

State studying firms that give payday loans

BY DAVID SMITH

ARKANSAS DEMOCRAT-GAZETTE

Arkansas Attorney General Mike Beebe recently began investigations into 18 payday lending companies.

Beebe discussed the investigations in a letter to Jean Ann Fox, director of consumer education with the Consumer Federation of America in Washington, D.C. There is no date on a copy of Beebe's letter, obtained by the *Arkansas Democrat-Gazette*, but Fox said Wednesday that she received it last month.

A typical "payday loan" works like this. The borrower writes a check for \$400 and receives a loan of \$350. The payday lender agrees not to cash the check for two weeks. The \$50 interest — payday lenders call it a fee — on a \$350 loan for 14 days equals a 373 percent annual rate of interest.

The borrower often does not have \$350 to buy back the check in two weeks. So he pays another \$50 to keep the check from being cashed. Some borrowers caught up in this cycle have paid two or three times the amount of their original check in interest or fees.

Fox wrote to Beebe in October, requesting that he conduct an investigation to stop check cashers from using out-of-state finance companies "to evade Arkansas consumer protec-

tions."

Fox's letter said an Arkansas group, Arkansans Against Abusive Payday Lending, had documented that out-of-state finance companies — particularly Mount Rushmore Loan Co. and Dakota Loan Co., both of South Dakota — partner with several Arkansas check-cashing and payday-lending companies. The loans by the South Dakota



Beebe

firms "cost far more than the Arkansas constitutional usury limit, but even exceed the limits in the discredited [Arkansas] Check Cashers Act," Fox said.

The two South Dakota companies, formed by owners of Arkansas payday-lending companies, do no lending to South Dakota individuals or businesses, Fox said in her letter. The director of the South Dakota Division of Banking confirmed that a South Dakota money-lender license does not allow loans to be made to businesses in other states, Fox said.

"South Dakota regulators told us that it is up to Arkansas officials to address lending by South Dakota companies in Arkansas," Fox said in her letter.

In his letter, Beebe acknowl-

edged that he is investigating the two South Dakota lending companies. He also said he has filed lawsuits against two Arkansas payday lenders that provide Internet services, QuickCashBack.com and Southside Internet.

The attorney general recently gained a settlement against the two Internet services companies, fining them \$10,000 and getting an agreement from them that they would leave Arkansas and not return, an attorney general spokesman said. The companies allegedly disguised their payday loans as Internet services at a fee of \$60 for every 14 days, based on a one-year contract.

The office typically does not comment on ongoing investigations, the spokesman said.

A spokesman for Beebe's office did not comment about details of the attorney general's investigations into the payday-lending companies.

Arkansas' constitutional limit on interest rates is 8.25 percent.

Federal law allows banks, savings and loans, and credit unions in Arkansas to charge interest rates above 8.25 percent. But because of competition, most creditworthy consumers can get bank loans below 8.25 percent.

All other lenders — auto dealerships and home-furnish-

ing stores, for example — are prohibited by the state Constitution from charging more than 8.25 percent in annual interest for loans.

The state's Check Cashers Act, passed in 1999, says, however, that fees charged for payday loans "shall not be deemed interest."

Beebe said in his letter that any action his office takes "must take into account the current status" of the Check Cashers Act.

"As you are aware, there is legislation that allows check-cashing organizations to operate in Arkansas," Beebe wrote to Fox. "Although certain provisions of the law have come under judicial scrutiny, the act has not been repealed. It is up to the Arkansas Legislature to repeal or amend the law, should they see a need to do so."

Hank Klein, chief executive officer of Arkansas Federal Credit Union in Jacksonville and a member of Arkansans Against Abusive Payday Lending, said the group is working with state Sen. Tracy Steele, D-North Little Rock, about the possibility of filing a bill concerning payday lenders.

Steele said Wednesday that he is researching the issue of usurious lending in Arkansas. Any bill he might file wouldn't target payday-lending companies, Steele said, but would address any business that violates Arkansas' constitutional usury limit.