

Payday lending demand defended

McDaniel denies acting unfairly

BY DAVID SMITH ARKANSAS DEMOCRAT-GAZETTE

Attorney General Dustin McDaniel took issue Thursday with payday lenders who believe they are being treated unfairly by his demand to close their stores.

Payday lenders said Wednesday that they were confused and puzzled by Mc-Daniel's announcement Tuesday that owners should close their payday lending stores by April 4 or risk being sued by him.

Jamie Fulmer, spokesman for Advance America Cash Advance Centers, said Wednesday that because McDaniel's office is defending the constitutionality of the Arkansas Check-cashers Act before the Arkansas Supreme Court, "he's punishing us for adhering to the same law."

But McDaniel's office said in a prepared statement Thursday that adhering to the Check-cashers Act is "not relevant to the [attorney general's] demand" for closure.

The state's Check-cashers Act was passed in 1999. It stated that the income payday lenders earn should be considered not interest, but fees, a way to avoid Arkansas' constitutional limit of 17 percent on annual interest. The state Supreme Court ruled in 2001 that the Legislature had no power to determine what is or isn't interest, but the court didn't rule on the constitutionality of the act itself.

"The act deals with issues unrelated to allowable interest rates," McDaniel's office said in the statement.

"To the extent the [attorney general] is defending the act, that position in no way conflicts with his demand upon the payday lenders. Last month the Supreme Court ruled that having a license and adhering to the other portions of the act does not excuse conduct which is clearly prohibited by the constitution."

The statement noted that the Supreme Court also ruled that the conduct of payday lenders is deceptive and unconscionable and prohibited by other Arkansas laws.

In Arkansas, taking out a payday loan 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. 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 check deposited, the customer can take out another loan by exchanging another check for cash and promising to repay the loan.

Because many borrowers cannot afford to pay off the original loan in two weeks, they often continue paying the \$50 charge every two weeks. Some pay more than \$1,000 on one \$300 payday loan, McDaniel has said.

Another payday lender argued Wednesday that the Supreme Court has not ruled on whether payday lenders violate the Check-cashers Act.

But McDaniel's statement said the attorney general's claim is that payday lenders' practices violate the constitution and other Arkansas laws, not necessarily the Check-cashers Act.



McDaniel