# Opponents say bill opens up door for payday lenders

http://arkansasnews.com/sections/news/opponents-say-bill-opens-door-payday-lenders.html March 25, 2013

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LITTLE ROCK – Almost four years ago, the last payday lender left Arkansas.

The industry, which gained a foothold in the state after the enactment of the Check Cashers Act of 1999, thrived until 2008, when the state Supreme Court said in two rulings that lenders charging high fees for short-term loans violated the state usury law.

Their exodus began after Attorney General Dustin McDaniel warned them to leave or face legal action.

But opponents of payday lending say a bill pending in the Legislature could eventually open the door for payday lenders to return to Arkansas.

Senate Bill 900 by Sen. Jon Woods, R-Springdale, would amend the state constitution to give the Legislature the authority to change interest rates.

In 2010, Arkansas voters approved a constitutional amendment which set a 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 is lower.

Woods said most of the other state legislatures have the authority to change their state's interest rate, and he thinks Arkansas lawmakers should follow suit.

"I think we need to have the discussion on why this is and why can't we go in and adjust the rate when we feel it needs to be adjusted," Woods said.

He said he expects a hearing on his bill early next month before the Senate State Agencies and Governmental Affairs Committee early next month.

Hank Klein, president of Arkansans Against Abusive Payday Lending, said passage of SB 900 would grease the skids for payday lenders to return.

"If this passed and the Legislature gets to approve rates, with just that 51 percent majority, in the next legislative session we'll be talking about … 35 percent (interest rate) or whatever. They're just getting a foothold in the state," Klein said.

"If they really wanted to come into the state and make loans they could come in and make them at 17 percent all day long and not be regulated," he said, adding that the payday lenders want interest rates to be much higher.

Between 1999 and 2009, payday lenders offered loans to consumers for a day or a week. The lenders often charged annual interest rates in the range of 300 percent to 700 percent, according to reports.

McDaniel said last week that his office is closely monitoring SB 900, which he said “potentially would make it easier to allow payday lenders to re-enter the state and offer high-interest loans that harm consumers.”

“I would oppose any measure that could lead to changes in a constitutional usury limit that has been set by Arkansas voter,” the attorney general said.

Woods said the purpose of SB 900 is not to try and lure payday lenders back to the state.

“Yes, it’s relevant and I can see the link and I get it. But I think the objective of this bill is just to give us the oversight and to be able to go in and set the rate.” Woods said.

“Now as far as that goes … I’m not really diving into the small lending aspect or the payday lending, but I’ve always felt on a personal level that in my days in banking we did have people that would come in that would need small loans and there was just nothing we could do,” he said.

In 2011, Woods filed a bill designed to create a small loan industry in the state. The bill would have allowed loans from $250 to $5,000 to be made to borrowers for terms of six months to two years. The bill also would have allowed fees to be charged to borrowers, including 5 percent for late payments and $25 for a bounced check.

The measure failed to get out of the House Insurance and Commerce Committee during a meeting in which a deputy attorney general said the legislation’s language was similar to the 1999 Check Cashers Act, which the Supreme Court had ruled unconstitutional.

Woods said last week he has not given up on the idea of a small loan industry, but that discussion has nothing to do with SB 900, he said.

“I’ve never been for high rate ripoff firms, but I think that there are good examples of lending companies that do help individuals that are a tier above what we would think of as payday lenders,,” he said. “That’s for a different day, different discussion. … But that’s not the intent of this bill. I think the discussion in committee will really be about whether lawmakers feel the Legislature needs to be able to set the rate and not just leave it in the constitution.”

Klein said Arkansans Against Abusive Payday Lending will attend the Senate committee meeting and oppose SB 900.

“We accomplished what we set out to accomplish, that was get rid of the payday lenders in Arkansas, and we don’t want to see them come back,” he said.