

Panel endorses Senate loan bill

House version of payday lending legislation likely dead

BY DAVID SMITH ARKANSAS DEMOCRAT-GAZETTE

The Senate Committee on Insurance and Commerce passed Senate Bill 923 Tuesday, which would restrict the payday lending industry.

House Bill 1036, which effectively would have put payday lenders out of business in Arkansas, apparently has died for lack of support in the same committee.

The committee voted 6-1 to pass Senate Bill 923 to amend the Arkansas Check-cashers Act of 1999.

Like the Check-cashers Act, SB923 would also impose penalties on "rollovers" of payday loans. Rollovers are renewals of payday loans.

SB923 would allow a base commander to place a specific payday lender off-limits to military personnel.

Federal legislation that will become effective Oct. 1 will limit payday lenders doing business with military personnel and their spouses. The federal law will cap interest on payday loans to 36 percent or the interest limits of a state. In Arkansas that is 17 percent.

The bill also says that the lenders:

- Should not threaten or pursue criminal action against a customer;
- Can offer extended payment plans for loans, with at least four equal installments over 60 days;
- Should tell customers the loans should be used for shortterm needs;
- Should tell customers they deem to have credit difficulties to seek credit counseling;
- Should not advertise in a deceptive manner.

Sen. Jim Argue, D-Little Rock, voted against SB923, but six other members of the committee voted for it — Sen. Terry Smith, D-Hot Springs, a sponsor of the bill; Sen. Jack Critcher, D-Batesville; Sen. Percy Malone, D-Arkadelphia; Sen. Barbara Horn, D-Foreman; Sen. Robert Johnson, D-Bigelow; and Sen. Paul Bookout, D-Jonesboro. Sen. Paul Miller, D-Mel-bourne, chairman of the committee, did not vote.

"We have a chance now to put some strength in the [Arkansas Check-cashers Act] and stop some potential abuses," Smith said.

HB1036, which passed the House of Representatives by 90-3 on Feb. 8, was not brought up for a vote in the Senate Committee on Insurance and Commerce Tuesday. It would create a \$300 fine per transaction for anyone charging more than 17 percent annual interest on a loan, the maximum allowed by the Arkansas Constitution.

Payday lenders have said that if HB1036 were to become law, it would put them out of business because they cannot make a profit on the risky loans if interest is capped at 17 percent.

Graham Street, operations manager for Payday Money Stores in Arkansas, called HB1036 a "prohibition bill" against payday lending.

"But they don't have an answer to fill the vacuum of where these people are going to go for short-term credit," Street said.

Miller and Argue said House Bill 1036 seems unlikely to pass the committee. It failed in a committee vote Feb. 27.

"The prospects do not look good [for passage of HB1036]," said Argue, who said he would support its passage. "But I don't sense any change in the committee."

Miller also said there aren't enough votes to pass HB1036.

"I think it's dead," Miller 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 usually keeps the check for two weeks before cashing it.

A \$50 charge on a \$350 loan for 14 days equals 371 percent in annual interest. Under the Arkansas Check-cashers Act, the customer must repay the loan before the agreed-upon date or the lender must deposit the check. Once the loan is repaid or the check deposited, the customer can take out another loan by exchanging another check for cash and promising to repay the loan.

Mark Johnson, a lobbyist for AARP in Arkansas, which opposes payday lending, told the Senate committee that SB923 is simply "window dressing."

"The bill really doesn't do anything," Johnson said. "We're opposed to it because of what it doesn't do," such as address the state's constitutional limit of 17 percent annual interest on loans.

A 2003 lawsuit, McGhee v. the Arkansas State Board of Collection Agencies, questions the constitutionality of the Arkansas Check-cashers Act. It is scheduled to be tried before Pulaski County Judge Barry Sims on Nov. 20.

The Supreme Court already has heard arguments on the case twice, last year and in 2004. Both times, the Supreme Court returned the case to Sims.

No matter who wins in Sims' court in November, the case will be appealed to the Supreme Court again, said Todd Turner, an Arkadelphia attorney representing Sharon McGehee. Turner estimates it will be eight more months, sometime during the summer of 2008, before the Supreme Court will hear arguments for a third time.



Arkansas Democrat-Gazette/STEVE KEESEE State Sen. Terry Smith (left) and attorney Tom Hardin talk during debate on Smith's Senate Bill 923 in the Senate Committee on Insurance and Commerce on Tuesday.