

Payday loan bill remains on panel despite backing

More debate on 17% interest rate cap scheduled

BY DAVID SMITH ARKANSAS DEMOCRAT-GAZETTE

A bill that would severely restrict "payday loans" — which can include annual interest of hundreds of percent — in Arkansas has more support in the early legislative process than any such measure in previous years, according to a primary sponsor of House Bill 1036.

The bill would make it unlawful for anyone or any business to charge more than 17 percent in annual interest for a consumer loan, the maximum allowed by the Arkansas Constitution.

If passed, the bill would put payday lending companies in the state out of business, said Bradley Rogers of Stuttgart, president of the Arkansas Financial Services Association, which represents such firms.

The frequency of borrowers who default on payday loans makes it too risky to do business with an interest rate as low as 17 percent, Rogers said.

But despite early support, sponsors of this year's bill still are having a difficult time getting it out of committee.

It was scheduled to be presented before the House Committee on Insurance and Commerce last week, but was pulled to address committee members' concerns. After about 90 minutes of discussion Wednesday, including comments by supporters and opponents, further deliberation on the bill was delayed again until next Wednesday.

Eleven members of the committee, the minimum required for a majority, have committed that they will vote for the bill, said Rep. David Johnson, D-Little Rock, one of the primary sponsors of the measure, "An Act to Create the Offense of Unlawful Consumer Loans."

"The trick is going to be keeping that majority vote," Johnson said.

Most of the lobbying by payday lenders has been focused on members of the committee, Johnson said. If the measure gets out of committee, Johnson said, he believes there will be a more objective debate of the bill before the full House.

There are 54 representatives who are co-sponsors of the bill, more than half the 100 representatives in the House. Three senators are co-sponsors.

"Even if we get out of the full House, we'll be starting all over again in the Senate," Johnson said. "So we still have a long road before it becomes law."

The bill calls for a fine of \$300 per transaction for anyone charging more than 17 percent in annual interest.

A payday loan works like this in Arkansas: A customer writes a check for \$400, for example, and receives \$350 in cash. The lender normally keeps the check for two weeks, but does not cash it.

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

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

Most payday loans in Arkansas charge interest rates between 372 percent and 869 percent, advocates for the bill said Wednesday. One payday lender in Little Rock charged a borrower more than 3,600 percent in annual interest on a loan last year, supporters of the bill claimed.

Some committee members asked what alternative consumers who need a small loan would have if payday lending operations close.

Hank Klein, president of Arkansans Against Abusive Payday Loans, said there is discussion among bank regulators to ask banks to make low-dollar loans to customers.

After the committee hearing, Curtis Arnold — founder and owner of CardRatings.com, a national consumer information company in Little Rock — said an existing option for people seeking small loans is a cash advance on a credit card.

Arnold estimated that approximately 90 percent of bank customers also own a credit card. It is necessary to have a checking account before getting a payday loan.

Even someone with a high-rate credit card likely would pay no more than 35 percent on a credit card cash advance, Arnold said.

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

Peggy Matson, executive director of the state Board of Collection Agencies, said one provision in the bill would be impossible for her agency to enforce in some instances.

For businesses simply cashing checks — and not making payday loans — calculating the amount of annual interest is impractical, because the process can take only minutes, Matson said.

Johnson said he will try to address the problem before submitting the bill to the House committee next week.

Federally and state regulated financial institutions, such as banks and credit unions, are exempt from the bill, in part because of a law passed by Congress in 1999 that allows Arkansas banks to charge interest as high as any out-of-state institution doing business in Arkansas.



Arkansas Democrat-Gazette/STEVE KEESSE State Rep. David Johnson listens to a question Wednesday during a House panel debate on the payday lending bill.