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Report: Payday lenders cost state's poor millions

By Wesley Brown
ARKANSAS NEWS BUREAU

LITTLE ROCK — Loopholes in the state's payday lending law cost low-income Arkansans more than \$68 million annually, according to a report released by an anti-payday lending coalition Wednesday.

The group, Arkansans Against Abusive Payday Lending, said the 1999 law that regulates the industry is full of gaps that allow payday loan operators to prey on the poor. The coalition also accused the state agency that oversees payday loan operations of lax enforcement and being too close to the industry it governs.

"The price of this lax enforcement of the usury protections of the Arkansas Constitution is unfortunately being paid by Arkansas consumers who use payday loans," coalition President Hank Klein said at a news conference.

However, Peggy Matson, executive director of the Arkansas State Board of Collection Agencies, which regulates the industry, said the coalition's accusation were "simply are not true."

Klein blamed the 1999 Check Cashers Act for allowing the payday loan industry to expand in Arkansas and

circumvent the state constitution, which limits interest rates on consumers loans to 17 percent annually.

Klein said the law has not curbed what he described as an abusive practice that costs the average payday loan borrower \$800 for a \$350, equal to interest rates of more than 400 percent.

"Nearly seven years after it became law, the (industry) is largely without regulation and oversight by the state," Klein said.

The law faces numerous court challenges and the movement to change it is "increasingly resonating" with the public and political candidates, he said.

In a 55-page report, the coalition concluded that 209 of the 275 payday lending operators in Arkansas are not regulated.

Other study also showed that:

- Most payday loan stores that operate in Arkansas are located near military bases and largely target minorities, the elderly and the low-income.

- Seventy payday lenders licensed by the state are not regulated due to the state board's "soft" interpretation of the 1999 act.

- Another 139 payday lenders that operate in the state offer usurious loans

are not regulated by five-person regulatory board.

- Two of the ABSCA board members who voted to exclude payday lenders from state regulations have financial connections to out-of-state companies that use the "rent-a-bank" model.

- Many sections of the 1999 act are not strictly enforced by the ASBCA staff, including a prohibition against payday lenders holding more than one check at a time from customers and another ban against taking checks over \$400.

"Payday lenders continue to create various models of operations in attempts to disguise their transactions, or cause their transactions to appear to be a product other than a payday loan," Klein said. "Worst of all, there seem to little or no repercussions from the state board for the payday lenders that use these methods."

Matson said the collection board and its staff abide by the 1999 act and have rules to reprimand any operators who don't follow state law.

However, she could not immediately provide any statistics Wednesday on the number of payday loan operators that have been admonished or fined by the state agency over the last

year.

For each accusation made by the anti-payday lending coalition, Matson offered a different interpretation of the rules. For example, state rules do prevent licensed check cashers from offering "deferred presentment" checks over \$400, Matson said, but they allow some out-of-state banks affiliated with check cashers not licensed in Arkansas to give small "loans" over that amount.

Klein called Matson's explanation laughable.

"They just don't want to regulate them," he said.

He accused the collection board's Northwest Arkansas board members, Gary Frala and Denise Stewart, of having financial ties to owners of finance companies that use "rent-a-bank" and "rent-a-finance" models.

Frala and Stewart both voted recently to exclude 140 out of state "rent-a-bank" and "rent-a-finance" firms from state regulations.

"Consumer protection should take precedent over these rent-a-bank deals," Klein said.

Frala, whose term expires in 2007, is the chief financial officer of Washington County Financial Management Co. in Springdale. He

was named to the board in 2003 by Gov. Mike Huckabee.

Klein said Frala, the "public at large" representative on the ABSCA board, is the controller for at least 32 "rent-a-bank" and out-of-state firms that operate payday lending retail locations across the state.

According to ASBCA statistics, there are more than 100 short-term lending operations in Arkansas that are incorporated in South Dakota. These loan companies operate under such names as First American Cash Advance, Payday Money Store, Cash Advance, Money Depot and Show Me The Money.

Stewart of Rogers is state director of operations for American Check Cashers.

Frala and Stewart could not be reached Wednesday afternoon, and neither returned telephone calls to their offices seeking comment.

Currently, American Check Cashers is incorporated in nine Arkansas cities, according to secretary of state's records. The roster of ACC locations in Arkansas, which are all owned by W. Cosby Hodges, includes more than 20 stores across the state, collection board information shows.