

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1314

By: Holt

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5
6 AS INTRODUCED

7 An Act relating to consumer credit; creating the
8 Flexible Credit Act; providing short title; defining
9 terms; requiring certain license; requiring service
10 agent; stating requirements for licensure; directing
11 periodic review for compliance; providing for
12 rulemaking; stating content of certain application;
13 setting certain fees; requiring financial statement
14 and certain bond; allowing letter of credit in lieu
15 of bond; stating purpose of bond; authorizing suit
16 against bond for nonpayment; designating Oklahoma
17 County for venue of certain actions; requiring
18 criminal history records check with fingerprints;
19 providing for refusal to conduct criminal history
20 records check; designating OSBI or FBI to conduct
21 certain criminal records checks; making applicant pay
22 cost of records checks; authorizing certain
23 investigation; requiring posting of license; setting
24 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; allowing a biennial license; 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;
requiring books be kept for certain period;
prohibiting unfair practices; requiring compliance
with federal laws; prohibiting certain conditions in
loan plan; making certain conditions void and
unenforceable; making provisions of act exclusive;
authorizing promulgation of rules; directing mailing
of rules; providing for examination of certain
records for certain purpose; requiring payment for

1 certain examinations; providing exemption for
2 examination costs under supervision fee; providing
3 for suspension and revocation of license under
4 certain conditions; stating conditions; allowing all
5 licenses of a violator to be suspended or revoked;
6 setting time for notice and hearing; establishing
7 penalties for violations; allowing civil penalty of
8 certain amounts; allowing a person to be barred for
9 certain time; authorizing certain consent orders;
10 authorizing criminal actions; providing for
11 complaints; requiring written reports on certain
12 occurrences; directing filing of annual reports by
13 licensees; providing for confidentiality of certain
14 information; directing annual report be submitted to
15 Governor and legislature; providing for participation
16 in multi-state automated licensing; granting certain
17 powers and authority; construing authority under
18 multi-state licensing system; directing costs of
19 multi-state licensing system be paid by applicant and
20 licensees; providing for sharing and confidentiality
21 of certain information; providing certain provision
22 to supersede other provisions; construing certain
23 confidentiality; prohibiting certain governmental
24 units from regulating flex plan 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 "Flexible Credit
Act".

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

1 As used in this act, unless the context requires otherwise:

2 1. "Commissioner" means the Commissioner of the Department of
3 Consumer Credit or the Commissioner's designee;

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

15 3. "Controlling person" means any person in control of a
16 licensee;

17 4. "Department" means the Department of Consumer Credit;

18 5. "Flex loan" means a loan made pursuant to a flex loan plan;

19 6. "Flex loan plan" means a written agreement subject to this
20 subtitle between a licensee and customer establishing an open-end
21 credit plan under which the licensee contemplates credit
22 transactions from time to time that:

23 a. may be unsecured or secured by personal property,
24

- 1 b. may be without a fixed maturity date or a limitation
2 as to the length of the loan term, and
3 c. are subject to prepayment in whole or in part at any
4 time without penalty;

5 7. "Licensee" means a person licensed to offer flex loans
6 pursuant to the subtitle;

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

10 9. "Default" means:

11 a. the failure of a customer to make a required payment
12 pursuant to a periodic billing statement within a
13 certain number of days of the due date as agreed upon
14 by the licensee and the customer in the flex loan
15 plan, provided that such a period may not exceed
16 sixty-one (61) days after the due date on the billing
17 statement, or

18 b. the customer's failure to otherwise perform the
19 obligations under the flex loan plan.

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

23 A. No person shall engage in the business of making flex loans
24 unless the person is licensed to make flex loans pursuant to this

1 act. A person shall be deemed to be engaged in the business of
2 making flex loans in this state if the person induces a consumer,
3 while located in this state, to enter into a flex loan plan in this
4 state through the use of facsimile, telephone, Internet, or other
5 means. A separate license shall be required for each location from
6 which the business of making flex loans is conducted.

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

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

18 A. An applicant for a license to make flex loans shall meet the
19 following requirements:

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

23 2. The financial responsibility, financial condition, business
24 experience, character, and general fitness of the applicant shall

1 reasonably warrant the belief that the applicant's business shall be
2 conducted, lawfully, honestly, carefully and efficiently. In
3 determining whether these qualifications have been met, and for the
4 purpose of investigating compliance with this subtitle, the
5 Commissioner may review and approve:

- 6 a. the relevant business records and the capital adequacy of
7 the applicant,
- 8 b. the competence, experience, integrity, and financial
9 ability of any person who is a director, a shareholder
10 with ten percent (10%) or more shares of the applicant,
11 or a person who owns or controls the applicant, and
- 12 c. any record of the applicant or any person referred to in
13 this act for any criminal activity, any fraud or other
14 act of personal dishonesty, any act, omission, or
15 practice that constitutes a breach of a fiduciary duty,
16 or any suspension, revocation, or removal by any agency
17 or department of the United States or any state, from
18 participation in the conduct of any business.

19 B. The Commissioner shall periodically review the licensee's
20 compliance with subsection A of this section.

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

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1 Each application for a license shall be in a form established by
2 the Commissioner of the Department of Consumer Credit by
3 promulgation of an administrative rule, including the following:

4 1. The legal name, residence and business address of the
5 applicant, and if the applicant is a partnership, association, or
6 corporation, the legal name, residence and business address of every
7 member, officer, managing employee and director of the applicant;

8 2. Every person licensed under this act shall maintain an agent
9 in this state for service of process. The name, address, telephone
10 number, and electronic mail address of the agent shall be filed with
11 the application. The Commissioner shall be notified in writing by
12 the licensee at least five (5) days prior to any change in the
13 status of an agent; and

14 3. Other data and information the Commissioner may require
15 about the applicant, its directors, trustees, officers, members,
16 managing employees, or agents.

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

20 A. Each application for a license required by this act shall be
21 accompanied by:

22 1. A filing fee of Five Hundred Dollars (\$500.00), which shall
23 not be subject to refund unless the license is granted and the
24 filing fee shall constitute the license fee for the first license

1 year or part thereof, unless a nonrefundable supervision fee is
2 established by the Commissioner, by administrative rule promulgated
3 pursuant to this act, the nonrefundable supervision fee shall be in
4 lieu of the filing fee. The filing fee or supervision fee shall be
5 applicable to each location;

6 2. An audited financial statement including but not limited to
7 a balance sheet, a statement of income or loss, and a statement of
8 changes in financial position for the immediately preceding fiscal
9 year, prepared in accordance with generally accepted accounting
10 principles by a certified public accountant or public accounting
11 firm, neither of which is affiliated with the applicant. For a
12 newly created entity, the Commissioner may accept only a balance
13 sheet prepared by a certified public accountant or public accounting
14 firm, neither of which is affiliated with the applicant, accompanied
15 by a projected income statement demonstrating that the applicant
16 will have adequate capital after payment of start-up costs; and

17 3. A surety bond, issued by an insurer regulated under State
18 Insurance Commissioner of this state and not affiliated with the
19 applicant, in the amount of Twenty-five Thousand Dollars
20 (\$25,000.00) for each location. However, the aggregate amount of
21 the surety bond required for a single licensee shall not exceed Two
22 Hundred Thousand Dollars (\$200,000.00). In lieu of the surety bond,
23 the applicant shall file an irrevocable letter of credit, in the
24 amount of the surety bond, issued by any federally insured bank,

1 savings bank, or credit union, none of which is affiliated with the
2 applicant. The surety bond or irrevocable letter of credit shall be
3 in a form satisfactory to the Commissioner and shall be payable to
4 the Department of Consumer Credit for the benefit of any person who
5 is injured pursuant to a flex loan plan by the fraud,
6 misrepresentation, breach of contract, financial failure or
7 violation of any provision of this act by a licensee. In the case
8 of a surety bond, the aggregate liability of the surety bond shall
9 not exceed the principal sum of the surety bond. In the case of an
10 irrevocable letter of credit, applicants shall obtain letters of
11 credit for terms of not less than three (3) years and renew the
12 letters of credit annually. If the licensee fails to pay a person
13 or the Commissioner, as required by this act, then a person may
14 bring suit against the licensee directly on the surety bond or
15 irrevocable letter of credit in any court of competent jurisdiction,
16 or the Commissioner may bring suit in the District Court of Oklahoma
17 County, which shall have exclusive venue in all matters relating to
18 this section on behalf of those persons, in either one (1) or
19 successive actions. The surety bond or irrevocable letter of credit
20 shall be maintained by the licensee for not less than three (3)
21 years following the expiration, revocation, or surrender of the
22 licensee's license.

23 B. 1. The Commissioner is authorized to require an applicant
24 for a license to consent to a criminal history records check and to

1 provide fingerprints with the application in a form acceptable to
2 the Commissioner. The Commissioner may require such consent and
3 fingerprints from any individual who is a director, officer, or ten
4 percent (10%) or more shareholder of the applicant or who owns or
5 controls the applicant, as well as from any other individual
6 associated with the applicant as is reasonably necessary to meet the
7 purposes of this act. Refusal of any person to consent to a
8 criminal history records check or to provide fingerprints pursuant
9 to this subsection constitutes grounds for the Commissioner to deny
10 the applicant a license.

11 2. Any criminal history records check conducted pursuant to
12 this subsection shall be conducted by the Oklahoma State Bureau of
13 Investigation, the Federal Bureau of Investigation, or both, and the
14 results of the criminal history records check shall be forwarded to
15 the Commissioner. All costs incurred in conducting the criminal
16 history records check shall be paid by the applicant, in addition to
17 any other fees required by this act.

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

21 A. Upon the filing of an application in a form prescribed by
22 the Commissioner, accompanied by the fee and documents required by
23 this act, the Commissioner shall investigate to ascertain whether
24 the requirements prescribed by this act have been satisfied. If the

1 Commissioner finds that the requirements have been satisfied, and
2 approves the documents, the Commissioner shall issue to the
3 applicant a license to engage in the business of making flex loans
4 in this state.

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

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

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

14 A. If the Commissioner determines that an applicant is not
15 qualified to receive a license, the Commissioner shall notify the
16 applicant in writing that the application has been denied, stating
17 the basis for denial.

18 B. If the Commissioner denies an application, or if the
19 Commissioner fails to act on an application within ninety (90) days
20 after the filing of a properly completed application, the applicant
21 may make a written demand to the Commissioner for a hearing before
22 the Commissioner on the question of whether the license should be
23 granted.

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1 C. Any hearing on the denial of a license shall be conducted
2 pursuant to the Administrative Procedures Act, provided that the
3 burden of proof that the applicant is entitled to a license shall be
4 on the applicant. A decision of the Commissioner following any
5 hearing on the denial of a license is subject to review pursuant to
6 the provisions of the Administrative Procedures Act.

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

10 A. Licenses issued pursuant to this act shall expire on
11 December 31. Each license may be renewed for the ensuing twelve-
12 month period upon application by the license holder showing
13 continued compliance with the requirements of this act, and the
14 payment to the Commissioner annually, between November 1 and
15 December 31, of a license renewal fee of Five Hundred Dollars
16 (\$500.00). If a supervision fee is established pursuant to this
17 act, the Commissioner shall require licensees under this act to
18 instead pay the nonrefundable supervision fee in place of the
19 license renewal fee.

20 B. A licensee making timely and complete application for
21 renewal of its license shall be permitted to continue to operate
22 under its existing license until its application is approved or
23 denied.

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1 C. The Commissioner may establish, by promulgation of an
2 administrative rule, a biennial license arrangement for the filing
3 of the application for license renewal, but the license fee or
4 supervision fee, if established pursuant to authority of the act,
5 shall not be payable for more than one (1) year at a time.

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

9 A. A license issued pursuant to this act is not transferable or
10 assignable.

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

21 2. Whenever control is acquired or exercised in violation of
22 this section, the license shall be deemed revoked as of the date of
23 the unlawful acquisition of control. The licensee or its
24

1 controlling person shall surrender the license to the Commissioner
2 on demand.

3 C. A licensee shall notify the Commissioner five (5) days
4 before any change in the licensee's principal place of business,
5 branch office or name.

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

9 A. Notwithstanding any other statutory limitation, a licensee
10 authorized to make flex loans under this act may charge and collect
11 interest, fees, and charges in a manner consistent with this
12 section.

13 B. A licensee may charge and collect a periodic interest rate
14 not to exceed twenty-four percent (24%) per annum.

15 C. 1. In addition to the periodic interest rate authorized
16 under subsection B of this section, a licensee may also charge and
17 collect a customary fee to defray the ordinary costs of opening,
18 administering, and terminating a flex loan plan, including, but not
19 limited to, costs associated with:

- 20 a. underwriting and documenting the account,
- 21 b. securing and maintaining account information,
- 22 c. validating customer information,
- 23 d. offering phone access to accounts,
- 24 e. processing account transactions,

- 1 f. responding to customer inquiries,
- 2 g. providing periodic billing statements,
- 3 i. inspection, verification, and protection of collateral
- 4 and establishment, perfection, and release of the
- 5 security interest, and
- 6 j. all other services or activities conducted by the
- 7 licensee under the flex loan plan.

8 2. The customary fee shall not be deemed interest for any
9 purpose of law.

10 D. The maximum principal loan amount of a flex loan shall be
11 adjusted every other year by the State Banking Commissioner to
12 reflect the percentage changes in the Consumer Price Index published
13 by the Bureau of Labor Statistics of the Department of Labor.

14 E. Any flex loan under this act shall require payment, in the
15 form of cash, money order, debit card, or prepaid debit card, or any
16 other instrument for payment of money, whether or not negotiable,
17 including any authorization for electronic payment of money, on or
18 before the due date of each billing cycle in an amount sufficient to
19 reduce any outstanding principal balance by at least three percent
20 (3%) per calendar month.

21 F. 1. If a customer defaults under the terms of a flex loan
22 plan and the licensee refers the customer's account to an attorney,
23 including a regular salaried employee of the licensee, for
24 collection, the licensee may:

- 1 a. if the flex loan plan so provides, charge and collect
2 from the customer a reasonable attorney's fee, and
3 b. if the flex loan plan, or in the case of secured plans,
4 the security agreement or similar instrument, so
5 provides, recover from the customer all collection and
6 court costs, including, in the case of secured plans, all
7 costs of enforcing the security agreement or similar
8 instrument actually incurred by the licensee, including
9 those incurred on appeal.

10 2. A licensee may charge and collect interest following default
11 of the customer or judgment in favor of the licensee at the periodic
12 rate permitted by this section.

13 3. Disposition of property after default shall occur in a
14 commercially reasonable manner in accordance with law.

15 G. If a check is returned to a licensee from a payor financial
16 institution due to insufficient funds, no licensee shall have the
17 authority to assess a handling charge against the maker or drawer of
18 the returned check.

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

22 A. A licensee shall provide each prospective customer, before
23 consummation of a flex loan plan, a written explanation, in clear,
24 understandable language, of the interest, fees, and charges to be

1 charged by the licensee. The style, content and method of executing
2 the required written explanation shall comply with federal truth-in-
3 lending laws and shall contain a statement that the customer may
4 prepay the unpaid balance in whole or in part at any time without
5 penalty. The Commissioner may promulgate administrative rules
6 establishing additional requirements in order to assure complete and
7 accurate disclosure of the interest, fees, and charges to be charged
8 by a licensee under a flex loan plan.

9 B. The account-opening statement for any flex loan plan shall
10 include, along with other state or federal law requirements:

11 1. A next-business-day customer's right of rescission for any
12 requested draw under the flex loan plan; and

13 2. A notice informing the customer that complaints may be made
14 to the Commissioner, including the Commissioner's telephone number
15 and address.

16 C. The account-opening statement for any flex loan plan shall
17 not require or provide the licensee the authority to require the
18 customer to draw the full amount of credit available under a flex
19 loan plan at any time.

20 D. A licensee shall provide customers with a periodic billing
21 statement in compliance with federal truth-in-lending laws.

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

1 A. Each licensee shall keep and use in its business any books,
2 accounts and records the Commissioner may require to effectuate this
3 act and the rules promulgated thereto. Every licensee shall
4 preserve the books, accounts and records for at least two (2) years.
5 Any licensee, after receiving the prior written approval of the
6 Commissioner, may maintain records at a location within or outside
7 this state.

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

10 C. A licensee shall not use any device or agreement, including
11 agreements with affiliated licensees, with the intent to obtain
12 greater charges than otherwise would be authorized by this subtitle.

13 D. A licensee shall comply with any state or federal law, rule,
14 or regulation applicable to any business authorized or conducted
15 under this act, including, but not limited to, the federal Truth in
16 Lending Act, 15 U.S.C. sec 1601 et seq., the federal Equal Credit
17 Opportunity Act, 15 U.S.C. secs. 1691-1691f, and the federal Fair
18 Debt Collection Practices Act, 15 U.S.C. sec 1692 et seq.

19 E. 1. No flex loan plan subject to this act shall:

20 a. provide that the law of a jurisdiction other than this
21 state applies,

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

24 c. establish venue, or

1 d. waive any provision of this act.

2 2. Any provision described in this section that is contained in
3 a flex loan plan subject to this act shall be void and not
4 enforceable as a matter of public policy.

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

8 The business of making flex loans in accordance with this act
9 shall not be subject to or controlled by any other statute governing
10 the imposition of interest, fees, or loan charges. A licensee shall
11 not have the powers enumerated in this act without first complying
12 with the law regulating the particular transaction involved, but
13 licensees legally exercising any of the powers set forth in this act
14 shall not be deemed in violation of any other provision of law.

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

18 A. The Commissioner may promulgate administrative rules in
19 accordance with the Administrative Procedures Act, for the
20 enforcement of this act. A copy of any administrative rules by the
21 Commissioner shall be mailed to the principal place of business of
22 each license holder at least thirty (30) days before the date it
23 takes effect.

1 B. To assure compliance with this act, the Commissioner may
2 examine the relevant business, books and records of any licensee.
3 Further, for the purposes of discovering violations of this act and
4 determining whether persons are subject to this act, the
5 Commissioner may examine or investigate persons licensed under this
6 act and persons reasonably suspected by the Commissioner of
7 conducting business that requires a license under this act by
8 exercising authority that includes, but is not limited to, the power
9 to summon witnesses and examine them under oath or affirmation, and
10 to compel the production of books and records that may be relevant
11 to the examination or investigation.

12 C. 1. A licensee or unlicensed person subject to the licensing
13 requirements of this act, that is examined or investigated in
14 accordance with this act, shall pay to the Commissioner the
15 reasonable and actual expenses of the investigation or examination.
16 The expenses shall be payable in addition to all other fees, taxes
17 and costs required by law.

18 2. If a supervision fee is established pursuant to this act,
19 then licensees who pay the supervision fee will no longer be
20 required to pay examination expenses pursuant to this subsection for
21 examinations that occur after payment of the supervision fee.

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

1 A. The Commissioner may, after notice and hearing, suspend or
2 revoke any license if the Commissioner finds that the licensee has
3 knowingly or through lack of due care:

4 1. Failed to pay any fees, expenses, or costs imposed by the
5 Commissioner under the authority of this act;

6 2. Has committed any fraud, engaged in any dishonest activities
7 or made any misrepresentations;

8 3. Has violated any provision of this act, any administrative
9 rule promulgated pursuant to this act, or any other law in the
10 course of the licensee's dealings as a licensee;

11 4. Has made a false statement in the application for the
12 license or failed to give a true reply to a question in the
13 application; or

14 5. Has demonstrated incompetency or untrustworthiness to act as
15 a licensee.

16 B. If the reason for revocation or suspension of a licensee's
17 license at any one (1) location is of general application to all
18 locations operated by a licensee, the Commissioner may revoke or
19 suspend all licenses issued to a licensee.

20 C. A hearing shall be held on written notice given at least
21 twenty (20) days prior to the date of the hearing and shall be
22 conducted in accordance Administrative Procedures Act.

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

4 After notice and opportunity for a hearing, if the Commissioner
5 finds that a person has violated this act, or any administrative
6 rule promulgated thereto, the Commissioner may take the following
7 actions or any combination of such actions:

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

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

12 3. Order the person to pay to the Commissioner a civil penalty
13 of not more than One Thousand Dollars (\$1,000.00) for each
14 transaction in violation of this act or for each day that a
15 violation occurs or continues. Such civil penalty shall be
16 deposited to the credit of the General Revenue Fund.

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

20 A. The Commissioner, after notice and opportunity for a
21 hearing, may censure, suspend for a period not to exceed twelve (12)
22 months, or bar a person from any position of employment, management
23 or control of a licensee, if the Commissioner finds that the:

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1 1. Censure, suspension, or bar is in the public interest and
2 that the person has committed or caused a violation of this
3 subtitle, administrative regulation, or any rule or order of the
4 Commissioner; or

5 2. Person has been:

6 a. convicted or pled guilty to, or pled nolo contendere to,
7 any crime, or

8 b. held liable in any civil action by final judgment, or any
9 administrative judgment by any public agency, if the
10 criminal, civil or administrative judgment involved any
11 offense reasonably related to the qualifications,
12 functions, or duties of a person engaged in the business
13 of making flex loans pursuant to this subtitle.

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

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

23 A. The Commissioner may enter into a consent order at any time
24 with any person to resolve any matter arising under this act. A

1 consent order shall be signed by the person to whom it is issued, or
2 a duly authorized representative, and shall indicate agreement to
3 the terms contained in the order. A consent order need not
4 constitute an admission by any person that any provision of this
5 act, or any administrative rule or order promulgated or issued under
6 this act has been violated, nor need it constitute a finding by the
7 Commissioner that the person has violated this act, or any
8 administrative rule, or order issued under this act.

9 B. Notwithstanding the issuance of a consent order, the
10 Commissioner may seek civil or criminal penalties concerning matters
11 encompassed by the consent order.

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

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

22 A. Any person aggrieved by the conduct of a licensee under this
23 act in connection with the licensee's regulated activities may file
24

1 a written complaint with the Commissioner who may investigate the
2 complaint.

3 B. In the course of the investigation of the complaint, the
4 Commissioner may:

- 5 1. Subpoena witnesses;
- 6 2. Administer oaths;
- 7 3. Examine any individual under oath or affirmation; and
- 8 4. Compel the production of records, books, papers, contracts
9 or other documents relevant to the investigation.

10 C. If any person fails to comply with a subpoena of the
11 Commissioner under this act or to testify concerning any matter
12 about which the person may be interrogated under this act, the
13 Commissioner may petition any court of competent jurisdiction for
14 enforcement.

15 D. The license of any licensee under this act who fails to
16 comply with a subpoena of the Commissioner may be suspended pending
17 compliance with the subpoena.

18 E. The Commissioner shall have exclusive administrative power
19 to investigate and enforce any and all complaints relating to the
20 business of making flex loans filed by any person that are not
21 criminal in nature.

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

1 Within fifteen (15) days of the occurrence of any one (1) of the
2 following events, a licensee shall file a written report with the
3 Commissioner describing the event and its expected impact on the
4 activities of the licensee in this state:

5 1. The filing for bankruptcy or reorganization by the licensee;

6 2. Revocation or suspension proceedings instituted against the
7 licensee by any state or governmental authority;

8 3. The denial of the opportunity to engage in the business of
9 making loans by any state or governmental authority;

10 4. Any felony indictment of the licensee or any of its
11 directors, officers or principals;

12 5. Any felony conviction of the licensee or any of its
13 directors, officers or principals; and

14 6. Other events that the Commissioner may determine and
15 identify by administrative regulation.

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

19 A. Each licensee shall file an annual report with the
20 Commissioner on the date of the renewal application required in
21 Section 8 containing the following information:

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

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

3 3. The names and addresses of all affiliated entities regulated
4 under this title doing business in this state;

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

11 5. If the licensee is a corporation, the names and addresses of
12 its officers and directors; if the licensee is a partnership, the
13 names and addresses of the partners; or if the licensee is a limited
14 liability company, the names and addresses of the board of governors
15 or managers of the limited liability company.

16 B. If the licensee holds two (2) or more licenses or is
17 affiliated with other licensees a composite report may be filed, but
18 may not be required.

19 C. The reports shall be filed in a form that may reasonably be
20 required by the Commissioner and shall be sworn to by a responsible
21 officer of the licensee.

22 D. The information submitted by licensees pursuant to this
23 section shall be afforded the same degree of confidentiality by the
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1 Department of Consumer Credit and the Commissioner as is applicable
2 to reports filed by loan and thrift companies pursuant to law.

3 E. The Commissioner shall prepare and submit to the governor
4 and legislature, annually, an analysis and recapitulation of the
5 reports for the preceding calendar year for the purpose of
6 reflecting the general results of operations under this subtitle.

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

10 A. In addition to any other powers conferred upon the
11 Commissioner of the Department of Consumer Credit by law, the
12 Commissioner is authorized to require persons subject to this act to
13 be licensed through a multi-state automated licensing system.
14 Pursuant to this authority, the Commissioner may:

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

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

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

4 4. Require that any fees required to be paid under this act be
5 paid through a multi-state automated licensing system;

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

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

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

20 C. Notwithstanding this section, the Commissioner retains full
21 authority and discretion to license persons under this act and to
22 enforce this act to its fullest extent. Nothing in this section
23 shall be deemed to be a reduction or derogation of that authority
24 and discretion.

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 multi-state automated licensing system,
4 as well as all costs required by a multi-state automated licensing
5 system for maintaining and renewing any license issued by the
6 Commissioner on a multi-state 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 Commissioner of the Department of Consumer Credit is
11 authorized to use a multi-state 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 Commissioner 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 In order to promote more effective regulation and reduce
21 regulatory burden through supervisory information sharing:

22 A. The requirements under any federal or state law regarding
23 the privacy or confidentiality of any information or material
24 provided to a multi-state automated licensing system, and any

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

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

15 C. Information or material that is subject to a privilege or
16 confidential under this section shall not be subject to:

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

20 2. Subpoena, discovery, or admission into evidence in any
21 private civil action or administrative process, unless with respect
22 to any privilege held by a multi-state automated licensing system
23 applicable to such information or material, the person to whom such
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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 multi-state 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 flex plan
15 loans.

16 SECTION 27. This act shall become effective November 1, 2016.

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