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UPDATED: AG McDaniel Orders Payday Lenders To Cease Operations Or Face Action

By George Waldon

3/18/2008 9:49:01 AM

The state attorney general's office on Tuesday mailed letters to 156 businesses around Arkansas ordering them to cease and desist payday lending activity.

"I am demanding that these payday lenders close their doors permanently," said Attorney General Dustin McDaniel, who announced the action at a press conference Tuesday morning.

The letter also demands that the businesses void current and past-due payday loans, end collection activities on payday loans and stop making any new payday loans.

"Be forewarned that your failure to comply with this demand will likely lead to litigation to enforce the laws of Arkansas," the letter states.

"We are prepared to take them to court," McDaniel said.

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Payday lenders were given an April 4 deadline to respond in writing to the attorney general's letter. The letters were mailed to all known payday lenders licensed by the state board of collection agencies

"If you violate the laws and constitution of this state, it doesn't matter if you have a license hanging on your wall," McDaniel said.

After coming under fire from consumer groups, payday lenders successfully helped create the Arkansas Check-Cashers Act of 1999 that legitimized a business previously considered a blatant violation of the state's constitutional limit on usury.

The Arkansas Supreme Court subsequently struck part of the law as unconstitutional, and circuit courts around the state have repeatedly found that the "fees" charged for short-term loans were tantamount to usurious interest of 300 percent or more.

"Payday lending is not a new issue for this office," McDaniel said.

Former Attorney General Winston Bryant began steps to curb payday lending during his tenure. But the AG's office

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adopted a passive stance under his successor and now U.S. senator, Mark Pryor, who had accepted campaign contributions from payday lenders.

The attorney general's office took minor steps against payday lenders under Pryor's successor, Mike Beebe, who is now governor.

McDaniel pointed to two recent opinions by the Arkansas Supreme Court for his new aggressive stance toward the issue of usury and payday lending. Those state opinions described the practice of payday lending as "unconscionable and deceptive" and freed up the bonds posted by licensed payday lenders to pay court judgments.

"It's my job to enforce the law, and I look forward to the challenge," McDaniel said.

In a statement, the Arkansas Financial Services Association said, "Singling out one source of consumer credit, when other choices are actually more expensive, does not resolve the need or demand for the product in the marketplace."

Complete Statement from the AFSA

We respect the office and responsibilities held by the Attorney General of Arkansas. However, the demand for the payday advance industry exists because we offer our customers a product that is more transparent and less expensive than the alternatives. The hard reality is that many hard-working, well-informed Arkansans sometimes fall short of cash between paydays. Efforts to prohibit or limit the supply of products in this market hurt consumers.

Arkansans choose payday lending because it costs less than paying bank and merchant overdraft fees and late payment fees on credit cards and utilities, and is preferable to costs

and fees or losing collateral to pawn shops. Across the country where consumer choice for payday advances has been limited, other fees have risen, bankruptcies have increased, competition in the marketplace has been reduced, and many consumers have been driven to the Internet or off-shore for higher priced payday advances. Singling out one source of consumer credit, when other choices are actually more expensive, does not resolve the need or demand for the product in the marketplace.

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