

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’s 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 available 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 constitute 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 stating an introductory or temporary finance charge without disclosing, clearly and conspicuously, the finance charge after the introductory or temporary period ends; or 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 all qualifying terms associated with obtaining the loan at its advertised rate, including but not limited to, minimum loan requirements, new customer requirements, and any other material term; all costs associated with obtaining the loan, including but not limited to transaction costs, registration costs or fees, recording costs or fees, and title fees. The respondent also cannot misrepresent 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 required by Section 144 of TILA, 15 U.S.C. §1664, and Section 1026.24(d) of Regulation Z, including but not limited to the amount of percentage or the down payment; the terms of repayment; and the

annual percentage rate, using that term or the abbreviation “APR.” If 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 term 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.C. §§ 1601- 1667, as amended, and its implementing Regulation Z, 12 C.F.R. Part 1026 as amended.

Parts III through VII 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 having responsibilities with respect to the advertisement of consumer credit. Part IV of the proposed order requires respondent to maintain and upon request make available to the Commission certain compliance-related records, including all advertisements and also consumer complaints and records that demonstrate compliance with the proposed order for a period of five years. Part V requires respondent to notify the Commission of corporate changes that may affect compliance obligations within 30 days of such a change. Part VI requires respondent to submit a compliance report to the Commission 60 days after entry of the order, and also additional compliance reports within 10 business days of a written request by the Commission. Part VII “sunsets” the order after 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.