



Lenders attacked in Senate

Payday loan businesses may be facing changes in the law

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Last week was potentially a rough one for payday lenders, both in Arkansas and throughout the country.

Two bills that some say could put payday lenders out of business were introduced in the state Senate, both passing on to the Senate Judiciary Committee.

Nationally, new Federal Deposit Insurance Corporation (FDIC) guidelines knocked the stuffing out of the stock prices of three publicly traded lenders—falling as much as 25 percent over four days after the guidelines were announced.

"This guidance is necessitated by the high risk nature of payday lending and the substantial growth of this product," according to information provided by the FDIC.

Payday lenders typically make two-week loans to customers at annual interest rates starting at about 350 percent and running to 1,700 percent or higher, according to consumer groups.

A high credit card interest rate, by contrast, would be about 21 percent.

Opponents of the payday advance lenders and check cashers say the businesses flock to neighborhoods of low-income people likely to need ready cash without a lot of information about their other options and also near military bases. These companies make easy-to-get loans, usually to less sophisticated customers, at annual interest rates nearly 25 times the limit allowed by Arkansas' usury laws.

Payday loans (also known as deferred deposit advances) are small-dollar, short-term, unsecured loans that borrowers promise to repay out of their next paycheck or regular

income payment (such as a Social Security check). Payday loans are usually priced at a fixed dollar fee, which represents the finance charge to the borrower. Because these loans have such short terms to maturity, the cost of borrowing, expressed as an annual percentage rate (APR), is very high.

"We heard this morning that there was a bill passed that could shut us down," said a woman who answered the phone at a Jonesboro payday lending operation. She said that was the talk of the office.

"Payday loans often push low-income working families further into a cycle of never-ending debt," said Kathryn Hazelett, research and fiscal policy director at Arkansas Advocates for children and families. "What started as a \$500 loan often results in the borrower paying thousands of dollars in 'fees' and still owing the original amount of the loan."

State Sen. Tracy Steele, D-North Little Rock, filed senate bill 948, titled "An Act to Create the Payday Lending Act; and for Other Purposes," which would prohibit consumer loans of less than \$3,000, provide additional protection for members of the armed forces, tax illegal loan profits at 50 percent and provide for fines as high as \$10,000 and prison terms for as long as five years.



Steele

His bill would make it illegal for such lenders to make loans of less than \$3,000.

"Anybody can introduce any bill," said Cosby W. Hodges III, founder of ACE payday loans.

"We serve the people of Arkansas and they will speak through their senators and congressmen. I'm going to abide by the laws. If I have to go to \$3,000 loans I'll do it. But a bunch of small ones can't."

Hodges said the new FDIC wouldn't affect his business, which is affiliated not with a bank but with a South Dakota finance company that he founded.

"This product is too big and there are too many people that need money," said Hodges. "Dogooders like (Herb Klein, founder of Arkansans Against Abusive Payday Loans) need to learn how the other half live. Nobody makes anybody come in these stores."

"People on this coalition don't have any idea what it is to be broke."

AAAPL members also include the United Way, AARP, Acorn and the Better Business Bureau.

Attorney Gen. Mike Beebe said Monday that Steele's bill looked promising. "I'm for anything that further restricts overcharging (borrowers)," said Beebe—who as a state senator was one of only two who voted in 1999 against the special interest bill that allowed payday lenders to charge what he called "usurious" rates.

Filed a day later than Steele's bill, SB968 would make it a crime to charge more than 17 percent on a consumer loan, but exempts banks, trust companies, credit unions, savings and loans or "any other person or entity operating under provisions of federal law regulating loans or lending practices."

Each violation is subject to a \$300 fine.

Steele's bill, based on a Georgia law, would prohibit loans of \$3,000 or less, prohibit applying out-of-state laws to set interest rates and loan amounts and to make arbitration clauses unenforceable.

Furthermore, Steele's bill gives additional protection to members of the military.

It would be illegal for payday lenders to garnish any military wages, conduct collection activity while a member is deployed or contact a commanding officer about a debt owed. It would require payday lenders to abide by any military declaration putting off limits any specific payday-lending branch.

"The military isn't 5 percent of my business," Hodges responded. "The military deserves to get loans too."

Steele's bill would apply to similar lenders who couch their loans as gift cards, telephone cards, computer services or any other "scheme."

"Let's clarify (the situation in) Georgia. There are check stores still in existence," said Hodges. "Everything is in litigation in Georgia."

"We think there is a growing number of banks that refuse to accept deposits from the industry," said Paul Kelly, chairperson of the Payday Loan Don't Pay Coalition. "We think Tracy Steele's bill is very effective. There are several court cases in next couple of weeks."

"All of these efforts are starting to converge. The time is very good for this. Fact that there is constitutional prohibition against usurious behavior (in Arkansas) is real asset to those of us trying to eliminate predatory lending."

There are about 185 payday lenders operating in Arkansas.