

OUR VIEW: Birmingham City Council right to go slow on an ordinance that will limit where payday loan, title pawn and check-cashing businesses can set up shop

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N By **Birmingham News editorial board**



The Birmingham City Council was right to put the brakes on a planned moratorium on payday loan, title pawn and check-cashing businesses.

While we agree with supporters of the moratorium that often these businesses are predatory and force people who are least able to pay into a cycle of debt they often cannot break, we're also reluctant to endorse severe limits on legal businesses without extenuating circumstances.

Maybe there are good reasons for the government, instead of the marketplace, to limit these businesses. We just haven't heard them yet, and a decision by the City Council to hold public hearings on the ordinance is definitely a good idea.

The measure is being pushed by Councilwoman Lashunda Scales. She asked for a six-week delay to give city lawyers time to review the ordinance and give the council time for a public hearing.

The delay is necessary. The legal department must make sure whatever ordinance is proposed will stand up. That could be a problem with Birmingham's ordinance. It is "an exact duplicate of the Midfield ordinance," according to Councilwoman Kim Rafferty.

The Midfield ordinance is being challenged in court. Surely, Birmingham can wait until it sees how Midfield's law fares before pushing ahead with a law that is likely to wind up in court, as well. Birmingham has been cutting its spending; going to court to defend a misguided ordinance will cost taxpayers money that could be better used elsewhere.

Don't think the payday loan industry will stand idly by, either.

"This is a complicated decision that will have significant impact on small businesses and consumers and might also carry substantial legal ramifications," said Charles Hunter, a spokesman for Borrow Smart Alabama, the industry's trade group.

Hunter clearly is signaling that a court fight is a certainty if Birmingham moves forward with the law as currently written.

During the six-weeks delay, Scales and city officials should see what other cities in Alabama and other states are doing to regulate the payday loan and check-cashing businesses. With Midfield's law being challenged in court, Birmingham doesn't need to pass a similar law until we know the outcome of the Midfield challenge.

And there's no need for the council to commit Birmingham to copying Midfield's law if there is a better model out there that isn't facing a court challenge or already has survived a court challenge.

The six-weeks delay is a good idea. We understand Scales' conviction that a moratorium will protect residents from some of the predatory practices the payday loan industry has been accused of.

But any law must be able to pass legal muster. It would be irresponsible for Birmingham to approve a new ordinance if there's a good chance a court won't affirm the law.

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