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TL Area payday lenders remain open despite order to shut down

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Bulletin Staff Writer

Payday lenders in the Twin Lakes Area remain open, despite an Arkansas Attorney General's order to close earlier this month.

On March 18, Arkansas Attorney General Dustin McDaniel sent a letter to 156 licensed payday lending stores in the state, saying they were violating state usury limit laws, must stop their payday lending practices and void current and past-due obligations of borrowers. Those who do not comply could be faced with a lawsuit, he said.

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In Mountain Home, all three cash advance stores remained open, which include First American Cash Advance, Cash Advance of Mountain Home and Mountain Home Quick Cash.

Messages left with officials of First American Cash Advance and Cash Advance of Mountain Home were not returned Friday. A woman who was identified as the manager at Mountain Home Quick Cash said they were "conducting business as usual until otherwise" and hung up the phone.

In the letter, McDaniel asked payday lenders to send a response no later than April 4 informing him of whether the business would comply with his demand.

The attorney general's office has not made a decision about when lawsuits will be filed if businesses do not comply, but anticipated it would be fairly soon, said Justin Allen, chief deputy attorney general.

Allen said the office has heard from about 20 businesses so far, some of which have agreed to shut down, he said.

State officials believe that payday lending stores are breaking state law by offering loans that are above 17 percent interest rate.

Payday loans involve short-term loans where someone writes a check to the check-cashing company for more than the amount borrowed. Customers who are approved for loans write a personal check for the loan amount plus a fee. If the customer pays off the loan before the date the personal check is to be cashed, the personal check will be returned. If not, the company will deposit the personal check, paying the loan.

In the letter, McDaniel cited two Arkansas Supreme Court opinions which state that payday lending is deceptive and prohibited by Arkansas Constitution, he said.

Payday lenders are licensed to operate under the 1999 Check-Cashers Act, which allows some businesses to evade the law that limits interest to 17 percent by stating they are charging fees and not interest, according to Arkansans Against Abusive Payday Lending, a coalition that works to eliminate abusive payday lending in the state.

Some payday lending stores have said they do not need to comply because they are not headquartered in Arkansas, Allen said.

"We don't buy that," Allen said. "We think the law controls anyone who is operating a facility within Arkansas, and we also believe that applies to those who give loans on the Internet."

Allen said those companies that have a physical facility in the state of Arkansas, no matter where the business is headquartered, must comply.

"We take the position they are subject to the Arkansas Constitution and have to adhere to it," he said. "We may have to test that in court, and a judge ultimately would have to make that decision."

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