

Activist criticizes payday lenders

Study: Only half licensed by state

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More than half of Arkansas' so-called payday lenders violate state law because they are not licensed by the state agency that is supposed to oversee the firms, the president of a consumer advocate group said Wednesday.

Arkansas' Check Cashers Act, passed in 1999, says payday lenders cannot operate in the state unless they are licensed by the Check Cashing Companies Division. But according to a study released by Arkansans Against Abusive Payday Lending, only 136 of 275 payday lenders in Arkansas are licensed by the state.

The check cashing division, an arm of the Arkansas State Board of Collection Agencies, regulates only 66 of those licensed firms, said H.C. "Hank" Klein, president of Arkansans Against Abusive Payday Lending. The other 70 receive financing from out-of-state banks or finance companies and are not regulated by the board.

"All payday lenders in Arkansas, no matter what their method of operation, should be licensed and actively regulated to make payday loans in Arkansas," Klein said.

The state also should require payday lenders to use a state contracted database to enforce loan limits and provide industrywide data, Klein said. Other states already do this, he said.

Peggy Matson, executive director of the collection agencies board, did not return a phone call Wednesday to comment on the study.

See **LENDERS** Page 6D

Lenders

• Continued from Page 1D

However, Jim Mead of Jonesboro, owner of several payday lending stores and a board member of the Arkansas Check Cashers Association, said, "I can never understand why people like Hank Klein, who are in good financial shape, want to legislate people who live paycheck to paycheck and dry up their only source for emergency funds."

A typical payday loan works like this: The customer writes a check for \$377, for example, and receives \$325 in cash. The lender keeps the check for two weeks but does not cash it.

The \$52 charge on a \$325 loan for 14 days equals 416 percent in annual interest.

The customer often does not have enough money to buy back the check in two weeks. So he pays another \$52 to keep the check from being cashed.

Klein said Wednesday that the average payday lending customer eventually pays \$800 to borrow \$325.

When it was passed in 1999, the Check Cashers Act said the fees of payday lenders were not to be considered interest and that an advance by a payday lending store should not be considered a loan.

But the Arkansas Supreme Court ruled in 2001 that only it, and not the state Legislature, had authority to determine what is or isn't interest. To be consistent with that Supreme Court ruling, a "technical corrections" act passed last year, which cleaned up the language of dozens of state laws, deleted the language that said fees would not be considered interest.

Payday lending opponents were unaware of the change in the state law until recently, Klein said.

Klein's group and others represented at the news conference at Union Station in Little Rock estimate that payday lenders

reap more than \$68 million a year.

"That money could be better used to build consumers' wealth," Klein said.

Several payday lenders who do business in Arkansas have been put in jeopardy recently.

Last week, Attorney General Mike Beebe sued online payday lender MoneyinaFlash.net of Jonesboro, saying it charged "unconscionable and unlawful interest rates" as high as 520 percent a year. The firm called its loans "rebates," a spokesman in Beebe's office said.

In addition, Beebe's office is "investigating a lot" of other payday lenders in Arkansas, Matt DeCample, spokesman for the attorney general's office, said Wednesday.

Also last week, ACE Cash Express said it might have to close 19 stores in Arkansas after the Federal Deposit Insurance Corp. ordered Republic Bank & Trust Co. of Louisville, Ky., to stop supporting payday lenders. The federal agency cited the risky nature of such loans.

And last month, Advance America Cash Advance Centers Inc. indicated that it may have to stop doing business in Arkansas. Advance America, the largest payday lender in the country, said the FDIC ordered some banks that help finance loans for Advance America to stop providing payday advances. If Advance America is no longer able to get the bank loans to do its payday lending, it said it could be forced to close its 30 stores in Arkansas.

Besides Advance America and ACE Cash Express, First American Cash Advance with 30 stores in Arkansas also receive loans from federally regulated banks to fund their business.

Last year, Pulaski County Circuit Judge Barry Sims ruled that the Check Cashers Act is constitutional. That ruling was appealed to the state Supreme Court, and a final decision could be handed down this year.