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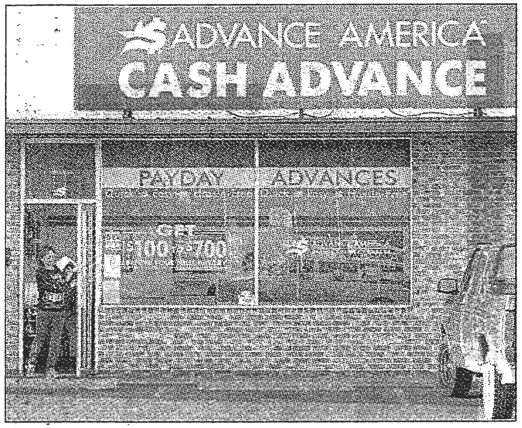
Check lenders win reprieve



Leader file photo

Consumer groups say interest rates extended to those who borrow payday advances can mount as high as 1,700 percent.

IN SHORT

The Supreme Court sent a suit aimed at driving the high-interest payday lenders out of business back to the judge who originally dismissed it.

By JOHN HOFHEIMER
Leader staff writer

Payday lenders and their opponents both see the cup half full in light of Thursday's state Supreme Court decision remanding a suit against the state Financial Services Board back to the court of Circuit Judge Barry Sims.

The suit in essence pits some taxpayers against the Arkansas Board of Collection Agencies and its board members, claiming that the Arkansas Check Cashers Act of 2001 is unconstitutional.

The lawsuit sought to prohibit the board from licensing check cashers and to find the Check Casher's Act unconstitutional. (See editorial, page 10A.)

Last August, Sims dismissed the class action lawsuit, claiming the appellants failed to exhaust administrative remedies and failed to demonstrate standing as taxpayers to bring the suit.

Payday lenders typically make two-week loans to customers at annual interest rates starting at about 350 percent and running to 1,700 percent or higher, according to consumer groups.

A high credit card interest rate, by contrast, would be about 21 percent.

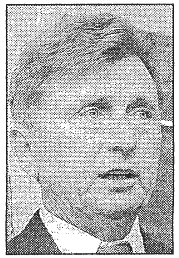
Opponents of the payday advance lenders and check cashers say the businesses flock to neighborhoods of low-income people likely to need ready cash without a lot of sophistication about their other options.

"I wouldn't say it's a setback," said Hank Klein, a founder of Arkansans Against Abusive Payday Lending of the decision. "It's not all we hoped."

"This was a win for us," said Jim Mead, president of Arkansas Financial Services, the check cashers' association, based in Jonesboro.

"They were asking the Supreme Court to declare us unconstitutional," he added.

Mead said the original plaintiffs are wrong in characterizing the Financial Services Board as being financed through taxpayer money. "We finance our selves," he said.


Beebe

"What interested me the most is the judge that wrote the dissenting opinion. He feels Judge Sims was correct in dismissing the suit.

"If you don't get defeated, it's a victory," said Mead. "Not just a victory for financial services, but a victory for the people. They need a place to go for emergency purposes."

He said they need a place to get money for rent or other needs when they run short.

"This is the only source in the nation," said Mead. "There is no small money available."

"If they have a job and bank account, we'll lend to them," he said.

Attorney Gen. Mike Beebe's office defended the Board of Collection Agencies as a state agency, ironic in light of the fact that in 2001, Beebe was one of only two state senators to vote against the law allowing the payday lenders to operate and charge what opponents call usurious interest rates.

Klein said that in sending the case back to Sims, the court rejected all of the state's arguments that the appellants had no standing and no case.

"Judge Barry Sims has a lot of guidance now," said Klein. "It's disappointing that he didn't settle it to begin with."

He said that when Sims rules on the case next time, it almost certainly will go to an appeals court and end up back in the state Supreme Court a year from now.

"The Legislature just needs to solve this case," said Klein. "It's real clear (they charge) usurious rates."

In response to a letter from the Consumer Federation of America, Beebe said his office had filed a lawsuit against two payday lenders using "the façade of providing internet services" and had recently begun investigating 18 payday lenders and two companies, the Mount Rushmore Loan Company and the Dakota Loan Company purportedly making "deferred presentment" loans in Arkansas from out of state.

Beebe told the federation that it's up to the state Legislature to repeal the enabling law or pass a new one.


Steele

State Sen. Tracy Steele is putting together some legislation to prohibit high-interest loans across the board, keeping the so-called payday lenders from mutating to a new form each time they are stoppped from lending.

"If you make usurious loans, bad things should happen to you," Klein said.