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4
5 CITY OF CUYAHOGA FALLS, OHIO

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7 RESOLUTION NO 8 - 2014

9 A RESOLUTION URGING THE GOVERNOR AND THE
10 OHIO ATTORNEY GENERAL TO ENFORCE EXISTING
11 STATE LAWS AGAINST PREDATORY LENDING AS THEY
12 RELATE TO THE PURVEYORS OF "AUTO TITLE LOANS,"
13 URGING THE OHIO GENERAL ASSEMBLY TO REPEAL
14 OR AMEND THE STATE STATUTE PREEMPTING
15 MUNICIPAL REGULATION OF "AUTO TITLE LOANS" AND
16 OTHER PREDATORY LENDING PRACTICES, AND
17 DECLARING AN EMERGENCY.
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19 WHEREAS, in 2008 the Ohio General Assembly enacted and amended statutes
20 regulating and limiting certain predatory lending practices and operators, including
21 storefront operators offering "payday loans," which statutes now appear at Ohio Revised
22 Code ("R.C.") Sections 1321.01-48 (hereinafter the "Small Loan" and "Short Term Loan"
23 laws); and
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25 WHEREAS, the Small Loan law governs loans less than \$5,000, while the Short
26 Term Loan law governs loans less than \$500; and
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28 WHEREAS, the Small Loan and Short Term Loan laws generally limit payday loan
29 annual percentage interest rates ("APR") to no more than 22% on balances over \$1,000
30 and 28% on balances less than \$1,000; and
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32 WHEREAS, beginning in earnest in 2011, payday lenders deployed a new loan
33 product known as an "auto title loan," under which payday lenders lend a small
34 amount of money, typically less than \$1,500, to a borrower pledging an auto title as
35 collateral for the loan; and
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37 WHEREAS, auto title loans would be governed by the Small Loan and Short Term
38 Loan laws but for the fact that the purveyors of these loans have generally registered as
39 "credit service organizations" under R.C. Chapter 4712, a regulatory designation
40 intended to cover organizations that purport to assist individuals with bad credit; and
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42 WHEREAS, one of the authorized functions of a credit service organization is to
43 "obtain an extension of credit" by a third party to the organization's customer, which in
44 the case of storefront payday lenders is the auto title borrower; and
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46 WHEREAS, payday loan operators registered as credit service organizations evade
47 the Small Loan and Short Term Loan laws by claiming that they do not lend money, but
48 rather arrange for a third party to lend the money to an auto title loan borrower; and
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50 WHEREAS, the evasion engaged in by the payday lenders is legally untenable,
51 because there is nothing in the Revised Code that would suggest that a credit service
52 organization that makes (or arranges for) payday or auto title loans is not subject to the
53 Small Loan and Short Term Loan laws, and in fact these laws expressly prohibit such
54 manner of subterfuge; and
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56 WHEREAS, notwithstanding the patent subterfuge of the law engaged in by the
57 payday lenders, the Ohio Department of Commerce, which is responsible for enforcing
58 the Small Loan and Short Term Loan laws in conjunction with the Ohio Attorney
59 General, has declined to engage in any enforcement activity whatsoever; and
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61 WHEREAS, at least 17 entities operating storefront payday loan stores in Ohio have
62 registered as credit service organizations; and
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64 WHEREAS, the Ohio General Assembly has also enacted a law (R.C. §1.63)
65 prohibiting municipalities from regulating credit and loan transactions in any manner,
66 thus eliminating any possibility that local government could step in to protect the
67 public from predatory lending practices; and
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69 WHEREAS, numerous analyses of the practices of auto title lenders demonstrate
70 that the effective APR on an auto title loan ranges from 350% to over 700%; and
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72 WHEREAS, the marketing of auto title loans works to deliberately exploit the most
73 desperate and vulnerable of our citizens, very many of whom find themselves in a
74 financial crisis with no other asset to pawn other than their automobile; and
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76 WHEREAS, a person who suffers repossession of his or her automobile because of
77 inability to pay off an auto title loan effectively loses the ability to look for and hold a
78 job; and
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80 WHEREAS, it is critical that the Governor, the General Assembly and the Ohio
81 Attorney General act to stop the exploitation of vulnerable citizens by enforcing the
82 Small Loan and Short Term Loan laws against auto title lenders, and/or by repealing
83 R.C. §1.63 or amending the Revised Code to authorize municipalities to regulate such
84 practices or separately engage in enforcement of existing state laws.
85

86 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cuyahoga Falls,
87 County of Summit and State of Ohio, that:
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89 Section 1. This Council urges the Governor to instruct the Department of
90 Commerce and the Superintendent of Financial Institutions to engage in a meaningful
91 effort to enforce the Small Loan and Short Term Loan laws as they relate to auto title
92 loans, and to ensure that purveyors of auto title loans comply with the consumer
93 protection laws that Ohioans struggled to enact in 2008. This Council also urges the
94 Ohio Attorney General to take action in conjunction with the Dept. of Commerce to
95 enforce these laws. This Council also urges the Ohio General Assembly to repeal the
96 preemption of local regulatory authority as it relates to storefront predatory lending
97 generally, and auto title loans in particular, or to amend the Code to grant local
98 governments the authority to engage in separate enforcement of existing state laws.
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100 Section 2. The Clerk of Council is hereby instructed to send certified copies of this
101 Resolution to the Governor, the Ohio Attorney General, the President of the Ohio
102 Senate, the Speaker of the Ohio House of Representatives, State Senator Frank LaRose,
103 State Representative Anthony DeVitis, the Director of the Ohio Department of
104 Commerce, and the Superintendent of Financial Institutions.
105

106 Section 3. It is found and determined that all formal actions of this Council
107 concerning and relating to the adoption of this resolution were adopted in an open
108 meeting of this Council and that all deliberations of this Council and of any of its
109 committees that resulted in such formal action were in meetings open to the public, in

110 compliance with all legal requirements including Chapter 107 of the Codified
111 Ordinances.

112
113 Section 4. This resolution is hereby declared to be an emergency measure necessary
114 for the preservation of the public peace, health, safety, convenience and welfare of the
115 City of Cuyahoga Falls and the inhabitants thereof and provided it receives the
116 affirmative vote of two-thirds of the members elected or appointed to Council, it shall
117 take effect and be in force immediately upon its passage and approval by the Mayor;
118 otherwise it shall take effect and be in force at the earliest period allowed by law.

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121 Passed: 5/27/2014

Mary Ellen Pyke
President of Council

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Dave Cain
Clerk of Council

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129 Approved: 5-28-14

[Signature]
Mayor

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132 5/12/14
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