

The Dow Jones Industrial average closed at 10,810.91.
-45.95

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State panel: Lender's insurer not liable for lawsuit award

BY DEMOCRAT-GAZETTE STAFF
AND WIRE REPORTS

A state board on Wednesday denied a claim against a payday lender's insurance company, and a lawyer said the agency was sending the wrong message to consumers.

The Arkansas Board of Collection Agencies denied a claim seeking money from the Ameri-

can Manufacturers Mutual Insurance Co. The company insured Americash, a payday loan company that lost a lawsuit filed by a group of consumers.

The payday lender went out of business at the time of the lawsuit, Arkadelphia attorney Todd Turner said, so a claim was filed against the insurer.

The board agreed with the insurer's attorney, Paul Morris, that the state's check cashers act does not hold insurance companies liable for such claims.

The check cashers act, passed in 1999, says fees charged for payday loans "shall not be deemed interest." If considered interest, the fees would violate the Ar-

kansas Constitution, which says loans with interest rates above 17 percent a year are void.

If the fees on payday loans were considered to be interest, they would often exceed 300 percent annually.

A typical payday loan works like this: The borrower writes a

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Lawsuit

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check for \$400, for example, and receives a loan of \$350. The payday lender agrees not to cash the check for two weeks. The \$50, which payday lenders call a fee, on a \$350 loan for 14 days is the equivalent of a 373 percent annual interest rate.

The borrower often does not have \$350 to buy back the check in two weeks. So he pays another \$50 to keep the check from being cashed. Some borrowers caught up in this cycle have paid two or three times the amount of their original check.

Turner first brought one of the cases before the collections board in May. The board said they would reach a decision in 90 days, but didn't rule until Wednesday.

"Here we are in December," said Mark Johnson of the AARP's state office. "I wish to point out on behalf of many consumers that in many ways justice delayed is justice denied. These people's lives and monies are tied up and they may have to go back to circuit court."

Turner filed a class-action lawsuit in Pulaski County Circuit Court in 2001 against Americash, claiming the company charged its customers unfairly high interest rates. Shortly after the suit was filed, Americash ceased its operations in the state.

Turner's clients received a judgment in 2002 of more than \$886,000 in the case, but the pay-

day lender was unable to pay the judgment. Turner then sought a claim against American, the company's insurer.

Turner, who has represented consumers in other payday loan cases, said the ruling could scare off future claims against the lenders.

"If we can't collect against these bonds, who will want to go after these companies?" Turner said after the hearing. "They'll be able to operate with immunity."