

House panel OKs payday-loan limits

Industry: Bill would kill state's stores

BY DAVID SMITH ARKANSAS DEMOCRAT-GAZETTE

Scores of payday-lending opponents applauded loudly Wednesday as members of a state House of Representatives committee approved a bill that the industry says would put more than 270 Arkansas payday lending stores out of business.

After about two hours of ardent debate, the House Committee on Insurance and Commerce voted 18-1 to pass the bill.

Minutes later, members of Arkansas Against Abusive Payday Lending snapped pictures of the bill's main sponsor, Rep. David Johnson, D-Little Rock, along with other supporters of the measure.

Arkansas Against Abusive Payday Lending has a diverse membership, including AARP of Arkansas, Arkansas Advocates for Children and Families, the Arkansas Education Association, the AFL-CIO, the Association of Community Organizations for Reform Now, the Federal Reserve Bank of Arkansas and the Better Business Bureau of Arkansas.

"I was very pleased with the vote, and especially the margin," Johnson said. "I'm cautiously optimistic [that the bill can become law]."

The bill, titled "To Create the Offense of Unlawful Consumer Loans," calls for a fine of \$300 per transaction for anyone charging more than 17 percent in annual interest, which is the limit allowed by the Arkansas Constitution.

This is the furthest a bill opposing payday lending has gotten in the Legislature since 2001. That year, a bill to restrict payday lending passed a committee in the Senate, but lost in the full Senate.

In 1999, the Legislature passed the Arkansas Check-cashers Act, which said fees charged by payday lenders were not to be considered interest. The state Supreme Court ruled in 2001 that the Legislature did not have the authority to say the fees weren't interest. That language was later struck from the act.

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 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.

The bill will be voted on today by the full House, where 54 of the 100 members are cosponsors of the proposed legislation. If it passes, it will go to the Senate.

Mark Johnson, a consultant for AARP of Arkansas, said two of the Senate sponsors of the bill are on the committee where the bill likely would be sent.

"We have a lot of [senators] who are not sponsors who have already committed to support the bill," Mark Johnson said.

Graham Street, operations manager for Payday Money Stores, said, "Effectively every payday lender [in Arkansas] will go out of business" if the bill becomes law.

"That is except for loans over the Internet and people who are unlicensed," Street said. "Who is going to fill this need? No one answered that question. Our hope is that in the Senate someone will address the need factor."

Don Tilton, a lobbyist for payday lenders, spoke against the bill. Tilton produced a spreadsheet that, he said, showed payday loans have interest rates lower than some fees charged by banks, such as fees for writing a check with insufficient funds in an account.

Tom Hardin, a lawyer with the Rose Law Firm who authored the 1999 Check-cashers Act, and Paul Berry, another payday-lending lobbyist, also spoke in opposition to the bill.

Tilton said payday lenders were willing to work on a bill that would not allow payday loans to be rolled over, where the consumer continues to pay fees for weeks until his original loan is repaid. The Check-cashers Act prohibits rollovers, but Tilton acknowledged that some unscrupulous lenders allow the practice.

Rep. David Johnson said the payday-lending lobby said it was willing to work with him on the bill

but never followed through.

In the end, Tilton was unable to change the minds of most of the committee members, 12 of whom were co-sponsors of the bill.

After the debate, committee members were asked for a voice vote on the bill. Several members voted in favor of the bill and several voted against it. Rep. Sid Rosenbaum, R-Little Rock, the committee chairman, declared that the bill, which needed 11 votes to pass, had passed.

When a member asked that a roll call on the vote be made, members in succession began to vote for the bill. By the time 11 of the first 12 members had voted for the bill, everyone else fell in line in favor.

"The bill as it is currently constructed is seriously flawed," Tilton said. "As opposed to correcting a number of things that need to be corrected, it's probably only going to promote lawsuits."

Bradley Rogers of Stuttgart, president of the Arkansas Financial Services Association, which represents payday lenders, said the bill has several more steps before it becomes law.

"We're going to go debate it on the floor [of the House] next," Rogers said. "We'll debate it as many places as we have to."



Arkansas Democrat-Gazette/STEVE KEESSE State Rep. David Johnson interrupts lobbyist Don Tilton (left) to make a point Wednesday before the House Committee on Insurance and Commerce.