

Legislators take sides in payday loan debate

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CHARLESTON — Payday lenders who offer short-term loans up to \$500 want to open more sites in West Virginia, and want the state to regulate the business to make way for the expansion.

But some legislators say payday lending interest rates are too high.

So rival bills are in the works — one to initiate regulation, one to put the lenders out of business.

Nationally, payday lending is a \$25 billion industry, said Philip Reale, a lobbyist

for the Community Financial Services Association.

West Virginia has 11 payday lending stores — including ones in Fairmont, Clarksburg and Elkins — all owned by First American Cash Advance, and all opened within the past few years, Reale said.

They lend customers up to \$500 for seven-31 days, and secure the loans with personal checks.

“It represents a loan option that, for many, is far less costly than other alternatives such as checking account overdraft protection, bad-check fees charged

by retailers and banks, and magistrate court fees for worthless check prosecutions,” Reale said.

Frank Greenlee, manager of the Fairmont store, described his clientele: “This type of business is for people who need that quick cash for emergency purposes,” he said. Students come in for money to buy books, and some people need the money for prescriptions. “A lot of customers need car repairs. You have a variety of people, who come from all walks of life.”

SEE **PAYDAY**, 2-A

PAYDAY

FROM PAGE 1-A

Regulation

A bill will be introduced to the House next week calling for industry regulation, Reale said. It's being drafted and doesn't have a number. With regulations, “accountable” payday lending businesses will thrive.

Mandates could include disclosure of fees and interest rates, truthful advertising and a customer's right to cancel the loan within 24 hours. Members of the association, including First American Cash Advance, adhere to industry best practices, he said.

“Right now there are no regulations in West Virginia,” Reale said. He estimated that the market in West Virginia could eventually handle about 24 stores.

Reale said payday loans are meant to be short-term, not long-term. Lenders charge \$15-\$18 per \$100 loaned, which is less than the nearly \$30 per bounced check that banks

charge for overdraft protection.

“The average check bouncer bounces about 6.2 checks per year, and the chronic check bouncer about 24 per year,” he said. “You can see where banks make money on this.”

Termination

Sen. Jon Blair Hunter, D-Monongalia, led a joint judiciary subcommittee during interims to study whether to regulate the payday lending business.

He doesn't agree that payday lending is a good option.

“The more the committee looked at the bill, we wondered if it (the business) was something really helpful,” he said. If the short-term loan is not paid off, there's a fee, and the interest grows, and customers may have to take out yet another loan. He has heard that a \$300 loan could cost \$600 during one year.

“It appears it is a real rip-off to low-income people. If we don't pass a bill, it is possible these payday lending facilities could pop up all over the state,” Hunter said.

Delegate Barbara Evans Fleischauer is one of three co-sponsors of House Bill 4261 introduced this week, a product of the joint committee's work.

The bill prohibits any middleman, or third party, from taking personal checks to secure loans.

Payday lending institutions are third parties because they use out-of-state banks with higher interest rates to make the loans. West Virginia laws place a cap on interest rates, but federal rules let out-of-state banks get around that.

“In effect, that (bill) probably means we have made it impossible for them to do business in West Virginia,” Hunter said.

Charleston attorney David B. McMahan, who opposes payday lending, said if HB4261 passes, he expects that the payday lending institutions will just leave the state, because what “makes it work is that they take the check as collateral. They know the consumer is going to pay that before they pay their other bills

— even before they pay for food.”

The institutions might also decide to bring a lawsuit that says because their loans are from out-of-state banks, federal law preempts West Virginia's statute, McMahan said.

“But I don't think they will do that,” McMahan said. “I think the law is on our side that we can do that.”

McMahan said lenders' figures can be deceptive.

“Payday lenders want to be able to charge \$15 or \$18 every two weeks for every \$100 of the loan — which they call 15 percent or 18 percent. Calling this 15 percent or 18 percent is misleading because that is not the APR (annual percentage rate) that everyone is used to hearing. By comparison, the most expensive credit card would charge \$3.75 per hundred, which is 30 percent.

“Don't be confused when the payday lenders mention 15 percent,” he said. “The finance charge is over 400 percent APR, compared to 30 percent APR for the worst credit cards.”