

CS for SB 1565

1 THE STATE SENATE
2 Tuesday, February 24, 2004

3 Committee Substitute for
4 Senate Bill No. 1565

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1565 - By: MONSON of the
6 Senate and NATIONS of the House.

7 An Act relating to consumer credit; prohibiting certain
8 supervised loans made under specified circumstances;
9 requiring supervised lender to make certain determination
10 regarding applicant; specifying method of determination;
11 requiring supervised lender to provide specified information
12 to debtor and specifying contents thereof; establishing
13 debtor's right of rescission and specifying procedures
14 therefor; providing requirements for completion of a
15 supervised loan transaction; providing waiting period before
16 new supervised loan agreement may be made; amending Section
17 9, Chapter 240, O.S.L. 2003 (59 O.S. Supp. 2003, Section
18 3109), which relates to the Deferred Deposit Lending Act;
19 expanding the number of databases which may be approved by
20 the Administrator of Consumer Credit for specified purpose;
21 modifying criteria for deferred deposit lender's
22 determination regarding loan application; establishing
23 waiting period for making new deferred deposit loans after
24 previous loan is completed; and providing an effective date.

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

26 SECTION 1. NEW LAW A new section of law to be codified
27 in the Oklahoma Statutes as Section 3-508C of Title 14A, unless
28 there is created a duplication in numbering, reads as follows:

29 A lender shall not make a supervised loan pursuant to Section 3-
30 508B of Title 14A of the Oklahoma Statutes to an applicant if the
31 lender determines that the applicant has an outstanding supervised
32 loan at the time of application. Upon any application being made

1 for a supervised loan pursuant to Section 3-508B of Title 14A of the
2 Oklahoma Statutes, the lender shall determine if the applicant has
3 an outstanding supervised loan as follows:

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

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

13 a. the lender's own records, including both records
14 maintained at the location where the loan is being
15 applied for and records maintained at other locations
16 that are owned and operated by the lender or the
17 lender's affiliates, and

18 b. any private database approved by the Administrator of
19 Consumer Credit for such purpose, if the lender
20 subscribes to such database; provided, all lenders
21 shall be required to subscribe to such a database or
22 otherwise obtain the required information in a manner

1 approved by the Administrator of the Department of
2 Consumer Credit not later than October 31, 2004.

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

6 At the time a lender makes a supervised loan pursuant to Section
7 3-508B of Title 14A of the Oklahoma Statutes, the lender shall
8 provide the debtor with a pamphlet, approved by the Administrator of
9 Consumer Credit, describing the availability of debt management and
10 credit counseling services and the debtor's rights and
11 responsibilities in the transaction. The pamphlet shall indicate a
12 toll-free telephone number for the Administrator that the debtor may
13 contact to receive information relating to debt management and
14 credit counseling services.

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

18 Without penalty or cost of any kind, a debtor in a supervised
19 loan transaction pursuant to Section 3-508B of Title 14A of the
20 Oklahoma Statutes shall have the right to rescind in writing the
21 supervised loan until 5 p.m. on the next business day following the
22 day the debtor signs the loan agreement; provided, any attempted
23 rescission will not be effective unless the notice is timely and is

1 accompanied by a return of the full principal advanced by the lender
2 to the debtor. Exercising rescission entitles the debtor to a full
3 refund of all fees paid by the debtor as part of the supervised loan
4 transaction. Rescission occurs when the debtor gives written notice
5 of rescission to the lender at the address of the office of the
6 licensee as stated in the loan agreement or at the location where
7 the transaction occurred.

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

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

1 SECTION 5. AMENDATORY Section 9, Chapter 240, O.S.L.
2 2003 (59 O.S. Supp. 2003, Section 3109), is amended to read as
3 follows:

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

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

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

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

18 a. the lender's own records, including both records
19 maintained at the location where the loan is being
20 applied for and records maintained at other locations
21 that are owned and operated by the lender or the
22 lender's affiliates, and

1 b. a any private database approved by the Administrator
2 of Consumer Credit, if the lender subscribes to such a
3 database; provided, all lenders shall be required to
4 subscribe to such a database or otherwise obtain the
5 required information in a manner approved by the
6 Administrator not later than July 1, 2004.

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

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

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

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

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-17-04 - DO PASS,
14 As Amended and Coauthored.