

Thursday, February 17, 2000

House Bill No. 2674

As Amended

HOUSE BILL NO. 2674 -- By WEAVER of the House and STIPE of the Senate.

An Act relating to professions and occupations; creating the "Oklahoma Deferred Presentment Service Act"; defining terms; requiring certain license; requiring application for license; setting forth certain licensing requirements; establishing certain licensing fees; requiring certain service agent; setting forth bonding requirements; authorizing exchange of certain licenses; requiring certain loan transactions to be closed by certain time period; prohibiting engagement in certain business without license; prohibiting certain charges; limiting amount of the finance charged; limiting the amount to be financed; setting forth parameters of loan; prohibiting certain charges; specifying that certain provisions of law apply; prohibiting use of multiple agreements or split loans; specifying that certain remedies apply; providing for codification; providing an effective date; and declaring an emergency.

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 1570 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 Deferred Presentment Service Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1571 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Administrator" means the Administrator of the Department of Consumer Credit as defined in the Uniform Consumer Credit Code;
2. "Check" means a personal check signed by the issuer and made payable to a person licensed pursuant to Section 3 of this act;
3. "Deferred presentment", "deferred presentment transaction", or "deferred presentment service" means a transaction pursuant to a written agreement between a licensee and the issuer of a check whereby the licensee accepts a check from the issuer dated on the date it was written or subsequent to the date written and pursuant to a written contract holds the check for a period of time before presentment for payment or deposit; and

4. "Licensee" means a person licensed to provide deferred presentment services or transactions pursuant to Section 3 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1572 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person shall engage in the business of a deferred presentment service or transaction or contract for, charge or receive any amount as a finance charge pursuant to this act without first obtaining a license from the Administrator of the Department of Consumer Credit specifically authorizing engagement in such business.

B. There shall be a separate and distinct license for any person engaged in a deferred presentment service or transaction, which license shall be known as a deferred presentment service license. Except as provided in this act, any person issued a license pursuant to this section shall be subject to all applicable laws governing supervised lenders under the Uniform Consumer Credit Code.

C. 1. Application for a license shall be under oath, shall give the approximate location from which the business is to be conducted, and shall contain such relevant information as the Administrator may require. When making application for one or more licenses, the applicant shall pay Two Hundred Dollars (\$200.00) to the Administrator as an investigation fee and One Hundred Fifty Dollars (\$150.00) for each license as the annual fee for the current calendar year. However, if a license is granted after June 30, in any year, such fee shall be Seventy-five Dollars (\$75.00) for that year.

2. Every licensee shall maintain on file with the Administrator a written appointment of a resident of this state as the agent of the licensee for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this state. In case of noncompliance, such service may be made on the Administrator.

3. At the time of filing such application, every applicant shall file with the Administrator, if the Administrator so requires, a bond satisfactory to the Administrator and in an amount not to exceed Five Thousand Dollars (\$5,000.00) for the first license and One Thousand Dollars (\$1,000.00) for

each additional license. Such bond shall be with a surety company qualified to do business in this state as surety, whose total liability in the aggregate shall not exceed the amount of such bond so fixed. The bond shall run to the state for the use of the state and of any person or persons who may have cause of action against the obligor of the bond under the provisions of this act. Such bond shall be conditional that the obligor will faithfully conform to and abide by the provisions of this act and to all rules lawfully made by the Administrator. The bond shall also be conditional that the obligor will pay to the state and to any such person or persons any and all amounts of money that may become due or owing to the state or to such person or persons from such obligor under and by virtue of the provisions of this act during the calendar year for which the bond is given.

D. Beginning July 1, 2000, and ending December 1, 2000, any person who has a current and valid license pursuant to Section 3-503 of Title 14A of the Oklahoma Statutes may exchange such license and obtain a deferred presentment service license pursuant to this section without any additional costs, expenses or bonding requirements. However, the deferred presentment service license issued pursuant to this subsection shall expire on December 31, 2000, and shall be renewed in accordance with this section. Any person exchanging a license pursuant to this subsection shall have until July 1, 2001, in order to close any loan transaction entered into prior to July 1, 2000, which does not qualify as a deferred presentment transaction as defined in Section 2 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1573 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person engaged in a deferred presentment service or transaction may contract for, charge or receive any amount as a charge in connection with such service or transaction other than a finance charge, and no finance charge calculated according to the actuarial method shall exceed an amount equal to twenty percent (20%) of the amount financed which does not exceed One Hundred Fifty Dollars (\$150.00), financed for one (1) month; fifteen percent (15%) of that amount financed which is more than One Hundred Fifty Dollars (\$150.00) but does not exceed Two Hundred Fifty Dollars (\$250.00), financed for one (1) month; and ten percent (10%) of that amount financed

which is more than Two Hundred Fifty Dollars (\$250.00) but does not exceed Three Hundred Forty Dollars (\$340.00), financed for one (1) month. However, a minimum finance charge not to exceed One Dollar (\$1.00) may be charged in lieu of the rates set forth in this section, without regard to the amount financed. The finance charge authorized pursuant to this subsection shall be deemed to be earned at the time the check is made and shall not be subject to refund.

B. In no case shall the amount financed exceed Three Hundred Forty Dollars (\$340.00). The maximum term of the deferred presentment shall be one (1) month and the minimum term of the deferred presentment shall be one (1) day. All allowable finance charges on a deferred presentment transaction for less than one (1) month shall be prorated accordingly. A deferred presentment transaction may be renewed if the transaction to be renewed is financed for the maximum term of one (1) month. For any deferred presentment transaction financed for less than the maximum term of one (1) month, the deferred presentment transaction shall be paid in full prior to any new or additional transaction between the licensee and the issuer of the check.

C. Except as otherwise expressly provided for in this section, no person engaged in a deferred presentment service or transaction may contract for or receive any amount as a charge in connection with a deferred presentment service or transaction. No insurance charges or any other charges shall be permitted.

D. The provisions of Section 3-203 of Title 14A of the Oklahoma Statutes as it relates to delinquency charges, and Section 3-202.1 of Title 14A of the Oklahoma Statutes as it relates to return check charges shall apply to a deferred presentment service or transaction made pursuant to this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1574 of Title 59, unless there is created a duplication in numbering, reads as follows:

No person engaged in a deferred presentment service or transaction, whether acting independently or in concert with one or more other persons engaged in a deferred presentment service or transaction, shall use multiple agreements or split a loan, including any refinancing thereof, into multiple loans with the intent to obtain a higher rate or amount of loan finance charge

pursuant to this act than would otherwise be permitted by this act or to avoid disclosure of an annual percentage rate pursuant to the provisions on disclosure and advertising in the Uniform Consumer Credit Code. The excess amount of a loan finance charge provided for in agreements or split loans in violation of this section shall be considered excess charges for the purposes of the provisions on the effect of violation on rights of parties pursuant to Section 5-202 of Title 14A of the Oklahoma Statutes, and the provisions on civil actions by the Administrator pursuant to Section 6-113 of Title 14A of the Oklahoma Statutes.

SECTION 6. This act shall become effective July 1, 2000.

SECTION 7. 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.