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Ark. Official Goes After Payday Lenders

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By ANDREW DeMILLO, Associated Press Writer
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LITTLE ROCK, Ark. -- Arkansas' attorney general moved Tuesday to shut down payday lending companies in the state, saying the fees they charge harmed the working poor and violated the state constitution's ban on high-interest loans.

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Attorney General Dustin McDaniel said his office had sent letters to about 60 companies that run payday lending services, asking them to shut down immediately and void customers' debts or face the likelihood of lawsuits.

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"It is the position of this office that you must cease and desist your payday lending practices," McDaniel said in the letters mailed Tuesday morning. He added that failure to comply "will likely lead to litigation to enforce the laws of Arkansas."

McDaniel based his actions on opinions issued last month by the state Supreme Court. He said they make it clear that the high interest rates charged by payday lenders violate the state constitution and the Arkansas Deceptive Trade Practices Act.

The Arkansas constitution has an unusual provision that bars lenders from charging an annual interest rate higher than 17 percent.

The state's Check Cashers Act, passed in 1999, had allowed payday lenders to operate by specifying that their fees "shall not be deemed interest." But the Supreme Court ruled that the act did not give lenders "blanket protection" from the constitutional interest limit.

Jamie Fulmer, a spokesman for South Carolina-based Advance America, the nation's largest payday lender, said that the company had not yet received McDaniel's letter, and he disputed the contention it was doing anything illegal.

"We're a business that is specifically licensed by the state of Arkansas and we operate in full and strict compliance of the laws," he said.

Cheney Pruett, president of the Arkansas Financial Services Association, said singling out payday lenders would hurt consumers, adding that "hardworking, well-informed

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Arkansans sometimes fall short of cash between paydays."

In a typical payday lending transaction, someone wanting a loan goes to a check-cashing company and writes a check. The company gives the person cash, minus a fee, and agrees not to cash the check until his or her payday. In effect, the borrower gets a short-term loan for a fee.

A person writing the lender a check for \$400, for example, typically would receive \$350. If the loan was for two weeks, the \$50 fee charged on the \$350 loan equates to 371 percent annual interest, well above Arkansas' 17 percent limit.

"These businesses have made a lot of money on the backs of Arkansas consumers, mostly the working poor," McDaniel said in a statement. "Charging consumers interest in the range of 300 to 500 percent is unlawful and unconscionable and it is time that it stops."

McDaniel said his office was prepared for a "long and difficult" legal fight. He also said some businesses would try to restructure themselves to avoid the law.

In December, McDaniel had settled lawsuits that accused businesses of offering illegal payday loans disguised as instant cash rebates for Internet service. The 14 businesses agreed to close and pay \$1 million to settle the lawsuits.

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