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Dustin McDaniel Says Minority Of Payday Lenders Say They're Closing

By The Associated Press

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LITTLE ROCK (AP) _ Attorney General Dustin McDaniel on

Tuesday said that only a handful of payday lending companies in the state have told his office they will shut down or have already done so rather than face the threat of a lawsuit accusing them of violating the state's ban on high-interest loans.

Friday is the deadline McDaniel gave 60 companies that operate 156 payday lending locations in the state to respond to a cease-and-desist letter the attorney general sent the firms last month. McDaniel said his office is already preparing for lawsuits against companies that don't shut down by then.

"We are developing lists of potential defendants for litigation, which we expect to commence relatively quickly after the deadline has passed," McDaniel told reporters in a conference call. "It will be sooner rather than later. It's not something people will have to wait weeks to see."

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McDaniel said his office has received written replies from six companies that operate about a dozen payday lending locations stating that they will shut down or have already shut down. McDaniel said his office also has anecdotal evidence that about 30 payday lending businesses will or have closed, but has not received any written notice.

On March 18, McDaniel sent the letters to the payday lending firms asking them to shut down immediately and forgive customers' debts or face the likelihood of lawsuits.

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 state 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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Through a payday loan in Arkansas, a customer writing a check for \$400, for example, would typically 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.

McDaniel on Tuesday said his office would not release copies of the letters it has received from payday lending businesses because of the potential litigation. He also declined to name the firms he's heard from.

Of those that have said they're closing, some are still collecting outstanding debts despite the cease-and-desist letters, McDaniel said.

"Even if they're closing or agreeing to close, they're doing all they can to collect as much as they can while they think they can still get away with it," McDaniel said.

Arkansans Against Abusive Payday Lending, a coalition opposed to the payday lending industry, said Tuesday that Advance America had signs displayed at some central Arkansas locations announcing that the firm will not make any new loans but loans to existing customers can be renewed at 0 percent interest.

Advance America, the nation's largest payday lender, operates 30 lending businesses in Arkansas. Jamie Fulmer, a spokesman for the South Carolina-based company, said Wednesday that it would be premature to discuss the company's response to McDaniel's letter until the company formally notifies him.

"Our belief is we've always operated in strict compliance of the laws of Arkansas and certainly we've been regulated by the state and licensed by the state, so we believe that our actions in Arkansas have consistently been entirely legal,"

Fulmer said.

McDaniel declined to comment on the no-interest loans reportedly offered by Advance America. He said his office has been in communication with the Advance America but the company has not told him what its intent is.

Fulmer would not discuss in detail the no-interest loans, but said the company is talking with customers about "temporary" changes in its operations.

"Our desire is to continue providing a product to consumers to help them bridge the gap between paychecks," Fulmer said.

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