

Payday lenders must shut down or face lawsuits, AG says

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By Jason Wiest

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LITTLE ROCK - Payday lenders throughout Arkansas must shut down immediately or face the likelihood of lawsuits, Attorney General Dustin McDaniel said Tuesday.

McDaniel said he sent letters to about 60 companies that run 156 payday lending outlets in Arkansas, telling them to cease and desist their practices.

"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," McDaniel wrote.

The attorney general said he made the demand on the basis of two recent opinions in which the state Supreme Court found the high interest rates payday lenders' charge on short-term loans "unconscionable" and deceptive trade practices prohibited by the Arkansas Deceptive Trade Practices Act.

"These businesses will not disappear overnight," the attorney general said during a news conference Tuesday. "Some will restructure themselves to avoid the law, some will operate without a license, making it more difficult for us to find them. Some will fold and some will fight us in court."

McDaniel requested written responses from the companies no later than April 4, but said he expected a "long and difficult" legal fight to close the door on the industry in Arkansas.

The next step for payday lenders in Arkansas is uncertain, according to Cheney Pruett, spokesman for the Arkansas Financial Services Association, an industry trade group.

"It's a little too new for us to respond as to what we will or will not do," said Pruett, who's father, Douglas Dwight Pruett, owns Cash Now of Arkansas LLC, a payday lending operation with seven locations in the state.

Cheney Pruett defended the industry, saying there is a demand for it among people who sometimes fall short of cash in between paydays.

An opposition group, Arkansans Against Abusive Payday Lending, is developing a payday loan alternative - a short-term loan at a reasonable interest rate - that it will shop around to banks and other financial institutions, spokesman Michael Rowett said Tuesday.

The state constitution's usury provision prohibits anyone from charging more than 17 percent interest. But payday lenders have said the triple-digit interest rates they charge are allowed by the 1999 Check Cashers Act, which says a fee paid for holding a check written before the date it is to be cashed "shall not be deemed interest."

Arkansas' highest court addressed the conflict in two opinions this year.

Justices said the 1999 law did not give payday lenders "blanket protection" to exceed

the usury limit. Additionally, in both cases, the court ruled that customers can collect the surety bond from a payday lender found to have violated the state constitution's usury limit.

Todd Turner, an Arkadelphia lawyer who represented the plaintiffs in both cases, said McDaniel's declaration Tuesday was necessary to force the issue.

"It's been a month since that ruling, and none of them have stopped doing business, so I don't know that those rulings were going to force the payday lenders out," Turner said. "That's why I think it's appropriate that the AG now is saying, 'If you're committing usury, we're coming after you.'"