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Local payday lenders open despite AG's orders

By DANIEL DOYLE and ANDREW DeMILLO
LOG CABIN DEMOCRAT AND ASSOCIATED PRESS

Internet search engine queries for "cash advance Conway, AR" show results for more than a handful of payday lender locations which Arkansas Attorney General Dustin McDaniel says are operating unconstitutionally.

Local spokesmen for two national firms conducting business here, Advance America and First American Cash Advance, said Thursday that their Conway offices were still operating, despite McDaniel's letters sent earlier this week to 60 companies which run 156 payday lending locations in the state.

McDaniel has moved to shut down payday lending companies in Arkansas, saying the fees they charge hurt the working poor and violate the state constitution's ban on high-interest loans.

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

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A spokesman for Advance America, the nation's largest lender of its kind, which operates 30 payday lending businesses in

Arkansas, said Thursday that the South Carolina-based company doesn't plan to close its doors at Harkrider and Oak streets or anywhere in Arkansas, and that he thinks his company can "work with the attorney general's office" toward resolving the issue. McDaniel told the Associated Press on Wednesday

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that his office has prepared for a litigious fight that would end the "illegal and immoral" high-interest rates charged by the companies.

"This may be something that will be battled for years in court, but it's the right thing to do," McDaniel said.

Jamie Fulmer of Advance America said over the phone Thursday afternoon, "It's not our intent to shut our doors, and we look forward to working with the attorney general's office in hopes of addressing his concerns and resolving this matter."

"We believe that we operate as a licensee of the state," Fulmer said. "We believe we operate in full and strict compliance with all

state laws that apply to our business. We're certainly regulated by the state. As such, that regulator oversees all aspects of our business including the rates and fees that we charge, and we're subject to regular audits."

Fulmer has said that "no determination" proving that his company violates state law "has been issued by any Arkansas court," and that Advance America is "troubled by the apparent lack of our due process." McDaniel says his actions this week were based on two recent state Supreme Court opinions which show that high interest rates charged by payday lenders violate the state constitution and the Arkansas Deceptive Trade Practices Act.

According to the state constitution, lenders shouldn't charge an interest rate higher than 17 percent, even though the state Check Cashers Act, which allows payday lenders to operate, orders that fees paid for holding a check written before the date it is to be cashed "shall not be deemed interest."

However, justices recently ruled that the Check Cashers Act, passed in 1999, did not provide "blanket protection" for going over the constitutional ceiling. And in both Supreme Court cases cited by McDaniel, the court ruled that customers can collect the surety bond from a payday lender accused of violating the state constitution when the lender charges 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, which is well above Arkansas' 17 percent limit.

McDaniel said that his office mailed out the letters Tuesday morning, and the attorney general said he hopes the payday lending firms would comply, though he expects many will try to restructure their businesses in an attempt to avoid a court battle.

Cheney Pruett, president of the Arkansas Financial Services Association, said Wednesday that singling out payday lenders would hurt consumers.

"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," Pruett said.

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The attorney general announced last month his office was considering pursuing legal action against payday lending firms, adding that the Supreme Court rulings had removed the industry's "last bastion of legitimacy." A spokesman for McDaniel's office said the attorney general has not given any instructions to the Arkansas State Board of Collection Agencies, which regulates payday lenders, on whether it should continue licensing the businesses.

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Posted by: [calicocsr0305](#) at Mar 21, 2008 at 11:48:48 AM

This may be the fact that they are charging such a high interest rate but as anyone who has got not so good credit. These places will give a payday loan where a bank will not give a loan at all and i do not see anyone attempting to help pay the bills that these checks are wrote for. Some of us have no other choice but to use these places and if you close them then you are damaging the ability of some people to pay their bills on time and keep utilities on or food in their house.

Posted by: [esmith4145](#) at Mar 21, 2008 at 12:45:40 PM

I don't see how it's any off the AG's business. If people are willing to use them then they should be allowed to. There's no question that people will be walking a thin edge by doing that but it's their money and in an emergency it might be their only avenue.....

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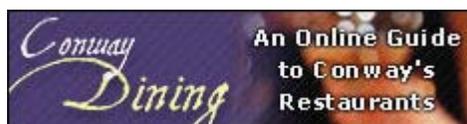
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