

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE JOINT
RESOLUTION NO. 1041

By: Gray

AS INTRODUCED

A Joint Resolution relating to certain emergency rules of the Department of Consumer Credit regarding changes in dollar amounts in the Uniform Consumer Credit Code and Truth in Lending Rules; disapproving emergency rules OAC 160:20-1-17, OAC 160:45-1-1, OAC 160:45-1-2, OAC 160:45-1-3, OAC 160:45-1-4, OAC 160:45-3-3, OAC 160:45-5-2, OAC 160:45-5-7, OAC 160:45-9-1, OAC 160:45-9-2, OAC 160:45-9-3, OAC 160:45-Appendix H-16, OAC 160:45-Appendix K and OAC 160:45-Appendix L; directing agency action; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy and disapprove any rule or any portion thereof; and

WHEREAS, state law pursuant to Section 253 of Title 75 of the Oklahoma Statutes requires agencies to submit emergency rules to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, within ten (10) days after the rule is adopted; and

WHEREAS, state law pursuant to Section 253 of Title 75 of the Oklahoma Statutes requires agencies to submit a rule impact statement of a proposed rule to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, within ten (10) days after the rule is adopted; and

WHEREAS, the Department of Consumer Credit adopted emergency rules OAC 160:20-1-17, OAC 160:45-1-1, OAC 160:45-1-2, OAC 160:45-1-

3, OAC 160:45-1-4, OAC 160:45-3-3, OAC 160:45-5-2, OAC 160:45-5-7, OAC 160:45-9-1, OAC 160:45-9-2, OAC 160:45-9-3, OAC 160:45-Appendix H-16, OAC 160:45-Appendix K and OAC 160:45-Appendix L on July 30, 1996, and the Governor approved the rules on September 3, 1996, regarding changes in dollar amounts in the Uniform Consumer Credit Code and Truth in Lending Rules relating to authority, purpose, coverage, organization, enforcement and liability; requirements for home equity plans; content of disclosures; general rules; mortgage sample; total annual loan cost rate computations for reverse mortgage transactions; and loan periods; and

WHEREAS, the Department of Consumer Credit failed to comply with the law by failing to submit the following emergency rules and the rule impact statements for OAC 160:20-1-17, OAC 160:45-1-1, OAC 160:45-1-2, OAC 160:45-1-3, OAC 160:45-1-4, OAC 160:45-3-3, OAC 160:45-5-2, OAC 160:45-5-7, OAC 160:45-9-1, OAC 160:45-9-2, OAC 160:45-9-3, OAC 160:45-Appendix H-16, OAC 160:45-Appendix K and OAC 160:45-Appendix L to the Speaker of the House of Representatives; and

WHEREAS, state law pursuant to Section 1-106 of Title 14A of the Oklahoma Statutes requires the Department of Consumer Credit to annually adjust dollar figures enumerated in the Oklahoma Consumer Credit Code for inflation using cost of living figures from the Consumer Price Index for Urban Wage Earners and Clerical Workers, compiled by the Bureau of Labor Statistics, United States Department of Labor and to adopt a rule announcing on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts and promptly after the changes occur, changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers; and

WHEREAS, the Legislature recognizes that emergency rule OAC 160:20-1-17 was adopted on July 30, 1996 by the Department of

Consumer Credit in an attempt to comply with the provisions of Section 1-106 of Title 14A; and

WHEREAS, the Department of Consumer Credit states in its analysis of emergency rules OAC 160:45-1-1, OAC 160:45-1-2, OAC 160:45-1-3, OAC 160:45-1-4, OAC 160:45-3-3, OAC 160:45-5-2, OAC 160:45-5-7, OAC 160:45-9-1, OAC 160:45-9-2, OAC 160:45-9-3, OAC 160:45-Appendix H-16, OAC 160:45-Appendix K and OAC 160:45-Appendix L that the amendments to the rules primarily establish the regulation of reverse mortgages and without any regulation, consumers, particularly senior citizens, are at risk of losing their principal residences, or equities therein, to unscrupulous parties and further, that without Oklahoma regulation, the federal government will assume jurisdiction in the field; and

WHEREAS, the Legislature recognizes the substantive value and importance of such rules, but also recognizes that in order for promulgated rules to be valid and enforceable, the agency must comply with the provisions of the Administrative Procedures Act throughout the rulemaking process, without exception; and

WHEREAS, the Legislature further recognizes that the Department of Consumer Credit has not only failed to comply with the provisions of the Administrative Procedures Act, but has also placed Oklahomans, particularly senior citizens, at risk of losing their principal residences, or equities therein, to unscrupulous parties and has created the possibility of the federal government assuming jurisdiction in the field.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 46TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves emergency rules OAC 160:20-1-17, OAC 160:45-1-1, OAC 160:45-1-2, OAC 160:45-1-3, OAC 160:45-1-4, OAC 160:45-3-3, OAC 160:45-5-2, OAC 160:45-5-7, OAC 160:45-9-1, OAC 160:45-9-2, OAC 160:45-9-3, OAC 160:45-Appendix H-16, OAC 160:45-Appendix K and OAC 160:45-Appendix L, adopted by the

Department of Consumer Credit on July 30, 1996 and approved by the Governor on September 3, 1996, regarding changes in dollar amounts in the Uniform Consumer Credit Code and Truth in Lending Rules relating to authority, purpose, coverage, organization, enforcement and liability; requirements for home equity plans; content of disclosures; general rules; mortgage sample; total annual loan cost rate computations for reverse mortgage transactions; and loan periods.

SECTION 2. The Legislature hereby directs the Department of Consumer Credit to immediately adopt and promulgate emergency rules, notwithstanding the provisions of subsection H of Sections 253 and 308 of Title 75 of the Oklahoma Statutes, which are adopted and promulgated in compliance with the provisions of the Administrative Procedures Act.

SECTION 3. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Administrator of the Department of Consumer Credit and the Editor of "The Oklahoma Register".

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-5640

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