

1 **SENATE FLOOR VERSION**

2 February 14, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 720

6 By: Leewright

7 An Act relating to the small lenders; authorizing
8 certain lenders to apply for certain licensure after
9 certain date; prohibiting certain loans after certain
10 date; providing certain exception for outstanding
11 loans; construing expiration of certain license;
12 making certain licenses expire on certain date;
13 creating the Oklahoma Small Lenders Act; providing
14 short title; defining terms; requiring certain
15 license; requiring service agent; stating
16 requirements for licensure; directing periodic review
17 for compliance; providing for rulemaking; stating
18 content of certain application; setting certain fees;
19 requiring financial statement and certain bond;
20 allowing letter of credit in lieu of bond; stating
21 purpose of bond; authorizing suit against bond for
22 nonpayment; designating certain venue of certain
23 actions; requiring criminal history records check
24 with fingerprints; providing for refusal to submit to
criminal history records check; designating OSBI or
FBI to conduct certain criminal records checks;
making applicant pay cost of records checks;
authorizing certain investigation; requiring posting
of license; providing for written denial of license;
setting time to deny a license; providing for hearing
on denial of license; setting duration of license;
providing for license renewals; 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; prohibiting loan payment in
excess of certain percentage of gross monthly income;

1 stating requirements for electronic payments;
2 providing for default; stating insufficient funds
3 fee; requiring certain written explanation; requiring
4 books be kept for certain period; prohibiting unfair
5 practices; requiring compliance with federal laws;
6 prohibiting certain conditions in loan plan; making
7 certain conditions void and unenforceable; making
8 provisions of act exclusive; authorizing promulgation
9 of rules; providing for examination of certain
10 records for certain purpose; requiring payment for
11 certain examinations; providing for suspension and
12 revocation of license under certain conditions;
13 stating conditions; allowing all licenses of a
14 violator to be suspended or revoked; setting time for
15 notice and hearing; establishing penalties for
16 violations; allowing civil penalty of certain
17 amounts; allowing a person to be barred for certain
18 time; authorizing certain consent orders; authorizing
19 criminal actions; providing for complaints; requiring
20 written reports on certain occurrences; directing
21 filing of annual reports by licensees; providing for
22 confidentiality of certain information; providing for
23 participation in multistate automated licensing;
24 granting certain powers and authority; construing
authority under multistate licensing system;
directing costs of multistate licensing system be
paid by applicant and licensees; providing for
sharing and confidentiality of certain information;
providing certain provision to supersede other
provisions; construing certain confidentiality;
prohibiting certain governmental units from
regulating small loans; construing effect of
garnishment; amending 59 O.S. 2011, Section 3119, as
amended by Section 2, Chapter 279, O.S.L. 2017 (59
O.S. Supp. 2018, Section 3119), which relates to
funds to consumer credit counseling provider;
deleting language; amending Section 3, Chapter 279,
O.S.L. 2017 (70 O.S. Supp. 2018, Section 11-103.6h-
1), which relates to the Personal Financial Literacy
Education Revolving Fund; modifying language;
providing for recodification; providing for
codification; and providing effective dates.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 3101.1 of Title 59, unless there
4 is created a duplication in numbering, reads as follows:

5 Any person licensed pursuant to the Deferred Deposit Lending Act
6 may make application for licensure under the Oklahoma Small Lenders
7 Act beginning on January 1, 2020. Beginning on and after August 1,
8 2020, no new deferred deposit loan may be entered into or transacted
9 by a licensee or other person; provided, however, a licensed
10 deferred deposit lender may continue to administer and collect all
11 outstanding deferred deposit loan payments on all loans transacted
12 before August 1, 2020, until such loans are paid in full according
13 to the terms of the written loan agreements, at which time the
14 licensee's authority under the Deferred Deposit Lending Act shall
15 terminate and expire notwithstanding any period remaining on an
16 existing deferred deposit lender's license. All Deferred Deposit
17 Lending Act licenses shall be terminated and be deemed to have
18 expired on August 1, 2020, upon the implementation of the Oklahoma
19 Small Lenders Act, except as provided herein.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3150 of Title 59, unless there
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Oklahoma Small
24 Lenders Act".

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3150.1 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

24

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. **shall** be unsecured,
- 6 b. shall not have a term longer than twelve (12) months
7 or less than ninety (90) days,
- 8 c. shall be fully amortized and payable in substantially
9 equal periodic payments, and
- 10 d. are subject to prepayment in whole or in part at any
11 time without penalty;

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

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

17 9. "Default" means:

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

1 b. the customer's failure to otherwise perform the
2 obligations under the small loan agreement.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3150.2 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Beginning on August 1, 2020, no person shall engage in the
7 business of making small loans as defined in this act, unless the
8 person is licensed by the Department of Consumer Credit as provided
9 by this act. A person shall be deemed to be engaged in the business
10 of making small loans in this state if the person regularly makes
11 loans for a fee or induces a consumer, while located in this state,
12 to enter into a small loan in this state through the use of
13 facsimile, telephone, Internet or other means. A separate license
14 shall be required for each location from which the business of
15 making small loans is conducted.

16 B. Any nonresident person seeking licensure under this act
17 shall furnish the Administrator of the Department of Consumer Credit
18 with the name and address of a resident of this state upon whom
19 notices or orders issued by the Administrator, or process affecting
20 a licensee under this act, may be served. A nonresident licensee
21 shall notify the Administrator in writing of any change in its
22 designated agent for service of process as provided in paragraph 2
23 of Section 5 of this act, and the change shall not become effective
24 until approved by the Administrator.

1 C. No person doing business under the authority of any law of
2 Oklahoma or of the United States relating to banks, savings
3 institutions, trust companies, building and loan associations,
4 industrial loan associations or credit unions shall be eligible for
5 licensure under this act.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3150.3 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

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

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

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

21 a. the business records and the capital adequacy of the
22 applicant,

23 b. the competence, experience, integrity and financial
24 ability of any person who is a director, officer, a

1 shareholder with ten percent (10%) or more shares of
2 the applicant, or a person who owns or controls the
3 applicant, and

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

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

14 SECTION 6. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3150.4 of Title 59, unless there
16 is created a duplication in numbering, reads as follows:

17 A. On and after January 1, 2020, a person may apply for
18 licensure pursuant to the Oklahoma Small Lenders Act; provided,
19 however, no person is authorized to make any small loan pursuant to
20 this act until August 1, 2020, and thereafter; and provided further,
21 such person making any small loan must be in possession of a valid
22 license issued pursuant to this act.

23 B. Each application for a license shall be in a form
24 established by the Administrator of the Department of Consumer

1 Credit by promulgation of an administrative rule and shall include
2 the following:

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

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

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

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3150.5 of Title 59, unless there
18 is created a duplication in numbering, reads as follows:

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

21 1. A filing fee of Seven Hundred Dollars (\$700.00), a license
22 fee of Five Hundred Dollars (\$500.00) and a supervision fee of Seven
23 Hundred Dollars (\$700.00). In the event of a denial of the
24 application per Section 9 of this act, the license and supervision

1 fees shall be returned to the applicant. The filing fee, the
2 license fee and supervision fee shall be applicable to each
3 location;

4 2. An audited financial statement including but not limited to
5 a balance sheet, a statement of income or loss and a statement of
6 changes in financial position for the immediately preceding fiscal
7 year, prepared in accordance with generally accepted accounting
8 principles by a certified public accountant or public accounting
9 firm, neither of which is affiliated with the applicant. For a
10 newly created entity, the Administrator of the Department of
11 Consumer Credit may accept only a balance sheet prepared by a
12 certified public accountant or public accounting firm, neither of
13 which is affiliated with the applicant, accompanied by a projected
14 income statement demonstrating that the applicant will have adequate
15 capital after payment of start-up costs. If the applicant does not
16 have an audited financial statement meeting the above requirements,
17 it may submit a financial statement of its company if the financial
18 statement is audited in accordance with generally accepted
19 accounting principles by a certified public accountant or public
20 accounting firm neither of which is affiliated with the applicant;
21 and

22 3. A surety bond, issued by an insurer regulated under the
23 Insurance Commissioner of this state and not affiliated with the
24 applicant, in the amount of Twenty-five Thousand Dollars

1 (\$25,000.00) for each location. However, the aggregate amount of
2 the surety bond required for a single licensee shall not exceed Two
3 Hundred Thousand Dollars (\$200,000.00). In lieu of the surety bond,
4 the applicant shall file an irrevocable letter of credit, in the
5 amount of the surety bond, issued by any federally insured bank,
6 savings bank or credit union, none of which is affiliated with the
7 applicant. The surety bond or irrevocable letter of credit shall be
8 in a form satisfactory to the Administrator and shall be payable to
9 the Department of Consumer Credit for the benefit of any person who
10 is injured pursuant to a small loan by the fraud, misrepresentation,
11 breach of contract, financial failure or violation of any provision
12 of this act by a licensee. In the case of a surety bond, the
13 aggregate liability of the surety bond shall not exceed the
14 principal sum of the surety bond. In the case of an irrevocable
15 letter of credit, applicants shall obtain letters of credit for
16 terms of not less than three (3) years and renew the letters of
17 credit annually. If the licensee fails to pay a person or the
18 Administrator, as required by this act, then a person may bring suit
19 against the licensee directly on the surety bond or irrevocable
20 letter of credit in any court of competent jurisdiction, or the
21 Administrator may bring suit in the District Court of Oklahoma
22 County or the county of the aggrieved, which shall have exclusive
23 venue in all matters relating to this section on behalf of those
24 persons, in either one or successive actions. The surety bond or

1 irrevocable letter of credit shall be maintained by the licensee for
2 not less than three (3) years following the expiration, revocation
3 or surrender of the licensee's license.

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

16 2. Any criminal history records check conducted pursuant to
17 this subsection shall be conducted by the Oklahoma State Bureau of
18 Investigation, the Federal Bureau of Investigation or both, and the
19 results of the criminal history records check shall be forwarded to
20 the Administrator.

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3150.6 of Title 59, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. Upon the filing of an application in a form prescribed by
2 the Administrator of the Department of Consumer Credit, accompanied
3 by the fees and documents required by this act, the Administrator
4 shall investigate to ascertain whether the requirements prescribed
5 by this act have been satisfied. If the Administrator finds that
6 the requirements have been satisfied and approves the documents, the
7 Administrator shall issue to the applicant a license to engage in
8 the business of making small loans in this state.

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

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3150.7 of Title 59, unless there
13 is created a duplication in numbering, reads as follows:

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

18 B. If the Administrator denies an application, or if the
19 Administrator 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 Administrator for a hearing before
22 the Administrator on the question of whether the license should be
23 granted.

24

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 Administrator 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 10. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3150.8 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Any license issued between January 1, 2020, and December 31,
11 2020, shall expire on December 31, 2021. All licenses issued on and
12 after January 1, 2021, shall expire on December 31 in the year such
13 license is issued, unless earlier surrendered, suspended or revoked
14 pursuant to this act. On and after January 1, 2021, an initial
15 license fee may be prorated to correspond to the number of months
16 between the issuing date and the expiration date of December 31 of
17 the same year.

18 B. Each license may be renewed for the ensuing twelve-month
19 period upon application by the license holder showing continued
20 compliance with the requirements of this act and the payment to the
21 Administrator of the Department of Consumer Credit annually by
22 December 1 of a license renewal fee of Five Hundred Fifty Dollars
23 (\$550.00).

24

1 C. A licensee making timely and complete application for
2 renewal of its license shall be permitted to continue to operate
3 under its existing license until its application is approved or
4 denied.

5 SECTION 11. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3150.9 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

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

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

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

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

4 SECTION 12. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3150.10 of Title 59, unless
6 there is created a duplication in numbering, reads as follows:

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

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

12 C. The maximum aggregated principal loan amount of all small
13 loans outstanding across all licensees per customer shall be One
14 Thousand Five Hundred Dollars (\$1,500.00) and adjusted every other
15 year by the Administrator of the Department of Consumer Credit to
16 reflect the percentage changes in the Consumer Price Index published
17 by the Bureau of Labor Statistics of the Department of Labor. To
18 ensure that the maximum aggregated principal amount is not exceeded,
19 the licensee shall verify outstanding amounts by using a private
20 database approved by the Administrator. To comply with the
21 verification required under this act, a lender may be charged a fee
22 by the database provider not to exceed Two Dollars and twenty cents
23 (\$2.20) for each full or partial 30-day period that a balance is
24 scheduled to be outstanding.

1 D. 1. Notwithstanding the maximum aggregate loan amount
2 established in subsection C of this section, a lender is prohibited
3 from making a small loan if the total scheduled payments coming due
4 in a month exceeds twenty percent (20%) of the borrower's gross
5 monthly income.

6 2. For the purposes of determining a borrower's gross monthly
7 income under this subsection, a lender shall obtain and maintain
8 documentation of the borrower's proof of income or third-party
9 verification of all income considered in making the borrower's gross
10 monthly income determination.

11 3. For the purposes of this subsection, "month" means a period
12 extending from a given date in one (1) calendar month to the same
13 date in the succeeding calendar month; or if there is no same date
14 in the succeeding calendar month, the last day of the succeeding
15 calendar month.

16 E. Any small loan under this act shall require payment in the
17 form of cash, money order, debit card, prepaid credit card,
18 automated clearinghouse debit (ACH payment), remotely created check
19 debit (RCC payment) or any other instrument for payment of money **on**
20 **or** after the due date of each billing cycle. If the borrower
21 chooses to authorize the electronic payment of money, the lender:

22 1. Must get written authorization from the borrower to
23 establish the debit;

24

1 2. Must give written notice to the borrower before the initial
2 funds are transferred;

3 3. Must get additional written approval from the borrower after
4 a second failed attempt to make a loan payment due to insufficient
5 funds; and

6 4. Is permitted to provide electronic written notices to the
7 borrower as long as the borrower consents to electronic
8 communications.

9 F. If a customer defaults under the terms of a small loan and
10 the licensee refers the customer's account to an attorney for
11 collection, the licensee may, if the small loan so provides, charge
12 and collect from the customer a reasonable attorney fee not to
13 exceed fifteen percent (15%) of the outstanding amount.

14 G. If a check, ACH payment or RCC payment is returned to a
15 licensee from a payor financial institution due to insufficient
16 funds, a licensee shall have the authority to assess a twenty-five-
17 dollar fee against the maker or drawer of the returned check.

18 SECTION 13. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3150.11 of Title 59, unless
20 there is created a duplication in numbering, reads as follows:

21 A. A licensee shall provide each customer a written
22 explanation, in clear, understandable language, of the fees and
23 charges to be charged by the licensee. The style, content and
24 method of executing the required written explanation shall comply

1 with Oklahoma Regulation Z laws and shall contain a statement that
2 the customer may prepay the unpaid balance in whole or in part at
3 any time without penalty. The Administrator of the Department of
4 Consumer Credit may promulgate administrative rules establishing
5 additional requirements in order to assure complete and accurate
6 disclosure of the fees and charges to be charged by a licensee under
7 a small loan.

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

10 1. A customer's right of rescission for any small loan. No
11 lender shall be required to extend a right of rescission past the
12 close of business on the day after loan proceeds are disbursed
13 unless the lender is not open on the day after disbursement, in
14 which case the right of rescission shall be extended to the
15 subsequent day the lender is open; 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. Borrowers who default may undergo consumer credit counseling
20 from a list of organizations approved by the Department of Consumer
21 Credit and made available upon request by the lender.

22 SECTION 14. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3150.12 of Title 59, 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 Administrator of the Department of Consumer
3 Credit may require for purposes of this act and the rules
4 promulgated pursuant thereto. Every licensee shall preserve the
5 books, accounts and records for at least four (4) years. Any
6 licensee, after receiving the prior written approval of the
7 Administrator, may maintain records at a location within or outside
8 this state.

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

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

14 D. A licensee shall comply with any state or federal law, rule
15 or regulation applicable to any business authorized or conducted
16 under this act, including but not limited to Oklahoma Regulation Z,
17 the federal Equal Credit Opportunity Act, 15 U.S.C., Sections 1691-
18 1691f, and the federal Fair Debt Collection Practices Act, 15
19 U.S.C., Section 1692 et seq.

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

21 a. provide that the law of a jurisdiction other than
22 Oklahoma law applies,

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

1 c. establish venue.

2 2. Any provision described in this section that is contained in
3 a written small loan agreement made after the effective date of this
4 act shall be void and not enforceable as a matter of public policy.

5 SECTION 15. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3150.13 of Title 59, unless
7 there is created a duplication in numbering, reads as follows:

8 The business of making small 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 16. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3150.14 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

18 A. The Administrator of the Department of Consumer Credit may
19 promulgate administrative rules in accordance with the
20 Administrative Procedures Act for the enforcement of this act.

21 B. To assure compliance with this act, the Administrator may
22 examine the relevant business, books and records of any licensee.
23 Further, for the purposes of discovering violations of this act and
24 determining whether persons are subject to this act, the

1 Administrator may examine or investigate persons licensed under this
2 act and persons reasonably suspected by the Administrator of
3 conducting business that requires a license under this act by
4 exercising authority that includes, but is not limited to, the power
5 to summon witnesses and examine them under oath or affirmation and
6 to compel the production of books and records that may be relevant
7 to the examination or investigation.

8 C. A licensee or unlicensed person subject to the licensing
9 requirements of this act, that is examined or investigated in
10 accordance with this act, shall pay to the Administrator the
11 reasonable and actual expenses of the investigation or examination,
12 including travel expenses, in addition to the supervision fee of
13 Seven Hundred Dollars (\$700.00). Such reasonable and actual
14 expenses shall include a fee of Fifty Dollars (\$50.00) per hour for
15 exams lasting more than eight (8) hours. In-state travel expenses
16 shall comply with such limitations and allowances as provided by the
17 State Travel Reimbursement Act as found in Section 500.1 et seq. of
18 Title 74 of the Oklahoma Statutes. The expenses shall be payable in
19 addition to all other fees, taxes and costs required by law.

20 SECTION 17. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3150.15 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 A. The Administrator of the Department of Consumer Credit shall
24 appoint an independent hearing examiner to conduct all

1 administrative hearings involving alleged violations of Title 14A of
2 the Oklahoma Statutes. The independent hearing examiner shall have
3 authority to exercise all powers granted by Article II of the
4 Administrative Procedures Act in conducting hearings. The
5 independent hearing examiner shall recommend penalties authorized by
6 Title 14A of the Oklahoma Statutes and issue proposed orders, with
7 proposed findings of fact and proposed conclusions of law, to the
8 Administrator pursuant to Article II of the Administrative
9 Procedures Act. The Administrator shall review the proposed order
10 and issue a final agency order in accordance with Article II of the
11 Administrative Procedures Act. The costs of the hearing examiner
12 may be assessed by the Administrator against the respondent, unless
13 the respondent is the prevailing party. Any person aggrieved by a
14 final agency order of the Administrator may obtain judicial review
15 in accordance with the Administrative Procedures Act. The
16 jurisdiction and venue of any such action shall be in the district
17 court of Oklahoma County or the county of the aggrieved.

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

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

23 2. Committed any fraud, engaged in any dishonest activities or
24 made any misrepresentations;

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

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

6 5. Demonstrated incompetency or untrustworthiness to act as a
7 licensee.

8 C. If the reason for revocation or suspension of a licensee's
9 license at any one location is of general application to all
10 locations operated by a licensee, the Administrator may revoke or
11 suspend all licenses issued to a licensee.

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

15 SECTION 18. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3150.16 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

18 After notice and opportunity for a hearing, if the Administrator
19 of the Department of Consumer Credit finds that a person has
20 violated this act or any administrative rule promulgated pursuant
21 thereto, the Administrator may take the following actions or any
22 combination of such actions:

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

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

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

7 SECTION 19. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3150.17 of Title 59, unless
9 there is created a duplication in numbering, reads as follows:

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

14 1. Censure, suspension or bar is in the public interest and
15 that the person has committed or caused a violation of this act,
16 administrative regulation or any rule or order of the Administrator;
17 or

18 2. Person has been:

19 a. convicted, pled guilty to or pled nolo contendere to
20 any crime, or

21 b. held liable in any civil action by final judgment or
22 any administrative judgment by any public agency, if
23 the criminal, civil or administrative judgment
24 involved any offense reasonably related to the

1 qualifications, functions or duties of a person
2 engaged in the business of making small loans pursuant
3 to this act.

4 B. Persons suspended or barred under this section are
5 prohibited from participating in any business activity of a licensee
6 and from engaging in any business activity on the premises where a
7 licensee is conducting its business. This subsection shall not be
8 construed to prohibit suspended or barred persons from having their
9 personal transactions processed by a licensee.

10 SECTION 20. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3150.18 of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The Administrator of the Department of Consumer Credit may
14 enter into a consent order at any time with any person to resolve
15 any matter arising under this act. A consent order shall be signed
16 by the person to whom it is issued or a duly authorized
17 representative and shall indicate agreement to the terms contained
18 in the order. A consent order need not constitute an admission by
19 any person that any provision of this act or any administrative rule
20 or order promulgated or issued under this act has been violated, nor
21 need it constitute a finding by the Administrator that the person
22 has violated this act or any administrative rule or order issued
23 under this act.

1 B. Notwithstanding the issuance of a consent order, the
2 Administrator may seek civil or criminal penalties concerning
3 matters encompassed by the consent order.

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

11 SECTION 21. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3150.19 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Any person aggrieved by the conduct of a licensee or
15 unlicensed person in connection with regulated activities pursuant
16 to this act, may file a written complaint with the Administrator of
17 the Department of Consumer Credit who may investigate the complaint.

18 B. In the course of the investigation of the complaint, the
19 Administrator may:

- 20 1. Subpoena witnesses;
- 21 2. Administer oaths;
- 22 3. Examine any individual under oath or affirmation; and
- 23 4. Compel the production of records, books, papers, contracts
24 or other documents relevant to the investigation.

1 C. If any person fails to comply with a subpoena of the
2 Administrator under this act or to testify concerning any matter
3 about which the person may be interrogated under this act, the
4 Administrator may petition any court of competent jurisdiction for
5 enforcement.

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

9 E. The Administrator shall have exclusive administrative power
10 for the State of Oklahoma to investigate and enforce any and all
11 complaints relating to the business of making small loans filed by
12 any person that are not criminal in nature.

13 SECTION 22. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3150.20 of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

16 Within fifteen (15) days of the occurrence of any one of the
17 following events, a licensee shall file a written report with the
18 Administrator of the Department of Consumer Credit describing the
19 event and its expected impact on the activities of the licensee in
20 this state:

- 21 1. The filing for bankruptcy or reorganization by the licensee;
- 22 2. Revocation or suspension proceedings instituted against the
23 licensee by any state or governmental authority;

24

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

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

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

7 6. Other events that the Administrator may determine and
8 identify by administrative regulation.

9 SECTION 23. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3150.21 of Title 59, unless
11 there is created a duplication in numbering, reads as follows:

12 A. Each licensee shall file an annual report with the
13 Administrator of the Department of Consumer Credit on the date of
14 the renewal application required in Section 10 of this act,
15 containing the following information:

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

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

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

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

1 changes in financial position, for the immediately preceding fiscal
2 year end, 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 licensee; and

5 5. If the licensee is a corporation, the names and addresses of
6 its officers and directors; if the licensee is a partnership, the
7 names and addresses of the partners; or if the licensee is a limited
8 liability company, the names and addresses of the board of governors
9 or managers of the limited liability company.

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

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

16 D. The information submitted by licensees shall be
17 confidential.

18 SECTION 24. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3150.22 of Title 59, unless
20 there is created a duplication in numbering, reads as follows:

21 A. In addition to any other powers conferred upon the
22 Administrator of the Department of Consumer Credit by law, the
23 Administrator is authorized to require persons subject to this act
24

1 to be licensed through a multistate automated licensing system.

2 Pursuant to this authority, the Administrator may:

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

6 2. Establish relationships or enter into agreements that are
7 reasonably necessary for participation in, transition to or
8 operation of a multistate automated licensing system. The
9 agreements may include, but are not limited to, operating
10 agreements, information-sharing agreements, interstate cooperative
11 agreements and technology licensing agreements;

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

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

18 5. Establish deadlines for transitioning licensees to a
19 multistate automated licensing system. The Administrator has the
20 authority to deny any applications or renewal applications not filed
21 with a multistate automated licensing system after such deadlines
22 have passed, notwithstanding any dates established elsewhere in this
23 act; provided, however, the Administrator shall provide reasonable
24 notice of any transition deadlines to licensees; and

1 6. Take such further actions as are reasonably necessary to
2 give effect to this section.

3 B. Nothing in this section shall authorize the Administrator to
4 require a person who is not subject to this act to submit
5 information to or to participate in a multistate automated licensing
6 system that is operated or participated in pursuant to this act.

7 C. The Administrator shall retain full authority and discretion
8 to license persons under this act and to enforce this act to its
9 fullest extent. Nothing in this section shall be deemed to be a
10 reduction or derogation of that authority and discretion.

11 D. Applicants for and holders of licenses issued under this act
12 shall pay all costs associated with submitting an application to or
13 transitioning a license to a multistate automated licensing system,
14 as well as all costs required by a multistate automated licensing
15 system for maintaining and renewing any license issued by the
16 Administrator on a multistate automated licensing system.

17 SECTION 25. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3150.23 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 The Administrator of the Department of Consumer Credit is
21 authorized to use a multistate automated licensing system as an
22 agent for channeling information, whether criminal or noncriminal in
23 nature, whether derived from or distributed to the United States
24 Department of Justice or any other state or federal governmental

1 agency, or any other source that the Administrator is authorized to
2 request from or distribute to under this act.

3 SECTION 26. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3150.24 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 A. In order to promote more effective regulation and reduce
7 regulatory burden through supervisory information sharing, the
8 requirements under any federal or state law regarding the privacy or
9 confidentiality of any information or material provided to a
10 multistate automated licensing system and any privilege arising
11 under federal or state law, including the rules of any federal or
12 state court with respect to such information or material, shall
13 continue to apply to the information or material after the
14 information or material has been disclosed to a multistate automated
15 licensing system. The information or material may be shared with
16 all state and federal regulatory officials with consumer credit
17 oversight authority without the loss of privilege or the loss of
18 confidentiality protections provided by federal or any state law,
19 including the protection available under the laws of the State of
20 Oklahoma.

21 B. For purposes of this section, the Administrator of the
22 Department of Consumer Credit is authorized to enter into agreements
23 or sharing agreements with other governmental agencies, the
24 Conference of State Bank Supervisors or other associations

1 representing governmental agencies as established by rule or order
2 of the Administrator.

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

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

8 2. Subpoena, discovery or admission into evidence in any
9 private civil action or administrative process, unless with respect
10 to any privilege held by a multistate automated licensing system
11 applicable to such information or material, the person to whom such
12 information or material pertains waives that privilege in whole or
13 in part in the discretion of such person.

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

16 E. This section shall not apply with respect to information or
17 material relating to publicly adjudicated disciplinary and
18 enforcement actions against persons subject to this act that is
19 included in a multistate automated licensing system for access by
20 the public.

21 SECTION 27. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3150.25 of Title 59, unless
23 there is created a duplication in numbering, reads as follows:

24

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

3 SECTION 28. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3150.26 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 Except as otherwise provided in Title 14A of the Oklahoma
7 Statutes or Section 23 of this act, the following shall not be
8 disclosed by the Administrator of the Department of Consumer Credit
9 or any of its employees:

10 1. A report of examination of any person subject to Title 14A
11 of the Oklahoma Statutes, including any contents thereof; and

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

15 SECTION 29. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3150.27 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

18 In no event shall an employer be required to garnish wages,
19 earnings or other income of an employee for the purpose of
20 collecting debts on small loans as such term is defined in this act.

21 SECTION 30. AMENDATORY 59 O.S. 2011, Section 3119, as
22 amended by Section 2, Chapter 279, O.S.L. 2017 (59 O.S. Supp. 2018,
23 Section 3119), is amended to read as follows:

24

1 Section 3119. A. Each ~~lender~~ licensee authorized to make small
2 loans shall pay thirty cents (\$0.30) for each ~~deferred deposit~~ loan
3 entered into to be deposited into the Consumer Credit Counseling
4 Revolving Fund and the Personal Financial Literacy Education
5 Revolving Fund ~~created in Section 3 of this act~~ as follows:

6 1. Eight cents (\$0.08) of each thirty-cent payment shall be
7 deposited into the Consumer Credit Counseling Revolving Fund; and

8 2. Twenty-two cents (\$0.22) of each thirty-cent payment shall
9 be paid to the Office of the State Treasurer for deposit into the
10 Personal Financial Literacy Education Revolving Fund.

11 B. The schedule for payment into the Consumer Credit Counseling
12 Revolving Fund shall be determined by the Administrator of Consumer
13 Credit. The schedule for payments to the Office of the State
14 Treasurer for deposit into the Personal Financial Literacy Education
15 Revolving Fund shall be made by each lender quarterly. ~~Lenders~~
16 ~~shall be prohibited from including such payments in the fees and~~
17 ~~charges provided for under Section 3108 of this title.~~

18 C. Ten percent (10%) of each scheduled payment of fees pursuant
19 to this section made into the Consumer Credit Counseling Revolving
20 Fund may be transferred to the Consumer Credit Administrative
21 Expenses Revolving Fund established in Section 6-301 of Title 14A of
22 the Oklahoma Statutes for expenses incurred by the Administrator of
23 Consumer Credit in administering the requirements of subsection D of
24 this section.

1 D. Funds collected and deposited in the Consumer Credit
2 Counseling Revolving Fund pursuant to this section shall be paid by
3 the Administrator of Consumer Credit to a third-party, Oklahoma-
4 based consumer credit counseling provider with a verifiable history
5 of work with both industry and consumers in the appropriate field
6 for a program of research and implementation of voluntary consumer
7 counseling and education specifically designed for consumers
8 utilizing deferred deposit loans. The program shall be:

9 1. Selected by a bid process, pursuant to The Oklahoma Central
10 Purchasing Act; and

11 2. Designed in consultation with representatives of both the
12 industry and consumers.

13 E. Funds paid to the Office of the State Treasurer for deposit
14 into the Personal Financial Literacy Education Revolving Fund
15 pursuant to this section shall be used by the State Department of
16 Education for purposes provided in Section 11-103.6h of Title 70 of
17 the Oklahoma Statutes.

18 SECTION 31. AMENDATORY Section 3, Chapter 279, O.S.L.
19 2017 (70 O.S. Supp. 2018, Section 11-103.6h-1), is amended to read
20 as follows:

21 Section 11-103.6h-1. There is hereby created in the State
22 Treasury a revolving fund for the State Department of Education to
23 be designated the "Personal Financial Literacy Education Revolving
24 Fund". The fund shall be a continuing fund, not subject to fiscal

1 year limitations, and shall consist of all monies directed to be
2 deposited in the fund pursuant to ~~Section 3119 of Title 59 of the~~
3 ~~Oklahoma Statutes~~ Section 30 of this act and any other monies
4 received by the Department for such purpose from any other public or
5 private source. All monies accruing to the credit of the fund are
6 hereby appropriated and may be budgeted and expended by the
7 Department for the purposes set forth in Section 11-103.6h of Title
8 70 of the Oklahoma Statutes. Expenditures from the fund shall be
9 made upon warrants issued by the State Treasurer against claims
10 filed as prescribed by law with the Director of the Office of
11 Management and Enterprise Services for approval and payment.

12 SECTION 32. RECODIFICATION 59 O.S. 2011, Section 3119,
13 as amended by Section 30 of this act, shall be recodified as Section
14 3-211 of Title 14A of the Oklahoma Statutes, unless there is created
15 a duplication in numbering.

16 SECTION 33. Sections 1 through 29 of this act shall become
17 effective November 1, 2019.

18 SECTION 34. Sections 30, 31 and 32 of this act shall become
19 effective August 1, 2020.

20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
21 February 14, 2019 - DO PASS AS AMENDED
22
23
24