

TO: To The Birmingham News and other Alabama News Media
FR: A.H. "Nick" Gaede, Alabama Appleseed Center for Law & Justice, Chair
John Pickens, Alabama Appleseed Center for Law & Justice, Ex. Director
RE: Pay Day Lending in Alabama: Legalized Usury

DATE: July 19, 2004

Proverbs Chapter 22, verse 16, reads:

“He who oppresses the poor to increase his riches,
and he who gives to the rich, will surely come to
poverty.”

Though not referenced, these wise words could have been the starting point for the excellent article about payday loans by Reverend James L. Evans in the June 19, 2004 edition of the Birmingham News. All of our legislators and civic leaders should be concerned that Alabama not only allows payday loans, but in 2003, our Legislature and Governor legalized this form of predatory lending. As Reverend Evans pointed out, \$100 loaned for two weeks with a pay back of \$120 results in a 500% interest payment to the lender on an annual percentage basis (“APR”). Under Alabama’s maximum allowable interest rate of 17.50%, \$100 loaned for two weeks with a pay back of \$117.50 results in an interest payment of over 450% APR to the lender. This extreme form of usury is extracted from those who are least able to afford such payments, or as Reverend Evans says, “According to the Scriptures, God condemns economic practices that prey on the poor.”

The Alabama Small Loan Act sets a maximum rate of 36% APR for interest. Obviously, there is no comparison between that rate and the 450% plus APR interest rate charged by most payday lenders. The Alabama Department of Banking attempted to regulate payday loans under the Small Loan Act. Litigation resulted, and in a bizarre opinion the Circuit Court of Montgomery County, Judge Eugene Reese, held in 2002 that the payday lenders were not subject to the Small Loan Act. That decision was appealed to the Alabama Supreme Court, and our organization, the Alabama Appleseed Center for Law & Justice, Inc., filed an amicus brief in support of the Banking Department’s effort to regulate these usurious loans. While that appeal, which undoubtedly would have been successful, was pending, the Alabama legislature (with the tacit acquiescence of the Riley administration) passed legislation during the 2003 regular session which endorsed the right of payday lenders to charge over 450% interest (maximum rate of 17.50% per loan).

The history of legislation in other states is interesting and instruction. Thirty seven states regulate payday loans by specific legislation. The majority of these states allow interest rates between 5% and 15%. Our neighboring state, Georgia, recently made payday loans illegal. Thus, although Alabama is not completely “out of step” with the majority of states which have made efforts to provide rational rules for payday loans, Alabama’s legislation and allowable maximum interest rate is less strict and allows higher interest rates than most states that have undertaken to regulate payday loans.

The justifications of those who support payday loans that “without us these people would not get loans” and “these are high risk loans” are at best only partially correct. Surely there are interest rates less than 450% APR where lenders can earn a reasonable return. Also, generally, to get a payday loan, one needs a bank account so he/she can leave the post-dated check as repayment. Most banks require evidence of a job before opening an account. In other words, the so-called risks are overstated. Unfortunately, the real “justifications” are greed and the willingness to take advantage of those who are less fortunate.

There are many reasons we would all benefit from tougher legislation to regulate payday and similar loans. Obviously, there are the moral and religious points made by Reverend Evans. We should not prey upon, and certainly should not sanction preying upon, the less fortunate. Also, many businesses in Alabama depend upon relatively cheap labor. Does it make any sense to make more difficult the ability of these hard-working Alabamians to have a reasonably comfortable life, free of excessive debt and not relying on public assistance? Also, Alabama has an ever-increasing Hispanic population and work force; many of whom are victims of payday lenders. These Hispanic workers are important, if not essential, to construction companies, maintenance service companies, and other Alabama businesses. We should be attempting to make the Hispanic workers welcome and enable them to be meaningful citizens who are not dependent on payday lenders as their banking service. In other words, more rational legislation to control and regulate payday and similar loans is not only the right thing to do, it makes economic sense.

This open letter to the Birmingham News is being sent to other leading Alabama daily newspapers, and to the major local radio and television stations, and to our legislators, state and federal. Alabama Appleseed urges the following:

1. That the editorial boards of our newspapers increase their efforts to make our citizens aware of the usurious nature of the payday lending practice and, in particular, the fact that our state legislature unwisely approved it, while our federal legislators have been silent.
2. That our local radio and television stations, who are required to devote some air time to the public interest announcements, address payday loans?
3. That our state legislators make a serious effort in the next legislative session to develop and pass legislation that will not allow such usurious interest rates as the current 450% APR and that will be a fairer, more rational and enforceable measure in the regulation of payday lending.

A. H. “Nick” Gaede, Jr. and John Pickens are respectively the Chairman of the Board and the Executive Director of the Alabama Appleseed Center for Law & Justice, Inc. For more information about Alabama Appleseed, contact John Pickens at 334-263-0086 or alaappleseed@bellsouth.net.