

Analysis of Proposed Consent Order to Aid Public Comment  
In the Matter of First American Title Lending of Georgia, LLC, File No. 132 3264

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from First American Title Lending of Georgia, LLC or respondent. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement and proposed order.

The respondent is a car title loan company. According to the FTC complaint, respondent has advertised its loans with advertisements that broadly state that the title loans are for "0% Interest!" Sometimes, but not always, these advertisements state in much smaller print, "Certain terms and conditions may apply" or "Some restrictions apply." However, respondent's advertisements fail to disclose that unless the loan is completely repaid in 30 days, the 0% offer does not apply and there is a significant finance charge if a consumer does not repay the loan in full in 30 days, he or she would then be required to pay the finance charge for the first 30 days in addition to any additional finance charges incurred on day 31 (to start the second 30-day period). The advertisements also fail to disclose the amount of the finance charge after expiration of the 30-day introductory period. The proposed complaint alleges that these material omissions constituted a deceptive act or practice under Section 5 of the FTC Act.

The Commission is also alleging a Truth in Lending Act ("TILA") violation against respondent. Some advertisements displayed "9.5%" next to the claim of "0% interest." First American allegedly violated TILA by advertising a finance rate (9.5%), but failing to state the rate as an APR.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices or violating TILA, in the future. Part I prohibits the respondent from making an introductory or temporary finance charge without disclosing, clearly and conspicuously, the finance charge after the introductory or temporary period, and the full effect of failing to make a timely complete repayment of the loan within the introductory or temporary time period. Respondent must further disclose the qualifying terms associated with obtaining the loan at its advertised rate, including but not limited to, minimum loan requirements, customer requirements, and any other material terms and costs associated with obtaining the loan, including but not limited to transaction costs, registration costs or fees, recording or fees, and title fees. The respondent also cannot represent any other material fact about the terms of the loan.

Part II of the proposed order prohibits the respondent in connection with any advertisement to promote directly or indirectly, any extension of consumer credit in or affecting commerce from expressly or by implication stating the amount or percentage of down payment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the terms of the loan. Section 144 of TILA, 15 U.S.C. §1664, and Section 1026.24 of Regulation Z, including but not limited to the amount of percentage or the down payment, the terms of repayment; and

annual percentage rate, using that term or the abbreviation. ~~APR~~ The annual percentage rate or APR may be increased after the consummation of the credit transaction, that fact must also be disclosed. Moreover, the respondent cannot state a rate of finance charge without stating the rate as an “annual percentage rate” using that ~~or the~~ abbreviation “APR,” as required by Section 144 of the TILA, 15 U.S.C. §1664, and Section 1026.24(c) of Regulation Z. ~~or fail to~~ comply in any other respect with the TILA, 15 US§§ 1601-1667, as amended, and its implementing Regulation Z, 12 C.F.R. Part 1026 amended.

Parts III through VI of the proposed order are reporting and compliance provisions. Part III is an order distribution provision that requires respondent to provide the order to current and future principals, officers, directors, and managers and to all current employees, agents, and representatives ~~including~~ ~~responsibilities~~ with respect to the advertisement of consumer creditor ~~87(ou)-1~~