

Bill to let lawmakers set interest rate goes to Senate

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LITTLE ROCK — A Senate committee endorsed legislation Thursday that would amend the state constitution to give the Legislature the authority to define and set interest rates, a move opponents said would open the door for the return of payday lenders to the state.

Attorney General Dustin McDaniel warned that Senate Bill 900 was unconstitutional.

“I can guarantee litigation ... that we will lose,” McDaniel told the Senate State Agencies and Governmental Affairs Committee.

The panel approved the measure on a voice vote and sent it to the full Senate. The proposed constitutional change would require a three-fourths vote in the House and Senate for approval.

The sponsor, Sen. Jon Woods, R-Springdale, said Arkansas is the only state that prevents its Legislature from defining and setting interest rates.

“I think this is a legislative obligation,” Woods said.

Former State Rep. Robbie Wills, lobbying for the the Arkansas Consumer Credit Association, said the legislation would allow the Legislature to address pawn shops and pay-to-own companies, which he said require customers to pay interest on loans much higher than the 17 percent cap in Arkansas.

“I don’t think for a minute that this Legislature would vote to raise interest rates or bring back payday lenders,” Wills said.

But Sen. David Johnson, D-Little Rock, told Woods he clearly sees SB900 as a precursor for legislation to come.

“What do you expect to happen in 2015?” Johnson asked.

Woods replied that a definition of interest rate would be proposed.

McDaniel noted the state Supreme Court has already ruled that the Legislature cannot define interest and that voters approved a constitutional amendment in 2010 that set the 17 percent cap.

“The whole point of that amendment was so the General Assembly can’t define interest,” he said.

Hank Klein, president of Arkansans Against Abusive Payday Lending, also spoke against the bill and said later that if lawmakers were concerned about pawn shops and rent-to-own businesses, they could passed legislation to address that issue specifically.

“They want to exempt certain things from being called interest and we’ll go through the same Supreme Court challenges,” Klein said.

Klein said rent-to-own businesses are federally regulated and must disclose to consumers what they charge for rentals. He said Wisconsin and New Jersey require such businesses to provide rental loan disclosures, and said Arkansas lawmakers could require them to do so here.

As for pawn shops, Klein said they charge 240 percent interest annually and disclose that to people under federal regulations.

“That is illegal in our state and nobody has challenged it,” he said. “If somebody wants to challenge it they could certainly challenge and we would have no pawn shops, but I’m not sure that is in the best interest of all consumers.”

The payday lending industry gained a foothold in Arkansas after enactment of the Check Cashiers Act of 1999, offering loans to consumers for a day or a week charging annual interest rates in the range of 300 percent to 700 percent, according to reports.

In 2008, the state Supreme Court said in two rulings that lenders charging high fees for short-term loans violated the state usury law. The exodus of payday lenders from the state began after McDaniel, buoyed by the high court rulings, warned them to leave or face legal action.

In 2010, Arkansas voters approved Amendment 89, which set the 17 percent cap on interest rates. Previously, the state had a cap of 5 percent above the federal discount rate, which at that time was .75 percent, on consumer loans,

and lenders were limited to whichever cap was lower.

Woods said Thursday that many people in the state are confused about what is interest and what is not. Johnson said the constitutional amendment should have eliminate any confusion.