LOUISIANA LEGISLATIVE AUDITOR
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OFFICE OF FINANCIAL INSTITUTIONS' REGULATION OF PAYDAY LENDERS

The state Office of Financial Institutions does not provide adequate oversight of its examinations of payday loan companies to ensure they are not engaged in improper lending practices that can lead to a "cycle of debt" for the borrower, according to a report released Monday by Legislative Auditor Daryl Purpera's office.

"Overall, we found that OFI needs to strengthen its examination, follow-up, enforcement, and complaint procedures to ensure it is effectively regulating payday lenders," the performance audit said. "OFI cannot ensure that payday lenders are adhering to state laws and that borrowers are protected from improper payday lending practices."

The state auditor said OFI did not impose any penalties on payday lenders for violating state law between Jan. 1 2010 and June 30, 2013, despite citing 8,315 violations, including almost 8,100 for major violations.

Although state law gives OFI the authority to impose fines of up to $1,000 per violation and suspend the licenses of lenders, the office has not developed a "penalty structure or process" for enforcing penalties.

By not assessing penalties from Jan. 1, 2010 to June 30, 2013, "OFI is failing to hold lenders accountable for adhering to state law. In addition, payday lenders may not be deterred from repeatedly violating the law."

The report said that of 11 states surveyed, 10 issue fines when payday lenders violate the law, including Mississippi, which in 2012 imposed a $15,500 fine on a lender for issuing loans above the legal limit.

In the recently-ended legislative session, Act 636 gave OFI the authority, starting Jan. 1, 2015, to license online payday lenders, a growing national trend.

As of Dec. 31, 2013, there were 329 payday loan companies operating 965 locations across Louisiana. The companies self-reported issuing more than 3.1 million loans and collecting $145.7 million in fees in the 2013 calendar year. By law, the companies cannot issue a payday loan of more than $350 and can charge no more than $55 in fees for each loan.

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"Because OFI examiners do not sufficiently document their work, we could not verify whether or not the examiners identified all violations committed by lenders and whether borrowers were charged the correct fees," the report said. Auditors pointed out they had to rely on self-reported data from some of the larger payday lenders to conduct the study.

The state auditor said that OFI's examination procedures do not detect whether the loan companies renew or "roll-over" loans without the borrower paying at least 25 percent of the amount loaned as state law requires. Based on 2013 lending data from 107 of the 955 payday loan locations that voluntarily submitted data, auditors found 318,489 instances in which borrowers paid off one loan and opened a new one "for the same amount, at the same location, and on the same day, which is an indication of risk of an improper roll-over" loan. "While these instances may represent legal new loans, this analysis may also contain instances where payday lenders circumvented state law," according to the report.

OFI does not always follow-up "to ensure lenders correct all violations" and issue refunds to borrowers when they are cited. When OFI identifies a violation it gives a lender 30 days to address the problem. Of 8,082 major violations involving more than $161,000 in excess fees to borrowers between 2010 and 2013, the state agency did not follow up on 82 percent of them.

The report also said OFI does not have a "comprehensive process in place to address verbal complaints against payday lenders." It also said the agency did not follow up on 48 percent of the 126 consumer complaints it received on payday loan companies during the 30-month period audited because the complaints were not submitted in writing, and instead were called in to the OFI office.

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On Twitter: OFI does not provide effective oversight of "payday loan" companies.