

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL 1565

By: Monson

COMMITTEE SUBSTITUTE

An Act relating to consumer credit; prohibiting certain supervised loans made under specified circumstances; requiring supervised lender to make certain determination regarding applicant; specifying method of determination; requiring supervised lender to provide specified information to debtor and specifying contents thereof; establishing debtor's right of rescission and specifying procedures therefor; providing requirements for completion of a supervised loan transaction; providing waiting period before new supervised loan agreement may be made; amending Section 9, Chapter 240, O.S.L. 2003 (59 O.S. Supp. 2003, Section 3109), which relates to the Deferred Deposit Lending Act; expanding the number of databases which may be approved by the Administrator of Consumer Credit for specified purpose; modifying criteria for deferred deposit lender's determination regarding loan application; establishing waiting period for making new deferred deposit loans after previous loan is completed; and providing an effective date.

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 3-508C of Title 14A, unless there is created a duplication in numbering, reads as follows:

A lender shall not make a supervised loan pursuant to Section 3-508B of Title 14A of the Oklahoma Statutes to an applicant if the lender determines that the applicant has an outstanding supervised loan at the time of application. Upon any application being made for a supervised loan pursuant to Section 3-508B of Title 14A of the Oklahoma Statutes, the lender shall determine if the applicant has an outstanding supervised loan as follows:

1. The applicant shall be required to sign an affidavit stating whether the applicant has an outstanding supervised loan with the lender or any other supervised lender and if so, the status of such loan; and

2. The lender shall be required to verify the accuracy of the affidavit through commercially reasonable means. A lender's method of so verifying shall be considered in compliance with the provisions of this section if the verification method includes a manual investigation or an electronic query of:

- a. the lender's own records, including both records maintained at the location where the loan is being applied for and records maintained at other locations that are owned and operated by the lender or the lender's affiliates, and
- b. any private database approved by the Administrator of Consumer Credit for such purpose, if the lender subscribes to such database; provided, all lenders shall be required to subscribe to such a database or otherwise obtain the required information in a manner approved by the Administrator of the Department of Consumer Credit not later than October 31, 2004.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-508D of Title 14A, unless there is created a duplication in numbering, reads as follows:

At the time a lender makes a supervised loan pursuant to Section 3-508B of Title 14A of the Oklahoma Statutes, the lender shall provide the debtor with a pamphlet, approved by the Administrator of Consumer Credit, describing the availability of debt management and credit counseling services and the debtor's rights and responsibilities in the transaction. The pamphlet shall indicate a toll-free telephone number for the Administrator that the debtor may

contact to receive information relating to debt management and credit counseling services.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-508E of Title 14A, unless there is created a duplication in numbering, reads as follows:

Without penalty or cost of any kind, a debtor in a supervised loan transaction pursuant to Section 3-508B of Title 14A of the Oklahoma Statutes shall have the right to rescind in writing the supervised loan until 5 p.m. on the next business day following the day the debtor signs the loan agreement; provided, any attempted rescission will not be effective unless the notice is timely and is accompanied by a return of the full principal advanced by the lender to the debtor. Exercising rescission entitles the debtor to a full refund of all fees paid by the debtor as part of the supervised loan transaction. Rescission occurs when the debtor gives written notice of rescission to the lender at the address of the office of the licensee as stated in the loan agreement or at the location where the transaction occurred.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-508F of Title 14A, unless there is created a duplication in numbering, reads as follows:

A supervised loan transaction made pursuant to Section 3-508B of Title 14A of the Oklahoma Statutes is completed when the lender presents the instrument for payment or initiates an ACH debit to the debtor's bank account to collect on the instrument, or the debtor redeems the instrument by paying the full amount of the instrument to the lender. Once the debtor has completed the supervised loan transaction pursuant to Section 3-508B of Title 14A of the Oklahoma Statutes, the lender may enter into a new supervised loan agreement with the debtor, a minimum of twenty-four (24) hours after the debtor has completed any previous supervised loan made pursuant to Section 3-508B of Title 14A of the Oklahoma Statutes.

SECTION 5. AMENDATORY Section 9, Chapter 240, O.S.L. 2003 (59 O.S. Supp. 2003, Section 3109), is amended to read as follows:

Section 3109. A. A lender may not enter into a renewal of a deferred deposit loan transaction.

B. Upon any application being made for a deferred deposit loan, the lender shall determine if the applicant has any outstanding deferred deposit loans as follows:

1. The applicant shall be required to sign an affidavit stating whether the applicant has any deferred deposit loans outstanding with the lender or any other deferred deposit lender and if so, the status of each such loan; and

2. The lender shall be required to verify the accuracy of the affidavit through commercially reasonable means. A lender's method of so verifying shall be considered in compliance with the provisions of this section if the verification method includes a manual investigation or an electronic query of:

- a. the lender's own records, including both records maintained at the location where the loan is being applied for and records maintained at other locations that are owned and operated by the lender or the lender's affiliates, and
- b. ~~a~~ any private database approved by the Administrator of Consumer Credit, if the lender subscribes to such a database; provided, all lenders shall be required to subscribe to such a database or otherwise obtain the required information in a manner approved by the Administrator not later than July 1, 2004.

If the lender determines that the applicant has ~~more than~~ one outstanding deferred deposit loan, the loan applied for shall not be made.

C. A deferred deposit loan transaction is completed when the lender presents the instrument for payment or initiates an ACH debit to the debtor's bank account to collect on the instrument, or the debtor redeems the instrument by paying the full amount of the instrument to the lender. Once the debtor has completed the deferred deposit loan transaction, the lender may enter into a new deferred deposit loan agreement with the debtor, and the new deferred deposit loan transaction shall not be deemed to be a renewal of the previous deferred deposit loan; provided, a new deferred deposit loan made within thirteen (13) calendar days after a previous deferred deposit loan has been entered into between the lender and the debtor shall be considered a renewal and shall not be made.

D. A deferred deposit loan shall not be made within twenty-four (24) hours after the debtor has completed a previous deferred deposit loan transaction.

~~D.~~ E. A lender shall negotiate or present an instrument for payment only if the instrument is endorsed with the actual business name of the lender.

~~E.~~ F. Prior to the lender negotiating or presenting the instrument, the debtor shall have the right to redeem any instrument held by a lender as a result of a deferred deposit loan if the debtor pays to the lender the unpaid balance of the principal and all accrued fees and charges.

SECTION 6. This act shall become effective January 1, 2005.

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