THE ARKANSAS LEADER

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Attorney Gen. Dustin McDaniel Tuesday mailed cease-and-desist orders to 156 payday lending outlets, eight of them local.

McDaniel ordered the lenders to stop making the high-interest loans and to stop collecting payments on the loans they already have out.

“Make no mistake, this letter is not a magic wand or a silver bullet,” McDaniel said. “These businesses will not disappear overnight. Some will restructure themselves in an attempt to avoid our law. Some operate without a license, making them harder to find. Some will fold, and

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some will fight us in court. The truth is that this will be a long and difficult effort. However, it is the right thing to do."

The makers of small, usurious loans have proven quite resilient, morphing into new guises when frustrated legally in the past, and they have lobbied successfully, persuading key lawmakers to bottle up initiatives in committee that might otherwise have legislated them out of existence.

A GREAT DAY

"It's a great day in Arkansas for consumers," said Hank Klein, a founder of Arkansans Against Abusive Payday Lending. "I think the attorney general is certainly taking a great stand there. This helps a lot of consumers caught in a trap.

Klein said that the lenders were unlikely to goquietly. "They didn't in North Carolina and didn't in Georgia, but the handwriting is on the wall and the attorney general said he would sue them (if they don't stop.)

"It's wrong, against the (state) Constitution, and I'm very happy Dustin McDaniel agrees and has taken this strong stand."
McDaniel said his office, already stretched thin by its responsibilities, is prepared for a massive legal undertaking, spending thousands of hours to deal with the negotiations and inevitable legal challenges.

Typically, payday lenders advance loans of say $300 for two weeks with a payback of $350, which is an annual yearly percentage of more than 300 percent in a state that has a 17 percent usury cap.

McDaniel said that just to pay back the original $300 loan could cost borrowers thousands of dollars in fees and interest.

According to a 2005 study by the Center for Responsible Lending, it is estimated that payday lenders cost Arkansas consumers $25 million in fees and excessive interest each year, the attorney general said.

LOCAL LENDERS

Letters were sent to 30 offices of Advance America, including one in Jacksonville and one in Searcy. Also in Searcy, Payday Now received notice. Also sent cease-and-desist letters were Cash Mart, Inc. in Gravel Ridge; Cash Now of Arkansas, LLC of Cabot and Cash Now of Arkansas of Sherwood. Another Sherwood store, Partners Check Service, was sent a letter. Simpson’s Buy and Sell, LLC of Lonoke was sent a letter.

“I signed these letters yesterday and they were placed in the mail this morning,” McDaniel said.

On the strength of a pair of state Supreme Court rulings over the last three months, McDaniel said, “To the extent that these 156 businesses may have relied upon licensure under the Arkansas Check-Cashers Act of 1999 as a defense against claims of usury and unconscionable trade practices. I believe . . . the practice of charging hard-working consumers 300 percent and up on short-term loans is illegal and immoral."

LOANS DECEPTIVE

In the last two months, the Arkansas Supreme Court issued two opinions regarding "payday" lending operations that are licensed to do business by the State of Arkansas, and in each case, the court found that the practice is unconscionable and deceptive, in addition to being prohibited by the Arkansas Constitution.

"While we have been investigating these practices for some time, these rulings were the impetus for the action we have begun today," McDaniel said.

The Arkansas Board of Col-lection Agencies has licensed these 156 payday lenders. The board's executive director, Peggy Matson, was out of town this week and unavailable for comment.

McDaniel's office in the past few months resolved lawsuits against nine payday lenders that resulted in those lenders leaving the state and will eventually result in consumers recovering $1 million in restitution and also not having to pay back $5 million in outstanding loans.

INDUSTRY RESPONDS

The payday lenders issued a statement after McDaniel's press conference and defended their lending practices. Cheney Pruett, president of the Arkansas Financial Services Association, said, "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."