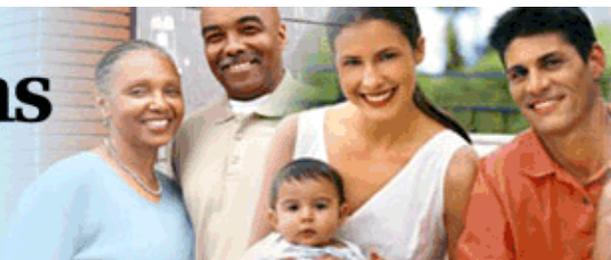


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THE ARKANSAS LEADER

TUESDAY, NOVEMBER 11, 2008

EDITORIAL >>Cutting off the usurers

If ever the legislature enacted a law that was unconstitutional on its face, it was the check-cashers law that was passed and signed into law by Gov. Mike Huckabee in 1999. Last week, the Arkansas Supreme Court delivered the coup de grace. Unanimously, the justices ruled that it violated the Constitution's prohibition of usury.

The law had bounced around the courts for nine years while hundreds of companies accumulated vast profits off the travails of the poor. The Supreme Court signaled repeatedly that it would hold the law unconstitutional but on issues that were tangential to the question of whether various fees collected from debtors were in fact interest, so the payday lenders continued to make loans and

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charge more than 500 percent interest. Finally, a lawsuit placed the issue squarely before the court and the justices said again what the court had held nearly 60 years ago.

Whatever a lender wants to call it, any fee added to a loan principal is interest. Seventeen percent is all that a lender can charge.

How is this for forceful language? “We hold that the act, in its entirety, clearly and unmistakably conflicts with our Constitution and is unconstitutional.” Those were the words of Justice Paul Danielson writing for the full court.

That should settle it once and for all, right?

Maybe not. Acting on the Supreme Court’s tangential rulings early this year, Attorney General Dustin McDaniel forced most of the lenders to close shop, but from 55 to 135 of them continued to operate, many of them in this area. They are branches of financial institutions headquartered in states with more permissive laws. They maintain that they do not have to obey the Arkansas Constitution but only the laws of the state where they are incorporated or else they claim that their association with federally chartered banks exempts them from any restrictions imposed by the states.

So the Supreme Court’s clear and direct mandate may prove meaningless for the moment. The laws of South Dakota permit its corporations to prey on the needy people of our poor state. Does that sound like dependable legal doctrine?

It may require still another lawsuit to settle those questions. The cat had only nine lives.

POSTED BY THE LEADER AT 11:04 PM 

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