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McDaniel Says Most Payday Lenders To Comply

By Jason Wiest
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LITTLE ROCK - Almost all of the payday lending operations ordered by the state to cease illegal lending practices have said they will comply, Attorney General Dustin McDaniel announced Tuesday.

Of the 59 companies that account for almost all of the 156 operations McDaniel targeted in a March 18 letter, 52 lenders representing 147 stores formally responded and said they would no longer issue loans exceeding the state's usury limit of 17 percent, McDaniel said.

"It's possible that everyone has agreed to comply with our demands," he said, noting that word from consumers and media indicates the remaining seven companies will do the same. "This response was honestly not expected and it is very, very encouraging."

McDaniel stopped short of declaring victory, and said his office will "trust and verify" that companies are staying within their legal bounds. Advance America, which has 30 stores in Arkansas, has said it will remain open but offer new products that are legal.

Advance America, which bills itself as the nation's largest payday lender, will "service existing customers that were in good standing with interest-free loans" until new products up to par with the attorney general's edict are developed and implemented, spokesman Jamie Fulmer said Tuesday.

The company did the same thing in Pennsylvania following a crackdown on the practice there, where the company operated through a partnership with a bank until the Federal Deposit Insurance Corporation discouraged the partnership.

Advance America made short-term loans interest free for 3 months to retain its customer base during the crackdown, then began charging a 5.98 annual percentage rate with a $149.95 "monthly participation fee," before the state eventually sued and shut down the business for good.

McDaniel warned his office would be watching businesses closely in the coming weeks to see if and how they are operating, and that stores that continue to make high-interest loans or collect on past loans would make themselves targets for lawsuits.

"If you are going to change your business practices, you better assume that we're going to be looking over your shoulder very closely, that we're going to be watching everything that happens," McDaniel said.

Fulmer said his company just wants to meet consumer demand for small, short-term loans.

Eliminating payday loans will not eliminate the need for short-term credit, according to Cheney Pruett, a spokesman for the Arkansas Financial Services Association, a payday loan industry trade group.

"Instead, it forces consumers to choose between more expensive alternatives, such as fees for bounced checks, overdraft protection or late bill payments, or even unregulated off-shore Internet lenders," he said last week.

McDaniel said he was sympathetic to the need, and said he has signed onto a multistate letter encouraging Congress to recognize a need for fair and available micro-credit, but that he is more concerned about protecting consumers.

"As badly as I'm concerned about people who need $50, $100 or $250, I'm more concerned about them winding up paying $1,000 or more to try and repay it," he said. "They were in poor financial straits when they needed that micro-loan, they obtained it, and then all of a sudden they're caught in a trap that makes their financial circumstance all the worse."

McDaniel also said he was cognizant of the industry's concern about fees other businesses charge would exceed the state's usury limit if they were put in terms of interest, including the overdraft protection that banks charge and late payment fees assessed by credit cards.

In those cases, federal law governs the practices, which may mean McDaniel can do little about them, he said. "We are going to address all of those eventually, and in fact I've asked for additional information, but right now our focus is on this very clear practice and industry that the Arkansas Supreme Court has said is illegal, unconstitutional and unconscionable."