

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1523

By: Easley

AS INTRODUCED

An Act relating to debtors and creditors; amending 24 O.S. 2001, Sections 132, as amended by Section 1, Chapter 171, O.S.L. 2002, and 141, as amended by Section 2, Chapter 171, O.S.L. 2002 (24 O.S. Supp. 2002, Sections 132 and 141), which relate to the Credit Services Organization Act; modifying definitions; requiring certain loans to comply with Uniform Consumer Credit Code; prohibiting refund anticipation loans; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 24 O.S. 2001, Section 132, as amended by Section 1, Chapter 171, O.S.L. 2002 (24 O.S. Supp. 2002, Section 132), is amended to read as follows:

Section 132. As used in the Credit Services Organization Act:

1. "Buyer" means any individual who is offered, who is solicited to purchase or utilize, or who purchases or utilizes the services of a credit services organization;
2. a. "Credit services organization" means any person who ~~with respect to the extension of credit by others, for~~ compensation or gain, or in the expectation of compensation or gain, whether from the buyer or any other source and whether in the form of a fee, charge or any other economic or sharing arrangement sells, provides, performs, or represents that the person can or will sell, provide, or perform, ~~in return for the payment of money or other valuable consideration from~~

~~any source,~~ any of the following services more than twelve times in a calendar year:

- (1) improving a buyer's credit record, history, or rating,
- (2) obtaining an extension of credit for a buyer, or
- (3) providing advice or assistance to a buyer with regard to division (1) or (2) of this subparagraph or otherwise brokering, arranging or facilitating an extension of credit to a buyer, including, without limitation:

- (a) providing, receiving, handling, accepting, processing or transmitting a credit application or other credit documents on behalf of a buyer,
- (b) providing a location in this state at which a buyer may apply for an extension of credit using an electronic terminal or other electronic means,
- (c) instructing or providing information to a buyer or otherwise assisting a buyer with regard to the completion or delivery of a credit application or other credit documents, or
- (d) delivering the proceeds of a credit extension to a buyer, or delivering any card or other device which may be used by a buyer to obtain access to the proceeds of a credit extension or an account into which such proceeds have been deposited,

b. "Credit services organization" does not include:

- (1) any person authorized to make loans or extensions of credit under the laws of this state or the

United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act,

- (2) any bank, savings and loan institution or credit union whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration or a subsidiary of such bank, savings and loan institution or credit union,
- (3) any nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code,
- (4) any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license,
- (5) any person licensed to practice law in this state if the person renders services within the course and scope of the practice of the person as an attorney,
- (6) any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of that regulation,
- (7) any consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 through 1681t,

- (8) any person authorized to file electronic income tax returns who does not ~~receive any consideration for~~ advertise or provide information to customers regarding or otherwise facilitate refund anticipation loans,
- (9) any residential mortgage broker as defined in the Mortgage Broker Licensure Act, or
- (10) any insurance company, its affiliates and subsidiaries, authorized to do business in this state by the Insurance Commissioner, including insurance agents licensed in this state;

3. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes, or to anyone whose principal occupation is agricultural in nature; and

4. "Administrator" means the Administrator of the Department of Consumer Credit.

SECTION 2. AMENDATORY 24 O.S. 2001, Section 141, as amended by Section 2, Chapter 171, O.S.L. 2002 (24 O.S. Supp. 2002, Section 141), is amended to read as follows:

Section 141. A. No person shall engage in business as a credit service organization without first obtaining a license from the Administrator pursuant to the provisions of the Credit Services Organization Act.

B. Any extensions of credit brokered, ~~or~~ arranged, assisted or facilitated on behalf of a buyer by a credit service organization must comply with the provisions of the Uniform Consumer Credit Code and the Credit Services Organization Act. If any extension of credit brokered, arranged, assisted or facilitated by a credit services organization does not comply with the provisions of the Uniform Consumer Credit Code, the credit services organization shall be subject to the same penalties as if it were a creditor which had

violated the provisions of the Uniform Consumer Credit Code with respect to such extension of credit.

C. A lender may not contract for a security interest in, or take an assignment of, a tax refund as security if the refund anticipation loan fails to comply with the provisions of the Uniform Consumer Credit Code and the Credit Services Organization Act. A security interest or assignment taken in violation of this section is void. For purposes of this section, a "refund anticipation loan" is a loan that the lender arranges to be repaid directly from the proceeds of the debtor's tax refund.

SECTION 3. This act shall become effective November 1, 2003.

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