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Editor's Note

BY GWEN MORITZ

The Good Fight



HOW CAN IT BE THAT “PAY-day advance” loan sharks are operating freely in the state with the most restrictive usury law in the country?

Sen. Blanche Lincoln is having to beg Congress to help Arkansas auto dealers and other non-bank lenders charge annual interest rates of more than 6.75 percent. Meanwhile, cynical predators are routinely extorting annual rates of 360 percent or more from working Arkansans and justifying indentured servitude by saying that there is a “demand” for payday loans among people with no other options.

I am indebted to Hank Klein, CEO of Arkansas Federal Credit Union in Jacksonville, for this retort:

“I don’t think the answer is loaning people money at 360 percent. If you set up a stand selling cocaine, there’d be a demand. But it’s not legal.”

The payday lenders are not legal, and they know they are living on borrowed time. When victims finally get so des-

perate that they file suit, the victims always win and the lenders always lose. But the lenders never appeal because they know that when the state Supreme Court gets its hands on the question of usury, the fig leaf of legitimacy the industry has exploited for the past five years will flutter to the ground.

This publication has painstakingly reported on the political machinations that allowed an activity that was unconstitutional to become “regulated” even though the section of the constitution that made it illegal didn’t change. Former Attorney General Winston Bryant prosecuted payday lenders; his successor, Mark Pryor, accepted systematic campaign contributions from them. When the industry’s chosen candidate took office in January 1999, he sat on his hands as the Legislature passed, nearly unanimously, the Check Cashers Act under which the industry accepted an exceptionally mild level of regulation in exchange for being allowed to oper-

ate without fear of prosecution.

Pryor, who spent his tenure as AG promoting himself as a hard-charging consumer advocate, wouldn’t allow two assistant AGs to warn the Legislature that the law was unconstitutional on its face — not even when they offered to use personal vacation time to do so. Pryor wasn’t about to disappoint an industry that had sent checks to his campaign fund like clockwork.

Thirty-three senators and 91 representatives voted for the bill, which was sponsored by those Distinguished Humanitarians, former Sen. Doyle Webb, R-Benton, and former Rep. George French, D-Monticello. Gov. Mike Huckabee, who should have known better, signed it into law.

In 2001, when then-Sen. Cliff Hoofman of North Little Rock attempted a repeal, Webb squashed it like a bug through what 18-year veteran Hoofman described as “the most deceitful conduct I’ve ever experienced by any member of the Senate.”

A few weeks later, the state Supreme Court gutted the law by declaring that the outrageous “fees” charged for short-term loans were not immune from the usury provision of the state constitution. Unfortunately, the court did not address head-on the question of whether the fees were, in fact, usurious. And the industry has made sure that the court has not had that opportunity — yet.

Todd Turner, an attorney from Arkadelphia who has made a mission

out of winning judgments on behalf of payday lender victims, has sued the State Board of Collection Agencies, which supposedly regulates the payday lenders. That case is pending before the state Court of Appeals, and it just might settle this thing once and for all.

Meanwhile, Arkansas Federal’s Klein has organized a coalition called Arkansans Against Abusive Payday Lending with the goal of drafting and lobbying for legislation to shut down the loan sharks for good. Other groups that would like to see the usury law applied to the people who need it most include the Consumer Federation of America, Arkansas Advocates for Children and Families, the Pulaski County Cooperative Extension Service, the Better Business Bureau, the Association of Community Organizations for Reform Now, the NAACP, the AARP, the Federal Reserve Bank, the Good Faith Fund, and the University of Arkansas at Little Rock Department of Business. Attorney General Mike Beebe’s office is also on board. (Good thing we sent Mark Pryor to Washington, no?)

They are looking to Georgia for inspiration. There lawmakers got on the stick after the Navy warned that bases would be closed if the state didn’t do something about the payday lenders preying on young sailors. ■

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