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Bill to fine payday lenders for charging usurious interest advances

By Jason Wiest
The Morning News

LITTLE ROCK -- A House committee Wednesday endorsed legislation that would fine payday lenders $300 each time they charge interest rates above the 17 percent state usury limit.

The House Insurance and Commerce Committee voted 18-1 to send the measure to the House floor, despite objections of payday lending supporters who said such a law would be a death sentence for the industry in Arkansas.

Only Rep. Allen Maxwell, D-Monticello, voted against House Bill 1036, although other members who voted for the bill by Rep. David Johnson, D-Little Rock, said they did so half-heartedly.

Maxwell said Rep. David Dunn, D-Forrest City, is considering alternative legislation to tighten regulation of the industry without the stiff fines proposed. Rep. Keven Anderson, R-Rogers, who voted for the measure in committee, said he would vote against it on the House floor if industry representatives will compromise.

"I think this bill goes too far," Anderson said.

He said the bill would limit consumer choice and could create a market void that might be filled by Internet lenders operating out of state, which could not be regulated.

Anderson said he is concerned that check cashers were unfairly singled out by the bill, which excludes pawn shops. Johnson said it would be "politically impossible" to clean up the acts of all types of lenders in one fell swoop.

Anderson said he voted for the measure only because he was not convinced the industry was seriously willing to compromise on such issues as extending loans past their terms -- called a rollover, which is already illegal.

Arkansas Financial Services Association, the payday lending industry trade association, issued a statement after the meeting saying it was ready to support reasonable measures to keep the industry "transparent, responsible and accountable," but that Johnson's bill was not the way to do so.

"Our association is interested in working with the General Assembly, as well as regulators and our colleagues in the payday advance industry," association president Bradley Rodgers said.

Rodgers said the industry does not plan to change its game plan if the bill reaches the Senate but would try to better educate members about the industry.

Critics of payday lenders say they charge unwitting customers triple-digit interest rates that far exceed the state usury limit of 17 percent.

Industry lobbyists claim that quoting payday lending fees in terms of an annual percentage rate distorts the fee, but even so, the rate is still less than other lenders, such as pawn shops, credit cards, credit unions and banks.

Maxwell said he voted against the bill for that reason.

"You're calling payday lenders unconstitutional but not anybody else," he said.

Although tougher industry regulation is necessary, enforcing the usurious interest rate outlined in the constitution for only payday lenders is wrong, and so is killing the industry, he said.

Maxwell said middle-of-the-road legislation could be proposed by Dunn, who could not be reached for comment.

Forcing payday lenders to offer 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 is one possible regulation, Rep. Bruce Maloch, D-Magnolia, said.

Other ideas, Maloch said, include requiring borrowers to certify they have only one outstanding payday loan, and requiring them to wait 30 days before taking out another to stop any rollover problems that lead to debt traps.