

**UNITED STATES OF AMERICA
BEFORE THE CONSUMER FINANCIAL PROTECTION BUREAU**

**Administrative Proceeding
File No. 2016-CFPB-0020**

In the Matter of:

Phoenix Title Loans, L.L.C.,

Respondent.

**NOTICE OF CHARGES
SEEKING CIVIL MONETARY
PENALTIES AND OTHER
LEGAL AND EQUITABLE
RELIEF**

The Consumer Financial Protection Bureau (“CFPB” or “Bureau”) submits this Notice of Charges against Respondent Phoenix Title Loans, L.L.C. (“Phoenix” or “Company”) alleging the Company failed to disclose a corresponding annual percentage rate when advertising a periodic interest rate in violation of the Truth in Lending Act (“TILA”) 15 U.S.C. § 1664(c), the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. § 5536(a)(1)(A), and TILA’s implementing Regulation Z, 12 C.F.R. § 1026.24(c). In support of its Notice of Charges, the Bureau alleges and submits as follows:

Jurisdiction and Legal Authority

1. The Bureau has authority over this matter pursuant to sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565.
2. Under section 1053 of the CFPA, the Bureau may bring an adjudication proceeding to enforce compliance with TILA, Regulation Z, and section 1036(a)(1) of the CFPA. 12 U.S.C. § 5563(a).

3. Under section 1055 of the CFPA, the Bureau has jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of federal consumer financial law, including the TILA and Regulation Z, and the CFPA violations alleged in this Notice of Charges. 12 U.S.C. §§ 5511(c)(4), 5512(a), 5563, 5565.

Respondent

4. Phoenix is a limited liability company formed in Arizona in 2013.

5. The Company is licensed as a sales finance company by the Arizona Department of Financial Institutions.

6. The Company offers, and has been offering during all times relevant to this Notice of Charges, “closed-end credit” in the form of vehicle title loans to “consumers” as those terms are defined in Regulation Z, 12 C.F.R. § 1026.2(a)(10) & (11).

7. Phoenix is a “person” within the meaning of TILA Regulation Z because it is a limited liability company. 15 U.S.C. § 1602(e), 12 C.F.R § 1026.2(a)(22).

8. Phoenix is a “covered person” under the CFPA because it is a limited liability company that engages in offering and providing vehicle title loans, which are “consumer financial products or services” under the CFPA. 12 U.S.C. §§ 5481(5), (6), (15)(A)(i), (19).

The CFPA

9. Section 1036(a)(1)(A) of the CFPA prohibits covered persons from offering or providing to a consumer “any financial product or service not in conformity with Federal consumer financial law,” or otherwise committing “any act or omission in violation of a Federal consumer financial law.” 12 U.S.C. § 5536(a)(1)(A).

TILA and Regulation Z

10. TILA's implementing regulation, Regulation Z, requires that when an advertisement for closed end credit "states a rate of finance charge, it shall state the rate as an 'annual percentage rate,' using that term." 12 C.F.R. § 1026.24(c); *see also* 15 U.S.C. § 1664(c).
11. Regulation Z defines "advertisement" as "a commercial message in any medium that promotes, directly or indirectly, a credit transaction." 12 C.F.R. § 1026.2(a)(2).
12. Regulation Z defines "finance charge" as "the cost of consumer credit as a dollar amount." The finance charge "includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit." 12 C.F.R. § 1026.4(a).
13. Regulation Z also sets forth detailed requirements that creditors must follow when calculating the annual percentage rate. 12 C.F.R. § 1026.22; *see also* 15 U.S.C. 1606.

Allegations Regarding Non-Compliant Advertisements

14. Phoenix markets its services on the Internet at the address <https://phoenixtitleloans.com>.
15. On the "Refinance Auto Title Loan" page of the Company's website, the Company advertises interest rates of 3% and 6%.

Why a Refinance Auto Title Loan with Phoenix Title Loans, LLC?

Other than having your title loan with the friendliest, caring title loan provider in the valley, there's many reasons why you should move your title loan over to Phoenix Title Loans, LLC. The first and most important reason is that you can lower your monthly payments by getting a lower interest rate. We've made loans to our customers with interest rates as low as 3% so that they could actually work towards paying off their loan. We also offer a lower interest rate auto title loan as well as the option to do a buyout auto title loan where we buy auto title loans from you. These options are a little more challenging than the refinance auto title loan, but we still offer them all the same.

Let's say we were able to get you to half your interest rate, 6% a month! Totally outrageous, but we have many customers that when they come to refinance are eligible for rates this low. This can be you. At a rate of 6% a month, your new monthly payment would only be \$120.00 a month! That's a 50% savings, or \$120.00 extra dollars a month which could be going towards more important financial items.

Along with this, Phoenix Title Loans, LLC, has 10 valley wide locations in Phoenix, Mesa, Chandler, Avondale, Scottsdale, and Tempe so that we can almost promise we'll have a location that's close to you. We've been in business for over a decade, and pride ourselves on taking care of our customers every step of the way. So don't delay, call today!

<https://phoenixtitleloans.com/refinance/> 7/22/2016

16. The “Auto Title Loan Calculator” page of the website advertises, “If you decide to take less than half of the cash offer we’ve given you, then we will instantly and automatically lower your interest rate to 5%! ” (emphasis in original).



Current Interest Rates vs Our 5% rate

Phoenix Title Loans, LLC boasts its low interest rates so that you can see how your payments are calculated. That is why we offer customers our auto title loan calculator to anticipate the amount they are looking for in an auto title loan. If the amount you need to borrow is lower than half the value of your vehicle, we can give you the lowest rate in town: 5%! You read that correctly. You can read more information on how our interest rates work, here. Here's how the process works. On loans where the loan is under 50% of Kelley Blue Book private party value, and where you have stable employment, and a "good" ability to service the loan, and where the loan is over \$1000, we can offer rates as low as 5% MPR. On larger loans, those over \$10,000, we have offered even lower rates when everything lines up. For higher risk and higher loan to value loans, our rates are always lower than the competition. Contact us if you need more information.

17. On the “Auto Title Loan Calculator” page of its website, the company instructs consumers “When using the calculator, take your expected interest rate from **Phoenix Title Loans, LLC** and multiply it by 12” (emphasis in original), but does not inform consumers that the calculated number would be an annual percentage rate.

18. No other page within the Phoenix website domain discloses the annual percentage rate that corresponds to the monthly financing rates advertised throughout the website.

19. The Company's Internet advertisement constitutes a commercial message in any medium that promotes, directly or indirectly, a credit transaction.

20. The Company's Internet advertisement fails to disclose a corresponding annual percentage rate for the advertised monthly rates of finance. The advertisement also fails to use the term "annual percentage rate" or its common abbreviation "APR."

21. The advertisement has been displayed continuously on the Company's website since at least July 6, 2016.

Violations of Law

Count One: Violation of TILA and Regulation Z, Failure to State the Annual Percentage Rate in Advertising

22. The allegations in paragraphs 1 – 21 are incorporated by reference.

23. Since at least July 6, 2016, Phoenix has been advertising interest rates of 5% and 6% on its website without advertising a corresponding annual percentage rate and without using the term "annual percentage rate" in violation of 15 U.S.C. § 1664(c) and 12 C.F.R. § 1026.24.

Count Two: Violation of the CFPA, Failure to State the Annual Percentage Rate in Advertising

24. The allegations in paragraphs 1 – 21 are incorporated by reference.

25. The failure to disclose the annual percentage rate when advertising a rate of a finance charge in advertising is a violation of both TILA and Regulation Z.

26. The Company's failure to comply with the advertising requirements of TILA and Regulation Z constitutes a violation of section 1036(a)(1)(A) of the CFPA, 12 U.S.C. §§ 5536(a)(1)(A).

Demand for Relief

Wherefore, as permitted by 12 U.S.C. § 5565, the Bureau seeks a final order:

- a. permanently enjoining Phoenix Title Loans, L.L.C. from committing future violations of the Truth in Lending Act, 15 U.S.C. § 1601, et seq., Regulation Z, 12 C.F.R. §1026, et seq., the Consumer Financial Protection Act, 12 U.S.C. § 5536, or any provision of “Federal consumer financial law” as defined by 12 U.S.C. § 5481(14);
- b. awarding other appropriate injunctive relief against Phoenix Title Loans, L.L.C.;
- c. awarding civil money penalties against Phoenix Title Loans, L.L.C.;
- d. awarding costs against Phoenix Title Loans, L.L.C.; and
- e. awarding additional relief as deemed just and proper.

Proceeding Time and Place

Pursuant to 12 C.F.R. § 1081.203(d), the time and place of the administrative proceeding in the above-captioned action shall be determined by the hearing officer in the scheduling order.

Time to Answer

The answer must be filed and served within 14 days of service of this Notice of Charges, in accordance with 12 C.F.R. § 1081.201(a).

September 20, 2016

Respectfully submitted,

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