State Should Be Set Free From Payday Lenders (Editorial)

By Arkansas Business Editors

Those famous words cast into the Liberty Bell — "Proclaim liberty throughout all the land unto all the inhabitants thereof" — come directly from the Old Testament book of Leviticus and refer specifically to a commandment that all debts be periodically forgiven so that families could get a fresh start.

You can look it up yourself and keep it in mind as you read and hear about legislative hearings into the loan sharks known euphemistically as payday lenders. Could this be the year of Jubilee in Arkansas?

There are so many things about the kudzu-like proliferation of payday lenders in this state that boggle the mind, beginning in 1999 with the industry's astonishing success in getting the Arkansas General Assembly to adopt industry-written "regulations" that gave a patently illegal business plan a veneer of legitimacy.

It didn't hurt that the newly elected attorney general who accepted a coordinated series of campaign contributions from payday lenders then sat on his hands — and on his staff — while the blatantly unconstitutional bill was whisked through the Legislature.

That AG has since gone to the U.S. Senate, so he has felt no particular political pain from his complicity in the selling out of struggling Arkansans who are now routinely paying 300 percent APR and more. And his successor has only recently started showing an interest in cleaning up the mess. (Thank goodness for gubernatorial aspirations.)

But there is much, much more to the story that should sicken anyone with an ounce of compassion or a thimbleful of common sense. For instance, a study conducted by Hank Klein, retired CEO of Arkansas Federal Credit Union and founder of a coalition called Arkansans Against Abusive Payday Lending, found that fewer than half of the active lenders he studied were even licensed by the state — which is just about all the Check Cashers Act of 1999 asked of them.

How can that be? A big part of the reason is the curious legal interpretation of Peggy Matson, executive director of the Arkansas State Board of Collection Agencies, which has statutory responsibility for regulating check cashers (including payday lenders). She has told Arkansas Business that she only has the authority to regulate those payday lenders who operate exactly as outlined in the Check Cashers Act. She has reportedly expressed this same astonishing take on the law to others.

Compare Matson with, say, Arkansas Securities Commissioner Michael Johnson, who at least slaps cease-and-desist orders against investment schemers who don't follow the law and sends out detailed press releases in hopes of protecting other Arkansans. In Matson's world, if you don't follow the law you are above the law and no concern of hers.

There is no defending Matson's failure to shut down unlicensed payday lenders, except to note that the board she answers to is of the same mind. As Klein reported, the member of the ASBCA that Gov. Huckabee selected to represent the "public at large" — Gary Frala of Fayetteville, although Klein was coy enough to omit his name — is treasurer and controller of a payday lender.

Georgia cleaned out its predatory lenders after the Navy threatened to move some bases. North Carolina threw out the last of its payday lenders a couple of weeks ago. Yet Arkansas, where voters adopted the strictest usury law in the nation, is still overrun by loan sharks operating with the blessing and assistance of the "public servants" that are supposed to regulate them.

Huckabee is going to have to call a special session on school funding in the near future. He's reportedly considering adding a minimum wage bill to the call in order to defuse a movement to write cost-of-living increases into the Arkansas Constitution. It would be a true year of Jubilee if poor Arkansans could get an overdue raise in pay and liberty from the bondage of payday lenders at the same time.