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McDaniel to Arkansas payday lenders: Shut down or face lawsuits

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Arkansas Attorney General Dustin McDaniel said

Tuesday he would ask payday lenders throughout the state to shut down immediately or face the likelihood of lawsuits from his office.

McDaniel said he was sending letters to about 60 companies that run 156 payday lending firms in Arkansas. He expects written responses from the companies no later than April 4.

"It is the position of this office that you must cease and desist your payday lending practices," McDaniel said in the letters. "In addition, I hereby demand you void any and all current and past-due obligations of your borrowers and refrain from any collection activities related to these payday loans.

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

McDaniel based his actions on two recent state Supreme Court opinions that he said in his letter make it clear that the high interest rates charged by payday lenders violate the state constitution and the Arkansas Deceptive Trade Practices Act.

According to the constitution, no one should charge an interest rate higher than 17 percent. But the state Check Cashers Act that allows payday lenders to operate says a fee paid for holding a check written before the date it is to be cashed "shall not be deemed interest."

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The Supreme Court opinions in two separate cases addressed this conflict. Justices said the Check Cashers Act, passed by the state Legislature in 1999, did not provide “blanket protection” for going over the constitutional cap. In the other case, the court ruled that a customer can collect the surety bond from a payday lender accused of violating the state constitution by charging more than 17 percent a year to borrow money.

In payday lending practices, typically someone wanting a loan goes to a check-cashing company and writes a check for a certain amount. The company then agrees not to cash the check for a specified time — often waiting until the check-writer’s payday, when money can be deposited to cover the amount of the check.

Through a payday loan in Arkansas, a customer writing a check for \$400, for example, typically would receive \$350. The lender would keep the check for about two weeks without cashing it, thereby allowing the customer time to buy back the check.

The \$50 charge on the \$350 loan for 14 days equates to 371 percent 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 released by his office. “Charging consumers interest in the range of 300 to 500 percent is unlawful and unconscionable and it is time that it stops.”

For more information see Wednesday's *Arkansas Democrat-Gazette*.

This article was published Tuesday, March 18, 2008.



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