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Lincoln Makes Another Bid To Change State Usury Limit

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The Morning News*

WASHINGTON - Sen. Blanche Lincoln, D-Ark., is pushing for a vote this week to nullify a part of the Arkansas constitution that limits interest rates in a move she said is needed now to help the state's student loan authority.

Lincoln wants to change a federal banking law to allow non-bank lenders to charge higher interest. The new interest rate cap would be 17 percent.

She said Wednesday that the Arkansas Student Loan Authority would have difficulty finding banks to buy bonds because of the state's usury law.

Without lifting the interest rate cap, the authority "will be in dire straits in September," when it provides loans to college students in the state, she said.

Lincoln has introduced similar legislation in three previous congressional sessions.

Each time, she said Arkansas businesses that provide financing for their goods, like car dealers and furniture stores, are at a disadvantage compared to non-bank lenders in other states.

Lincoln said the effort is merely a follow-up to the 1999 law that exempts banks from the state constitution's usury provision.

The cap, dating to the 1800s, is set at 5 percent over the federal prime interest rate. Right now, it's about 7.25 percent.

Lincoln said Arkansas merchants can't offer the same financing deals as out-of-state lenders, especially to people with low incomes or poor credit histories.

"Those businesses cannot offer the ability to loan those dollars, and so they can loan them but they're going to be paying more interest on the money they borrow than they can charge to the consumer," Lincoln said.

Consequently, she said, some vendors don't bother to offer financing and "many of those consumers have nowhere to go."

The cap limits the availability of capital for start-up businesses and, at least this year, could affect loans for college students, proponents said.

But Todd Turner, an Arkadelphia attorney who has fought the state's payday lending industry, said any changes

should be kept within the state.

"Why not let Arkansas legislators modify Arkansas law and let Arkansas residents amend their own constitution if necessary?" Turner said.

Tony Williams, director of the Arkansas Student Loan Authority, said it is unlikely that the agency will seek help from banks to support its lending role. The authority normally issues its own bonds.

The authority seeks out banks to buy the bonds only if investors refuse to buy, which is possible given the poor economy, he said.

"The 7.25 percent rate would be sufficient today, but (banks) don't want to be locked into that rate for the life of the bonds," Williams said.

In a letter to Senate and House banking committee leaders in April, all six members of the state's congressional delegation lobbied for the provision that would remove the state's usury limit.

"This artificially low rate of interest has contributed to credit rationing as lenders restrict funds to consumers with questionable credit histories," the delegation said in its letter.

Lincoln said she is hopeful the provision will be included as an amendment to a broad housing bill being considered by the Senate this week.

Lincoln said her staff has been "in constant communication" with Arkansas Attorney General Dustin McDaniel's staffers.

McDaniel has concerns about altering the usury limit and its affect on his office's oversight of the payday lending industry, said Justin Allen, McDaniel's chief deputy.

Allen said attorneys are reviewing the latest draft of Lincoln's bill, which McDaniel received Tuesday.

At this time, McDaniel has not decided whether he supports the measure, Allen said.

The bill "is in no way intended to help payday lenders, that is absolutely not what we are trying to do," Lincoln said.

"Without a doubt our main objective in crafting this has been to protect consumers," she added.

The state's used car dealers have been fighting the usury limit for decades, said Sylvia Curry, owner of a Pine Bluff used car dealership.

She said car dealers are paying more for their own financing than they can legally pass along to their customers.

Those consumers who may want to rebuild their poor credit are shut out of the market in-state, she said.

"The intent of the law was good," Curry said. "But this day and age, people don't want to do without and save their money. Everybody wants the newest and the bestest and they're making minimum wage."

Turner questioned whether the measure was truly consumer-friendly.

"I haven't seen any shortage of used car dealers in south Arkansas," he said.