STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 763 BY: SMITH of the SENATE

and

COZORT of the HOUSE

AS INTRODUCED

AN ACT RELATING TO CONSUMER CREDIT; AMENDING 14A O.S. 1991, SECTION 6-104, WHICH RELATES TO DEPARTMENT OF CONSUMER CREDIT ADMINISTRATOR; LIMITING LIABILITY FOR ACTS OR OMISSIONS IN RELIANCE ON ADMINISTRATIVE OPINIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 14A O.S. 1991, Section 6-104, is amended to read as follows:

Section 6-104. (1) In addition to other powers granted by this act, the Administrator may, within the limitations provided by law:

(a) receive and act on complaints, take action designed to obtain voluntary compliance with this act, or commence proceedings on his own initiative;

(b) counsel persons and groups on their rights and duties under this act;

(c) establish programs for the education of consumers with respect to credit practices and problems;

(d) make studies appropriate to effectuate the purposes and policies of this act and make the results available to the public; and

(e) with commission approval adopt, amend, and repeal substantive rules when specifically authorized by this

act, and adopt, amend, and repeal procedural rules to carry out the provisions of this act, all as provided by the ~~general act of this state governing administrative procedures (Title 75, Oklahoma Statutes, Chapters 7 and 8)~~ Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

(2) The Administrator shall adopt rules not inconsistent with the Federal Consumer Credit Protection Act, 15 U.S.C., Section 601 et seq., to assure a meaningful disclosure of terms so that a prospective debtor or lessee will be able to compare more readily the various terms available to him and to avoid the uninformed use of credit. These rules may supersede any provisions of this act which are inconsistent with the Federal Consumer Credit Protection Act and may contain classifications, differentiations or other provisions, and may provide for adjustments and exceptions for any class of transactions subject to this act which in the judgment of the Administrator are necessary or proper to effectuate the purposes or to prevent circumvention or evasion of, or to facilitate compliance with, the provisions of this act relating to disclosure of terms. The Administrator also shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this act and to aid the buyer, debtor or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising the forms, consideration of the use by creditors or lessors of data processing or similar automated equipment shall be given. No creditor or lessor need use any model form or clause published by the Administrator. Any rule of the Administrator or amendment requiring any disclosure which differs from a disclosure previously required shall have an effective date of that October 1 which follows by at least six (6) months the date

of promulgation, except that the Administrator may lengthen the period to facilitate creditors or lessors adjusting forms to accommodate new or changed requirements or shorten the period when he makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. A creditor or lessor may, in accordance with any guidelines of the Administrator, comply with a newly promulgated disclosure requirement prior to its effective date.

(3) To keep the Administrator's rules in harmony with the Federal Consumer Credit Protection Act and the regulations prescribed from time to time pursuant to that Act by the Board of Governors of the Federal Reserve System and with the rules of administrators in other jurisdictions which enact the Uniform Consumer Credit Code, Section 1-101 et seq. of this title, the Administrator, so far as is consistent with the purposes, policies and provisions of this act, shall:

(a) before adopting, amending, and repealing rules, advise and consult with administrators in other jurisdictions which enact the Uniform Consumer Credit Code; and

(b) in adopting, amending, and repealing rules, take into consideration:

(i) the regulations so prescribed by the Board of Governors of the Federal Reserve System; and

(ii) the rules of administrators in other jurisdictions which enact the Uniform Consumer Credit Code.

(4) Except for refund of an excess charge, no liability is imposed under this act for an act done or omitted in conformity with a rule of the Administrator or written opinion of the Administrator stating rights and duties issued on his own motion or in response to a request under paragraph (b) of subsection (1) of this section notwithstanding that after the act or omission the rule or opinion

may be amended or repealed or be determined by judicial or other authority to be invalid for any reason. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this act with respect to other than numerical disclosures if the creditor or lessor uses any appropriate model form or clause as published by the Administrator or uses any model form or clause and changes it by deleting any information not required by this act or rearranging the format if in doing so the substance, clarity or meaningful sequence of the disclosure is not affected.

(5) The Administrator shall report annually on or before January 1 to the Governor and Legislature on the operation of his office, on the use of consumer credit in the state, and on the problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit. For the purpose of making the report, the Administrator is authorized to conduct research and make appropriate studies. The report shall include a description of the examination and investigation procedures and policies of his office, a statement of policies followed in deciding whether to investigate or examine the offices of credit suppliers subject to this act, a statement of the number and percentages of offices which are periodically investigated or examined, a statement of the types of consumer credit problems of both creditors and debtors which have come to his attention through his examinations and investigations and the disposition of them under existing law, a statement of the extent to which the rules of the Administrator pursuant to this act are not in harmony with the regulations prescribed by the Board of Governors of the Federal Reserve System pursuant to the Federal Consumer Credit Protection Act or the rules of administrators in other jurisdictions which enact the Uniform Consumer Credit Code and the reasons for such variations, and a general statement of the activities of his office and of others to promote the purposes of this act. The report shall

not identify the creditors against whom action is taken by the Administrator.

SECTION 2. This act shall become effective September 1, 1992.

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