

1                                   **SENATE FLOOR VERSION**  
2                                   February 18, 2016  
3                                   **AS AMENDED**

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 SENATE BILL NO. 1314

By: Holt

6  
7                   **[ consumer credit - Flexible Credit Act - license -**  
8                   **annual reports - confidentiality - codification -**  
9                   **effective date ]**

10  
11 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

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

15           This act shall be known and may be cited as the "Flexible Credit  
16 Act".

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

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

21           1. "Administrator" means the Administrator of the Department of  
22 Consumer Credit or the Administrator's designee;

23           2. "Control" means possession, direct or indirect, of the power  
24 to direct or cause the direction of management and policies of a

1 person, whether through ownership of voting securities by contract  
2 or otherwise, if no individual shall be deemed to control a person  
3 solely on account of being a director, officer, or employee of the  
4 person. For purposes of this paragraph, a person who, directly or  
5 indirectly, owns, controls, holds the power to vote, or holds  
6 proxies representing twenty-five percent (25%) or more of the  
7 current outstanding voting securities issued by another person is  
8 presumed to control the other person, and the Administrator may  
9 determine whether a person, in fact, controls another person;

10 3. "Controlling person" means any person in control of a  
11 licensee;

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

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

14 6. "Flex loan plan" means a written agreement subject to this  
15 subtitle between a licensee and customer establishing a credit plan  
16 under which the licensee contemplates credit transactions from time  
17 to time that:

- 18 a. may be unsecured or secured by personal property,
- 19 b. shall not have a term longer than twelve (12) months,
- 20 and
- 21 c. are subject to prepayment in whole or in part at any  
22 time without penalty;

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

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

4 9. "Default" means:

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

12 b. the customer's failure to otherwise perform the  
13 obligations under the flex loan plan.

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

17 A. No person shall engage in the business of making flex loans  
18 unless the person is licensed to make flex loans pursuant to this  
19 act. A person shall be deemed to be engaged in the business of  
20 making flex loans in this state if the person induces a consumer,  
21 while located in this state, to enter into a flex loan plan in this  
22 state through the use of facsimile, telephone, Internet, or other  
23 means. A separate license shall be required for each location from  
24 which the business of making flex loans is conducted.

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

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

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

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

17           2. The financial responsibility, financial condition, business  
18 experience, character, and general fitness of the applicant shall  
19 reasonably warrant the belief that the applicant's business shall be  
20 conducted lawfully, honestly, carefully and efficiently. In  
21 determining whether these qualifications have been met, and for the  
22 purpose of investigating compliance with this subtitle, the  
23 Administrator may review and approve:

24           a. the relevant business records and the capital adequacy of

1 the applicant,

2 b. the competence, experience, integrity, and financial  
3 ability of any person who is a director, a shareholder  
4 with ten percent (10%) or more shares of the applicant,  
5 or a person who owns or controls the applicant, and

6 c. any record of the applicant or any person referred to in  
7 this act for any criminal activity, any fraud or other  
8 act of personal dishonesty, any act, omission, or  
9 practice that constitutes a breach of a fiduciary duty,  
10 or any suspension, revocation, or removal by any agency  
11 or department of the United States or any state, from  
12 participation in the conduct of any business.

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

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

18 Each application for a license shall be in a form established by  
19 the Administrator of the Department of Consumer Credit by  
20 promulgation of an administrative rule, including the following:

21 1. The legal name, residence and business address of the  
22 applicant, and if the applicant is a partnership, association, or  
23 corporation, the legal name, residence and business address of every  
24 member, officer, managing employee and director of the applicant;

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

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

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

13           A. Each application for a license required by this act shall be  
14 accompanied by:

15           1. A filing fee of Five Hundred Dollars (\$500.00), which shall  
16 not be subject to refund unless the license is granted and the  
17 filing fee shall constitute the license fee for the first license  
18 year or part thereof, unless a nonrefundable supervision fee is  
19 established by the Administrator, by administrative rule promulgated  
20 pursuant to this act, the nonrefundable supervision fee shall be in  
21 lieu of the filing fee. The filing fee or supervision fee shall be  
22 applicable to each location;

23           2. An audited financial statement including but not limited to  
24 a balance sheet, a statement of income or loss, and a statement of

1 changes in financial position for the immediately preceding fiscal  
2 year, prepared in accordance with generally accepted accounting  
3 principles by a certified public accountant or public accounting  
4 firm, neither of which is affiliated with the applicant. For a  
5 newly created entity, the Administrator may accept only a balance  
6 sheet prepared by a certified public accountant or public accounting  
7 firm, neither of which is affiliated with the applicant, accompanied  
8 by a projected income statement demonstrating that the applicant  
9 will have adequate capital after payment of start-up costs; and

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

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

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



1 criminal history records check or to provide fingerprints pursuant  
2 to this subsection constitutes grounds for the Administrator to deny  
3 the applicant a license.

4 2. Any criminal history records check conducted pursuant to  
5 this subsection shall be conducted by the Oklahoma State Bureau of  
6 Investigation, the Federal Bureau of Investigation, or both, and the  
7 results of the criminal history records check shall be forwarded to  
8 the Administrator. All costs incurred in conducting the criminal  
9 history records check shall be paid by the applicant, in addition to  
10 any other fees required by this act.

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

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

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

24

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

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

8 A. If the Administrator determines that an applicant is not  
9 qualified to receive a license, the Administrator shall notify the  
10 applicant in writing that the application has been denied, stating  
11 the basis for denial.

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

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

24

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

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

14           B. A licensee making timely and complete application for  
15 renewal of its license shall be permitted to continue to operate  
16 under its existing license until its application is approved or  
17 denied.

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

23  
24

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

4           A. A license issued pursuant to this act is not transferable or  
5 assignable.

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

16           2. Whenever control is acquired or exercised in violation of  
17 this section, the license shall be deemed revoked as of the date of  
18 the unlawful acquisition of control. The licensee or its  
19 controlling person shall surrender the license to the Administrator  
20 on demand.

21           C. A licensee shall notify the Administrator five (5) days  
22 before any change in the licensee's principal place of business,  
23 branch office or name.

24

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

4 A. Notwithstanding any other statutory limitation, a licensee  
5 authorized to make flex loans under this act may charge and collect  
6 interest, fees, and charges in a manner consistent with this  
7 section.

8 B. A licensee may charge and collect a periodic interest rate  
9 not to exceed twenty percent (20%) per month.

10 C. The maximum principal loan amount of a flex loan shall be  
11 Three Thousand Dollars (\$3,000.00) and adjusted every other year by  
12 the Administrator of the Department of Consumer Credit to reflect  
13 the percentage changes in the Consumer Price Index published by the  
14 Bureau of Labor Statistics of the Department of Labor.

15 D. Any flex loan under this act shall require payment, in the  
16 form of cash, money order, debit card, or prepaid debit card, or any  
17 other instrument for payment of money, whether or not negotiable,  
18 including any authorization for electronic payment of money, on or  
19 before the due date of each billing cycle in an amount sufficient to  
20 reduce any outstanding principal balance by at least three percent  
21 (3%) per calendar month.

22 E. 1. If a customer defaults under the terms of a flex loan  
23 plan and the licensee refers the customer's account to an attorney,  
24

1 including a regular salaried employee of the licensee, for  
2 collection, the licensee may:

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

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

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

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

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

24

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

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

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

16       2. A notice informing the customer that complaints may be made  
17 to the Administrator, including the Administrator's telephone number  
18 and address.

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

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

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

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

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

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

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

22 E. 1. No flex loan plan subject to this act shall:  
23 a. provide that the law of a jurisdiction other than this  
24 state applies,



- b. provide that the customer consents to the jurisdiction of another state or foreign country,
- c. establish venue, or
- d. waive any provision of this act.

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

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

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

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

A. The Administrator may promulgate administrative rules in accordance with the Administrative Procedures Act, for the enforcement of this act. A copy of any administrative rules by the Administrator shall be mailed to the principal place of business of

1 each license holder at least thirty (30) days before the date it  
2 takes effect.

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

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

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

24

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

4 A. The Administrator may, after notice and hearing, suspend or  
5 revoke any license if the Administrator finds that the licensee has  
6 knowingly or through lack of due care:

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

9 2. Has committed any fraud, engaged in any dishonest activities  
10 or made any misrepresentations;

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

14 4. Has made a false statement in the application for the  
15 license or failed to give a true reply to a question in the  
16 application; or

17 5. Has demonstrated incompetency or untrustworthiness to act as  
18 a licensee.

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

23

24

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

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

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

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

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

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

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

23 A. The Administrator, after notice and opportunity for a  
24 hearing, may censure, suspend for a period not to exceed twelve (12)

1 months, or bar a person from any position of employment, management  
2 or control of a licensee, if the Administrator finds that the:

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

7 2. Person has been:

8 a. convicted or pled guilty to, or pled nolo contendere to,  
9 any crime, or

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

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

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

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

11       B. Notwithstanding the issuance of a consent order, the  
12 Administrator may seek civil or criminal penalties concerning  
13 matters encompassed by the consent order.

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

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

24

1           A. Any person aggrieved by the conduct of a licensee under this  
2 act in connection with the licensee's regulated activities may file  
3 a written complaint with the Administrator who may investigate the  
4 complaint.

5           B. In the course of the investigation of the complaint, the  
6 Administrator may:

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

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

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

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

24

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

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

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

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

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

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

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

17 6. Other events that the Administrator may determine and  
18 identify by administrative regulation.

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

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



- 1        1. The names and addresses of persons owning a controlling  
2 interest in each licensee;
- 3        2. The location of all places of business operated by the  
4 licensee and the nature of the business conducted at each location;
- 5        3. The names and addresses of all affiliated entities regulated  
6 under this title doing business in this state;
- 7        4. An audited financial statement, including, but not limited  
8 to, a balance sheet, statement of income or loss, and statement of  
9 changes in financial position, for the immediately preceding fiscal  
10 year end, prepared in accordance with generally accepted accounting  
11 principles by a certified public accountant or public accounting  
12 firm, neither of which is affiliated with the licensee; and
- 13        5. If the licensee is a corporation, the names and addresses of  
14 its officers and directors; if the licensee is a partnership, the  
15 names and addresses of the partners; or if the licensee is a limited  
16 liability company, the names and addresses of the board of governors  
17 or managers of the limited liability company.
- 18        B. If the licensee holds two (2) or more licenses or is  
19 affiliated with other licensees a composite report may be filed, but  
20 may not be required.
- 21        C. The reports shall be filed in a form that may reasonably be  
22 required by the Administrator and shall be sworn to by a responsible  
23 officer of the licensee.
- 24

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

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

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

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

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

20 2. Establish relationships or enter into agreements that are  
21 reasonably necessary for participation in, transition to, or  
22 operation of a multi-state automated licensing system. The  
23 agreements may include, but are not limited to, operating  
24

1 agreements, information sharing agreements, interstate cooperative  
2 agreements and technology licensing agreements;

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

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

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

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

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

22 C. Notwithstanding this section, the Administrator retains full  
23 authority and discretion to license persons under this act and to  
24 enforce this act to its fullest extent. Nothing in this section

1 shall be deemed to be a reduction or derogation of that authority  
2 and discretion.

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

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

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

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

22 In order to promote more effective regulation and reduce  
23 regulatory burden through supervisory information sharing:

24

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

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

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

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

23       2. Subpoena, discovery, or admission into evidence in any  
24 private civil action or administrative process, unless with respect

1 to any privilege held by a multi-state automated licensing system  
2 applicable to such information or material, the person to whom such  
3 information or material pertains waives that privilege, in whole or  
4 in part, in the discretion of such person.

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

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

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

15 Local government units, including, but not limited to, cities,  
16 towns and counties, shall have no authority to regulate flex plan  
17 loans.

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

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE  
February 18, 2016 - DO PASS AS AMENDED  
20  
21  
22  
23  
24