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1,000% INTEREST—GOOD WHILE SUPPLIES LAST: A STUDY OF PAYDAY LOAN PRACTICES AND SOLUTIONS
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Would you pay $1000 in fees to borrow $100 for a period of twenty weeks? Is it possible that such a loan is even legal? Welcome to the world of payday lending—one of the fastest-growing segments of the consumer-credit industry. This Article describes the practices of payday loan companies and then discusses some states' failed attempts to institute regulation. These legislative efforts frequently fail because lenders quickly adapt to new legislation by finding loopholes that undermine any consumer protection provided by the new regulatory laws. The Article also reports on an empirical study of borrower conduct and understanding of payday lending terms. This study is one of the first to gather information about these loans directly from customers at the point of sale.

STRUCTURED PRODUCTS FOR THE RETAIL MARKET: THE REGULATORY IMPLICATIONS OF INVESTOR INNUMERACY AND CONSUMER INFORMATION PROCESSING
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Financial innovations have resulted in an explosion in the number of so-called structured products being offered in the retail marketplace. To explain the complex structure of these hybrid debt securities, their prospectuses employ numerical examples to illustrate the investments' return formulas. These examples depict hypothetical reward scenarios, utilizing an atypical set of premises. Consequently, the example sets portray highly unlikely investment results. Behavioral science and general principles of numeracy reveal that these "illustrative" examples create a skewed picture of an investment's potential return. This latent form of deception has enormous implications for the retail investing population. Armed with research at the intersection of behavioral law and behavioral finance, the Authors propose a measured regulatory response.

POVERTY REVENUE: THE SUBVERSION OF FISCAL FEDERALISM
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Fiscal federalism is a staple of economic theory that underlies the federal–state partnership in the nation's largest federal grant-in-aid programs, such as Medicaid and Title IV-E Foster Care. The theory is founded on a simple principle, the collaboration of the federal government's financial power and stability and state governments' ability to deliver services tailored to regional needs. However, the theory ignores a vast industry that has grown around the flow of federal funds. In addition to providing operational and consulting services for all aspects of government aid, this poverty industry—which usurps inherently governmental functions and is rife with organizational conflicts of interest and a revolving door of personnel—has now tapped into grant-in-aid funding at its source. Through revenue maximization contracts, the poverty industry helps states increase claims for federal aid, and the additional funding is often diverted from its intended purpose. Analogous to the iron triangle formed by the military–industrial complex, the vertical relationship between the federal and state governments in grant-in-aid programs has been transformed by a poverty–industrial complex. And as the structure of fiscal federalism is subverted, the benefits of the theory break down.

HUMPTY DUMPTY AND THE FORECLOSURE CRISIS:
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This Article examines in detail the disappointing first year of the Obama Administration's foreclosure mitigation effort, the Home Affordable Modification Program (HAMP), including its premises, mechanics, slow start, and ultimately modest results. The Administration committed $75 billion to try to help three to four million struggling homeowners avoid foreclosure and reduce the spillover effects of the foreclosure crisis on the economy as a whole. After a year of operations, ending in March 2010, only about 230,000 borrowers had entered into permanent HAMP modifications, and even these were not necessarily truly permanent. Government agencies predicted a redefault rate of 40% or more because HAMP borrowers were typically left owing more on their homes than their value and were left with high and difficult-to-sustain debt burdens overall. HAMP is a compelling illustration that prevention is easier than cure; the challenges of getting relief to millions in a short period of time proved daunting. A partial front-end regulatory fix was adopted, applicable to future subprime home loans, but if policymakers and regulators are ever tempted again to ease up constraints on high-risk financial products such as subprime mortgages, they should remember the cautionary tale of HAMP.

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In recent years, foreign plaintiffs have paired with individual do-gooders and international nonprofits to step up litigation in U.S. courts under the 1789 Alien Tort Statute (ATS). Burmese villagers and Nigerian environmental justice advocates are among the plaintiffs trying to use the ATS to hold multinational corporations responsible for human rights abuses in foreign countries. The ATS employs simple, direct language to provide for U.S. jurisdiction over tort claims that violate the law of nations, but its interpretation in the context of corporate liability has raised difficult legal issues for U.S. courts. Instead of addressing these issues head on, some courts are using procedural doctrines to dismiss the cases and avoid untangling difficult substantive issues. This Note argues that the clear language of the ATS should provide a procedural "trump" to assist these claims in overcoming procedural hurdles and reaching substantive determinations by courts.

CHANGING WINDS: RECONFIGURING THE LEGAL FRAMEWORK FOR RENEWABLE-ENERGY DEVELOPMENT IN INDIAN COUNTRY
Bethany C. Sullivan 823

Renewable energy is undoubtedly one of today's "hot topics," often discussed hand-in-hand with climate change, environmental policy, and international affairs. Yet one aspect of renewable energy that frequently goes unnoticed is its role in the American Indian community. Tribal officials are increasingly focused on renewable-energy projects as a means of fostering economic development in Indian Country, and the proliferation of on-reservation projects attests to the growing importance of this field. However, native leaders, practitioners, and scholars face common struggles in bringing these projects to fruition—struggles rooted largely in the current state of federal law and policy. This Note examines the contours of these obstacles: first, renewable-energy tax credit non-transferability and second, tribal–state jurisdictional peculiarities, such as double taxation. Examples from the Campo Kumeyaay Nation, the Confederated Tribes of the Warm Springs Reservation, and the Rosebud Sioux Tribe illustrate these obstacles. The Note then analyzes a number of federal and non-federal solutions, ultimately concluding that Congress should make renewable-energy tax credits transferable and delineate tribal civil jurisdiction over energy-related activities.

LAW & POLICY NOTE

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