

FROM TODAY'S ANNISTON STAR:

Pay-day lending: Fist full of debt

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Photo: Special to The Star

Some call it predatory and immoral. Others say it's an honest service.

The divide between those who promote and those who oppose payday lending practices could not be wider.

People like Charles Hunter, of Alabama's nearly year-old Council for Fair Lending, say payday lenders exist to help people. He says that without payday lenders to loan people that extra few hundred dollars to help out with a medical bill, car repair or some other emergency, the result would be more bounced checks and late fees for Alabama residents.

"We are here because customer demand is here," Hunter said. "Our customers are willing to pay a fee to get fast cash."

Ask someone like Ron Gilbert of Alabama Arise, the Montgomery-based group that advocates for the poor, and he will say payday lenders prey on the poor and trap people in an endless cycle of debt. He says no real service would take advantage of its customers the way he says the payday lending industry does.

"The real issue here is how can we provide financial services to the people who frequently use payday loans in a way that does not exploit them," Gilbert said.

How it works

Payday-lending laws vary from state-to-state. In Alabama, lenders are allowed to charge 17.5 percent interest. That means if a customer wanted to borrow \$200, he could go to a cash-advance store and first, show proof of income and a bank account.

Then, the customer could write a check for \$235. The store would hold the check until the loan is due. In Alabama, that time period can be anywhere from 10 to 31 days.

If the borrower doesn't have the money at the end of the loan period, he can renew, or "roll over" the loan, which adds more interest fees.

Under Alabama law, lending companies cannot go after their customers criminally for writing bad checks, whereas most businesses can take names to the district attorney's office for prosecution.

Another way to get fast cash is a title loan or title pawn. A borrower hands over a car title in exchange for a loan, typically less than \$1,000. The borrower must pay all amounts due within 30 days or the pawnbroker can sell the car and keep all proceeds.

Betty Wright, 46, said she uses Title Cash in Oxford for payday loans about every three months. She recently took out a \$300 loan at the store to help out with bills. When her loan is due, the store will cash her check for \$352.50.

"It's helped me to be able to stretch money a little bit further," she said. "Sometimes you need a little bit extra cash and your payday isn't coming in time."

Wright, who works as a patient care technician at Regional Medical Center in Anniston, said although the loans could help out in a pinch, she has found it difficult at times to repay the loans at the end of the term.

"It's not something I would suggest to use all the time," she said. "Only when you have to."

The local issue

In November 2007, the city of Anniston placed a six-month moratorium on starting new title loan and payday loan businesses. Council members were concerned that the industry might be growing too rapidly in the city.

"There was a proliferation of these businesses, and there seemed to be no control," said Anniston Mayor Chip Howell. "We just want to step back and take a look at what's happening."

Anniston's Finance Director Danny McCullars said that in 2004 the city had eight payday lenders. By this year, that number had jumped to 15. According to state banking department records there are 19 pawn shops in Anniston. Many, but not all, pawn shops also offer title loans. Some payday lenders offer both cash advances and car title loans.

City planner Toby Bennington was tasked with studying other Alabama cities that also had put moratoriums on the businesses and that possibly had placed them under some type of restriction or land-use code.

"Because the state Legislature identified these as legitimate businesses in 2003, you can't control them as much," Bennington said. "It's not the same as taverns, bars or adult entertainment."

Bennington has proposed to city staff that a possible zoning action be presented to the state attorney general for a decision on whether it would be legal. The possible zoning law would include a provision that these businesses must be at least 600 feet apart.

More regulation needed?

Alabama's first payday lending law was passed in 2003. That law included a cap on interest at 17.5 percent on payday loans. The Alabama Small Loan Act caps short-term loans at 3 percent, or an annual percentage rate of 36 percent. For payday loans, the APR legally can top 450 percent.

Roy Hutcheson of Scottsboro owns a Title Cash store in Anniston and one in Oxford. He said the high rates are necessary because the customers are high-risk. Hutcheson's stores provide both payday and title loans. He owns about 80 stores in Alabama and a total of more than 350 in 12 states.

"The rates that we charge appear to be astronomical, but the losses are also high," he said. "About 40 percent of the stores I own were purchased from people who went out of business."

Alabama Arise's Gilbert said there is no legislation this year concerning the cash-advance industry, but there would be in the future, particularly to try to lower the interest rate. He said action by Congress last year to cap the APR at 36 percent for payday and title loans for military families proves the rates are exorbitant.

"If that is necessary for military families, we believe that Alabama should offer the same protection to all of its citizens," Gilbert said.

Like many states, Alabama's law includes a provision that borrowers cannot have more than \$500 in cash advances at any period. But a loophole in the law allows customers and lenders to skirt that restriction easily, said Anthony Humphries, president of Noble Bank & Trust in Anniston. Humphries was appointed the state's superintendent of banks in 2002 and worked on the legislation that passed in 2003.

Because the industry uses three different databases to track borrowers, Humphries said, there is no way to definitely know that a customer has no outstanding loans.

"What we need is one central database," Humphries said. "A person could conceivably go to several cash-advance places and accumulate thousands of dollars in debt without the stores knowing about it."

Scott Corcadden, the state Banking Department's division manager for the bureau of loans, said the department was focusing on sub-prime mortgages this year, but would return to payday lending legislation in the future.

The moral argument

People on both sides of the issue agree that segments of the population rely on payday loans to get through financial crises. People with bad credit cannot get bank loans and would otherwise be forced to bounce checks and pay the fees associated with that.

Humphries said that when he began working on payday loan legislation for the Banking Department, he went into it with negative feelings toward the industry.

"I won't say I made a complete turnaround, but there are people out there who have legitimate \$250 and \$500 needs," he said. "There really isn't anywhere for them to go. The industry fills that void."

Still, Humphries agrees with Gilbert that the industry will not be a genuine service until it is further regulated.

Gilbert said the industry exploits low-income families by marketing to that population and then trapping people in loans they can't escape.

"These low-income people go to payday lenders because it's an emergency," he said. "Their financial situation is not going to improve in two weeks or a month."

These questions about payday lenders are difficult because both sides are correct, said Bill Scroggins, finance professor at Jacksonville State University. Scroggins said while it is easy for borrowers to become overextended by using payday loans, they often can't get the help they need from mainstream financial institutions.

Hunter, of the pro-industry Council for Fair Lending, said few customers get into the so-called "cycle of debt." He said it doesn't make good business sense for the industry to work that way.

"We're merchants; we're in a business," he said. "It doesn't do any good to get them into that because you know what's going to happen – at some point, they're not going to be able to pay it."

People like Betty Wright say they wouldn't be able to get along without the occasional payday loan. She said she doesn't mind the high fees if it helps her pay her bills.

"But that's the point," Gilbert said. "We have to be able to help these people without using them."