CONSUMER CREDIT (SOUTH AUSTRALIA) (MAXIMUM ANNUAL PERCENTAGE RATE) AMENDMENT BILL

Mrs PENFOLD (Flinders) obtained leave and introduced a bill for an act to amend the Consumer Credit (South Australia) Act 1995. Read a first time.

Mrs PENFOLD: I move:

That this bill be now read a second time.

Legislation to strengthen consumer protection from payday lenders is long overdue. The Rann government has had more than four years to address this issue. The last review of the code in South Australia was carried out in 2001 by the then Liberal consumer affairs minister, Trevor Griffin, and the use of credit has changed enormously in the period since that time. Christmas will take its usual toll, with debt causing extra pressure on families, and we cannot afford to just sit back and wait for the government to act, perhaps some time next year, or maybe the year after or the year after that.

As shadow minister for consumer affairs, I am alarmed at recent developments in the credit industry. Over the past few years, a growing number of operators targeting the financially vulnerable have spread across Adelaide and, in the absence of adequate regulation with respect to their behaviour, thousands of South Australian families are being trapped in a vicious debt cycle. I am speaking specifically of the phenomenon of what is broadly called `payday lending'. In its present form, this can be one of the most unscrupulous and socially destructive industries I have seen. Some unscrupulous operators lure customers into borrowing small amounts of money—usually several hundred dollars—for two to four weeks, which carry fixed fees (not annual interest rates), which are easily rolled over, or another loan negotiated back-to-back if the first loan is not paid out.

Both the South Australian Council of Social Service and the Central Community Legal Service have expressed concern over the past few months about the growing number of consumers who are getting into financial difficulty because they are unaware of the often astronomical charges for payday loans. Both bodies feel that regulation is long overdue. The government's Office of Consumer and Business Affairs (OCBA) is being inundated with complaints about unscrupulous operators, and this is taking up the valuable time of this already understaffed office.

Payday lending is a rapidly growing industry, largely because of the deregulation of the financial sector. Banks are deprioritising less profitable areas—that is, low income earners—by limiting loans suited to them. Australian banks do not offer personal loans of less than $2 000 for less than one year. They instead provide small loan facilities through credit cards, which are either not available, or are not available quickly enough in an emergency, for people on a low income or those with damaged credit ratings. As a result, demand for payday lending has grown. There are now more than 20 payday lenders operating in South Australia via shops, toll-free phone lines and internet sites.

The main problem with payday lending is the exorbitantly expensive credit, which is disguised as administrative or set-up fees. For example, a typical 14-day loan of $200, when combined with a membership fee of $25 and a loan charge of $44, equates to an interest rate of 897 per cent per annum. The system exploits the very people it claims to help. The irony is that, by going to a fringe credit provider, consumers often worsen their existing financial problems, because they do not have the means to repay the loans fast enough to avoid becoming trapped in a vicious debt cycle.

One of the most striking problems I have identified is that many customers are totally unaware of the inherent risks of taking out payday loans, having been attracted by no, or ostensibly low, interest rates, which are not expressed as an annual interest rate, incorporating the high fees and charges, as in other states. I would like to stress that I am not unsupportive of the credit industry. There is, indeed, a place for short-term loans, but this fringe of the industry needs to come under tighter control to avoid the exploitation of vulnerable customers.

It is unacceptable that vulnerable consumers, welfare recipients, the working poor and those with badly damaged credit ratings should be exploited by payday lenders. I am particularly concerned about evidence that this phenomenon is exacerbating the woes of problem gamblers and, thereby, many families. The vast majority of payday lenders are based in low socioeconomic areas, and many are located close to gambling facilities. We all need to exercise caution in relation to credit use, and I am not keen on legislative controls. However, it is clear to me that greater protectionist legislation is urgently required in this instance.

South Australia is lagging behind other states when it comes to protecting vulnerable consumers against payday lenders. What is needed to combat this alarming trend is a proactive approach, which this government simply has not provided. The Minister for Consumer Affairs has voiced concern about the industry for some time, and last month she finally put out yet another discussion paper. That is despite a discussion paper on this exact topic which was released in August 2003 by the Ministerial Council on Consumer Affairs and which led to legislation in most other states. This government has failed to provide adequate protection to the thousands of South Australians trapped in debt cycles caused by this unscrupulous and immoral service from fringe credit providers.

It took until last month for the minister to finally announce that the government intended to reform the payday lending industry and release her discussion paper. This followed criticism of the government and a stated intention by me and others in the preceding weeks to regulate the payday lending industry. It is typical of Labor's crisis management approach that it does not address issues until they hit the press. This issue has been around for years, and the only reason for the government starting to act now is the pressure on it, not concern for the victims and the plight in which they find themselves.

As the name suggests, the bill seeks to amend the Consumer Credit Code. The code is based on the Australian Uniform Credit Laws Agreement of 1993, in which each state and territory agreed to maintain uniform legislation in the area of consumer credit. However, interest rate caps are not covered by the agreement. New South Wales, Victoria and the ACT have all capped effective annual interest rates at 48 per cent. This Consumer Credit Amendment Bill seeks to amend the code to bring South Australia in line with other states by also requiring a 48 per cent cap, and it requires that all fees and charges for a loan are expressed to the borrower as part of this per annum interest rate. The aim of this bill is for the industry to operate in a regulated way rather than to kill the industry altogether and force consumers into the jaws of totally unregulated loan sharks.

I believe that an effective interest rate of 48 per cent per annum will provide a reasonable balance. Some payday lenders have argued that an effective cap would eliminate payday lending entirely. However, the government's discussion paper on payday lending states that, as far as the Office of Consumer and Business Affairs is aware, none has put forward sufficient detail of their cost to establish this conclusively. More tangible proof of at least one organisation's survival—Amazing Loans—despite a 48 per cent interest cap comes from the financial pages of *The Australian* in October this year, which stated:

> Amazing shares have skyrocketed to an, er, amazing 206 per cent since listing in April at $2.50.

The company now has 18 outlets across the eastern seaboard capitals, and of great concern to me is expanding into Adelaide and regional areas. The article further states:

> Amazing's interest in expanding outside of New South Wales is understandable given there's a legal cap of 48 per cent (including fees) on consumer credit in that state.

The article recommends against investing in Amazing, and states:

> Criterion suspects much will depend on employment levels given that the typical $30 000 a year Amazing customer would be the first to get the pink slip in a downturn.

A final quote of interest states:

> The sector prefers to describe itself as `micro-lending', which to us is more redolent of benevolent grants of seeds or goats to struggling Somali farmers.

Certainly, payday lending is a wolf dressed up as a lamb and one we do not want in South Australia to exploit our most vulnerable just because our government has not acted swiftly enough. A 48 per cent cap may force some payday lenders out of the market and may reduce the availability of credit to low income and vulnerable consumers due to a reluctance by mainstream credit providers to service those consumers. However, I think it is unlikely and, in my view, this risk is outweighed anyway by a responsibility to provide effective consumer protection against undesirable practices and products.

There should still be room for legitimate providers to operate in a marketplace with this new law in place. We have a duty to strengthen consumer protection for vulnerable people in our community, and supporting this bill to cap interest rates for payday loans sends a strong message to the credit industry and the general public that this is a duty that is not being taken lightly. Something is finally being done; and, hopefully, with the support of the Labor government, this bill will be through both houses before Christmas.

Mrs GERAGHTY secured the adjournment of the debate.