The Leader

Senate to act on lenders

IN SHORT: Bill criminalizing payday lending now up to the senate.
By John Hofheimer
February 10, 2007

The bill outlawing payday lending was approved 90-3 by the state House of Representatives Thursday, and passed on to the senate where it was referred to the senate Committee on Insurance and Commerce at mid-afternoon.

“We’re halfway there,” said Mark Johnson, a lobbyist for AARP. “I’m optimistic, but it’s difficult to get an overwhelming majority.” AARP joined the Consumer Federation of America, the Better Business Bureau, Acorn and a host of other consumer advocates to form Arkansans Against Abusive Payday Lending.

“I think it will be successful,” according to Hank Klein. “We’re on a roll.” Klein is the founder of AAAPL and the former CEO of Arkansas Federal Credit Union, headquartered in Jacksonville. “The governor said ‘put it on my desk and I’ll sign it,’” according to Klein.

“I think we’re going to get it through,” said Johnson. “We failed two years ago,” he said, because of a lack of understanding. The bill is entitled “AN ACT TO CREATE THE OFFENSE OF UNLAWFUL CONSUMER LOANS; TO ENFORCE THE PROVISIONS OF ARKANSAS CONSTITUTION, ARTICLE 19, § 13; AND FOR OTHER PURPOSES.”

It would allow fines of as much as $300 per illegal loan. State Sen. Bobby Glover, one of three cosponsors of the bill in the senate, says the biggest challenge could be getting the five votes to move the bill out of committee. Johnson said he hoped the senators would recognize that payday lending needs to be stopped. “The bill has gone from one page to four pages, but basically it just enforces the constitution and sets a penalty for violating it,” Johnson said.

Klein said he suspected that the lenders would either mount a court challenge or look for another way to make high interest loans, but that ultimately, enforcement of the state’s 17 percent usury cap would drive out all 270 stores.

In payday lending, typically, a customer would write a post-dated check for $400, due in two weeks, for a $350 loan. Opponents say customers get in even worse trouble when they can’t repay the loan and take out a new loan to cover the old one, known in the business as a rollover.

Payday lenders say that people sometimes need a loan to tide them over—money for a new tire so they can get to work or money for baby formula, for instance. Currently, they and the pawnshops are the only avenues for such small loans.

The lenders cite a study by Tom Lehman of the Indiana Policy Review Foundation that stated, “Preventing or limiting the use of payday loan services only encourages borrowers to seek out and utilize less attractive alternatives (such as informal or “black” markets) that put the borrower in an even weaker financial position.” Lehman’s paper said, “Further regulation or outright banning of payday lending has the adverse and unintended consequence of reducing credit options for those who may have few alternatives to begin with.”

The payday lenders and so-called check cashers are theoretically regulated by the state board of collection agencies, to which Gov. Mike Huckabee appointed least two payday lenders to the five-person board. But consumer activists say that cash advances and relatives are good sources for temporarily getting needed short-term money.

Credit unions and banks are said to be working on new products that would let customers borrow small amounts at legal rates.