



*Michael F. Easley, Governor*

*James T. Fain III, Secretary*

## North Carolina Department of Commerce

Release: IMMEDIATE  
Date: August 25, 2004

Contact: Linda Weiner  
Phone: 919-733-7977

### **A Statement from Joseph A. Smith, Jr., Commissioner of Banks, on Payday Lending Investigation**

Today, I have begun an investigation of the payday lending operations of Advance America, Cash Advance Centers, Inc. in North Carolina. The purpose of this investigation is to determine whether such operations violate North Carolina law and, if so, to pursue the applicable administrative and legal remedies. I am conducting this investigation as the public official responsible for the administration and enforcement of North Carolina's laws governing consumer loans and check cashing.

Payday loans are short-term loans, generally 15 or fewer days, secured by a check from the borrower. The finance charges for such loans, often more than 400 percent per annum, greatly exceed the limits set on consumer loans by North Carolina law.

Payday lending was permitted by legislation enacted in 1997; however, that legislation expired in 2001 through a "sunset provision." The law has not been re-enacted. North Carolina law does not now authorize payday lending.

Since the sunset of our payday lending law, Advance America has continued to operate on the basis of a purported agency relationship with an out-of-state bank that allows the "export" of the rates permitted by this bank's home state, despite North Carolina law to the contrary.

The proper administration of the laws for which I am responsible requires me to determine whether Advance America's operations, under what the company calls the "agency business model," violates any such laws.

Determining whether Advance America is violating North Carolina law is a serious question, and I intend to treat it as such. My decision will be based on a careful analysis of relevant and accurate information. To that end, I have sought by subpoena and will seek through an investigative hearing to obtain the facts regarding Advance America's operations in this state.

North Carolina's government has, over a substantial period of time, established a policy under which consumer lending is to be conducted and by which it is to be limited. Respect for such policy depends upon its fair and uniform enforcement. The public interest demands nothing less.

###