



# LENDERS COULDN'T BUY LAWS

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NATIONAL INSTITUTE ON MONEY IN STATE POLITICS

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## OVERVIEW

THE \$85 BILLION PAYDAY LOAN INDUSTRY HAS TRADITIONALLY FOUGHT IN STATE legislatures for its right to do business.<sup>1</sup> By the 2008 elections, 15 states had made payday lending illegal.<sup>2</sup> (For more information about the campaign contributions made by payday lenders, see the Institute's report *With Interest*.)

In 2008, the payday lending industry tried a new tactic: the ballot box. In Arizona and Ohio, donors from the industry gave more than \$35 million to support ballot measures that would allow them to continue operating. Despite the influx of cash, voters rejected the payday lenders' claims, and effectively banned short-term, high-interest lending.

Ohio voters approved Issue 5, affirming an act of the Legislature and capping interest rates at 28 percent, thereby preventing payday loans offered nationwide at between 360 and 870 percent APR.<sup>3</sup> Arizona voters rejected Proposition 200, which would have allowed payday lenders to continue operating in the state past 2010, when a special interest rate exemption was due to expire.

Payday lenders contributed virtually all of the \$35.6 million raised to support the measure. Opponents, who successfully convinced voters despite the fundraising disadvantage, raised only \$1.6 million. Lenders outspent their opponents in Arizona by almost 15-to-1; Ohio's imbalance was even greater at 38-to-1.

### PAYDAY LENDING BALLOT MEASURES IN 2008

STATE	MEASURE	LENDING PROPONENTS	LENDING OPPONENTS	TOTAL
Arizona	Proposition 200	\$14,763,892	\$1,004,686	\$15,768,578
Ohio	Issue 5	\$20,868,818	\$547,413	\$21,416,231
TOTAL		\$35,632,710	\$1,552,099	\$37,184,809

### OUT-OF-STATE DONORS

Out-of-state donors were the primary source of funds in both states. Arizona lending proponents raised money from the lenders trade association and out-of-state headquarters, while 82 percent of the money to fight Proposition 200 came from out of state. 98 percent of the lending proponents' money in Ohio originated out of state, while only 30 percent of the lending opponents' funds came from outside Ohio.

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<sup>1</sup> Easha Anand, "Payday Lenders Back Measures to Unwind State Restrictions," *Wall Street Journal*, Oct. 28, 2008, available from [http://online.wsj.com/article/SB122515746938274745.html?mod=rss\\_Politics\\_And\\_Policy](http://online.wsj.com/article/SB122515746938274745.html?mod=rss_Politics_And_Policy), accessed June 23, 2008; and Stephen C. Fehr, "Voters May Decide The Fate of Payday Loans," *Stateline.org*, June 18, 2008, available from <http://www.stateline.org/live/details/story?contentId=318856>, accessed June 23, 2009.

<sup>2</sup> Easha Anand, "Payday Lenders Back Measures to Unwind State Restrictions," *Wall Street Journal*, Oct. 28, 2008, available from [http://online.wsj.com/article/SB122515746938274745.html?mod=rss\\_Politics\\_And\\_Policy](http://online.wsj.com/article/SB122515746938274745.html?mod=rss_Politics_And_Policy), accessed June 23, 2008.

<sup>3</sup> "Know Your Fee," *Community Financial Services Association of America*, available from <http://www.cfsa.net/knowyourfee/index.html>, accessed July 2, 2009.

## THE SMALL ROLE OF INDIVIDUAL DONORS

Organizations provided most of the funding around both measures; very little came from individuals. In Ohio, four organizations gave 96 percent of the money to oppose lending. Individuals provided less than half a percent, mostly in donations of less than \$100. In Arizona, 4 percent of opponents' money came from individuals. No individuals donated on behalf of lenders in either state.

## PLAYERS ACTIVE ON BOTH MEASURES

The national trade association for the payday lending industry, the Community Financial Services Association, was the major contributor to both ballot measures. It gave 96 percent of the money to fight the measure in Ohio. Its state affiliate, the Arizona Community Financial Services Association, gave 99 percent of the lenders' money in Arizona.

Other contributors to both measures included some of the country's top payday lenders: Advance America Cash Advance, Checksmart Financial Services, Check Into Cash, Ace Cash Express, and Dollar Financial Group.

## PAYDAY LENDERS CONTRIBUTING TO BOTH MEASURES

CONTRIBUTOR	ARIZONA	OHIO	TOTAL
Community Financial Services Association	\$14,670,023	\$19,939,760	\$34,609,783
Advance America Cash Advance	\$12,684	\$280,629	\$293,313
Checksmart Financial Co.	\$21,485	\$206,772	\$228,257
Check Into Cash	\$26,895	\$75,884	\$102,779
Ace Cash Express	\$30,205	\$24,062	\$54,267
Dollar Financial Group	\$2,500	\$15,282	\$17,782
<b>TOTAL</b>	<b>\$14,763,792</b>	<b>\$20,542,389</b>	<b>\$35,306,181</b>

While the large contributions from the payday lenders suggest a coordinated campaign, donors from the opposition varied between the two states. Only two organizations — which gave 10 percent of all the money to oppose payday lending — gave to committees working on ballot measures. The Center for Responsible Lending, a non-profit whose mission is to "eliminate abusive financial practices"<sup>4</sup> gave \$115,650, split almost evenly between the two states. AARP's national office gave \$31,900 to support Issue 5 in Ohio; its Arizona affiliate gave \$10,932 to oppose Proposition 200 in Arizona.

## OPPONENTS OF PAYDAY LENDING CONTRIBUTING TO BOTH MEASURES

CONTRIBUTOR	ARIZONA	OHIO	TOTAL
Center For Responsible Lending	\$53,550	\$62,100	\$115,650
AARP	\$10,932	\$31,900	\$42,832
<b>TOTAL</b>	<b>\$64,482</b>	<b>\$94,000</b>	<b>\$158,482</b>

<sup>4</sup> "Mission & History," *Center for Responsible Lending*, available from <http://www.responsiblelending.org/about-us/mission-history>, accessed July 2, 2009.

## ARIZONA

In Arizona, payday loans had been available since 2000, when the Legislature enacted a 10-year exemption from the 36 percent APR cap.<sup>5</sup> Just prior to the end of the sunset period, the payday lending industry, under the name "Arizonans for Financial Reform," put Proposition 200 on the 2008 ballot. The measure, known as the "Payday Loan Reform Act," would have eliminated the sunset clause, allowing the industry to operate indefinitely and setting limits on the type and interest rates of payday loans.

Despite the \$14.8 million spent by lenders to push for the measure's passage, Proposition 200 failed, receiving just 40 percent of the vote. The Center for Responsible Lending estimated that before the election, more than 700 payday lending stores in Arizona made \$841 million in loans each year.<sup>6</sup> Beginning July 1, 2010, these lenders will no longer be able to offer high-interest loans.

The payday lenders' committee Yes on 200 raised \$14.8 million to advocate for Proposition 200. To put this number in perspective, Yes on 200 raised 25 percent more than the combined total of all the money raised by all 207 Arizona candidates in 2007 and 2008. The measure was the second-most expensive in the state's history, behind a 2002 Indian gaming proposal.<sup>7</sup>

### TOTAL RAISED BY PROPOSITION 200 COMMITTEES

BALLOT COMMITTEE	CONTRIBUTORS	TOTAL
<b>Proponents</b>		
Yes on 200	7	\$14,763,892
	<b>Pro Total</b>	<b>\$14,763,892</b>
<b>Opponents</b>		
Civic Participation Campaign/No on Prop 200*	5	\$507,552
Arizonans for Responsible Lending No on 200	269	\$236,546
We are America Alliance Opposing 200*	1	\$132,979
Arizona ACORN Opposing 200*	2	\$127,609
	<b>Con Total</b>	<b>\$1,004,686</b>
	<b>OVERALL TOTAL</b>	<b>\$15,768,578</b>

\*Due to transfers between these committees, some of the money is reported twice. The adjusted total for the "Con Ballot Committees" is \$947,296.

Interestingly, the industry chose a different strategy for its fight in Arizona. Its commercials promoted Proposition 200 as a needed reform, attacking unscrupulous payday lenders, explaining that Proposition 200 would "end rip-offs, end unfair practices, [and] crackdown on payday lenders."<sup>8</sup> State Sen. Marian McClure, who led the fight against the "predatory" lending industry, called the limits "window-dressing," saying the industry's true intent was simply to repeal the 2010 sunset date.<sup>9</sup>

<sup>5</sup> Leslie Parrish, "High-Cost Payday Lending Traps Arizona Borrowers," *Center for Responsible Lending*, Sept. 16, 2008, available from <http://www.responsiblelending.org/payday-lending/research-analysis/high-cost-of-payday-in-arizona.pdf>, accessed June 29, 2009.

<sup>6</sup> *Ibid*

<sup>7</sup> Billie Stanton, "Stanton: Prop. 200 defeat is fitting payback for greedy lenders," *Tucson Citizen*, August 5, 2008, available from <http://www.tucsoncitizen.com/daily/local/92868.php>, accessed July 9, 2008.

<sup>8</sup> "Payday Industry Attacks...Itself?" *Yes on 200*. Oct. 21, 2008, available at <http://www.youtube.com/watch?v=KDe6AUr5YOo>, accessed June 29, 2008.

<sup>9</sup> Matthew Benson, "Payday Loan Foes End Drive," *azcentral.com*, June 17, 2008, available from <http://www.azcentral.com/news/articles/2008/06/17/20080617payday-loan0617.html>, accessed June 29, 2009.

Opponents of Proposition 200 raised \$1 million, only 7 percent of the total raised by lenders. Slightly more than half came from the Civic Participation Campaign, a committee of the Service Employees International Union (SEIU). Arizonans for Responsible Lending, the main public opposition for the measure, received funding from the Center for Responsible Lending, AARP Arizona, labor unions, credit unions, and more than 200 individuals. The remainder was raised by the We are America Alliance Opposing 200, funded entirely from the Tides Foundation of San Francisco, Calif., and Arizona ACORN Opposing 200.

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99 percent of the money raised in favor of Proposition 200 came from the Arizona Community Financial Services Association, the payday lending industry's trade association. The remainder of the money was given by lending companies themselves, all based out of state. Ace Cash Express, the largest lender in Arizona with 108 locations, gave more than \$30,000. The next four top Arizona lenders — Check Into Cash, Checksmart Financial, Advance America, and Dollar Financial Group — with a combined total of 204 locations, also contributed.<sup>10</sup>

In contrast, 82 percent of the money to fight Proposition 200 came from outside Arizona.

**CONTRIBUTORS IN FAVOR OF PROPOSITION 200**

CONTRIBUTOR	TOTAL
Arizona Community Financial Services Association	\$14,670,023
Ace Cash Express	\$30,205
Check Into Cash	\$26,895
Checksmart Financial Co.	\$21,485
Advance America Cash Advance	\$12,684
Dollar Financial Group	\$2,500
Mario E. Diaz & Associates	\$100
<b>TOTAL</b>	<b>\$14,763,892</b>

<sup>10</sup> Leslie Parrish, "High-Cost Payday Lending Traps Arizona Borrowers," *Center for Responsible Lending*, September 16, 2008, available from <http://www.responsiblelending.org/payday-lending/research-analysis/high-cost-of-payday-in-arizona.pdf>, accessed June 29, 2009.

The top 10 contributors to committees against Proposition 200 gave \$850,232—85 percent of all the money reported by those committees. The public employees union SEIU was the top contributor, giving almost half a million dollars. The Tides Foundation and ACORN, which founded their own ballot measure committees, were also major donors (see Web site links above). Seventeen credit unions (which offer competing financial services) gave \$40,000, though only the Arizona State Credit Union made the top 10.

**CONTRIBUTORS AGAINST PROPOSITION 200**

CONTRIBUTOR	TOTAL
SEIU*	\$481,895
Tides Foundation	\$132,979
Association of Community Organizations for Reform Now (ACORN)	\$105,876
Center For Responsible Lending	\$53,550
Strategic Issues Management Group	\$27,500
AARP Arizona	\$10,932
Arizona State Credit Union	\$10,000
Food & Commercial Workers Local 99	\$10,000
Tohono Oodham Nation	\$10,000
APS	\$7,500
Other Contributions	\$154,453
<b>TOTAL</b>	<b>\$1,004,685<sup>11</sup></b>

\*Includes contributions from the SEIU National, SEIU Local 5, and the SEIU Civic Participation Campaign

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<sup>11</sup> Due to transfers between ballot measure committees, some money is reported twice. The adjusted total for Proposition 200 opponents is \$947,296.

## OHIO

Despite massive spending by the payday lending industry to oppose the measure, 64 percent of Ohio voters approved Issue 5, a ballot measure that severely limits payday lending practices in the state. Payday lenders gave almost \$21 million to defeat the measure, outraising the proponents 38-to-1.

At the time, Ohio had more payday lenders than they had McDonald's, Burger King and Wendy's restaurants combined.<sup>12</sup> The state's lawmakers took notice: two bills regulating the industry were introduced during the 2005–2006 legislative session. That number jumped to 13 during the 2007–2008 session.

On June 2, 2008, Ohio Gov. Ted Strickland signed House Bill 545 into law. The bill capped interest rates at 28 percent and limited individuals to four such loans a year. A 28 percent cap is an effective ban on payday loans, which are offered nationwide at between 360 and 870 percent APR.<sup>13</sup>

The payday lending industry objected to the bill, claiming it would “force them to close offices and lay off workers.”<sup>14</sup> Advance America claimed the bill would cost them \$42 million in revenue.<sup>15</sup>

When the industry lost its battle in the state legislature, it sought a veto referendum, which put the measure on the ballot as Issue 5. But the industry failed there, too. Voters upheld the legislature's action, approving Issue 5 with 64 percent of the vote. With the law now firmly in place, the Community Financial Services Association classifies Ohio as a state where “storefront payday advances are not available.”<sup>16</sup>

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<sup>12</sup> Tim Jones, “States to Payday Lenders: Denied,” *Chicago Tribune*, March 23, 2008, available from [http://archives.chicagotribune.com/2008/mar/23/business/chi-payday-loans\\_bdmar23](http://archives.chicagotribune.com/2008/mar/23/business/chi-payday-loans_bdmar23), accessed July 7, 2009.

<sup>13</sup> “Know Your Fee,” *Community Financial Services Association of America*, available from <http://www.cfsa.net/knowyourfee/index.html>, accessed July 2, 2009.

<sup>14</sup> “Ohio Governor Signs Law Restricting Payday Lending,” *Associated Press*, June 2, 2008, available from <http://www.ibtimes.com/articles/20080602/ohio-governor-signs-law-restricting-payday-lending.htm>, accessed June 16, 2008.

<sup>15</sup> “Advance America Could Take \$42 Million Hit if Forced to Close Ohio Centers,” *RTO Online*, Oct. 30, 2008, available from <http://rtoonline.com/Content/Article/oct08/Advance-America-NYSE-AEA-Q3-2008-Results-102908.asp>, accessed June 30, 2008.

<sup>16</sup> “Know Your Fee,” *Community Financial Services Association of America*, available from <http://www.cfsa.net/knowyourfee/index.html>, accessed July 2, 2009.

The committee opposed to the legislation, Reject House Bill 545, raised nearly \$21 million, almost exclusively from payday lenders. On the other side, Is 391% Too High? Vote Yes on 5 raised \$547,000 from a wider variety of sources, including social service organizations, progressive organizations, and consumer interest groups.

**TOTAL RAISED BY ISSUE 5 COMMITTEES**

BALLOT COMMITTEE	CONTRIBUTORS	TOTAL
<b>Proponents</b>		
Is 391% Too high? Vote Yes on 5	57	\$547,413
	<b>Proponents Total</b>	<b>\$547,413</b>
<b>Opponents</b>		
Reject House Bill 545	12	\$20,868,818
	<b>Opponents Total</b>	<b>\$20,868,818</b>
	<b>OVERALL TOTAL</b>	<b>\$21,416,231</b>

The top contributor in support of Issue 5 was the Coalition for Homeless & Housing in Ohio, a housing assistance organization that contributed nearly \$363,000, or two-thirds of the committee's funds. Significant contributions also came from Progressive Future, a grassroots action organization in Denver, Colo.; the Center for Responsible Lending in North Carolina; and AARP. These four organizations contributed 96 percent of the money to support Issue 5.

70 percent of the proponents' funds came from within Ohio. In sharp contrast, 98 percent of the opponents' money came from out of state.

**MAJOR CONTRIBUTORS IN SUPPORT OF ISSUE 5**

CONTRIBUTOR	TOTAL
Coalition On Homelessness & Housing In Ohio	\$362,611
Progressive Future	\$70,292
Center For Responsible Lending	\$62,100
AARP	\$31,900
Dann For Ohio Committee <sup>17</sup>	\$10,000
Ohioans for Healthy Families	\$5,000
Other Contributions	\$5,510
<b>TOTAL</b>	<b>\$547,413</b>

<sup>17</sup> Campaign committee of Ohio Attorney General Marc Dann.



The Community Financial Services Association gave almost \$20 million; other payday lenders based in-state and out of state (e.g. Advance America Cash Advance, Checksmart Financial, and Cash America International) contributed more than \$900,000.

**MAJOR CONTRIBUTORS OPPOSED TO ISSUE 5**

<b>CONTRIBUTOR</b>	<b>TOTAL</b>
Community Financial Services Association	\$19,939,760
Advance America Cash Advance	\$280,629
Checksmart Financial Co.	\$206,772
Acess Financial Services Inc.	\$160,088
Cash America International	\$114,099
Check into Cash	\$75,884
Other Contributions	\$91,587
<b>TOTAL</b>	<b>\$20,868,819</b>

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