



WOMEN'S LEGISLATIVE COUNCIL

of Utah County

April 15, 2014

Program Topic: **“THE PAYDAY LENDING INDUSTRY & LEGISLATIVE AMENDMENT HB127**

Presented by: Business & Labor Committee
Director: Kari Malkovich

Speakers: Sen. Curt Bramble (R) Dist. 16 Utah & Wasatch Counties
Sponsor, HB127 Consumer Lending Amendments

Rep. Marc Roberts (R) Dist. 67 Utah County
Business & Labor; Political Subdivisions Standing Committees

Sen. Bramble introduced his legislation **HB127** as a bill providing meaningful oversight of the payday loan industry, while still giving consumers access to needed short-term credit options. The bill has seven major components.

(1) The most important element of the bill is meant to reduce the “cycle of debt.” It proposes to expand the *Extended Payment Plan* (EPP) for all loans unpaid at ten weeks. At ten weeks, the borrower will have the option to repay any unpaid balance (without interest) over the next 60 days. If the borrower enters the EPP, there will be no collection action and no additional charges. This will dramatically reduce the cycle of debt because there will be less incentive to seek a new loan in order to cover a prior loan.

(2) It calls for mandatory notice of default to prevent unneeded court actions. If a borrower defaults, the lender must send a Notice of Default and allow the borrower 10 days to remedy the problem before any judicial action can be taken.

(3) It requires a mandatory analysis and underwriting of every loan. Lenders are required to determine if the borrower actually has the ability to repay. This will have the effect of protecting borrowers from consequences arising from borrowing “over their heads.”

(4) It requires lenders to provide a consumer clear acknowledgment of their rights, and responsibilities. The borrower must also sign a separate acknowledgement that he/she cannot roll the loan over beyond 10 weeks.

(5) It protects against “venue shopping” by lenders. Borrowers will have the ability to dispute claims with lenders in venues (courtrooms) convenient to them. Hence, if a borrower makes the transaction in Brigham City, he/she cannot be forced to go to St. George to dispute a claim by the lender. The claim will need to be heard in the county where the contract was signed or in which the defendant resides.

(6) It calls for additional reporting requirements by lenders to the *Dept. of Financial Institutions* (DFI). The 8 data points of information currently required would be increased to 11. This information will assist lawmakers and the public in assessing the current status of the industry.

(7) It provides clarity of the fact that a borrower utilizing the EPP may not be considered in default. It also prohibits lenders from forcing borrowers from waiving any of the preceding rights.

Responding to questions, Sen. Bramble acknowledged Utah does not have stringent usury laws, but said **HB127** provides needed regulation to the relationship between lenders and borrowers by imposing and codifying common sense “best practices” on lenders. He re-affirmed that the bill would give consumers greater protections against venue shopping, unneeded court actions and unnecessary fees. **HB127** also provides the DFI additional tools to police the payday lending industry.

The senator said the payday lending industry supports **HB127**, since it generally supports best practices principles. It received only 4 negative votes on the floor of the House. Other than that, it passed unanimously.

Rep. Roberts said he was one of the 4 legislators who voted against the bill. He doesn’t believe it is necessary to impose further regulations on the payday lending industry than were already in place. Borrowers, he argued, aren’t forced to sign these agreements. Most often, they make informed borrowing decisions for these short-term loans only when harsh, unforeseen circumstances arise.

Continuing, Rep. Roberts described himself as a legislator who can generally be counted on to vote against legislation that injects more government regulation into private businesses. He does agree that **HB127** imposes better transparency on payday lender laws, although he believes abuse arises as “the exception rather than the rule” in this industry.

Responding to questions, he said former Rep. Brad Daw’s bill would have required a database to be established for the industry in Utah. This, both legislators agreed, was not practical and would never have been passed by the legislature. Rep. Dan Layton of Utah County is one of the House co-sponsors of the bill.

Reported by Pam Grange

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