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Wednesday, July 30, 2008

Cash in hand; hole in pocket

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Arkansas AG cracks down on payday lenders

By Adam Franks
Reporter

Payday lending could be a vanishing enterprise in the Natural State.

Arkansas Attorney General Dustin McDaniel mailed cease-and-desist letters in March to 156 payday lenders, who he defined as any

business offering "short term loans that charge interest in amounts of that vastly exceed the usury limit imposed by the Constitution of the State of Arkansas."

"These businesses have made a lot of money on the backs of Arkansas consumers, mostly the working poor," McDaniel said in a March press release. "Charging consumers interest in the range of 300 to 500 percent is unlawful and unconscionable."

Payday lending in Arkansas exploded after legislators passed the Check Cashers of 1999, which said fees for holding "timed deposit" checks "shall not be deemed interest," which is capped at 17 percent by Arkansas usury laws.

Following the Arkansas Check Cashers Act, payday borrowers would write a personal check to payday lending companies in exchange for a lesser sum of cash. Payday lenders would hold the check until the borrower's next payday – generally two weeks – when funds were available to cover the face value of the check. Michael Rowett, chairman of Arkansas Against Abusive Payday Lending (AAAPL), said most consumers are unaware of how costly payday loans can be. "A lot of folks don't know what they're getting into," Rowett said. "The payday lenders don't portray it as a debt trap, but it is. It's advertised as an easy, one-time thing, but it's certainly a predatory industry."



THE COURIER / Cindi Nobles

Pictured is River Valley Check Cashers, located on East Fourth Street, a local company offering cash advances. Arkansas chief deputy attorney general Justin Allen said "unregulated" lenders like River Valley Check Cashers are the next target for his office, which mailed cease-and-desist letters to 156 payday lenders in March.

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The attorney general's March termination orders followed Arkansas Supreme Court rulings in January and February, which said the Check Cashers Act does not offer "blanket coverage" to companies violating Arkansas usury laws. According to a report by AAAPL released July 16, 101 of the 156 payday lenders receiving letters from McDaniel have complied. McDaniel said payday lending has declined by 43 percent in Arkansas since the March order, down from 237 lenders to 136.

Many payday lenders, however, stopped making loans only briefly before developing new business models and restructuring their loan process.

"They call it restructuring, we call it a masquerade," Rowett said. The most common technique used by restructured payday lenders is the "money order model," Arkansas chief deputy attorney general Justin Allen said.

"To take out a loan, you submit a post-dated check in exchange for a money order," he said. "Then you go to the other end of the counter, where they charge you a large fee to cash the money order. If consumers are even subtly pushed into cashing a money order with the lender, it's interest."

The maximum fee for cashing a money order is 10 percent, which was established by amendments to the Check Cashers Act in 2005. A second model called "rent-a-finance company" is also common in Arkansas. Payday lenders register finance companies in other states, often South Dakota or Missouri, to conduct financing operations in Arkansas.

Payday lenders and check cashers fall under the oversight of the Arkansas State Board of Collection Agency, which requires a license to offer "check cashing and/or deferred presentment option services." Check cashers may be exempt from regulation if revenue generated from check cashing operations does not exceed three percent of the company's gross revenue.

The AAAPL report lists seven payday lenders in Pope County, all of which are located in Russellville. Three companies are unregulated and did not receive a letter from the attorney general, and two regulated companies surrendered their licenses in April. The remaining two businesses have restructured and continue to operate: Russellville Quick Cash and Advance America. Spartanburg, S.C.-based Advance America is the nation's largest provider of short-term financing, operating more than 2,800 locations in 35 states. Jamie Fulmer, director of public affairs, said Advance America strives to offer borrowers a wide range of financial products.

"We believe consumers should have many options when they need a small loan," Fulmer said. "We want to offer consumers the ability to choose the best option for them and their family."

Fulmer said although Advance America's Arkansas branches have always operated within the confines of state guidelines, the consumer finance company has restructured its business structure to comply with the attorney general's orders.

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"We believe we have operated consistently within the constraints of Arkansas law, but we have agreed to adhere to the Arkansas Attorney General's demands," he said. "We've begun to offer loans with fees and interest in compliance with Arkansas usury caps." Other area payday lenders declined comment.

Local payday lenders require only two forms of identification, a statement of income and proof of a checkable bank account. The "fees" assessed on loans at Russellville payday lenders are:
n Russellville Quick Cash – A \$500 loan repaid after 14 days for \$591 yields an annual percentage rate (APR) of 474.50 percent.
n Advance America – A \$250 money order, cashed for a \$25 fee, repaid after 14 days for \$251.62 yields an APR of 277.61 percent.
n River Valley Check Cashers – A \$500 loan repaid after 14 days for \$589 yields an APR of 464.07 percent.

Allen said unregulated licensed payday lenders such as River Valley Check Cashers are the next target for the attorney general's office. "We're working towards addressing the licensed, non-regulated businesses," he said. "As many as there are and with the limited staff and resources we have, it can be an exhausting process, but in the future they will be on the attorney general's radar. There will be more lawsuits most likely."

According to the AAAPL report, the following payday lenders are currently in operation in Pope, Yell and Johnson counties as unregulated or restructured businesses:

- n Russellville Quick Cash – Russellville
- n Advance America – Russellville
- n First American Cash Advance – Russellville
- n B&B Check Cashers – Russellville
- n River Valley Check Cashers – Russellville
- n Check-N-Tote – Dardanelle
- n Cash Advance of Clarksville – Clarksville

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