Proposed FCDC Resolution on Predatory Lending Practices

Passed by the FCDC State and Local Affairs Committee Sept. 28, 2015

WHEREAS, car title loans, line-of-credit loans, and payday loans – collectively called predatory loans– are defined as loans with very high interest rates, high upfront fees, unnecessary charges, unaffordable repayment terms, misleading default penalties, and prepayment penalties;

WHEREAS according to the State Corporation Commission, Virginia car title lenders issued about $163 million in loans in 2014, up from $125 million in 2011, to more than 132,000 borrowers, with an average APR of 222%. More than 19,000 borrowers had their car repossessed and about 15,000 had their car sold. The number of cars repossessed rose from about 8,400 in 2011 to about 19,000 in 2014 and total judgments against these borrowers increased from about $10,000 to $150,600 over the same period;

WHEREAS several types of predatory loans are thriving in Virginia and in Fairfax County;

WHEREAS predatory lenders target certain populations, including minority neighborhoods, military families, veterans, elderly, young, financially inexperienced persons, and credit-impaired borrowers; yet, many predatory loans are also taken by middle-income wage earners;

WHEREAS predatory loans can push safe borrowing options further out of reach of Virginians and Fairfax County residents by locking them into a long-term debt trap and increasing the likelihood of a cascade of other harmful financial consequences such as bankruptcy, excessive overdraft fees, involuntary bank account closures, and adverse impact on their credit scores;

WHEREAS past state legislation has tightened pay-day lending requirements, but repeated efforts to cap interest rates at 36% APR have failed in the General Assembly, and in 2011 the legislature allowed Virginia car title lenders to lend to out-of-state borrowers, thus expanding their business;

WHEREAS piecemeal attempts to regulate the predatory lending industry (such as regulating pay-day lenders) have resulted in nonbank lenders shifting to unregulated services, such as line-of-credit loans, which have no fixed repayment date but allow the debt to keep rolling over, often with interest rates in excess of 300%; or online lending run by out-of-state enterprises.

WHEREAS the Department of Defense through the Military Lending Act has led the way by capping interest on short-term loans to military personnel and their families at 36% APR; and the federal Consumer Finance Protection Bureau may soon propose national rules such as tighter lending standards and restrictions on how many times a loan can be rolled over.

WHEREAS The cities of Staunton, Harrisonburg, Waynesboro, Winchester, Charlottesville, Newport News, Norfolk, and Alexandria, as well as several other Virginia cities and counties, not to mention the District of Columbia and jurisdictions in Maryland have enacted resolutions to cap or support a cap on payday loans;

WHEREAS alternatives are available, and more services could be made available, to help Fairfax and Virginia residents in need of short-term loans without putting them into a cycle of debt;

FCDC resolves to urge action against predatory lending at the federal, state, and county levels.

It thanks Sen. Tim Kaine for his support of strong regulation of predatory lenders and encourages Sen. Mark Warner and Reps. Gerry Connolly and Don Beyer to support strong regulations from the federal Consumer Financial Protection Bureau.

It calls upon the Virginia General Assembly to:

Cap the rate of all short-term loans in Virginia at 36% APR and limit loan fees.

Close the loophole allowing open-ended lines-of-credit, the only type of lending that is unregulated by the state and is used by former payday lenders to get around the Virginia Payday Loan Act.

Prohibit the State Corporation Commission (SCC) from issuing a license for a payday lending office or motor vehicle title lending office within 10 miles of a casino or military installation.

Give localities enabling legislation to further regulate the location of these businesses.

Pass any legislation that restricts predatory lenders by capping their interest rates, limiting their locations, specifying tighter lender standards, or other methods.

Democratic Virginia legislators to:

Support Attorney General Mark Herring in his efforts to crack down on predatory lenders,

Consider refusing campaign contributions from predatory lenders, which often comes from profits made from financially strapped families.

The Fairfax Board of Supervisors to:

Support the proposal of Supervisors Jeff McKay, Gerry Hyland, and Penny Gross to restrict hours of operation and prohibit predatory lenders from locating near any place of worship, child care center, private school, or quasi-public athletic field or related facilities, or in the county's five Commercial Revitalization Districts and two Commercial Revitalization Areas in Annandale, Baileys Crossroads – Seven Corners, McLean, Richmond Highway, Springfield, Lake Anne, and Merrifield (where two thirds of these lenders are currently located) and;

Actively encourage alternatives for residents in need of short-term finance by partnering with nonprofit organizations such as Bank On to offer free financial and credit counselling, and encouraging lending through faith-based or community credit unions.

FCDC commends:

Attorney General Mark Herring for taking action against predatory lenders;
The Virginia United Methodist Credit Union's Jubilee Assistance Fund as an alternative to payday and car title loans and encourages other faith communities to establish similar funds; and
The work of the Virginia Poverty Law Center and the Virginia Partnership to Encourage Responsible Lending (VaPERL) at the state level and the American's for Financial Reform and the Consumer Financial Protection Bureau at the federal level.