

Local judge gets tough on predatory lending

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The check is in the mail...but cashing it may result in headaches

By [BRIAN HODGE](#)

Living with difficult economic conditions is stressful and can drive desperate people to make unwise financial decisions. But what seems like a quick fix to a financial problem can quickly escalate into a seemingly never-ending cycle of indebtedness, despite good intentions.

The Alabama Legislature took baby steps this session to curb what some people characterize as abuses in the pay day loan industry. Rep. Patricia Todd introduced legislation that would require pay day lenders to enter the particulars of their customers lending activity into a common state-controlled database to help safeguard against customers from falling into a cycle of never-ending high interest debt. The current law already restricts lenders from loaning money to customers that would total more than \$500 and to enter the customers loan information into a private, third party database 'if available.' Todd's bill would require the use of the database and put the administration of the database into the hands of the state banking department.

The Alabama Senate banking committee added an amendment that would require the database to be competitively bid, but otherwise gave their blessing. As of The Independent's press deadline, the bill still has not passed the full Senate.

Even these incremental steps in the pay day loan or 'deferred presentment loans' as they are known in legal language, do not address issues of car title loans or finance companies sending so called 'live checks' to prospective customers.

With a live check consumers receive unsolicited mail that contains within it a document that appears to be a check. By signing the form and cashing the check consumers actually enter into a promissory note/loan agreement for interest rates that approach 50% or greater. Many small finance companies and pay day loan operations charge interest rates that are not as heavily regulated as traditional loans from a bank or credit union.

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These loans are often described as 'predatory' by Todd and other elected officials who view tactics used by these companies as taking advantage of consumers at best and deceptive and illegal at worst. Once a customer defaults on a loan of this type the methods used by companies to recoup the money have sometimes strayed across the line of legality.

Activities of Republic Finance in Elmore County

A Millbrook resident took out one such loan from Republic Finance, a company with office locations in Prattville and Montgomery. This resident borrowed \$4,315.11 at 42.14% after receiving a live check in the mail. The finance charge totaled \$4,000.89. This left the customer with an obligation to repay \$8,316.00 on a \$4,315.11 loan. The customer defaulted and Republic Finance decided to sue the borrower in court for the money.

Republic Finance hired a man named William Files as a process server in this and many other cases. Files gave sworn testimony in Elmore County District Court that he left his home in Hueytown, Alabama and personally served 23 people in 5 Alabama counties (Autauga, Chilton, Dallas, Elmore and Montgomery) on a single day according to court documents. Files further swore that these 23 processes were delivered during waking hours on a Sunday, September 15, 2013. When presented in court face to face with four of the 23 persons Files claims to have personally served that day, neither Files nor any of the defendants say they recognized each other.

District Judge Patrick Pinkston found that Files lacked any credibility and that his testimony was patently false. According to court documents Files was given multiple opportunities to amend or modify his testimony and to correct miswritten factual representations. Files chose not to do so. Files, an agent for Republic Finance, was sentenced to five days in Elmore County Jail for providing false testimony and obstructing the administration of justice.

The first case in Elmore County for which Republic finance was the plaintiff was filed in August of 2012. Since that time the company has filed more than 130 cases against Elmore County citizens for default. While many of these cases have been ruled in favor of Republic Finance with a default judgement, dozens more have been dismissed because of the questionable and deceptive practices used to collect the money through the court.

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Citizens are encouraged to carefully read and understand the financial obligations of small loans and their rights under the laws of the State of Alabama.

The Independent will continue to monitor the Republic Finance cases.