



PREDATORY PAYDAY LENDING: A PUBLIC JUSTICE PROBLEM

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From Adversity to Progress: A Community-Driven Movement to Reform Payday Lending in Texas

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Steve Wells has been the pastor of the South Main Baptist Church in Houston, Texas for sixteen years. He holds three degrees from Baylor University (Bachelor of Arts, Master of Divinity, and Doctor of Ministry) and has completed his postdoctoral study at Oxford University. He led the effort to unite the faith community in Houston around the model ordinance which Dallas began. He served on the governing board of the Cooperative Baptist Fellowship from 2012 to 2019, assisting in the national fight to legislate payday lending.

Abstract: Reforming payday and auto title lending has been an ongoing and difficult fight, particularly in Texas, where lending practices are a \$5.2 billion business. In the face of challenges achieving reform at the state legislature, local leaders decided to take matters into their own hands and adopt an innovative effort to rein in predatory lending practices and promote a fair market. Starting in the City of Dallas—with the leadership of a local city council members and support of community-based organizations, faith leaders, and policy experts—an ordinance was passed to establish basic fair standards for payday lending. Thus, the city achieved what the state could not. This successful effort in one city inspired other cities to take action.



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Seven years later, 45 Texas cities throughout the state, on a bipartisan basis, adopted what became known as the unified ordinance—local zoning ordinances restricting payday and auto-title lenders. The effort is ongoing, with both legal and legislative attacks, but the broad base of support, built city by city, is persistent. The results of the movement are an improved market. Much work remains to be done, but the ordinance movement shows how government, in partnership with the institutions of civil society, can be effective when working together for the well-being of all citizens in the political community.

“I did not see it coming. I was invited by a friend, Stephen Reeves, to cover for him at a meeting a few blocks away from my church. The meeting was a strategy session where several Houston nonprofit organizations were planning strategies to fight payday lending in the area. I was not familiar with payday lending and was shocked to learn payday loans — loans secured by a post-dated check or account debit authorization — are purportedly short-term loans, but end up pulling many borrowers into a long-term cycle of high-cost debt. In Texas in 2018, payday and auto title lending was a \$5.2 billion business¹, built on the backs of the most financially vulnerable families in the community.” – Steve Wells, pastor

There are no caps on the charges for payday loans in Texas. Additionally, there are no protections to stop the cycle of debt that results from repeated refinances of these loans. Texans pay average rates² ranging between 200 percent and over 500 percent APR for payday loans, some of the highest in the country. These exorbitant rates, coupled with a loan structure with payments going to fees instead of paying off the loan, pull families into even deeper financial hardship³. These businesses advertise hope, but all too often deliver despair.

Legislative Action

Though the harms of these products are apparent, the pathway to policy change has been a bumpy one. Sixteen states and the District of Columbia cap total charges on these loans at 36 percent APR — a high rate, but one substantially lower than the 200 to 500 percent APR seen in Texas for payday and auto title loans.

For Texas, statewide policy reforms have been elusive. Yet the barriers to reforms, put up through a deft and prodigious lobby for a powerful business, funded by the fees collected from the victims of these loans, found their match in an unexpected place — inside the institutions of civil society such as houses of worship, foodbanks, nonprofits, local businesses, and city halls. Beginning in Dallas in 2011 communities began coming together in support of fair lending practices that were aimed at ending the exploitation of residents by the payday lending industry.

The story of the local payday and auto title loan local ordinance movement in Texas is an inspiring one. It transcends faith, partisanship, and geography. It started in one Texas city and grew over seven years to cover 45 cities, representing over 10 million Texans.

The first ordinance was adopted after a state legislative session where the institutions of civil society — faith-based and other nonprofit organizations — flooded the capitol asking for reform of predatory loan



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practices. The effort earned a few small victories: licensing previously unlicensed businesses, consumer disclosures, and data collection to support future policy efforts. However, the most important piece, protections for borrowers, was left on the legislative cutting room floor.

Instead of continuing to wait for the legislature to fix a problem that had risen up as a major concern in communities across Texas, one Dallas city council member decided to do something about it. He brought together the city attorney, local organizations and policy experts to develop what would become the unified payday and auto title loan ordinance.

The ordinance is a simple law. Limited by the scope of city powers, it does not cap rates or fees. It has three main components to support an affordable loan market: (1) the payday or auto title loan size is limited by borrower income; (2) loans are limited to a total of four payments; (3) each payment must reduce the loan principal by 25 percent, such that the loan is paid in full after four payments. It put into place basic protections for struggling borrowers and, in the process, created a transformative movement.

Individuals and Civil Society Institutions

In 2011, more than 4,000 Dallas residents signed a petition in support of the ordinance to rein in payday and auto title lending abuses. Faith leaders, nonprofit leaders, and concerned citizens – the institutions of civil society – made their presence known. Rev. Dr. Frederick D. Haynes, III pastor of Friendship-West Church and Conference Center in Dallas, spoke in support⁴ of reforms saying, “There is no way you can call yourself moral, ethical, spiritual, and exploit poor people.”

The outpouring of community support led to unanimous passage of the first Texas payday and auto title lending ordinance. The city council sponsor has often recounted his experience after the vote. A lobbyist for a local payday lender told him that the City of Dallas would be sued. He took the threat face on and told the lobbyist, “we will win in the court of public opinion.”

From Dallas, the ordinance spread to Austin, where faith leaders, nonprofit leaders, and community members followed suit, coming together in support of the basic reforms. As Bishop Joe S. Vásquez, with the Diocese of Austin, shared, “[W]e became really alarmed when [we learned that at least one-third] of those who [sought] help from us, whether it was to take care of rent or medication, have these types of loans with payday lenders.”

In 2012, the ordinance passed in San Antonio. It came up for a final vote after multiple hearings that lasted months. On the day of the vote, community members and employees of payday loan stores were present en masse – one group to support the ordinance and the other to oppose it. Sister Ferdinand of Holy Spirit, who showed up to support the ordinance, said⁵, “I don't think it is fair for people to be charged unjust interest on the loans they borrow.” A local news outlet called the fight to regulate payday loans, “easily comparable to the story of David versus Goliath.” In city after city, David, symbolizing the community interests and public justice, was winning over the Goliath, the payday loan industry.

After San Antonio passed the ordinance, momentum began to build across the state. It spread from El Paso, in the far western point of Texas, to Denton and Flower Mound in North Texas. From Somerset and Universal City near San Antonio, to South Houston, the movement grew. By 2013, Houston joined the



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movement, passing the ordinance after more than a year of community meetings, hearings, and stakeholder engagement.

Churches and synagogues seemingly from every place in Houston and across the theological spectrum came together to speak with one voice. Pastor Steve Wells, of South Main Baptist Church in Houston reflected, “Why is it important to the church? Because it is wrong to treat people that way. It is wrong to go to people who are already in a bind and design something to make the bind worse.” After the ordinance finally passed, he added, “When [the] Houston [legislature] passes something that began in Dallas, that’s a thing.”

The Industry Pushes Back

As communities in Texas began standing up for the financial well-being of local families and adopted the unified payday and auto title lending ordinance, lawsuits also began moving through the courts. The City of Dallas was sued, and in May of 2014, a state appellate court ruled in favor of the City in *Consumer Serv. All. of Texas, Inc. v. City of Dallas*⁶. The City of Denton was also sued. That case, *ACE Cash Express, Inc. v. City of Denton*⁷, was another victory for the cities. On June 17, 2016, the Texas Supreme Court denied the petition⁸ for review, upholding the appellate court decision in favor of the City of Denton.

Unfortunately, the litigation has not stopped. The City of Austin won a challenge to its ordinance in 2018. In May of 2019, TitleMax filed another lawsuit⁹ against the City of Austin challenging the ordinance, and that case is currently pending. To date, the cities have been successful in legal challenges, and communities have defended the ordinances in the legislature despite aggressive efforts to preempt them.

Public Persistence

The fight to hold ground in this important reform movement is ongoing. It would not be successful without the broad community-based commitment in support of fair lending. Despite the litigation, 36 additional Texas municipalities, from Amarillo in the Panhandle, to Midland in West Texas, and Longview in the East, bringing the total to forty-five cities that have adopted the ordinance. To date, there are forty-five diverse community voices all calling for reform of payday lending abuses.

This movement demonstrates the power of people coming together to support the well-being of our communities. Christians believe that people are image bearers of God. As such, they should be cared for, both as citizens of the state but as children of God. It has not been an easy movement, but it has been an effective one. The assaults continue, with legal and legislative maneuvers by the payday lending industry continues to try and undermine the ordinances, but the conviction of the political community to persevere is also strong. The movement inspired a documentary entitled, *The Ordinance*¹⁰, and an academic study demonstrating the power of community in the fight for economic justice.

A recent study, analyzing the impacts of the ordinance seven years since the start of the movement, is promising. The unified ordinance is associated with fewer harmful impacts¹¹ from payday loans, including fewer refinances, fewer new loans, and a lower dollar amount of new loans and fees. The ordinance is making a difference in the lives of Texas families.

In addition to spurring local engagement across so many diverse Texas cities, the ordinance movement has also coincided with a movement to create better loan products. Nonprofits, banks, credit unions, and



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community development financial institutions have all been working to establish a better market. The movement has made real progress in creating better options for a growing number of Texans.

The payday lenders in Texas have 5.2 billion reasons [dollars] a year to find new ways to ensnare people in the debt trap. Deep pockets, effective lobbyists, and predatory business plans are all facing the organizations, volunteers and Christian citizens who organize against the industry, hoping that people of faith to get tired of fighting. And the industry will win in the long run – unless citizens and the institutions of civil society remain vigilant. Christian citizens can call their representatives and voice their concerns about payday lending. We believe that public justice and Christian principles of honesty, fairness, and compassion for our neighbor will win the day. David was much smaller than Goliath, but in the end, David was victorious.



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1. <https://occc.texas.gov/sites/default/files/uploads/reports/cab-annual-2018.pdf>
2. <https://www.texasappleseed.org/sites/default/files/Texas2017.pdf>
3. <https://txcatholic.org/voices-of-payday-borrowers/>
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5. <http://www.texasfairlending.org/wp-content/uploads/2013/01/City-Council-Passes-Payday-Loan-Ordinance.pdf>
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11. <https://www.texasappleseed.org/sites/default/files/EffectofUnifiedOrdinance.pdf>

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