AMERICAN FINANCIAL SERVICES ASSOCIATION

PAYDAY LENDING DATABASES

Overview

As lawmakers across the country seek news ways to protect consumers from predatory lending practices, several states have turned to restrictions on the number or amount of payday loan obligations a borrower can have at any one time. Such restrictions compensate for the fact that historically payday lenders—unlike traditional installment lenders—do not report to credit bureaus.[1] States that move forward with these restrictions sometimes propose limiting the number of payday loans a consumer can have at any one time, and creating databases of outstanding loans for payday lenders to use to verify a borrower's eligibility for a new loan.

These states require lenders to register with a specified database provider and regularly submit information regarding loans. They must also submit a variety of personal identifying information on the borrowers who take out the loans. Some database laws allow fees for the use of the database, while others use additional state funds for the maintenance of the information collection systems. Importantly, all existing state databases are operated by a single company, Veritec Solutions. In addition to running the payday lending systems, Veritec has been the primary advocate for creating these databases. This dual role of sole system operator and primary advocate raises concerns of a conflict of interest for Veritec, which is as troubling as the databases themselves.

The traditional installment lending industry has significant concerns regarding such payday lending databases because of the push from Veritec to expand these databases to include installment loans. This has already occurred in two states, **Illinois** and **Nevada**—with similar bills have been proposed in other states. Because traditional installment lenders already report to established credit reporting agencies, these databases do not provide any supplementary information useful for the underwriting process; therefore, expanding databases to cover traditional installment loans is unnecessary and overly burdensome for an industry that is already well-regulated and recognized as providing safe and affordable alternatives to payday loans.[2]

[1] This is chiefly because payday loans are too short in duration to be captured by traditional credit reporting. We are also told that historically, credit bureaus may not be able to rely on information provided by very small companies—which some payday lenders are—because of the higher fraudulent reporting incidence associated with other unverified companies. However, the credit reporting industry in recent years has made efforts to greatly expand the type of non-traditional information it collects, particularly in the "thin file" and subprime spaces, including utilizing payday loans in some cases where possible.
[2] Not only has AFSA published several papers, briefs, and talking points on the myriad differences between payday loans and traditional installment loans and the effects they have on consumer credit (see our state Resources available at AFSAonline.org), but lawmakers, officials and agencies on the state and federal level (including the CFPB) have made statements or issued publications acknowledging this.

©American Financial Services Association State Government Affairs Committee
Created for AFSA by FOCUS with editing and additions by AFSA (June 2021).

Veritec Solutions

Sole Contractor

It is a matter of serious concern that each mandatory payday database was designed by Veritec Solutions, since states also contract with this same company to run and maintain these databases.[3] While other vendors serve the payday lending industry in various capacities for business and data management, Veritec is the only company to design its product and market itself specifically to government for the purposes of industry oversight. It also designed and maintains the databases currently in use by every state that mandates such a database. Veritec has been central in legislative debates concerning the possible implementation of such databases, and several states have seen bills proposed over the years with requirements that could only be met by this company.

A bill analysis for **California** SB 365, published after its April 6, 2011, hearing in the Senate Banking & Financial Institutions Committee, highlighted the absence of competing providers for statewide payday database services. One question, which described Veritec as the "sponsor" of the bill, was whether the bill would benefit a single company. Veritec contended that it had competed for its database contracts "with over half a dozen companies" and believed "that at least six other firms would be eligible to bid on the California database." However, one of the amendments offered by the author of the bill was to modify the selection criteria by striking the requirement that the commissioner consider those providers that have demonstrated similar systems that are operational in two or more states, a criterion that only Veritec could meet (then or now). The bill ultimately died upon the adjournment of the legislature.

The misconception that the company is merely one of at least a handful of viable providers of a similar service was also demonstrated in testimony offered for **Nevada** SB 17 from the 2017 session. During the February 22, 2017, hearing in the Senate Commerce, Labor and Energy Committee, Grant Hewitt, chief of staff to the state treasurer, said that the bill had been modeled off of the **Washington** law because it gave the ability to find a vendor through the request for proposal process and that Veritec "hosts *many* of the databases in other states" and that the company "is the *largest group* in the marketplace and provides databases for 14 states." In reality, Veritec is the provider for every existing database.

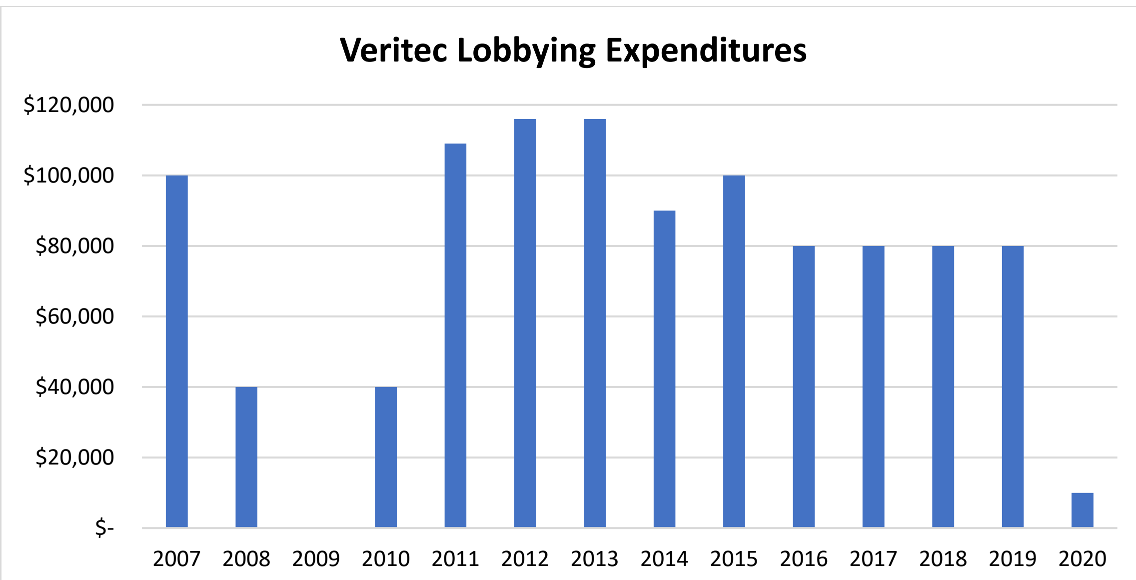
Support for Payday Industry

Veritec is a major advocate for payday lending databases in legislative debates across the country, but its lobbying efforts go beyond just advocating for payday lending databases. The company has involved itself in legislation regulating the payday loan industry, since they stand

[3] For examples of these contracts, see for **Florida**: https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=430000&ContractId=F0013 (Accessed May 14, 2021); for **Illinois**: http://www.purchase.state.il.us/ipb/IllinoisBID.nsf/frmBidDocFrameset?ReadForm&RefNum=22040089&DocID=D8CCA44F7E09B96E86258138006C085D&view=viewNoticesClosedByDate (Accessed May 14, 2021); for **Michigan**: https://www.michigan.gov/documents/buymichiganfirst/6200311_257512_7.pdf (Accessed May 14, 2021).

©American Financial Services Association State Government Affairs Committee
Created for AFSA by FOCUS with editing and additions by AFSA (June 2021).

to benefit from a larger market for payday lenders. An illustration of the company's indirect aid to the payday industry played out in **Oklahoma** in 2012 with the enactment of [SB 1082](), which made all information in the state's payday lending database confidential and exempt from disclosure under the Oklahoma Open Records Act. Former state Representative Joe Dorman, D-Rush Springs, one of the sponsors of the bill, said he was approached by Oklahoma City attorney Richard Mildren in 2012, a lobbyist for Veritec, about carrying the legislation. The bill was presented to Representative Dorman as a matter of protecting the sensitive personal information of borrowers.[4] This change was made despite the Oklahoma Department of Consumer Credit having never released underlying consumer information about borrowers from the database, such as the names, addresses and other personal information about borrowers. Prior to the change, information from Oklahoma's payday lending database had been used for reports on payday lending activity by the Pew Charitable Trust and the Center for Responsible Lending that showed the industry in a negative light.[5] The company had taken issue in the past with how the data it produces for Oklahoma and several other states has been used to portray payday lending.[6]



[7]

With the exception of a steep decrease in 2020, Veritec has spent at least $80,000 on lobbying efforts per year since 2011 when it spent over $100,000.[8] Veritec's lobbying expenditures peaked at $116,000 in both 2012 and 2013, when Delaware established its database.[9] Spending dipped slightly after Alabama established its payday lending database in 2015, the most recent state to do so.

---

[4] The Oklahoman, Oklahoma lenders rely on loan database, at https://newsok.com/article/4988274/oklahomalenders-rely-on-loan-database. (July 14, 2014).
[5] *Id.*
[6] *Id.* See also, Center for Responsible Lending, Rollover Bans Don't Stop Payday Trap, at https://www.responsiblelending.org/media/rollover-bans-don-t-stop-payday-trap. (April 9, 2009).
[7] The Center for Responsive Politics, *Client Profile: Veritec Solutions*, https://www.opensecrets.org/federal-lobbying/clients/summary?cycle=2011&id=D000065169. (Accessed May 14, 2021).
[8] *Id.*
[9] *Id.*

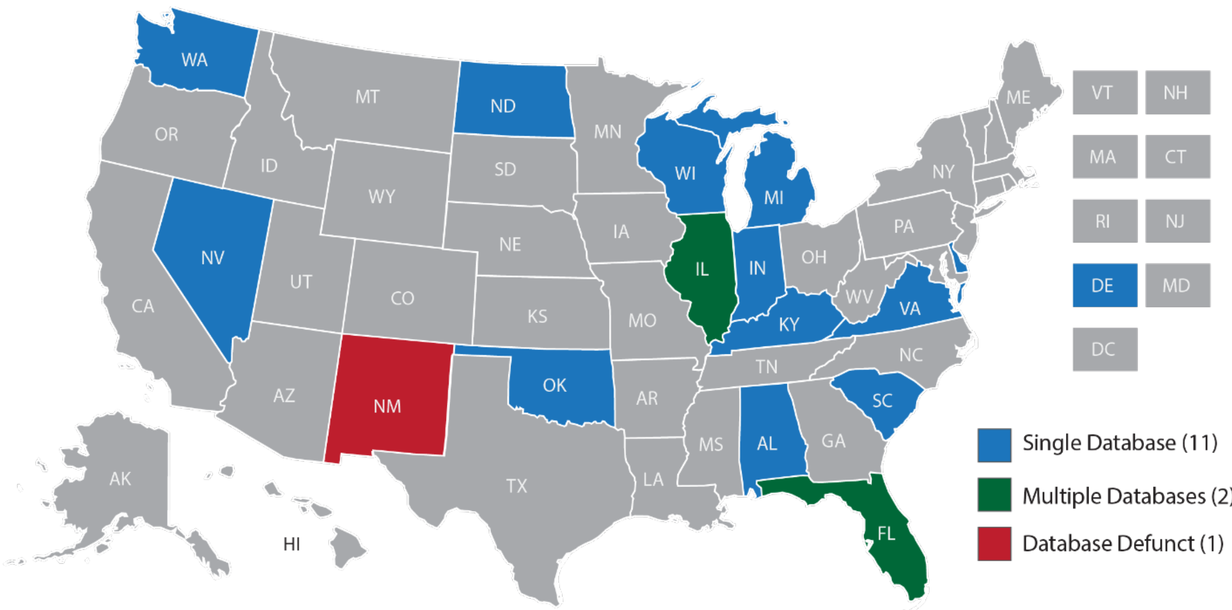
©American Financial Services Association State Government Affairs Committee
Created for AFSA by FOCUS with editing and additions by AFSA (June 2021).

Efforts by Veritec to support or oppose legislation in regard to payday lending across the nation suggest that the company's primary goal is to put itself in the front of the line for state contracts.

States that mandate a central payday database that also authorize installment loans are likely the most vulnerable to efforts by the company to expand the database requirement to installment loans. In conjunction with their lobbying efforts to create state payday lending databases, Veritec's status as the sole database vendor creates a serious conflict of interest.

Legislative Analysis

Payday Lending Databases



Fourteen states have already established payday lending databases. The first state to do so was **Florida** in 2002, which is where Veritec is based. It was followed by **Oklahoma** in 2004, **Indiana** and **Illinois** in 2005, **Michigan** in 2006, **New Mexico** in 2007 (now defunct after the state banned payday loans altogether in 2017[10]), **Virginia** in 2008[11], **Kentucky**, **South Carolina**[12] and **Washington** in 2009, **Wisconsin** in 2010, **Delaware** in 2013, **North Dakota** in

[10] UStatesLoans.org, *New Mexico Payday Loan Law and Legislation*, https://www.ustatesloans.org/law/nm/. (Accessed May 14, 2021).

[11] At least one news article described how the company specifically pitched its database to the state's lawmakers ahead of the adoption of the database requirement in the state, see Daily Press, Battle on payday lending scrutinized, at https://www.dailypress.com/news/dp-payday-battle.d14-story.html (December 4, 2007).

[12] The reward of the contract to the company was met with opposition from local vendors, who filed a protest against the state's Information Technology Management Office, see The State, S.C. firms protest payday lending contract award to Florida company, at https://www.thestate.com/latest-news/article14346605.html (September 15, 2009).

©American Financial Services Association State Government Affairs Committee
Created for AFSA by FOCUS with editing and additions by AFSA (June 2021).

2014 and **Alabama** in 2015.[13] At least two states—Florida and Illinois—contract with the company for more than one database.

The database in **Nevada**, originally slated to be set up by July 1, 2020, faced months-long delays after multiple hearings were cancelled due to the COVID-19 pandemic.[14] SB 201/Chapter 177, the law that created the database, requires the Commissioner of Financial Institutions to develop, implement and maintain, by contract with a vendor or service provider or otherwise, a database of all deferred deposit loans, title loans and high-interest loans in the state, for the purposes of ensuring compliance with existing law governing these types of loans. The Legislative Commission gave final approval to the Financial Institutions Division's regulations in December 2020.[15] Those regulations can be found here. At the time of legislative approval, regulators said they would work quickly to set up the database but did not offer a specific timeline.[16]

Conclusion

Statewide database reporting requirements for traditional installment loans are unnecessary, overly burdensome and of little benefit to consumers. Unlike payday lenders, traditional installment lenders are subject to a thorough regulatory environment under state and federal consumer protection agencies. Traditional installment lenders evaluate a borrower's ability to repay a loan and report loan performance directly to credit bureaus. TILs are a safe, affordable form of credit and are recognized by government officials as safe alternatives to expensive, predatory payday loans. Statewide database requirements for traditional installment lenders provide no obvious added benefit to consumers, since unlike payday lenders, traditional lenders already underwrite the loan and report information to established credit reporting agencies.

Ongoing financial industry concerns in regard to these databases are compounded by the fact that in the 17 years since the first database was established, a single company holds a monopoly on providing the service and is the primary driver of such legislation, often to the detriment of other types of regulatory reforms that could severely curtail the prevalence of payday loans and thus make the need for such a database moot. As the main advocate for payday lending database legislation, Veritec has a conflict of interest as it is the only company bidding for the contracts that Veritec itself lobbied to make available.

AFSA's concerns with Veritec databases are that they not be expanded to traditional installment lending, which is already covered by the credit reporting industry. AFSA is committed to monitoring and advocating on this issue on behalf of its members.

---

[13] A chart of the statute citations for the relevant laws in each of the listed states is available here. The chart was one of the materials submitted as part of the discussion surrounding **Nevada** SB 201 from the 2019 session.
[14] The Nevada Independent, *Technical Issues Cause Cancellation of Payday Lending Meeting*, https://thenevadaindependent.com/article/technical-issues-cause-cancellation-of-payday-lending-database-meeting (April 29, 2020).
[15] The Nevada Independent, *Lawmakers grant final approval to payday lending database plans, over industry concerns*, https://thenevadaindependent.com/article/lawmakers-grant-final-approval-to-payday-lending-database-plans-over-industry-concerns (December 28, 2020).
[16] *Id.*

©American Financial Services Association State Government Affairs Committee
Created for AFSA by FOCUS with editing and additions by AFSA (June 2021).