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Payday Lenders Join With Indian Tribes

By
JESSICA SILVER-GREENBERG
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OVERLAND PARK, Kan.—From rows of cubicles beneath handwritten signs that say "CUSTOMER SERVICE IS AN ATTITUDE, NOT JUST A DEPARTMENT," more than 150 employees at AMG Capital Services Inc. make loans and collect payments throughout the U.S.



ENLARGE

The Modoc chief said the payday-loan business is a welcome addition. Here, the Stables, a Modoc casino in Miami, Okla. *SHANE BROWN FOR THE WALL STREET JOURNAL*

It is a run-of-the-mill call center in a cookie-cutter suburban office park, except for this: At least a dozen payday lenders doing business through AMG are owned by American Indian tribes. Such loans average about \$400 and are secured by the borrower's next paycheck.

Because of the sovereign immunity granted to tribes by the U.S. government, they are shielded from interest-rate caps and other payday-loan regulations. Tribal lenders can even lend in the 12 U.S. states where lawmakers have kicked out the rest of the payday-loan industry.

Those advantages are luring American Indian tribes into the payday-loan business, and unleashing a scramble by lenders to team up with tribes. Much like the casino boom that began about 25 years ago, payday loans are emerging as a promising revenue stream for economically struggling tribes, especially those willing to let outside companies piggyback on their freedom from state and U.S. lending laws.

PAYDAY TRIBES

Some of the American Indian groups with payday-loan operations

Tribe State

Cheyenne River Sioux Tribe S.D.

Chippewa-Cree Tribe Mont.

Miami Tribe of Oklahoma Okla.

Modoc Tribe of Oklahoma Okla.

Mowachaht/Muchalaht First Nation Wash.

Otoe-Missouria Tribe of Indians Okla.

Source: WSJ research

The "sovereign-loan model" is "exploding and will be the future lending model for payday-loan companies," said Jer Ayler, president of Trihouse Inc., a payday-loan consultant in Las Vegas. A lawyer for AMG declined to comment.

More than 35 of the 300 companies making payday loans through the Internet are owned by American Indian tribes, said Frank Cotton, a payday-loan consultant in Atlanta. Tribes doing business with online lenders made about \$420 million in payday loans last year, or about 12,500 loans a month, he estimates.

Exact figures are unknown because tribes are required to disclose few details about commercial enterprises. At least seven federally recognized tribes own payday lenders, according to court filings and other documents, ranging from the 6,177-person Chippewa-Cree Tribe in Montana to the Modoc Tribe of Oklahoma, with 200 members.

"We don't want to brag," said Bill Follis, a former loan officer at a bank who has been the Modoc chief since 1974. "But it's good."

Some observers predict that the number of tribes with payday-loan operations eventually could climb close to the 400 that now have casinos. In the past 18 months, more than 1,000 payday lenders have expressed interest in cloning the strategy used at the Overland Park call center, said Mr. Ayler, the Las Vegas consultant.

All it takes to make a deal are a willing tribe and an eager payday lender. The lender usually incorporates on tribal land, agreeing to pay the chief a salary of a few thousand dollars a month, according to people familiar with the agreements. Such payments can balloon if the tribe has relationships with more than one lender, a common practice.

Most payday lenders have no physical presence on tribal land. To go into business with a tribe, they typically start making loans in the tribe's name from the lender's existing call center, according to industry consultants.

In October, Peg Calvird of Suffolk, Va., got a payday loan for \$600 from American Web Loan Inc. She came across the company while surfing online for a way to make her mortgage payment. The loan's interest rate was 300%, far above Virginia's legal limit of 36%.

Fine print at the bottom of American Web Loan's website said the company is part of the Otoe-Missouria Tribe of Indians, based in Red Rock, Okla. American Web Loan and tribe officials didn't return calls for comment.

Ms. Calvird, a 46-year-old computer-systems administrator, said she had no idea her loan came from an American Indian tribe. "It looked like any other website," said Ms. Calvird, who has paid off the loan.

"We are largely powerless to stop them," said Colorado Attorney General John Suthers, who has tried unsuccessfully since 2005 to force lenders owned by the Miami Nation of Oklahoma and the Santee Sioux Nation in South Dakota to stop making loans to Colorado residents.

In November, the Colorado Supreme Court ruled that the two payday lenders were protected from enforcement action as arms of American Indian tribes.

Sovereign immunity is becoming even more attractive as states crack down on alleged abuses in the traditional payday-loan industry. Seventeen U.S. states have capped interest rates on such loans or banned them entirely. Overall, payday-loan volume fell to \$38.5 billion in 2009, down 24% from 2007, according to Stephens Inc., an investment-banking firm in Little Rock, Ark.

Some payday lenders have tried to avoid interest-rate limits by incorporating in states with no maximum rates, such as Delaware and Utah, and then imposing the higher rates on borrowers throughout the U.S.

That practice suffered a defeat when Pennsylvania's highest court ruled in October that [Cash America International](#) Inc., the largest publicly traded payday lender by revenue, had to abide by the state's interest-rate and licensing rules even though the company is incorporated in Nevada. The possibility of similar defeats elsewhere is another reason for payday lenders to make deals with tribes.

A Cash America spokeswoman declined to say if the Fort Worth, Texas, company is interested in tribal deals.

Mr. Follis, the chief of the Modoc tribe in Miami, Okla., said getting into the payday-loan business has generated jobs that are a welcome addition to the tribal-owned cigarette store, recycling plant and 25,000-square-foot casino near Interstate 44.

Sitting in his office in a farmhouse dwarfed by the Stables Casino, with 546 slot machines and two restaurants, Mr. Follis wouldn't say how much money the tribe gets from payday loans or identify the lender it owns. Modoc officials have been approached by other payday-loan companies in the past six months, he said.

Asked where the tribe's payday-loan operation is located, Mr. Follis replied that he thinks "it's somewhere in Kansas."