

## Capping payday loans gets 90-3 win

BY DAVID SMITH

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A bill to severely limit interest rates charged for “payday loans” overwhelmingly passed the Arkansas House of Representatives on Thursday, marking the biggest threat to the practice in the eight years that it has been legal in the state.

The vote was 90-3, with two lawmakers voting present. Now the bill goes to the Senate.

“I think we’re going to have a job to do in the Senate,” said Rep. David Johnson, D-Little Rock, the primary sponsor of the bill. “We’ll be starting over again; we’re halfway done. I’m excited and happy about the result, and I hope that gives us some momentum going into the Senate.”

Interest on payday loans can amount to several hundred percent on an annual basis.

The vote was no surprise, said Bradley Rogers of Stuttgart, president of the Arkansas Financial Services Association, an organization of payday lenders.

“As many sponsors as they had for the bill, we expected that,” Rogers said.

If the bill passes in the Senate and is signed by Gov. Mike Beebe, it will become law immediately, according to a provision in the bill.

Beebe will sign the bill if it reaches his desk, said Matt DeCample, Beebe’s spokesman.

“As far as this first step [of passing in the House], this is a good move to protect some of our poorest citizens,” DeCample said.

In Arkansas, a payday loan works like this: A customer writes a check for \$ 400, for example, and receives \$ 350 in cash. The lender normally keeps the check for two weeks without cashing it.

A \$ 50 charge on a \$ 350 loan for 14 days is the equivalent of 371 percent in annual interest. If the borrower cannot pay the loan in two weeks, he writes another check, pays another fee and the loan is extended for two more weeks. The process often continues for months.

Some borrowers spend more than \$ 1, 000 before paying off one loan, consumer advocates say.

If the bill passes and is signed by Beebe, Rogers said the 275 payday lending stores in Arkansas would go out of business that day.

If payday lenders do go out of business, that will limit the choices for borrowers, Rogers said.

“They’ll have fewer options when they come up between paychecks and they need a small cash advance,” Rogers said. “There are unexpected bills, unexpected expenses that pop up all the time. If this bill passes and we go out of business, [consumers ] will be pushed and forced to go to some unregulated lender, some unregulated industry.”

Opponents of payday lending say one option for borrowers is to take a cash advance on a credit card.

It is necessary to have a checking account before getting a payday loan. And it is estimated that about 90 percent of bank customers own a credit card.

The interest on a cash advance from a credit card would be no more than 35 percent, said Curtis Arnold, founder and owner of CardRatings. com, a national consumer information company in Little Rock.

“Compared to 600 percent in interest [on a payday loan], that’s a drop in the bucket,” Arnold said.

Three of the 35 members in the Senate are co-sponsors of the bill. The three are Sen. Shawn Womack, R-Mountain Home; Sen. Ruth Whitaker, R-Cedarville; and Bobby Glover, D-Carlisle.

The bill now must go to a Senate committee.

It is uncertain which committee will get the bill, said Michael Rowett, research and communications manager for the Southern Good Faith Fund and chairman of Arkansans Against Abusive Payday Lending.

The three voting against the bill were Rep. Aaron Burkes, R-Lowell; David Dunn, D-Forrest City; and Frank Glidewell, R-Fort Smith. Voting present, which has the same effect as voting no, were Ray Kidd, D-Jonesboro, and Charolotte Wagner, D-Manila.

Rowett called the vote a “victory for consumers.”

“The significant margin by which this bill passed the House showed that while the payday lenders tried to muddy the waters, the overwhelming majority of the members of the House saw the issue very clearly,” Rowett said. “The time has come to end abusive payday lending.”

The bill calls for a \$ 300 fine per transaction for anyone charging more than 17 percent annual interest, the maximum allowed by the Arkansas Constitution. The measure passed in the House Committee on Insurance and Commerce, 18-1, on Wednesday, with Allen Maxwell, D-Monticello, casting the only no vote.

Payday lenders say a 17 percent interest ceiling is too low to make a profit on the risky loans.

There are about 23,000 payday lenders in the country that generate about \$ 6.8 billion a year in loans, according to research done by Stephens Inc., which covers publicly traded Advance America, one of the largest such lenders in the United States.

At least 13 states have laws prohibiting payday lending.

There was almost no debate on the House floor Thursday. Of the 100 members in the House, 55 are co-sponsors of the bill.

Kidd was the only representative to speak against the bill Thursday.

“I think this is a good bill,” said Kidd, who added that he is a former pawnshop operator, “one step above the payday lender. My problem is with the exclusions.”

The bill excludes interest rates above 17 percent charged by banks, savings and loan associations, credit unions and businesses that cash checks. Because the bill stipulates that the loan is not something secured by tangible property, the bill does not include pawnbrokers, who take collateral for their loans.

Banks, savings and loans, and credit unions are regulated by the federal government and cannot be bound by state law.

“We’re singling out these local payday lenders and are letting the big banks, the big financial institutions, the credit unions... why can’t we include all these people,” Kidd said. “I know they are governed by the [Federal Deposit Insurance Corp.]. That doesn’t mean it’s right.”

Johnson said Kidd’s objections were made several times during discussion of the bill.

In 1999, the Legislature passed the Arkansas Check Casher’s Act, which declared that fees charged by payday lenders were not interest. Beebe was one of only two senators who voted against the bill in 1999.

In 2001, the state Supreme Court ruled that the Legislature did not have the authority to say the fees weren’t interest. That language was later struck from the act and is no longer a part of the law. Information for this article was contributed by Daniel Nasaw of the Arkansas Democrat-Gazette.