

## Payday lenders' closings counted

BY DAVID SMITH ARKANSAS DEMOCRAT-GAZETTE

More than 30 payday lending businesses have closed in Arkansas in the two weeks since Attorney General Dustin Mc-Daniel told them to shut down by Friday, McDaniel said Tuesday.

McDaniel said his office has received written letters from six owners saying they have shut down or will do so. Judging by anecdotal information, including calls from customers and one television interview, about 30 more companies have closed, McDaniel said.

"But we have substantial evidence that many of them are still engaging in collections," Mc-Daniel said. "What they are doing is, even if they are closing or agreeing to close, they are doing all they can to collect as much as they can while they think they can still get away with it."

On March 18 letters went to 156 stores. The stores' owners were told to "cease and desist your payday lending practices" because it violates the state's constitutional 17 percent usury limit.

Two decisions by the Arkansas Supreme Court in January and February prompted McDaniel to send the letters, he said.

In both cases regarding bonds on payday lending stores, the Supreme Court said that payday lending was "unconscionable and deceptive, in addition to being prohibited by the Arkansas Constitution," McDaniel said last month.

McDaniel declined to name the businesses that have indicated they are closing.

"I've decided not to say that now for a number of reasons, including ... that we may still sue them because every single instance of issuing a loan and certainly every subsequent instance of attempting to collect constitutes a violation of the deceptive trade practices [law] punishable by up to a \$10,000 fine for each instance," McDaniel said.

His office is drafting lawsuits, McDaniel said. The decision on which businesses to sue will come later, he said.

"But it's not something you'll have to wait weeks to see," he said.

At least one group of payday lenders representing as many as 60 stores did not receive letters from McDaniel last month. Those stores finance their loans through a company in South Dakota and claim to be governed by federal banking law and have exemption from Arkansas' usury law, much as out-of-state credit card companies and banks are exempt.

"I know who they are," Mc-Daniel said. "I have heard from their lobbyist. My statement to them was: 'Even though you didn't get a letter this time, you should be forewarned that you're not on solid ground.'"

McDaniel said that after he has gotten some favorable court rulings, he'll pursue these other payday lenders.

Arkansas' state and federal legislative delegation has been bombarded by a campaign of form letters voicing support for the industry and sent by payday lending customers and advocates, McDaniel said.

Jerry McCoy, owner of All American Cash Advance in Wynne, said Tuesday that he hasn't decided what he will do.

McCoy said last month that he would wait until attorneys for the state association give advice about what to do.

"I'm not at liberty to say what we're going to do," McCoy said.

But Cheney Pruett, president of the Arkansas Financial Services Association Inc., said the association has no specific plan for payday lenders as a group other than to advise that they check with their own attorneys.

Some stores have already closed and some are closing, said Pruett, who added that more than 1,000 Arkansans work in payday lending businesses.

"But it is the goal of any of the members of the association to continue to serve our customers while operating lawfully," Pruett said. "We stand behind this statement: The bottom line is that if this is successful and all payday lenders are closed, Arkansans will pay more for short-term cash. We're the least expensive alternative for short-term cash."

Pruett said the possibility of filing a lawsuit against McDaniel came up at an association meeting last

week.

"But as far as whether that will happen, I don't know," Pruett said.

On Tuesday, Arkansans Against Abusive Payday Lending said that Advance America Cash Advance Centers seems to be using a strategy it used two years ago in Pennsylvania. Advance America is based in Spartanburg, S.C., and operates 30 payday lending stores in Arkansas.

Jamie Fulmer, director of public affairs for Advance America Cash Advance Centers, declined to comment about the statements by Arkansans Against Abusive Payday Lending because he said he had not seen the news release.

Signs at some Advance America stores in Arkansas indicate the company will not be making loans to new customers, the anti-payday-lending group said. But loans to existing customers can be renewed at no interest.

"It is our belief that they are using this to basically bide time to keep their customer base so they can snare people in some other project and claim it is not payday loans," said Michael Rowett, chairman of the group.

After three months of interest-free loans in Pennsylvania two years ago, Advance America began offering loans at 5.98 percent interest but also charged a "monthly participation fee" of \$149.95, Arkansans Against Abusive Payday Lending said. Pennsylvania eventually found the practice illegal, the anti-payday-lending group said.

In Arkansas, taking out a payday loan works like this: The customer writes a check for \$400, for example, and receives \$350 in cash. The lender usually keeps the check for two weeks before cashing it.

A \$50 charge on a \$350 loan for 14 days equals 371 percent in annual interest. Under the Checkcashers Act, the customer must repay the loan before the agreed-upon date or the lender must deposit the check. Once the loan is repaid or the check deposited, the customer can take out another loan by exchanging another check for cash and promising to repay the loan.

Often a customer who takes out a \$350 payday loan may end up paying more than \$1,000 in interest and fees, McDaniel said last month.