

The Morning News

Local News for Northwest Arkansas

Print Page

Payday lending law argued before Supreme Court

By [Rob Moritz](#)

THE MORNING NEWS

LITTLE ROCK -- The law regulating the payday lending industry in Arkansas should be stricken as unconstitutional because it allows companies to make loans to consumers at interest rates that exceed the state's 17 percent usury limit, a lawyer for opponents of the law argued Thursday before the state Supreme Court.

"This act violates the constitution and is nothing more than an effort to create an exemption to allow short-term loans at exorbitant rates of interest," said Todd Turner, attorney for opponents of the 1999 Arkansas Check Cashers Act.

A lawyer for the state board that regulates payday lending operations in Arkansas told justices the case should not be before the court because it seeks a declaratory judgment without presenting evidence

Tom Thrash, representing the State Board of Collection Agencies, also denied the law allows interest rates higher than the state usury rate, and said several companies that charged the higher rates have been sued and shutdown.

"There is nothing in the act that is precluding the attorney general from prosecuting cases that are in violation of usury," Thrash said. "There is nothing in the act that gives anyone a defense of the usury claim."

Opponents of the law asked the state Supreme Court to decide the constitutionality of the 1999 Check Cashers Act earlier this year after a Pulaski County circuit judge ruled the act was constitutional.

Thursday's hearing in the case was the third before the high court.

In 2001, the Supreme Court ruled that the Legislature in passing the law made an "invalid attempt to evade the usury provisions of the Arkansas Constitution." The court, however, did not rule on the constitutionality of the act.

In January, the high court, in a separate ruling, said the Check Cashers Act did not give "blanket protection" to companies that violate the state usury law.

After the oral arguments Thursday, Thrash said striking the law would deregulate the state's check-cashing industry in the state and cause problems.

"They would have no limitation, no regulation and no restrictions whatsoever," Thrash told reporters. "If you keep the act in place, these checking industries and business have restrictions and limitations that are regulated by the State Board of Collection Agencies."

Turner said the deregulation argument was a red herring.

"There was no problem at all before 1998 when these places started popping up," Turner said. "There were two and three at a time and the attorney general went after them.

"The practice is illegal and the Supreme Court has said it is illegal, and whenever one pops up the attorney general sends them a letter and shuts them down. It's not a problem."

Earlier this year, Attorney General Dustin McDaniel issued cease-and-desist letters to payday lender operations in the state, accusing them of violating the state's usury law set by the state constitution. The attorney general demanded the practice stop and that outstanding debts be forgiven.