Payday Lenders’ Bites Are Worse than a Shark’s

By Sherry R. Deatrick

February 10, 2010

Unlike payday lenders, a shark will at least show you his teeth. Most people don't realize that in Kentucky, payday loan interest rates are at least 391%, and often over 400%. Ouch. That's quite a bite.

Over 40% of borrowers think the rates are less than 30% APR, which would be comparable to a credit card cash advance.

Gov. Steve Beshear supports HB 381, introduced by Rep. Darryl Owens, joined by co-sponsors and Kentucky Coalition for Responsible Lending (KCRL), which would make Kentucky the 16th state to cap interest rates on these so-called short-term loans at 36%. (Note: The District of Columbia has also capped the interest rates on these loans.)

Why do I say “so-called short-term loans?” Because nationwide, 9 out of 10 of these loans are made to repeat borrowers, who average about 9-10 loans annually.

"We believe this is a needed step to protect Kentucky consumers from a predatory product that costs hard working families approximately $150 million a year," said Kip Bowmar, Executive Director of Community Action Kentucky and KCRL member organization. "We salute Rep. Owens and the 19 co-sponsors on this important legislation," added Bowmar.

A great summary of the current law is on the **KCRL website**:

> Deferred Deposits [2010 General Assembly]
>
> The provisions of the check-cashing and deferred deposit statutes are currently contained in Subtitle 9 of KRS Chapter 286 that authorizes licensed deferred deposit businesses to charge a service fee not to exceed $15 per $100 borrowed.
>
> The service fee is for a period of 14 days. Borrowers may obtain one loan not to exceed $500 at any one time, and rollovers are prohibited. The deferred deposit transaction statutes were amended in 2009, effective July 1, 2010, by House Bill 444 to expand regulation of the industry.
>
> The legislation also provides for a 10-year moratorium on licensure of new businesses after July 1, 2009. A review by staff of the

> Kentucky Office of Financial Institutions annual reports found the number of licensed payday locations in Kentucky increased from 214 in 1998 to 754 currently.
>
> On its face, a $15 fee per $100 borrowed appears to be interest in the amount of 15 percent. However, because of the 14-day loan term, a new loan can be obtained 26 times per year, which results in an annual percentage rate of 391 percent.
>
> Reportedly, most borrowers are unable to repay the loan with their next paycheck. As a result, borrowers often take out a new loan before their next paycheck, resulting in an additional fee. Several sources report that 87 percent of new loans are opened within two weeks or before the borrower's next payday, indicating they are unable to repay the original or previous loan and sustain the cost of living expenses without taking out a new loan. This common practice is referred to as “rollover”
>
> Making multiple rollovers, referred to as “churning,” results in an annual percentage rate of 391 percent in Kentucky. Nationwide, churning accounts for 76 percent of the deferred deposit total loan volume.

Basically, the proposed new law would cap interest rates at 36%, which while still higher than most credit cards, isn't satisfactory to the payday lending industry and its well-armed lobbyists. If they can't make a profit by charging 36% interest, then they're doing something wrong. For too long, they have been shamelessly gouging people who can least afford it.

Capping the interest rate will not prevent folks from getting a short-term loan they need. In North Carolina, small loans from consumer finance companies increased by almost 40% after a rate cap.

A recent *Lexington Herald Leader* editorial says:

> Not that long ago, payday lenders were called loan sharks and what they did was illegal.
>
> It's easy to forget that because the payday-loan industry has amassed so much power and sunk its hooks so deep into the legislature, all in less than 20 years.
>
> Kentucky should join other states … that have turned back the clock

> on legalized loan sharking. …
>
> It won't be easy. With their market shrinking because of all the new laws, predatory lenders will fight harder than ever to hold on to Kentucky.
>
> A few years ago, the state was getting a new payday lender every four days.
>
> It's obviously a lucrative market — for the lenders.
>
> For borrowers, it's a road to burial in debt, bankruptcy and homelessness.

- Editorial by Laura Cullen Glasscock, published Dec. 20, 2009

Please also visit the Center for Responsible Lending's **website** for information on how the lenders sneak the high interest rates past unsuspecting borrowers:

> [A] consumer considering the following two options might believe that a payday loan is the less expensive option if costs are expressed this way:
>
> Credit Card Cash Advance = interest rate of 18%
> Payday Loan = interest rate of 15%
>
> But if expressed in terms of APR, the true cost is easier to understand. The APR is calculated by taking the simple interest and multiplying it by the number of times the term goes into one year:
>
> Credit Card Cash Advance = APR of 18%
> Payday Loan = 15% times 26 two-week terms = APR of 390%
>
> In terms of dollars, the difference is stark.
>
> Say a person needs $300 for a month for an emergency car repair. If the person takes out a payday loan and has a typical two-week pay period, the borrower must carry the loan for two terms to have it for one month. In this case, the real cost of the payday loan—$45 per term, or $90 total—would equal 20 times more than the credit card cash advance carried for one month.[4] ….
>
> The typical borrower ends up paying about $500 in interest for a

> $300 loan, and still owes the principal.

Recently, Congress took action to protect military personnel by imposing a 36 percent cap on loans. By the way, that measure was supported by both John McCain and Barack Obama. I searched on Google maps to see how many payday lenders are near Ft. Knox now. I found none. It's obvious that putting the cap on these loans is the only way to stop these unscrupulous, usurious lenders from preying on people hit the hardest by this recession. As in other states that have passed similar legislation, alternatives will be available.

The KCRL has several “real life” horror stories on its website, from people trapped on the payday lender treadmill. A divorced Berea woman who receives SSI due to back injuries and PTSD got caught in the trap in 2005. The annual percentage rate on most of her Cash Express loans was 182.50%.

Every month, as soon as she got her SSI check, her first stop was Cash Express. Her panic attacks grew worse as she realized she was in way over her head. She says the company agreed on the phone to let her pay $25 per month on what she owed. Cash Express denies this. When she tried to make her first payment, they took her Social Security check and refused to give her anything back.

What do you suppose happened? The woman had a panic attack. She begged them for the check back since it was her only income for the month. They told her to leave or they would call the police. It took months before she could go outside again.

Last year's legislation to regulate these loans was well-intentioned, but weak. For one thing, most of its provisions did not go into effect until January of this year.

There is supposed to be a database of all loans so the state will be able to track the number of loans, and see how many people have more than the number of loans permissible under the law. A colleague told me about a gentleman she's helping with his bankruptcy case who has many of these loans. I guess that database is ineffective.

Another provision of last year's bill that just went into effect January 1 involves the internet “cash advance” lenders. And this is something you need to pay attention to. Kentucky does not license these lenders and in fact, holds that all such loans are VOID.

Don't take my word for it:

> Because [the Kentucky Department of Financial Institutions] does not grant licenses to Internet check cashers, then those transactions shall be void and the person shall not collect any principal, fee,

interest, charges or recompense whatsoever.

www.kfi.ky.gov

I doubt that most people are aware of this. Internet lenders continue to advertise in Kentucky.

Did you realize that if file a bankruptcy petition, you will most likely be able to get back from the lender any post-dated check that a payday loan company cashes after your petition is filed? Please consult a bankruptcy and/or consumer attorney for more information on your rights.

Don't let this important bill die in committee, as some people are predicting. You can help protect Kentucky families from the payday loan debt trap by calling your state lawmaker today.

Ask your legislators to:

• support the 36% payday loan rate cap
• protect consumers
• become a co-sponsor of House Bill 381

Call – Senators and Representatives toll-free on the Legislative Message Line:

1-800-372-7181 • TTY Messages 1-800-896-0305 • En Español 1-877-287-3134

LRC Message Center is open: Monday – Thursday (7:00 a.m. – 11:00 p.m.) & Friday 7:00 a.m. – 6:00 p.m.

Find your legislators online: **lrc.gov**

Send email to legislators **lrc.ky.gov/whoswho/email.htm**

Learn more about payday loans and find us on Facebook at**facebook.com/kyresponsiblelending**

A similar piece of federal legislation was introduced last year, but has languished in committee. Don't let the same thing happen in Kentucky.

We simply cannot afford to let hard-earned cash leak out of the pockets of working people and into the jaws of loan sharks. We all need to help rebuild our economy.

Oh, the shark, babe, has such teeth, dear
And it shows them pearly white

Just a jackknife has old MacHeath, babe
And he keeps it … ah … out of sight.

Ya know when that shark bites, with his teeth, babe
Scarlet billows start to spread
Fancy gloves, though, wears old MacHeath, babe
So there's never, never a trace of red.
- "Mack the Knife"