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DeCoteau: The new money changers

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by: **Jerilyn DeCoteau**

In 1933, at the depth of the Great Depression, President Franklin Roosevelt said, ''Practices of the unscrupulous money changers stand indicted in the court of public opinion, rejected by the hearts and minds of men ... Faced by failure of credit they have proposed only the lending of more money.''

Fast-forward to 2008, on the brink, some say, of the worst financial crisis since the Depression. The new money changers entice, ''Come, I'll lend you $325 if you pay me back $793.''

Predatory lending is gaining much attention lately, primarily due to the subprime mortgage lending crisis. A recent study by the First Nations Development Institute, funded by the Annie E. Casey Foundation, shows that predatory lending has long been a concern for Indian country, and that the larger concern is with other predatory lending practices, such as payday loans and loans against tax refunds, also known as RALs or ''Refund Anticipation Loans.''

History is replete with examples of predatory practices involving American Indian assets, from theft of land to gross underpayment for the lease or sale of natural resources. Now predators are reaching directly into Natives' pockets for their paychecks. This is in large part because vulnerable American Indians have no assets to steal other than their paychecks.

Many of those who use payday lenders lack access to mainstream banking services, either because there are no such institutions nearby or because borrowers lack collateral (for example, no home equity), have poor credit or no credit history. To get over a financial crisis, such as a car repair, medical bills, a missed mortgage payment or a heating bill in winter, these folks have no choice but to turn to predatory lenders. This fairly describes the situation with many Indian borrowers: they live on the edge and the next urgency could push them over - or into the warm welcome of a predatory lender.

Payday lenders tend to cluster around low-income areas, such as military bases, and there is evidence that they are targeting Indian reservations. South Dakota eliminated usury laws in 1980 as a means of attracting financial services businesses. As compared to other states, it now has the highest number of banks per capita and the second-highest number of payday lenders.

On Nov. 26, 2007, the Rapid City Journal observed, ''Rapid City, with its proximity to Ellsworth AFB [Air Force Base] and its growing Native American population, is particularly vulnerable to the payday industry. Pennington County has just 12 percent of the state's population, but it contains almost one-quarter of its payday lending operations.''

As many as one in five members of the armed forces took out a payday loan in 2005, a Pentagon report said last year, contributing to rising debt levels that interfere with troop deployment and service members' security clearances.

The Center for Responsible Lending reported in 2006 that payday loans cost $15 - $30 per $100 for a two-week term, resulting in effective annual rates of 390 percent to 780 percent interest. The typical payday borrower rolls his loan over several times and eventually pays back $793 for an initial $325 loan. Ninety percent of the revenue generated in the payday-lending industry comes from fees charged to borrowers.

In the editorial ''Beyond Payday Loans'' in The Wall Street Journal [Jan. 24, 2008], former President Clinton and California Gov. Arnold Schwarzenegger said, ''Imagine the economic and social benefits of putting more than $8 billion in the hands of low- and middle-income Americans. That is the amount millions of people now spend each year at check-cashing outlets, payday lenders and pawnshops on basic financial services that most Americans receive for free - or very little cost - at their local bank or credit union.''

The number of payday lenders has exploded in the last 20 years. In the early 1990s, there were around 300 payday lending outlets in the United States; today there are more than 22,000. For comparison purposes, there are 13,300 McDonald's and 7,087 company-operated Starbucks restaurants, according to those chains' Web sites. In New Mexico, there are four payday lenders for every McDonald's. New Mexico does not regulate payday lenders.

According to the CRL, the payday lending industry is dominated by large regional or national lenders that provide only payday loans, and multiple service lenders that offer an array of fringe banking services such as check cashing, money orders and bill-paying services. The CRL also notes that banks are becoming more active in the industry by providing capital to payday lenders and entering into partnerships (called "rent-a-charter" deals) to originate payday loans in states that prohibit stand-alone payday lending. With backing from large banking institutions, imagine the powerful lobby payday lenders have. What can be done to protect paychecks, income tax refunds and economic stimulus payments?

The tide is starting to turn. State legislatures across the country are considering bills aimed at curbing payday lending. The CRL estimates that states that ban predatory lending save their citizens $1.4 billion in predatory lending fees each year. Federal regulations adopted in late 2007 set a 36 percent annual rate cap for lending to military personnel. On Jan. 7, 2008, the Department of the Treasury proposed a rule to limit the ability of tax return preparers to market RALs.

Tribes can act, too, to protect their citizens. Financial education is the first line of defense, and should include basic instruction about money management, credit repair, savings and investment.

Second, alternatives to predatory lenders must be made available. Several tribes have programs that provide low-cost loans and other banking services, credit counseling, credit-building loans and matched savings.

Third, tribal laws and regulations are needed. Tribes can adopt usury caps and lending laws. Many tribes have commercial codes, but few have consumer protection codes. A notable exception is the Blackfeet Tribe, which has a comprehensive code that sets a 21 percent annual percentage rate interest cap. These anti-predatory practices and laws are replicable and most tribes are willing to share their experiences.

Predatory lending is a nationwide problem; but for Indian tribes, the bleeding of assets away from tribal communities has consequences of greater dimension. The very survival of tribes is linked to securing comprehensive strategies for economic improvement. Many Indian people are poor, and when even paychecks are taken from them, the dream of homeownership and building stronger communities is beyond hope.

The First Nations' study is available at www.firstnations.org.

Jerilyn DeCoteau is director of policy at First Nations Development Institute. Sarah Dewees, director of research at First Nations Development Institute, contributed to the piece.