BRIAN E. FROSH
ATTORNEY GENERAL

MEDIA CONTACTS:
PRESS@OAG.STATE.MD.US
410-576-7009

PRESS RELEASE

Attorney General Frosh Argues in Court Against Payday Loan Industry Attempts to Skirt State Usury Laws

States Argue Payday Lenders Can't Create Sham Affiliations with an Indian Tribe to Avoid State Consumer Protection Laws

BALTIMORE, MD (December 28, 2018) – Maryland Attorney General Brian E. Frosh today joined a group of 15 state attorneys general in opposing payday lenders' use of Indian tribes to skirt state laws protecting consumers from exorbitant interest rates and other predatory practices. Under such schemes, unscrupulous lenders make payments to a tribe in an effort to "borrow" immunity from state laws that preclude predatory lending practices.

In an amicus brief filed in *Williams v. Big Picture Loans, LLC* in the U.S. Court of Appeals for the Fourth Circuit, Attorney General Frosh argued that a lender claiming tribal immunity bears the burden of proving it is a legitimate arm of an Indian tribe. Tribal immunity provides tribes immunity from some lawsuits or quasi-judicial proceedings without the tribe's consent or Congressional waiver. A federal district court in Virginia earlier this year ruled in favor of the consumers in *Williams*, holding that the lender, Big Picture Loans, could not claim tribal immunity because it had not established that it was an Indian tribe. Big Picture Loans has appealed that ruling to the Fourth Circuit.

"Payday lenders like Big Picture Loans cannot shield themselves from state laws by forming loose and questionable affiliations with federally-recognized tribes," said Attorney General Frosh. "We will do everything we can to make sure that Marylanders do not fall victim to predatory lenders, wherever they are based."

Williams v. Big Picture Loans was filed by a group of consumers who sued the Michigan-based payday lender. Big Picture Loans argued that it was entitled to immunity from state laws preventing exorbitant interest rates because it was acting as an arm of an Indian tribe, and was therefore entitled to "sovereign immunity."

Most states and the District of Columbia have laws in place to protect consumers against predatory lenders, including those that charge excessive interest rates. Under Maryland's Consumer Loan Law, most lenders are required to be licensed by the Commissioner of Financial Regulation and interest rates are restricted depending on the loan size.

Payday or cash advance lenders tend to offer short-term, high-interest loans marketed to consumers who have a temporary cash need or a financial emergency. Consumers who borrow money from these types of lenders wind up owing more money in interest than had they obtained a short-term loan from a bank or worked out an alternative payment schedule with their creditors. Maryland law limits annual interest rates to 24 to 33 percent on most loans under $6,000. Some payday lenders charge effective annual interest rates upwards of 700 percent.

The amicus brief filed by the Attorney General today argues that allowing lenders to claim that they are subdivisions of federally-recognized Indian tribes entitled to sovereign immunity will substantially hinder the states' abilities to protect consumers from predatory lenders that violate state consumer protection laws.

Attorney General Frosh was joined in the brief by the Attorneys General of Connecticut, Hawaii, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Vermont, Virginia, and the District of Columbia.