



# LOUISIANA FINANCE ASSOCIATION NEWSLETTER

MAY/JUNE 2015

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our Special Guest Speaker will be

## Senator David Vitter



# Term limits helping reshape next Louisiana Legislature

Marsha Shuler, [mshuler@theadvocate.com](mailto:mshuler@theadvocate.com)  
June 24, 2015

At least one of every five Louisiana House and Senate members will be replaced when the next Legislature convenes in 2016.

Twenty-two of the 105 House members, by latest count, say they aren't running for re-election to that chamber in the fall. On the Senate side, nine of its 39 members are in the same situation.

Term limits have hit most of those legislators. While some are running for other offices, most are closing the curtain — at least for now — on elected office.

Between the House and Senate, 21 legislators have hit the maximum three, four-year terms they can legally serve in their current offices.

Only six of the 21 are seeking other elected jobs. Three representatives are going for the Senate. Another representative, Gordon Dove, R-Houma, is seeking to become president of Terrebonne Parish. Democratic Sen. Sharon Broome and Republican Rep. Joel Robideaux are running for the top spots in city-parish government in Baton Rouge and Lafayette, respectively.

Two-term Rep. John Bel Edwards, D-Amite, is running for governor, creating another open House seat to be filled in the fall elections.

The 15 term-limited legislators who are not as yet running for anything include six senators and nine representatives. Some have called it quits in the election arena, but others are waiting for another opportunity.

It's all part of the political ebb and flow every four years since the "three terms and you're out" law kicked in with the 2007 legislative elections.

That year, more than half of the House and 40 percent of the Senate could not seek re-election. Since then, the number of term-limited members has been smaller, but the numbers are climbing again, with another crest expected in four years.

Historically, many House members often look to move to the upper chamber, and this time around, it's no different.

Of the nine Senate seats that will open, seven are the result of term limits. One senator is running for statewide office, and one is retiring.

Both term-limited House members and those eligible to run again have their sights set on the Senate.

Broome's north Baton Rouge-based district is coveted by term-limited Rep. Regina Barrow and first-term Rep. Dalton Honoré, both Democrats.

"I have nothing to lose because I'm termed out," Barrow said. "I'm putting 110 percent of my effort into it. ... People who know me know I always run like I'm 10 points behind."

Barrow has close ties to Broome, for whom she once served as a legislative assistant.

"It's an open seat, and I've decided to run for it," Honoré said. "I figure I can accomplish a lot more with a smaller group of people to work with" in the Senate. "If I don't run now, when am I going to run?" he asked.

So far, Barrow and Honoré are the only two House members going head to head for a Senate seat.

Four other representatives have opted to forgo House re-election bids to go after open Senate seats.

*Continued on page 3*



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## Term Limits *Cont. from page 5*

Democratic Rep. Wesley Bishop is seeking Ed Murray's Senate seat in New Orleans. Murray is term-limited and is returning to his law practice.

Rep. Ledricka Thierry, a Democrat from Opelousas, wants Sen. Elbert Guillory's seat. Republican Guillory is running for lieutenant governor.

Republican Rep. Richie Burford, of Stonewell, is going after Sherri Buffington's northwest Louisiana Senate seat. She has completed three terms.

Republican Rep. Henry Burns, of Haughton, wants to follow Benton Republican Robert Adley, who says he's going sailing after serving in the Senate since 2003 and in the House for 16 years.

It's unusual for term-limited senators to seek open House seats, but it has been tried — both successfully and unsuccessfully — in the past. No senator has stepped up so far to declare an interest in a House seat, although Murray and Buffington have been mentioned as potential candidates.

House veterans try to parlay their legislative experience and connection with district voters to win spots in the upper chamber.

"I feel that the experience I have gained by serving in the House over the last 11 years will be very beneficial for Senate District 18 if I am elected," said Rep. Eddie Lambert, R-Gonzales, who wants to replace Jody Amedee, who cannot run because of term limits.

"My experience with the Louisiana House has prepared me for further work in the state Senate," Bishop said.

No representatives have lined up so far for the Senate seats in the toe of the Louisiana boot that are held by Sen. Ben Nevers, D-Bogalusa, and Sen. A.G. Crowe, R-Pearl River.

Nevers, a 68-year-old electrical contractor who was elected to the Senate in 2004 after one four-year term in the House, says he's not running for another office at this time.

Term-limited Rep. Harold Ritchie, D-Bogalusa, who sponsored the legislation that increased the tax on a pack of cigarettes by 50 cents, initially flirted with a run for Nevers' Senate seat — he had replaced

Nevers in the House — but decided no, saying he was headed home to help in a family-owned funeral home business. Republican Beth Mizell, of Franklinton, who ran a close race against Nevers four years ago, already has announced her candidacy.

Crowe won election to the Senate in 2008 and could have served another term but chose not to seek re-election.

But Crowe said that after serving two terms in the

*Continued on page 4*

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*Term Limits Cont. from page 3*

House and Senate, it was time to go home and spend more time with his family and devote more attention to his business. The 67-year-old businessman founded The File Depot, a company that now operates in seven states. "My work here is done," he said.

Reps. Greg Cromer and Kevin Pearson, both Slidell Republicans, have been mentioned as possible candidates for Crowe's Senate seat. But Cromer is running for re-election and eyeing a future run for mayor of Slidell, and Pearson said he'll run for re-election to the House. Former Rep. Pete Schneider, of Lacombe, and Slidell engineer Sharon Hewitt are already in the Senate race.

Republican Reps. Erich Ponti, of Baton Rouge, and Steven Pylant, of Delhi, also opted to step down before they were required to by law.

"About six or seven months ago, my heart and mind said, 'I've done my time, and it's time to enjoy life,' " Ponti, a 50-year-old contractor, told the House. He resigned from his seat Friday, effective immediately.

Term-limited Rep. Jeff Arnold, D-New Orleans, is supporting Democratic Sen. David Heitmeier's re-election with an eye on seeking that Senate seat in the future.

Also running for the Senate is House Appropriations Committee Chairman Jim Fannin, a Republican from Jonesboro whose name is on the bill that becomes the state's annual operating budget. Fannin was a Jackson Parish police juror who won his seat in the House in March 2003. He's now going after the Senate seat of Bob Kostelka, an 82-year-old Monroe Republican who likewise cannot run for re-election because of term limits. ■



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## Real Reason behind CFPB's New Payday Regs

*The Hill (06/02/15) Wise, Brian*

In a recent op-ed, senior advisor at the U.S. Consumer Coalition Brian J. Wise argued that the Consumer Financial Protection Bureau's (CFPB) new shorter-term/payday loan framework is not geared to benefit the consumer, but rather is oriented to ensure maximum profit for a company called Self-Help Enterprises and its CEO Martin Eakes. The op-ed stated that at first glance, the rule acts aggressively against payday-style loans, but in actuality is the end result of a campaign executed by Eakes to limit the ability of payday lenders to operate, thereby increasing the market share of his businesses. Wise asserted that the rule would make the CFPB, the Department of Justice (DOJ) and the Federal Deposit Insurance Corporation (FDIC) serve as fronts for pushing profits toward Self-Help.

The op-ed pointed out that Eakes' model is not much different from payday, but the loans are profitable because the businesses from which he lends are the largest recipients of taxpayer funds through the Community Development Financial Institutions (CDFI) fund – nearly \$300 million over the last 10 years. Eakes has relied on a group that he co-founded called the Center for Responsible Lending (CRL) to line his pockets and ensure his companies stay successful. Between 2008 and 2010, CRL spent nearly \$2.1 million on lobbyists in Washington.

Wise noted that Eakes makes no secret of his interconnected web of non-profit and for-profit providers. Self-Help Ventures, Self-Help Enterprises and his other companies are all used as moneymakers behind the front of CRL, and his most powerful asset, the CFPB. Eakes' connections at the CFPB extend as high as Steve Antonakes, who serves as the deputy director. Between the CFPB's forthcoming rule on short-term lending and Operation Choke Point (a plan designed by Mark Pearce, the first president of CRL and an Eakes ally), Eakes is ready to take down the short-term lending industry and replace it with his own products. There is simply no better way, the op-ed stated, to manipulate and control the competition for products than through the heavy hand of "independent" and unaccountable agencies like the CFPB.

"Eakes has not only terrorized the financial services industry, but American consumers as well, threatening to deprive them of the ability to access the products and services that they want and need," Wise stated. ■



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## Equifax Sees Subprime Originations Rising & Overall Delinquencies Declining

SubPrime Auto Finance News  
(06/04/15)

Equifax released its latest National Consumer Credit Trends Report, which indicated that the rate of severe delinquencies is the lowest in nearly a decade. The percentage of loans that are 60 or more days past due, or severely delinquent, stood at just 0.81 percent in April 2015, making it the lowest level since September 2005. The upward trend in performance can be attributed to the continued growth of the auto market. New originations through February reached 4.1 million, a 5.2 percent increase year-over-year.

More than 980,000 auto loans have been originated year-to-date to consumers with an Equifax Risk Score lower than 620, generally considered subprime. The average new loan issued in February 2015 was \$20,310, a 4.2 percent increase from February of last year. In addition, the average subprime loan amount was \$17,363. Finally, auto leasing has grown for both banks and finance companies. In April, banks held 973,100 leases while finance companies held 6.63 million, a 12.1 percent and 19.1 percent increase respectively. ■

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# Bankruptcy Questions and Answers

NOTE: This information is provided as a courtesy to our members and is not meant to be the provision of legal advice. Be sure to contact your company attorney to get legal advice on all collection and bankruptcy related matters.

1) What's the timeframe on when someone can file bankruptcy second time?

A Chapter 7 debtor cannot receive a discharge in a Chapter 7 if the debtor has received a discharge in a Chapter 7 case within 8 years before the date of the filing of a petition. A Chapter 13 debtor cannot receive a discharge in a Chapter 13 case if the debtor has received a discharge in a case filed under Chapter 7, 11 or 12 during the 4 year period preceding the date of the order for relief under Chapter 13. A debtor can still file a Chapter 13 case to obtain the protection of stay relief but cannot receive a discharge.

2) What are the creditor's rights when someone makes a loan and does not make first payment before filing bankruptcy?

If a consumer files Bankruptcy on a consumer debts aggregating more than \$650.00 to a single creditor for luxury goods or services incurred by an individual debtor within 90 days of the filing the debt is presumed to be nondischargeable and cash advances aggregating more than \$925.00 that are extension under an open end credit plan obtained by a creditor within 70 days of the filing the debt is presumed to be nondischargeable. An adversary proceeding has to be filed with the Court to have the debt deemed nondischargeable. It is not automatic.

3) Is there a timeframe a customer must wait before consulting an attorney about

bankruptcy after opening a loan?

No

4) What determines the bankruptcy chapter filed?

In a Chapter 7 case, means test, based on certain economic data, is conducted by the Court or US Trustees office at the time of filing. Section 707 provides for dismissal or with the Debtor's consent, a conversion to Chapter 11 or 13, on a finding that granting relief would be an "abuse" of the provisions of Chapter 7. Only the Court can make this determination.

5) Being listed as secured in ch 13 and customer to release collateral: Can we force them to release? & If collateral is not picked up can we still get paid in the plan?

No. Surrender does not mean surrender. If the debtor will not voluntarily turn over the security, a court proceeding will be required.

In a Chapter 13, the entry of the confirmation order lifts the stay on property the debtor proposes to

surrender. Prior to confirmation or in a Chapter 7 case, a Motion to lift stay must be filed.

6) Can a STAY be lifted against a co-signer in a Chapter 13 that we will not receive any \$ in plan, in order for us to collect from co-signer before the plan ends?

Yes

7) Should we be allowing customers to pay extension payments on accts which are in bankruptcy?

Debtors can make voluntary payments any time they want to. A creditor is prohibited by virtue of the stay order in bankruptcy to request any payments from the debtor.

8) Are we allowed to speak/mail to customer paying outside the plan if they are delinquent before having to result in hiring an attorney to file a motion for lift of stay?

If a debtor is not making proposed payments outside the plan, a creditor cannot contact the debtor but may contact the debtor's attorney to inform them of the failure to make payments. The debtor's attorney may give approval to contact the debtor. Absent the authorization to contact the debtor by the debtor's attorney, a motion to lift stay to seize the security would have to be filed.

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