

An Act

ENROLLED SENATE
BILL NO. 720

By: Leewright of the Senate

and

Kannady of the House

An Act relating to the small lenders; authorizing certain lenders to apply for certain licensure after certain date; prohibiting certain loans after certain date; providing certain exception for outstanding loans; construing expiration of certain license; making certain licenses expire on certain date; creating the Oklahoma Small Lenders Act; providing short title; defining terms; requiring certain license; requiring service agent; stating requirements for licensure; directing periodic review for compliance; providing for rulemaking; stating content of certain application; setting certain fees; requiring financial statement and certain bond; allowing letter of credit in lieu of bond; stating purpose of bond; authorizing suit against bond for nonpayment; designating certain venue of certain actions; requiring criminal history records check 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; stating requirements for electronic payments; providing for default; stating insufficient funds fee; requiring certain written explanation; requiring books be kept for certain period; prohibiting unfair practices; requiring compliance with federal laws; prohibiting certain conditions in loan plan; making certain conditions void and unenforceable; making provisions of act exclusive; authorizing promulgation of rules; providing for examination of certain records for certain purpose; requiring payment for certain examinations; providing for suspension and revocation of license under certain conditions; stating conditions; allowing all licenses of a violator to be suspended or revoked; setting time for notice and hearing; establishing penalties for violations; allowing civil penalty of certain amounts; allowing a person to be barred for certain 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; providing for recodification; providing for codification; and providing effective dates.

SUBJECT: Creating the Oklahoma Small Lenders Act

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. shall be unsecured,
- b. shall not have a term longer than twelve (12) months or less than sixty (60) days,
- c. shall be fully amortized and payable in substantially equal periodic payments, and
- d. are subject to prepayment in whole or in part at any time without penalty;

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

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

9. "Default" means:

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

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

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

B. Any nonresident person seeking licensure under this act shall furnish the Administrator of the Department of Consumer Credit with the name and address of a resident of this state upon whom notices or orders issued by the Administrator, or process affecting a licensee under this act, may be served. A nonresident licensee shall notify the Administrator in writing of any change in its designated agent for service of process as provided in paragraph 2

of Section 5 of this act, and the change shall not become effective until approved by the Administrator.

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

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

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

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

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

- a. the business records and the capital adequacy of the applicant,
- b. the competence, experience, integrity and financial ability of any person who is a director, officer, a shareholder with ten percent (10%) or more shares of the applicant, or a person who owns or controls the applicant, and
- c. any record of the applicant or any person referred to in this act for any criminal activity, fraud or other act of personal dishonesty; any act, omission or practice that constitutes a breach of a fiduciary duty; or any suspension, revocation or removal by any

agency or department of the United States or any state, from participation in the conduct of any business.

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

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

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

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

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

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

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

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

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

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

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

3. A surety bond, issued by an insurer regulated under the Insurance Commissioner of this state and not affiliated with the applicant, in the amount of Twenty-five Thousand Dollars (\$25,000.00) for each location. However, the aggregate amount of the surety bond required for a single licensee shall not exceed Two Hundred Thousand Dollars (\$200,000.00). In lieu of the surety bond, the applicant shall file an irrevocable letter of credit, in the amount of the surety bond, issued by any federally insured bank, savings bank or credit union, none of which is affiliated with the applicant. The surety bond or irrevocable letter of credit shall be in a form satisfactory to the Administrator and shall be payable to

the Department of Consumer Credit for the benefit of any person who is injured pursuant to a small loan by the fraud, misrepresentation, breach of contract, financial failure or violation of any provision of this act by a licensee. In the case of a surety bond, the aggregate liability of the surety bond shall not exceed the principal sum of the surety bond. In the case of an irrevocable letter of credit, applicants shall obtain letters of credit for terms of not less than three (3) years and renew the letters of credit annually. If the licensee fails to pay a person or the Administrator, as required by this act, then a person may bring suit against the licensee directly on the surety bond or irrevocable letter of credit in any court of competent jurisdiction, or the Administrator may bring suit in the District Court of Oklahoma County or the county of the aggrieved, which shall have exclusive venue in all matters relating to this section on behalf of those persons, in either one or successive actions. The surety bond or irrevocable letter of credit shall be maintained by the licensee for not less than three (3) years following the expiration, revocation or surrender of the licensee's license.

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

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

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

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

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

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

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

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

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

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

A. Any license issued between January 1, 2020, and December 31, 2020, shall expire on December 31, 2021. All licenses issued on and

after January 1, 2021, shall expire on December 31 in the year such license is issued, unless earlier surrendered, suspended or revoked pursuant to this act. On and after January 1, 2021, an initial license fee may be prorated to correspond to the number of months between the issuing date and the expiration date of December 31 of the same year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3150.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each licensee shall keep and use in its business any books, accounts and records the Administrator of the Department of Consumer Credit may require for purposes of this act and the rules promulgated pursuant thereto. Every licensee shall preserve the books, accounts and records for at least four (4) years. Any licensee, after receiving the prior written approval of the Administrator, may maintain records at a location within or outside this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The Administrator of the Department of Consumer Credit shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of Title 14A of the Oklahoma Statutes. The independent hearing examiner shall have authority to exercise all powers granted by Article II of the

Administrative Procedures Act in conducting hearings. The independent hearing examiner shall recommend penalties authorized by Title 14A of the Oklahoma Statutes and issue proposed orders, with proposed findings of fact and proposed conclusions of law, to the Administrator pursuant to Article II of the Administrative Procedures Act. The Administrator shall review the proposed order and issue a final agency order in accordance with Article II of the Administrative Procedures Act. The costs of the hearing examiner may be assessed by the Administrator against the respondent, unless the respondent is the prevailing party. Any person aggrieved by a final agency order of the Administrator may obtain judicial review in accordance with the Administrative Procedures Act. The jurisdiction and venue of any such action shall be in the district court of Oklahoma County or the county of the aggrieved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Person has been:

- a. convicted, pled guilty to or pled nolo contendere to any crime, or
- b. held liable in any civil action by final judgment or any administrative judgment by any public agency, if the criminal, civil or administrative judgment involved any offense reasonably related to the qualifications, functions or duties of a person engaged in the business of making small loans pursuant to this act.

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

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

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

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

C. In cases involving extraordinary circumstances requiring immediate action, the Administrator may take any enforcement action authorized by this act without providing the opportunity for a prior hearing but shall promptly afford a subsequent hearing upon an

application to rescind the action taken that is filed with the Administrator within twenty (20) days after receipt of the notice of the Administrator's emergency action.

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

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

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

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

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

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

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

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

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

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

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

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

1. The names and addresses of persons owning a controlling interest in each licensee;
2. The location of all places of business operated by the licensee and the nature of the business conducted at each location;

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

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

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

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

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

D. The information submitted by licensees shall be confidential.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Consumer Credit in administering the requirements of subsection D of this section.

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

1. Selected by a bid process, pursuant to The Oklahoma Central Purchasing Act; and
2. Designed in consultation with representatives of both the industry and consumers.

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

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

Section 11-103.6h-1. There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Personal Financial Literacy Education Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies directed to be deposited in the fund pursuant to ~~Section 3119 of Title 59 of the Oklahoma Statutes~~ Section 30 of this act and any other monies received by the Department for such purpose from any other public or private source. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the purposes set forth in Section 11-103.6h of Title 70 of the Oklahoma Statutes. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims

filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

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

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

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

Passed the Senate the 21st day of February, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 11th day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____