The Dow Jones industrial average closed at 10,883.51.
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Payday loan law dispute not over

Other states' acts entering debate

BY DAVID SMITH
ARKANSAS DEMOCRAT-GAZETTE

Arkansas' payday lending law is heading for a showdown in the state Supreme Court, but about a half-dozen states have launched into the debated practice.

And critics and proponents of the Arkansas law, in place since 1999, doubt that those other states have made improvements in such transactions.

Michigan, for example, allows up to $600 in monthly loans — compared with Arkansas' $400 — and waives interest for some repeat-customer loans.

But despite the tweaks, some critics interpret repayment charges as interest on predatory loans. Those in the business say they are simply charging a fee for advancing cash on a check they hold till the customer can pay back the fee.

Arkansas' Check Cashers Act says fees charged for payday loans "shall not be deemed interest." If they were considered interest, the fees would violate the Arkansas Constitution, which says loans with interest rates above 17 percent a year are void.

"I believe it's really misleading to say that these

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Dispute

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states are putting limitations on payday lending," Uriah King, policy associate with the Center for Responsible Lending in Durham, N.C., said Tuesday. "It is just payday lending authorization. There is nothing to stop the abuses of payday lending or the constant flipping of loans."

A typical payday transaction in Arkansas works like this: The customer writes a check for $400, for example, and receives $350. The payday business agrees not to cash the check for two weeks. The $50, which payday businesses call a fee, on a $350 loan for 14 days equals a 373 percent annual rate.

The customer often does not have $350 to buy back the check in two weeks. So he pays another $50 to keep the check from being cashed. Some customers caught up in this cycle have paid two or three times the amount of their original check in interest.

Some of the recent laws are patterned after the payday lending statute passed in Washington state in 2003. Similar measures have been enacted in Illinois and Pennsylvania.

Some states — such as Georgia and North Carolina — outlaw payday lending or make it so restrictive that it is difficult to make a profit on the practice.

The common denominator among the states that allow payday lending, King said, is "they all legalize triple-digit interest."

King said payday lending laws are framed as allowing more access of credit to consumers. The typical borrower is not necessarily someone with poor credit, but individuals living paycheck to paycheck, King said.

King cited a research study in Oklahoma that indicated half of payday lenders' profits in that state were made on borrowers who had taken out 14 loans. A similar study in North Carolina, before that state banned payday lending, showed half of payday lending profits were made from people who had taken out 12 loans in a year, King said.

Despite its more favorable payback provisions, opponents of payday lending aren't fond of the Michigan law because it allows single loans of up to $600, compared with Arkansas' $400.

"Our [loan] limit is lower and our terms are lower, 10 percent vs. 15 percent [in initial fees]," said Hank Klein, former chief executive officer of Arkansas Federal Credit Union and founder of Arkansans Against Abusive Payday Lending.

Mark Johnson, advocacy consultant for the Arkansas chapter of the American Association of Retired Persons, said it would be best if Arkansas had no law regulating payday lending. Johnson cited the state's constitution limiting interest to 17 percent a year on any loan made by an Arkansas firm, a limit that would make payday loans illegal.

But the Check Cashers Act overrides the 17 percent limit by stating that payday lenders' charges aren't to be considered interest.

If they were considered interest, the fees on some payday loans exceed 400 percent annual interest, Johnson said.

Owners of payday lending stores in Arkansas don't like the Michigan law because it allows so little margin for profit.

"We don't need to be trying to copy Michigan's law; Michigan needs to copy Arkansas' law," said Jim Mead, who owns payday lending stores in Arkansas and sits on the Arkansas Check Cashers Association board. "I think Arkansas has the best [payday lending] law in the United States."

The act was ruled constitutional last month by Pulaski County Circuit Judge Barry Sims in *Sharon McGhee et al v. Arkansas State Board of Collection Agencies*. His ruling will be appealed, but it could be up to a year before the Arkansas Supreme Court makes a final ruling.