

Bill aimed at 'predatory' loans gains momentum

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Democratic Sens. Katy Duhigg of Albuquerque and William Soules of Las Cruces are backing a bill that would lower the cap on interest rates for small loans to 36% from a current maximum of 175%. (Eddie Moore/Albuquerque Journal)

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SANTA FE – Legislation that would sharply reduce New Mexico's interest rate cap for storefront lenders could move quickly in the Senate after winning bipartisan support in a late-night House vote – a breakthrough supporters say pushes the bill closer than ever to passage.

In an attempt to crack down on what some describe as “predatory” loans, the proposal would lower the annual interest rate cap on small loans to 36%, bringing the limit in line with what federal law allows for active-duty members of the military. The state now allows an interest rate of 175% a year.

A similar measure to lower the cap died last year amid a deadlock between the House and Senate over where to set to the maximum rate.

But it was the House, not the Senate, that balked at approving a rate as low as 36% for all small loans during the 2021 debate.

In a reversal this year, the House late Monday voted 51-18 in favor of capping the interest rate at 36%. The bill, House Bill 132, was amended to also permit a 5% one-time charge – similar to an origination fee – for loans of \$500 or less.

Democratic Sens. Katy Duhigg of Albuquerque and William Soules of Las Cruces – longtime backers of the legislation – said they support the amended version of the bill.

“I think the bill that passed out of the House strikes a good balance to ensure that we end predatory lending in New Mexico without restricting access to funds that many in our state rely on,” Duhigg told the Journal.

In an interview, Soules said the legislation remains similar to what passed his chamber last year, increasing the likelihood that it will finally reach the governor's desk this year.

“This helps New Mexicans and keeps money in our communities,” Soules said.

He added: “This is further along than we've gotten before.”

Lengthy debate

The House vote came about 11:30 p.m. Monday after a three-hour debate over the storefront lending industry.

Eight Republicans joined almost every Democrat in voting in favor of the bill, in addition to support from Rep. Phelps Anderson, a Roswell independent and co-sponsor of the bill. Two Democrats casted “no” votes.

The bipartisan support came after Rep. Micaela Lara Cadena, D-Mesilla, won approval for amendments to allow an additional 5% charge for loans of \$500 or less and to impose reporting requirements on credit unions if they offer small loans similar to the ones available at storefront lenders.

Rep. Susan Herrera, an Embudo Democrat who presented the bill on the House floor Monday, said the proposal would help New Mexicans who are taken advantage of by out-of-state corporations.

“These stories are harrowing,” she said.

Critics of the legislation said it could put companies out of business, leave their employees out of work and push borrowers to seek out unregulated lenders.

House Minority Whip Rod Montoya, a Farmington Republican who opposed the bill, said it would have a host of unintended consequences, such as leading people in need to pawn their goods to come up with cash.

“The way I see this,” Montoya said, “is we don’t trust certain people. We believe certain people are too unsophisticated, too unable to make their own decisions for their own families.”

But supporters are optimistic the bill will get the necessary votes before the session ends Feb. 17 to end up on Gov. Michelle Lujan Grisham’s desk.

“The big bipartisan vote in the House is a watershed moment in the fight to end predatory lending in New Mexico,” Kristina Fisher, associate director of the nonpartisan group Think New Mexico, said in a written statement.

The 5% fee proposal developed by the House “is a reasonable compromise,” she said, “and we will not oppose it.”

‘Follow the rules’

Even before lawmakers plunged into debate on the bill Monday, it was at the center of a procedural skirmish.

Rep. Eliseo Alcon, D-Milan, made a motion to send the bill to the House Rules and Order of Business Committee, the panel that determines whether a proposal falls within the scope of what lawmakers may take up in a 30-day session.

The bill, he pointed out, wasn’t specifically authorized by the governor and had been amended to remove its appropriation, a change that warranted sending it back to the committee for another review. Tax and spending bills are automatically permitted in 30-day sessions.

The legislation initially included a \$180,000 appropriation for financial literacy programs, but the proposed spending was removed during a previous committee hearing.

“We need to follow the rules whether we like the bill or not,” Alcon said.

But after intense debate over whether the bill should go to committee, Alcon abruptly withdrew his motion to send it to committee and no vote was taken.

Lujan Grisham later Monday formally conveyed authorization for lawmakers to take up the bill.

National attention

New Mexico has a long history debating how to regulate the loan industry.

A previous 36% cap on loan interest rates was abolished by the Legislature in the 1980s amid high inflation, according to research done by Think New Mexico, which has pushed for the lower rate cap to be reinstated.

After years of debate at the Roundhouse, lawmakers passed a 2017 bill that established the current 175% small loan interest rate cap and banned so-called payday loans with terms of less than 120 days.

The Roundhouse debate has attracted the attention of many national companies that have hired lobbyists to represent their interests.

Small loan companies gave \$140,000 in campaign contributions to New Mexico candidates and political committees during the 2020 election cycle, according to a recent report by New Mexico Ethics Watch.