Southern Bancorp Community Partners

Eliminating Payday Lending: A Model for Other States

Background

Southern Bancorp Community Partners (SBCP, formerly Southern Good Faith Fund) is a 501(c)(3) nonprofit affiliate of Southern Bancorp (collectively, “Southern”), one of the nation’s largest rural development banks. Southern works to impact poverty by improving educational and economic opportunities for children and working families in high-poverty communities in Arkansas and Mississippi. Within the broader effort, SBCP builds communities through its community-driven strategic planning and implementation process. SBCP changes lives by helping low-income families learn economic skills, build assets, improve credit histories, find employment opportunities, and achieve stronger financial futures through a range of direct services. SBCP reinforces this comprehensive approach with policy efforts and system-level initiatives. SBCP’s public policy program has worked to develop a housing trust fund, facilitate a ban on predatory payday lenders, and create policy initiatives to expand rural VITA services.

Predatory Payday Lending

The last payday lender in Arkansas closes its doors in July 2009

The last payday lender in Arkansas closed its doors on July 31, 2009. This event represented a significant policy victory in a state where the industry just two years earlier had successfully killed a bill designed to rein in its predatory practices. Through its leadership of the Arkansans Against Abusive Payday Lending Coalition (AAAPL), SBCP played a key role in this decisive victory for consumers. At its peak, the payday lending industry operated 275 stores throughout the state, ensnaring thousands of Arkansans in triple-digit interest rate debt. The industry’s demise began in early 2008 with a crackdown by the Arkansas Attorney General, followed in November 2008 by an Arkansas Supreme Court decision (ruling in favor of a plaintiff represented by an AAAPL member) that found a 1999 law unconstitutional. The law was designed to allow payday lenders to circumvent the Arkansas Constitution’s 17 percent annual interest rate cap. Arkansas is one of just 16 states in which payday lending is specifically disallowed and the only state in which an interest rate cap is enshrined in the state’s Constitution.

The demise of payday lending occurred much more rapidly than had originally been anticipated, producing a more significant outcome than merely reducing the number of payday lenders. AAAPL initially focused on ending payday lending through the legislative process (the most logical means, since payday lenders originally took root in Arkansas thanks to 1999 legislation allowing them to operate). After several stymied attempts, the coalition shifted its focus to the executive and judicial branches of government. The support of the Attorney General was secured, thanks in part to judicial victories secured by an AAAPL member who represented consumer plaintiffs in these cases. Ultimately, the Arkansas Supreme Court ruled unconstitutional the act that payday lenders used to set up shop in Arkansas. These significant positive developments all occurred in 2008, and the industry rapidly declined, from 239 payday lending stores operating in Arkansas in January 2008 to 27 in February 2009. AAAPL worked with other advocates in passing a new state law to regulate paid tax preparers and Refund Anticipation Loans (RALs) during the 2009 Legislative session. As noted above, these efforts culminated in the closure of the last payday lender in July 2009.

While this success represented a major win in protecting consumers, closing down the brick-and-mortar payday lending establishments did not stop predatory lenders from continuing to target consumers. As part of its effort to protect consumers against unscrupulous lenders, SBCP entered into a contract with the National Consumer Law Center (NCLC) to survey paid tax preparers to ensure compliance with the new regulations. On behalf of AAAPL, SBCP conducted this "mystery shopper" survey, which found minimal compliance with disclosure rules and identified questionable fees charged by several preparers. The full report is available on the NCLC website, located at: http://www.nclc.org/images/pdf/high_cost_small_loans/report-ral-2010.pdf.

These findings motivated the Arkansas Attorney General's office to conduct its own investigation. In December 2010, the State filed a lawsuit against one of the providers surveyed, putting RAL providers in Arkansas on notice that their activities are being monitored while marking another success of the AAAPL, spearheaded by SBCP. Unscrupulous payday lenders on the internet continue to prey on those in need of short-term cash but who then find themselves in deeper debt due to often exorbitant fees and interest rates. While authorities continue to work to investigate and deter these predators, the internet quick loan industry continues virtually unregulated. AAAPL continues to serve as a watchdog for Arkansas consumers by monitoring legislation that is introduced that could result in the resurrection of predatory lenders and encouraging consumers to file complaints if they have been victimized by payday lenders. (See AAAPL's website at: http://www.stoppaydaypredators.org/.) SBCP is now exploring how to best leverage its experience with payday lending and its close relationship with a development bank to support anti-predatory lending coalitions in the state of Mississippi.

Lessons Learned

Throughout the process of working with the AAAPL and the state's Attorney General's office, SBCP has learned critical lessons that will not only inform the expansion of its public policy program into Mississippi, but also benefit other organizations concerned about the threat of unscrupulous lenders.

- A multi-pronged, flexible policy approach proved ultimately successful in this policy endeavor. A key to the demise of payday lender agencies in Arkansas was the network of advocates from key organizations and state agencies who worked collaboratively to achieve a common goal. As SBCP works to expand its efforts into Mississippi, a key entry point is connecting with organizations that are working to address the issue, such as the Mississippi Center for Justice and the Center for Responsible Lending. As noted above, SBCP is now exploring how to best leverage the successful experience in Arkansas and its close relationship with a development bank to benefit anti-predatory lending coalitions in Mississippi.

- Having legislation on the books proved a valuable starting point for movement to end predatory lending. As those who work in the legislative arena know, enacting a law is only the beginning. A law is merely words until it is backed up with funding and the ability to enforce its provisions. The predatory lending ban was on the Arkansas books for nearly a decade before the last payday lender's office was closed. Yet having it on the books proved to be a critical factor in expediting the efforts of the advocates who, in time, actively pursued its enforcement. Mississippi, like most states, has no ban on payday lending, so the development of legislation is an important first step to ensure consumers are protected. Unfortunately, passing legislation is a step that may take many months, if not years, to achieve. By collaborating with the strong network of skilled advocates in Mississippi, SBCP will able to use its experience to assist the coalition and to help build on the existing momentum to pursue protective legislation and timely enforcement.

- Consumers seek out payday lenders because they have need for immediate short-term cash. This need does not go away when lenders shut their doors, so consumers will continue to seek out sources—predatory or not—to meet their cash needs. Providing alternatives to predatory payday lending is a key factor in ending exploitation of consumers by payday lenders. For instance, SBCP has worked closely with its affiliate, Southern Bancorp, to develop an alternative payday lending product. Unlike many banks, Southern Bancorp tailors its financial services to the high poverty communities that comprise its target markets from northern Arkansas to the Mississippi Gulf Coast. The alternative loan product, which has been launched in one of Southern's Mississippi market on a limited basis, is expected to address this need for consumers in Southern's banking markets. Southern also offers products, such as a Credit Builder CD and a low-fee pre-paid debit card that are designed to help consumers curb their debt and increase their credit histories. Other banks serving challenged Delta communities should be encouraged to provide comparable products.

- Informed consumers are less vulnerable to predatory lenders. Programs like financial education, debt/credit counseling, matched savings programs, and no-cost tax preparation services help consumers to learn about the dangers of quick cash loans and how to protect their finances and credit and ensure greater security for their families. For instance, SBCP's Volunteer Income Tax Assistance (VITA) program filed 2,080 returns in 2011 alone, enabling families to receive $4,524,108 in tax refunds and credits. As Arkansas' largest Individual Development Account (IDA) provider, SBCP has helped more than 1,800 Arkansas and Mississippi families save $1,552,311 since the program's inception in 1999. Financial education provided educates consumers about all aspects of financial management from budgeting to protection against predatory lenders. Since 2006, SBCP's homebuyer and credit counseling services have helped more than 900 low-income families in these states improve their credit histories and achieve homeownership. SBCP's credit counseling clients typically reduce their initial debt by more than half and improve their initial credit score by 38 points by the time they complete the program. An improved credit score opens the door to many opportunities to access loans, mortgages, better interest rates, new housing options, and quality employment opportunities.

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