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Wednesday October 18, 2006 7:28 pm

News

Search

For The Record

Sports

- [WVU Sports](#)
- [MU Sports](#)
- [Prep Sports](#)
- [Jack Bogaczyk](#)
- [Chuck Landon](#)
- [Jacob Messer](#)
- [Rich Stevens](#)
- [Mickey Furfari](#)
- [Frank Giardina](#)
- [Gridiron Gurus](#)

Obituaries

Opinion

- [Dave Peyton](#)
- [Don Surber](#)
- [Hoppy Kercheval](#)
- [Vent Line](#)

Business

[George Hohmann](#)

Life

- [Ask the Vet](#)
- [Matt Thompson on TV](#)
- [On Retirement](#)
- [The Food Guy](#)

News

Wednesday October 18, 2006

State's only payday lender leaves the area

by [George Hohmann](#)  
Daily Mail business editor

The only payday lender in West Virginia has left the state.

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First American Cash Advance pulled out of West Virginia sometime in July, Deputy Attorney General Jill Miles said today.

The company's five-year history in West Virginia was filled with controversy. That's because payday lenders make small, short-term loans to consumers at wallet-busting high interest rates.

They have used various methods to get around state laws that limit the amount of interest consumers can be charged. One method has been to act as an agent for a bank in another state.

First American opened storefronts in South Charleston and St. Albans in 2001 and quickly grew. Earlier this year, it was operating 11 storefronts throughout West Virginia.

Shortly after First American came to West Virginia, Larry Kugler said the company's typical loan was for about 15 days and the annual percentage rate was 425 percent. At the time Kugler was president of First American Holding Co., which was the corporate parent of First American Cash Advance.

First American was making payday loans as an agent for the First National Bank in Brookings, S.D., Kugler said.

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- 26
- 27

"All we do is market a product and service a product," he said.

In 2002, seven months after First American began operating in West Virginia, 15 state senators introduced a bill that would have outlawed payday loans in West Virginia by preventing lenders from using checks as security for cash advances or loans.

Larry Stark, state banking commissioner, said at the time that First American wasn't regulated by the state Division of Banking because of the firm's affiliation with an out-of-state bank.

West Virginia Deputy Attorney General Fran Hughes said at the time that Attorney General Darrell McGraw supported the Senate bill. "We don't think it does enough, but we're happy to see something done in this area," she said.

Doug Maddy, who was executive director of the West Virginia Bankers Association at the time, said the association's board of directors voted to remain neutral on the proposed legislation. "Our basic attitude is, 'That's not us. We don't have a dog in that fight. Let's stay neutral on it,'" Maddy said.

The legislation did not pass. Bills introduced in subsequent years did not pass either.

CompuCredit Corp. of Atlanta, Ga., purchased First American in 2004 for \$108.9 million.

In its June 30 quarterly report, CompuCredit said its subsidiaries in West Virginia, North Carolina, Florida and Arkansas had acted as a processing and servicing agent for a state-chartered bank insured by the Federal Deposit Insurance Corp.

"During February 2006 we learned from our bank partner that the FDIC had effectively asked insured financial institutions to cease deferred presentment and installment micro-loan activities conducted through processing and servicing agents," CompuCredit said.

In response to the FDIC's action, CompuCredit said its subsidiaries began evaluating alternatives. The company said that effective March 11, its North Carolina subsidiary agreed with that state's attorney general to cease

marketing and servicing payday loans in that state.

"As a result of this agreement, our North Carolina retail micro-loan subsidiary began pursuing a direct lending model in North Carolina in compliance with existing regulatory frameworks, as well as closing several North Carolina locations," the company said.

"Subsequently, during the second quarter of 2006, our subsidiaries decided to abandon the pursuit of these alternative lending models in both North Carolina and West Virginia, as they could not see the alternative lending products as providing acceptable long-term returns for the business. As a result, our subsidiaries began the process of exiting both of these states entirely."

First American was not the first payday lender to do business in West Virginia.

In 1996, Cash & Go, a check-cashing service, opened in South Charleston. The company charged \$20 for each \$100 advanced on a personal check, which the company agreed to hold for two weeks. The West Virginia attorney general's office filed suit against Cash & Go and, in late 1996, Cash & Go's attorney said the firm would close its West Virginia stores after Kanawha Circuit Judge Andrew MacQueen ordered the company to stop advancing or loaning money on personal checks.

Miles said that in 1998 the West Virginia Legislature passed a law designed to regulate cash-checking services. The law said stores that wanted to cash checks as a service to customers could charge a fee, but the fee could not be more than \$1 or one percent of the face value of the check. The law also said the merchant could not agree to hold checks for deposit at a later date.

"Now it's going to be very difficult for a payday lender to come into West Virginia," Miles said today. The 1998 law outlawed payday lending, she said.

"In response, payday lenders started partnering with nationally chartered banks and argued that the loan was being made where the bank was headquartered, usually in states with no usury laws," she said. "A couple of years ago the federal agency that regulates nationally chartered banks prohibited banks from engaging in this activity. The payday lenders then quickly began partnering with state-chartered banks in states with no usury laws. In February

of this year, the agency that regulates state-chartered banks stopped them from partnering with payday lenders."

First American Cash Advance's Atlanta headquarters did not return a call seeking comment.

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