

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1459

By: Milacek

COMMITTEE SUBSTITUTE

[Commission on Consumer Credit - amending various
sections of Title 59 - codification -

effective date]

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1503, is
amended to read as follows:

Section 1503. A. No person shall engage in business as a
pawnbroker without first obtaining a license from the Administrator
of Consumer Credit specifically authorizing engagement in such
business.

B. In addition to civil and criminal penalties, the
Administrator may, if the person is found to be engaging in business
as a pawnbroker, initiate administrative action against an
unlicensed person as if the person held a license.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1505, is
amended to read as follows:

Section 1505. A. Upon the filing of an application and bond
and payment of the annual license fee of One Hundred Dollars
(\$100.00) and an investigation fee of ~~One Hundred Twenty-five~~
~~Dollars (\$125.00)~~ One Hundred Fifty Dollars (\$150.00), the
Administrator shall conduct an investigation. If ~~he~~ the
Administrator of Consumer Credit finds that the financial
responsibility, experience, character and general fitness of the

applicant are such as to warrant belief that the business will be operated lawfully and fairly, within the purposes of Section 1501 et seq. of this title, and the applicant meets the eligibility requirements of Section ~~7 of this act~~ 1503A of this title, ~~he~~ the Administrator shall grant the application and issue to the applicant a license which will evidence ~~his~~ the authority to do business under the provisions of Section 1501 et seq. of this title. Provided, that if a license is granted pursuant to an application filed after June 30 of any year the license fee for the balance of such year shall be Fifty Dollars (\$50.00).

B. If the Administrator does not so find facts sufficient to warrant issuance of a license, ~~he~~ the Administrator shall notify the applicant. If within thirty (30) days of such notification the applicant requests a hearing on the application, a hearing shall be held within sixty (60) days after the date of the request. In the event of the denial of a license, the investigation fee shall be retained by the Administrator, but the annual license fee shall be returned to the applicant.

C. ~~The Administrator shall grant or deny each~~ Each application for license shall be granted or denied within ~~sixty (60)~~ ninety (90) days from its filing with the required fees, or from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the Administrator or the independent hearing examiner.

D. No license to engage in the business of a pawnbroker shall be issued for any location where a license has been issued and is in effect under the provisions of Section 3-501 et seq. of Title 14A of the Oklahoma Statutes. The word "location" as used in this subsection means the entire space in which a Title 14A licensee conducts business. No pawnshop may be connected with any location in which a Title 14A licensee conducts business, except by a passageway to which the public is not admitted.

E. As part of the investigation, the Administrator shall conduct a national criminal history check pursuant to subsection B of Section 150.9 of Title 74 of the Oklahoma Statutes. The applicant shall furnish to the Administrator a complete set of the applicant's fingerprints that shall be certified by an authorized law enforcement officer.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1506, is amended to read as follows:

Section 1506. A. Each license shall state the name of the licensee and the address at which the business is to be conducted. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable except upon approval by the Administrator of Consumer Credit.

B. A separate license shall be required for each pawnshop operated under ~~this act~~ the Oklahoma Pawnshop Act.

The Administrator may issue more than one license to any one person upon compliance with the provisions of this act as to each license. When a licensee wishes to move ~~his~~ a pawnshop to another location, ~~he~~ the licensee shall give thirty (30) days' written notice to the Administrator, who shall amend the license accordingly.

C. Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee, on or before each December 1, shall pay the Administrator One Hundred Dollars (\$100.00) for each license held ~~by him~~ as the annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the Administrator, the license shall thereupon expire, but expiration shall not occur before December 31 of any year for which an annual fee has been paid. There shall be a late fee of Fifty Dollars (\$50.00) for a late application for renewal of

a license received after December 1. The fee for a duplicate or amended license shall be Twenty-five Dollars (\$25.00).

D. No licensing requirement or license fee shall be required, levied or collected by any municipal corporation of this state; provided that municipal corporations may require the payment of regulatory fees not in excess of Fifty Dollars (\$50.00) per annum.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1507, is amended to read as follows:

Section 1507. A. The Administrator of Consumer Credit or the independent hearing examiner may, after notice and hearing, censure, probate, suspend or revoke or refuse to renew any license or order a licensee to cease and desist from engaging in violations of this act if ~~he~~ the Administrator or the independent hearing examiner finds that:

1. The licensee has failed to pay any fee or charge properly imposed by the Administrator under the authority of this act;

2. The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of ~~this act~~ the Oklahoma Pawnshop Act or any ~~regulation~~ rule or order lawfully made pursuant to and within the authority of ~~this~~ the act; or

3. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for a license, clearly would have justified the Administrator or the independent hearing examiner in refusing the license.

B. The hearing shall be held upon twenty (20) days' notice in writing, setting forth the time and place thereof and a concise statement of the facts alleged to warrant ~~suspension or revocation~~ the administrative action. At the conclusion of the hearing, the Administrator or the independent hearing examiner shall prepare a written order setting forth the effective date of any ~~suspension or revocation~~ action accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee. A final order signed

by an independent hearing examiner, after hearing, shall be a final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes. Such order, findings and the evidence considered by the Administrator or the independent hearing examiner shall be filed with the public records of the Administrator.

C. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender, but such surrender shall not affect the licensee's administrative, civil or criminal liability for acts committed prior thereto.

D. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any customer.

E. The Administrator or the independent hearing examiner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the Administrator or the independent hearing examiner in refusing originally to issue such license under this act.

F. On application of any person and payment of the cost thereof, the Administrator shall furnish under ~~his~~ the Administrator's seal and signature a certificate of good standing or a certified copy of any license.

G. If the Administrator or the independent hearing examiner determines that the conduct is such that it may be a detriment to the public, action may be taken pending hearing. If at a hearing, the person presiding determines that an action against a licensee shall continue, the period shall be deemed to have begun on the date the action was taken pending the hearing.

H. In addition to any applicable cease and desist, censure, probation, suspension or revocation or refusal to renew a license, a licensee may be subject to an administrative fine of not less than

One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation nor exceed Five Thousand Dollars (\$5,000.00) for all violations resulting from a single incident or transaction.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1508, as amended by Section 3, Chapter 280, O.S.L. 1992 (59 O.S. Supp. 1999, Section 1508), is amended to read as follows:

Section 1508. A. At such times as the Administrator may deem necessary, the Administrator ~~or his~~ of Consumer Credit or the Administrator's duly authorized representative may make an examination of the place of business of each licensee and may inquire into and examine the transactions, books, accounts, papers, correspondence and records of such licensee insofar as they pertain to the business regulated by Section 1501 et seq. of this title. Such books, accounts, papers, correspondence, records and property taken, purchased or received shall also be open for inspection at any reasonable time to federal law enforcement officials and the chief of police, district attorney, sheriff or written designee of the law enforcement body in whose jurisdiction the pawnshop is located, without any need of judicial writ or other process. In the course of an examination, the Administrator or ~~his~~ the duly authorized representative or any authorized peace officer shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of any books, accounts, papers, correspondence and records insofar as they pertain to the business regulated by Section 1501 et seq. of this title. The Administrator or ~~his~~ the duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Administrator is authorized or required by ~~this act~~ the Oklahoma Pawnshop Act to consider, investigate or secure information. Any licensee who fails or

refuses to permit the Administrator or ~~his~~ duly authorized representative or any authorized peace officer to examine or make copies of such books or other relevant documents shall thereby be deemed in violation of this act and such failure or refusal shall constitute grounds for ~~the suspension or revocation of~~ administrative action against such license. The information obtained in the course of any examination or inspection shall be confidential, except in civil or administrative proceedings conducted by the Administrator, a representative or the independent hearing examiner, or criminal proceedings instituted by the state. Each licensee shall pay to the Administrator an amount assessed by the Administrator to cover the direct or indirect cost of such examination, not to exceed ~~Two Hundred Dollars (\$200.00)~~ Two Hundred Fifty Dollars (\$250.00) in any calendar year including a late fee of Fifty Dollars (\$50.00) if the examination fee is not received within fifteen (15) days of the invoice date.

B. Whenever a peace officer has probable cause to believe that property in possession of a licensed pawnbroker is stolen or embezzled, the peace officer of the local law enforcement agency of the municipality or other political subdivision in which the pawnshop resides may place a written hold order on the property. The initial term of the written hold order shall not exceed thirty (30) days. However, the holding period may be extended in successive ~~thirty (30) day~~ thirty-day increments upon written notification prior to the expiration of the initial holding period. If the holding period has expired and has not been extended, the hold order shall be considered expired and no longer in effect, and title shall vest in the pawnbroker subject to any restrictions contained in the pawn contract. The initial written hold order shall contain the following information:

1. Signature of the pawnbroker or ~~his~~ a designee;

2. Name, title and identification number of the peace officer placing the hold order;

3. Name and address of the agency to which the peace officer is attached and the offense number;

4. Complete description of the property to be held, including model number, serial number and transaction number;

5. Name of agency reporting the property to be stolen or embezzled;

6. Mailing address of the pawnshop where the property is held;

7. Expiration date of the holding period.

C. While a hold order is in effect, the pawnbroker may consent to release, upon written receipt, the stolen or embezzled property to the custody of the local law enforcement agency to which the peace officer placing the hold order is attached. The consent to release the stolen or embezzled property to the custody of law enforcement is not a waiver or release of the pawnbroker's property rights or interest in the property. Otherwise, the pawnbroker shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period including all extensions. The district attorney's office shall notify the pawnbroker in writing in cases where criminal charges have been filed that the property may be needed as evidence. The notice shall contain the case number, the style of the case, and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the district attorney's office. The district attorney's office shall notify the pawnbroker in writing within fifteen (15) days of the disposition of the case. Willful noncompliance of a pawnbroker to a written hold order shall be cause for administrative action against the pawnbroker's license ~~to either be suspended or revoked~~ pursuant to paragraph 2 of subsection A of Section 1507 of this title. A hold order may be released prior to the expiration of any thirty-day

holding period by written release from the agency placing the initial hold order.

D. For the purpose of discovering violations of ~~this act~~ the Oklahoma Pawnshop Act or of securing information required hereunder, the Administrator or ~~his~~ duly authorized representative may investigate the books, accounts, papers, correspondence and records of any licensee or other person who the Administrator has reasonable cause to believe is violating any provision of this act whether or not such person shall claim to be within the authority or scope of ~~this act~~ the Oklahoma Pawnshop Act. For the purpose of this section, any person who advertises for, solicits or holds ~~himself~~ out as willing to make pawn transactions, shall be presumed to be a pawnbroker.

E. Each licensee shall keep or make available in this state such books and records relating to pawn transactions made under this act as are necessary to enable the Administrator to determine whether the licensee is complying with this act. Such books and records shall be consistent with accepted accounting practices.

F. Each licensee shall preserve or make available such books and records in this state relating to each of its pawn transactions for four (4) years from the date of the transaction, or two (2) years from the date of the final entry made thereon, whichever is later. Each licensee's system of records shall be accepted if it discloses such information as may be reasonably required under ~~this act~~ the Oklahoma Pawnshop Act. All agreements signed by customers shall be kept at an office in this state designated by the licensee, except when transferred under an agreement which gives the Administrator access thereto. All credit sales made by a pawnbroker, other than those sales defined in paragraph 6 of Section 1502 of this title, as a pawn transaction, shall be made in accordance with and subject to the provisions of Title 14A of the Oklahoma Statutes.

G. Each licensee shall, annually on or before the first day of May ~~or other date thereafter fixed by the Administrator~~, file a report with the Administrator setting forth such relevant information as the Administrator may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the Administrator, who may make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential. There shall be a late fee of Twenty-five Dollars (\$25.00) for any annual report received after May 1.

H. The Administrator may, pursuant to the Administrative Procedures Act, make ~~regulations~~ rules necessary for the enforcement of this act and consistent with all its provisions. ~~Before making such a regulation relating to the licensees subject to this act, the Administrator shall give each licensee at least thirty (30) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or other person may be heard and may introduce evidence, data or arguments or place the same on file. The Administrator, after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form, stating the date of adoption and date of promulgation. Each such regulation shall be entered in a permanent record book which shall be public record and be kept in the Administrator's office. A copy of every regulation shall be mailed to each licensee, and no such regulation shall become effective until the expiration of at least twenty (20) days after such mailing. On the application of any person and payment of the cost thereof, the Administrator shall furnish such person a certified copy of such regulation~~ the Oklahoma Pawnshop Act.

I. Except as otherwise expressly provided in ~~this act~~ the Oklahoma Pawnshop Act, the Administrative Procedures Act, ~~Section 251 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes~~, applies to and governs all administrative actions and civil proceedings taken by the Administrator pursuant to ~~this act~~ the Oklahoma Pawnshop Act.

J. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars (\$25.00) for each check returned to the Department of Consumer Credit or any agent thereof by reason of the refusal of the bank upon which such check was drawn to honor the same. However, the fee provided in this subsection shall not be assessed for any check returned because of "insufficient funds" unless the check has twice been presented to the bank and payment declined both times.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1523, is amended to read as follows:

Section 1523. A. No person, unless exempt by this act, shall operate as a dealer or employee as defined in ~~this act~~ the Precious Metal and Gem Dealer Licensing Act without first obtaining a license from the Administrator of Consumer Credit specifically authorizing the person to act in such capacity.

B. In addition to civil and criminal penalties, the Administrator may initiate administrative action against an unlicensed person as if the person held a license if the person is found to be operating as a dealer or employee.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 1524, is amended to read as follows:

Section 1524. A. An application for a license pursuant to the provisions of the Precious Metal and Gem Dealer Licensing Act shall be under oath and state:

1. ~~if~~ If the applicant is an individual, the full name and place of residence of the applicant;

2. ~~if~~ If the applicant is a partnership, the full name and place of residence of each member of the partnership; and

3. ~~if~~ If the applicant is a corporation, the full name and place of residence of each officer or major stockholder of the corporation.

B. The application shall state the location where the business is to be conducted and contain such additional relevant information as the Administrator of Consumer Credit may require.

C. In addition to the application provided for in subsection A of this section, every ~~applicant~~ dealer shall file with the Administrator a bond satisfactory to ~~said~~ the Administrator and in the amount of Ten Thousand Dollars (\$10,000.00) for each license sought, with a surety company qualified to do business in this state as surety. The bond shall be furnished to the state for the use of the state and of any person or persons who may have a cause of action against the obligor of the bond pursuant to the provisions of the Precious Metal and Gem Dealer Licensing Act. The bond shall be conditional that the obligor will comply with the provisions of the Precious Metal and Gem Dealer Licensing Act and all rules and regulations made pursuant to the Precious Metal and Gem Dealer Licensing Act, and will pay all amounts of money that may be due to the state or any individual from the obligor during the time such bond is in effect.

D. Each ~~applicant~~ dealer shall submit a full set of fingerprints that shall be certified by an authorized law enforcement officer and a photograph with each application for an original license.

E. Each ~~licensee~~ dealer shall maintain on file with the Administrator a written appointment of a resident of this state as ~~his~~ the agent for service of all judicial or other process or legal notice, unless the ~~licensee~~ dealer has appointed such an agent pursuant to the provisions of another statute of this state.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 1525, is amended to read as follows:

Section 1525. A. Upon the filing of an application, bond and the payment of an annual license fee of Fifty Dollars (\$50.00) and a one-time investigation fee of ~~Fifty Dollars (\$50.00)~~ Seventy-five Dollars (\$75.00) by a dealer, the Administrator of Consumer Credit shall conduct an investigation of the ~~applicant~~ dealer prior to issuance of a dealer license. As part of the investigation, the Administrator shall conduct a national criminal history check pursuant to subsection B of Section 150.9 of Title 74 of the Oklahoma Statutes.

B. ~~Upon the filing of~~ Each employee shall file an application and ~~payment of~~ pay a twenty-five-dollar license fee ~~by an employee of a licensed dealer, the Administrator shall conduct an investigation of the applicant prior to issuance of an employee license.~~ For each employee, the dealer shall file a written agreement under which the licensed dealer affirms the employee has not been convicted of a felony or crime involving fraud, theft, receiving or possession of stolen property and assumes responsibility for the employee's violations of any provision of the Precious Metal and Gem Dealer Licensing Act or rules promulgated pursuant to the provisions of the act.

C. Upon renewal of a license for either a dealer or an employee, the Administrator may conduct an investigation at ~~his~~ the Administrator's discretion or at the request of a district attorney for any county in which the ~~applicant~~ has a permanent place of business licensee operates as a dealer or employee.

D. If the Administrator finds that the financial responsibility, experience and character of the dealer are such as to warrant belief that the business will be operated lawfully and fairly, within the purposes of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act, the dealer shall be issued a license. ~~Any~~

~~person engaged as a dealer or employee on the operative date of this act shall have thirty (30) days from the operative date of this act to apply for a license.~~

E. A separate license shall be required for each location, place or premises used by a dealer for the conducting of business pursuant to the provisions of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act and each license shall designate the location, place, or premises to which it applies. The business of the dealer shall not be conducted in any place other than that designated by the license. The license shall not be transferable.

F. If the Administrator does not find facts sufficient to warrant issuance of a license, ~~he~~ the Administrator shall notify the ~~applicant~~ dealer. If within thirty (30) days of such notification the ~~applicant~~ dealer requests a hearing on the application, a hearing shall be held within sixty (60) days after the day of the request. In the event of the denial of a license, the investigation fee shall be retained by the Administrator, but the annual license fee shall be returned to the ~~applicant~~ dealer.

G. ~~The Administrator shall grant or deny an~~ Each dealer application for license shall be granted or denied within ~~sixty (60)~~ ninety (90) days from the day of filing or from the last day of a hearing as provided in subsection F of this section, unless the period is extended by written agreement between the ~~applicant~~ dealer and the Administrator or the independent hearing examiner.

H. The Administrator may issue more than one license to any one person upon compliance with the provisions of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act as to each license. When a dealer wishes to move ~~his~~ a business to another location, ~~he~~ the dealer shall give thirty (30) days' written notice to the Administrator, who shall amend the license accordingly.

I. Licensed pawnbrokers shall not be subject to any of the fees provided for in this section.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 1526, is amended to read as follows:

Section 1526. A. Each year, every dealer, on or before each December 1, shall pay the Administrator Fifty Dollars (\$50.00) for each license held by ~~him~~ the dealer as the annual fee for the succeeding calendar year. If not renewed, expiration shall occur on December 31 of the year in which the annual fee has been paid. There shall be a late fee of Ten Dollars (\$10.00) for a late application for renewal of a license received after December 1. The fee for a duplicate or amended license shall be Ten Dollars (\$10.00).

B. Each year, every employee, on or before December 1, shall pay the Administrator Twenty-five Dollars (\$25.00) for the license held by ~~him~~ the employee as the annual fee for the succeeding calendar year. If not renewed, expiration shall occur on December 31 of the year in which the annual fee has been paid. There shall be a late fee of Ten Dollars (\$10.00) for a late application for renewal of a license received after December 1. The fee for a duplicate or amended license shall be Ten Dollars (\$10.00).

SECTION 10. AMENDATORY 59 O.S. 1991, Section 1528, is amended to read as follows:

Section 1528. A. The Administrator of Consumer Credit or the independent hearing examiner may, after notice and hearing, ~~deny~~ censure, probate, suspend or revoke or refuse to renew any license or order a licensee to cease and desist from engaging in violations of the Precious Metal and Gem Dealer Licensing Act if it is found that:

1. The ~~applicant~~ licensee has been convicted of a felony or crime involving fraud, theft, receiving or possession of stolen property ~~in the five (5) years preceding the submission of the application;~~

2. The licensee has failed to pay any fee or charge properly imposed by the Administrator under the authority of this act;

3. The licensee has violated any provision of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act or any ~~regulation~~ rule or order made pursuant to and within the authority of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act; or

4. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for a license, clearly would have justified the Administrator or the independent hearing examiner in refusing the license.

B. The hearing ~~for denial, suspension or revocation of a license~~ shall be held upon twenty (20) days' notice in writing, setting forth the time and place thereof and a concise statement of the facts alleged to warrant the hearing. After the hearing, the Administrator or the independent hearing examiner shall prepare a written order setting forth the effective date of the order accompanied by findings of fact and a copy shall be delivered to the ~~applicant or~~ licensee. A final order signed by an independent hearing examiner, after hearing, shall be a final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes. Such order, findings and the evidence considered by the Administrator or the independent hearing examiner shall be maintained as a part of the permanent public records of the Administrator.

C. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender. Such surrender shall not affect the administrative, civil or criminal liability of the licensee for acts committed prior to the surrender of the license.

D. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any customer.

E. The Administrator or the independent hearing examiner may reinstate a suspended license or issue a new license to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the Administrator or the independent hearing examiner in refusing originally to issue such license under this act.

F. On application of any person and payment of the cost thereof, the Administrator shall furnish under the Administrator's seal and signature a certificate of good standing or a certified copy of any license.

G. If the Administrator or the independent hearing examiner determines that the conduct is such that it may be a detriment to the public, action may be taken pending hearing. If at a hearing, the person presiding determines that an action taken against a licensee shall continue, the period shall be deemed to have begun on the date the action was taken pending the hearing.

H. In addition to any applicable cease and desist, censure, probation, suspension or revocation or refusal to renew a license, a licensee may be subject to an administrative fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation nor exceed Five Thousand Dollars (\$5,000.00) for all violations resulting from a single incident or transaction.

I. Every licensee shall notify the Administrator of the conviction of or plea of guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude within thirty (30) days after the plea is taken and also within thirty (30) days of the entering of an order of judgment and sentencing and shall notify the Administrator of any administrative action taken against the licensee in another state within thirty (30) days of the entering of the administrative order in that state.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1528.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of discovering violations of the Precious Metal and Gem Dealer Licensing Act or of securing information required hereunder, the Administrator of Consumer Credit or a duly authorized representative may investigate the books, accounts, papers, correspondence and records of any licensee or other person who the Administrator has reasonable cause to believe is violating any provision of this act whether or not such person shall claim to be within the authority or scope of this act.

B. Each dealer shall keep or make available in this state such books and records relating to transactions made under this act as are necessary to enable the Administrator to determine whether the dealer is complying with this act. Such books and records shall be consistent with accepted accounting practices.

C. Each dealer shall reserve or make available such books and records in this state relating to each of its transactions for four (4) years from the date of the transaction, or two (2) years from the date of the final entry made thereon, whichever is later. Each dealer's system of records shall be accepted if it discloses such information as may be reasonably required under this act. All books and records shall be kept at an office in this state designated by the dealer, except when transferred under an agreement which gives the Administrator access thereto.

D. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars (\$25.00) for each check returned to the Department of Consumer Credit or any agent thereof by reason of the refusal of the bank upon which such check was drawn to honor the same. However, the fee provided in this subsection shall not be assessed for any

check returned because of "insufficient funds" unless the check has twice been presented to the bank and payment declined both times.

SECTION 12. AMENDATORY 59 O.S. 1991, Section 1952, is amended to read as follows:

Section 1952. A. No person shall engage in business as a rental-purchase lessor without first obtaining a license issued by the Administrator of Consumer Credit. Each license shall state the address of the office from which business is to be conducted and the name of the licensee. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable except upon approval by the Administrator. A separate license shall be required for each office operated pursuant to the Oklahoma Rental-Purchase Act. The Administrator may issue more than one license to any one person upon compliance with this section as to each license. This subsection shall not be construed to require a license for any place of business devoted to accounting or other record keeping and where rental-purchase agreements are not made.

~~B. Each person shall file a license application form with the Administrator within thirty (30) days prior to commencing business in this state for each place of business in which rental-purchase agreements are transacted, and thereafter, by December 1st of each year.~~ The license application must state:

1. The name of the person;
2. The name in which business is transacted if different from paragraph 1 or 3 of this subsection;
3. The address of the principal office;
4. An indication that the lessor engages in the business of making rental-purchase agreements;
5. The address of the designated agent upon whom service of process may be made in this state; and

6. Such other relevant information as the Administrator may desire.

C. If information in an application becomes inaccurate after filing, modifications to the application shall be brought to the attention of the Department of Consumer Credit within thirty (30) days from such change.

D. The license application shall be on a form or forms provided by the Administrator.

E. In addition to civil and criminal penalties, the Administrator may initiate administrative action against an unlicensed person as if the person held a license if the person is found to be engaging in business as a rental-purchase lessor.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1952.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of an application for a license under the Oklahoma Rental-Purchase Act and the payment of an annual license fee of One Hundred Dollars (\$100.00) and a one-time investigation fee of Seventy-five Dollars (\$75.00), the Administrator of Consumer Credit shall conduct an investigation of the application prior to issuance of a license. Provided, that if a license is granted pursuant to an application filed after June 30 of any year, the license fee for the balance of such year shall be Fifty Dollars (\$50.00).

B. If the Administrator finds that the financial responsibility, experience, and character of the applicant are such as to warrant belief that the business will be operated lawfully and fairly, within the purposes of this act, the applicant shall be issued a license.

C. If the Administrator does not find facts sufficient to warrant issuance of a license, the Administrator shall notify the applicant. If within thirty (30) days of such notification the

applicant requests a hearing on the application, a hearing shall be held within sixty (60) days after the day of the request. In the event of the denial of a license, the investigation fee shall be retained by the Administrator, but the annual license fee shall be returned to the applicant.

D. Each application for license shall be granted or denied within ninety (90) days from the day of filing or from the last day of a hearing as provided in subsection C of this section, unless the period is extended by written agreement between the applicant and the Administrator or the independent hearing examiner.

E. As part of the investigation, the Administrator shall conduct a national criminal history check pursuant to subsection B of Section 150.9 of Title 74 of the Oklahoma Statutes. The applicant shall furnish to the Administrator a complete set of the applicant's fingerprints that shall be certified by an authorized law enforcement officer.

SECTION 14. AMENDATORY 59 O.S. 1991, Section 1953, is amended to read as follows:

Section 1953. ~~Lessors~~ Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee, on or before each December 1, shall pay an annual license renewal fee of One Hundred Dollars (\$100.00) per place of business, which fees shall accompany the license renewal form. ~~Any person engaged in the business of rental-purchase transactions on the effective date of this act shall not be held in violation of Section 3 of this act from the effective date of this act to the date of licensing if the form and fees are filed with the Administrator within thirty (30) days from the effective date of this act. Provided, that if the license application form is filed after June 30 of any year the license fee for the balance of such year shall be Fifty Dollars (\$50.00)~~ If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the

licensee by the Administrator of Consumer Credit, the license shall thereupon expire, but expiration shall not occur before December 31 of any year for which an annual fee has been paid. There shall be a late fee of Fifty Dollars (\$50.00) for a late application for renewal of a license received after December 1. The fee for a duplicate or amended license shall be Twenty-five Dollars (\$25.00).

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1953.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. the Administrator of Consumer Credit or the independent hearing examiner may after notice and hearing censure, probate, suspend or revoke or refuse to renew any license or order a licensee to cease and desist from engaging in violations of the Oklahoma Rental-Purchase Act if the Administrator or the independent hearing examiner finds that:

1. The licensee has failed to pay the annual license fee imposed by this act, the investigation fee or other fee or charge imposed by the Administrator under the authority of this act;

2. The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this act or any regulation or order lawfully made pursuant to and within the authority of this act; or

3. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the Administrator or the independent hearing examiner in refusing to issue such license.

B. The hearing shall be held upon twenty (20) days' notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the administrative action, and its effective date shall be set forth in a written order accompanied by finding of fact and a copy thereof shall be forthwith delivered to the licensee. A final order signed by an independent

hearing examiner, after hearing, shall be a final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes. Such order, finding, and the evidence considered by the Administrator or the independent hearing examiner shall be filed with the public records of the Administrator.

C. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender, but such surrender shall not affect the administrative, civil or criminal liability for acts committed prior thereto.

D. No revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any lessee.

E. The Administrator or the independent hearing examiner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the Administrator or the independent hearing examiner in refusing originally to issue such license.

F. If the Administrator or the independent hearing examiner determines that the conduct is such that it may be a detriment to the public, action may be taken pending hearing. If at a hearing, the person presiding determines that an action against a licensee shall continue, the period shall be deemed to have begun on the date the action was taken pending the hearing.

G. In addition to any applicable cease and desist, censure, probation, suspension or revocation or refusal to renew a license, a licensee may be subject to an administrative fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation nor exceed Five Thousand Dollars (\$5,000.00) for all violations resulting from a single incident or transaction.

H. Every licensee shall notify the Administrator of the conviction of or plea of guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude within thirty (30) days after the plea is taken and also within thirty (30) days of the entering of an order of judgment and sentencing and shall notify the Administrator of any administrative action taken against the licensee in another state within thirty (30) days of the entering of the administrative order in that state.

SECTION 16. AMENDATORY 59 O.S. 1991, Section 1955, is amended to read as follows:

Section 1955. A. A consumer damaged by a violation of ~~this act~~ the Oklahoma Rental-Purchase Act by a lessor is entitled to recover from the lessor:

1. Actual damages;

2. Twenty-five percent (25%) of an amount equal to the total amount of payments required to obtain ownership of the merchandise involved, except that the amount recovered under this section shall not be less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or in the case of a class action, an amount the court may allow, except that as to each member of the class no minimum recovery may be applicable and the total recovery other than for actual damages in any class action or series of class actions arising out of the same failure to comply by the same lessor shall not be more than the lesser of Five Hundred Thousand Dollars (\$500,000.00) or one percent (1%) of the net worth of the lessor; and

3. Reasonable attorneys fees and court costs.

B. In addition to the enforcement powers provided in ~~Section 6-102~~ Article 6 of Title 14A of the Oklahoma Statutes, the Administrator of Consumer Credit or ~~his duly~~ the Administrator's authorized representative may investigate the books, accounts, papers, correspondence and records of any lessor licensed under the

Oklahoma Rental-Purchase Act. For the purposes of this section, any person who advertises for, solicits or holds ~~himself~~ out as willing to make rental-purchase transactions, shall be presumed to be a rental-purchase lessor. Each lessor shall pay to the Administrator an amount assessed by the Administrator to cover the direct or indirect cost of such examination, not to exceed ~~Two Hundred Dollars (\$200.00)~~ Two Hundred Fifty Dollars (\$250.00) in any calendar year including a late fee of Fifty Dollars (\$50.00) if the examination fee is not received within fifteen (15) days of the invoice date.

C. The Administrator may promulgate rules and regulations necessary for the enforcement of the Oklahoma Rental-Purchase Act and consistent with all its provisions.

D. Except as otherwise expressly provided in the Oklahoma Rental-Purchase Act, the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes, applies to and governs all administrative actions and civil proceedings taken by the Administrator pursuant to the Oklahoma Rental-Purchase Act.

E. Where there are multiple lessees to a rental-purchase agreement, there shall be no more than one recovery under the Oklahoma Rental-Purchase Act for a violation.

F. A lessor is not liable under the Oklahoma Rental-Purchase Act for a violation thereof caused by the lessor's error if before the sixtieth day after the date the lessor discovers the error, and before an action under this section is filed or written notice of the error is received by the lessor from the lessee, the lessor gives the lessee written notice of the error and makes adjustments in the lessee's account as necessary to ensure that the lessee will not be required to pay an amount in excess of the amount disclosed and that the agreement otherwise complies with this subsection. Nor may a lessor be held liable in any action brought under the Oklahoma Rental-Purchase Act for a violation of the Oklahoma Rental-Purchase Act if the lessor shows by a preponderance of the evidence that the

violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. A bona fide error includes, but is not limited to, a clerical, calculation, computer malfunction in programming, and printing error, but not an error of legal judgment with respect to a lessor's disclosure obligations under the Oklahoma Rental-Purchase Act.

G. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars (\$25.00) for each check returned to the Department of Consumer Credit or any agent thereof by reason of the refusal of the bank upon which such check was drawn to honor the same. However, the fee provided in this subsection shall not be assessed for any check returned because of "insufficient funds" unless the check has twice been presented to the bank and payment declined both times.

SECTION 17. AMENDATORY 59 O.S. 1991, Section 2002, is amended to read as follows:

Section 2002. A. No health spa shall offer or advertise health spa services unless first being registered with the Administrator of Consumer Credit. The registration shall:

1. ~~disclose~~ Disclose the address, ownership, date of first sales and date of first opening of the health spa;
2. ~~state~~ State the name and address of the registered agent of the registrant, if the registrant is a corporation;
3. ~~be~~ Be renewed each succeeding calendar year; and
4. ~~be~~ Be accompanied by a fee of Two Hundred Dollars (\$200.00) per registration and annual renewal.

B. Each separate location where health spa services are offered shall be considered a separate health spa and shall file a separate registration, even though the separate locations are owned or operated by the same owner.

C. Each registration shall remain in full force and effect until relinquished, suspended, revoked or expired. Every health spa, on or before each December 1, shall pay an annual license renewal fee of Two Hundred Dollars (\$200.00) per health spa, which fees shall accompany the license renewal form. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the health spa by the Administrator, the registration shall thereupon expire, but expiration shall not occur before December 31 of any year for which an annual fee has been paid. There shall be a late fee of Fifty Dollars (\$50.00) for a late application for renewal of a registration received after December 1. The fee for a duplicate or amended registration shall be Twenty-five Dollars (\$25.00).

D. In addition to civil and criminal penalties, the Administrator may initiate administrative action against an unregistered health spa as if the health spa held a registration if the health spa is found to be engaging in the business of a health spa.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2002.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of an application for registration under the Oklahoma Health Spa Act and the payment of the registration fee and a one-time investigation fee of Seventy-five Dollars (\$75.00), the Administrator of Consumer Credit shall conduct an investigation of the applicant prior to registration.

B. If the Administrator finds that the financial responsibility, experience and character of the applicant are such as to warrant belief that the health spa will be operated lawfully and fairly, within the purposes of the Oklahoma Health Spa Act, the applicant shall be registered.

C. If the Administrator does not find facts sufficient to warrant registration, the Administrator shall notify the applicant. If within thirty (30) days of such notification the applicant requests a hearing on the application, a hearing shall be held within sixty (60) days after the day of the request. In the event of the denial of registration, the investigation fee shall be retained by the Administrator, but the annual registration fee shall be returned to the applicant.

D. Each application for registration shall be granted or denied within ninety (90) days from the day of filing or from the last day of a hearing as provided in subsection C of this section, unless the period is extended by written agreement between the applicant and the Administrator or the independent hearing examiner.

E. As part of the investigation, the Administrator shall conduct a national criminal history check pursuant to subsection B of Section 150.9 of Title 74 of the Oklahoma Statutes. The applicant shall furnish to the Administrator a complete set of the applicant's fingerprints that shall be certified by an authorized law enforcement officer.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2002.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Administrator of Consumer Credit or the independent hearing examiner may after notice and hearing censure, probate, suspend or revoke or refuse to renew any registration or may order a health spa to cease and desist from engaging in violations of the Oklahoma Health Spa Act if the Administrator or the independent hearing examiner finds that:

1. The health spa has failed to pay the annual registration fee imposed by this act, the investigation fee or other fee or charge imposed by the Administrator under the authority of this act;

2. The health spa, either knowingly or without the exercise of due care to prevent the same has violated any provision of this act or any regulation or order lawfully made pursuant to and within the authority of this act; or

3. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for registration, clearly would have justified the Administrator or the independent hearing examiner in refusing to register the health spa.

B. The hearing shall be held upon twenty (20) days' notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the administrative action, and its effective date shall be set forth in a written order accompanied by finding of fact and a copy thereof shall be forthwith delivered to the health spa. A final order signed by an independent hearing examiner, after hearing, shall be a final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes. Such order, finding, and the evidence considered by the Administrator or the independent hearing examiner shall be filed with the public records of the Administrator.

C. Any health spa may surrender any registration by delivering it to the Administrator with written notice of its surrender, but such surrender shall not affect the administrative, civil or criminal liability for acts committed prior thereto.

D. No revocation, suspension, or surrender of any registration shall impair or affect the obligation of any preexisting lawful contract between the health spa and a member or buyer.

E. The Administrator or the independent hearing examiner may reinstate suspended registrations or issue new registrations to a person whose registration or registrations have been revoked if no fact or condition then exists which clearly would have justified the Administrator or the independent hearing examiner in refusing originally to register such health spa.

F. If the Administrator or the independent hearing examiner determines that the conduct is such that it may be a detriment to the public, action may be taken pending hearing. If at a hearing, the person presiding determines that an action against a health spa shall continue, the period shall be deemed to have begun on the date the action was taken pending the hearing.

G. In addition to any applicable cease and desist, censure, probation, suspension or revocation or refusal to renew a registration, a health spa may be subject to an administrative fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation nor exceed Five Thousand Dollars (\$5,000.00) for all violations resulting from a single incident or transaction.

H. Every health spa shall notify the Administrator of the conviction of or plea of guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude within thirty (30) days after the plea is taken and also within thirty (30) days of the entering of an order of judgment and sentencing and shall notify the Administrator of any administrative action taken against the licensee in another state within thirty (30) days of the entering of the administrative order in that state.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2002.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of discovering violations of the Oklahoma Health Spa Act or of securing information required hereunder, the Administrator of Consumer Credit or a duly authorized representative may investigate the books, accounts, papers, correspondence and records of any health spa or other person who the Administrator has reasonable cause to believe is violating any provision of this act whether or not such person shall claim to be within the authority or scope of this act.

B. Each health spa shall keep or make available in this state such books and records relating to transactions made under this act as are necessary to enable the Administrator to determine whether the health spa is complying with this act. Such books and records shall be consistent with accepted accounting practices.

C. Each health spa shall preserve or make available such books and records in this state relating to each of its transactions for four (4) years from the date of the transaction, or two (2) years from the date of the final entry made thereon, whichever is later. Each health spa's system of records shall be accepted if it discloses such information as may be reasonably required under this act. All books and records shall be kept at an office in this state designated by the health spa, except when transferred under an agreement which gives the Administrator access thereto.

D. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars (\$25.00) for each check returned to the Department of Consumer Credit or any agent thereof by reason of the refusal of the bank upon which such check was drawn to honor the same. However, the fee provided in this subsection shall not be assessed for any check returned because of "insufficient funds" unless the check has twice been presented to the bank and payment declined both times.

SECTION 21. AMENDATORY Section 4, Chapter 401, O.S.L. 1997, as amended by Section 3, Chapter 170, O.S.L. 1998 (59 O.S. Supp. 1999, Section 2084), is amended to read as follows:

Section 2084. A. Unless exempt from licensure under the Mortgage Broker Licensure Act, a person may not engage in the business of a mortgage broker without first obtaining and maintaining a license under the Mortgage Broker Licensure Act. However, a person who independently contracts with a licensed mortgage broker to perform mortgage broker services need not be licensed if the licensed mortgage broker and the independent

contractor have on file with the Administrator of Consumer Credit a binding written agreement under which the licensed mortgage broker assumes responsibility for the independent contractor's violations of any provision of this act or rules promulgated pursuant to the provisions of the Mortgage Broker Licensure Act.

B. In addition to civil and criminal penalties, the Administrator may initiate administrative action against an unlicensed person as if the person held a license if the person is found to be engaging in the business of a mortgage broker.

SECTION 22. AMENDATORY Section 5, Chapter 401, O.S.L. 1997, as amended by Section 4, Chapter 170, O.S.L. 1998 (59 O.S. Supp. 1999, Section 2085), is amended to read as follows:

Section 2085. A. 1. A person of good moral character who has experience in the residential mortgage loan industry or real estate sales or lending industry, or has applicable educational requirements as established by rule of the ~~Commission on~~ Administrator of Consumer Credit, may make application to the ~~Administrator of Consumer Credit~~ for a mortgage broker license.

2. a. Application for a mortgage broker license shall be made upon forms prescribed by the Administrator and shall be accompanied by a nonrefundable application fee as set by rule of the ~~Commission~~ Administrator and any information and documents the ~~Commission or~~ Administrator may require.
- b. As part of the investigation, the Administrator shall conduct a national criminal history check pursuant to subsection B of Section 150.9 of Title 74 of the Oklahoma Statutes.
- c. The applicant shall furnish to the Administrator a complete set of the applicant's fingerprints that shall be certified by an authorized law enforcement officer.

d. The applicant shall provide a list of the applicant's employees and independent contractors which affirms that the employees and independent contractors have not been convicted of having violated any provision of the federal fair housing laws, 42 U.S.C., Section 3601 et seq., or the crime of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, fraud or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses and assumes responsibility for the employees' and independent contractors' violations of any provision of this act or rules promulgated pursuant to the provisions of this act. An updated list shall be filed with the Administrator within thirty (30) days of any additions or deletions.

3. Upon approval by the Administrator of the application and payment of the license fee provided for in the Mortgage Broker Licensure Act the Administrator shall issue to the applicant a license which shall authorize the applicant to act as a mortgage broker.

B. A license issued under ~~this act~~ the Mortgage Broker Licensure Act shall be valid for a period of three (3) years, unless otherwise revoked or suspended by the Administrator. Every licensee, on or before December 1 of the year that the license expires, shall pay a license renewal fee of Three Hundred Dollars (\$300.00) per license, which fees shall accompany the license renewal form. If the fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the Administrator, the license shall thereupon expire, but expiration shall not occur before December 31 of the expiration year. There shall be a late fee of Fifty Dollars (\$50.00) for a late application for renewal of a license received after December 1 of the expiration

year. The fee for a duplicate or amended license shall be Twenty-five Dollars (\$25.00).

C. Initial and renewal license fees shall be Three Hundred Dollars (\$300.00) for each three-year period. These fees shall be deposited in the Oklahoma Mortgage Brokers Recovery Fund.

D. A person may be denied a license for any of the causes set forth in subsection B of Section 2088 of this title.

~~E. A residential mortgage broker who held a current license as of November 1, 1997, which was issued under the Credit Services Organization Act shall be granted an initial license by the Administrator pursuant to the provisions of this section~~ If the Administrator does not find facts sufficient to warrant issuance of a license, the Administrator shall notify the applicant. If within thirty (30) days of such notification the applicant requests a hearing on the application, a hearing shall be held within sixty (60) days after the day of the request. In the event of the denial of a license, the application fee shall be retained by the Administrator, but the license fee shall be returned to the applicant. Each application for license shall be granted or denied within ninety (90) days from the day of filing or from the last day of a hearing, unless the period is extended by written agreement between the applicant and the Administrator or the independent hearing examiner.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2085.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. At such times as the Administrator of Consumer Credit shall deem necessary, the Administrator or a duly authorized representative shall make an examination of the place or places of business of each licensee and shall inquire into and examine the loans, transactions, books, accounts, papers, correspondence, and records of such licensee insofar as they pertain to the business

regulated by the Mortgage Broker Licensure Act. In the course of such examination, the Administrator or the duly authorized representative shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The Administrator or the duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Administrator is authorized or required by this act to consider, investigate, or secure information. Any licensee who shall fail or refuse to allow the Administrator or the duly authorized representative to examine or make copies of such books or other relevant documents shall thereby be deemed in violation of the Mortgage Broker Licensure Act and such failure or refusal shall constitute grounds for administrative action against such licensee. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the Administrator an amount assessed by the Administrator to cover the direct and indirect cost of such examination and a proportionate share of general administrative expense, not to exceed Three Hundred Dollars (\$300.00); provided, however, that for any examination which lasts in excess of eight (8) hours, the Administrator shall charge an additional fee of Fifty Dollars (\$50.00) per hour for each examiner required to complete such an examination; provided, further, that the Administrator may waive the examination fee for any examination which takes one (1) hour or less. If an examination fee is due and is not paid upon completion of an examination, the Administrator shall bill the licensee, and there shall be a late fee of Fifty Dollars (\$50.00) if the amount due is not received within fifteen (15) days of the invoice date. No licensee shall be assessed and charged a total fee

in excess of Six Hundred Fifty Dollars (\$650.00) for each licensed office in any one (1) calendar year.

B. For the purpose of discovering violations of this act or of securing information required hereunder, the Administrator or a duly authorized representative may investigate the books, accounts, papers, correspondence and records of any licensee or other person whom the Administrator has reasonable cause to believe is violating any provision of this act whether or not such person shall claim to be within the authority or scope of this act.

C. Each licensee shall keep or make available in this state such books and records relating to loans made under this act as are necessary to enable the Administrator to determine whether the licensee is complying with this act. Such books and records shall be consistent with accepted accounting practices.

D. Each licensee shall preserve or make available such books and records in this state relating to each of its loans for four (4) years from the date of the loan, or two (2) years from the date of the final entry made thereon, whichever is later. Each licensee's system of records shall be accepted if it discloses such information as may be reasonably required under this act. All obligations signed by borrowers shall be kept at an office in this state designated by the licensee, except when transferred under an agreement which gives the Administrator access thereto.

E. Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the Administrator or a representative may apply to a court for an order compelling compliance, as provided by the Administrative Procedures Act.

F. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars (\$25.00) for each check returned to the Department of Consumer Credit or any agent thereof by reason of the refusal of the

bank upon which such check was drawn to honor the same. However, the fee provided in this subsection shall not be assessed for any check returned because of "insufficient funds" unless the check has twice been presented to the bank and payment declined both times.

SECTION 24. AMENDATORY Section 8, Chapter 401, O.S.L. 1997, as amended by Section 6, Chapter 170, O.S.L. 1998 (59 O.S. Supp. 1999, Section 2088), is amended to read as follows:

Section 2088. A. The Administrator of Consumer Credit may upon ~~his or her~~ the Administrator's own motion, and shall upon written complaint filed by any person, investigate the business transactions of any licensed mortgage broker and the Administrator or the independent hearing examiner, after notice and hearing, may, for any cause as set forth in subsection B of this section, impose the following sanctions:

1. Reprimand;
2. Probation for a specified period of time;
3. Suspension of license for specified periods of time;
4. Revocation of license;
5. Refusal to renew a license;
6. Cease and desist order;

7. Imposition of an administrative fine which shall be not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation nor exceed Five Thousand Dollars (\$5,000.00) for all violations resulting from a single incident or transaction;

~~6.~~ 8. Restitution of actual damages suffered by the complaining person; or

~~7.~~ 9. Any combination of sanctions as provided for by paragraphs 1 through ~~6~~ 8 of this subsection.

B. Cause shall be established upon clear and convincing evidence that any licensee ~~or its employee~~ has performed or has

attempted to perform, or is performing or is attempting to perform any of the following acts:

1. Making a materially false or fraudulent statement in an application for license;
2. Making substantial misrepresentations or false promises in the conduct of business as a mortgage broker or through advertising;
3. Failing to escrow, account for, or remit monies or documents as required by this act;
4. Commingling monies as prohibited by this act;
5. Having been convicted in a court of competent jurisdiction of having violated any provision of the federal fair housing laws, 42 U.S.C., Section 3601 et seq.;
6. Having been convicted in a court of competent jurisdiction in this or any other state of the crime of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, fraud, or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses;
7. Failing to pay the fees required under the Mortgage Broker Licensure Act or to comply with an order lawfully issued pursuant to the Mortgage Broker Licensure Act; ~~or~~
8. Having violated any provision of the Mortgage Broker Licensure Act;
9. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the Administrator or the independent hearing examiner in refusing to issue such license; or
10. Having engaged in business with an unlicensed or unauthorized mortgage broker.

C. The hearing shall be held upon twenty (20) days' notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the administrative action, and its effective date shall be set forth in a written order

accompanied by a finding of fact and a copy thereof shall be forthwith delivered to the licensee. A final order signed by an independent hearing examiner, after hearing, shall be a final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes. Such order, finding, and the evidence considered by the Administrator or the independent hearing examiner shall be filed with the public records of the Administrator.

D. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender, but such surrender shall not affect the administrative, civil or criminal liability for acts committed prior thereto.

E. No revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any customer.

F. The Administrator or the independent hearing examiner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the Administrator or the independent hearing examiner in refusing originally to issue such license under this part.

G. If the Administrator or the independent hearing examiner determines that the conduct is such that it may be a detriment to the public, action may be taken pending hearing. If at the hearing the person presiding determines that an action against a licensee shall continue, the period shall be deemed to have begun on the date the action was taken pending the hearing.

H. Every licensee shall notify the Administrator of the conviction of or plea of guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude within thirty (30) days after the plea is taken and also within thirty (30) days of the entering of an order of judgment and sentencing and shall notify the Administrator of any administrative action taken against the

licensee in another state within thirty (30) days of the entering of the administrative order in that state.

I. In addition to any sanctions authorized by the Mortgage Broker Licensure Act, the Administrator, the Attorney General, or the district attorney may apply to the district court in the county in which a violation of the Mortgage Broker Licensure Act has allegedly occurred for an order enjoining or restraining the licensee from continuing the acts specified in the complaint. The court may grant any temporary or permanent injunction or restraining order, without bond, as it deems just and proper.

SECTION 25. This act shall become effective November 1, 2000.

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