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Payday lenders seek public vote

Initiative effort aims to keep businesses legal

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PHOENIX — With their future in jeopardy, the state's payday lenders are asking voters to keep them in business.

An initiative drive launched Monday would repeal a provision in current law that eliminates the right to offer these short-term, high-interest loans after 2010. That would ensure that the industry and its street-corner and strip-mall shops stay around.

In exchange, though, the lenders, organized under the banner of Arizonans for Financial Reform, have agreed to some new restrictions on how they operate.

The most significant provision would spell out that customers who can't repay the loan at the end of its term would be given an extension for up to four paydays, or four months if the person is unemployed. The borrower would owe no additional interest if each payment is made on time.

It also would forbid the process used by some lenders who "roll over" loans, with the result that the consumer just keeps getting deeper into debt.

And the effective interest rate also would drop slightly.

Backers need 153,365 signatures by July 3 to put the measure on the November ballot. That's the same number that state Rep. Marian McClure, R-Tucson, needs for her initiative on the industry.

But hers is far different: If it's approved, it would make payday lending illegal.

Arizona law generally limits interest on loans to no more than 36 percent a year. But legislators agreed eight years ago to create what technically are called "deferred presentment transactions."

Under that law, borrowers can obtain up to $500 for up to two weeks for a one-time fee that translates to about 17.5 percent. The borrowers write out a check for the loan plus the fee, which the lender agrees not to cash for a specified period — usually two weeks, until the borrower's next paycheck.

But the 2000 law was made temporary to see how the system would work. Without legislative action — or a voter-approved initiative — payday lending will disappear in 2010. Stan Barnes, a lobbyist for the lenders, said that would be a mistake, contending it would remove "a viable and often-cheaper option for consumers in times of financial emergency."

Barnes said consumers in a financial bind make conscious choices.

For example, he said, someone writing out a check he knows is bad to Wal-Mart might end up paying a $25 penalty to the store and an additional $25 to the bank. That compares with $17.65 for a payday lender to hold a $100 check for two weeks.

McClure said the popularity of payday loans doesn't make them good public policy.

"A lot of people would like to have marijuana shops," she said. "And I guarantee you, if we put a marijuana shop on every street corner, there would be a need," McClure continued. "Is that in the best interest of society?"

Barnes said the industry initiative offers substantial "reforms" that would benefit consumers.

Aside from the zero-cost payment plans and the ban on rollovers, Barnes said these loans actually would become cheaper. That's because a wording change in the law sets the maximum fee at $15 for every $100 borrowed; the current law now has a $17.65 maximum.

That still translates into an annual percentage rate of more than 300 percent, far higher than the 36 percent interest rate that state law now permits for other types of loans. But Barnes said that figure is justified.

"The short-term, no-collateral loan business is a different business model than many other lenders," he said.

If both proposals qualify for the November ballot, it would set the stage for a fight over what role, if any, the state should play in regulating financial transactions.

"I would agree that you cannot protect people from themselves," McClure said. "If I want to go up and jump off this roof, I'll find a way to do it if I want to." But McClure said government does have a responsibility to put barriers in place.

"Right now there are absolutely no barriers to keep people from using predatory loans," she said.

Barnes, however, said the state should not outlaw this option as long as borrowers know what they're doing.

"Thousands of consumers choose the convenience and the efficiency of a store and a loan like this every day," he said.