

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE  
BILL NO. 2147

By: Piatt of the House

and

Gumm of the Senate

An Act relating to banks and banking; creating Task Force for the Study of State Banking Services \* \* \* authorizing meetings \* \* \* \* requiring assistance and access to information with respect to state entities \* \* \* \* codification; providing an effective date; and declaring an emergency.

AMENDMENT NO. 1: Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to banks and banking; defining term; prohibiting the inclusion of a lender's name, trade name or trademark in certain solicitations without lender consent; requiring certain statement and specifying contents thereof; prohibiting inclusion of loan number, amount or other information in certain solicitations and under certain conditions; permitting inclusion of loan number, amount or other information in certain solicitations if certain statement is provided; prohibiting reference to specified information without written consent of lender or reference to specified information in connection with any written communication; authorizing certain lender or owner of a name, trade name or trademark to seek injunctive relief under certain conditions; establishing certain presumption; providing exemptions; creating Task Force for the Study of State Banking Services; providing for appointment of members; requiring organizational meeting; providing for task force chairs, quorum and meetings; requiring certain study and authorizing production of final report; providing for travel reimbursement, staff assistance, application of certain acts and limited authority to take action; 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 1418 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "lender" means a bank, savings and loan association, savings bank, credit union, finance company, mortgage bank, mortgage broker and any affiliate.

B. No person shall include the name, trade name or trademark of a lender or a name, trade name or trademark similar to that of a lender in a solicitation for products or services without the consent of the lender unless the solicitation clearly and conspicuously states in bold-faced type on the front page of the correspondence that the person is not sponsored by or affiliated with a lender and that the solicitation is not authorized by the lender, which shall be identified by name. The statement shall include the name, address and telephone number of the person making the solicitation and that any loan information referenced was not provided by the lender.

C. No person may include a loan number, loan amount or other specific loan information that is not publicly available in a solicitation for the purchase of products and services.

D. No person may include a loan number, loan amount or other specific loan information that is publicly available in a solicitation for the purchase of products and services if use of such information is prohibited by this title.

E. No person may include a loan number, loan amount or other specific loan information that is publicly available in a solicitation for the purchase of products and services and allowed by this title, unless the solicitation clearly and conspicuously states in bold-faced type on the front page of the correspondence that the person is not sponsored by or affiliated with the lender and that the solicitation is not authorized by the lender, which shall be identified by name. The statement shall include the name, address and telephone number of the person making the solicitation and that any loan information referenced was not provided by the lender.

F. No person shall make reference to an existing lender without the written consent of the lender or make reference to a loan number, loan amount or other specific loan information on the outside of an envelope, visible through the envelope window, or on a postcard in connection with any written communication that includes or contains a solicitation for products or services offered by the other lender.

G. A lender or owner of a name, trade name or trademark may seek an injunction against a person who violates this section to stop the unlawful use of the name, trade name, trademark or loan information. The person seeking the injunction shall not have to prove actual damages as a result of the violation. Irreparable harm and interim harm to the lender or owner shall be presumed. The lender or owner seeking the injunction may seek to recover actual damages and any profits the defendant has accrued as a result of the violation. The prevailing party in any action brought pursuant to this section is entitled to recover costs associated with the action and reasonable attorney fees from the other party.

H. The following are exempt from the provisions of this section:

1. Any communications by a lender or its affiliates with a current customer of the lender or with a person who was a customer of the lender during the immediately preceding eighteen (18) months; and

2. Any advertisement or solicitation by a lender for products or services that compares the products or services offered by another lender provided that the person making the comparison clearly and conspicuously identifies itself in the advertisement or solicitation.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1621 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Task Force for the Study of State Banking Services.

B. The task force shall consist of thirteen (13) members as follows:

1. One member to be appointed by the Governor from a statewide membership organization representing realtors;

2. One member to be appointed by the Speaker of the Oklahoma House of Representatives from a statewide organization representing the insurance industry;

3. One member to be appointed by the President Pro Tempore of the Oklahoma State Senate from a statewide membership organization representing the banking industry;

4. Five members to be appointed by the Speaker of the Oklahoma House of Representatives who shall be legislators serving on the Banking and Finance Committee of the House of Representatives including the Chair and Vice-Chair of the Banking and Finance Committee of the House of Representatives; and

5. Five members to be appointed by the President Pro Tempore of the Oklahoma State Senate who shall be legislators serving on the standing committee of the Oklahoma State Senate with primary jurisdiction concerning banking legislation including the chair and vice-chair of such standing committee.

C. The task force shall conduct an organizational meeting not later than ninety (90) days after the sine die adjournment of the 2nd Regular Session of the 50th Oklahoma Legislature.

D. The cochairs of the task force shall be the Chair of the Banking and Finance Committee of the House of Representatives and the chair of the standing committee of the Senate described in paragraph 5 of subsection B of this section. A simple majority of the members of the task force shall constitute a quorum for purposes of any action taken by the task force.

E. The task force shall be authorized to meet as often as required in order to perform the duties imposed upon the task force by law.

F. The task force shall conduct a study of the federal and state laws, including administrative rules or regulations, governing the authorized business activity of banks, whether the banks are members of the federal or state banking system. The task force shall specifically determine the extent to which any proposed changes in the powers of banks under the jurisdiction of the State Banking Commissioner would or would not have adverse economic effects upon other financial, real estate or insurance service providers in the State of Oklahoma. The task force may produce a final report containing a summary of its findings and recommendations with respect to such issues. The final report, if approved by the task force, shall be submitted to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate not later than December 31, 2006.

G. Travel reimbursement shall be the responsibility of the appointing authority. Legislators who are appointed to the task force shall be reimbursed for travel expenses pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

H. Staff assistance for the task force shall be provided by the Oklahoma House of Representatives and the Oklahoma State Senate. To the extent practical, the State Banking Department, the State Insurance Department and other entities of state government having information that would be helpful to the task force shall provide such assistance and information to the task force as may be required.

I. The task force shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

J. The task force shall cease to have any authority to take any official action after January 31, 2007, and shall be dissolved by operation of law on February 1, 2007.

SECTION 3. This act shall become effective July 1, 2006.

SECTION 4. 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."

Passed the Senate the 19th day of April, 2006.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2006.

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Presiding Officer of the House  
of Representatives