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Friday, December 22, 2006 9:18 AM CST

Unlawful Lending Bill Sets Fine

By John Lyon

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LITTLE ROCK — A bill that would set a fine for unlawful lending was prefiled Thursday in advance of the 2007 legislative session.

State Rep. David Johnson, D-Little Rock, and state Sen. Shawn Womack, R-Mountain Home, filed House Bill 1036, which would prohibit businesses from charging more than 17 percent interest on a consumer loan and would set a fine of \$300 per transaction for violations of the statute.

The state constitution already prohibits interest rates of more than 17 percent on consumer loans and credit sales, but there is no state statute imposing a penalty for exceeding that limit.

"House Bill 1036 creates the offense of unlawful consumer loans and sets the maximum interest rate for consumer loans in the state of Arkansas consistent with the state constitution's 17 percent," Johnson said Thursday at a news conference at the state Capitol.

Johnson and Womack said the bill targets payday lenders who take advantage of people in financial distress. Typically, Johnson said, people with a pressing financial need will go to a payday lender for a loan of a few hundred dollars and will write a post-dated check which the lender agrees to hold for 14 days.

"Fourteen days later, when they first realize that they don't have the money in their account for that check to clear, they go back to the payday lender to arrange an extension of it. The cycle begins, and the debt trap begins," Johnson said.

Borrowers typically are charged a fee that some say is the equivalent of a high interest rate — often more than 300 percent.

Johnson said he does not object to businesses providing short-term loans, but "we expect them to do it within the bounds of the constitution."

Lt. Gov.-elect Bill Halter, who campaigned on promises to crack down on payday lenders, also spoke at the news conference. Halter cited a Pentagon report released this year that said predatory lending often targets military personnel, with payday lenders disproportionately located near military bases.

The report singled out Arkansas as a state that has permitted payday lenders to charge triple-digit interest rates to consumers, including military personnel.

The American Association of Retired Persons, the Arkansas Trial Lawyers Association and Arkansas Advocates for Children and Families are among 14 organizations that support the bill, Johnson said. Representatives of some of the organizations attended the news conference.

H.C. Klein, founder and president of Arkansans Against Abusive Payday Lending, said in an interview that civil suits are now the only recourse for Arkansans who believe they have been victimized by predatory lending.



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have been victimized by predatory lending.

The bill would create a further deterrent against predatory lending, Klein said, noting that for some businesses a \$300-per-transaction fine could be in the millions.

A similar bill filed in a previous session by Sen. Tim Wooldridge, D-Paragould, and Rep. Jay Martin, D-Little Rock, failed to make it out of committee. The banking industry had problems with that bill, Johnson said, but House Bill 1036 specifies that financial institutions are exempt.

Some claim predatory lenders have been thriving in Arkansas because the state's Check Cashers Act allows businesses to charge high interest rates by calling them fees.

Last month, the state Supreme Court sent a lawsuit challenging the Check Cashers Act back to Pulaski County Circuit Court, reversing that court's ruling that it lacked jurisdiction to decide the constitutionality of the act because administrative remedies had not been exhausted.

Peggy Matson, executive director of the state Board of Collection Agencies, has defended the act, arguing that businesses have a right to charge a fee for their services.

Matson said Thursday that she could not comment on House Bill 1036 because she had not seen it.

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