Legislator: Payday Lenders Likely To Survive, But With More Regulations

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By Jason Wiest
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LITTLE ROCK -- Market demand for short-term loans could be the saving grace for Arkansas' payday lenders, but the industry likely will not escape the legislative session without enduring tougher regulations, a legislator said Tuesday.

"I have concerns that if we totally shut the payday lenders down that there will be a void that may be filled by some of the Internet payday lenders that may be more abusive and harder to regulate," said Rep. Bruce Maloch, D-Magnolia, a banker and attorney.

Some lawmakers are looking at draft legislation that offers an alternative to House Bill 1036, which would cap interest rates for payday loans and make it a criminal offense to exceed the cap.

The House committee on Insurance and Commerce held a hearing on the issue last week and is scheduled to take up House Bill 1036 by Rep. David Johnson, D-Little Rock, again today.

Under consideration as alternatives are proposals to prevent lenders from harassing borrowers for payment and provide borrowers with more information about terms of the loans.

Opponents of payday lending have said lenders target a demographic that does not always understand the terms of the loans.

Many of the would-be regulations were proposed by the payday lending industry, its lobbyist, Don Tilton, said.

"Our coaltion would be totally against that," said H.C. "Hank" Klein, founder of Arkansans Against Abusive Payday Lenders.

"All this talk of putting more teeth in the law is window dressing," Klein said. "All we're asking is the Legislature to pass a law to enforce the 17 percent limit in the constitution."

Other proposals include restricting lenders' access to areas near military bases and creating an extended pay plan that would not assess borrowers additional fees or interest if a loan was not paid back in the initially agreed upon time frame.

"If whatever we do leaves payday lenders in business, I think it would certainly add to our law to add some of those provisions," Maloch said.

He suggested Johnson's bill could be amended to include additional regulatory provisions, including one that would require that borrowers certify they have only one outstanding payday loan and that they wait 30 days before taking out another to stop any rollover problems that lead to debt traps.

Current regulations cap loan length and amount, require borrowers and employees to be informed of the regulations and prohibit borrowers from having more than one loan per store, among other things.

Rarely do consumers complain about the regulations being violated, according to Peggy Matson, executive director of the state Board of Collection Agencies, which oversees the industry.

"I've been here almost seven years and I doubt that we ever receive one complaint a month," Matson said.

Arkansans Against Abusive Payday Lending has frequently spoken against the industry, citing triple-digit interest rates, well above the state's 17 percent usury limit.

But payday lenders say stating loan charges as an annual interest rate inaccurately inflates the loan's cost because the loans only last a maximum of one month.

"It takes the entire charges and computes them to an annual percentage rate and it does, it blows up and it looks horrible," Maloch said.

"It's a one-time fee; it's not borrowed on an annual basis and it's not 600 percent," said Bradley Rodgers, president of the Arkansas Financial Services Association, a payday lending industry trade association. "If that was the mere truth, I'd hate us too."

Whether loan charges are fees or interest has yet to be decided in a lawsuit pending in Pulaski County Circuit Court.

"I wish we had a clear ruling on that," Maloch said. "It'd make it a lot easier because we cannot ignore the constitution."

Payday loans are cheaper than bouncing a check, or taking out debt on a credit card, Rodgers said.

Klein, who is also a former CEO of the Arkansas Federal Credit Union, has said that in 2004, the union budgeted $1.34 million in insufficient funds fees assessed for bounced checks. Klein said nothing in the constitution limits bank fees for bounced checks.

Approximately 275 payday lenders now operate in Arkansas because consumers know that for short-term loans, payday loans are the best option, Rodgers said.

"I don't like the payday lending business, but I do recognize that there are a group of people that utilize those services," Maloch said.

The industry works well when used correctly, Matson said.

"If a customer uses (a payday loan) properly, it's a good thing," she said. "If the customer abuses the payday loan, it will abuse the customer."

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