

Assembly faces fight over payday lending cap

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By Dena Potter - RICHMOND (AP) — It's like the tale of David and Goliath, but who's the underdog and who is the giant in the payday-lending debate depends upon whom you ask.

Religious groups, business organizations, advocates for the poor and others sick of the industry say they can't compete with the money that payday lenders spend on powerful lobbyists, donations to legislators and advertisements touting themselves as a helping hand to those in need.

Industry officials say going up against well-funded and influential voices in the legislature — the faith community, the National Association for the Advancement of Colored People, AARP, Better Business Bureaus of Virginia — puts them at a disadvantage, especially when their opponents have made no secret of wanting them driven out of the state.

Both sides have spent the year gearing up for another battle in the General Assembly, which convenes Jan. 9. Last year's session started with more than a dozen bills to either reform or repeal the industry and ended without action.

"It's this constant David and Goliath down at the General Assembly, but the faith community knows how that story ends," said the Rev. C. Douglas Smith, executive director of the Virginia Interfaith Center for Public Policy.

Industry opponents like Mr. Smith say momentum is on their side. The number of their supporters has exploded over the summer as churches, local governments and new groups against payday lending have become involved.

Last session, payday lenders had almost 20 professional lobbyists in their corner. Industry opponents, who traditionally include nonprofit groups, also have teamed up with powerful lobbyists for the upcoming session.

Their goal: Cap the annual interest rate payday lenders can charge at 36 percent.

A 2002 law championed by Delegate Harvey Morgan, Gloucester Republican who now opposes payday lenders, allowed the industry to bypass the state's usury laws and charge \$15 for every \$100 loaned up to \$500 to be paid back on the borrower's next payday. Counted as an interest rate, it comes up to about 390 percent for a two-week, \$100 loan.

Payday officials say that's not a fair assessment, because the \$15 is a fee that does not accumulate. Still, most lenders have begun displaying small posters listing their annual percentage rates and fees.

The introduction of the posters is one of several reforms instituted by the Community Financial Services Association (CFSA), the industry trade group that represents two-thirds of all payday lenders nationwide.

In February, as Virginia and several other states debated reforming the industry, the association announced a \$10 million public education campaign to try to clean up its image including advertisements and financial-literacy programs coupled with self-imposed reforms like extended payment plans and a ban on ads that promote payday advances for frivolous uses.

"Payday lenders are appealing to the population of people that need them. Our job is to appeal to a community that is concerned and get them to act out of that concern, so we don't have to take on payday lenders head to head," said Jay Johnson, state chairman of the Virginia Organizing Project, a nonprofit, nonpartisan social-justice group.

In 2006, about 434,000 people in Virginia took out almost 3.6 million loans worth \$1.3 billion, according to the state Bureau of Financial Institutions.

Mr. Johnson's organization and other opponents hope to hit legislators from numerous fronts, from a petition signed by church members across Virginia to protests outside payday-lending stores to resolutions passed by local governments urging the General Assembly to cap the interest rate at 36 percent.

"Payday lenders are spending the money and they're sending people to Richmond, but they're not creating the waves that we can create through organization," Mr. Johnson said.

The industry has relied mainly on television, radio and print advertising.

Linda Clark of Danville is the face of several of those commercials. A payday lender since the industry's inception in 2002 and vice president of the newly formed Virginia Short Term Loan Association, Miss Clark said some borrowers take on too much. That is why reforms such as those that CFSA members have implemented are needed, she said.

Miss Clark suggested that legislators go a step further, forgoing a 36 percent cap in favor of requiring payday lenders to donate money to nonprofit groups for financial-literacy programs.

"Don't take away the industry; just reform it or tweak it where everybody can go about their lives," Miss Clark said.

Opponents say reforms proposed by the industry through legislation last year — limiting the number of loans allowed at one time, requiring a cooling-off period between loans and offering more time to repay a loan — won't work.

But Jamie Fulmer, spokesman for Advance America, Cash Advance Centers Inc., the nation's largest payday lender, said the proposed reforms would have provided "real protection" to consumers. He dismisses a rate cap as backdoor abolition, saying payday lenders would have to close shop because they could charge only \$1.38 for every two-week, \$100 loan.

Oregon passed a 36 percent cap this year, and Mr. Fulmer's company was one of the first to pull out of the state.

Opponents say it's all for show.

"I tend to think the reason the industry is leaving states where there's a 36 or a 24 percent cap is because they don't want states like Virginia realizing or admitting that you can make money at 36 percent," Mr. Smith said.

The District recently capped the interest rate at 24 percent. Several of Virginia's other neighbors — Maryland, North Carolina and West Virginia — do not allow payday loans.

The debate has spawned several groups, some of which wanted more opportunity to get involved in political campaigns than nonprofits are allowed.

Newport News businessman Ward R. Scull III established Virginians Against Payday Loans after one of his employees sank deep into debt after taking out several payday advances, and a group of industry whistleblowers formed Cap America, which was vocal in the fight for the D.C. rate cap.

Both sides are after people like Kevin Smyth. The Mechanicsville businessman had seen the commercials but didn't care about the issue until representatives from both sides spoke to his Rotary club.

The opponents won him over.

"I know it's hard when you don't have a lot of money and you're living paycheck to paycheck, but you've got to avoid certain things, and this is one of them," Mr. Smyth said.

Opponents have new legislative muscle in their corner. House Majority Whip M. Kirkland Cox will sign on to co-sponsor one of two bills already filed to cap the interest rate at 36 percent. There are more than a dozen payday-lending stores on one street in his district, and the city council there passed a resolution urging the cap.

"I just don't have any constituents coming to me saying, 'Hey, we've got to keep the payday industry,' " said Mr. Cox, Colonial Heights Republican.

The lawmaker who fought hardest for payday lenders last year, Sen. Richard Saslaw, Fairfax Democrat, also has gained strength. Democrats took over control of the Senate in November, catapulting Mr. Saslaw to Senate majority leader and chairman of the Senate Labor and Commerce Committee, which hears payday lending bills.

Gov. Tim Kaine, a Democrat who favors a 36 percent cap, tried over the summer to get both sides to come together, but industry opponents refused.

"They say we won't compromise. Well, last year we tried to repeal the Payday Loan Act. This year, we're just asking to cap it at 36 percent, so we've already compromised, " said Jay Speer, executive director of the Virginia Poverty Law Center.

Despite the time and money both sides have poured into the fight, Advance America's Mr. Fulmer said he doesn't think most people consider it a top priority for legislators.

"I'm not sure it's the issue that keeps folks in the commonwealth awake at night," he said.