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State's Top Court Hears Payday-Lending Challenge

By Jason Wiest

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LITTLE ROCK — An attorney for a group of consumers asked the Arkansas Supreme Court on Thursday to declare the state's Check Cashers Act unconstitutional because it allows payday lenders to charge triple-digit interest rates on loans.

Adopted by the Legislature in 1999, the act allows payday lenders to make loans with interest rates above the state's 17 percent usury limit, Arkadelphia attorney Todd Turner argued before the high court.

Plaintiffs asked the court to rule that the fees collected are actually interest, which would exceed the usury limit and make the act unconstitutional.

The court did not rule in the case.

Turner filed suit in 2003 challenging the constitutionality of the seven-year-old law, in November that year, Pulaski County Circuit Judge Barry A. Sims ruled the act was constitutional and that the State Board of Collection Agencies, which licenses and regulates the lenders, was not subject to a claim for illegal exaction for its licensing fees.

Sims said money the board collects is not from taxes.

Turner appealed Sims' ruling.

Tom Thrash, an attorney for the board, argued Thursday that Turner's clients did not exhaust administrative remedies set forth in state law before appealing to the state Supreme Court.

The plaintiffs should have raised the issue with the State Board of Collection Agencies, he said. Courts have ruled that if there's no controversy between two different parties, the case must first go to a state agency, mainly to ensure the efficiency of the justice system, he said.

But justices appeared skeptical about proceeding in such a manner, saying it would mean asking the board to declare its own actions unconstitutional.

Hank Klein, founder of Arkansans Against Abusive Payday Lending, said 265 payday lenders and 30 check-cashing institutions operate in Arkansas. All are licensed by the board for an initial





fee of \$500 and \$400 each year.

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