



The Dow Jones industrial average closed at 11,380.99.

-119.74

BUSINESS & FARM

D

Arkansas Democrat-Gazette

Copyright © 2006, Arkansas Democrat-Gazette, Inc.

ON THE WEB: www.arkansasonline.com

SATURDAY, MAY 13, 2006

Measure targets state's interest limit

BY DAVID SMITH
ARKANSAS DEMOCRAT-GAZETTE

A dozen paragraphs buried deep in a congressional bill propose to eliminate Arkansas' constitutional limit on interest rates for all but a tiny segment of businesses.

Arkansas finance companies are using the same procedure to try to change the usury limit that Arkansas-based banks did in

1999 — tacking an Arkansas-specific measure to a large federal bill. That change, which eventually was upheld in federal court in 2001, allowed Arkansas-based banks to charge the same interest rates as out-of-state banks doing business in Arkansas.

The federal Regulatory Relief Bill with the Arkansas provision included easily passed the House. The provision would

allow nonbank lenders — automobile dealers and retailers, for example — to charge the same interest rates that banks in Arkansas can charge.

The Arkansas amendment was not included in the version in the Senate Banking Committee, but consumer advocates are concerned that it may be inserted when the bill comes before the full Senate. Many ob-

servers, however, believe getting the Arkansas measure into the final version of the bill is a long shot.

But if it passes, the law would make the Arkansas Constitution's interest rate limitation moot for all businesses except for payday lenders, who are exempted from the proposed congressional change and still would be bound by the constitution's ceiling on

interest rates.

Consumer advocates say the change would forever end Arkansas' right to set limits on usurious interest rates.

"It's completely outrageous for any state that has the rights to set their own interest rates to be pre-empted by the United States," said Margot Saunders, who is of counsel with the Na-

See **INTEREST**, Page 2D

Interest

• Continued from Page 1D
tional Consumer Law Center in Washington. "Arkansas would go from the most protected state in the country [as far as usury law] to being worse off than 49 other states."

If the interest rate is to be changed, it should be put to Arkansas voters, Saunders said.

The state's nonbanking finance companies, such as auto dealers and small retail stores, believe the proposed change would benefit Arkansas consumers, especially those with blemished credit.

Auto dealers have a "tremendous" rejection rate in Arkansas in trying to provide financing to borrowers with poor credit, said Dennis Jungmeyer, president of the Arkansas Automobile Dealers Association.

"If we can't get an interest rate [high enough] to cover

the risk, we can't make a loan," Jungmeyer said. "What happens is vehicles are priced far above their value to compensate for the interest rate level."

As it was written originally, the Arkansas Constitution placed a firm 10 percent limit on the interest rate that Arkansas lenders could charge. If a borrower proved that a lender exceeded the 10 percent cap, the lender was required to repay the loan's entire principal and interest.

Amendment 60 to the Arkansas Constitution, which voters approved in 1982, limited interest rates to 5 percent over the federal discount rate. That limit is now tied to the federal primary credit rate, currently 6 percent, instead of the discount rate, which has been discontinued. That puts the cap on nonbanking interest rates in Arkansas at 11 percent.

Opponents who think the federal law would override the wishes of Arkansas voters are wrong, Jungmeyer said.

"In 1982, the voters voted for Amendment 60, at that time, and they understood they were voting for 17 percent as the interest rate cap," Jungmeyer said. "What is going on in the federal legislative area is we are trying to recapture what was intended in the first place."

Amendment 60 did have a provision that said contracts that charged more than 17 percent would not allow the lender to charge any more interest and principal.

In the months after the amendment went into effect, some Arkansas lenders incorrectly interpreted that to mean that loans could be made as high as 17 percent, said Garland Binns, an attorney with Dover Dixon & Horne in Little Rock. But a court ruling upheld the amendment to mean the maximum limit was 5 percent over what is now the primary credit rate.

Sen. Blanche Lincoln, D-Ark., contends that the Arkansas usu-

ry law is antiquated for a globalized 21st century banking system, limiting economic growth and capital available to businesses, according to a report this month in *CongressDaily*.

"Competition from out-of-state nonbank lenders has begun to take its toll on Arkansas lenders and jobs," *CongressDaily* reported Lincoln as telling the Senate Banking Committee in 2004.

"This is something [Lincoln has] worked on for a number of years," said Drew Goesl, a spokesman for Lincoln. "It's just a matter of finding the appropriate vehicle to move it forward."

A spokesman for Sen. Mark Pryor, D-Ark., did not return a phone call for comment about the usury measure.

Jungmeyer and the auto dealers have tried to get the provision passed for several years.

"We get so close, but regulatory relief has never gotten over the hump," Jungmeyer said.