

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1062

By: Easley

AS INTRODUCED

An Act relating to deferred deposit loans; amending Section 6, Chapter 240, O.S.L. 2003, as amended by Section 4, Chapter 557, O.S.L. 2004 and Section 8, Chapter 240, O.S.L. 2003, as amended by Section 5, Chapter 557, O.S.L. 2004 (59 O.S. Supp. 2005, Sections 3106 and 3108), which relate to the Deferred Deposit Lending Act; prohibiting certain acts for specified borrowers; limiting finance charges for specified borrowers; and providing an effective date.

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

SECTION 1. AMENDATORY Section 6, Chapter 240, O.S.L. 2003, as amended by Section 4, Chapter 557, O.S.L. 2004 (59 O.S. Supp. 2005, Section 3106), is amended to read as follows:

Section 3106. A deferred deposit lender shall not:

1. Charge fees other than, or in excess of those authorized by the Deferred Deposit Lending Act;
2. Make deferred deposit loans at unlicensed locations;
3. Alter or delete the date on an instrument after it has been accepted by the lender pursuant to a deferred deposit loan;
4. Accept an undated instrument or an instrument dated on a date other than the date of the deferred deposit loan;
5. Accept an instrument unless the account on which the instrument is drawn is a legitimate, open and active account;
6. Require a debtor to provide security for the deferred deposit loan or require a debtor to provide a guaranty from another person;
7. Advance a loan amount greater than Five Hundred Dollars (\$500.00) to a borrower in one deferred deposit loan transaction

exclusive of the finance charge allowed in Section 3108 of this title;

8. Engage in a deferred deposit loan with a term of less than twelve (12) days or more than forty-five (45) days;

9. Negotiate or present an instrument for payment unless the instrument is endorsed with the actual business name of the lender;

10. Negotiate any instrument presented by a borrower if the borrower has redeemed the instrument by paying the full amount due under the deferred deposit loan;

11. Make any charge for insurance in connection with a deferred deposit loan transaction;

12. Refuse the borrower's right to rescind the deferred deposit loan at any time between the time of the deferred deposit loan transaction and 5 p.m. of the next business day following the deferred deposit loan transaction;

13. Charge the borrower an additional finance charge or fee for cashing a lender's business instrument, if the lender pays the proceeds from the loan transaction in the form of a business instrument;

14. Require or accept more than one dated instrument per deferred deposit loan; ~~or~~

15. Refuse the borrower's right to enter into an installment payment plan, pursuant to this act; or

16. If the borrower is an active member or the spouse of an active member of the United States Armed Forces or a member of the Military Reserves or National Guard during a period of active duty:

a. garnish any military wages or salary,

b. conduct any collection activity when the member is deployed to a combat or combat support posting, for the duration of the deployment; provided, collection activity shall cease within three (3) days of the date

the member provides the deferred deposit lender with a copy of the member's deployment orders, or
c. contact the borrower's commanding officer or anyone in the borrower's chain of command.

SECTION 2. AMENDATORY Section 8, Chapter 240, O.S.L. 2003, as amended by Section 5, Chapter 557, O.S.L. 2004 (59 O.S. Supp. 2005, Section 3108), is amended to read as follows:

Section 3108. A. Regardless of any other law governing the imposition of interest, fees, loan finance charges or the extension of credit and except as provided in subsection C of this section, a deferred deposit lender may charge a finance charge for each deferred deposit loan that does not exceed Fifteen Dollars (\$15.00) for every One Hundred Dollars (\$100.00) advanced up to the first Three Hundred Dollars (\$300.00) of the amount advanced; for the advance amounts in excess of Three Hundred Dollars (\$300.00), the lender may charge an additional finance charge of Ten Dollars (\$10.00) for every One Hundred Dollars (\$100.00) advanced in excess of Three Hundred Dollars (\$300.00). The credit terms of the deferred deposit loan shall be disclosed in accordance with Regulation Z, including the terms "finance charge" and "annual percentage rate". The finance charge under this subsection shall be deemed fully earned as of the date of the transaction. Except for a fee for a dishonored instrument and the actual database verification fee pursuant to subparagraph b of paragraph 2 of subsection B of Section 3109 of this title, the lender may charge only those charges expressly authorized in this subsection in connection with a deferred deposit loan.

B. If an instrument held by a lender as a result of a deferred deposit loan is returned to the lender from a payor financial institution due to insufficient funds, a closed account or a stop payment order, the lender shall have the right to exercise all civil means authorized by law to collect the amount of the instrument. In

addition, the lender may contract for and collect a dishonored instrument charge, not to exceed Twenty-five Dollars (\$25.00); however, a dishonored instrument charge shall not be allowed if the instrument is dishonored by a financial institution, or the debtor places a stop payment order, due to forgery or theft of the instrument.

C. No deferred deposit lender may charge a finance charge which results in an annual percentage rate in excess of thirty-six percent (36%) for any deferred deposit loan if the borrower is an active member or the spouse of an active member of the United States Armed Forces or a member of the Military Reserves or National Guard called to active duty.

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

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