

1 **SENATE FLOOR VERSION**

2 April 6, 2017

3 ENGROSSED HOUSE  
4 BILL NO. 1913

By: Kannady of the House

5 and

6 Leewright of the Senate

7  
8 An Act relating to consumer credit; creating the  
9 Oklahoma Small Loan Act; providing short title;  
10 defining terms; requiring certain license; requiring  
11 service agent; stating requirements for licensure;  
12 directing periodic review for compliance; providing  
13 for rulemaking; stating content of certain  
14 application; setting certain fees; requiring  
15 financial statement and certain bond; allowing letter  
16 of credit in lieu of bond; stating purpose of bond;  
17 authorizing suit against bond for nonpayment;  
18 designating Oklahoma County for venue of certain  
19 actions; requiring criminal history records check  
20 with fingerprints; providing for refusal to submit to  
21 criminal history records check; designating OSBI or  
22 FBI to conduct certain criminal records checks;  
23 making applicant pay cost of records checks;  
24 authorizing certain investigation; requiring posting  
of license; setting duration of license; providing  
for written denial of license; setting time to deny a  
license; providing for hearing on denial of license;  
providing for license renewals; allowing a  
supervision fee; providing for continuation of  
operation pending renewal; making license  
nontransferable; providing for change of control of a  
business; providing for violations; requiring  
notification of change of address or name;  
authorizing certain charges, fees and interest;  
setting maximum principal loan amount; allowing  
certain adjustment to maximum loan amount upon  
certain conditions; requiring books be kept for  
certain period; prohibiting unfair practices;  
requiring compliance with federal laws; prohibiting  
certain conditions in loan plan; making certain

1 conditions void and unenforceable; making provisions  
2 of act exclusive; authorizing promulgation of rules;  
3 providing for examination of certain records for  
4 certain purpose; requiring payment for certain  
5 examinations; providing exemption for examination  
6 costs under supervision fee; providing for suspension  
7 and revocation of license under certain conditions;  
8 stating conditions; allowing all licenses of a  
9 violator to be suspended or revoked; setting time for  
10 notice and hearing; establishing penalties for  
11 violations; allowing civil penalty of certain  
12 amounts; allowing a person to be barred for certain  
13 time; authorizing certain consent orders; authorizing  
14 criminal actions; providing for complaints; requiring  
15 written reports on certain occurrences; directing  
16 filing of annual reports by licensees; providing for  
17 confidentiality of certain information; providing for  
18 participation in multistate automated licensing;  
19 granting certain powers and authority; construing  
20 authority under multistate licensing system;  
21 directing costs of multistate licensing system be  
22 paid by applicant and licensees; providing for  
23 sharing and confidentiality of certain information;  
24 providing certain provision to supersede other  
provisions; construing certain confidentiality;  
prohibiting certain governmental units from  
regulating small loans; providing for codification;  
and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 10-100 of Title 14A, unless  
there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Small  
Loan Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10-100.1 of Title 14A, unless  
3 there is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Small Loan Act, unless the context  
5 requires otherwise:

6 1. "Administrator" means the Administrator of the Department of  
7 Consumer Credit or the Administrator's designee;

8 2. "Affiliate" means a person or organization directly or  
9 indirectly controlling, controlled by or under common control with  
10 the licensee;

11 3. "Control" means possession, directly or indirectly, of the  
12 power to direct or cause the direction of management and policies of  
13 a person, whether through ownership of voting securities by contract  
14 or otherwise, if no individual shall be deemed to control a person  
15 solely on account of being a director, officer or employee of the  
16 person. For purposes of this paragraph, a person who directly or  
17 indirectly owns, controls, holds the power to vote or holds proxies  
18 representing twenty-five percent (25%) or more of the current  
19 outstanding voting securities issued by another person is presumed  
20 to control the other person, and the Administrator may determine  
21 whether a person, in fact, controls another person;

22 4. "Controlling person" means any person in control of a  
23 licensee;

24 5. "Department" means the Department of Consumer Credit;

1       6. "Small loan" means a loan made pursuant to a written  
2 agreement subject to this act between a licensee and customer  
3 establishing a credit plan under which the licensee contemplates  
4 credit transactions from time to time that:

- 5           a. may be unsecured,
- 6           b. shall not have a term longer than twelve (12) months,
- 7           c. shall be fully amortized and payable in substantially  
8           equal periodic payments, and
- 9           d. are subject to prepayment in whole or in part at any  
10          time without penalty;

11       7. "Licensee" means a person licensed to offer small loans  
12 pursuant to this act;

13       8. "Person" means an individual, group of individuals,  
14 partnership, association, corporation or any other business, unit or  
15 legal entity; and

16       9. "Default" means:

- 17           a. the failure of a customer to make a required payment  
18           within a certain number of days of the due date as  
19           agreed upon by the licensee and the customer per the  
20           small loan agreement; provided, that such agreed-upon  
21           number of days not exceed sixty-one (61) days after a  
22           failure to make a required payment on the due date, or
- 23           b. the customer's failure to otherwise perform the  
24           obligations under the small loan agreement.

1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10-100.2 of Title 14A, unless  
3 there is created a duplication in numbering, reads as follows:

4           A. No person shall engage in the business of making small loans  
5 unless the person is licensed to make small loans pursuant to this  
6 act. A person shall be deemed to be engaged in the business of  
7 making small loans in this state if the person induces a consumer,  
8 while located in this state, to enter into a small loan in this  
9 state through the use of facsimile, telephone, Internet or other  
10 means. A separate license shall be required for each location from  
11 which the business of making small loans is conducted.

12           B. Any nonresident person seeking licensure under this act  
13 shall furnish the Administrator of the Department of Consumer Credit  
14 with the name and address of a resident of this state upon whom  
15 notices or orders issued by the Administrator, or process affecting  
16 a licensee under this act, may be served. A nonresident licensee  
17 shall promptly notify the Administrator in writing of any change in  
18 its designated agent for service of process, and the change shall  
19 not become effective until approved by the Administrator.

20           C. No person doing business under the authority of any law of  
21 Oklahoma or of the United States relating to banks, savings  
22 institutions, trust companies, building and loan associations,  
23 industrial loan associations or credit unions shall be eligible for  
24 licensure under this act.

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10-100.3 of Title 14A, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. An applicant for a license to make small loans shall meet  
5 the following requirements:

6 1. A tangible net worth that comprises tangible assets, less  
7 liabilities, of not less than Fifty Thousand Dollars (\$50,000.00)  
8 for each location; and

9 2. The financial responsibility, financial condition, business  
10 experience, character and general fitness of the applicant shall  
11 reasonably warrant the belief that the applicant's business shall be  
12 conducted lawfully, honestly, carefully and efficiently. In  
13 determining whether these qualifications have been met and for the  
14 purpose of investigating compliance with this act, the Administrator  
15 may review and approve:

16 a. the business records and the capital adequacy of the  
17 applicant,

18 b. the competence, experience, integrity and financial  
19 ability of any person who is a director, officer, a  
20 shareholder with ten percent (10%) or more shares of  
21 the applicant, or a person who owns or controls the  
22 applicant, and

23 c. any record of the applicant or any person referred to  
24 in this act for any criminal activity, fraud or other

1 act of personal dishonesty; any act, omission or  
2 practice that constitutes a breach of a fiduciary  
3 duty; or any suspension, revocation or removal by any  
4 agency or department of the United States or any  
5 state, from participation in the conduct of any  
6 business.

7 B. The Administrator shall periodically review the licensee's  
8 compliance with subsection A of this section.

9 SECTION 5. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 10-100.4 of Title 14A, unless  
11 there is created a duplication in numbering, reads as follows:

12 Each application for a license shall be in a form established by  
13 the Administrator by promulgation of an administrative rule and  
14 shall include the following:

15 1. The legal name, residence and business address of the  
16 applicant and, if the applicant is a partnership, association or  
17 corporation, the legal name, residence and business address of every  
18 member, officer, managing employee and director of the applicant;

19 2. Every person licensed under this act shall maintain an agent  
20 in this state for service of process. The name, address, telephone  
21 number and electronic mail address of the agent shall be filed with  
22 the application. The Administrator shall be notified in writing by  
23 the licensee at least five (5) days prior to any change in the  
24 status of an agent; and

1 3. Other data and information the Administrator may require  
2 about the applicant, its directors, trustees, officers, members,  
3 managing employees or agents.

4 SECTION 6. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 10-100.5 of Title 14A, unless  
6 there is created a duplication in numbering, reads as follows:

7 A. Each application for a license required by this act shall be  
8 accompanied by:

9 1. A filing fee of Two Hundred Dollars (\$200.00), a license fee  
10 of Five Hundred Fifteen Dollars (\$515.00) and a supervision fee of  
11 Five Hundred Dollars (\$500.00). In the event of a denial of the  
12 application per Section 8 of this act, the license and supervision  
13 fees shall be returned to the applicant. The filing fee, the  
14 license fee and supervision fee shall be applicable to each  
15 location;

16 2. An audited financial statement including but not limited to  
17 a balance sheet, a statement of income or loss and a statement of  
18 changes in financial position for the immediately preceding fiscal  
19 year, prepared in accordance with generally accepted accounting  
20 principles by a certified public accountant or public accounting  
21 firm, neither of which is affiliated with the applicant. For a  
22 newly created entity, the Administrator may accept only a balance  
23 sheet prepared by a certified public accountant or public accounting  
24 firm, neither of which is affiliated with the applicant, accompanied



1 by a projected income statement demonstrating that the applicant  
2 will have adequate capital after payment of start-up costs. If the  
3 applicant does not have an audited financial statement meeting the  
4 above requirements, it may submit a financial statement of its  
5 company if the financial statement is audited in accordance with  
6 generally accepted accounting principles by a certified public  
7 accountant or public accounting firm neither of which is affiliated  
8 with the applicant; and

9 3. A surety bond, issued by an insurer regulated under the  
10 Insurance Commissioner of this state and not affiliated with the  
11 applicant, in the amount of Twenty-five Thousand Dollars  
12 (\$25,000.00) for each location. However, the aggregate amount of  
13 the surety bond required for a single licensee shall not exceed Two  
14 Hundred Thousand Dollars (\$200,000.00). In lieu of the surety bond,  
15 the applicant shall file an irrevocable letter of credit, in the  
16 amount of the surety bond, issued by any federally insured bank,  
17 savings bank or credit union, none of which is affiliated with the  
18 applicant. The surety bond or irrevocable letter of credit shall be  
19 in a form satisfactory to the Administrator and shall be payable to  
20 the Department of Consumer Credit for the benefit of any person who  
21 is injured pursuant to a small loan by the fraud, misrepresentation,  
22 breach of contract, financial failure or violation of any provision  
23 of this act by a licensee. In the case of a surety bond, the  
24 aggregate liability of the surety bond shall not exceed the

1 principal sum of the surety bond. In the case of an irrevocable  
2 letter of credit, applicants shall obtain letters of credit for  
3 terms of not less than three (3) years and renew the letters of  
4 credit annually. If the licensee fails to pay a person or the  
5 Administrator, as required by this act, then a person may bring suit  
6 against the licensee directly on the surety bond or irrevocable  
7 letter of credit in any court of competent jurisdiction, or the  
8 Administrator may bring suit in the District Court of Oklahoma  
9 County or the county of the aggrieved, which shall have exclusive  
10 venue in all matters relating to this section on behalf of those  
11 persons, in either one or successive actions. The surety bond or  
12 irrevocable letter of credit shall be maintained by the licensee for  
13 not less than three (3) years following the expiration, revocation  
14 or surrender of the licensee's license.

15 B. 1. The Administrator is authorized to require an applicant  
16 for a license to consent to a criminal history records check and to  
17 provide fingerprints with the application in a form acceptable to  
18 the Administrator. The Administrator may require such consent and  
19 fingerprints from any individual who is a director, officer or ten  
20 percent (10%) or more shareholder of the applicant or who owns or  
21 controls the applicant, as well as from any other individual  
22 associated with the applicant as is reasonably necessary to meet the  
23 purposes of this act. Refusal of any person to consent to a  
24 criminal history records check or to provide fingerprints pursuant

1 to this subsection constitutes grounds for the Administrator to deny  
2 the applicant a license.

3 2. Any criminal history records check conducted pursuant to  
4 this subsection shall be conducted by the Oklahoma State Bureau of  
5 Investigation, the Federal Bureau of Investigation or both, and the  
6 results of the criminal history records check shall be forwarded to  
7 the Administrator.

8 SECTION 7. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 10-100.6 of Title 14A, unless  
10 there is created a duplication in numbering, reads as follows:

11 A. Upon the filing of an application in a form prescribed by  
12 the Administrator, accompanied by the fee and documents required by  
13 this act, the Administrator shall investigate to ascertain whether  
14 the requirements prescribed by this act have been satisfied. If the  
15 Administrator finds that the requirements have been satisfied and  
16 approves the documents, the Administrator shall issue to the  
17 applicant a license to engage in the business of making small loans  
18 in this state.

19 B. The license shall be conspicuously posted in the licensee's  
20 place of business at all times.

21 C. A license issued pursuant to this act shall remain in force  
22 and effect through the remainder of the year ending December 31  
23 after its date of issuance unless earlier surrendered, suspended or  
24 revoked pursuant to this act.

1           SECTION 8.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10-100.7 of Title 14A, unless  
3 there is created a duplication in numbering, reads as follows:

4           A. If the Administrator determines that an applicant is not  
5 qualified to receive a license, the Administrator shall notify the  
6 applicant in writing that the application has been denied, stating  
7 the basis for denial.

8           B. If the Administrator denies an application, or if the  
9 Administrator fails to act on an application within ninety (90) days  
10 after the filing of a properly completed application, the applicant  
11 may make a written demand to the Administrator for a hearing before  
12 the Administrator on the question of whether the license should be  
13 granted.

14           C. Any hearing on the denial of a license shall be conducted  
15 pursuant to the Administrative Procedures Act; provided, that the  
16 burden of proof that the applicant is entitled to a license shall be  
17 on the applicant. A decision of the Administrator following any  
18 hearing on the denial of a license is subject to review pursuant to  
19 the provisions of the Administrative Procedures Act.

20           SECTION 9.           NEW LAW           A new section of law to be codified  
21 in the Oklahoma Statutes as Section 10-100.8 of Title 14A, unless  
22 there is created a duplication in numbering, reads as follows:

23           A. Licenses issued pursuant to this act shall expire on  
24 December 31. Each license may be renewed for the ensuing twelve-

1 month period upon application by the license holder showing  
2 continued compliance with the requirements of this act and the  
3 payment to the Administrator annually by December 1 of a license  
4 renewal fee of Two Hundred Ninety Dollars (\$290.00).

5 B. A licensee making timely and complete application for  
6 renewal of its license shall be permitted to continue to operate  
7 under its existing license until its application is approved or  
8 denied.

9 SECTION 10. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 10-100.9 of Title 14A, unless  
11 there is created a duplication in numbering, reads as follows:

12 A. A license issued pursuant to this act is not transferable or  
13 assignable.

14 B. 1. The prior written approval of the Administrator is  
15 required for the continued operation of a small loan business  
16 whenever a change in control of a licensee is proposed. The  
17 Administrator may require information deemed necessary to determine  
18 whether a new application is required. Reasonable and actual costs  
19 incurred by the Administrator in investigating a change-of-control  
20 request shall be paid by the person requesting approval. If the  
21 person acquiring control of a licensee is already licensed under  
22 this act, the person shall notify the Administrator thirty (30) days  
23 prior to the acquisition.

24

1           2. Whenever control is acquired or exercised in violation of  
2 this section, the license shall be deemed revoked as of the date of  
3 the unlawful acquisition of control. The licensee or its  
4 controlling person shall surrender the license to the Administrator  
5 on demand.

6           C. A licensee shall notify the Administrator thirty (30) days  
7 before any change in the licensee's principal place of business,  
8 branch office or name.

9           SECTION 11.       NEW LAW       A new section of law to be codified  
10 in the Oklahoma Statutes as Section 10-100.10 of Title 14A, unless  
11 there is created a duplication in numbering, reads as follows:

12           A. A licensee authorized to make small loans under this act may  
13 charge and collect fees in a manner consistent with this section.

14           B. A licensee may only charge and collect a periodic interest  
15 rate not to exceed seventeen percent (17%) per month unless  
16 otherwise provided by this title.

17           C. The maximum aggregated principal loan amount of all small  
18 loans outstanding across all licensees per customer shall be One  
19 Thousand Five Hundred Dollars (\$1,500.00) and adjusted every other  
20 year by the Administrator of the Department of Consumer Credit to  
21 reflect the percentage changes in the Consumer Price Index published  
22 by the Bureau of Labor Statistics of the Department of Labor. To  
23 ensure that the maximum aggregated principal amount is not exceeded,  
24

1 the licensee shall verify outstanding amounts by using a private  
2 database approved by the Administrator.

3 D. For the purposes of this act, "month" means a period  
4 extending from a given date in one (1) calendar month to the same  
5 date in the succeeding calendar month; or if there is no same date  
6 in the succeeding calendar month, the last day of the succeeding  
7 calendar month.

8 E. Any small loan under this act shall require payment in the  
9 form of cash, money order, debit card, prepaid credit card or any  
10 other instrument for payment of money, whether or not negotiable,  
11 including any authorization for electronic payment of money, on or  
12 before the due date of each billing cycle.

13 F. 1. If a customer defaults under the terms of a small loan  
14 and the licensee refers the customer's account to an attorney for  
15 collection, the licensee may:

- 16 a. if the small loan so provides, charge and collect from  
17 the customer a reasonable attorney fee not to exceed  
18 fifteen percent (15%) of the outstanding amount, and
- 19 b. if the small loan or, in the case of secured plans, if  
20 the security agreement or similar instrument so  
21 provides, recover from the customer all collection and  
22 court costs, including, in the case of secured plans,  
23 all costs of enforcing the security agreement or  
24 similar instrument actually incurred by the licensee,

1 including those incurred on appeal. Such costs shall  
2 not exceed fifteen percent (15%) of the outstanding  
3 amount.

4 2. Disposition of property after default shall occur in a  
5 commercially reasonable manner in accordance with law.

6 G. If a check is returned to a licensee from a payor financial  
7 institution due to insufficient funds, a licensee shall have the  
8 authority to assess a twenty-five-dollar fee against the maker or  
9 drawer of the returned check.

10 SECTION 12. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 10-100.11 of Title 14A, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. A licensee shall provide each customer a written  
14 explanation, in clear, understandable language, of the fees and  
15 charges to be charged by the licensee. The style, content and  
16 method of executing the required written explanation shall comply  
17 with Oklahoma Regulation Z laws and shall contain a statement that  
18 the customer may prepay the unpaid balance in whole or in part at  
19 any time without penalty. The Administrator of the Department of  
20 Consumer Credit may promulgate administrative rules establishing  
21 additional requirements in order to assure complete and accurate  
22 disclosure of the fees and charges to be charged by a licensee under  
23 a small loan.



1 B. A small loan shall include, along with other state or  
2 federal law requirements:

3 1. A customer's right of rescission for any small loan. No  
4 lender shall be required to extend a right of rescission past the  
5 close of business on the day after loan proceeds are disbursed  
6 unless the lender is not open on the day after disbursement, in  
7 which case the right of rescission shall be extended to the  
8 subsequent day the lender is open; and

9 2. A notice informing the customer that complaints may be made  
10 to the Administrator, including the Administrator's telephone number  
11 and address.

12 SECTION 13. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 10-100.12 of Title 14A, unless  
14 there is created a duplication in numbering, reads as follows:

15 A. Each licensee shall keep and use in its business any books,  
16 accounts and records the Administrator may require to effectuate  
17 this act and the rules promulgated pursuant thereto. Every licensee  
18 shall preserve the books, accounts and records for at least four (4)  
19 years. Any licensee, after receiving the prior written approval of  
20 the Administrator, may maintain records at a location within or  
21 outside this state.

22 B. A licensee shall not engage in unfair or deceptive acts,  
23 practices or advertising in the conduct of the licensed business.

24

1 C. A licensee shall not use any device or agreement, including  
2 agreements with affiliated licensees, with the intent to obtain  
3 greater charges than otherwise would be authorized by this act.

4 D. A licensee shall comply with any state or federal law, rule  
5 or regulation applicable to any business authorized or conducted  
6 under this act, including but not limited to Oklahoma Regulation Z,  
7 the federal Equal Credit Opportunity Act, 15 U.S.C., Sections 1691-  
8 1691f, and the federal Fair Debt Collection Practices Act, 15  
9 U.S.C., Section 1692 et seq.

10 E. 1. No small loan subject to this act shall:

11 a. provide that the law of a jurisdiction other than  
12 Oklahoma law applies,

13 b. provide that the customer consents to the jurisdiction  
14 of another state or foreign country, or

15 c. establish venue.

16 2. Any provision described in this section that is contained in  
17 a small loan subject to this act shall be void and not enforceable  
18 as a matter of public policy.

19 SECTION 14. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 10-100.13 of Title 14A, unless  
21 there is created a duplication in numbering, reads as follows:

22 The business of making small loans in accordance with this act  
23 shall not be subject to or controlled by any other statute governing  
24 the imposition of interest, fees or loan charges. A licensee shall

1 not have the powers enumerated in this act without first complying  
2 with the law regulating the particular transaction involved, but  
3 licensees legally exercising any of the powers set forth in this act  
4 shall not be deemed in violation of any other provision of law.

5 SECTION 15. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 10-100.14 of Title 14A, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. The Administrator may promulgate administrative rules in  
9 accordance with the Administrative Procedures Act for the  
10 enforcement of this act.

11 B. To assure compliance with this act, the Administrator may  
12 examine the relevant business, books and records of any licensee.  
13 Further, for the purposes of discovering violations of this act and  
14 determining whether persons are subject to this act, the  
15 Administrator may examine or investigate persons licensed under this  
16 act and persons reasonably suspected by the Administrator of  
17 conducting business that requires a license under this act by  
18 exercising authority that includes, but is not limited to, the power  
19 to summon witnesses and examine them under oath or affirmation and  
20 to compel the production of books and records that may be relevant  
21 to the examination or investigation.

22 C. A licensee or unlicensed person subject to the licensing  
23 requirements of this act, that is examined or investigated in  
24 accordance with this act, shall pay to the Administrator the

1 reasonable and actual expenses of the investigation or examination,  
2 including travel expenses, in addition to the supervision fee of  
3 Five Hundred Dollars (\$500.00). Such reasonable and actual expenses  
4 shall include a fee of Fifty Dollars (\$50.00) per hour for exams  
5 lasting more than eight (8) hours. In-state travel expenses shall  
6 comply with such limitations and allowances as provided by the State  
7 Travel Reimbursement Act as found in Section 500.1 et seq. of Title  
8 74 of the Oklahoma Statutes. The expenses shall be payable in  
9 addition to all other fees, taxes and costs required by law.

10 SECTION 16. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 10-100.15 of Title 14A, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. The Administrator of the Department of Consumer Credit shall  
14 appoint an independent hearing examiner to conduct all  
15 administrative hearings involving alleged violations of Title 14A of  
16 the Oklahoma Statutes. The independent hearing examiner shall have  
17 authority to exercise all powers granted by Article II of the  
18 Administrative Procedures Act in conducting hearings. The  
19 independent hearing examiner shall recommend penalties authorized by  
20 Title 14A of the Oklahoma Statutes and issue proposed orders, with  
21 proposed findings of fact and proposed conclusions of law, to the  
22 Administrator pursuant to Article II of the Administrative  
23 Procedures Act. The Administrator shall review the proposed order  
24 and issue a final agency order in accordance with Article II of the

1 Administrative Procedures Act. The costs of the hearing examiner  
2 may be assessed by the Administrator against the respondent, unless  
3 the respondent is the prevailing party. Any person aggrieved by a  
4 final agency order of the Administrator may obtain judicial review  
5 in accordance with the Administrative Procedures Act. The  
6 jurisdiction and venue of any such action shall be in the district  
7 court of Oklahoma County or the county of the aggrieved.

8 B. The Administrator may, after notice and hearing, suspend or  
9 revoke any license if the Administrator finds that the licensee has  
10 knowingly or through lack of due care:

11 1. Failed to pay any fees, expenses or costs imposed by the  
12 Administrator under the authority of this act;

13 2. Committed any fraud, engaged in any dishonest activities or  
14 made any misrepresentations;

15 3. Violated any provision of this act, any administrative rule  
16 promulgated pursuant to this act or any other law in the course of  
17 the licensee's dealings as a licensee;

18 4. Made a false statement in the application for the license or  
19 failed to give a true reply to a question in the application; or

20 5. Demonstrated incompetency or untrustworthiness to act as a  
21 licensee.

22 C. If the reason for revocation or suspension of a licensee's  
23 license at any one location is of general application to all  
24

1 locations operated by a licensee, the Administrator may revoke or  
2 suspend all licenses issued to a licensee.

3 D. A hearing shall be held on written notice given at least  
4 twenty (20) days prior to the date of the hearing and shall be  
5 conducted in accordance with the Administrative Procedures Act.

6 SECTION 17. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 10-100.16 of Title 14A, unless  
8 there is created a duplication in numbering, reads as follows:

9 After notice and opportunity for a hearing, if the Administrator  
10 finds that a person has violated this act or any administrative rule  
11 promulgated pursuant thereto, the Administrator may take the  
12 following actions or any combination of such actions:

13 1. Order the person to cease and desist violating the act or  
14 any administrative rule promulgated pursuant thereto;

15 2. Require the refund of any fees collected by the person in  
16 violation of this act; or

17 3. Order the person to pay to the Department of Consumer Credit  
18 a civil penalty of not more than One Thousand Dollars (\$1,000.00)  
19 for each transaction in violation of this act or for each day that a  
20 violation occurs or continues.

21 SECTION 18. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 10-100.17 of Title 14A, unless  
23 there is created a duplication in numbering, reads as follows:

24

1       A. The Administrator, after notice and opportunity for a  
2 hearing, may censure, suspend for a period not to exceed twelve (12)  
3 months or bar a person from any position of employment, management  
4 or control of a licensee, if the Administrator finds that the:

5       1. Censure, suspension or bar is in the public interest and  
6 that the person has committed or caused a violation of this act,  
7 administrative regulation or any rule or order of the Administrator;  
8 or

9       2. Person has been:

10       a. convicted, pled guilty to or pled nolo contendere to  
11 any crime, or

12       b. held liable in any civil action by final judgment or  
13 any administrative judgment by any public agency, if  
14 the criminal, civil or administrative judgment  
15 involved any offense reasonably related to the  
16 qualifications, functions or duties of a person  
17 engaged in the business of making small loans pursuant  
18 to this act.

19       B. Persons suspended or barred under this section are  
20 prohibited from participating in any business activity of a licensee  
21 and from engaging in any business activity on the premises where a  
22 licensee is conducting its business. This subsection shall not be  
23 construed to prohibit suspended or barred persons from having their  
24 personal transactions processed by a licensee.

1           SECTION 19.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10-100.18 of Title 14A, unless  
3 there is created a duplication in numbering, reads as follows:

4           A. The Administrator may enter into a consent order at any time  
5 with any person to resolve any matter arising under this act. A  
6 consent order shall be signed by the person to whom it is issued or  
7 a duly authorized representative and shall indicate agreement to the  
8 terms contained in the order. A consent order need not constitute  
9 an admission by any person that any provision of this act or any  
10 administrative rule or order promulgated or issued under this act  
11 has been violated, nor need it constitute a finding by the  
12 Administrator that the person has violated this act or any  
13 administrative rule or order issued under this act.

14           B. Notwithstanding the issuance of a consent order, the  
15 Administrator may seek civil or criminal penalties concerning  
16 matters encompassed by the consent order.

17           C. In cases involving extraordinary circumstances requiring  
18 immediate action, the Administrator may take any enforcement action  
19 authorized by this act without providing the opportunity for a prior  
20 hearing but shall promptly afford a subsequent hearing upon an  
21 application to rescind the action taken that is filed with the  
22 Administrator within twenty (20) days after receipt of the notice of  
23 the Administrator's emergency action.

24



1 SECTION 20. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10-100.19 of Title 14A, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. Any person aggrieved by the conduct of a licensee or  
5 unlicensed operator under this act in connection with the licensee's  
6 regulated activities may file a written complaint with the  
7 Administrator who may investigate the complaint.

8 B. In the course of the investigation of the complaint, the  
9 Administrator may:

- 10 1. Subpoena witnesses;
- 11 2. Administer oaths;
- 12 3. Examine any individual under oath or affirmation; and
- 13 4. Compel the production of records, books, papers, contracts  
14 or other documents relevant to the investigation.

15 C. If any person fails to comply with a subpoena of the  
16 Administrator under this act or to testify concerning any matter  
17 about which the person may be interrogated under this act, the  
18 Administrator may petition any court of competent jurisdiction for  
19 enforcement.

20 D. The license of any licensee under this act who fails to  
21 comply with a subpoena of the Administrator may be suspended pending  
22 compliance with the subpoena.

23 E. The Administrator shall have exclusive administrative power  
24 for the State of Oklahoma to investigate and enforce any and all

1 complaints relating to the business of making small loans filed by  
2 any person that are not criminal in nature.

3 SECTION 21. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 10-100.20 of Title 14A, unless  
5 there is created a duplication in numbering, reads as follows:

6 Within fifteen (15) days of the occurrence of any one of the  
7 following events, a licensee shall file a written report with the  
8 Administrator describing the event and its expected impact on the  
9 activities of the licensee in this state:

- 10 1. The filing for bankruptcy or reorganization by the licensee;
- 11 2. Revocation or suspension proceedings instituted against the  
12 licensee by any state or governmental authority;
- 13 3. The denial of the opportunity to engage in the business of  
14 making loans by any state or governmental authority;
- 15 4. Any felony indictment of the licensee or any of its  
16 directors, officers or principals;
- 17 5. Any felony conviction of the licensee or any of its  
18 directors, officers or principals; and
- 19 6. Other events that the Administrator may determine and  
20 identify by administrative regulation.

21 SECTION 22. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 10-100.21 of Title 14A, unless  
23 there is created a duplication in numbering, reads as follows:

24

1       A. Each licensee shall file an annual report with the  
2 Administrator on the date of the renewal application required in  
3 Section 9 of this act, containing the following information:

4           1. The names and addresses of persons owning a controlling  
5 interest in each licensee;

6           2. The location of all places of business operated by the  
7 licensee and the nature of the business conducted at each location;

8           3. The names and addresses of all affiliated entities regulated  
9 under Title 14A of the Oklahoma Statutes doing business in this  
10 state;

11           4. An audited financial statement, including, but not limited  
12 to, a balance sheet, statement of income or loss and statement of  
13 changes in financial position, for the immediately preceding fiscal  
14 year end, prepared in accordance with generally accepted accounting  
15 principles by a certified public accountant or public accounting  
16 firm, neither of which is affiliated with the licensee; and

17           5. If the licensee is a corporation, the names and addresses of  
18 its officers and directors; if the licensee is a partnership, the  
19 names and addresses of the partners; or if the licensee is a limited  
20 liability company, the names and addresses of the board of governors  
21 or managers of the limited liability company.

22       B. If the licensee holds two or more licenses or is affiliated  
23 with other licensees, a composite report may be filed but shall not  
24 be required.

1 C. The reports shall be filed in a form that may reasonably be  
2 required by the Administrator and shall be sworn to by a responsible  
3 officer of the licensee.

4 D. The information submitted by licensees shall be  
5 confidential.

6 SECTION 23. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 10-100.22 of Title 14A, unless  
8 there is created a duplication in numbering, reads as follows:

9 A. In addition to any other powers conferred upon the  
10 Administrator by law, the Administrator is authorized to require  
11 persons subject to this act to be licensed through a multistate  
12 automated licensing system. Pursuant to this authority, the  
13 Administrator may:

14 1. Promulgate administrative rules that are reasonably  
15 necessary for participation in, transition to or operation of a  
16 multistate automated licensing system;

17 2. Establish relationships or enter into agreements that are  
18 reasonably necessary for participation in, transition to or  
19 operation of a multistate automated licensing system. The  
20 agreements may include, but are not limited to, operating  
21 agreements, information-sharing agreements, interstate cooperative  
22 agreements and technology licensing agreements;

23

24

1           3. Require that applications for licensing under this act and  
2 renewals of such licenses may be filed with a multistate automated  
3 licensing system;

4           4. Require that any fees required to be paid under this act and  
5 required by a multistate automated licensing system may be paid  
6 through a multistate automated licensing system;

7           5. Establish deadlines for transitioning licensees to a  
8 multistate automated licensing system. The Administrator has the  
9 authority to deny any applications or renewal applications not filed  
10 with a multistate automated licensing system after such deadlines  
11 have passed, notwithstanding any dates established elsewhere in this  
12 act; provided, however, the Administrator shall provide reasonable  
13 notice of any transition deadlines to licensees; and

14           6. Take such further actions as are reasonably necessary to  
15 give effect to this section.

16           B. Nothing in this section shall authorize the Administrator to  
17 require a person who is not subject to this act to submit  
18 information to or to participate in a multistate automated licensing  
19 system that is operated or participated in pursuant to this act.

20           C. The Administrator shall retain full authority and discretion  
21 to license persons under this act and to enforce this act to its  
22 fullest extent. Nothing in this section shall be deemed to be a  
23 reduction or derogation of that authority and discretion.

24

1 D. Applicants for and holders of licenses issued under this act  
2 shall pay all costs associated with submitting an application to or  
3 transitioning a license to a multistate automated licensing system,  
4 as well as all costs required by a multistate automated licensing  
5 system for maintaining and renewing any license issued by the  
6 Administrator on a multistate automated licensing system.

7 SECTION 24. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 10-100.23 of Title 14A, unless  
9 there is created a duplication in numbering, reads as follows:

10 The Administrator of the Department of Consumer Credit is  
11 authorized to use a multistate automated licensing system as an  
12 agent for channeling information, whether criminal or noncriminal in  
13 nature, whether derived from or distributed to the United States  
14 Department of Justice or any other state or federal governmental  
15 agency, or any other source that the Administrator is authorized to  
16 request from or distribute to under this act.

17 SECTION 25. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 10-100.24 of Title 14A, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. In order to promote more effective regulation and reduce  
21 regulatory burden through supervisory information sharing, the  
22 requirements under any federal or state law regarding the privacy or  
23 confidentiality of any information or material provided to a  
24 multistate automated licensing system and any privilege arising

1 under federal or state law, including the rules of any federal or  
2 state court with respect to such information or material, shall  
3 continue to apply to the information or material after the  
4 information or material has been disclosed to a multistate automated  
5 licensing system. The information or material may be shared with  
6 all state and federal regulatory officials with consumer credit  
7 oversight authority without the loss of privilege or the loss of  
8 confidentiality protections provided by federal or state law,  
9 including the protection available under state law.

10 B. For purposes of this section, the Administrator of the  
11 Department of Consumer Credit is authorized to enter into agreements  
12 or sharing agreements with other governmental agencies, the  
13 Conference of State Bank Supervisors or other associations  
14 representing governmental agencies as established by rule or order  
15 of the Administrator.

16 C. Information or material that is subject to privilege or  
17 confidentiality under this section shall not be subject to:

18 1. Disclosure under any federal or state law governing the  
19 disclosure to the public of information held by an officer or any  
20 agency of the federal government or the respective state; or

21 2. Subpoena, discovery or admission into evidence in any  
22 private civil action or administrative process, unless with respect  
23 to any privilege held by a multistate automated licensing system  
24 applicable to such information or material, the person to whom such

1 information or material pertains waives that privilege in whole or  
2 in part in the discretion of such person.

3 D. This section shall supersede any inconsistent provisions of  
4 law pertaining to the records open to public inspection.

5 E. This section shall not apply with respect to information or  
6 material relating to publicly adjudicated disciplinary and  
7 enforcement actions against persons subject to this act that is  
8 included in a multistate automated licensing system for access by  
9 the public.

10 SECTION 26. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 10-100.25 of Title 14A, unless  
12 there is created a duplication in numbering, reads as follows:

13 Local government units, including, but not limited to, cities,  
14 towns and counties shall have no authority to regulate small loans.

15 SECTION 27. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 10-100.26 of Title 14A, unless  
17 there is created a duplication in numbering, reads as follows:

18 Except as otherwise provided in Title 14A of the Oklahoma  
19 Statutes or Section 22 of this act, the following shall not be  
20 disclosed by the Administrator or any of its employees:

21 1. A report of examination of any person subject to Title 14A  
22 of the Oklahoma Statutes, including any contents thereof; and  
23  
24



1           2. Any personal or financial information pertaining to a person  
2 furnished to, or obtained by, the Administrator during the  
3 application or examination process.

4           SECTION 28. This act shall become effective November 1, 2017.

5 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
6 April 6, 2017 - DO PASS  
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