and local county funding. Funders are the Legal Services Corporation, the State Bar of California Legal Services Trust Fund Program (also known as the "IOLTA" or "Interest on Lawyers' Trust Account" program); State of California Equal Access Grant Program, State of California Equal Access Partnership Grant Program, San Bernardino County Department of Aging and Adult Services (DAAS) and Riverside County Office on Aging (DoA), Department of Housing and Urban Development, and City of Riverside Community Development Block Grant Funds. Seniors' Legal Services are targeted for persons age 60 and older who are in the "greatest social and economic need."

PAY DAY LOANS

IN CALIFORNIA YOUR RIGHTS



AND HOW TO DEFEND THEM

Inland Counties Legal Services
Consumer Unit
Serving Riverside and San Bernardino Counties

What are Payday Loans?

Also called “cash advances,” “deferred deposits,” “check loans,” “direct deposit advance,” or “deferred presentment.” This loan is given in cash when you give the lender a post dated check or an agreement for an electronic withdrawal from your bank account. The check or agreement is held until your next paycheck or government check is to be received at which time the check is deposited or the money transferred directly from your bank account.

What does the Law Require?

California regulates the business of Payday Lenders under the *California Deferred Deposit Transaction Law* which you can find in the California Financial Code Sections 23000 to 23106.

Lender Licensing

The law requires that the lender be licensed in order to operate in California. This requires among other things, inspections by the department at least every two years and being bonded.

Limitations on Loans

Under California Law a lender:

1. Can defer the deposit of your check no more than 31 days.
2. Your check can't be more than \$300.
3. Can't charge a fee for the loan of more than 15% of the value of the check.
4. Can't charge a fee of more than \$15 if your check is bad.
5. Can't charge you a late fee if you don't have the money.
6. Can't charge additional fees for an extension or payment plan on your loan.
7. Can't roll the loan over into another loan.
8. Can't file criminal charges against you if your check bounces.
9. The Loan Agreement must be in writing with all the required Truth in Lending Notices included.
10. The Agreement must also include notices required under California law.

Notice Requirements

The California law governing payday loans requires that lenders give you both state law notices and federal Truth in Lending notices.

CALIFORNIA NOTICES

The state law requires the lender to give you the following written notices:

1. Information about charges for payday loans.
2. You may be charged a fee of up to fifteen dollars (\$15) if your check bounces.
3. You can't be prosecuted criminally or threatened with prosecution for bouncing a check for a payday loan.
4. The California Corporation Department's toll-free telephone number for customer complaints and concerns.
5. The lender can't accept any property from you for the loan.
6. That the check is for a payday loan pursuant to Section 23035 of the Financial Code and is not subject to criminal penalties of Section 1719 of the Civil Code.

Also, the lender can't get treble damages if your check bounces.

7. The schedule of all charges and fees with examples of what would be charged on at least a one-hundred-dollar (\$100) and a two-hundred-dollar (\$200) loan, payable in 14 days and 30 days, respectively, giving the corresponding annual percentage rate. The information may be provided in a chart as follows:

<u>Amount Provided</u>	<u>Fee</u>	<u>Amount of Check</u>	<u>14-day APR</u>	<u>30-day APR</u>
\$100	XX	XXX	XXX	XXX
\$200	XX	XXX	XXX	XXX

APRs on Payday Loans

If you give the lender a check for \$300 to hold for 30 days, then the fee of 15% is \$45. So you will get \$255 cash, and the lender keeps a \$45 fee. The APR for this loan is 183%

If you do the same thing for only 14 days, then the APR for the loan is 390%. Lenders must disclose this in the agreement.

Truth in Lending Act (TILA) Notices

Payday Lenders in California are also governed by the federal Truth in Lending Act which is a law that requires the reporting of all finance charges and the expression of all charges as an Annual Percentage Rate or APR on the loan. Specifically, payday lenders must give you:

1. A full disclosure of the total amount of any fees charged for the deferred deposit transaction, expressed both in United States currency and as an APR as required under the Federal Truth In Lending Act and its regulations.
2. A clear description of the customer's payment obligations as required under the Federal Truth In Lending Act and its regulations. While the state law requires an APR calculation only as an example, TILA requires that you be given a specific and accurate calculation of the APR of the loan based on all finance charges. TILA notice requirements are extremely important, because they give you the right to rescind the contract. Normally you have three days to rescind the loan agreement if you received the TILA notices at the time you signed. HOWEVER, if you didn't receive the TILA notices you may be able to rescind for up to three (3) years and get your finance charges returned.

How Do Some Lenders Violate the Law?

Examples of violations include:

1. Not giving you all the notices required under the law and not giving you a written agreement that includes all of the notices as well as all of your rights and an accurate calculation of your finance charges and the TILA APR calculation.
2. Charging late fees or bounced check fees in excess of \$15.00.
3. Getting the customer to agree to roll over the loan into another loan when you can't pay the check.
4. Suing the customers for treble damages when their checks bounce.
5. Threatening criminal prosecution for passing bad checks, and/or actually filing criminal charges.