101 payday lenders closed since March

BY DAVID SMITH (CONTACT)

LITTLE ROCK — More than 100 payday-lending stores in Arkansas have closed since they were ordered by Attorney General Dustin McDaniel in March to cease operations, the chairman of a group opposed to the practice said Thursday.

Michael Rowett, chairman of Arkansans Against Abusive Payday Lending, said 101 of the156 payday stores targeted by McDaniel on March 18 have closed.

“The remaining 55 we believe are operating in defiance of the [attorney general’s] order,” Rowett said.

Justin Allen, chief deputy of the attorney general’s office, was unsure how many payday lenders have closed, but he said all of the 156 have either closed or changed their method of operation.

“What is driving us and our actions are the consumer complaints and what they tell us,” Allen said.

The attorney general has sued four payday lenders, Allen said.

The suits were filed against Caudle Enterprises, with Pawn Exchange and Pawn Express stores in De Queen, Mena and Foreman; MSC Self Storage, withMerrill Check Cashing stores in Batesville and Clarksville; Big R Tobacco, with stores under several names in Arkadelphia, Glenwood, Ashdown, Hope, Nashville and Texarkana, and EZ Money Pawn Superstore, with stores in Hot Springs and Texarkana.

Peggy Matson, executive director of the Arkansas State Board of Collection Agencies,which regulates payday lenders, said her agency still regulates 185 payday lenders.

Cheney Pruett, president of the Arkansas Financial Services Association Inc., which represents payday lenders in the state, did not return a call for comment.

Two decisions by the Arkansas Supreme Court in Januaryand February motivated Mc-Daniel to order the operations to shut down.

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 in March.

In Arkansas, taking out a payday loan typically 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, well above the state’s constitutionally established interest limit. Under the Check Cashers 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 checkdeposited, 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 has said.

But some payday lending stores have altered their business model, Rowett and Todd Turner, an Arkadelphia lawyer, said.

Some businesses now charge borrowers interest rates below 17 percent on a loan, Rowett and Turner said. Arkansas’ constitution limits interest rates on loans at 5 percent above the federal discount rate, which is now 2.25 percent, making the current limit 7.25 percent. But no matter how high the discount rate might rise, the highest interest rate the constitution allows is 17 percent.

The stores then pay the borrower with a money order, which is cashed at the store for a fee of 10 percent of the face value of the money order. Matson said the stores are supposed to allow the money order to be cashedanywhere. But, in practice, that doesn’t always happen, Rowett and Turner said.

“We have documentation of folks being chased down in the parking lot” to get them back in the store to cash the money order, Rowett said.

Allen said the attorney general’s office is concerned about “harassing or hardball tactics on consumers in regards to where they negotiate that money order.”

“If we discover that that is going on, at some point we’re going to have to take action against that type of behavior,” Allen said.

Turner filed a lawsuit in April against CompuCredit Corp., which has owned First American Cash Advance since 2004.Atlanta-based CompuCredit’s primary business is the marketing of credit cards for higher-risk borrowers. Earlier this month, the Federal Trade Commission and the Federal Deposit Insurance Corp. said they were seeking $200 million in restitution from CompuCredit and two banks for deceptive marketingpractices.

Turner’s lawsuit claims First American charges borrowers 10 percent to make a loan and 10 percent of the face value of a money order to cash it. Turner said that both rates exceed the state’s constitutional interest limit. The loan has to be repaid within a month, which means the annual interest rate exceeds 100 percent, the lawsuit says.

Byron Freeland, a Little Rock attorney who represents CompuCredit, said his client argues that it is not a payday lender and that its loans are appropriate under the law.

“It is significant that the attorney general chose not to sue our client,” Freeland said.

Rowett said his group plans to issue a detailed report soon on the status of payday lending in Arkansas. Rowett said his group’s data gathering is intended to support the attorney general.

“Overall, we’re pleased with the progress made so far” in the reduction of payday lenders in the state, Rowett said.

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