

1 requiring notification of change of address or name;
2 authorizing certain charges, fees and interest;
3 setting maximum principal loan amount; allowing
4 certain adjustment to maximum loan amount upon
5 certain conditions; prohibiting loan payment in
6 excess of certain percentage of gross monthly income;
7 stating requirements for electronic payments;
8 providing for default; stating insufficient funds
9 fee; requiring certain written explanation; requiring
10 books be kept for certain period; prohibiting unfair
11 practices; requiring compliance with federal laws;
12 prohibiting certain conditions in loan plan; making
13 certain conditions void and unenforceable; making
14 provisions of act exclusive; authorizing promulgation
15 of rules; providing for examination of certain
16 records for certain purpose; requiring payment for
17 certain examinations; providing for suspension and
18 revocation of license under certain conditions;
19 stating conditions; allowing all licenses of a
20 violator to be suspended or revoked; setting time for
21 notice and hearing; establishing penalties for
22 violations; allowing civil penalty of certain
23 amounts; allowing a person to be barred for certain
24 time; authorizing certain consent orders; authorizing
criminal actions; providing for complaints; requiring
written reports on certain occurrences; directing
filing of annual reports by licensees; providing for
confidentiality of certain information; providing for
participation in multistate automated licensing;
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;

1 providing for recodification; providing for
2 codification; and providing effective dates.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

10 1. "Administrator" means the Administrator of the Department of
11 Consumer Credit or the Administrator's designee;

12 2. "Affiliate" means a person or organization directly or
13 indirectly controlling, controlled by or under common control with
14 the licensee;

15 3. "Control" means possession, directly or indirectly, of the
16 power to direct or cause the direction of management and policies of
17 a person, whether through ownership of voting securities, by
18 contract or otherwise. No individual shall be deemed to control a
19 person solely on account of being a director, officer or employee of
20 the person. For purposes of this paragraph, a person who directly
21 or indirectly owns, controls, holds the power to vote or holds
22 proxies representing twenty-five percent (25%) or more of the
23 current outstanding voting securities issued by another person is
24

1 presumed to control the other person, and the Administrator may
2 determine whether a person, in fact, controls another person;

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

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

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

10 a. shall be unsecured,

11 b. shall not have a term longer than twelve (12) months
12 or less than sixty (60) days,

13 c. shall be fully amortized and payable in substantially
14 equal periodic payments, and

15 d. are subject to prepayment in whole or in part at any
16 time without penalty;

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

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

22 9. "Default" means:

23 a. the failure of a customer to make a required payment
24 within a certain number of days of the due date as

1 agreed upon by the licensee and the customer per the
2 small loan agreement; provided, that such agreed-upon
3 number of days not exceed sixty-one (61) days after a
4 failure to make a required payment on the due date, or
5 b. the customer's failure to otherwise perform the
6 obligations under the small loan agreement.

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

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

20 B. Any nonresident person seeking licensure under this act
21 shall furnish the Administrator of the Department of Consumer Credit
22 with the name and address of a resident of this state upon whom
23 notices or orders issued by the Administrator, or process affecting
24 a licensee under this act, may be served. A nonresident licensee

1 shall notify the Administrator in writing of any change in its
2 designated agent for service of process as provided in paragraph 2
3 of Section 5 of this act, and the change shall not become effective
4 until approved by the Administrator.

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

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

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

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

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

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

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

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

21 A. On and after January 1, 2020, a person may apply for
22 licensure pursuant to the Oklahoma Small Lenders Act; provided,
23 however, no person is authorized to make any small loan pursuant to
24 this act until August 1, 2020, and thereafter; and provided further,

1 such person making any small loan must be in possession of a valid
2 license issued pursuant to this act.

3 B. Each application for a license shall be in a form
4 established by the Administrator of the Department of Consumer
5 Credit by promulgation of an administrative rule and shall include
6 the following:

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

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

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

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

23 A. Each application for a license required by this act shall be
24 accompanied by:

1 1. A filing fee of Seven Hundred Dollars (\$700.00), a license
2 fee of Five Hundred Dollars (\$500.00) and a supervision fee of Seven
3 Hundred Dollars (\$700.00). In the event of a denial of the
4 application per Section 9 of this act, the license and supervision
5 fees shall be returned to the applicant. The filing fee, the
6 license fee and supervision fee shall be applicable to each
7 location;

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

24

1 accounting firm neither of which is affiliated with the applicant;
2 and

3 3. A surety bond, issued by an insurer regulated under the
4 Insurance Commissioner of this state and not affiliated with the
5 applicant, in the amount of Twenty-five Thousand Dollars
6 (\$25,000.00) for each location. However, the aggregate amount of
7 the surety bond required for a single licensee shall not exceed Two
8 Hundred Thousand Dollars (\$200,000.00). In lieu of the surety bond,
9 the applicant shall file an irrevocable letter of credit, in the
10 amount of the surety bond, issued by any federally insured bank,
11 savings bank or credit union, none of which is affiliated with the
12 applicant. The surety bond or irrevocable letter of credit shall be
13 in a form satisfactory to the Administrator and shall be payable to
14 the Department of Consumer Credit for the benefit of any person who
15 is injured pursuant to a small loan by the fraud, misrepresentation,
16 breach of contract, financial failure or violation of any provision
17 of this act by a licensee. In the case of a surety bond, the
18 aggregate liability of the surety bond shall not exceed the
19 principal sum of the surety bond. In the case of an irrevocable
20 letter of credit, applicants shall obtain letters of credit for
21 terms of not less than three (3) years and renew the letters of
22 credit annually. If the licensee fails to pay a person or the
23 Administrator, as required by this act, then a person may bring suit
24 against the licensee directly on the surety bond or irrevocable

1 letter of credit in any court of competent jurisdiction, or the
2 Administrator may bring suit in the District Court of Oklahoma
3 County or the county of the aggrieved, which shall have exclusive
4 venue in all matters relating to this section on behalf of those
5 persons, in either one or successive actions. The surety bond or
6 irrevocable letter of credit shall be maintained by the licensee for
7 not less than three (3) years following the expiration, revocation
8 or surrender of the licensee's license.

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

21 2. Any criminal history records check conducted pursuant to
22 this subsection shall be conducted by the Oklahoma State Bureau of
23 Investigation, the Federal Bureau of Investigation or both, and the
24

1 results of the criminal history records check shall be forwarded to
2 the Administrator.

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

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

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

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

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

23 B. If the Administrator denies an application, or if the
24 Administrator fails to act on an application within ninety (90) days

1 after the filing of a properly completed application, the applicant
2 may make a written demand to the Administrator for a hearing before
3 the Administrator on the question of whether the license should be
4 granted.

5 C. Any hearing on the denial of a license shall be conducted
6 pursuant to the Administrative Procedures Act; provided, that the
7 burden of proof that the applicant is entitled to a license shall be
8 on the applicant. A decision of the Administrator following any
9 hearing on the denial of a license is subject to review pursuant to
10 the provisions of the Administrative Procedures Act.

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

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

22 B. Each license may be renewed for the ensuing twelve-month
23 period upon application by the license holder showing continued
24 compliance with the requirements of this act and the payment to the

1 Administrator of the Department of Consumer Credit annually by
2 December 1 of a license renewal fee of Five Hundred Fifty Dollars
3 (\$550.00).

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

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

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

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

23 2. Whenever control is acquired or exercised in violation of
24 this section, the license shall be deemed revoked as of the date of

1 the unlawful acquisition of control. The licensee or its
2 controlling person shall surrender the license to the Administrator
3 on demand.

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

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

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

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

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

1 by the database provider not to exceed Two Dollars and twenty cents
2 (\$2.20) for each full or partial 30-day period that a balance is
3 scheduled to be outstanding.

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

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

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

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

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

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

12 1. A customer's right of rescission for any small loan. No
13 lender shall be required to extend a right of rescission past the
14 close of business on the day after loan proceeds are disbursed
15 unless the lender is not open on the day after disbursement, in
16 which case the right of rescission shall be extended to the
17 subsequent day the lender is open; and

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

21 C. Borrowers who default may undergo consumer credit counseling
22 from a list of organizations approved by the Department of Consumer
23 Credit and made available upon request by the lender.

24

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

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

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

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

23 E. 1. No small loan subject to this act shall:
24

- 1 a. provide that the law of a jurisdiction other than
2 Oklahoma law applies,
3 b. provide that the customer consents to the jurisdiction
4 of another state or foreign country, or
5 c. establish venue.

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

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

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

19 SECTION 16. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3150.14 of Title 59, unless
21 there is created a duplication in numbering, reads as follows:

22 A. The Administrator of the Department of Consumer Credit may
23 promulgate administrative rules in accordance with the
24 Administrative Procedures Act for the enforcement of this act.

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

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

24

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

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

23
24

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

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

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

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

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

13 5. Demonstrated incompetency or untrustworthiness to act as a
14 licensee.

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

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

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

1 After notice and opportunity for a hearing, if the Administrator
2 of the Department of Consumer Credit finds that a person has
3 violated this act or any administrative rule promulgated pursuant
4 thereto, the Administrator may take the following actions or any
5 combination of such actions:

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

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

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

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

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

21 1. Censure, suspension or bar is in the public interest and
22 that the person has committed or caused a violation of this act,
23 administrative regulation or any rule or order of the Administrator;
24 or

1 2. Person has been:

2 a. convicted, pled guilty to or pled nolo contendere to
3 any crime, or

4 b. held liable in any civil action by final judgment or
5 any administrative judgment by any public agency, if
6 the criminal, civil or administrative judgment
7 involved any offense reasonably related to the
8 qualifications, functions or duties of a person
9 engaged in the business of making small loans pursuant
10 to this act.

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

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

20 A. The Administrator of the Department of Consumer Credit may
21 enter into a consent order at any time with any person to resolve
22 any matter arising under this act. A consent order shall be signed
23 by the person to whom it is issued or a duly authorized
24 representative and shall indicate agreement to the terms contained

1 in the order. A consent order need not constitute an admission by
2 any person that any provision of this act or any administrative rule
3 or order promulgated or issued under this act has been violated, nor
4 need it constitute a finding by the Administrator that the person
5 has violated this act or any administrative rule or order issued
6 under this act.

7 B. Notwithstanding the issuance of a consent order, the
8 Administrator may seek civil or criminal penalties concerning
9 matters encompassed by the consent order.

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

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

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

24

1 B. In the course of the investigation of the complaint, the
2 Administrator may:

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

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

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

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

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

23 Within fifteen (15) days of the occurrence of any one of the
24 following events, a licensee shall file a written report with the

1 Administrator of the Department of Consumer Credit describing the
2 event and its expected impact on the activities of the licensee in
3 this state:

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

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

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

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

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

13 6. Other events that the Administrator may determine and
14 identify by administrative regulation.

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

18 A. Each licensee shall file an annual report with the
19 Administrator of the Department of Consumer Credit on the date of
20 the renewal application required in Section 10 of this act,
21 containing the following information:

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

24

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

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

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

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

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

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

23 D. The information submitted by licensees shall be
24 confidential.

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

4 A. In addition to any other powers conferred upon the
5 Administrator of the Department of Consumer Credit by law, the
6 Administrator is authorized to require persons subject to this act
7 to be licensed through a multistate automated licensing system.
8 Pursuant to this authority, the Administrator may:

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

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

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

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

24

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

8 6. Take such further actions as are reasonably necessary to
9 give effect to this section.

10 B. Nothing in this section shall authorize the Administrator to
11 require a person who is not subject to this act to submit
12 information to or to participate in a multistate automated licensing
13 system that is operated or participated in pursuant to this act.

14 C. The Administrator shall retain full authority and discretion
15 to license persons under this act and to enforce this act to its
16 fullest extent. Nothing in this section shall be deemed to be a
17 reduction or derogation of that authority and discretion.

18 D. Applicants for and holders of licenses issued under this act
19 shall pay all costs associated with submitting an application to or
20 transitioning a license to a multistate automated licensing system,
21 as well as all costs required by a multistate automated licensing
22 system for maintaining and renewing any license issued by the
23 Administrator on a multistate automated licensing system.

24

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

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

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

14 A. In order to promote more effective regulation and reduce
15 regulatory burden through supervisory information sharing, the
16 requirements under any federal or state law regarding the privacy or
17 confidentiality of any information or material provided to a
18 multistate automated licensing system and any privilege arising
19 under federal or state law, including the rules of any federal or
20 state court with respect to such information or material, shall
21 continue to apply to the information or material after the
22 information or material has been disclosed to a multistate automated
23 licensing system. The information or material may be shared with
24 all state and federal regulatory officials with consumer credit

1 oversight authority without the loss of privilege or the loss of
2 confidentiality protections provided by federal or any state law,
3 including the protection available under the laws of the State of
4 Oklahoma.

5 B. For purposes of this section, the Administrator of the
6 Department of Consumer Credit is authorized to enter into agreements
7 or sharing agreements with other governmental agencies, the
8 Conference of State Bank Supervisors or other associations
9 representing governmental agencies as established by rule or order
10 of the Administrator.

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

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

16 2. Subpoena, discovery or admission into evidence in any
17 private civil action or administrative process, unless with respect
18 to any privilege held by a multistate automated licensing system
19 applicable to such information or material, the person to whom such
20 information or material pertains waives that privilege in whole or
21 in part in the discretion of such person.

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

24

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

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

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

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

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

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

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

23

24

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

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

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

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

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

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

20 B. The schedule for payment into the Consumer Credit Counseling
21 Revolving Fund shall be determined by the Administrator of Consumer
22 Credit. The schedule for payments to the Office of the State
23 Treasurer for deposit into the Personal Financial Literacy Education
24 Revolving Fund shall be made by each lender quarterly. ~~Lenders~~

1 ~~shall be prohibited from including such payments in the fees and~~
2 ~~charges provided for under Section 3108 of this title.~~

3 C. Ten percent (10%) of each scheduled payment of fees pursuant
4 to this section made into the Consumer Credit Counseling Revolving
5 Fund may be transferred to the Consumer Credit Administrative
6 Expenses Revolving Fund established in Section 6-301 of Title 14A of
7 the Oklahoma Statutes for expenses incurred by the Administrator of
8 Consumer Credit in administering the requirements of subsection D of
9 this section.

10 D. Funds collected and deposited in the Consumer Credit
11 Counseling Revolving Fund pursuant to this section shall be paid by
12 the Administrator of Consumer Credit to a third-party, Oklahoma-
13 based consumer credit counseling provider with a verifiable history
14 of work with both industry and consumers in the appropriate field
15 for a program of research and implementation of voluntary consumer
16 counseling and education specifically designed for consumers
17 utilizing deferred deposit loans. The program shall be:

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

20 2. Designed in consultation with representatives of both the
21 industry and consumers.

22 E. Funds paid to the Office of the State Treasurer for deposit
23 into the Personal Financial Literacy Education Revolving Fund
24 pursuant to this section shall be used by the State Department of

1 Education for purposes provided in Section 11-103.6h of Title 70 of
2 the Oklahoma Statutes.

3 SECTION 31. AMENDATORY Section 3, Chapter 279, O.S.L.
4 2017 (70 O.S. Supp. 2018, Section 11-103.6h-1), is amended to read
5 as follows:

6 Section 11-103.6h-1. There is hereby created in the State
7 Treasury a revolving fund for the State Department of Education to
8 be designated the "Personal Financial Literacy Education Revolving
9 Fund". The fund shall be a continuing fund, not subject to fiscal
10 year limitations, and shall consist of all monies directed to be
11 deposited in the fund pursuant to ~~Section 3119 of Title 59 of the~~
12 ~~Oklahoma Statutes~~ Section 30 of this act and any other monies
13 received by the Department for such purpose from any other public or
14 private source. All monies accruing to the credit of the fund are
15 hereby appropriated and may be budgeted and expended by the
16 Department for the purposes set forth in Section 11-103.6h of Title
17 70 of the Oklahoma Statutes. Expenditures from the fund shall be
18 made upon warrants issued by the State Treasurer against claims
19 filed as prescribed by law with the Director of the Office of
20 Management and Enterprise Services for approval and payment.

21 SECTION 32. RECODIFICATION 59 O.S. 2011, Section 3119,
22 as amended by Section 30 of this act, shall be recodified as Section
23 3-211 of Title 14A of the Oklahoma Statutes, unless there is created
24 a duplication in numbering.

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

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

5
6 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
7 PENSIONS, dated 03/28/2019 - DO PASS.

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