

State sues payday loan sites still open

McDaniel: Firms defy constitution

BY ANDREW D EMILLO THE ASSOCIATED PRESS

Arkansas Attorney General Dustin McDaniel has filed lawsuits against about 20 payday lenders that he says are violating the state's constitution by charging high-interest loans.

McDaniel filed four lawsuits in Pulaski County Circuit Court on Thursday against businesses that operate roughly 20 payday-lending locations in the state. The payday-lending outlets were among 156 businesses that told the attorney general they would shut down in response to a March 18 cease-and-desist letter McDaniel sent them.

Chief Deputy Attorney General Justin Allen said Friday that the lawsuits were filed after the office learned the businesses still were operating despite claims they had stopped issuing high-interest loans.

McDaniel had threatened lawsuits against payday lenders if they didn't stop issuing high-interest loans and forgive customers' debts by April 4.

"They have stayed open, but more importantly they stayed open and continued to violate the Arkansas constitution," Allen said. "They engaged in conduct that we specifically asked them to stop."

In the lawsuits, McDaniel also accuses the businesses of violating the state's Deceptive Trade Practices Act and asks the court to charge them \$10,000 for each violation of the act. He also asks the court to order the businesses to stop issuing the loans and void all outstanding loans.

In payday lending, typically someone wanting a loan goes to a check-cashing company and writes a check for a certain amount.

The company then agrees not to cash the check for a specified time — often waiting until the check-writer's payday, when money can be deposited to cover the amount of the check.

Through a payday loan in Arkansas, a customer writing a check for \$400, for example, typically would receive \$350. The lender would keep the customer's check for about two weeks without cashing it, thereby allowing the customer time to buy back the check.

The \$50 charge on the \$350 loan for 14 days is the equivalent of interest at a rate of 371 percent a year, well above Arkansas' 17 percent limit set out in the state's constitution.

The 1999 Check Cashers Act declared that income earned by payday lenders was a fee and not interest, avoiding the 17 percent limit on interest set out in the Arkansas Constitution.

The Supreme Court in 2001 ruled 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.

The 156 payday lenders McDaniel initially targeted make up more than half of the 277 check cashers licensed by the state Board of Collection Agencies. McDaniel's office said it focused on companies that offer "deferred presentment loans" where the businesses not only exchange cash for a check but also agree to delay the depositing of the check for a specific length of time.

Phillip Caudle, one of the owners targeted in the lawsuits, said he was surprised by the lawsuit and said that he had stopped issuing payday loans in response to McDaniel's threat. Caudle owns Pawn Exchange of De Queen, Pawn Exchange of Mena and Pawn Express of Foreman. Caudle said he didn't know about the lawsuit until notified by a reporter Friday afternoon.

"I don't know what grounds they're going to go on because I've already turned my license in," Caudle said.

Allen said the attorney general's office still receives complaints that some payday lenders continue to charge high-interest loans, but said it was too soon to say whether more lawsuits would be filed.

"Far and away, these defendants are the worst offenders at this time," Allen said.



McDaniel