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Payday lenders remain open

JOANNE BRATTON • BULLETIN STAFF WRITER • NOVEMBER 14, 2008

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Payday lending stores remain open in Mountain Home, even after the Arkansas [Supreme Court](#) ruled last week that a 1999 act is unconstitutional because it allows lenders to charge interest above the limits set by law.

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Mountain Home's two payday lending stores, First American Cash Advance and Payday Money Store, remain open. Two other stores in Mountain Home surrendered their licenses in April, after Arkansas [Attorney General](#) Dustin McDaniel ordered payday lenders to stop charging high interest rates for loans or risk being sued by the state.

Officials with the attorney general's office say the ruling has no direct impact on its payday lending investigation or lawsuits.

"Currently, based on the information that we have, every single licensed payday [lender](#) has closed its doors," said Kathy Roche, spokesperson with the attorney general's office. "There also are some

nonlicensed entities that we have not entered into litigation with but are in discussions right now about the legality of their operations."

The attorney general's office has filed lawsuits against several payday lending companies, but not against



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Cash advance stores r Arkansas Supreme Co check-cashing act unc Home have out-of-stat operates in accordanc Pieper)

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stores in Mountain Home, according to the attorney general's office. The attorney general's office is in discussions with the two Mountain Home stores about their [business](#) models, according to the office.

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The ruling does not affect Payday Money Store, because it conforms with Arkansas law, according to a company statement. The store operates under the Mount Rushmore Loan Company of Sioux Falls, S.D. and is regulated by that state's division of banking, according to the statement.

The company also states that the services it offers are promissory notes and meets Arkansas law, which allows parties to a contract to select the laws of another state to govern their contract or transactions, according to the statement.

A number for the general counsel of First American Cash Advance, headquartered in Georgia, rang busy Thursday.

The Arkansas Supreme Court ruling was made after the case had come before the court for the third time on appeal.

The claim originally was brought by Sharon McGhee against the Arkansas State Board of Collection Agencies and its board members, alleging all transactions under the check-cashers act violated the 17 percent usury provision of the state constitution.

The ruling states the fees charged by the company constitute interest and the act allows transactions above the limits set by state constitution.

Some say the ruling eliminates state oversight of check-cashing and customers could pay higher fees than before.

"There will be no one who will regulate the activities," said Peggy Matson, executive director of the Arkansas Board of Collection Agencies, Check-Cashers Division. "The problem we see for Arkansas consumers who don't have bank accounts and who rely on check-cashers to cash [payroll](#) or government checks is they still may find someone to cash them, but there will be no limit on fees."

Matson said the act also had required companies to post the fee amounts charged to the customer.

A deferred-presentment transaction, or payday loan, is a transaction in which the customer writes a check, which includes the amount of cash to be advanced to the customer, plus a service fee, according to a description of the transaction in the ruling.

The company advancing the funds agrees not to cash the check until the due date. On the due date, the check can be cashed or the customer can renew the transaction by paying another service fee.

If a customer wrote a check for \$100, incurring an interest charged of ten percent, plus a \$10 fee for a 31-day loan, it would result in an APR of 294 percent, according to the ruling.

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