

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3381

By: Wright

4  
5  
6 AS INTRODUCED

7 An Act relating to the Department of Consumer Credit;  
8 abolishing the Department of Consumer Credit;  
9 providing for interpretation of certain statutory  
10 references; transferring the duties of enforcement  
11 and administration of certain laws to the Oklahoma  
12 Attorney General, State Department of Health, and  
13 State Banking Department; transferring certain  
14 personnel, funds, records, encumbrances, equipment,  
15 and other items to the Oklahoma Attorney General,  
16 State Department of Health, and State Banking  
17 Department; providing requirements pertaining to  
18 transfer of employees; providing for transition  
19 coordinators and a transition team; providing duties  
20 of the transition team; amending 12A O.S. 2001,  
21 Section 15-103, which relates to electronic records  
22 or signatures; modifying to reflect the abolishment  
23 of the Department of Consumer Credit and the transfer  
24 of administration and enforcement to the Attorney  
General; amending 14A O.S. 2001, Sections 1-102, 1-  
106, as last amended by Section 1, Chapter 203,  
O.S.L. 2006, 1-109, 1-201, 1-201A, 1-301, as amended  
by Section 7, Chapter 330, O.S.L. 2003, 1-303, 2-110,  
2-202, 2-211, as amended by Section 1, Chapter 126,  
O.S.L. 2005, 2-302, 2-304, 2-306, 2-307, 2-309, 2-  
310, 2-310.1, 2-310.2, 2-310.3, 2-313, 2-402, 2-403,  
2-416, 3-202, 3-203, 3-302, 3-304, 3-306, 3-307, 3-  
309, 3-309.1, 3-309.2, 3-309.3, 3-309.4, as amended  
by Section 8, Chapter 330, O.S.L. 2003, 3-309.5, 3-  
310, 3-312, 3-408, 3-409, 3-502, 3-503, 3-504, 3-505,  
3-506, 3-507, 3-509, 3-512, 4-104, 4-111, 5-105, 5-  
202, as amended by Section 13, Chapter 330, O.S.L.  
2003, 5-203, as amended by Section 14, Chapter 330,  
O.S.L. 2003, 5-204, 5-206, 5-302, 6-102, 6-103, 6-  
104, as amended by Section 3, Chapter 65, O.S.L.  
2003, 6-105, 6-106, 6-106A, 6-107, 6-108, 6-109, 6-

1 110, 6-111, 6-112, 6-113, 6-114, 6-115, 6-202, 6-203  
2 and 6-501 (14A O.S. Supp. 2007, Sections 1-106, 1-  
3 301, 2-211, 3-309.4, 5-202, 5-203 and 6-104), which  
4 relate to the Uniform Consumer Credit Act; modifying  
5 the Uniform Consumer Credit Act to reflect the  
6 transfer of administration and enforcement from the  
7 Department of Consumer Credit to the Attorney  
8 General; amending 24 O.S. 2001, Sections 132, as  
9 amended by Section 1, Chapter 171, O.S.L. 2002, 140,  
10 141, as amended by Section 2, Chapter 171, O.S.L.  
11 2002, 142, 143, 144, 145 and 146 (24 O.S. Supp. 2007,  
12 Sections 132 and 141), which relate to the Credit  
13 Services Organization Act; modifying the Credit  
14 Services Organization Act to reflect the transfer of  
15 administration and enforcement from the Department of  
16 Consumer Credit to the Attorney General; amending 59  
17 O.S. 2001, Sections 1502, 1503, 1503A, 1504, 1505,  
18 1506, 1507, 1508, 1509, 1511, 1512 and 1515, which  
19 relate to the Oklahoma Pawnshop Act; modifying the  
20 Oklahoma Pawnshop Act to reflect the transfer of  
21 administration and enforcement from the Department of  
22 Consumer Credit to the Attorney General; amending 59  
23 O.S. 2001, Sections 1522, 1523, 1524, as amended by  
24 Section 6, Chapter 204, O.S.L. 2003, 1525, 1526,  
1527, 1528 and 1531 (59 O.S. Supp. 2007, Section  
1524), which relate to the Precious Metal and Gem  
Dealer Licensing Act; modifying the Precious Metal  
and Gem Dealer Licensing Act to reflect the transfer  
of administration and enforcement from the Department  
of Consumer Credit to the Attorney General; amending  
59 O.S. 2001, Sections 1951, 1952, 1953, 1955 and  
1956, which relate to the Oklahoma Rental-Purchase  
Act; modifying the Oklahoma Rental-Purchase Act to  
reflect the transfer of administration and  
enforcement from the Department of Consumer Credit to  
the Attorney General; amending 59 O.S. 2001, Sections  
2001, 2002, 2003, 2007, 2008, 2009, 2010 and 2011,  
which relate to the Oklahoma Health Spa Act;  
modifying the Oklahoma Health Spa Act to reflect the  
transfer of administration and enforcement from the  
Department of Consumer Credit to the Department of  
Health; amending 59 O.S. 2001, Sections 2082, as last  
amended by Section 41, Chapter 16, O.S.L. 2006, 2083,  
as last amended by Section 2, Chapter 131, O.S.L.  
2005, 2084, 2085, as last amended by Section 1,  
Chapter 372, O.S.L. 2004, 2086, as last amended by  
Section 1, Chapter 172, O.S.L. 2006, 2087, 2088, as

1 last amended by Section 3, Chapter 330, O.S.L. 2003,  
2 2089, as last amended by Section 4, Chapter 330,  
3 O.S.L. 2003, 2090, as last amended by Section 2,  
4 Chapter 172, O.S.L. 2006, 2091, Section 8, Chapter  
5 469, O.S.L. 2002, as amended by Section 5, Chapter  
6 330, O.S.L. 2003, and Section 9, Chapter 469, O.S.L.  
7 2002, as last amended by Section 3, Chapter 172,  
8 O.S.L. 2006 (59 O.S. Supp. 2007, Sections 2082, 2083,  
9 2085, 2086, 2088, 2089, 2090, 2092 and 2093), which  
10 relate to the Mortgage Broker Licensure Act;  
11 modifying the Mortgage Broker Licensure Act to  
12 reflect the transfer of administration and  
13 enforcement from the Department of Consumer Credit to  
14 the State Banking Department; amending Sections 2, 3,  
15 4 and 9, Chapter 240, O.S.L. 2003, as amended by  
16 Sections 1, 2, 3 and 6, Chapter 557, O.S.L. 2004,  
17 Sections 12, 13, 14, 15, 16 and 17, Chapter 240,  
18 O.S.L. 2003, Section 18, Chapter 240, O.S.L. 2003, as  
19 amended by Section 8, Chapter 557, O.S.L. 2004 and  
20 Section 9, Chapter 557, O.S.L. 2004 (59 O.S. Supp.  
21 2007, Sections 3102, 3103, 3104, 3109, 3112, 3113,  
22 3114, 3115, 3116, 3117, 3118 and 3119), which relate  
23 to the Deferred Deposit Lending Act; modifying the  
24 Oklahoma Deferred Deposit Lending Act to reflect the  
transfer of administration and enforcement from the  
Department of Consumer Credit to the State Banking  
Department; amending 74 O.S. 2001, Sections 18b, 18l,  
150.9, as amended by Section 11, Chapter 204, O.S.L.  
2003, and 840-5.5, as last amended by Section 21,  
Chapter 326, O.S.L. 2007 (74 O.S. Supp. 2007,  
Sections 150.9 and 840-5.5), which relate to state  
government; expanding the duties of the Attorney  
General to reflect transfer; removing certain  
references to reflect the abolishment of the  
Department of Consumer Credit and transfer of duties  
and responsibilities; repealing 14A O.S. 2001,  
Sections 6-502, 6-503, 6-504, 6-506, 6-507, 6-508, 6-  
509, 6-510 and 9-101, which relate to the Department  
of Consumer Credit; abolishing the Department of  
Consumer Credit and transferring the responsibilities  
to the Attorney General; providing for codification;  
providing for noncodification; providing effective  
dates; and declaring an emergency.

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

1           SECTION 1.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6-500 of Title 14A, unless there  
3 is created a duplication in numbering, reads as follows:

4           A.   Effective January 1, 2009, the Department of Consumer Credit  
5 is hereby abolished. Any reference in the Oklahoma Uniform Consumer  
6 Credit Code, the Credit Services Organization Act, the Oklahoma  
7 Pawnshop Act, the Precious Metal and Gem Dealer Licensing Act or the  
8 Oklahoma Rental-Purchase Act to the Department of Consumer Credit  
9 shall be deemed to be a reference to the Office of the Attorney  
10 General. Any reference in the Oklahoma Health Spa Act to the  
11 Department of Consumer Credit shall be deemed to be a reference to  
12 the State Department of Health. Any reference in the Mortgage  
13 Broker Licensure Act or the Deferred Deposit Lending Act to the  
14 Department of Consumer Credit shall be deemed to be a reference to  
15 the State Banking Department. Any reference in the Oklahoma Uniform  
16 Consumer Credit Code, the Credit Services Organization Act, the  
17 Oklahoma Pawnshop Act, the Precious Metal and Gem Dealer Licensing  
18 Act or the Oklahoma Rental-Purchase Act to the Administrator of the  
19 Department of Consumer Credit shall be deemed to be a reference to  
20 the Office of the Attorney General. Any reference in the Oklahoma  
21 Health Spa Act to the Administrator of the Department of Consumer  
22 Credit shall be deemed to be a reference to the State Commissioner  
23 of Health. Any reference in the Mortgage Broker Licensure Act or  
24 the Deferred Deposit Lending Act to the Administrator of the

1 Department of Consumer Credit shall be deemed to be a reference to  
2 the State Banking Commissioner.

3 B. All assets, funds, liabilities, allotments, purchase orders,  
4 outstanding financial obligations, encumbrances, records, aircraft,  
5 vehicles, equipment, and other property of the Department of  
6 Consumer Credit pursuant to the Oklahoma Uniform Consumer Credit  
7 Code, the Credit Services Organization Act, the Oklahoma Pawnshop  
8 Act, the Precious Metal and Gem Dealer Licensing Act or the Oklahoma  
9 Rental-Purchase Act is hereby transferred to the Office of the  
10 Attorney General. All assets, funds, liabilities, allotments,  
11 purchase orders, outstanding financial obligations, encumbrances,  
12 records, aircraft, vehicles, equipment, and other property of the  
13 Department of Consumer Credit pursuant to the Oklahoma Health Spa  
14 Act is hereby transferred to the State Department of Health. All  
15 assets, funds, liabilities, allotments, purchase orders, outstanding  
16 financial obligations, encumbrances, records, aircraft, vehicles,  
17 equipment, and other property of the Department of Consumer Credit  
18 pursuant to the Mortgage Broker Licensure Act or the Deferred  
19 Deposit Lending Act is hereby transferred to the State Department of  
20 Banking.

21 C. Personnel employed by the Department of Consumer Credit on  
22 January 1, 2009, pursuant to the Oklahoma Uniform Consumer Credit  
23 Code, the Credit Services Organization Act, the Oklahoma Pawnshop  
24 Act, the Precious Metal and Gem Dealer Licensing Act or the Oklahoma

1 Rental-Purchase Act shall be transferred to the Office of the  
2 Attorney General pursuant to a transition plan implemented as  
3 required by Section 2 of this act. Personnel employed by the  
4 Department of Consumer Credit on January 1, 2009, pursuant to the  
5 Oklahoma Health Spa Act shall be transferred to the State Department  
6 of Health pursuant to a transition plan implemented as required by  
7 Section 2 of this act. Personnel employed by the Department of  
8 Consumer Credit on January 1, 2009, pursuant to the Mortgage Broker  
9 Licensure Act or the Deferred Deposit Lending Act shall be  
10 transferred to the State Banking Department pursuant to a transition  
11 plan implemented as required by Section 2 of this act.

12 D. The classified and unclassified employees who are  
13 transferred pursuant to this section shall be subject to the  
14 following provisions:

15 1. Classified employees shall remain subject to the provisions  
16 of the Merit System of Personnel Administration, as provided in the  
17 Oklahoma Personnel Act;

18 2. Unclassified employees transferred to the Oklahoma Attorney  
19 General shall remain in the unclassified service and shall serve at  
20 the pleasure of the Attorney General. Unclassified employees  
21 transferred to the State Department of Health shall remain in the  
22 unclassified service and shall serve at the pleasure of the State  
23 Commissioner of Health. Unclassified employees transferred to the  
24

1 State Banking Department shall remain in the unclassified service  
2 and shall serve at the pleasure of the State Banking Commissioner;

3 3. All employees who are transferred pursuant to this section  
4 shall retain leave, sick and annual time earned and any retirement  
5 and longevity benefits which have accrued during their employment  
6 with the state. The salaries of employees who are transferred shall  
7 not be reduced as a direct and immediate result of the transfer;

8 4. If the Attorney General, State Department of Health, or the  
9 State Banking Department should implement a reduction in force, all  
10 employees transferred pursuant to this section shall be credited for  
11 the time they were employed by the Department of Consumer Credit;  
12 and

13 5. The transfer of personnel shall be coordinated with the  
14 Office of Personnel Management.

15 SECTION 2. NEW LAW A new section of law not to be  
16 codified in the Oklahoma Statutes reads as follows:

17 A. Effective July 1, 2008, the Attorney General, State  
18 Commissioner of Health, State Banking Commissioner, and the  
19 Administrator of the Department of Consumer Credit shall serve as  
20 transition coordinators and shall establish a transition team to  
21 coordinate the orderly transfer of duties, personnel, property,  
22 funds, and encumbrances from the Department of Consumer Credit to  
23 the Office of the Attorney General, State Department of Health, and  
24 State Banking Department. The Attorney General, State Commissioner

1 of Health, State Banking Commissioner, and the Administrator of the  
2 Department of Consumer Credit may assign personnel to the transition  
3 team from their respective agencies as deemed necessary.

4 B. The transition team shall:

5 1. In conjunction with the Department of Central Services, the  
6 Office of State Finance and the Office of Personnel Management,  
7 oversee and administer the orderly transfer of responsibilities,  
8 liabilities, property, records, personnel and any outstanding  
9 financial obligations or encumbrances to the Oklahoma Attorney  
10 General, State Department of Health, and State Banking Department  
11 from the Department of Consumer Credit;

12 2. Review functions currently assigned to or managed by the  
13 Department of Consumer Credit;

14 3. Devise a proposal for an organizational framework within the  
15 Office of the Attorney General, State Department of Health, and  
16 State Banking Department for assuming the responsibilities of the  
17 Department of Consumer Credit which shall include a proposal for  
18 reduction of full-time-equivalent employees by five percent (5%);

19 4. Establish a plan for the transfer of employees from the  
20 Department of Consumer Credit to the Office of the Attorney General,  
21 State Department of Health, and State Banking Department. The plan  
22 shall include a list of positions to be transferred. The plan also  
23 shall include a reduction-in-force plan, if necessary, and a  
24



1 severance benefits plan that conform with the requirements of the  
2 State Government Reduction-in-Force and Severance Benefits Act; and  
3 5. Take such other action as may be reasonably necessary and  
4 appropriate to effectuate the orderly transition of functions as  
5 provided by this act.

6 SECTION 3. AMENDATORY 12A O.S. 2001, Section 15-103, is  
7 amended to read as follows:

8 Section 15-103. SCOPE

9 (a) Except as provided in subsection (b) of this section or as  
10 otherwise provided by law, this act applies to electronic records  
11 and electronic signatures relating to a transaction.

12 (b) This act does not apply to a transaction to the extent it  
13 is governed by:

14 (1) a law governing the creation and execution of wills,  
15 codicils, or testamentary trusts;

16 (2) the Uniform Commercial Code, other than Sections 1-107 and  
17 1-206 of Title 12A of the Oklahoma Statutes and Article 2, and  
18 Article 2A of Title 12A of the Oklahoma Statutes;

19 (3) the Uniform Computer Information Transactions Act; and

20 (4) a consumer protection law of this state to the extent  
21 specified by rule by the ~~Administrator of the Department of Consumer~~  
22 ~~Credit~~ Attorney General as necessary to conform to existing federal  
23 requirements or to preserve existing consumer protection  
24 requirements.

1 (c) This act applies to an electronic record or electronic  
2 signature otherwise excluded from the application of this act under  
3 subsection (b) of this section to the extent it is governed by a law  
4 other than those specified in subsection (b) of this section.

5 (d) A transaction subject to this act is also subject to other  
6 applicable substantive law.

7 SECTION 4. AMENDATORY 14A O.S. 2001, Section 1-102, is  
8 amended to read as follows:

9 Section 1-102. (1) This act shall be liberally construed and  
10 applied to promote its underlying purposes and policies.

11 (2) The underlying purposes and policies of this act are

12 (a) to simplify, clarify and modernize the law governing  
13 retail installment sales, consumer credit, small loans  
14 and usury;

15 (b) to provide rate ceilings to assure an adequate supply  
16 of credit to consumers;

17 (c) to further consumer understanding of the terms of  
18 credit transactions and to foster competition among  
19 suppliers of consumer credit so that consumers may  
20 obtain credit at reasonable cost;

21 (d) to protect consumer buyers, lessees, and borrowers  
22 against unfair practices by some suppliers of consumer  
23 credit, having due regard for the interests of  
24 legitimate and scrupulous creditors;

1 (e) to permit and encourage the development of fair and  
2 economically sound consumer credit practices;

3 (f) to conform the regulation of consumer credit  
4 transactions to the policies of the Federal Consumer  
5 Credit Protection Act; and

6 (g) to make uniform the law including administrative rules  
7 among the various jurisdictions.

8 (3) A reference to a requirement imposed by this act includes  
9 reference to a related rule of the ~~Administrator~~ Attorney General  
10 adopted pursuant to this act.

11 SECTION 5. AMENDATORY 14A O.S. 2001, Section 1-106, as  
12 last amended by Section 1, Chapter 203, O.S.L. 2006 (14A O.S. Supp.  
13 2007, Section 1-106), is amended to read as follows:

14 Section 1-106. (1) From time to time the dollar amounts in  
15 Sections 2-201(2)(a), (b) and (c), 2-203(1)(a), 2-407(1), 2-413, 3-  
16 203(1)(b), 3-203.1, 3-508A(2)(a), 3-508B(1), 3-510(1), 3-511(1)(a)  
17 and (b), 3-514, and 5-103(2) and (3) of the Uniform Consumer Credit  
18 Code, are hereby designated as subject to change and shall change,  
19 as provided in this section and the rules of the ~~Administrator~~  
20 Attorney General, according to and to the extent of changes in the  
21 Consumer Price Index for Urban Wage Earners and Clerical Workers:  
22 U.S. City Average, All Items, 1967=100, compiled by the Bureau of  
23 Labor Statistics, United States Department of Labor, and hereafter  
24 referred to as the Index. The Index for December of the year 1973

1 shall be deemed the Reference Base Index. The dollar amounts  
2 established by rule of the ~~Administrator~~ Attorney General in  
3 Sections 2-104(1)(e), 2-106(1)(b) and 3-104(4) in effect on January  
4 1, 1982, shall remain in full force and effect.

5 (2) The designated dollar amounts shall change on July 1 of  
6 each year if the percentage of change, calculated to the nearest  
7 whole percentage point, between the Index at the end of the  
8 preceding year and the Reference Base Index is ten percent (10%) or  
9 more, but:

10 (a) the portion of the percentage change in the Index in  
11 excess of a multiple of ten percent (10%) shall be  
12 disregarded and the dollar amounts shall change only  
13 in multiples of ten percent (10%) of the amounts  
14 appearing in this Code; and

15 (b) the dollar amounts shall not change if the amounts  
16 required by this section are those currently in effect  
17 pursuant to this Code as a result of earlier  
18 application of this section.

19 (3) If the Index is revised, the percentage of change pursuant  
20 to this section shall be calculated on the basis of the revised  
21 Index. If a revision of the Index changes the Reference Base Index,  
22 a revised Reference Base Index shall be determined by multiplying  
23 the Reference Base Index then applicable by the rebasing factor  
24 furnished by the United States Bureau of Labor Statistics. If the

1 Index is superseded, the Index referred to in this section shall be  
2 the one represented by the United States Bureau of Labor Statistics  
3 as reflecting most accurately changes in the purchasing power of the  
4 dollar for consumers.

5 (4) The rules of the ~~Administrator~~ Attorney General shall:

6 (a) include the method for calculating the changes in  
7 dollar amounts required by subsection (2) of this  
8 section;

9 (b) be amended in accordance with the Administrative  
10 Procedures Act to include changes in the Index  
11 required by subsection (3) of this section including,  
12 if applicable, the numerical equivalent of the  
13 Reference Base Index under a revised Reference Base  
14 Index and the designation or title of any index  
15 superseding the Index; and

16 (c) provide for appropriate notice to licensees and other  
17 interested persons of any changes in the dollar  
18 amounts which result from changes required by  
19 subsection (2) of this section no later than April 30  
20 of each year. Each dollar amount subject to change as  
21 provided in this section shall be listed in an  
22 appendix to the rules of the ~~Administrator~~ Attorney  
23 General and shall be published in the Oklahoma  
24 Administrative Code. Changes to the appendix shall be

1 submitted to the Secretary of State prior to the  
2 annual deadline for submitting material for  
3 publication in the Code. Changes in the appendix  
4 shall not be construed as rulemaking.

5 (5) A person does not violate this act with respect to a  
6 transaction otherwise complying with this act if he relies on dollar  
7 amounts either determined according to subsection (2) of this  
8 section or appearing in the last rule of the ~~Administrator~~ Attorney  
9 General announcing the then current dollar amounts.

10 SECTION 6. AMENDATORY 14A O.S. 2001, Section 1-109, is  
11 amended to read as follows:

12 Section 1-109. (1) With respect to a "Consumer Credit Sale",  
13 "Consumer Lease", or "Consumer Loan", no creditor shall limit or  
14 refuse to extend credit solely on the basis of the sex or marital  
15 status of the consumer.

16 (2) The provisions of this section shall be enforced by the  
17 ~~Administrator of the Department of Consumer Credit~~ Attorney General  
18 in accordance with his statutory powers and duties.

19 SECTION 7. AMENDATORY 14A O.S. 2001, Section 1-201, is  
20 amended to read as follows:

21 Section 1-201. (1) Except as otherwise provided in this  
22 section, this act applies to sales, leases, and loans made in this  
23 state and to modifications, including refinancings, consolidations,  
24

1 and deferrals, made in this state, of sales, leases, and loans,  
2 wherever made. For purposes of this act

3 (a) a sale or modification of a sale agreement is made in  
4 this state if the buyer's agreement or offer to  
5 purchase or to modify is received by the seller in  
6 this state;

7 (b) a lease or modification of a lease agreement is made  
8 in this State if the lessee's agreement or offer to  
9 lease or to modify is received by the lessor in this  
10 state; and

11 (c) a loan or modification of a loan agreement is made in  
12 this state if a writing signed by the debtor and  
13 evidencing the debt is received by the lender in this  
14 state.

15 (2) With respect to sales made pursuant to a revolving charge  
16 account (Section 2-108), this act applies if the buyer's  
17 communication or indication of his intention to establish the  
18 account is received by the seller in this state. If no  
19 communication or indication of intention is given by the buyer  
20 before the first sale, this act applies if the seller's  
21 communication notifying the buyer of the privilege of using the  
22 account is mailed or personally delivered in this state.

23 (3) With respect to loans made pursuant to a lender credit card  
24 or similar arrangement (subsection (9) of Section 1-301), this act

1 applies if the debtor's communication or indication of his intention  
2 to establish the arrangement with the lender is received by the  
3 lender in this state. If no communication or indication of  
4 intention is given by the debtor before the first loan, this act  
5 applies if the lender's communication notifying the debtor of the  
6 privilege of using the arrangement is mailed or personally delivered  
7 in this state.

8 (4) The part on limitations on creditors' remedies (Part 1) of  
9 the article on remedies and penalties (Article 5) applies to actions  
10 or other proceedings brought in this state to enforce rights arising  
11 from consumer credit sales, consumer leases, consumer loans, or  
12 extortionate extensions of credit, wherever made.

13 (5) If a consumer credit sale, consumer lease, or consumer  
14 loan, or modification thereof, is made in another state to a person  
15 who is a resident of this state when the sale, lease, loan, or  
16 modification is made, the following provisions apply as though the  
17 transaction occurred in this state:

18 (a) a seller, lessor, lender, or assignee of his rights,  
19 may not collect charges through actions or other  
20 proceedings in excess of those permitted by the  
21 article on credit sales (Article 2) or by the article  
22 on loans (Article 3); and

23 (b) a seller, lessor, lender, or assignee of his rights,  
24 may not enforce rights against the buyer, lessee, or



1 debtor, with respect to the provisions of agreements  
2 which violate the provisions on limitations on  
3 agreements and practices (Part 4) of the article on  
4 credit sales (Article 2) or of the article on loans  
5 (Article 3).

6 (6) Except as provided in subsection (4), a sale, lease, loan,  
7 or modification thereof, made in another state to a person who was  
8 not a resident of this state when the sale, lease, loan, or  
9 modification was made is valid and enforceable in this state  
10 according to its terms to the extent that it is valid and  
11 enforceable under the laws of the state applicable to the  
12 transaction.

13 (7) For the purposes of this act, the residence of a buyer,  
14 lessee, or debtor, is the address given by him as his residence in  
15 any writing signed by him in connection with a credit transaction.  
16 Until he notifies the creditor of a new or different address, the  
17 given address is presumed to be unchanged.

18 (8) Notwithstanding other provisions of this section

19 (a) except as provided in subsection (4), this act does  
20 not apply if the buyer, lessee, or debtor is not a  
21 resident of this state at the time of a credit  
22 transaction and the parties then agree that the law of  
23 his residence applies; and  
24

1 (b) this act applies if the buyer, lessee, or debtor is a  
2 resident of this state at the time of a credit  
3 transaction and the parties then agree that the law of  
4 this state applies.

5 (9) Except as provided in subsection (8), the following  
6 agreements by a buyer, lessee, or debtor are invalid with respect to  
7 consumer credit sales, consumer leases, consumer loans, or  
8 modifications thereof, to which this act applies:

9 (a) that the law of another state shall apply;

10 (b) that the buyer, lessee, or debtor consents to the  
11 jurisdiction of another state; and

12 (c) that fixes venue.

13 (10) The following provisions of this act specify the  
14 applicable law governing certain cases:

15 (a) applicability (Section 6-102) of the part on powers  
16 and functions of ~~administrator~~ Attorney General (Part  
17 1) of the article on administration (Article 6); and

18 (b) applicability (Section 6-201) of the part on  
19 notification and Fees (Part 2) of the article on  
20 administration (Article 6).

21 SECTION 8. AMENDATORY 14A O.S. 2001, Section 1-201A, is  
22 amended to read as follows:

23 Section 1-201A. With respect to a consumer credit sale or  
24 consumer loan to which this Code does not otherwise apply by reason

1 of Section 1-201, if, pursuant to a solicitation relating to a  
2 consumer credit sale or loan received in this state, a person who is  
3 a resident of this state sends a signed writing evidencing the  
4 obligation or offer of the person to a creditor in another state,  
5 and the person receives the goods or services purchased or the cash  
6 proceeds of the loan in this state:

7 1. The creditor may not contract for or receive charges  
8 exceeding those permitted by this Code, and such charges as do  
9 exceed those permitted are excess charges for purposes of Sections  
10 5-202 (3) and (4) and 6-113 of the Code and such sections shall  
11 apply as though the consumer credit sale or consumer loan were made  
12 in this state; and

13 2. The provisions on powers and functions of ~~administrator~~  
14 Attorney General (Part 1 of Article 6 of this Code) shall apply as  
15 though the consumer credit sale or consumer loan were made in this  
16 state.

17 SECTION 9. AMENDATORY 14A O.S. 2001, Section 1-301, as  
18 amended by Section 7, Chapter 330, O.S.L. 2003 (14A O.S. Supp. 2007,  
19 Section 1-301), is amended to read as follows:

20 Section 1-301. In addition to definitions appearing in  
21 subsequent articles, in this title:

22 (1) "Actuarial Method" means the method, defined by rules  
23 adopted by the ~~Administrator~~ Attorney General, of allocating  
24 payments made on a debt between principal or amount financed and

1 loan finance charge or credit service charge pursuant to which a  
2 payment is applied first to the accumulated loan finance charge or  
3 credit service charge and the balance is applied to the unpaid  
4 principal or unpaid amount financed.

5 (2) ~~"Administrator" means the Administrator designated in the~~  
6 ~~article (Article 6) on administration under Section 6 103 of this~~  
7 ~~title.~~

8 (3) "Agreement" means the bargain of the parties in fact as  
9 found in their language or by implication from other circumstances  
10 including course of dealing or usage of trade or course of  
11 performance.

12 (4) (3) "Agricultural purpose" means a purpose related to the  
13 production, harvest, exhibition, marketing, transportation,  
14 processing, or manufacture of agricultural products by a natural  
15 person who cultivates, plants, propagates, or nurtures the  
16 agricultural products. "Agricultural products" includes  
17 agricultural, horticultural, viticultural, and dairy products,  
18 livestock, wildlife, poultry, bees, forest products, fish and  
19 shellfish, and any products thereof, including processed and  
20 manufactured products, and any and all products raised or produced  
21 on farms and any processed or manufactured products thereof.

22 (5) (4) "Closing costs" with respect to a debt secured by an  
23 interest in land includes:  
24

- 1 (a) fees or premiums for title examination, title  
2 insurance or similar purposes including surveys;  
3 (b) fees for preparation of a deed, settlement statement  
4 or other documents;  
5 (c) escrows for future payments of taxes and insurance;  
6 (d) fees for notarizing deeds and other documents;  
7 (e) appraisal fees; and  
8 (f) credit reports.

9 (5) "Attorney General" means the Attorney General of the State  
10 of Oklahoma.

11 (6) "Conspicuous": A term or clause is "conspicuous" when it  
12 is so written that a reasonable person against whom it is to operate  
13 ought to have noticed it. Whether a term or clause is conspicuous  
14 or not is for decision by the court.

15 (7) "Credit" means the right granted by a creditor to a debtor  
16 to defer payment of debt or to incur debt and defer its payment.

17 (8) "Earnings" means compensation paid or payable to an  
18 individual or for the individual's account for personal services  
19 rendered or to be rendered by the individual, whether denominated as  
20 wages, salary, commission, bonus, or otherwise, and includes  
21 periodic payments pursuant to a pension, retirement, or disability  
22 program.

23 (9) "Lender credit card or similar arrangement" means an  
24 arrangement or loan agreement, other than a seller credit card,

1 pursuant to which a lender gives a debtor the privilege of using a  
2 credit card, letter of credit, or other credit confirmation or  
3 identification in transactions out of which debt arises:

4 (a) by a lender's honoring a draft or similar order for  
5 the payment of money drawn or accepted by the debtor;

6 (b) by the lender's payment or agreement to pay the  
7 debtor's obligations; or

8 (c) by the lender's purchase from the obligee of the  
9 debtor's obligations.

10 (10) (a) "Subsection 10 mortgage" means a consumer credit  
11 transaction that is secured by the consumer's  
12 principal dwelling, other than a residential mortgage  
13 transaction, a reverse mortgage transaction, or a  
14 transaction under an open-end credit plan, if:

15 (i) the annual percentage rate at consummation of the  
16 transaction will exceed by more than eight (8)  
17 percentage points for first-lien loans, or by  
18 more than ten (10) percentage points for  
19 subordinate-lien loans, the yield on treasury  
20 securities having comparable periods of maturity  
21 on the fifteenth day of the month immediately  
22 preceding the month in which the application for  
23 the extension of credit is received by the  
24 creditor; or

1 (ii) the total points and fees payable by the consumer  
2 at or before closing will exceed the greater of:  
3 (aa) eight percent (8%) of the total loan amount;  
4 or  
5 (bb) Four Hundred Dollars (\$400.00).

6 (b) After the two-year period beginning on the effective  
7 date of the regulations promulgated under Section 155  
8 of the Riegle Community Development and Regulatory  
9 Improvement Act of 1994, and no more frequently than  
10 biennially after the first increase or decrease under  
11 this subsection, the ~~Administrator~~ Attorney General  
12 may by rule increase or decrease the number of  
13 percentage points specified in subparagraph (i) of  
14 paragraph (a) of this subsection, if the ~~Administrator~~  
15 Attorney General determines that the increase or  
16 decrease is consistent with the consumer protections  
17 against abusive lending provided by the amendments  
18 made by subtitle B of Title I of the Riegle Community  
19 Development and Regulatory Improvement Act of 1994 and  
20 is warranted by the need for credit.

21 Such an increase or decrease may not result in the  
22 number of percentage points referred to in this  
23 subsection being less than eight (8) percentage points  
24 or greater than twelve (12) percentage points.

1 In determining whether to increase or decrease the  
2 number of percentage points, the ~~Administrator~~  
3 Attorney General shall consult with representatives of  
4 consumers, including low-income consumers, and  
5 lenders.

6 (c) The amount specified in division (bb) of subparagraph  
7 (ii) of paragraph (a) of this subsection shall be  
8 adjusted annually on January 1 by the annual  
9 percentage change in the Consumer Price Index, as  
10 reported on June 1 of the year preceding such  
11 adjustment.

12 (d) For purposes of subparagraph (ii) of paragraph (a) of  
13 this subsection, points and fees shall include:

14 (i) all items included in the finance charge, except  
15 interest or the time-price differential;

16 (ii) all compensation paid to mortgage brokers;

17 (iii) each of the charges listed in 15 U.S.C., Section  
18 1605(e), except an escrow for future payment of  
19 taxes, unless:

20 (aa) the charge is reasonable;

21 (bb) the creditor receives no direct or indirect  
22 compensation; and

23 (cc) the charge is paid to a third party  
24 unaffiliated with the creditor;



1 (iv) premiums or other charges for credit life,  
2 accident, health, or loss-of-income insurance, or  
3 debt-cancellation coverage, whether or not the  
4 debt-cancellation coverage is insurance under  
5 applicable law, that provides for cancellation of  
6 all or part of the consumer's liability in the  
7 event of the loss of life, health, or income or  
8 in the case of accident, written in connection  
9 with the credit transaction; and

10 (v) such other charges as the ~~Administrator~~ Attorney  
11 General determines to be appropriate.

12 (e) The provisions of this subsection shall not be  
13 construed to limit the rate of interest or the finance  
14 charge that a person may charge a consumer for any  
15 extension of credit.

16 (11) "Official fees" means:

17 (a) fees and charges prescribed by law which actually are  
18 or will be paid to public officials for determining  
19 the existence of or for perfecting, releasing, or  
20 satisfying a security interest related to a consumer  
21 credit sale, consumer lease, or consumer loan; or

22 (b) premiums payable for insurance in lieu of perfecting a  
23 security interest otherwise required by the creditor  
24 in connection with the sale, lease, or loan if the

1 premium does not exceed the fees and charges described  
2 in paragraph (a) which would otherwise be payable.

3 (12) "Organization" means a corporation, government or  
4 governmental subdivision or agency, trust, estate, partnership,  
5 cooperative or association.

6 (13) "Payable in installments" means that payment is required  
7 or permitted by agreement to be made in:

8 (a) two or more periodic payments, excluding a down  
9 payment, with respect to a debt arising from a  
10 consumer credit sale pursuant to which a credit  
11 service charge is made;

12 (b) four or more periodic payments, excluding a down  
13 payment, with respect to a debt arising from a  
14 consumer credit sale pursuant to which no credit  
15 service charge is made; or

16 (c) two or more periodic payments with respect to a debt  
17 arising from a consumer loan.

18 If any periodic payment other than the down payment under an  
19 agreement requiring or permitting two or more periodic payments is  
20 more than twice the amount of any other periodic payment, excluding  
21 the down payment, the consumer credit sale, consumer lease, or  
22 consumer loan is "payable in installments."  
23  
24

1 (14) "Person" includes a natural person or an individual, and  
2 an organization, joint venture or any legal entity however  
3 organized.

4 (15) (a) "Person related to" with respect to an individual  
5 means:

6 (i) the spouse of the individual;

7 (ii) a brother, brother-in-law, sister, sister-  
8 in-law of the individual;

9 (iii) an ancestor or lineal descendant of the  
10 individual or the individual's spouse; and

11 (iv) any other relative, by blood or marriage, of  
12 the individual or the individual's spouse  
13 who shares the same home with the  
14 individual.

15 (b) "Person related to" with respect to an organization  
16 means:

17 (1) a person directly or indirectly controlling,  
18 controlled by or under common control with  
19 the organization;

20 (2) an officer or director of the organization  
21 or a person performing similar functions  
22 with respect to the organization or to a  
23 person related to the organization;

24

1 (3) the spouse of a person related to the  
2 organization; and

3 (4) a relative by blood or marriage of a person  
4 related to the organization who shares the  
5 same home with such person.

6 (16) "Presumed" or "presumption" means that the trier of fact  
7 must find the existence of the fact presumed unless and until  
8 evidence is introduced which would support a finding of its  
9 nonexistence.

10 (17) "Residential mortgage transaction" means a transaction in  
11 which a mortgage, deed of trust, purchase money security interest  
12 arising under an installment sales contract, or equivalent  
13 consensual security interest is created or retained against the  
14 consumer's dwelling to finance the acquisition or initial  
15 construction of such dwelling.

16 (18) "Reverse mortgage transaction" means a nonrecourse  
17 transaction in which a mortgage, deed of trust, or equivalent  
18 consensual security interest is created against the consumer's  
19 principal dwelling:

20 (a) securing one or more advances; and

21 (b) with respect to which the payment of any principal,  
22 interest, and shared appreciation or equity is due and  
23 payable (other than in the case of default) only  
24 after:

- 1 (i) the transfer of the dwelling;
- 2 (ii) the consumer ceases to occupy the dwelling as a
- 3 principal dwelling; or
- 4 (iii) the death of the consumer.

5 (19) "Seller credit card" means an arrangement pursuant to  
6 which a person gives to a buyer or lessee the privilege of using a  
7 credit card, letter of credit or other credit confirmation or  
8 identification primarily for the purpose of purchasing or leasing  
9 goods or services from that person, or:

- 10 (a) from a person related to that person;
- 11 (b) from others licensed or franchised to do business
- 12 under the person's business or trade name or
- 13 designation; or
- 14 (c) from any other persons with the consent of that
- 15 person.

16 (20) "Supervised financial organization" means a person, other  
17 than an insurance company or other organization primarily engaged in  
18 an insurance business:

- 19 (a) organized, chartered, or holding an authorization
- 20 certificate under the laws of this state or of the
- 21 United States which authorizes the person to make
- 22 loans and to receive deposits, including a savings,
- 23 share, certificate or deposit account; and
- 24

1 (b) subject to supervision by an official or agency of  
2 this state or the United States other than the  
3 Oklahoma Securities Commission.

4 SECTION 10. AMENDATORY 14A O.S. 2001, Section 1-303, is  
5 amended to read as follows:

6 Section 1-303. Definitions in this title and the sections in  
7 which they appear are:

8 "Actuarial method" - Section 1-301(1)

9 ~~"Administrator" - Section 1-301(2)~~

10 ~~"Administrator" - Section 6-103~~

11 "Agreement" - Section 1-301(3)

12 "Agricultural purpose" - Section 1-301(4)

13 "Amount financed" - Section 2-111

14 "Annual percentage rate" (sale) - Section 2-304(2)

15 "Annual percentage rate" (loan) - Section 3-304(2)

16 "Attorney General" - Section 1-301(5)

17 "Attorney General" - Section 6-103

18 "Cash price" - Section 2-110

19 "Closing costs" - Section 1-301(5)

20 "Conspicuous" - Section 1-301(6)

21 "Consumer credit insurance" - Section 4-103

22 "Consumer credit sale" - Section 2-104

23 "Consumer lease" - Section 2-106

24 "Consumer loan" - Section 3-104

1 "Corresponding nominal annual percentage rate" (sale) - Section  
2 2-304(3)  
3 "Corresponding nominal annual percentage rate" (loan) - Section  
4 3-304(3)  
5 "Credit" - Section 1-301(7)  
6 "Credit service charge" - Section 2-109  
7 "Earnings" - Section 1-301(8)  
8 "Federal Consumer Credit Protection Act" - Section 1-302  
9 "Goods" - Section 2-105(1)  
10 "Home solicitation sale" - Section 2-501  
11 "Lender" - Section 3-107(1)  
12 "Lender credit card or similar arrangement" - Section 1-301(9)  
13 "License" - Section 3-503  
14 "Loan" - Section 3-106  
15 "Loan finance charge" - Section 3-109  
16 "Loan primarily secured by an interest in land" - Section 3-105  
17 "Merchandise certificate" - Section 2-105(2)  
18 "Official fees" - Section 1-301(11)  
19 "Organization" - Section 1-301(12)  
20 "Payable in installments" - Section 1-301(13)  
21 "Person" - Section 1-301(14)  
22 "Person related to" - Section 1-301(15)  
23 "Precomputed (loan)" - Section 3-107(2)  
24 "Precomputed (sale)" - Section 2-105(7)

1 "Presumed" or "presumption" - Section 1-301(16)  
2 "Principal" - Section 3-107(3)  
3 "Residential mortgage transaction" - Section 1-301(17)  
4 "Reverse mortgage transaction" - Section 1-301(18)  
5 "Revolving charge account" - Section 2-108  
6 "Revolving loan account" - Section 3-108  
7 "Sale of goods" - Section 2-105(4)  
8 "Sale of an interest in land" - Section 2-105(6)  
9 "Sale of services" - Section 2-105(5)  
10 "Seller" - Section 2-107  
11 "Seller credit card" - Section 1-301(19)  
12 "Services" - Section 2-105(3)  
13 "Subsection 10 mortgage" - Section 1-301(10)  
14 "Supervised financial organization" - Section 1-301(20)  
15 "Supervised lender" - Section 3-501(2)  
16 "Supervised loan" - Section 3-501(1)

17 SECTION 11. AMENDATORY 14A O.S. 2001, Section 2-110, is  
18 amended to read as follows:

19 Section 2-110. Except as the ~~Administrator~~ Attorney General may  
20 otherwise prescribe by rule, the "cash price" of goods, services, or  
21 an interest in land means the price at which the goods, services, or  
22 interest in land are offered for sale by the seller to cash buyers  
23 in the ordinary course of business, and may include  
24



1 (1) applicable sales, use, and excise and documentary stamp  
2 taxes;

3 (2) the cash price of accessories or related services such as  
4 delivery, installation, servicing, repairs, alterations, and  
5 improvements; and

6 (3) amounts actually paid or to be paid by the seller for  
7 registration, certificate of title, or license fees.

8 The cash price stated by the seller to the buyer pursuant to the  
9 provisions on disclosure (Part 3) of this article is presumed to be  
10 the cash price.

11 SECTION 12. AMENDATORY 14A O.S. 2001, Section 2-202, is  
12 amended to read as follows:

13 Section 2-202. (1) In addition to the credit service charge  
14 permitted by this part, a seller may contract for and receive the  
15 following additional charges in connection with a consumer credit  
16 sale:

17 (a) official fees that are itemized and disclosed in  
18 accordance with rules of the ~~Administrator~~ Attorney  
19 General, reasonable closing costs, and taxes;

20 (b) charges for insurance as described in subsection (2);

21 (c) charges for other benefits, including insurance,  
22 conferred on the buyer, if the benefits are of value  
23 to him and if the charges are reasonable in relation  
24 to the benefits, are of a type which is not for

1 credit, and are excluded as permissible additional  
2 charges from the credit service charge by rule adopted  
3 by the ~~Administrator~~ Attorney General; and

4 (d) charges to recover the costs associated with  
5 processing applications, including but not limited to  
6 cost of services such as credit reports and credit  
7 investigations.

8 (2) An additional charge may be made for insurance written in  
9 connection with the sale, other than insurance protecting the seller  
10 against the buyer's default or other credit loss,

11 (a) with respect to insurance against loss of or damage to  
12 property, or against liability, if the seller  
13 furnishes a clear and specific statement in writing to  
14 the buyer, setting forth the cost of the insurance if  
15 obtained from or through the seller, and stating that  
16 the buyer may choose the person through whom the  
17 insurance is to be obtained; and

18 (b) with respect to consumer credit insurance providing  
19 life, accident or health coverage, if the insurance  
20 coverage is not a factor in the approval by the seller  
21 of the extension of credit and this fact is clearly  
22 disclosed in writing to the buyer, and if, in order to  
23 obtain the insurance in connection with the extension  
24 of credit, the buyer gives specific affirmative

1 written indication of his desire to do so after  
2 written disclosure to him of the cost thereof.

3 SECTION 13. AMENDATORY 14A O.S. 2001, Section 2-211, as  
4 amended by Section 1, Chapter 126, O.S.L. 2005 (14A O.S. Supp. 2007,  
5 Section 2-211), is amended to read as follows:

6 Section 2-211. A. With respect to all sales transactions, a  
7 discount which a seller offers, allows or otherwise makes available  
8 for the purpose of inducing payment by cash, check or similar means  
9 rather than by use of an open-end credit card account shall not  
10 constitute a credit service charge as determined under Section 2-109  
11 of this title if the discount is offered to all prospective buyers  
12 clearly and conspicuously in accordance with regulations of the  
13 ~~Administrator~~ Attorney General. No seller in any sales transaction  
14 may impose a surcharge on a cardholder who elects an open-end credit  
15 card account instead of paying by cash, check or similar means.  
16 There is no limit on the discount which may be offered by the  
17 seller. A seller who provides a discount otherwise than in  
18 accordance with the regulations of the ~~Administrator~~ Attorney  
19 General must make the disclosures required by those regulations.

20 B. A seller who is registered with the United States Treasury  
21 Department as a money transmitter pursuant to 31 CFR, Section  
22 103.41, and who provides an electronic funds transmission service,  
23 including service by telephone and the Internet, may charge a  
24 different price for a funds transmission service based on the mode

1 of transmission used in the transaction without violating this  
2 section so long as the price charged for a service paid for with an  
3 open-end credit card account is not greater than the price charged  
4 for such service if paid for with currency or other similar means  
5 accepted within the same mode of transmission.

6 C. Any seller subject to the provisions of subsection B of this  
7 section shall either conduct business at a location in this state or  
8 comply with the provisions of Section 1022 of Title 18 of the  
9 Oklahoma Statutes.

10 SECTION 14. AMENDATORY 14A O.S. 2001, Section 2-302, is  
11 amended to read as follows:

12 Section 2-302. (1) The disclosures required by this part,  
13 including those adopted by ~~Administrator's~~ rule of the Attorney  
14 General in conformity to subsection (2) of Section 6-104 of this  
15 title, shall be made as provided by this title and as provided by  
16 rules adopted by the ~~Administrator~~ Attorney General not inconsistent  
17 with the Federal Consumer Credit Protection Act.

18 (2) Without limitation to the generality of subsection (1) of  
19 this section, required disclosures:

20 (a) shall be made clearly and conspicuously;

21 (b) shall be in writing, a copy of which shall be  
22 delivered to the buyer or lessee;

23

24

- 1 (c) may use terminology different from that employed in  
2 this part if it conveys substantially the same  
3 meaning;
- 4 (d) need not be contained in a single writing or made in  
5 the order set forth in this part;
- 6 (e) may be supplemented by additional information or  
7 explanations supplied by the seller or lessor except  
8 as otherwise provided in Section 2-306 of this title  
9 and in this section;
- 10 (f) need be made only to the extent applicable;
- 11 (g) shall be made on the assumption that all scheduled  
12 payments will be made when due;
- 13 (h) will comply with this part although rendered  
14 inaccurate by any act, occurrence, or agreement  
15 subsequent to the required disclosure;
- 16 (i) shall disclose more conspicuously than other terms,  
17 data or information, except information relating to  
18 the identity of the seller, the terms "annual  
19 percentage rate" and "finance charge";
- 20 (j) shall be made to the person who is obligated on a  
21 consumer credit sale or a consumer lease, except that  
22 in a transaction involving more than one buyer or  
23 lessee and which is not a transaction under Section  
24 5-204 of this title, a disclosure statement or a copy

1 of any evidence of indebtedness need not be given to  
2 more than one of the buyers or lessees if the person  
3 given disclosure is a primary obligor;

4 (k) may, in accordance with the regulations of the  
5 ~~Administrator~~ Attorney General, be given in the form  
6 of estimates where the provider of any portion of the  
7 information required to be disclosed is not in a  
8 position to know exact information;

9 (l) may, in accordance with the regulations of the  
10 ~~Administrator~~ Attorney General, be within any  
11 tolerances for numerical disclosures, other than the  
12 annual percentage rate, determined by the  
13 ~~Administrator~~ Attorney General to be necessary to  
14 facilitate compliance and to not result in misleading  
15 disclosures or disclosures that circumvent the  
16 purposes of this part; and

17 (m) shall be made by the seller or lessor or, if more than  
18 one, the seller or lessor specified in the regulations  
19 of the ~~Administrator~~ Attorney General.

20 (3) Subject to subsection (1) of this section and except for  
21 sales made by telephone or mail pursuant to Section 2-305 of this  
22 title, a series of sales, a residential mortgage transaction  
23 pursuant to Section 2-309 of this title, and such other transactions  
24

1 as provided by rule of the ~~Administrator~~ Attorney General in  
2 conformity to subsection (2) of Section 6-104 of this title:

3 (a) the disclosures required by this part shall be made  
4 before credit is extended, but may be made in the  
5 sale, refinancing, or consolidation agreement, lease,  
6 or other evidence of indebtedness to be signed by the  
7 buyer or lessee if, to the extent required by rule of  
8 the ~~Administrator~~ Attorney General, in closed-end  
9 credit they are conspicuously segregated from all  
10 other terms, data, or information provided; and

11 (b) if an evidence of indebtedness is signed by the buyer  
12 or lessee, the seller or lessor shall give him a copy  
13 when the writing is signed.

14 (4) Except as provided with respect to rescission by a buyer  
15 pursuant to Section 5-204 of this title and civil liability for  
16 violations of disclosure provisions pursuant to subsection (4) of  
17 Section 5-203 of this title, written acknowledgment of receipt by a  
18 buyer or lessee to whom a statement is required to be given pursuant  
19 to this part:

20 (a) in an action or proceeding by or against the original  
21 seller or lessor, creates a presumption that the  
22 statement was given; and

23 (b) in an action or proceeding by or against an assignee  
24 without knowledge to the contrary when he acquires the

1 obligation, is conclusive proof of the delivery of the  
2 statement and, unless the violation is apparent on the  
3 face of the statement, of compliance with this part.

4 (5) The information required by Section 2-310.1 of this title  
5 shall:

6 (a) be disclosed in the form and manner which the  
7 ~~Administrator~~ Attorney General shall prescribe by  
8 rule; and

9 (b) as applicable be placed in a conspicuous and prominent  
10 location on or with any written application,  
11 solicitation, or other document or paper with respect  
12 to which such disclosure is required.

13 (6) In the rules prescribed under paragraph (a) of subsection  
14 (5) of this section, the ~~Administrator~~ Attorney General shall  
15 require that the disclosure of such information shall, to the extent  
16 the ~~Administrator~~ Attorney General determines to be practicable and  
17 appropriate, be in the form of a table which:

18 (a) contains clear and concise headings for each item of  
19 such information; and

20 (b) provides a clear and concise form for stating each  
21 item of information required to be disclosed under  
22 each such heading.

23 (7) In prescribing the form of the table under subsection (6)  
24 of this section the ~~Administrator~~ Attorney General may:



1 (a) list the items required to be included in the table in  
2 a different order than the order in which such items  
3 are set forth in subsection (1) or (5)(a) of Section  
4 2-310.1 of this title; and

5 (b) subject to subsection (8) of this section, employ  
6 terminology which is different than the terminology  
7 which is employed in subsections (1) through (6) of  
8 Section 2-310.1 of this title if such terminology  
9 conveys substantially the same meaning.

10 (8) Either the heading or the statement under the heading which  
11 relates to the time period referred to in paragraphs (g) and (h) of  
12 subsection (1) of Section 2-310.1 of this title shall contain the  
13 term "grace period".

14 (9) (a) Except as provided in paragraph (b), the disclosures  
15 required under subsection (1) of Section 2-310.2 of  
16 this title with respect to any revolving charge  
17 account plan which provides for any extension of  
18 credit which is secured by the consumer's principal  
19 dwelling and the pamphlet required under subsection  
20 (3) of Section 2-310.2 of this title shall be provided  
21 to any consumer at the time the creditor distributes  
22 an application to establish an account under such plan  
23 to such consumer.

1 (b) In the case of telephone applications, applications  
2 contained in magazines or other publications, or  
3 applications provided by a third party, the  
4 disclosures required under subsection (1) of Section  
5 2-310.2 of this title and the pamphlet required under  
6 subsection (3) of Section 2-310.2 of this title shall  
7 be provided by the creditor before the end of the  
8 three-day period beginning on the date the creditor  
9 receives a completed application from a consumer.

10 (c) Except as provided in paragraph (b) of this  
11 subsection, the disclosures required under subsection  
12 (1) of Section 2-310.2 of this title shall be provided  
13 on or with any application to establish an account  
14 under a revolving charge account plan which provides  
15 for any extension of credit which is secured by the  
16 consumer's principal dwelling.

17 (d) The disclosures required under subsection (1) of  
18 Section 2-310.2 of this title shall be conspicuously  
19 segregated from all other terms, data, or additional  
20 information provided in connection with the  
21 application, either by grouping the disclosures  
22 separately on the application form or by providing the  
23 disclosures on a separate form, in accordance with  
24 rules of the ~~Administrator~~ Attorney General.

1 (e) The disclosures required by paragraphs (e), (f) and  
2 (g) of subsection (1) of Section 2-310.2 of this title  
3 precede all of the other required disclosures.

4 (f) Whether or not the disclosures required under  
5 subsection (1) of Section 2-310.2 of this title are  
6 provided on the application form, the variable rate  
7 information described in subsection (1)(b) of Section  
8 2-310.2 of this title may be provided separately from  
9 the other information required to be disclosed.

10 (g) In preparing the table required under subsection (1)  
11 (b) (vii) of Section 2-310.2 of this title, the  
12 creditor shall consistently select one rate of  
13 interest for each year and the manner of selecting the  
14 rate from year to year shall be consistent with the  
15 plan.

16 SECTION 15. AMENDATORY 14A O.S. 2001, Section 2-304, is  
17 amended to read as follows:

18 Section 2-304. (1) Except as otherwise specifically provided,  
19 if a seller is required to give to a buyer a statement of the rate  
20 of the credit service charge he shall state the rate in terms of an  
21 annual percentage rate as defined in subsection (2) or in terms of a  
22 corresponding nominal annual percentage rate as defined in  
23 subsection (3), whichever is appropriate.

24 (2) "Annual percentage rate"

- 1 (a) with respect to a consumer credit sale other than one  
2 made pursuant to a revolving charge account, is either  
3 (i) that nominal annual percentage rate which, when  
4 applied to the unpaid balances of the amount  
5 financed calculated according to the actuarial  
6 method, will yield a sum equal to the amount of  
7 the credit service charge; or  
8 (ii) that rate determined by any method prescribed by  
9 rule by the ~~Administrator~~ Attorney General as a  
10 method which materially simplifies computation  
11 while retaining reasonable accuracy as compared  
12 with the rate determined pursuant to subparagraph  
13 (i);
- 14 (b) with respect to a consumer credit sale made pursuant  
15 to a revolving charge account, is the quotient  
16 expressed as a percentage of the total credit service  
17 charge for the period to which it related divided by  
18 the amount upon which the credit service charge for  
19 that period is based, multiplied by the number of  
20 these periods in a year.

21 (3) "Corresponding nominal annual percentage rate" is the  
22 percentage or percentages used to calculate the credit service  
23 charge for one billing cycle or other period pursuant to a revolving  
24

1 charge account multiplied by the number of billing cycles or periods  
2 in a year.

3 (4) If a seller is permitted to make the same credit service  
4 charge for all amounts financed within a specified range (subsection  
5 (5) of Section 2-201) or for all balances within a specified range  
6 (subsection (2) of Section 2-207), he shall state the annual  
7 percentage rate or corresponding nominal annual percentage rate,  
8 whichever is appropriate, as applied to the median amount of the  
9 range within which the actual amount financed or balance is  
10 included.

11 (5) A statement of rate complies with this part if it does not  
12 vary from the accurately computed rate by more than the following  
13 tolerances:

14 (a) the annual percentage rate may be rounded to the  
15 nearest quarter of one percent ( $1/4$  of 1%) or may fall  
16 within a tolerance not greater than one-eighth of one  
17 percent ( $1/8$  of 1%) more or less than the actual rate  
18 for consumer credit sales payable in substantially  
19 equal installments when a seller determines the total  
20 credit service charge on the basis of a single add-on,  
21 discount, periodic, or other rate, and the rate is  
22 converted into an annual percentage rate under  
23 procedures prescribed by rule by the ~~Administrator~~  
24 Attorney General;

1 (b) the ~~Administrator~~ Attorney General may authorize by  
2 rule the use of rate tables or charts which may  
3 provide for the disclosure of annual percentage rates  
4 which vary from the rate determined in accordance with  
5 paragraph (a) by not more than the tolerances the  
6 ~~Administrator~~ Attorney General may allow; the  
7 ~~Administrator~~ Attorney General may not allow a  
8 tolerance greater than eight percent (8%) of that rate  
9 except to simplify compliance where irregular payments  
10 are involved; and

11 (c) in case a seller determines the annual percentage rate  
12 in a manner other than as described in paragraph (a)  
13 or (b), the ~~Administrator~~ Attorney General may  
14 authorize by rule other reasonable tolerances.

15 SECTION 16. AMENDATORY 14A O.S. 2001, Section 2-306, is  
16 amended to read as follows:

17 Section 2-306. (1) This section applies to a consumer credit  
18 sale not made pursuant to a revolving charge account (Section  
19 2-310).

20 (2) The seller shall give to the buyer the following  
21 information:

22 (a) the identity of the seller required to make  
23 disclosure;

1 (b) (i) the amount financed, using that term, which shall  
2 be the amount of credit of which the buyer has  
3 actual use. This amount shall be computed as  
4 follows, but the computations need not be  
5 disclosed and shall not be disclosed with the  
6 disclosures required to be conspicuously  
7 segregated in accordance with the rule of the  
8 ~~Administrator~~ Attorney General. (aa) Take the  
9 cash price of the goods, services, or interest in  
10 land less the amount of the down payment paid in  
11 money and the portion paid by an allowance for  
12 property traded in; (bb) add any charges which  
13 are not part of the finance charge, or of the  
14 cash price and which are financed by the buyer,  
15 including the cost of any items excluded from the  
16 finance charge pursuant to Section 2-202; and  
17 (cc) subtract any charges which are part of the  
18 finance charge but which will be paid by the  
19 buyer before or at the time of the consummation  
20 of the transaction or have been withheld from the  
21 proceeds of the credit.

22 (ii) In conjunction with the disclosure of the  
23 amount financed, a seller shall provide a  
24 statement of the buyer's right to obtain,

1 upon a written request, a written  
2 itemization of the amount financed. The  
3 statement shall include spaces for a "yes"  
4 and "no" indication to be initialed by the  
5 buyer to indicate whether the buyer wants a  
6 written itemization of the amount financed.  
7 Upon receiving an affirmative indication,  
8 the seller shall provide, at the time other  
9 disclosures are required to be furnished, a  
10 written itemization of the amount financed.  
11 For this purpose, itemization of the amount  
12 financed means a disclosure to the extent  
13 applicable of: (aa) any amount that is or  
14 will be paid directly to the buyer, (bb) the  
15 amount that is or will be credited to the  
16 buyer's account to discharge obligations  
17 owed to the seller, (cc) each amount that is  
18 or will be paid to third persons by the  
19 seller on the buyer's behalf, together with  
20 an identification of or reference to the  
21 third person, and (dd) the total amount of  
22 any charges described in the preceding  
23 subparagraph (i) (cc).

24 (c) the finance charge not itemized, using that term;



- 1 (d) the finance charge expressed as an "annual percentage  
2 rate" using that term except in the case of a finance  
3 charge which does not exceed Five Dollars (\$5.00) when  
4 the amount financed does not exceed Seventy-five  
5 Dollars (\$75.00) or Seven Dollars and fifty cents  
6 (\$7.50) when the amount financed exceeds Seventy-five  
7 Dollars (\$75.00);
- 8 (e) the sum of the amount financed and the finance charge,  
9 which shall be termed the "total of payments";
- 10 (f) the number, amount, and due dates or period of  
11 payments scheduled to repay the total of payments;
- 12 (g) the "total sale price" using that term, which shall be  
13 the total of the cash price of the property or  
14 services, additional charges, and the finance charge;
- 15 (h) descriptive explanations of the terms "amount  
16 financed", "finance charge", "annual percentage rate",  
17 "total of payments", and "total sale price", including  
18 in the latter case a reference to the amount of the  
19 down payment, as specified in the rules of the  
20 ~~Administrator~~ Attorney General;
- 21 (i) any dollar charge or percentage amount which may be  
22 imposed by the seller solely on account of late  
23 payments other than a deferral or extension charge;
- 24

- 1 (j) where the credit is secured, a statement that a  
2 security interest has been taken in the property which  
3 is purchased as part of the credit transaction, or  
4 property not purchased as part of the credit  
5 transaction identified by item or type;
- 6 (k) a statement indicating whether or not the buyer is  
7 entitled to a rebate of any finance charge upon  
8 refinancing or prepayment in full pursuant to  
9 acceleration or otherwise if the obligation involves a  
10 precomputed finance charge, and a statement indicating  
11 whether or not a penalty will be imposed in those same  
12 circumstances if the obligation involves a finance  
13 charge computed from time to time by application of a  
14 rate to the unpaid principal balance;
- 15 (l) a statement that the buyer should refer to the  
16 appropriate contract document for any information the  
17 document provides about nonpayment, default, the right  
18 to accelerate the maturity of the debt, and prepayment  
19 rebates and penalties; and
- 20 (m) in any transaction in which a mortgage, deed of trust,  
21 purchase money security interest arising under an  
22 installment sales contract, or equivalent consensual  
23 security interest is created or retained against the  
24 buyer's dwelling to finance the acquisition or initial

1 construction of the dwelling, a statement indicating  
2 whether a subsequent purchaser or assignee of the  
3 buyer may assume the debt obligation on its original  
4 terms and conditions.

5 SECTION 17. AMENDATORY 14A O.S. 2001, Section 2-307, is  
6 amended to read as follows:

7 Section 2-307. (1) Except as rules adopted by the ~~Administrator~~  
8 Attorney General not inconsistent with the Federal Consumer Credit  
9 Protection Act may otherwise prescribe, if the seller refinances an  
10 existing balance owing with respect to a consumer credit sale,  
11 refinancing or consolidation pursuant to the provisions on  
12 refinancing (Section 2-205) or consolidates an existing balance  
13 owing from a previous consumer credit sale, refinancing, or  
14 consolidation with the amount financed from a subsequent consumer  
15 credit sale, refinancing, or consolidation so as to satisfy any  
16 existing balance and replace it with a new obligation undertaken by  
17 the same buyer, the seller shall make disclosure with respect to the  
18 new transaction to the buyer of the information and in the manner  
19 required by this part.

20 (2) A refinancing does not include:

- 21 (a) a renewal of a single payment obligation with no  
22 change in the original terms;
- 23 (b) a reduction in the annual percentage rate with a  
24 corresponding change in the payment schedule;

- 1 (c) an agreement involving a court proceeding;
- 2 (d) a change in the payment schedule or a change in
- 3 collateral requirements as a result of the buyer's
- 4 default or delinquency, unless the rate is increased
- 5 or the new amount financed exceeds the unpaid balance
- 6 plus earned finance charge and premiums for
- 7 continuation of consumer credit insurance or insurance
- 8 against loss of or damage to property or against
- 9 liability arising out of the ownership or use of
- 10 property; or
- 11 (e) the renewal of optional insurance purchased by the
- 12 buyer and added to an existing transaction if
- 13 disclosures relating to the initial purchase were
- 14 provided in accordance with law.

15 SECTION 18. AMENDATORY 14A O.S. 2001, Section 2-309, is

16 amended to read as follows:

17 Section 2-309. (1) In the case of a transaction in which a

18 mortgage, deed of trust, purchase money security interest arising

19 under an installment sales contract, or equivalent consensual

20 security interest is created or retained in the buyer's principal

21 dwelling to finance the acquisition or initial construction of that

22 dwelling, if that transaction is also subject to the Real Estate

23 Settlement Procedures Act, 12 U.S.C. Sections 2601 et seq., good

24 faith estimates of the disclosures required by this part shall be

1 made in accordance with the rules of the ~~Administrator~~ Attorney  
2 General concerning estimates before the credit is extended, or shall  
3 be delivered or placed in the mail not later than three (3) business  
4 days after the seller receives the buyer's written application,  
5 whichever is earlier. If the disclosure statement furnished within  
6 three (3) days of the written application contains an annual  
7 percentage rate which is subsequently rendered inaccurate within the  
8 meaning of Section 2-304(5) (a) and (c), the seller shall furnish  
9 another statement at the time of settlement or consummation.

10 (2) If a consumer credit sale is one of a series of consumer  
11 credit sales transactions made pursuant to an agreement providing  
12 for the addition of the deferred payment price of that sale to an  
13 existing outstanding balance, and the buyer has approved in writing  
14 both the annual percentage rate or rates and the method of computing  
15 the finance charge or charges, and the seller retains no security  
16 interest in any property as to which payments aggregating the amount  
17 of the sales price including any finance charges attributable  
18 thereto have been received, the disclosure required under this part  
19 for the particular sale may be made at any time not later than the  
20 date the first payment for that sale is due. For the purpose of  
21 this subsection, in the case of items purchased on different dates,  
22 the first purchased shall be deemed first paid for, and in the case  
23 of items purchased on the same date, the lowest priced shall be  
24 deemed first paid for.

1 SECTION 19. AMENDATORY 14A O.S. 2001, Section 2-310, is  
2 amended to read as follows:

3 Section 2-310. (1) Before opening any account under a  
4 revolving charge account plan, the creditor shall give to the  
5 consumer the following information:

- 6 (a) conditions under which a credit service charge may be  
7 made, including the time period, if any, within which  
8 any credit extended may be repaid without incurring a  
9 credit service charge, except that the creditor may,  
10 at his election and without disclosure, impose no such  
11 credit service charge if payment is received after the  
12 termination of such period. If no time period is  
13 provided, the creditor shall disclose that fact;
- 14 (b) method of determining the balance upon which a credit  
15 service charge will be computed;
- 16 (c) method of determining the amount of the credit service  
17 charge, including any minimum or fixed amount imposed  
18 as a finance charge, and where one or more periodic  
19 rates may be used to compute the credit service  
20 charge, each such rate and the range of balances to  
21 which it is applicable;
- 22 (d) corresponding nominal annual percentage rate pursuant  
23 to subsection (3) of Section 2-304 of this title; if  
24 more than one corresponding nominal annual percentage

1 rate may be used, each corresponding nominal annual  
2 percentage rate shall be stated;

3 (e) identification of additional charges which may be made  
4 and the method by which they will be determined;

5 (f) in cases where the creditor may retain or acquire a  
6 security interest in property to secure the balances  
7 resulting from credit extensions made pursuant to the  
8 revolving charge account, a statement that a security  
9 interest has been or will be taken in the property  
10 purchased as part of the credit transaction, or  
11 property not purchased as part of the credit  
12 transaction identified by item or type;

13 (g) a statement in a form prescribed by and describing the  
14 protection provided by Sections 161 and 170 of the  
15 Federal Consumer Credit Protection Act to an obligor  
16 and the responsibilities of a creditor under Sections  
17 162 and 170 of the Federal Consumer Credit Protection  
18 Act; and

19 (h) in the case of any account under a revolving charge  
20 account plan which provides for any extension of  
21 credit which is secured by the consumer's principal  
22 dwelling, any information which:

23 (i) is required to be disclosed under subsection (1)  
24 of Section 2-310.2 of this title; and

1 (ii) the ~~Administrator~~ Attorney General determines is  
2 not described in any other paragraph of this  
3 subsection.

4 (2) If there is an outstanding balance at the end of the  
5 billing cycle or if a credit service charge is made with respect to  
6 the billing cycle, the creditor shall give to the consumer the  
7 following information within a reasonable time after the end of the  
8 billing cycle:

9 (a) outstanding balance at the beginning of the billing  
10 cycle;

11 (b) amount and date of each extension of credit during the  
12 billing cycle and a brief identification of each  
13 extension of credit on or accompanying the statement  
14 in a form prescribed by regulations of the  
15 ~~Administrator~~ Attorney General to enable the consumer  
16 to identify the transaction, or relate it to copies of  
17 sale vouchers or similar instruments previously  
18 furnished; except that a creditor's failure to  
19 disclose information in accordance with this paragraph  
20 shall not be deemed a failure to comply with this part  
21 if the creditor maintains procedures reasonably  
22 adapted to procure and provide such information and  
23 the creditor responds to and treats any inquiry for  
24 clarification or documentation as a billing error and



1 an erroneously billed amount in accordance with  
2 Section 161 of the Federal Consumer Credit Protection  
3 Act. In lieu of complying with the requirements of  
4 the previous sentence, and to the extent permitted by  
5 rules of the ~~Administrator~~ Attorney General, in the  
6 case of any transaction in which the creditor and the  
7 person responsible for providing disclosure are the  
8 same as defined by the ~~Administrator~~ Attorney General  
9 and the person's revolving charge account plan has  
10 fewer than fifteen thousand (15,000) accounts, the  
11 creditor may elect to provide only the amount and date  
12 of each extension of credit during the billing cycle  
13 and the seller's name and location where the  
14 transaction took place if a brief identification of  
15 the transaction has been previously furnished and the  
16 creditor responds to and treats any inquiry for  
17 clarification or documentation as a billing error and  
18 an erroneously billed amount in accordance with  
19 Section 161 of the Federal Consumer Credit Protection  
20 Act;

21 (c) amount credited to the account during the billing  
22 cycle;

23 (d) amount of credit service charge debited during the  
24 billing cycle, with an itemization or explanation to

1 show the total amount of credit service charge, if  
2 any, due to the application of one or more periodic  
3 percentages and the amount, if any, imposed as a  
4 minimum or fixed charge;

5 (e) the periodic percentage used to calculate the credit  
6 service charge; if more than one periodic percentage  
7 is used, each percentage and the amount of the balance  
8 to which each applies shall be disclosed;

9 (f) the balance on which the credit service charge is  
10 computed and a statement of how the balance is  
11 determined; if the balance is determined without first  
12 deducting all amounts credited during the period, that  
13 fact and the amounts credited shall also be stated;

14 (g) if the credit service charge for the billing cycle  
15 exceeds fifty cents (\$0.50) for a monthly or longer  
16 billing cycle, or the pro rata part of the fifty cents  
17 (\$0.50) for a billing cycle shorter than monthly, the  
18 credit service charge expressed as an annual  
19 percentage rate pursuant to paragraph (b) of  
20 subsection (2) of Section 2-304 of this title; if more  
21 than one periodic percentage is used to calculate the  
22 credit service charge, the creditor, in lieu of  
23 stating a single annual percentage rate, may state  
24 more than one annual percentage rate and the amount of

1 the balance to which each annual percentage rate  
2 applies;

3 (h) if the credit service charge for the billing cycle  
4 does not exceed fifty cents (\$0.50) for a monthly or  
5 longer billing cycle, or the pro rata part of fifty  
6 cents (\$0.50) for a billing cycle shorter than  
7 monthly, the corresponding nominal annual percentage  
8 rate pursuant to subsection (3) of Section 2-304 of  
9 this title;

10 (i) outstanding balance at the end of the billing cycle;

11 (j) date by which or period, if any, within which payment  
12 must be made to avoid additional credit service  
13 charges, except that the creditor may, at his election  
14 and without disclosure, impose no such additional  
15 credit service charge if payment is received after  
16 such date or the termination of such period; and

17 (k) address to be used by the creditor for the purpose of  
18 receiving billing inquiries.

19 SECTION 20. AMENDATORY 14A O.S. 2001, Section 2-310.1,  
20 is amended to read as follows:

21 Section 2-310.1 Disclosure in credit and charge card  
22 applications and solicitation.

23 (1) Any application to open a credit card account for any  
24 person under a revolving charge account plan, or a solicitation to

1 open such an account without requiring an application that is mailed  
2 to consumers shall disclose the following information, subject to  
3 subsection (8) of this section and subsections (5) through (8) of  
4 Section 2-302 of this title.

5 (a) Each annual percentage rate applicable to extensions  
6 of credit under such credit plan.

7 (b) Where an extension of credit is subject to a variable  
8 rate, the fact that the rate is variable, the annual  
9 percentage rate in effect at the time of the mailing,  
10 and how the rate is determined.

11 (c) Where more than one rate applies, the range of  
12 balances to which each rate applies.

13 (d) Any annual fee, other periodic fee, or membership fee  
14 imposed for the issuance or availability of a credit  
15 card, including any account maintenance fee or other  
16 charge imposed based on activity or inactivity for the  
17 account during the billing cycle.

18 (e) Any minimum finance charge imposed for each period  
19 during which any extension of credit which is subject  
20 to a finance charge is outstanding.

21 (f) Any transaction charge imposed in connection with use  
22 of the card to purchase goods or services.

23 (g) The date by which or the period within which any  
24 credit extended under such credit plan for purchases

1 of goods or services must be repaid to avoid incurring  
2 a credit service charge, and, if no such period is  
3 offered, such fact shall be clearly stated.

4 (h) If the length of such "grace period" varies, the card  
5 issuer may disclose the range of days in the grace  
6 period, the minimum number of days in the grace  
7 period, or the average number of days in the grace  
8 period, if the disclosure is identified as such.

9 (i) The name of the balance calculation method used in  
10 determining the balance on which the credit service  
11 charge is computed if the method used has been defined  
12 by the ~~Administrator~~ Attorney General, or a detailed  
13 explanation of the balance calculation method used if  
14 the method has not been so defined.

15 (j) In prescribing rules to carry out the requirement of  
16 paragraph (i) of this subsection, the ~~Administrator~~  
17 Attorney General shall define and name not more than  
18 the five (5) balance calculation methods determined by  
19 the ~~Administrator~~ Attorney General to be the most  
20 commonly used methods.

21 (2) In addition to the information required to be disclosed  
22 under subsection (1) of this section each application or  
23 solicitation to which such subsection applies shall disclose clearly  
24

1 and conspicuously the following information, subject to subsections  
2 (8) and (9) of this section:

3 (a) Any fee imposed for an extension of credit in the form  
4 of cash.

5 (b) Any fee imposed for a late payment.

6 (c) Any fee imposed in connection with an extension of  
7 credit in excess of the amount of credit authorized to  
8 be extended with respect to such account.

9 (3) (a) In any telephone solicitation to open a credit card  
10 account for any person under a revolving charge  
11 account plan, the person making the solicitation shall  
12 orally disclose the information described in  
13 subsection (1) of this section.

14 (b) Paragraph (a) of this subsection shall not apply to  
15 any telephone solicitation if:

16 (i) the credit card issuer:

17 (aa) does not impose any fee described in  
18 paragraph (d) of subsection (1) of this  
19 section, or

20 (bb) does not impose any fee in connection with  
21 telephone solicitations unless the consumer  
22 signifies acceptance by using the card;

23 (ii) the card issuer discloses clearly and  
24 conspicuously in writing the information

1 described in subsections (1) and (2) of this  
2 section within thirty (30) days after the  
3 consumer requests the card, but in no event later  
4 than the date of delivery of the card; and  
5 (iii) the card issuer discloses clearly and  
6 conspicuously that the consumer is not obligated  
7 to accept the card or account and the consumer  
8 will not be obligated to pay any of the fees or  
9 charges disclosed unless the consumer elects to  
10 accept the card or account by using the card.

11 (4) (a) Any application to open a credit card account for any  
12 person under a revolving charge account plan, and any  
13 solicitation to open an account without requiring an  
14 application, that is made available to the public or  
15 contained in catalogs, magazines or other publications  
16 shall meet the disclosure requirements of paragraph  
17 (b), (c), or (d) of this subsection.

18 (b) An application or solicitation described in paragraph  
19 (a) of this subsection meets the requirement of this  
20 paragraph if such application or solicitation  
21 contains:

22 (i) the information:

23 (aa) described in subsection (1) of this section  
24 in the form required under subsections (5)

1 through (8) of Section 2-302 of this title  
2 subject to subsection (8) of this section,  
3 and

4 (bb) described in subsection (2) of this section  
5 in a clear and conspicuous form, subject to  
6 subsections (8) and (9) of this section;

7 (ii) a statement, in a conspicuous and prominent  
8 location on the application or solicitation,  
9 that:

10 (aa) the information is accurate as of the date  
11 the application or solicitation was printed;

12 (bb) the information contained in the application  
13 or solicitation is subject to change after  
14 such date; and

15 (cc) the applicant should contact the creditor  
16 for information on any change in the  
17 information contained in the application or  
18 solicitation since it was printed;

19 iii) a clear and conspicuous disclosure of the date  
20 the application or solicitation was printed; and

21 (iv) a disclosure, in a conspicuous and prominent  
22 location on the application or solicitation, of a  
23 toll free telephone number or a mailing address  
24 at which the applicant may contact the creditor



1 to obtain any change in the information provided  
2 in the application or solicitation since it was  
3 printed.

4 (c) An application or solicitation described in paragraph  
5 (a) of this subsection meets the requirement of this  
6 paragraph if such application or solicitation:

7 (i) contains a statement, in a conspicuous and  
8 prominent location on the application or  
9 solicitation, that:

10 (aa) there are costs associated with the use of  
11 credit cards; and

12 (bb) the applicant may contact the creditor to  
13 request disclosure of specific information  
14 of such costs by calling a toll-free  
15 telephone number or by writing to an address  
16 specified in the application;

17 (ii) contains a disclosure, in a conspicuous and  
18 prominent location on the application or  
19 solicitation, of a toll-free telephone number and  
20 a mailing address at which the applicant may  
21 contact the creditor to obtain such information;  
22 and

23 (iii) does not contain any of the items described in  
24 subsections (1) and (2) of this section.

1 (d) An application or solicitation meets the requirements  
2 of this subsection if it contains, or is accompanied  
3 by

4 (i) the disclosures required by paragraphs (a)  
5 through (f) of subsection (1) of Section 2-310 of  
6 this title;

7 (ii) the disclosures required by subsections (1) and  
8 (2) of this section included clearly and  
9 conspicuously, except that the provisions of  
10 subsections (5) through (8) of Section 2-302 of  
11 this title shall not apply; and

12 (iii) a toll free telephone number or a mailing address  
13 at which the applicant may contact the creditor  
14 to obtain any change in the information provided.

15 (e) Upon receipt of a request for any of the information  
16 referred to in paragraph (b), (c) or (d) of this  
17 subsection, the card issuer or the agent of such  
18 issuer shall promptly disclose all of the information  
19 described in subsections (1) and (2) of this section.

20 (5) (a) Any application or solicitation to open a charge card  
21 account shall disclose clearly and conspicuously the  
22 following information in the form required by  
23 subsections (5) through (8) of Section 2-302 of this  
24 title subject to subsection (8) of this section:

1 (i) Any annual fee, other periodic fee, or membership  
2 fee imposed for the issuance or availability of  
3 the charge card, including any account  
4 maintenance fee or other charge imposed based on  
5 activity or inactivity for the account during the  
6 billing cycle.

7 (ii) Any transaction charge imposed in connection with  
8 use of the card to purchase goods or services.

9 (iii) A statement that charges incurred by use of the  
10 charge card are due and payable upon receipt of a  
11 periodic statement rendered for such charge card  
12 account.

13 (b) In addition to the information required to be  
14 disclosed under paragraph (a) of this subsection each  
15 written application or solicitation to which such  
16 paragraph applies shall disclose clearly and  
17 conspicuously the following information, subject to  
18 subsections (8) and (9) of this section:

19 (i) Any fee imposed for an extension of credit in the  
20 form of cash.

21 (ii) Any fee imposed for a late payment.

22 (iii) Any fee imposed in connection with an extension  
23 of credit in excess of the amount of credit  
24

1 authorized to be extended with respect to such  
2 account.

3 (c) Any application to open a charge card account, and any  
4 solicitation to open such an account without requiring  
5 an application, that is made available to the public  
6 or contained in catalogs, magazines, or other  
7 publications shall contain:

8 (i) the information:

9 (aa) described in paragraph (a) of this  
10 subsection in the form required under  
11 subsections (5) through (8) of Section 2-302  
12 of this title subject to subsection (8) of  
13 this section; and

14 (bb) described in paragraph (b) of this  
15 subsection in a clear and conspicuous form,  
16 subject to subsections (8) and (9) of this  
17 section;

18 (ii) a statement, in a conspicuous and prominent  
19 location on the application or solicitation,  
20 that:

21 (aa) the information is accurate as of the date  
22 the application or solicitation was printed;

1 (bb) the information contained in the application  
2 or solicitation is subject to change after  
3 such date; and

4 (cc) the applicant should contact the creditor  
5 for information on any change in the  
6 information contained in the application or  
7 solicitation since it was printed;

8 (iii) a clear and conspicuous disclosure of the date  
9 the application or solicitation was printed; and

10 (iv) a disclosure, in a conspicuous and prominent  
11 location on the application or solicitation, of a  
12 toll-free telephone number or a mailing address  
13 at which the applicant may contact the creditor  
14 to obtain any change in the information provided  
15 in the application or solicitation since it was  
16 printed.

17 (d) If a charge card permits the card holder to receive an  
18 extension of credit under a revolving charge account  
19 plan which is not maintained by the charge card issuer  
20 the charge card issuer may provide the information  
21 described in paragraphs (a) and (b) of this subsection  
22 in the form required by such paragraphs in lieu of the  
23 information required to be provided under subsections  
24 (1), (2), (3) or (4) of this section with respect to

1 any credit extended under such plan, if the charge  
2 card issuer discloses clearly and conspicuously to the  
3 consumer in the application or solicitation that:

- 4 (i) the charge card issuer will make an independent  
5 decision as to whether to issue the card;  
6 (ii) the charge card may arrive before the decision is  
7 made with respect to an extension of credit under  
8 a revolving charge account plan; and  
9 (iii) approval by the charge card issuer does not  
10 constitute approval by the issuer of the  
11 extension of credit.

12 (e) The information required to be disclosed under  
13 subsections (1) and (2) of this section shall be  
14 provided to the charge card holder by the creditor  
15 which maintains such revolving charge account plan  
16 before the first extension of credit under such plan.

17 (f) For the purposes of this subsection, the term "charge  
18 card" means a card, plate, or other single credit  
19 device that may be used from time to time to obtain  
20 credit which is not subject to a finance charge.

21 (6) The ~~Administrator~~ Attorney General may, by rule, require  
22 the disclosure of information in addition to that otherwise required  
23 by subsections (1) through (7) of this section, and modify any  
24 disclosure of information required by subsections (1) through (7) of

1 this section, in any application to open a credit card account for  
2 any person under a revolving charge account plan or any application  
3 to open a charge card account for any person, or a solicitation to  
4 open any such account without requiring an application, if the  
5 ~~Administrator~~ Attorney General determines that such action is  
6 necessary to carry out the purposes of, or prevent evasions of, any  
7 subsection of this section.

8 (7) (a) Except as provided in paragraph (b) of this  
9 subsection, a card issuer that imposes any fee  
10 described in subsections (1)(d) or (5)(a)(i) of this  
11 section shall transmit to a consumer at least thirty  
12 (30) days prior to the scheduled renewal date of the  
13 consumer's credit or charge card account a clear and  
14 conspicuous disclosure of:

15 (i) the date by which, the month by which, or the  
16 billing period at the close of which, the account  
17 will expire if not renewed;

18 (ii) the information described in subsections (1) or  
19 (5)(a) of this section that would apply if the  
20 account were renewed, subject to subsection (8)  
21 of this section; and

22 (iii) the method by which the consumer may terminate  
23 continued credit availability under the account.  
24

1 (b) (i) The disclosures required by this subsection may  
2 be provided:

3 (aa) prior to posting a fee described in  
4 subsection (1)(d) or paragraph (a)(i) of  
5 subsection (5) of this section to the  
6 account; or

7 (bb) with the periodic billing statement first  
8 disclosing that the fee has been posted to  
9 the account.

10 (ii) disclosures may be provided under subparagraph  
11 (i) of this paragraph only if:

12 (aa) the consumer is given a thirty-day period to  
13 avoid payment of the fee or to have the fee  
14 recredited to the account in any case where  
15 the consumer does not wish to continue the  
16 availability of the credit; and

17 (bb) the consumer is permitted to use the card  
18 during such period without incurring an  
19 obligation to pay such fee.

20 (c) The ~~Administrator~~ Attorney General may, by rule,  
21 provide for fewer disclosures than are required by  
22 paragraph (a) of this subsection in the case of an  
23 account which is renewable for a period of less than  
24 six (6) months.



1 (8) (a) If the amount of any fee required to be disclosed  
2 under the previous subsections of this section is  
3 determined on the basis of a percentage of another  
4 amount, the percentage used in making such  
5 determination and the identification of the amount  
6 against which such percentage is applied shall be  
7 disclosed in lieu of the amount of such fee.

8 (b) If a credit or charge card issuer does not impose any  
9 fee required to be disclosed under any provision of  
10 the previous subsections of this section, such  
11 provision shall not apply with respect to such issuer.

12 (9) If the amount of any fee required to be disclosed by a  
13 credit or charge card issuer under subsections (2), (4) (b) (i) (bb),  
14 (5) (b) or (5) (c) (i) (bb) of this section varies from state to state,  
15 the card issuer may disclose the range of such fees for purposes of  
16 subsections (1) through (5) of this section in lieu of the amount  
17 for each applicable state, if such disclosure includes a statement  
18 that the amount of such fee varies from state to state.

19 (10) (a) Whenever a card issuer that offers any guarantee or  
20 insurance for repayment of all or part of the  
21 outstanding balance of a revolving charge account  
22 plan, proposes to change the person providing that  
23 guarantee or insurance, the card issuer shall send  
24 each insured consumer written notice of the proposed

1 change not less than thirty (30) days prior to the  
2 change, including notice of any increase in the rate  
3 or substantial decrease in coverage or service which  
4 will result from such change. Such notice may be  
5 included on or with the monthly statement provided to  
6 the consumer prior to the month in which the proposed  
7 change would take effect.

8 (b) In any case in which a proposed change described in  
9 paragraph (a) of this subsection occurs, the insured  
10 consumer shall be given the name and address of the  
11 new guarantor or insurer and a copy of the policy or  
12 group certificate containing the basic terms and  
13 conditions, including the premium rate to be charged.

14 (c) The notices required under paragraphs (a) and (b) of  
15 this subsection shall each include a statement that  
16 the consumer has the option to discontinue the  
17 insurance or guarantee.

18 (d) No provision of this subsection shall be construed as  
19 superseding any provision of Oklahoma law which is  
20 applicable to the regulation of insurance.

21 (e) The ~~Administrator~~ Attorney General shall define, in  
22 rules, what constitutes a "substantial decrease in  
23 coverage or service" for purposes of paragraph (a) of  
24 this subsection.

1 SECTION 21. AMENDATORY 14A O.S. 2001, Section 2-310.2,  
2 is amended to read as follows:

3 Section 2-310.2 Disclosure requirements for revolving charge  
4 account plans secured by consumer's principal dwelling.

5 (1) In the case of any revolving charge account plan which  
6 provides for any extension of credit which is secured by the  
7 consumer's principal dwelling, the creditor shall make the following  
8 disclosures in accordance with subsection (9) of Section 2-302 of  
9 this title:

10 (a) Each annual percentage rate imposed in connection with  
11 extensions of credit under the plan and a statement  
12 that such rate does not include costs other than  
13 interest.

14 (b) In the case of a plan which provides for variable  
15 rates of interest on credit extended under the plan:

16 (i) a description of the manner in which such rate  
17 will be computed and a statement that such rate  
18 does not include costs other than interest;

19 (ii) a description of the manner in which any changes  
20 in the annual percentage rate will be made,  
21 including:

22 (aa) any negative amortization and interest rate  
23 carryover;

24 (bb) the time of any such changes;

1 (cc) any index or margin to which such changes in  
2 the rate are related; and

3 (dd) a source of information about any such  
4 index;

5 (iii) if an initial annual percentage rate is offered  
6 which is not based on an index:

7 (aa) a statement of such rate and the period of  
8 time such initial rate will be in effect;  
9 and

10 (bb) a statement that such rate does not include  
11 costs other than interest;

12 (iv) a statement that the consumer should ask about  
13 the current index value and interest rate;

14 (v) a statement of the maximum amount by which the  
15 annual percentage rate may change in any one-year  
16 period or a statement that no such limit exists;

17 (vi) a statement of the maximum annual percentage rate  
18 that may be imposed at any time under the plan;

19 (vii) subject to subsection (9)(g) of Section 2-302 of  
20 this title, a table, based on a Ten Thousand  
21 Dollar (\$10,000.00) extension of credit, showing  
22 how the annual percentage rate and the minimum  
23 periodic payment amount under each repayment  
24 option of the plan would have been affected

1 during the preceding fifteen-year period by  
2 changes in any index used to compute such rate;

3 (viii) a statement of:

4 (aa) the maximum annual percentage rate which may  
5 be imposed under each repayment option of  
6 the plan;

7 (bb) the minimum amount of any periodic payment  
8 which may be required, based on a Ten  
9 Thousand Dollar (\$10,000.00) outstanding  
10 balance, under each such option when such  
11 maximum annual percentage rate is in effect;  
12 and

13 (cc) the earliest date by which such maximum  
14 annual interest rate may be imposed; and

15 (ix) a statement that interest rate information will  
16 be provided on or with each periodic statement.

17 (c) An itemization of any fees imposed by the creditor in  
18 connection with the availability or use of credit  
19 under such plan, including annual fees, application  
20 fees, transaction fees, and closing costs (including  
21 costs commonly described as "points"), and the time  
22 when such fees are payable.

23 (d) (i) An estimate, based on the creditor's experience  
24 with such plans and stated as a single amount or

1 as a reasonable range, of the aggregate amount of  
2 additional fees that may be imposed by third  
3 parties including but not limited to governmental  
4 authorities, appraisers, and attorneys in  
5 connection with opening an account under the  
6 plan.

7 (ii) A statement that the consumer may ask the  
8 creditor for a good faith estimate by the  
9 creditor of the fees that may be imposed by third  
10 parties.

11 (e) A statement that:

12 (i) any extension of credit under the plan is secured  
13 by the consumer's dwelling; and

14 (ii) in the event of any default, the consumer risks  
15 the loss of the dwelling.

16 (f) (i) A clear and conspicuous statement:

17 (aa) of the time by which an application must be  
18 submitted to obtain the terms disclosed; or

19 (bb) if applicable, that the terms are subject to  
20 change.

21 (ii) A statement that:

22 (aa) the consumer may elect not to enter into an  
23 agreement to open an account under the plan  
24 if any term changes, other than a change

1 contemplated by a variable feature of the  
2 plan, before any such agreement is final;  
3 and

4 (bb) if the consumer makes an election described  
5 in division (aa) of this subparagraph, the  
6 consumer is entitled to a refund of all fees  
7 paid in connection with the application.

8 (iii) A statement that the consumer should make or  
9 otherwise retain a copy of information disclosed  
10 under this subparagraph.

11 (g) A statement that:

12 (i) under certain conditions, the creditor may  
13 terminate any account under the plan and require  
14 immediate repayment of any outstanding balance,  
15 prohibit any additional extension of credit to  
16 the account, or reduce the credit limit  
17 applicable to the account; and

18 (ii) the consumer may receive, upon request, more  
19 specific information about the conditions under  
20 which the creditor may take any action described  
21 in subparagraph (i) of this paragraph.

22 (h) The repayment options under the plan, including:

23 (i) if applicable, any differences in repayment  
24 options with regard to:

1 (aa) any period during which additional  
2 extensions of credit may be obtained; and

3 (bb) any period during which repayment is  
4 required to be made and no additional  
5 extensions of credit may be obtained;

6 (ii) the length of any repayment period, including any  
7 differences in the length of any repayment period  
8 with regard to the periods described in divisions  
9 (aa) and (bb) of subparagraph (i) of this  
10 paragraph; and

11 (iii) an explanation of how the amount of any minimum  
12 monthly or periodic payment will be determined  
13 under each such option, including any differences  
14 in the determination of any such amount with  
15 regard to the periods described in divisions (aa)  
16 and (bb) of subparagraph (i) of this paragraph.

17 (i) An example, based on a Ten Thousand Dollar  
18 (\$10,000.00) outstanding balance and the interest  
19 rate, other than a rate not based on the index under  
20 the plan, which is, or was recently, in effect under  
21 such plan, showing the minimum monthly or periodic  
22 payment, and the time it would take to repay the  
23 entire Ten Thousand Dollars (\$10,000.00) if the  
24



1 consumer paid only the minimum periodic payments and  
2 obtained no additional extensions of credit.

3 (j) If, under any repayment option of the plan, the  
4 payment of not more than the minimum periodic payments  
5 required under such option over the length of the  
6 repayment period:

7 (i) would not repay any of the principal balance; or

8 (ii) would repay less than the outstanding balance by  
9 the end of such period,

10 as the case may be, a statement of such fact, including an  
11 explicit statement that at the end of such repayment period  
12 a balloon payment as defined in subsection (12) of Section  
13 2-313 of this title would result which would be required to  
14 be paid in full at that time.

15 (k) If applicable, a statement that:

16 (i) any limitation in the plan on the amount of any  
17 increase in the minimum payments may result in  
18 negative amortization;

19 (ii) negative amortization increases the outstanding  
20 principal balance of the account; and

21 (iii) negative amortization reduces the consumer's  
22 equity in the consumer's dwelling.

23 (l) (i) Any limitation contained in the plan on the  
24 number of extensions of credit and the amount of

1 credit which may be obtained during any month or  
2 other defined time period.

3 (ii) Any requirement which establishes a minimum  
4 amount for:

5 (aa) the initial extension of credit to an  
6 account under the plan;

7 (bb) any subsequent extension of credit to an  
8 account under the plan; or

9 (cc) any outstanding balance of an account under  
10 the plan.

11 (m) A statement that the consumer should consult a tax  
12 advisor regarding the deductibility of interest and  
13 charges under the plan.

14 (n) Any other term which the ~~Administrator~~ Attorney  
15 General requires, in rules to be disclosed.

16 (2) For purposes of this section and Sections 2-310.3 and 2-313  
17 of this title, the term "principal dwelling" includes any second or  
18 vacation home of the consumer.

19 (3) In addition to the disclosures required under subsection  
20 (1) of this section with respect to an application to open an  
21 account under any revolving charge account plan described in such  
22 subsection, the creditor or other person providing such disclosures  
23 to the consumer shall provide:  
24

- 1 (a) a pamphlet published by the Board of Governors of the  
2 Federal Reserve System pursuant to Section 4 of the  
3 Home Equity Consumer Protection Act of 1988; or  
4 (b) any pamphlet which provides substantially similar  
5 information to the information described in such  
6 section, as determined by the ~~Administrator~~ Attorney  
7 General.

8 SECTION 22. AMENDATORY 14A O.S. 2001, Section 2-310.3,  
9 is amended to read as follows:

10 Section 2-310.3 (1) In the case of extensions of credit under  
11 a revolving charge account plan which are subject to a variable rate  
12 and are secured by a consumer's principal dwelling, the index or  
13 other rate of interest to which changes in the annual percentage  
14 rate are related shall be based on an index or rate of interest  
15 which is publicly available and is not under the control of the  
16 creditor.

17 (2) A creditor may not unilaterally terminate any account under  
18 a revolving charge account plan under which extensions of credit are  
19 secured by a consumer's principal dwelling and require the immediate  
20 repayment of any outstanding balance at such time, except in the  
21 case of:

- 22 (a) fraud or material misrepresentation on the part of the  
23 consumer in connection with the account;

- 1 (b) failure by the consumer to meet the repayment terms of  
2 the agreement for any outstanding balance; or  
3 (c) any other action or failure to act by the consumer  
4 which adversely affects the creditor's security for  
5 the account or any right of the creditor in such  
6 security.

7 (3) (a) No revolving charge account plan under which  
8 extensions of credit are secured by a consumer's  
9 principal dwelling may contain a provision which  
10 permits a creditor to change unilaterally any term  
11 required to be disclosed under subsection (1) of  
12 Section 2-310.2 of this title or any other term,  
13 except a change in insignificant terms such as the  
14 address of the creditor for billing purposes.

15 (b) Notwithstanding the provisions of paragraph (a) of  
16 this subsection, a creditor may make any of the  
17 following changes:

18 (i) Change the index and margin applicable to  
19 extensions of credit under such plan if the index  
20 used by the creditor is no longer available and  
21 the substitute index and margin would result in a  
22 substantially similar interest rate,

23 (ii) Prohibit additional extensions of credit or  
24 reduce the credit limit applicable to an account

1 under the plan during any period in which the  
2 value of the consumer's principal dwelling which  
3 secures any outstanding balance is significantly  
4 less than the original appraisal value of the  
5 dwelling,

6 (iii) Prohibit additional extensions of credit or  
7 reduce the credit limit applicable to the account  
8 during any period in which the creditor has  
9 reason to believe that the consumer will be  
10 unable to comply with the repayment requirements  
11 of the account due to a material change in the  
12 consumer's financial circumstances,

13 (iv) Prohibit additional extensions of credit or  
14 reduce the credit limit applicable to the account  
15 during any period in which the consumer is in  
16 default with respect to any material obligation  
17 of the consumer under the agreement,

18 (v) Prohibit additional extensions of credit or  
19 reduce the credit limit applicable to the account  
20 during any period in which:

21 (aa) the creditor is precluded by government  
22 action from imposing the annual percentage  
23 rate provided for in the account agreement,  
24 or

1 (bb) any government action is in effect which  
2 adversely affects the priority of the  
3 creditor's security interest in the account  
4 to the extent that the value of the  
5 creditor's secured interest in the property  
6 is less than one hundred twenty percent  
7 (120%) of the amount of the credit limit  
8 applicable to the account.

9 (vi) Any change that will benefit the consumer.

10 (c) Upon the request of the consumer and at the time an  
11 agreement is entered into by a consumer to open an  
12 account under a revolving charge account plan under  
13 which extensions of credit are secured by the  
14 consumer's principal dwelling, the consumer shall be  
15 given a list of the categories of contract obligations  
16 which are deemed by the creditor to be material  
17 obligations of the consumer under the agreement for  
18 purposes of paragraph (b)(iv) of this subsection.

19 (d) (i) For purposes of paragraph (b)(vi) of this  
20 subsection, a change shall be deemed to benefit  
21 the consumer if the change is unequivocally  
22 beneficial to the consumer and the change is  
23 beneficial through the entire term of the  
24 agreement,

1 (ii) The ~~Administrator~~ Attorney General may, by rule,  
2 determine categories of changes that benefit the  
3 consumer.

4 (4) If any term or condition described in subsection (1) of  
5 Section 2-310.2 of this title which is disclosed to a consumer in  
6 connection with an application to open an account under a revolving  
7 charge account plan described in such section, other than a variable  
8 feature of the plan, changes before the account is opened, and if,  
9 as a result of such change, the consumer elects not to enter into  
10 the plan agreement, the creditor shall refund all fees paid by the  
11 consumer in connection with such application.

12 (5) (a) No nonrefundable fee may be imposed by a creditor or  
13 any other person in connection with any application by  
14 a consumer to establish an account under any revolving  
15 charge account plan which provides for extensions of  
16 credit which are secured by a consumer's principal  
17 dwelling before the end of the three-day period  
18 beginning on the date such consumer receives the  
19 disclosure required under subsection (1) of Section 2-  
20 310.2 of this title and the pamphlet required under  
21 subsection (3) of Section 2-310.2 of this title with  
22 respect to such application.

23 (b) For purposes of determining when a nonrefundable fee  
24 may be imposed in accordance with this subsection if

1 the disclosures and pamphlet referred to in paragraph  
2 (a) of this subsection are mailed to the consumer, the  
3 date of the receipt of the disclosures by such  
4 consumer shall be deemed to be three (3) business days  
5 after the date of mailing by the creditor.

6 SECTION 23. AMENDATORY 14A O.S. 2001, Section 2-313, is  
7 amended to read as follows:

8 Section 2-313. (1) No seller or lessor shall engage in this  
9 state in false or misleading advertising concerning the terms or  
10 conditions of credit with respect to a consumer credit sale or  
11 consumer lease.

12 (2) Without limiting the generality of subsection (1) of this  
13 section and without requiring a statement of rate of credit service  
14 charge if the credit service charge is not more than Five Dollars  
15 (\$5.00) when the amount financed does not exceed Seventy-five  
16 Dollars (\$75.00), or Seven Dollars and fifty cents (\$7.50) when the  
17 amount financed exceeds Seventy-five Dollars (\$75.00), an  
18 advertisement with respect to a consumer credit sale made by the  
19 posting of a public sign, or by catalog, magazine, newspaper, radio,  
20 television or similar mass media, is misleading if:

21 (a) it states the rate of credit service charge and the  
22 rate is not stated in the form required by the  
23 provisions on calculation of rate to be disclosed  
24 under Section 2-304 of this title; or



1 (b) it states the dollar amounts of the credit service  
2 charge or installment payments, and does not also  
3 state the rate of any credit service charge, the  
4 downpayment, if any, and the terms of repayment.

5 (3) In this section a catalog or other multiple-page  
6 advertisement is considered a single advertisement if it clearly and  
7 conspicuously displays a credit terms table setting forth the  
8 information required by this section.

9 (4) This section imposes no liability on the owner or  
10 personnel, as such, of any medium in which an advertisement appears  
11 or through which it is disseminated.

12 (5) Advertising which complies with the Federal Consumer Credit  
13 Protection Act does not violate subsection (2) of this section.

14 (6) The provisions of this section do not apply to  
15 advertisements of residential real estate except to the extent  
16 required by ~~Administrator's~~ rule of the Attorney General.

17 (7) If any advertisement to aid, promote, or assist, directly  
18 or indirectly, the extension of consumer credit through a revolving  
19 charge account plan under which extensions of credit are secured by  
20 the consumer's principal dwelling states, affirmatively or  
21 negatively, any of the specific terms of the plan, including any  
22 periodic payment amount required under such plan, such advertisement  
23 shall also clearly and conspicuously set forth the following  
24

1 information, in such form and manner as the ~~Administrator~~ Attorney  
2 General may require:

3 (a) Any fee the amount of which is determined as a  
4 percentage of the credit limit applicable to an  
5 account under the plan and an estimate of the  
6 aggregate amount of other fees for opening the  
7 account, based on the creditor's experience with the  
8 plan and stated as a single amount or as a reasonable  
9 range;

10 (b) In any case in which periodic rates may be used to  
11 compute the credit service charge, the periodic rates  
12 expressed as an annual percentage rate;

13 (c) The highest annual percentage rate which may be  
14 imposed under the plan; and

15 (d) Any other information the ~~Administrator~~ Attorney  
16 General may by rule require.

17 (8) If any advertisement described in subsection (7) of this  
18 section contains a statement that any interest expense incurred with  
19 respect to the plan is or may be tax deductible, the advertisement  
20 shall not be misleading with respect to such deductibility.

21 (9) No advertisement described in subsection (7) of this  
22 section with respect to any home equity account may refer to such  
23 credit as "free money" or use other terms determined by the  
24 ~~Administrator~~ Attorney General by rule to be misleading.

1 (10) (a) If any advertisement described in subsection (7) of  
2 this section includes an initial annual percentage  
3 rate that is not determined by the index or formula  
4 used to make later interest rate adjustments, the  
5 advertisement shall also state with equal prominence  
6 the current annual percentage rate that would have  
7 been applied using the index or formula if such  
8 initial rate had not been offered;

9 (b) The annual percentage rate required to be disclosed  
10 under the paragraph (a) rate of this subsection rate  
11 must be current as of a reasonable time given the  
12 media involved; and

13 (c) Any advertisement to which paragraph (a) of this  
14 subsection applies shall also state the period of time  
15 during which the initial annual percentage rate  
16 referred to in such paragraph will be in effect.

17 (11) If any advertisement described in subsection (7) of this  
18 section contains a statement regarding the minimum monthly payment  
19 under the plan, the advertisement shall also disclose, if  
20 applicable, the fact that the plan includes a balloon payment.

21 (12) For purposes of this section and Section 2-310.2 of this  
22 title, the term "balloon payment" means, with respect to any  
23 revolving charge account plan under which extensions of credit are  
24

1 secured by the consumer's principal dwelling, any repayment option  
2 under which:

3 (a) the account holder is required to repay the entire  
4 amount of any outstanding balance as of a specified  
5 date or at the end of a specified period of time, as  
6 determined in accordance with the terms of the  
7 agreement pursuant to which such credit is extended;  
8 and

9 (b) the aggregate amount of the minimum periodic payments  
10 required would not fully amortize such outstanding  
11 balance by such date or at the end of such period.

12 (13) (a) If an advertisement for a consumer lease includes a  
13 statement of the amount of any payment or a statement  
14 that any or no initial payment is required, the  
15 advertisement shall clearly and conspicuously state,  
16 as applicable:

17 (i) the transaction advertised is a lease;

18 (ii) the total amount of any initial payments required  
19 on or before consummation of the lease or  
20 delivery of the property, whichever is later;

21 (iii) that a security deposit is required;

22 (iv) the number, amount, and timing of scheduled  
23 payments; and  
24

1 (v) with respect to a lease in which the liability of  
2 the consumer at the end of the lease term is  
3 based on the anticipated residual value of the  
4 property, that an extra charge may be imposed at  
5 the end of the lease term.

6 (b) No owner or employee of any entity that serves as a  
7 medium in which an advertisement appears or through  
8 which an advertisement is disseminated, shall be liable  
9 under this subsection.

10 (c) (i) An advertisement by radio broadcast to aid,  
11 promote, or assist, directly or indirectly, any  
12 consumer lease shall be deemed to be in  
13 compliance with the requirements of paragraph (a)  
14 of this subsection if such advertisement clearly  
15 and conspicuously:

16 (aa) states the information required by  
17 subparagraphs (i) and (ii) of paragraph (a)  
18 of this subsection;

19 (bb) states the number, amounts, due dates or  
20 periods of scheduled payments, and the total  
21 of such payments under the lease;

22 (cc) includes:

23 (I) a referral to:  
24

1 (A) a toll-free telephone number  
2 established in accordance with  
3 subparagraph (ii) of this  
4 paragraph that may be used by  
5 consumers to obtain the  
6 information required under  
7 paragraph (a) of this subsection;  
8 or

9 (B) a written advertisement that  
10 appears in a publication in  
11 general circulation in the  
12 community served by the radio  
13 station on which such  
14 advertisement is broadcast during  
15 the period beginning three (3)  
16 days before any such broadcast and  
17 ending ten (10) days after such  
18 broadcast and includes the  
19 information required to be  
20 disclosed under paragraph (a) of  
21 this subsection; and

22 (II) the name and dates of any publication  
23 referred to in clause (B) of  
24 subdivision (I) of this division; and

1 (dd) any other information which the  
2 ~~Administrator~~ Attorney General determines  
3 necessary.

4 (ii) In the case of a radio broadcast advertisement  
5 described in subparagraph (i) of this paragraph  
6 that includes a referral to a toll-free telephone  
7 number, the lessor who offers the consumer lease  
8 shall:

9 (aa) establish such a toll-free telephone number  
10 not later than the date on which the  
11 advertisement including the referral is  
12 broadcast;

13 (bb) maintain such telephone number for a period  
14 of not less than ten (10) days, beginning on  
15 the date of any such broadcast; and

16 (cc) provide the information required under  
17 paragraph (a) of this subsection with  
18 respect to the lease to any person who calls  
19 such number.

20 The information required to be provided in division (cc) of this  
21 subparagraph shall be provided verbally or, if requested by the  
22 consumer, in written form.  
23  
24

1 Nothing in this paragraph shall affect the requirements of law  
2 as such requirements apply to advertisement by any medium other than  
3 radio broadcast.

4 SECTION 24. AMENDATORY 14A O.S. 2001, Section 2-402, is  
5 amended to read as follows:

6 Section 2-402. A seller may not use multiple agreements with  
7 intent to obtain a higher credit service charge than would otherwise  
8 be permitted by this article or to avoid disclosure of an annual  
9 percentage rate pursuant to the provisions on disclosure and  
10 advertising (Part 3). The excess amount of credit service charge  
11 provided for in agreements in violation of this section is an excess  
12 charge for the purposes of the provisions on the effect of  
13 violations on rights of parties ~~( as provided in Section 5-202)~~ of  
14 this title and the provisions on civil actions by ~~Administrator~~  
15 the Attorney General as provided in Section 6-113 of this title.

16 SECTION 25. AMENDATORY 14A O.S. 2001, Section 2-403, is  
17 amended to read as follows:

18 Section 2-403. In a consumer credit sale or consumer lease, the  
19 seller or lessor may not take a negotiable instrument other than a  
20 check as evidence of the obligation of the buyer or lessee. A  
21 holder is not in good faith if he takes a negotiable instrument with  
22 notice that it is issued in violation of this section. A holder in  
23 due course is not subject to the liabilities set forth in the  
24 provisions on the effect of violations on rights of parties ~~( as~~



1 provided in Section 5-202 of this title and the provisions on civil  
2 actions by ~~Administrator~~ ( the Attorney General as provided in  
3 Section 6-113) of this title.

4 SECTION 26. AMENDATORY 14A O.S. 2001, Section 2-416, is  
5 amended to read as follows:

6 Section 2-416. (1) If a seller makes a change in the terms of  
7 a revolving charge account without complying with this section any  
8 additional cost or charge to the buyer resulting from the change is  
9 an excess charge and subject to the remedies available to debtors ~~(~~  
10 as provided in Section 5-202) of this title and to the ~~Administrator~~  
11 ~~(~~ Attorney General as provided in Section 6-113) of this title.

12 (2) A seller may change the terms of a revolving charge account  
13 whether or not the change is authorized by prior agreement. Except  
14 as provided in subsection (3), the seller shall give to the buyer  
15 written notice of any change at least three times, with the first  
16 notice at least six (6) months before the effective date of the  
17 change.

18 (3) The notice specified in subsection (2) is not required if:

19 (a) the buyer after receiving notice of the change agrees  
20 in writing to the change;

21 (b) the buyer elects to pay an amount designated on a  
22 billing statement (subsection (2) of Section 2-310) as  
23 including a new charge for a benefit offered to the  
24 buyer when the benefit and charge constitute the

1 change in terms and when the billing statement also  
2 states the amount payable if the new charge is  
3 excluded;

4 (c) the change involves no significant cost to the buyer;

5 (d) the buyer has previously consented in writing to the  
6 kind of change made and notice of the change is given  
7 to the buyer at least fifteen (15) days prior to the  
8 effective date of the change;

9 (e) the change applies only to purchases made or  
10 obligations incurred after a date specified in a  
11 notice of the change given at least fifteen (15) days  
12 prior to the effective date of the change; or

13 (f) the change involves late payment charges or over-the-  
14 limit charges.

15 (4) The notice provided for in this section is given to the  
16 buyer when mailed to the buyer at the address used by the seller for  
17 sending periodic billing statements.

18 SECTION 27. AMENDATORY 14A O.S. 2001, Section 3-202, is  
19 amended to read as follows:

20 Section 3-202. (1) In addition to the loan finance charge  
21 permitted by this part, a lender may contract for and receive the  
22 following additional charges in connection with a consumer loan:

23 (a) official fees that are itemized and disclosed in  
24 accordance with rules of the ~~Administrator~~ Attorney

1           General, reasonable closing costs and taxes, including  
2           but not limited to any tax levied on security  
3           instruments or on documents evidencing indebtedness if  
4           the payment of such taxes is a precondition for  
5           recording the instrument securing the evidence of  
6           indebtedness;

7           (b) charges for insurance as described in subsection (3)  
8           of this section;

9           (c) charges for other benefits, including insurance,  
10          conferred on the debtor, if the benefits are of value  
11          to the debtor and if the charges are reasonable in  
12          relation to the benefits, are of a type which is not  
13          for credit, and are excluded as permissible additional  
14          charges by rule adopted by the ~~Administrator~~ Attorney  
15          General;

16          (d) a charge for processing the debtor's application for  
17          credit, including but not limited to costs of services  
18          such as credit reports, credit investigations,  
19          appraisals and fees for preparation of loan-related  
20          documents; and

21          (e) fees related to any pest infestation or flood hazard  
22          inspections conducted prior to closing.

23          (2) In addition to the charges permitted under subsection (1)  
24          of this section, a lender may contract for and receive the following

1 additional charges in connection with a revolving loan account  
2 accessed by a lender credit card or similar arrangement:

3 (a) annual or membership fees or service charges whether  
4 assessed on an annual or other periodic basis which  
5 entitles the user to purchase goods or services from  
6 at least one hundred persons not related to the issuer  
7 of the lender credit card or similar arrangement,  
8 under an arrangement pursuant to which the debts  
9 resulting from the purchases are payable to the  
10 issuer;

11 (b) transaction fees or charges for each separate charge  
12 or purchase under the revolving loan account;

13 (c) cash advance fees for each separate cash advance under  
14 the revolving loan account;

15 (d) charges for stopping payment at the debtor's request  
16 on any check, negotiable order of withdrawal or share  
17 draft written or issued by the debtor to access the  
18 revolving loan account; and

19 (e) reasonable charges for services rendered or for  
20 reimbursement of expenses incurred by the lender in  
21 connection with the revolving loan account at the  
22 request of the debtor, including, but not limited to,  
23 search charges and charges for furnishing copies of  
24 documents.

1 (3) An additional charge may be made for insurance written in  
2 connection with the loan, other than insurance protecting the lender  
3 against the debtor's default or other credit loss:

4 (a) with respect to insurance against loss of or damage to  
5 property, or against liability, if the lender  
6 furnishes a clear and specific statement in writing to  
7 the debtor, setting forth the cost of the insurance if  
8 obtained from or through the lender, and stating that  
9 the debtor may choose the person through whom the  
10 insurance is to be obtained; and

11 (b) with respect to consumer credit insurance providing  
12 life, accident, or health coverage, if the insurance  
13 coverage is not a factor in the approval by the lender  
14 of the extension of credit, and this fact is clearly  
15 disclosed in writing to the debtor, and if in order to  
16 obtain the insurance in connection with the extension  
17 of credit, the debtor gives specific affirmative  
18 written indication of the debtor's desire to do so  
19 after written disclosure to the debtor of the cost  
20 thereof.

21 (4) With respect to a revolving loan account accessed by a  
22 lender or seller credit card or similar arrangement, a lender or  
23 seller may not contract for or receive any penalty, increased annual  
24 fee, or any similar fee or additional charge, because the account

1 holder pays the account balance in full within a billing cycle, nor  
2 any fee or charge for non-use. This provision shall not prohibit a  
3 lender or seller from contracting for or receiving, with respect to  
4 the applicable portion of a billing cycle, the same annual rate of  
5 loan finance charge, as well as the same cash-advance fee, that  
6 would apply if the account balance were not paid in full within the  
7 billing cycle.

8 SECTION 28. AMENDATORY 14A O.S. 2001, Section 3-203, is  
9 amended to read as follows:

10 Section 3-203. (1) With respect to a precomputed consumer  
11 loan, refinancing, or consolidation, the parties may contract for a  
12 delinquency charge on any installment not paid in full within ten  
13 (10) days after its scheduled due date in an amount not less than  
14 Five Dollars (\$5.00) nor more than any of the following, whichever  
15 is greater:

- 16 (a) five percent (5%) of the unpaid amount of the  
17 installment,
- 18 (b) the dollar amount provided by rule of the  
19 ~~Administrator~~ Attorney General for this section  
20 pursuant to Section 1-106 of this title, or
- 21 (c) the deferral charge (subsection (1) of Section 3-204)  
22 that would be permitted to defer the unpaid amount of  
23 the installment for the period that it is delinquent.

24

1 (2) A delinquency charge under paragraph (a) of subsection (1)  
2 may be collected only once on an installment however long it remains  
3 in default. No delinquency charge may be collected if the  
4 installment has been deferred and a deferral charge (Section 3-204)  
5 has been paid or incurred. A delinquency charge may be collected at  
6 the time it accrues or at any time thereafter.

7 (3) No delinquency charge may be collected on an installment  
8 which is paid in full within ten (10) days after its scheduled  
9 installment due date even though an earlier maturing installment or  
10 a delinquency charge on an earlier installment may not have been  
11 paid in full. For purposes of this subsection payments are applied  
12 first to current installments and then to delinquent installments.

13 (4) If two installments or parts thereof of a precomputed loan  
14 are in default for ten (10) days or more, the lender may elect to  
15 convert the loan from a precomputed loan to one in which the loan  
16 finance charge is based on unpaid balances. In this event he shall  
17 make a rebate pursuant to the provisions on rebate upon prepayment ~~+~~  
18 pursuant to Section 3-210 ~~of this title~~ as of the maturity date of  
19 the first delinquent installment, and thereafter may make a loan  
20 finance charge as authorized by the provisions on loan finance  
21 charge for consumer loans ~~+~~ provided in Section 3-201 ~~of this title~~  
22 or the provisions on loan finance charge for supervised loans ~~+~~  
23 provided in Section 3-508A ~~of this title~~, whichever is appropriate.  
24 The amount of the rebate shall not be reduced by the amount of any

1 permitted minimum charge ~~( provided in Section 3-210)~~ of this title.  
2 If the lender proceeds under this subsection, any delinquency or  
3 deferral charges made with respect to installments due at or after  
4 the maturity date of the first delinquent installment shall be  
5 rebated, and no further delinquency or deferral charges shall be  
6 made.

7 (5) With respect to a consumer loan, refinancing or  
8 consolidation, which is not precomputed, including a revolving loan  
9 account accessed by lender credit card or similar arrangement, the  
10 parties may contract for a delinquency charge on any installment not  
11 paid in full within ten (10) days after its scheduled due date in an  
12 amount not less than Five Dollars (\$5.00) nor more than the greater  
13 of five percent (5%) of the unpaid amount of the payment or the  
14 dollar amount provided by the rule of the ~~Administrator~~ Attorney  
15 General in effect for this section pursuant to Section 1-106 of this  
16 title. No more than one delinquency charge may be imposed in each  
17 billing cycle and it may be collected at any time after it accrues  
18 either independently of any payment made on the account or from a  
19 payment made if the lender discloses delinquency charges to the  
20 debtor as they are imposed and informs the debtor of the full amount  
21 that the debtor must pay for the applicable period in order to  
22 remain current on the account.

23 SECTION 29. AMENDATORY 14A O.S. 2001, Section 3-302, is  
24 amended to read as follows:



1 Section 3-302. (1) The disclosures required by this part,  
2 including those adopted by ~~Administrator's~~ rule of the Attorney  
3 General in conformity to subsection (2) of Section 6-104 of this  
4 title, shall be made as provided by this title and as provided by  
5 rules adopted by the ~~Administrator~~ Attorney General not inconsistent  
6 with the Federal Consumer Credit Protection Act.

7 (2) Without limitation to the generality of subsection (1) of  
8 this section, required disclosures:

9 (a) shall be made clearly and conspicuously;

10 (b) shall be in writing, a copy of which shall be  
11 delivered to the debtor;

12 (c) may use terminology different from that employed in  
13 this part if it conveys substantially the same  
14 meaning;

15 (d) need not be contained in a single writing or made in  
16 the order set forth in this part;

17 (e) may be supplemented by additional information or  
18 explanations supplied by the lender except as  
19 otherwise provided in Section 3-306 of this title and  
20 in this section;

21 (f) need be made only to the extent applicable;

22 (g) shall be made on the assumption that all scheduled  
23 payments will be made when due;

24

- 1 (h) will comply with this part although rendered  
2 inaccurate by any act, occurrence, or agreement  
3 subsequent to the required disclosure;
- 4 (i) shall disclose more conspicuously than other terms,  
5 data or information, except information relating to  
6 the identity of the lender, the terms "annual  
7 percentage rate" and "finance charge";
- 8 (j) shall be made to the person who is obligated on a  
9 consumer loan, except that in a transaction involving  
10 more than one debtor and which is not a transaction  
11 under Section 5-204 of this title, a disclosure  
12 statement or a copy of any evidence of indebtedness  
13 need not be given to more than one of the debtors if  
14 the person given disclosure is a primary obligor;
- 15 (k) may, in accordance with the regulations of the  
16 ~~Administrator~~ Attorney General, be given in the form  
17 of estimates where the provider of any portion of the  
18 information required to be disclosed is not in a  
19 position to know exact information. In the case of  
20 any consumer credit transaction, with regard to a  
21 portion of the interest which is determined on a per  
22 diem basis and is to be collected upon the  
23 consummation of such transaction, any disclosure with  
24 respect to such portion of interest shall be deemed to

1 be accurate for purposes of this title if the  
2 disclosure is based on information actually known to  
3 the creditor at the time that the disclosure documents  
4 are being prepared for the consummation of the  
5 transaction;

6 (1) may, in accordance with the regulations of the  
7 ~~Administrator~~ Attorney General, be within any  
8 tolerances for numerical disclosures, other than the  
9 annual percentage rate, determined by the  
10 ~~Administrator~~ Attorney General to be necessary to  
11 facilitate compliance and to not result in misleading  
12 disclosures or disclosures that circumvent the  
13 purposes of this part; and

14 (m) shall be made by the lender or, if more than one, the  
15 lender specified in the regulations of the  
16 ~~Administrator~~ Attorney General.

17 (3) Subject to subsection (1) of this section and except for  
18 loans made by telephone or mail pursuant to Section 3-305 of this  
19 title, loans made pursuant to a binding commitment pursuant to  
20 subsection (3) of Section 3-306 of this title, a residential  
21 mortgage transaction pursuant to Section 3-310 of this title and  
22 such other transactions as provided by rule of the ~~Administrator~~  
23 Attorney General in conformity to subsection (2) of Section 6-104 of  
24 this title:

1 (a) the disclosures required by this part shall be made  
2 before credit is extended, but may be made in the  
3 loan, refinancing, or consolidation agreement, or  
4 other evidence of indebtedness to be signed by the  
5 debtor if, to the extent required by rule of the  
6 ~~Administrator~~ Attorney General, in closed-end credit  
7 they are conspicuously segregated from all other  
8 terms, data, or information provided; and

9 (b) if an evidence of indebtedness is signed by the  
10 debtor, the lender shall give the debtor a copy when  
11 the writing is signed.

12 (4) Except as provided with respect to rescission by a debtor  
13 pursuant to Section 5-204 of this title and civil liability for  
14 violations of disclosure provisions pursuant to subsection (4) of  
15 Section 5-203 of this title, written acknowledgment of receipt by a  
16 debtor to whom a statement is required to be given pursuant to this  
17 part:

18 (a) in an action or proceeding by or against the original  
19 lender, creates a presumption that the statement was  
20 given; and

21 (b) in an action or proceeding by or against an assignee  
22 without knowledge to the contrary when the assignee  
23 acquires the obligation, is conclusive proof of the  
24 delivery of the statement and, unless the violation is

1                   apparent on the face of the statement, of compliance  
2                   with this part.

3           (5) The information required by Section 3-309.1 of this title  
4 shall:

5           (a) be disclosed in the form and manner which the  
6           ~~Administrator~~ Attorney General shall prescribe by  
7           rule; and

8           (b) as applicable be placed in a conspicuous and prominent  
9           location on or with any written application,  
10           solicitation, or other document or paper with respect  
11           to which such disclosure is required.

12           (6) In the rules prescribed under paragraph (a) of subsection  
13 (5) of this section, the ~~Administrator~~ Attorney General shall  
14 require that the disclosure of such information shall, to the extent  
15 the ~~Administrator~~ Attorney General determines to be practicable and  
16 appropriate, be in the form of a table which:

17           (a) contains clear and concise headings for each item of  
18           such information; and

19           (b) provides a clear and concise form for stating each  
20           item of information required to be disclosed under  
21           each such heading.

22           (7) In prescribing the form of the table under subsection (6)  
23 of this section the ~~Administrator~~ Attorney General may:  
24

1 (a) list the items required to be included in the table in  
2 a different order than the order in which such items  
3 are set forth in subsection (1) or (5)(a) of Section  
4 3-309.1 of this title; and

5 (b) subject to subsection (8) of this section, employ  
6 terminology which is different than the terminology  
7 which is employed in subsections (1) through (6) of  
8 Section 3-309.1 of this title if such terminology  
9 conveys substantially the same meaning.

10 (8) Either the heading or the statement under the heading which  
11 relates to the time period referred to in paragraphs (g) and (h) of  
12 subsection (1) of Section 3-309.1 of this title shall contain the  
13 term "grace period".

14 (9) (a) Except as provided in paragraph (b), the disclosures  
15 required under subsection (1) of Section 3-309.2 of  
16 this title with respect to any revolving loan account  
17 plan which provides for any extension of credit which  
18 is secured by the consumer's principal dwelling and  
19 the pamphlet required under subsection (3) of Section  
20 3-309.2 of this title shall be provided to any  
21 consumer at the time the creditor distributes an  
22 application to establish an account under such plan to  
23 such consumer.

1 (b) In the case of telephone applications, applications  
2 contained in magazines or other publications, or  
3 applications provided by a third party, the  
4 disclosures required under subsection (1) of Section  
5 3-309.2 of this title and the pamphlet required under  
6 subsection (3) of Section 3-309.2 of this title shall  
7 be provided by the creditor before the end of the  
8 three-day period beginning on the date the creditor  
9 receives a completed application from a consumer.

10 (c) Except as provided in paragraph (b) of this  
11 subsection, the disclosures required under subsection  
12 (1) of Section 3-309.2 of this title shall be provided  
13 on or with any application to establish an account  
14 under a revolving loan account plan which provides for  
15 any extension of credit which is secured by the  
16 consumer's principal dwelling.

17 (d) The disclosures required under subsection (1) of  
18 Section 3-309.2 of this title shall be conspicuously  
19 segregated from all other terms, data, or additional  
20 information provided in connection with the  
21 application, either by grouping the disclosures  
22 separately on the application form or by providing the  
23 disclosures on a separate form, in accordance with  
24 rules of the ~~Administrator~~ Attorney General.

1 (e) The disclosures required by paragraphs (e), (f) and  
2 (g) of subsection (1) of Section 3-309.2 of this title  
3 shall precede all of the other required disclosures.

4 (f) Whether or not the disclosures required under  
5 subsection (1) of Section 3-309.2 of this title are  
6 provided on the application form, the variable rate  
7 information described in paragraph (b) of subsection  
8 (1) of Section 3-309.2 of this title may be provided  
9 separately from the other information required to be  
10 disclosed.

11 (g) In preparing the table required under subparagraph  
12 (vii) of paragraph (b) of subsection (1) of Section 3-  
13 309.2 of this title, the creditor shall consistently  
14 select one rate of interest for each year and the  
15 manner of selecting the rate from year to year shall  
16 be consistent with the plan.

17 SECTION 30. AMENDATORY 14A O.S. 2001, Section 3-304, is  
18 amended to read as follows:

19 Section 3-304. (1) Except as otherwise specifically provided,  
20 if a lender is required to give to a debtor a statement of the rate  
21 of the loan finance charge, the lender shall state the rate in terms  
22 of an annual percentage rate as defined in subsection (2) or in  
23 terms of a corresponding nominal annual percentage rate as defined  
24 in subsection (3), whichever is appropriate.



1 (2) "Annual percentage rate"

2 (a) with respect to a consumer loan other than one made  
3 pursuant to a revolving loan account, is either:

4 (i) that nominal annual percentage rate which, when  
5 applied to the unpaid balances of the principal  
6 calculated according to the actuarial method,  
7 will yield a sum equal to the amount of the loan  
8 finance charge; or

9 (ii) that rate determined by any method prescribed by  
10 rule by the ~~Administrator~~ Attorney General as a  
11 method which materially simplifies computation  
12 while retaining reasonable accuracy as compared  
13 with the rate determined pursuant to subparagraph  
14 (i);

15 (b) with respect to a consumer loan made pursuant to a  
16 revolving loan account, is the quotient expressed as a  
17 percentage of the total loan finance charge for the  
18 period to which it relates divided by the amount upon  
19 which the loan finance charge for that period is  
20 based, multiplied by the number of these periods in a  
21 year.

22 (3) "Corresponding nominal annual percentage rate" is the  
23 percentage or percentages used to calculate the loan finance charge  
24 for one billing cycle or other period pursuant to a revolving loan

1 account multiplied by the number of billing cycles or periods in a  
2 year.

3 (4) If a lender is permitted to make the same loan finance  
4 charge for all principal amounts within a specified range under  
5 subsection (5) of Section 3-201 of this title or for all balances  
6 within a specified range, under subsection (4) of Section 3-201 and  
7 subsection (5) of Section 3-508A of this title, the lender shall  
8 state the annual percentage rate or corresponding nominal annual  
9 percentage rate, whichever is appropriate, as applied to the median  
10 amount of the range within which the actual principal amount or  
11 balance is included.

12 (5) A statement of rate complies with this part if it does not  
13 vary from the accurately computed rate by more than the following  
14 tolerances:

15 (a) the annual percentage rate may be rounded to the  
16 nearest quarter of one percent ( $1/4$  of 1%) or may fall  
17 within a tolerance not greater than one-eighth of one  
18 percent ( $1/8$  of 1%) more or less than the actual rate  
19 for consumer loans payable in substantially equal  
20 installments when a lender determines the total loan  
21 finance charge on the basis of a single add-on,  
22 discount, periodic, or other rate, and the rate is  
23 converted into an annual percentage rate under  
24

1 procedures prescribed by rule by the ~~Administrator~~  
2 Attorney General;

3 (b) the ~~Administrator~~ Attorney General may authorize by  
4 rule the use of rate tables or charts which may  
5 provide for the disclosure of annual percentage rates  
6 which vary from the rate determined in accordance with  
7 paragraph (a) by not more than the tolerances the  
8 ~~Administrator~~ Attorney General may allow; the  
9 ~~Administrator~~ Attorney General may not allow a  
10 tolerance greater than eight percent (8%) of that rate  
11 except to simplify compliance where irregular payments  
12 are involved; and

13 (c) in case a lender determines the annual percentage rate  
14 in a manner other than as described in paragraph (a)  
15 or (b), the ~~Administrator~~ Attorney General may  
16 authorize by rule other reasonable tolerances.

17 (6) In connection with credit transactions not under an open-end  
18 credit plan that are secured by real property or a dwelling, the  
19 disclosure of the finance charge and other disclosures affected by  
20 any finance charge:

21 (a) shall be treated as being accurate for purposes of this  
22 title if the amount disclosed as the finance charge:

23 (i) does not vary from the actual finance charge by  
24 more than One Hundred Dollars (\$100.00); or

1 (ii) is greater than the amount required to be  
2 disclosed under this title; and

3 (b) shall be treated as being accurate for purposes of  
4 Section 5-204 of this title if:

5 (i) except as provided in subparagraph (ii) of this  
6 paragraph, the amount disclosed as the finance  
7 charge does not vary from the actual finance  
8 charge by more than an amount equal to one-half  
9 of one percent (1/2 of 1%) of the total amount of  
10 credit extended; or

11 (ii) in the case of a transaction, other than a  
12 subsection 10 mortgage referred to in subsection  
13 (10) of Section 1-301 of this title, which:

14 (aa) is a refinancing of the principal balance  
15 then due and any accrued and unpaid finance  
16 charges of a residential mortgage  
17 transaction as defined in subsection (17) of  
18 Section 1-301 of this title, or is any  
19 subsequent refinancing of such a  
20 transaction; and

21 (bb) does not provide any new consolidation or  
22 new advance;

23

24

1 if the amount disclosed as the finance charge does not vary from the  
2 actual finance charge by more than an amount equal to one percent  
3 (1%) of the total amount of credit extended.

4 SECTION 31. AMENDATORY 14A O.S. 2001, Section 3-306, is  
5 amended to read as follows:

6 Section 3-306. (1) This section applies to a consumer loan not  
7 made pursuant to a revolving loan account under Section 3-309 of  
8 this title.

9 (2) The lender shall give to the debtor the following  
10 information:

11 (a) The identity of the lender required to make  
12 disclosure.

13 (b) (i) The amount financed, using that term, which shall  
14 be the amount of credit of which the debtor has  
15 actual use. This amount shall be computed as  
16 follows, but the computations need not be  
17 disclosed and shall not be disclosed with the  
18 disclosures conspicuously segregated in  
19 accordance with the rule of the ~~Administrator~~  
20 Attorney General:

21 (aa) take the principal amount of the loan;

22 (bb) add any charges which are not part of the  
23 finance charge or of the principal amount of  
24 the loan and which are financed by the

1 debtor, including the cost of any items  
2 excluded from the finance charge pursuant to  
3 Section 3-202 of this title; and

4 (cc) subtract any charges which are part of the  
5 finance charge but which will be paid by the  
6 debtor before or at the time of the  
7 consummation of the transaction, or have  
8 been withheld from the proceeds of the  
9 credit.

10 (ii) In conjunction with the disclosure of the amount  
11 financed, a lender shall provide a statement of  
12 the debtor's right to obtain, upon a written  
13 request, a written itemization of the amount  
14 financed. The statement shall include spaces for  
15 a "yes" and "no" indication to be initialed by  
16 the debtor to indicate whether the debtor wants a  
17 written itemization of the amount financed. Upon  
18 receiving an affirmative indication, the lender  
19 shall provide, at the time other disclosures are  
20 required to be furnished, a written itemization  
21 of the amount financed. For the purposes of this  
22 subparagraph, "itemization of the amount  
23 financed" means a disclosure of the following  
24 items, to the extent applicable:

1 (aa) the amount that is or will be paid directly  
2 to the debtor;

3 (bb) the amount that is or will be credited to  
4 the debtor's account to discharge  
5 obligations owed to the lender;

6 (cc) each amount that is or will be paid to third  
7 persons by the lender on the debtor's  
8 behalf, together with an identification of  
9 or reference to the third person; and

10 (dd) the total amount of any charges described in  
11 the division (cc) of subparagraph (i) of  
12 this paragraph.

13 (c) The "finance charge", not itemized, using that term.

14 (d) The finance charge expressed as an "annual percentage  
15 rate", using that term. This shall not be required if  
16 the amount financed does not exceed Seventy-five  
17 Dollars (\$75.00) and the finance charge does not  
18 exceed Five Dollars (\$5.00), or if the amount financed  
19 exceeds Seventy-five Dollars (\$75.00) and the finance  
20 charge does not exceed Seven Dollars and fifty cents  
21 (\$7.50).

22 (e) The sum of the amount financed and the finance charge,  
23 which shall be termed the "total of payments".  
24

1 (f) The number, amount, and due dates or period of  
2 payments scheduled to repay the total of payments.

3 (g) Descriptive explanations of the terms "amount  
4 financed", "finance charge", "annual percentage rate"  
5 and "total of payments", as specified by the  
6 ~~Administrator~~ Attorney General.

7 (h) Where the credit is secured, a statement that a  
8 security interest has been taken in (i) the property  
9 which is purchased as part of the credit transaction,  
10 or (ii) property not purchased as part of the credit  
11 transaction identified by item or type.

12 (i) Any dollar charge or percentage amount which may be  
13 imposed by a lender solely on account of a late  
14 payment, other than a deferral or extension charge.

15 (j) A statement indicating whether or not the debtor is  
16 entitled to a rebate of any finance charge upon  
17 refinancing or prepayment in full pursuant to  
18 acceleration or otherwise, if the obligation involves  
19 a precomputed finance charge. A statement indicating  
20 whether or not a penalty will be imposed in those same  
21 circumstances if the obligation involves a finance  
22 charge computed from time to time by application of a  
23 rate to the unpaid principal balance.



1 (k) A statement that the debtor should refer to the  
2 appropriate contract document for any information such  
3 document provides about nonpayment, default, the right  
4 to accelerate the maturity of the debt, and prepayment  
5 rebates and penalties.

6 (l) In any transaction in which a mortgage, deed of trust,  
7 or equivalent consensual security interest is created  
8 or retained against the debtor's dwelling to finance  
9 the acquisition or initial construction of the  
10 dwelling, a statement indicating whether a subsequent  
11 purchaser or assignee of the debtor may assume the  
12 debt obligation on its original terms and conditions.

13 (m) In the case of any variable interest rate residential  
14 mortgage transaction, in disclosures provided at  
15 application as prescribed by the ~~Administrator~~  
16 Attorney General for a variable rate transaction  
17 secured by the consumer's principal dwelling, at the  
18 option of the creditor, a statement that the periodic  
19 payments may increase or decrease substantially, and  
20 the maximum interest rate and payment for a ten-  
21 thousand-dollar loan originated at a recent interest  
22 rate, as determined by the ~~Administrator~~ Attorney  
23 General, assuming the maximum periodic increases in  
24 rates and payments under the program, or a historical

1 example illustrating the effects of interest rate  
2 changes implemented according to the loan program.

3 (3) Except as rules of the ~~Administrator~~ Attorney General may  
4 provide, if a lender makes a binding commitment to make a consumer  
5 loan by allowing the debtor to draw on the lender and at the time  
6 the commitment is made the amount of the loan has not been  
7 determined, the lender shall then give to the debtor a statement of  
8 the terms under which the loan will be made, including the rate of  
9 the loan finance charge calculated in accordance with the provisions  
10 on calculation of rate under Section 3-304 of this title. If the  
11 rate of the loan finance charge varies according to the amount of  
12 the loan, the lender shall state the minimum and maximum annual  
13 percentage rates which would be applicable to the amounts which  
14 could be drawn pursuant to the commitment. If additional charges  
15 under Section 3-202 of this title may be made, the lender shall also  
16 state the conditions under which the charges may be made, the amount  
17 or method of computing the charges, and a brief description or  
18 identification of the charges. Within a reasonable time after the  
19 loan is made, and in any event on or before the due date of the  
20 first installment, the lender shall give the information required by  
21 this section.

22 SECTION 32. AMENDATORY 14A O.S. 2001, Section 3-307, is  
23 amended to read as follows:  
24

1 Section 3-307. (1) Except as rules adopted by the  
2 ~~Administrator~~ Attorney General not inconsistent with the Federal  
3 Consumer Credit Protection Act may otherwise prescribe, if the  
4 lender refinances an existing balance owing with respect to a  
5 consumer loan, refinancing or consolidation pursuant to the  
6 provisions on refinancing (Section 3-205) or consolidates an  
7 existing balance owing from a previous consumer loan, refinancing,  
8 or consolidation with the amount financed from a subsequent consumer  
9 loan, refinancing, or consolidation or consolidates the unpaid  
10 balance of a consumer loan with the unpaid balance of a consumer  
11 credit sale so as to satisfy any existing balance and replace it  
12 with a new obligation undertaken by the same debtor, the lender  
13 shall make disclosure with respect to the new transaction to the  
14 debtor of the information and in the manner required by this part.

15 (2) A refinancing does not include:

- 16 (a) a renewal of a single payment obligation with no  
17 change in the original terms;
- 18 (b) a reduction in the annual percentage rate with a  
19 corresponding change in the payment schedule;
- 20 (c) an agreement involving a court proceeding;
- 21 (d) a change in the payment schedule or a change in  
22 collateral requirements as a result of the debtor's  
23 default or delinquency unless the rate is increased or  
24 the new amount financed exceeds the unpaid balance

1 plus earned finance charge and premiums for  
2 continuation of consumer credit insurance or insurance  
3 against loss of or damage to property or against  
4 liability arising out of the ownership or use of  
5 property; or

- 6 (e) the renewal of optional insurance purchased by the  
7 debtor and added to an existing transaction if  
8 disclosures relating to the initial purchase were  
9 provided in accordance with law.

10 SECTION 33. AMENDATORY 14A O.S. 2001, Section 3-309, is  
11 amended to read as follows:

12 Section 3-309. (1) Before opening any account under a  
13 revolving loan account plan, the creditor shall give to the consumer  
14 the following information:

- 15 (a) conditions under which a loan finance charge may be  
16 made, including the time period, if any, within which  
17 any credit extended may be repaid without incurring a  
18 loan finance charge, except that the creditor may, at  
19 his election and without disclosure, impose no such  
20 loan finance charge if payment is received after the  
21 termination of such period. If no time period is  
22 provided, the creditor shall disclose that fact;
- 23 (b) method of determining the balance upon which a loan  
24 finance charge will be computed;

1 (c) method of determining the amount of the loan finance  
2 charge including any minimum or fixed amount imposed  
3 as a finance charge, and where one or more periodic  
4 rates may be used to compute the loan finance charge,  
5 each such rate and the range of balances to which it  
6 is applicable;

7 (d) corresponding nominal annual percentage rate pursuant  
8 to subsection (3) of Section 3-304 of this title; if  
9 more than one corresponding nominal annual percentage  
10 rate may be used, each corresponding nominal annual  
11 percentage rate shall be stated;

12 (e) identification of additional charges which may be made  
13 and the method by which they will be determined;

14 (f) in cases where the creditor may retain or acquire a  
15 security interest in property to secure the balances  
16 resulting from credit extensions made pursuant to the  
17 revolving loan account, a statement that a security  
18 interest has been or will be taken in the property  
19 purchased as part of the credit transaction or  
20 property not purchased as part of the credit  
21 transaction identified by item or type;

22 (g) a statement in a form prescribed by and describing the  
23 protection provided by Sections 161 and 170 of the  
24 Federal Consumer Credit Protection Act to an obligor

1 and the responsibility of a creditor under Sections  
2 162 and 170 of the Federal Consumer Credit Protection  
3 Act; and

4 (h) in the case of any account under a revolving loan  
5 account plan which provides for any extension of  
6 credit which is secured by the consumer's principal  
7 dwelling, any information which:

8 (i) is required to be disclosed under subsection (1)  
9 of Section 3-309.2 of this title; and

10 (ii) the ~~Administrator~~ Attorney General determines is  
11 not described in any other paragraph of this  
12 subsection.

13 (2) If there is an outstanding balance at the end of the  
14 billing cycle or if a loan finance charge is made with respect to  
15 the billing cycle, the creditor shall give to the consumer the  
16 following information within a reasonable time after the end of the  
17 billing cycle:

18 (a) outstanding balance at the beginning of the billing  
19 cycle;

20 (b) the amount and date of each extension of credit made  
21 during the billing cycle and a brief identification of  
22 each extension of credit on or accompanying the  
23 statement in a form prescribed by regulations of the  
24 ~~Administrator~~ Attorney General to enable the consumer

1 to identify the transaction, or relate it to copies of  
2 sale vouchers or similar instruments previously  
3 furnished, except that a creditor's failure to  
4 disclose information in accordance with this paragraph  
5 shall not be deemed a failure to comply with this part  
6 if the creditor maintains procedures reasonably  
7 adapted to procure and provide such information and  
8 the creditor responds to and treats any inquiry for  
9 clarification or documentation as a billing error and  
10 an erroneously billed amount in accordance with  
11 Section 161 of the Federal Consumer Credit Protection  
12 Act. In lieu of complying with the requirements of  
13 the previous sentence and to the extent permitted by  
14 rule of the ~~Administrator~~ Attorney General, in the  
15 case of any transaction in which the creditor and a  
16 seller are related persons as defined by the  
17 ~~Administrator~~ Attorney General and the revolving loan  
18 account plan has fewer than fifteen thousand (15,000)  
19 accounts, the creditor may elect to provide only the  
20 amount and date of each extension of credit during the  
21 billing cycle and the seller's name and location where  
22 the transaction took place if a brief identification  
23 of the transaction has been previously furnished and  
24 the creditor responds to and treats any inquiry for

1 clarification or documentation as a billing error and  
2 an erroneously billed amount in accordance with  
3 Section 161 of the Federal Consumer Credit Protection  
4 Act;

5 (c) amount credited to the account during the billing  
6 cycle;

7 (d) amount of loan finance charge debited during the  
8 billing cycle, with an itemization or explanation to  
9 show the total amount of loan finance charge, if any,  
10 due to the application of one or more periodic  
11 percentages and the amount, if any, imposed as a  
12 minimum or fixed charge;

13 (e) the periodic percentage used to calculate the loan  
14 finance charge; if more than one periodic percentage  
15 is used, each percentage and the amount of the balance  
16 to which each applies shall be disclosed;

17 (f) the balance on which the loan finance charge is  
18 computed and a statement of how the balance is  
19 determined; if the balance is determined without first  
20 deducting all amounts credited during the period, that  
21 fact and the amounts credited shall also be stated;

22 (g) if the loan finance charge for the billing cycle  
23 exceeds fifty cents (\$0.50) for a monthly or longer  
24 billing cycle, or the pro rata part of the fifty cents



1 (\$0.50) for a billing cycle shorter than monthly, the  
2 loan finance charge expressed as an annual percentage  
3 rate pursuant to paragraph (b) of subsection (2) of  
4 Section 3-304 of this title; if more than one periodic  
5 percentage is used to calculate the loan finance  
6 charge, the creditor, in lieu of stating a single  
7 annual percentage rate, may state more than one annual  
8 percentage rate and the amount of the balance to which  
9 each annual percentage rate applies;

10 (h) if the loan finance charge for the billing cycle does  
11 not exceed fifty cents (\$0.50) for a monthly or longer  
12 billing cycle, or the pro rata part of fifty cents  
13 (\$0.50) for a billing cycle shorter than monthly, the  
14 corresponding nominal annual percentage rate pursuant  
15 to subsection (3) of Section 3-304 of this title;

16 (i) outstanding balance at the end of the billing cycle;

17 (j) date by which or period, if any, within which payment  
18 must be made to avoid additional loan finance charges,  
19 except that the creditor may, at his election and  
20 without disclosure, impose no such additional loan  
21 finance charge if payment is received after such date  
22 or the termination of such period; and

23 (k) address to be used by the creditor for the purpose of  
24 receiving billing inquiries.

1 SECTION 34. AMENDATORY 14A O.S. 2001, Section 3-309.1,  
2 is amended to read as follows:

3 Section 3-309.1 Disclosure in credit and charge card  
4 applications and solicitation:

5 (1) Any application to open a credit card account for any  
6 person under a revolving loan account plan, or a solicitation to  
7 open such an account without requiring an application that is mailed  
8 to consumers shall disclose the following information, subject to  
9 subsection (8) of this section and subsections (5) through (8) of  
10 Section 3-302 of this title.

11 (a) Each annual percentage rate applicable to extensions  
12 of credit under such credit plan.

13 (b) Where an extension of credit is subject to a variable  
14 rate, the fact that the rate is variable, the annual  
15 percentage rate in effect at the time of the mailing,  
16 and how the rate is determined.

17 (c) Where more than one rate applies, the range of  
18 balances to which each rate applies.

19 (d) Any annual fee, other periodic fee, or membership fee  
20 imposed for the issuance or availability of a credit  
21 card, including any account maintenance fee or other  
22 charge imposed based on activity or inactivity for the  
23 account during the billing cycle.

24

- 1 (e) Any minimum finance charge imposed for each period  
2 during which any extension of credit which is subject  
3 to a finance charge is outstanding.
- 4 (f) Any transaction charge imposed in connection with use  
5 of the card to purchase goods or services.
- 6 (g) The date by which or the period within which any  
7 credit extended under such credit plan for purchases  
8 of goods or services must be repaid to avoid incurring  
9 a loan finance charge, and, if no such period is  
10 offered, such fact shall be clearly stated.
- 11 (h) If the length of such "grace period" varies, the card  
12 issuer may disclose the range of days in the grace  
13 period, the minimum number of days in the grace  
14 period, or the average number of days in the grace  
15 period, if the disclosure is identified as such.
- 16 (i) The name of the balance calculation method used in  
17 determining the balance on which the loan finance  
18 charge is computed if the method used has been defined  
19 by the ~~Administrator~~ Attorney General, or a detailed  
20 explanation of the balance calculation method used if  
21 the method has not been so defined.
- 22 (j) In prescribing rules to carry out the requirements of  
23 paragraph (i), the ~~Administrator~~ Attorney General  
24 shall define and name not more than the five (5)

1 balance calculation methods determined by the  
2 ~~Administrator~~ Attorney General to be the most commonly  
3 used methods.

4 (2) In addition to the information required to be disclosed  
5 under subsection (1) of this section each application or  
6 solicitation to which such subsection applies shall disclose clearly  
7 and conspicuously the following information, subject to subsections  
8 (8) and (9) of this section:

9 (a) Any fee imposed for an extension of credit in the form  
10 of cash.

11 (b) Any fee imposed for a late payment.

12 (c) Any fee imposed in connection with an extension of  
13 credit in excess of the amount of credit authorized to  
14 be extended with respect to such account.

15 (3) (a) In any telephone solicitation to open a credit card  
16 account for any person under a revolving loan account  
17 plan, the person making the solicitation shall orally  
18 disclose the information described in subsection (1)  
19 of this section.

20 (b) Paragraph (a) of this subsection shall not apply to  
21 any telephone solicitation if:

22 (i) the credit card issuer:  
23  
24

1 (aa) does not impose any fee described in  
2 paragraph (d) of subsection (1) of this  
3 section, or

4 (bb) does not impose any fee in connection with  
5 telephone solicitations unless the consumer  
6 signifies acceptance by using the card;

7 (ii) the card issuer discloses clearly and  
8 conspicuously in writing the information  
9 described in subsections (1) and (2) of this  
10 section within thirty (30) days after the  
11 consumer requests the card, but in no event later  
12 than the date of delivery of the card; and

13 (iii) the card issuer discloses clearly and  
14 conspicuously that the consumer is not obligated  
15 to accept the card or account and the consumer  
16 will not be obligated to pay any of the fees or  
17 charges disclosed unless the consumer elects to  
18 accept the card or account by using the card.

19 (4) (a) Any application to open a credit card account for any  
20 person under a revolving loan account plan, and any  
21 solicitation to open an account without requiring an  
22 application, that is made available to the public or  
23 contained in catalogs, magazines or other publications  
24

1 shall meet the disclosure requirements of paragraph  
2 (b), (c), or (d) of this subsection.

3 (b) An application or solicitation described in paragraph  
4 (a) of this subsection meets the requirement of this  
5 paragraph if such application or solicitation  
6 contains:

7 (i) the information:

8 (aa) described in subsection (1) of this section  
9 in the form required under subsections (5)  
10 through (8) of Section 3-302 of this title  
11 subject to subsection (8) of this section;  
12 and

13 (bb) described in subsection (2) of this section  
14 in a clear and conspicuous form, subject to  
15 subsections (8) and (9) of this section;

16 (ii) a statement, in a conspicuous and prominent  
17 location on the application or solicitation,  
18 that:

19 (aa) the information is accurate as of the date  
20 the application or solicitation was printed;

21 (bb) the information contained in the application  
22 or solicitation is subject to change after  
23 such date; and  
24

1 (cc) the applicant should contact the creditor  
2 for information on any change in the  
3 information contained in the application or  
4 solicitation since it was printed;

5 (iii) a clear and conspicuous disclosure of the date  
6 the application or solicitation was printed; and

7 (iv) a disclosure, in a conspicuous and prominent  
8 location on the application or solicitation, of a  
9 toll free telephone number or a mailing address  
10 at which the applicant may contact the creditor  
11 to obtain any change in the information provided  
12 in the application or solicitation since it was  
13 printed.

14 (c) An application or solicitation described in paragraph  
15 (a) of this subsection meets the requirement of this  
16 paragraph if such application or solicitation:

17 (i) contains a statement, in a conspicuous and  
18 prominent location on the application or  
19 solicitation, that:

20 (aa) there are costs associated with the use of  
21 credit cards; and

22 (bb) the applicant may contact the creditor to  
23 request disclosure of specific information  
24 of such costs by calling a toll free

1 telephone number or by writing to an address  
2 specified in the application;

3 (ii) contains a disclosure, in a conspicuous and  
4 prominent location on the application or  
5 solicitation, of a toll free telephone number and  
6 a mailing address at which the applicant may  
7 contact the creditor to obtain such information;  
8 and

9 (iii) does not contain any of the items described in  
10 subsections (1) and (2) of this section.

11 (d) An application or solicitation meets the requirements  
12 of this subsection if it contains, or is accompanied  
13 by:

14 (i) the disclosures required by paragraphs (a)  
15 through (f) of subsection (1) of Section 3-309 of  
16 this title;

17 (ii) the disclosures required by subsections (1) and  
18 (2) of this section included clearly and  
19 conspicuously, except that the provisions of  
20 subsections (5) through (8) of Section 3-302 of  
21 this title shall not apply; and

22 (iii) a toll free telephone number or a mailing address  
23 at which the applicant may contact the creditor  
24 to obtain any change in the information provided.



1 (e) Upon receipt of a request for any of the information  
2 referred to in paragraph (b), (c) or (d) of this  
3 subsection, the card issuer or the agent of such  
4 issuer shall promptly disclose all of the information  
5 described in subsections (1) and (2) of this section.

6 (5) (a) Any application or solicitation to open a charge card  
7 account shall disclose clearly and conspicuously the  
8 following information in the form required by  
9 subsections (5) through (8) of Section 3-302 of this  
10 title subject to subsection (8) of this section:

11 (i) Any annual fee, other periodic fee, or membership  
12 fee imposed for the issuance or availability of  
13 the charge card, including any account  
14 maintenance fee or other charge imposed based on  
15 activity or inactivity for the account during the  
16 billing cycle.

17 (ii) Any transaction charge imposed in connection with  
18 use of the card to purchase goods or services.

19 (iii) A statement that charges incurred by use of the  
20 charge card are due and payable upon receipt of a  
21 periodic statement rendered for such charge card  
22 account.

23 (b) In addition to the information required to be  
24 disclosed under paragraph (a) of this subsection each

1 written application or solicitation to which such  
2 paragraph applies shall disclose clearly and  
3 conspicuously the following information, subject to  
4 subsections (8) and (9) of this section:

5 (i) Any fee imposed for an extension of credit in the  
6 form of cash.

7 (ii) Any fee imposed for a late payment.

8 (iii) Any fee imposed in connection with an extension  
9 of credit in excess of the amount of credit  
10 authorized to be extended with respect to such  
11 account.

12 (c) Any application to open a charge card account, and any  
13 solicitation to open such an account without requiring  
14 an application, that is made available to the public  
15 or contained in catalogs, magazines, or other  
16 publications shall contain:

17 (i) the information:

18 (aa) described in paragraph (a) of this  
19 subsection in the form required under  
20 subsections (5) through (8) of Section 3-302  
21 of this title subject to subsection (8) of  
22 this section; and

23 (bb) described in paragraph (b) of this  
24 subsection in a clear and conspicuous form,

1 subject to subsections (8) and (9) of this  
2 section;

3 (ii) a statement, in a conspicuous and prominent  
4 location on the application or solicitation,  
5 that:

6 (aa) the information is accurate as of the date  
7 the application or solicitation was printed;

8 (bb) the information contained in the application  
9 or solicitation is subject to change after  
10 such date; and

11 (cc) the applicant should contact the creditor  
12 for information on any change in the  
13 information contained in the application or  
14 solicitation since it was printed;

15 (iii) a clear and conspicuous disclosure of the date  
16 the application or solicitation was printed; and

17 (iv) a disclosure, in a conspicuous and prominent  
18 location on the application or solicitation, of a  
19 toll free telephone number or a mailing address  
20 at which the applicant may contact the creditor  
21 to obtain any change in the information provided  
22 in the application or solicitation since it was  
23 printed.

24

1 (d) If a charge card permits the card holder to receive an  
2 extension of credit under a revolving loan account  
3 plan which is not maintained by the charge card issuer  
4 the charge card issuer may provide the information  
5 described in paragraphs (a) and (b) of this subsection  
6 in the form required by such paragraphs in lieu of the  
7 information required to be provided under subsection  
8 (1), (2), (3) or (4) of this section with respect to  
9 any credit extended under such plan, if the charge  
10 card issuer discloses clearly and conspicuously to the  
11 consumer in the application or solicitation that:

12 (i) the charge card issuer will make an independent  
13 decision as to whether to issue the card;

14 (ii) the charge card may arrive before the decision is  
15 made with respect to an extension of credit under  
16 a revolving loan account plan; and

17 (iii) approval by the charge card issuer does not  
18 constitute approval by the issuer of the  
19 extension of credit.

20 (e) The information required to be disclosed under  
21 subsections (1) and (2) of this section shall be  
22 provided to the charge card holder by the creditor  
23 which maintains such revolving loan account plan  
24 before the first extension of credit under such plan.

1 (f) For the purposes of this subsection, the term "charge  
2 card" means a card, plate, or other single credit  
3 device that may be used from time to time to obtain  
4 credit which is not subject to a finance charge.

5 (6) The ~~Administrator~~ Attorney General may, by rule, require  
6 the disclosure of information in addition to that otherwise required  
7 by subsections (1) through (7) of this section, and modify any  
8 disclosure of information required by subsections (1) through (7) of  
9 this section, in any application to open a credit card account for  
10 any person under a revolving loan account plan or any application to  
11 open a charge card account for any person, or a solicitation to open  
12 any such account without requiring an application, if the  
13 ~~Administrator~~ Attorney General determines that such action is  
14 necessary to carry out the purposes of, or prevent evasions of, any  
15 subsection of this section.

16 (7) (a) Except as provided in paragraph (b) of this  
17 subsection, a card issuer that imposes any fee  
18 described in subsections (1)(d) or (5)(a)(i) of this  
19 section shall transmit to a consumer at least thirty  
20 (30) days prior to the scheduled renewal date of the  
21 consumer's credit or charge card account a clear and  
22 conspicuous disclosure of:  
23  
24

1 (i) the date by which, the month by which, or the  
2 billing period at the close of which, the account  
3 will expire if not renewed;

4 (ii) the information described in subsections (1) or  
5 (5) (a) of this section that would apply if the  
6 account were renewed, subject to subsection (8)  
7 of this section; and

8 (iii) the method by which the consumer may terminate  
9 continued credit availability under the account.

10 (b) (i) The disclosures required by this subsection may  
11 be provided:

12 (aa) prior to posting a fee described in  
13 subsections (1) ((d) or paragraph (a) (i) of  
14 subsection (5) of this section to the  
15 account; or

16 (bb) with the periodic billing statement first  
17 disclosing that the fee has been posted to  
18 the account.

19 (ii) disclosures may be provided under subparagraph

20 (i) of this paragraph only if:

21 (aa) the consumer is given a thirty-day period to  
22 avoid payment of the fee or to have the fee  
23 recredited to the account in any case where  
24

1 the consumer does not wish to continue the  
2 availability of the credit; and

3 (bb) the consumer is permitted to use the card  
4 during such period without incurring an  
5 obligation to pay such fee.

6 (c) The ~~Administrator~~ Attorney General may, by rule,  
7 provide for fewer disclosures than are required by  
8 paragraph (a) of this subsection in the case of an  
9 account which is renewable for a period of less than  
10 six (6) months.

11 (8) (a) If the amount of any fee required to be disclosed  
12 under the previous subsections of this section is  
13 determined on the basis of a percentage of another  
14 amount, the percentage used in making such  
15 determination and the identification of the amount  
16 against which such percentage is applied shall be  
17 disclosed in lieu of the amount of such fee.

18 (b) If a credit or charge card issuer does not impose any  
19 fee required to be disclosed under any provision of  
20 the previous subsections of this section, such  
21 provision shall not apply with respect to such issuer.

22 (9) If the amount of any fee required to be disclosed by a  
23 credit or charge card issuer under subsection (2), (4) (b) (i) (bb),  
24 (5) (b) or (5) (c) (i) (bb) of this section varies from state to state,

1 the card issuer may disclose the range of such fees for purposes of  
2 subsections (1) through (5) of this section in lieu of the amount  
3 for each applicable state, if such disclosure includes a statement  
4 that the amount of such fee varies from state to state.

5 (10) (a) Whenever a card issuer that offers any guarantee or  
6 insurance for repayment of all or part of the  
7 outstanding balance of a revolving loan account plan  
8 proposes to change the person providing that guarantee  
9 or insurance, the card issuer shall send each insured  
10 consumer written notice of the proposed change not  
11 less than thirty (30) days prior to the change,  
12 including notice of any increase in the rate or  
13 substantial decrease in coverage or service which will  
14 result from such change. Such notice may be included  
15 on or with the monthly statement provided to the  
16 consumer prior to the month in which the proposed  
17 change would take effect.

18 (b) In any case in which a proposed change described in  
19 paragraph (a) of this subsection occurs, the insured  
20 consumer shall be given the name and address of the  
21 new guarantor or insurer and a copy of the policy or  
22 group certificate containing the basic terms and  
23 conditions, including the premium rate to be charged.

24



1 (c) The notices required under paragraphs (a) and (b) of  
2 this subsection shall each include a statement that  
3 the consumer has the option to discontinue the  
4 insurance or guarantee.

5 (d) No provision of this subsection shall be construed as  
6 superseding any provision of Oklahoma law which is  
7 applicable to the regulation of insurance.

8 (e) The ~~Administrator~~ Attorney General shall define, in  
9 rules, what constitutes a "substantial decrease in  
10 coverage or service" for purposes of paragraph (a) of  
11 this subsection.

12 SECTION 35. AMENDATORY 14A O.S. 2001, Section 3-309.2,  
13 is amended to read as follows:

14 Section 3-309.2 Disclosure requirements for revolving loan  
15 account plans secured by consumer's principal dwelling.

16 (1) In the case of any revolving loan account plan which  
17 provides for any extension of credit which is secured by the  
18 consumer's principal dwelling, the creditor shall make the following  
19 disclosures in accordance with subsection (9) of Section 3-302 of  
20 this title:

21 (a) Each annual percentage rate imposed in connection with  
22 extensions of credit under the plan and a statement  
23 that such rate does not include costs other than  
24 interest.

1 (b) In the case of a plan which provides for variable  
2 rates of interest on credit extended under the plan:

3 (i) a description of the manner in which such rate  
4 will be computed and a statement that such rate  
5 does not include costs other than interest;

6 (ii) a description of the manner in which any changes  
7 in the annual percentage rate will be made,  
8 including:

9 (aa) any negative amortization and interest rate  
10 carryover;

11 (bb) the time of any such changes;

12 (cc) any index or margin to which such changes in  
13 the rate are related; and

14 (dd) a source of information about any such  
15 index;

16 (iii) if an initial annual percentage rate is offered  
17 which is not based on an index:

18 (aa) a statement of such rate and the period of  
19 time such initial rate will be in effect;  
20 and

21 (bb) a statement that such rate does not include  
22 costs other than interest;

23 (iv) a statement that the consumer should ask about  
24 the current index value and interest rate;

- 1 (v) a statement of the maximum amount by which the  
2 annual percentage rate may change in any one-year  
3 period or a statement that no such limit exists;
- 4 (vi) a statement of the maximum annual percentage rate  
5 that may be imposed at any time under the plan;
- 6 (vii) subject to subsection (9)(g) of Section 3-302 of  
7 this title, a table, based on a Ten Thousand  
8 Dollar (\$10,000.00) extension of credit, showing  
9 how the annual percentage rate and the minimum  
10 periodic payment amount under each repayment  
11 option of the plan would have been affected  
12 during the preceding fifteen-year period by  
13 changes in any index used to compute such rate;
- 14 (viii) a statement of:
- 15 (aa) the maximum annual percentage rate which may  
16 be imposed under each repayment option of  
17 the plan;
- 18 (bb) the minimum amount of any periodic payment  
19 which may be required, based on a Ten  
20 Thousand Dollar (\$10,000.00) outstanding  
21 balance, under each such option when such  
22 maximum annual percentage rate is in effect;  
23 and  
24

1 (cc) the earliest date by which such maximum  
2 annual interest rate may be imposed; and  
3 (ix) a statement that interest rate information will  
4 be provided on or with each periodic statement.

5 (c) An itemization of any fees imposed by the creditor in  
6 connection with the availability or use of credit  
7 under such plan, including annual fees, application  
8 fees, transaction fees, and closing costs (including  
9 costs commonly described as "points"), and the time  
10 when such fees are payable.

11 (d) (i) An estimate, based on the creditor's experience  
12 with such plans and stated as a single amount or  
13 as a reasonable range, of the aggregate amount of  
14 additional fees that may be imposed by third  
15 parties including but not limited to governmental  
16 authorities, appraisers, and attorneys in  
17 connection with opening an account under the  
18 plan.

19 (ii) A statement that the consumer may ask the  
20 creditor for a good faith estimate by the  
21 creditor of the fees that may be imposed by third  
22 parties.

23 (e) A statement that:  
24

- 1 (i) any extension of credit under the plan is secured  
2 by the consumer's dwelling; and  
3 (ii) in the event of any default, the consumer risks  
4 the loss of the dwelling.

5 (f) (i) A clear and conspicuous statement:

6 (aa) of the time by which an application must be  
7 submitted to obtain the terms disclosed; or

8 (bb) if applicable, that the terms are subject to  
9 change.

10 (ii) A statement that:

11 (aa) the consumer may elect not to enter into an  
12 agreement to open an account under the plan  
13 if any term changes, other than a change  
14 contemplated by a variable feature of the  
15 plan, before any such agreement is final;  
16 and

17 (bb) if the consumer makes an election described  
18 in division (aa) of this subparagraph, the  
19 consumer is entitled to a refund of all fees  
20 paid in connection with the application.

21 (iii) A statement that the consumer should make or  
22 otherwise retain a copy of information disclosed  
23 under this subparagraph.

24 (g) A statement that:

1 (i) under certain conditions, the creditor may  
2 terminate any account under the plan and require  
3 immediate repayment of any outstanding balance,  
4 prohibit any additional extension of credit to  
5 the account, or reduce the credit limit  
6 applicable to the account; and

7 (ii) the consumer may receive, upon request, more  
8 specific information about the conditions under  
9 which the creditor may take any action described  
10 in subparagraph (i) of this paragraph.

11 (h) The repayment options under the plan, including:

12 (i) if applicable, any differences in repayment  
13 options with regard to:

14 (aa) any period during which additional  
15 extensions of credit may be obtained; and

16 (bb) any period during which repayment is  
17 required to be made and no additional  
18 extensions of credit may be obtained;

19 (ii) the length of any repayment period, including any  
20 differences in the length of any repayment period  
21 with regard to the periods described in divisions  
22 (aa) and (bb) of subparagraph (i) of this  
23 paragraph; and  
24

1 (iii) an explanation of how the amount of any minimum  
2 monthly or periodic payment will be determined  
3 under each such option, including any differences  
4 in the determination of any such amount with  
5 regard to the periods described in divisions (aa)  
6 and (bb) of subparagraph (i) of this paragraph.

7 (i) An example, based on a Ten Thousand Dollar  
8 (\$10,000.00) outstanding balance and the interest  
9 rate, other than a rate not based on the index under  
10 the plan, which is, or was recently, in effect under  
11 such plan, showing the minimum monthly or periodic  
12 payment, and the time it would take to repay the  
13 entire Ten Thousand Dollars (\$10,000.00) if the  
14 consumer paid only the minimum periodic payments and  
15 obtained no additional extensions of credit.

16 (j) If, under any repayment option of the plan, the  
17 payment of not more than the minimum periodic payments  
18 required under such option over the length of the  
19 repayment period:

20 (i) would not repay any of the principal balance; or

21 (ii) would repay less than the outstanding balance by  
22 the end of such period,

23 as the case may be, a statement of such fact, including an  
24 explicit statement that at the end of such repayment period

1 a balloon payment as defined in subsection (12) of Section  
2 3-312 of this title would result which would be required to  
3 be paid in full at that time.

4 (k) If applicable, a statement that:

5 (i) any limitation in the plan on the amount of any  
6 increase in the minimum payments may result in  
7 negative amortization;

8 (ii) negative amortization increases the outstanding  
9 principal balance of the account; and

10 (iii) negative amortization reduces the consumer's  
11 equity in the consumer's dwelling.

12 (l) (i) Any limitation contained in the plan on the  
13 number of extensions of credit and the amount of  
14 credit which may be obtained during any month or  
15 other defined time period.

16 (ii) Any requirement which establishes a minimum  
17 amount for:

18 (aa) the initial extension of credit to an  
19 account under the plan;

20 (bb) any subsequent extension of credit to an  
21 account under the plan; or

22 (cc) any outstanding balance of an account under  
23 the plan.  
24



1 (m) A statement that the consumer should consult a tax  
2 advisor regarding the deductibility of interest and  
3 charges under the plan.

4 (n) Any other term which the ~~Administrator~~ Attorney  
5 General requires, in rules to be disclosed.

6 (2) For purposes of this section and Sections 3-309.3 and 3-312  
7 of this title, the term "principal dwelling" includes any second or  
8 vacation home of the consumer.

9 (3) In addition to the disclosures required under subsection  
10 (1) of this section with respect to an application to open an  
11 account under any revolving loan account plan described in such  
12 subsection, the creditor or other person providing such disclosures  
13 to the consumer shall provide:

14 (a) a pamphlet published by the Board of Governors of the  
15 Federal Reserve System pursuant to Section 4 of the  
16 Home Equity Consumer Protection Act of 1988; or

17 (b) any pamphlet which provides substantially similar  
18 information to the information described in such  
19 section, as determined by the ~~Administrator~~ Attorney  
20 General.

21 SECTION 36. AMENDATORY 14A O.S. 2001, Section 3-309.3,  
22 is amended to read as follows:

23 Section 3-309.3 (1) In the case of extensions of credit under  
24 a revolving loan account plan which are subject to a variable rate

1 and are secured by a consumer's principal dwelling, the index or  
2 other rate of interest to which changes in the annual percentage  
3 rate are related shall be based on an index or rate of interest  
4 which is publicly available and is not under the control of the  
5 creditor.

6 (2) A creditor may not unilaterally terminate any account under  
7 a revolving loan account plan under which extensions of credit are  
8 secured by a consumer's principal dwelling and require the immediate  
9 repayment of any outstanding balance at such time, except in the  
10 case of:

- 11 (a) fraud or material misrepresentation on the part of the  
12 consumer in connection with the account;
- 13 (b) failure by the consumer to meet the repayment terms of  
14 the agreement for any outstanding balance; or
- 15 (c) any other action or failure to act by the consumer  
16 which adversely affects the creditor's security for  
17 the account or any right of the creditor in such  
18 security.

19 This subsection does not apply to reverse mortgage transactions.

20 (3) (a) No revolving loan account plan under which extensions  
21 of credit are secured by a consumer's principal  
22 dwelling may contain a provision which permits a  
23 creditor to change unilaterally any term required to  
24 be disclosed under subsection (1) of Section 3-309.2

1 of this title or any other term, except a change in  
2 insignificant terms such as the address of the  
3 creditor for billing purposes.

4 (b) Notwithstanding the provisions of paragraph (a) of  
5 this subsection, a creditor may make any of the  
6 following changes:

7 (i) Change the index and margin applicable to  
8 extensions of credit under such plan if the index  
9 used by the creditor is no longer available and  
10 the substitute index and margin would result in a  
11 substantially similar interest rate,

12 (ii) Prohibit additional extensions of credit or  
13 reduce the credit limit applicable to an account  
14 under the plan during any period in which the  
15 value of the consumer's principal dwelling which  
16 secures any outstanding balance is significantly  
17 less than the original appraisal value of the  
18 dwelling,

19 (iii) Prohibit additional extensions of credit or  
20 reduce the credit limit applicable to the account  
21 during any period in which the creditor has  
22 reason to believe that the consumer will be  
23 unable to comply with the repayment requirements  
24

1 of the account due to a material change in the  
2 consumer's financial circumstances,

3 (iv) Prohibit additional extensions of credit or  
4 reduce the credit limit applicable to the account  
5 during any period in which the consumer is in  
6 default with respect to any material obligation  
7 of the consumer under the agreement,

8 (v) Prohibit additional extensions of credit or  
9 reduce the credit limit applicable to the account  
10 during any period in which:

11 (aa) the creditor is precluded by government  
12 action from imposing the annual percentage  
13 rate provided for in the account agreement,  
14 or

15 (bb) any government action is in effect which  
16 adversely affects the priority of the  
17 creditor's security interest in the account  
18 to the extent that the value of the  
19 creditor's secured interest in the property  
20 is less than one hundred twenty percent  
21 (120%) of the amount of the credit limit  
22 applicable to the account.

23 (vi) Any change that will benefit the consumer.  
24

1 (c) Upon the request of the consumer and at the time an  
2 agreement is entered into by a consumer to open an  
3 account under a revolving loan account plan under  
4 which extensions of credit are secured by the  
5 consumer's principal dwelling, the consumer shall be  
6 given a list of the categories of contract obligations  
7 which are deemed by the creditor to be material  
8 obligations of the consumer under the agreement for  
9 purposes of subparagraph (iv) of paragraph (b) of this  
10 subsection.

11 (d) (i) For purposes of subparagraph (vi) of paragraph  
12 (b) of this subsection, a change shall be deemed  
13 to benefit the consumer if the change is  
14 unequivocally beneficial to the consumer and the  
15 change is beneficial through the entire term of  
16 the agreement,

17 (ii) The ~~Administrator~~ Attorney General may, by rule,  
18 determine categories of changes that benefit the  
19 consumer.

20 (4) If any term or condition described in subsection (1) of  
21 Section 3-309.2 of this title which is disclosed to a consumer in  
22 connection with an application to open an account under a revolving  
23 loan account plan described in such section, other than a variable  
24 feature of the plan, changes before the account is opened, and if,

1 as a result of such change, the consumer elects not to enter into  
2 the plan agreement, the creditor shall refund all fees paid by the  
3 consumer in connection with such application.

4 (5) (a) No nonrefundable fee may be imposed by a creditor or  
5 any other person in connection with any application by  
6 a consumer to establish an account under any revolving  
7 loan account plan which provides for extensions of  
8 credit which are secured by a consumer's principal  
9 dwelling before the end of the three-day period  
10 beginning on the date such consumer receives the  
11 disclosure required under subsection (1) of Section 2-  
12 310.2 of this title and the pamphlet required under  
13 subsection (3) of Section 2-310.2 of this title with  
14 respect to such application.

15 (b) For purposes of determining when a nonrefundable fee  
16 may be imposed in accordance with this subsection if  
17 the disclosures and pamphlet referred to in paragraph  
18 (a) of this subsection are mailed to the consumer, the  
19 date of the receipt of the disclosures by such  
20 consumer shall be deemed to be three (3) business days  
21 after the date of mailing by the creditor.

22 SECTION 37. AMENDATORY 14A O.S. 2001, Section 3-309.4,  
23 as amended by Section 8, Chapter 330, O.S.L. 2003 (14A O.S. Supp.  
24 2007, Section 3-309.4), is amended to read as follows:

1 Section 3-309.4 (1) In addition to other disclosures required  
2 under this title, for each subsection 10 mortgage referred to in  
3 subsection (10) of Section 1-301 of this title, the creditor shall  
4 provide the following disclosures in conspicuous type size:

5 (a) "You are not required to complete this agreement  
6 merely because you have received these disclosures or  
7 have signed a loan application";

8 (b) "If you obtain this loan, the lender will have a  
9 mortgage on your home. You could lose your home, and  
10 any money you have put into it, if you do not meet  
11 your obligations under the loan";

12 (c) in the case of a credit transaction with a fixed rate  
13 of interest, the annual percentage rate and the amount  
14 of the regular monthly payment;

15 (d) in the case of any other credit transaction, the  
16 annual percentage rate of the loan, the amount of the  
17 regular monthly payment, the amount of any balloon  
18 payment, a statement that the interest rate and  
19 monthly payment may increase, and the amount of the  
20 maximum monthly payment, based on the maximum interest  
21 rate allowed pursuant to Section 1204 of the  
22 Competitive Equality Banking Act of 1987. The regular  
23 payment disclosed under this paragraph shall be  
24 treated as accurate if it is based on an amount

1 borrowed that is deemed accurate and is disclosed  
2 under subparagraph (e) of this section;

3 (e) for a mortgage refinancing, the total amount the  
4 consumer will borrow, as reflected by the face amount  
5 of the note; and where the amount borrowed includes  
6 premiums or other charges for optional credit  
7 insurance or debt-cancellation coverage, that fact  
8 shall be stated, grouped together with the disclosure  
9 of the amount borrowed. The disclosure of the amount  
10 borrowed shall be treated as accurate if it is not  
11 more than One Hundred Dollars (\$100.00) above or below  
12 the amount required to be disclosed; and

13 (f) "mortgage loan rates, closing costs and fees vary  
14 based on many factors. These include your credit  
15 history and financial circumstances, your employment  
16 history, the loan-to-value that is represented by your  
17 home and the amount of the loan you have requested,  
18 and the type of property that will secure your loan.  
19 The loan rate and fees could also vary based on which  
20 creditor or broker you select. As a borrower, you  
21 should shop around and compare loan rates and fees.  
22 You should also consider talking to a qualified,  
23 independent credit counselor or other experienced  
24 financial advisor regarding the rate, fees and



1 provisions of this mortgage loan before you proceed.  
2 A list of qualified, independent counselors is  
3 available by calling the ~~Oklahoma Department of~~  
4 ~~Consumer Credit~~ Attorney General or the Oklahoma State  
5 Banking Department. Remember: property taxes and  
6 homeowner's insurance are your responsibility, and not  
7 all creditors provide escrow services that enable them  
8 to make those payments on your behalf. You should ask  
9 your creditor about these services. Your payments on  
10 existing debts contribute to your credit ratings. You  
11 should not accept any advice to ignore your regular  
12 payments to your existing creditors."

13 (2) (a) The disclosures required by this section shall be  
14 given not less than three (3) business days prior to  
15 consummation of the transaction.

16 (b) (i) After providing the disclosures required by this  
17 section, a creditor may not change the terms of  
18 the extension of credit if such changes make the  
19 disclosures inaccurate, unless new disclosures  
20 are provided that meet the requirements of this  
21 section.

22 (ii) A creditor may provide new disclosures pursuant  
23 to subparagraph (i) of this paragraph by  
24 telephone, if:

1 (aa) the change is initiated by the consumer; and  
2 (bb) at the consummation of the transaction under  
3 which the credit is extended:

4 (I) the creditor provides to the consumer  
5 the new disclosures, in writing; and

6 (II) the creditor and consumer certify in  
7 writing that the new disclosures were  
8 provided by telephone, by not later than  
9 three (3) days prior to the date of  
10 consummation of the transaction.

11 (c) The ~~Administrator~~ Attorney General may, if the  
12 ~~Administrator~~ Attorney General finds that such action  
13 is necessary to permit homeowners to meet bona fide  
14 personal financial emergencies, prescribe regulations  
15 authorizing the modification or waiver of rights  
16 created under this subsection, to the extent and under  
17 the circumstances set forth in the regulations.

18 (3) (a) (i) A subsection 10 mortgage referred to in  
19 subsection (10) of Section 1-301 of this title  
20 may not contain terms under which a consumer must  
21 pay a prepayment penalty for paying all or part  
22 of the principal before the date on which the  
23 principal is due.

1 (ii) For purposes of this subsection, any method of  
2 computing a refund of unearned scheduled interest  
3 is a prepayment penalty if it is less favorable  
4 to the consumer than the actuarial method, as  
5 that term is defined in Section 933(d) of the  
6 Housing and Community Development Act of 1992.

7 (b) Notwithstanding the provisions of subparagraph (a) of  
8 this paragraph, a subsection 10 mortgage referred to  
9 in subsection (10) of Section 1-301 of this title may  
10 contain a prepayment penalty, including terms  
11 calculating a refund by a method that is not  
12 prohibited under Section 933(d) of the Housing and  
13 Community Development Act of 1992 for the transaction  
14 in question if:

15 (i) at the time the subsection 10 mortgage is  
16 consummated:

17 (aa) the consumer is not liable for an amount of  
18 monthly indebtedness payments, including the  
19 amount of credit extended or to be extended  
20 under the transaction, that is greater than  
21 fifty percent (50%) of the monthly gross  
22 income of the consumer; and

23 (bb) the income and expenses of the consumer are  
24 verified by a financial statement signed by

1 the consumer, by a credit report, and in the  
2 case of employment income, by payment  
3 records or by verification from the employer  
4 of the consumer, which verification may be  
5 in the form of a copy of a pay stub or other  
6 payment record supplied by the consumer;

7 (ii) the penalty applies only to a prepayment made  
8 with amounts obtained by the consumer by means  
9 other than a refinancing by the creditor under  
10 the subsection 10 mortgage, or an affiliate of  
11 that creditor;

12 (iii) the penalty does not exceed in the aggregate more  
13 than:

14 (aa) two percent (2%) of the loan amount prepaid  
15 in the first twelve (12) months after the  
16 subsection 10 mortgage is consummated, or

17 (bb) one percent (1%) of the loan amount prepaid  
18 in the second twelve (12) months after the  
19 subsection 10 mortgage is consummated;

20 (iv) the penalty does not apply after the end of the  
21 two-year period beginning on the date on which  
22 the subsection 10 mortgage is consummated; and

23 (v) the penalty is not prohibited under other  
24 applicable law.

1 (c) Notwithstanding the provisions of subparagraph (a) or  
2 (b) of this paragraph, a subsection 10 mortgage  
3 referred to in subsection (10) of Section 1-301 of  
4 this title consummated with funds advanced directly or  
5 indirectly from a Federal Home Loan Bank may contain a  
6 prepayment penalty.

7 (4) A subsection 10 mortgage referred to in subsection (10) of  
8 Section 1-301 of this title may not provide for an interest rate  
9 applicable after default that is higher than the interest rate that  
10 applies before default. If the date of maturity of a subsection 10  
11 mortgage referred to in subsection (10) of Section 1-301 of this  
12 title is accelerated due to default and the consumer is entitled to  
13 a rebate of interest, that rebate shall be computed by any method  
14 that is not less favorable than the actuarial method, as that term  
15 is defined in Section 933(d) of the Housing and Community  
16 Development Act of 1992.

17 (5) A subsection 10 mortgage referred to in subsection (10) of  
18 Section 1-301 of this title having a term of less than five (5)  
19 years may not include terms under which the aggregate amount of the  
20 regular periodic payments would not fully amortize the outstanding  
21 principal balance.

22 (6) A subsection 10 mortgage referred to in subsection (10) of  
23 Section 1-301 of this title may not include terms under which the  
24 outstanding principal balance will increase at any time over the

1 course of the loan because the regular periodic payments do not  
2 cover the full amount of interest due.

3 (7) A subsection 10 mortgage referred to in subsection (10) of  
4 Section 1-301 of this title may not include terms under which more  
5 than two periodic payments required under the loan are consolidated  
6 and paid in advance from the loan proceeds provided to the consumer.

7 (8) A creditor shall not make a payment to a contractor under a  
8 home improvement contract from amounts extended as credit under a  
9 subsection 10 mortgage referred to in subsection (10) of Section 1-  
10 301 of this title, other than:

11 (a) in the form of an instrument that is payable to the  
12 consumer or jointly to the consumer and the  
13 contractor; or

14 (b) at the election of the consumer, by a third party  
15 escrow agent in accordance with terms established in a  
16 written agreement signed by the consumer, the  
17 creditor, and the contractor before the date of  
18 payment.

19 (9) Any subsection 10 mortgage that contains a provision  
20 prohibited by this section shall be deemed a failure to deliver the  
21 material disclosures required under this title, for the purpose of  
22 Section 5-204 of this title.

23

24

1 (10) For purposes of this section, the term "affiliate" has the  
2 same meaning as in Section 2(k) of the Bank Holding Company Act of  
3 1956.

4 (11) (a) The ~~Administrator~~ Attorney General may, by regulation  
5 or order, exempt specific subsection 10 mortgage  
6 products or categories of subsection 10 mortgages from  
7 any or all of the prohibitions specified in  
8 subsections (3) through (8) of this section, if the  
9 ~~Administrator~~ Attorney General finds that the  
10 exemption:

- 11 (i) is in the interest of the borrowing public; and
- 12 (ii) will apply only to products that maintain and  
13 strengthen home ownership and equity protection.

14 (b) The ~~Administrator~~ Attorney General, by regulation or  
15 order, shall prohibit acts or practices in connection  
16 with:

- 17 (i) subsection 10 mortgage loans that the Board of  
18 Governors of the Federal Reserve System has found  
19 to be unfair, deceptive, or designed to evade the  
20 provisions of this section; and
- 21 (ii) refinancing of subsection 10 mortgage loans that  
22 the Board of Governors of the Federal Reserve  
23 System has found to be associated with abusive  
24

1 lending practices, or that are otherwise not in  
2 the interest of the borrower.

3 SECTION 38. AMENDATORY 14A O.S. 2001, Section 3-309.5,  
4 is amended to read as follows:

5 Section 3-309.5 (1) In addition to the disclosures required  
6 under ~~Title 14A of the Oklahoma Statutes~~ this title, for each  
7 reverse mortgage, the creditor shall, not less than three (3) days  
8 prior to consummation of the transaction, disclose to the consumer  
9 in conspicuous type a good faith estimate of the projected total  
10 cost of the mortgage to the consumer expressed as a table of annual  
11 interest rates. Each annual interest rate shall be based on a  
12 projected total future credit extension balance under a projected  
13 appreciation rate for the dwelling and a term for the mortgage. The  
14 disclosure shall include:

15 (a) statements of the annual interest rates for not less  
16 than three projected appreciation rates and not less  
17 than three credit transaction periods, as determined  
18 by the ~~Administrator~~ Attorney General, including:

19 (i) a short-term reverse mortgage;

20 (ii) a term equaling the actuarial life expectancy of  
21 the consumer; and

22 (iii) such longer term as the ~~Administrator~~ Attorney  
23 General deems appropriate; and  
24



1 (b) a statement that the consumer is not obligated to  
2 complete the reverse mortgage transaction merely  
3 because the consumer has received the disclosure  
4 required under this section or has signed an  
5 application for the reverse mortgage.

6 (2) In determining the projected total cost of the mortgage to  
7 be disclosed to the consumer under subsection (1) of this section,  
8 the creditor shall take into account:

9 (a) any shared appreciation or equity that the lender  
10 will, by contract, be entitled to receive;

11 (b) all costs and charges to the consumer, including the  
12 costs of any associated annuity that the consumer  
13 elects or is required to purchase as part of the  
14 reverse mortgage transaction;

15 (c) all payments to and for the benefit of the consumer,  
16 including, in the case in which an associated annuity  
17 is purchased, whether or not required by the lender as  
18 a condition of making the reverse mortgage, the  
19 annuity payments received by the consumer and financed  
20 from the proceeds of the loan, instead of the proceeds  
21 used to finance the annuity; and

22 (d) any limitation on the liability of the consumer under  
23 reverse mortgage transactions, such as nonrecourse  
24 limits and equity conservation agreements.

1 SECTION 39. AMENDATORY 14A O.S. 2001, Section 3-310, is  
2 amended to read as follows:

3 Section 3-310. In the case of a transaction in which a  
4 mortgage, deed of trust, or equivalent consensual security interest  
5 is created or retained in the debtor's principal dwelling to finance  
6 the acquisition or initial construction of that dwelling, if that  
7 transaction is also subject to the Real Estate Settlement Procedures  
8 Act, 12 U.S.C. Sections 2601 et seq., good faith estimates of the  
9 disclosures required by this part shall be made in accordance with  
10 the rules of the ~~Administrator~~ Attorney General concerning estimates  
11 before the credit is extended, or shall be delivered or placed in  
12 the mail not later than three (3) business days after the lender  
13 receives the debtor's written application, whichever is earlier. If  
14 the disclosure statement furnished within three (3) days of the  
15 written application contains an annual percentage rate which is  
16 subsequently rendered inaccurate within the meaning of Section  
17 3-304(5) (a) and (c), the lender shall furnish another statement at  
18 the time of settlement or consummation.

19 SECTION 40. AMENDATORY 14A O.S. 2001, Section 3-312, is  
20 amended to read as follows:

21 Section 3-312. (1) No lender shall engage in this state in  
22 false or misleading advertising concerning the terms or conditions  
23 of credit with respect to a consumer loan.

24

1 (2) Without limiting the generality of subsection (1), and  
2 without requiring a statement of rate of loan finance charge if the  
3 loan finance charge is not more than Five Dollars (\$5.00) when the  
4 principal does not exceed Seventy-five Dollars (\$75.00), or Seven  
5 Dollars and fifty cents (\$7.50) when the principal exceeds  
6 Seventy-five Dollars (\$75.00), an advertisement with respect to a  
7 consumer credit loan made by the posting of a public sign, or by  
8 catalog, magazine, newspaper, radio, television, or similar mass  
9 media, is misleading if:

10 (a) it states the rate of the loan finance charge and the  
11 rate is not stated in the form required by the  
12 provisions on calculation of rate to be disclosed  
13 (Section 3-304), or

14 (b) it states the dollar amounts of the loan finance  
15 charge or installment payments, and does not also  
16 state the rate of any loan finance charge and the  
17 terms of repayment.

18 (3) In this section a catalog or other multiple-page  
19 advertisement is considered a single advertisement if it clearly and  
20 conspicuously displays a credit terms table setting forth the  
21 information required by this section.

22 (4) This section imposes no liability on the owner or  
23 personnel, as such, of any medium in which an advertisement appears  
24 or through which it is disseminated.

1 (5) Advertising which complies with the Federal Consumer Credit  
2 Protection Act does not violate subsection (2).

3 (6) The provisions of this section shall not apply to  
4 advertisements of residential real estate except to the extent  
5 provided by rules of the ~~Administrator~~ Attorney General.

6 (7) If any advertisement to aid, promote, or assist, directly  
7 or indirectly, the extension of consumer credit through a revolving  
8 loan account plan under which extensions of credit are secured by  
9 the consumer's principal dwelling states, affirmatively or  
10 negatively, any of the specific terms of the plan, including any  
11 periodic payment amount required under such plan, such advertisement  
12 shall also clearly and conspicuously set forth the following  
13 information, in such form and manner as the ~~Administrator~~ Attorney  
14 General may require:

15 (a) Any loan fee the amount of which is determined as a  
16 percentage of the credit limit applicable to an  
17 account under the plan and an estimate of the  
18 aggregate amount of other fees for opening the  
19 account, based on the creditor's experience with the  
20 plan and stated as a single amount or as a reasonable  
21 range,

22 (b) In any case in which periodic rates may be used to  
23 compute the loan finance charge, the periodic rates  
24 expressed as an annual percentage rate,

1 (c) The highest annual percentage rate which may be  
2 imposed under the plan, and

3 (d) Any other information the ~~Administrator~~ Attorney  
4 General may by rule require.

5 (8) If any advertisement described in subsection (7) of this  
6 section contains a statement that any interest expense incurred with  
7 respect to the plan is or may be tax deductible, the advertisement  
8 shall not be misleading with respect to such deductibility.

9 (9) No advertisement described in subsection (7) of this  
10 section with respect to any home equity account may refer to such  
11 credit as "free money" or use other terms determined by the  
12 ~~Administrator~~ Attorney General by rule to be misleading.

13 (10) (a) If any advertisement described in subsection (7) of  
14 this section includes an initial annual percentage  
15 rate that is not determined by the index or formula  
16 used to make later interest rate adjustments, the  
17 advertisement shall also state with equal prominence  
18 the current annual percentage rate that would have  
19 been applied using the index or formula if such  
20 initial rate had not been offered,

21 (b) The annual percentage rate required to be disclosed  
22 under the paragraph (a) rate of this subsection rate  
23 must be current as of a reasonable time given the  
24 media involved, and

1 (c) Any advertisement to which paragraph (a) of this  
2 subsection applies shall also state the period of time  
3 during which the initial annual percentage rate  
4 referred to in such paragraph will be in effect.

5 (11) If any advertisement described in subsection (7) of this  
6 section contains a statement regarding the minimum monthly payment  
7 under the plan, the advertisement shall also disclose, if  
8 applicable, the fact that the plan includes a balloon payment.

9 (12) For purposes of this section and Section 3-309.2 of this  
10 title, the term "balloon payment" means, with respect to any  
11 revolving charge account plan under which extensions of credit are  
12 secured by the consumer's principal dwelling, any repayment option  
13 under which:

14 (a) the account holder is required to repay the entire  
15 amount of any outstanding balance as of a specified  
16 date or at the end of a specified period of time, as  
17 determined in accordance with the terms of the  
18 agreement pursuant to which such credit is extended,  
19 and

20 (b) the aggregate amount of the minimum periodic payments  
21 required would not fully amortize such outstanding  
22 balance by such date or at the end of such period.

23 SECTION 41. AMENDATORY 14A O.S. 2001, Section 3-408, is  
24 amended to read as follows:

1 Section 3-408. (1) If a lender makes a change in the terms of  
2 a revolving loan account without complying with this section any  
3 additional cost or charge to the debtor resulting from the change is  
4 an excess charge and subject to the remedies available to debtors  
5 (Section 5-202) and to the ~~Administrator~~ Attorney General (Section  
6 6-113).

7 (2) A lender may change the terms of a revolving loan account  
8 whether or not the change is authorized by prior agreement. Except  
9 as provided in subsection (3) of this section, the lender shall give  
10 to the debtor written notice of any change before the effective date  
11 of the change as follows:

12 (a) for changes in the rate of interest charged on such an  
13 account, at least one written notice shall be given to  
14 the debtor at least one billing cycle, but not less  
15 than thirty (30) days, prior to such change taking  
16 effect; and

17 (b) for a change in the terms other than the rate of  
18 interest, at least two written notices shall be given  
19 to the debtor, with the first notice at least two  
20 billing cycles, but not less than sixty (60) days,  
21 prior to such change taking effect.

22 (3) The notice specified in subsection (2) of this section is  
23 not required if:  
24

- 1 (a) the debtor after receiving notice of the change agrees  
2 in writing to the change;
- 3 (b) the debtor elects to pay an amount designated on a  
4 billing statement (subsection (2) of Section 3-309 of  
5 this title) as including a new charge for a benefit  
6 offered to the debtor when the benefit and charge  
7 constitute the change in terms and when the billing  
8 statement also states the amount payable if the new  
9 charge is excluded;
- 10 (c) the change involves no significant cost to the debtor;
- 11 (d) the debtor has previously consented in writing to the  
12 kind of change made and notice of the change is given  
13 to the debtor at least thirty (30) days prior to the  
14 effective date of the change;
- 15 (e) the change applies only to debts incurred after a date  
16 specified in a notice of the change given at least  
17 thirty (30) days prior to the effective date of the  
18 change;
- 19 (f) the kind or type of change is of a class defined by  
20 the ~~Administrator~~ Attorney General by rule, as not  
21 requiring the advance notice set forth in this section  
22 for the protection of the consumer; or
- 23 (g) the change involves late payment charges or  
24 over-the-limit charges.



1 (4) The notice provided for in this section is given to the  
2 debtor when mailed to the debtor at the address used by the lender  
3 for sending periodic billing statements.

4 SECTION 42. AMENDATORY 14A O.S. 2001, Section 3-409, is  
5 amended to read as follows:

6 Section 3-409. A lender may not use multiple agreements with  
7 intent to avoid disclosure of an annual percentage rate pursuant to  
8 the provisions on disclosure and advertising (Part 3). The excess  
9 amount of loan finance charge provided for in agreements in  
10 violation of this section is an excess charge for the purposes of  
11 the provisions on the effect of violations on rights of parties  
12 (Section 5-202) and the provisions on civil actions by ~~Administrator~~  
13 Attorney General.

14 SECTION 43. AMENDATORY 14A O.S. 2001, Section 3-502, is  
15 amended to read as follows:

16 Section 3-502. (1) Unless a person is a supervised financial  
17 organization or has first obtained a license from the ~~Administrator~~  
18 Attorney General authorizing the person to make supervised loans, a  
19 person shall not engage in the business of:

- 20 (a) making supervised loans; or  
21 (b) taking assignments and undertaking direct collection  
22 of payments from or enforcement of rights against  
23 debtors arising from supervised loans.

24

1 (2) In addition to civil and criminal penalties, the  
2 ~~Administrator~~ Attorney General may initiate administrative action  
3 against an unlicensed person as if the person held a license if the  
4 person is found to be engaging in the business of making supervised  
5 loans.

6 SECTION 44. AMENDATORY 14A O.S. 2001, Section 3-503, is  
7 amended to read as follows:

8 Section 3-503. (1) Application for a license shall be under  
9 oath, shall give the approximate location from which the business is  
10 to be conducted, and shall contain such relevant information as the  
11 ~~Administrator~~ Attorney General may require. When making application  
12 for one or more licenses, the applicant shall pay Two Hundred  
13 Twenty-five Dollars (\$225.00) to the ~~Administrator~~ Attorney General  
14 as an investigation fee and One Hundred Fifty Dollars (\$150.00) for  
15 each license as the annual fee provided in this part for the current  
16 calendar year, provided if a license is granted after June 30, in  
17 any year, such fee shall be Seventy-five Dollars (\$75.00) for that  
18 year.

19 (2) Every licensee shall maintain on file with the  
20 ~~Administrator~~ Attorney General a written appointment of a resident  
21 of this state as the agent for service of all judicial or other  
22 process or legal notice, unless the licensee has appointed an agent  
23 under another statute of this state. In case of noncompliance, such  
24 service may be made on the ~~Administrator~~ Attorney General.

1 (3) Every applicant shall, also, at the time of filing such  
2 application, file with the ~~Administrator~~ Attorney General, if  
3 required, a bond satisfactory to the ~~Administrator~~ Attorney General  
4 and in an amount not to exceed Five Thousand Dollars (\$5,000.00) for  
5 the first license and One Thousand Dollars (\$1,000.00) for each  
6 additional license with a surety company qualified to do business in  
7 this state as surety, whose total liability in the aggregate shall  
8 not exceed the amount of such bond so fixed. The bond shall run to  
9 the state for the use of the state and of any person or persons who  
10 may have cause of action against the obligor of the bond under the  
11 provisions of this title. Such bond shall be conditional that the  
12 obligor will faithfully conform to and abide by the provisions of  
13 this title and to all rules lawfully made by the ~~Administrator~~  
14 Attorney General hereunder and will pay to the state and to any such  
15 person or persons any and all amounts of money that may become due  
16 or owing to the state or to such person or persons from such obligor  
17 under and by virtue of the provisions of this title during the  
18 calendar year for which the bond is given.

19 (4) As part of the investigation, the ~~Administrator~~ Attorney  
20 General may conduct a national criminal history check pursuant to  
21 subsection B of Section 150.9 of Title 74 of the Oklahoma Statutes.  
22 The applicant shall furnish to the ~~Administrator~~ Attorney General,  
23 upon request by the ~~Administrator~~ Attorney General, a complete set  
24

1 of the applicant's fingerprints that shall be certified by an  
2 authorized law enforcement officer.

3 SECTION 45. AMENDATORY 14A O.S. 2001, Section 3-504, is  
4 amended to read as follows:

5 Section 3-504. (1) On filing such application, bond, and  
6 payment of the required fees, the ~~Administrator~~ Attorney General  
7 shall investigate the facts and if the ~~Administrator~~ Attorney  
8 General shall find the financial responsibility, experience,  
9 character and general fitness of the applicant are such as to  
10 command the confidence of the public and to warrant belief the  
11 business will be operated lawfully and fairly, within the purposes  
12 of this title, and the applicant has available for the operation of  
13 such business net assets of at least Twenty-five Thousand Dollars  
14 (\$25,000.00), the ~~Administrator~~ Attorney General shall grant such  
15 application and issue to the applicant a license which shall be the  
16 applicant's license and authority to make supervised loans under the  
17 provisions of this title.

18 (2) If the ~~Administrator~~ Attorney General shall not so find,  
19 the ~~Administrator~~ Attorney General shall notify the applicant, who  
20 shall, on request within thirty (30) days be entitled to a hearing  
21 on such application within sixty (60) days after the date of the  
22 request. The investigation fee shall be retained by the  
23 ~~Administrator~~ Attorney General, but the annual fee shall be returned  
24 to the applicant in the event of denial.

1 (3) Each application for a license shall be granted or denied  
2 within ninety (90) days from its filing with the required fees, or,  
3 from the hearing thereon, if any, unless the period is extended by  
4 written agreement between the applicant and the ~~Administrator~~  
5 Attorney General or the independent hearing examiner.

6 (4) Each license shall state the address of the office from  
7 which the business is to be conducted and the name of the licensee.  
8 The license shall be displayed at the place of business named in the  
9 license. The license shall not be transferable or assignable except  
10 upon approval by the ~~Administrator~~ Attorney General.

11 (5) Each license shall remain in full force and effect until  
12 relinquished, suspended, revoked or expired. Every licensee shall,  
13 on or before each December 1, pay to the ~~Administrator~~ Attorney  
14 General One Hundred Fifty Dollars (\$150.00) for each license held by  
15 the licensee, as the annual fee for the succeeding calendar year.  
16 If the annual fee remains unpaid fifteen (15) days after written  
17 notice of delinquency has been given to the licensee by the  
18 ~~Administrator~~ Attorney General, the license shall thereupon expire  
19 but not before December 31 of any year for which an annual fee has  
20 been paid. There shall be a late fee of Fifty Dollars (\$50.00) for  
21 a late application for renewal of a license received after December  
22 1. The fee for a duplicate or amended license shall be Twenty-five  
23 Dollars (\$25.00).  
24

1 (6) Every licensee shall maintain net assets of at least  
2 Twenty-five Thousand Dollars (\$25,000.00), either used or readily  
3 available for use, in the conduct of the business of each licensed  
4 office.

5 (7) A separate license shall be required for each office  
6 operated under this title. The ~~Administrator~~ Attorney General may  
7 issue more than one license to any one person upon compliance with  
8 this part as to each license. Nothing contained herein, however,  
9 shall be construed to require a license for any place of business  
10 devoted to accounting or other record keeping and where supervised  
11 loans are not made.

12 (8) When a licensee wishes to move an office to another  
13 location, the licensee shall give thirty (30) days' written notice  
14 to the ~~Administrator~~ Attorney General, who shall amend the license  
15 accordingly.

16 (9) For purposes of this section, the term "office" shall mean  
17 a location occupied by a licensee with the following  
18 characteristics:

- 19 (a) a manager for the office who is not common to any  
20 other supervised lender's office,
- 21 (b) a street and mailing address separate from any other  
22 supervised lender's office,
- 23 (c) an entrance through which the public may access only  
24 one supervised lender's office,

1 (d) separation from any other supervised lender's office  
2 by walls or otherwise and through which neither  
3 employees nor the public may pass, and

4 (e) any other characteristics required pursuant to rule  
5 adopted by the ~~Administrator~~ Attorney General.

6 (10) Any person holding a license under this title who shall  
7 violate any provision hereof shall be subject to forfeiture of each  
8 license held by the licensee and if a corporation, its charter shall  
9 be subject to forfeiture, and it shall be the duty of the Attorney  
10 General, when any such violation is called to the Attorney General's  
11 attention, to file suit for such forfeiture of charter and  
12 cancellation of the license in a district court in Oklahoma County.

13 SECTION 46. AMENDATORY 14A O.S. 2001, Section 3-505, is  
14 amended to read as follows:

15 Section 3-505. (1) The ~~Administrator~~ Attorney General or the  
16 independent hearing examiner may, after notice and hearing, censure,  
17 probate, suspend, revoke or refuse to renew any license if the  
18 ~~Administrator~~ Attorney General or the independent hearing examiner  
19 finds that:

20 (a) The licensee has failed to pay the annual license fee  
21 imposed by this title, or an examination fee,  
22 investigation fee or other fee or charge imposed by  
23 the ~~Administrator~~ Attorney General under the authority  
24 of this title,

1 (b) The licensee, either knowingly or without the exercise  
2 of due care to prevent the same, has violated any  
3 provision of this title or any regulation or order  
4 lawfully made pursuant to and within the authority of  
5 this title,

6 (c) Any fact or condition exists which, if it had existed  
7 or had been known to exist at the time of the original  
8 application for such license, clearly would have  
9 justified the ~~Administrator~~ Attorney General or the  
10 independent hearing examiner in refusing to issue such  
11 license, or

12 (d) The licensee acting as a mortgage broker as defined in  
13 the Mortgage Broker Licensure Act has violated the  
14 Mortgage Broker Licensure Act.

15 (2) The hearing shall be held upon not less than twenty (20)  
16 days' notice in writing setting forth the time and place thereof and  
17 a concise statement of the facts alleged to sustain the  
18 administrative action, and its effective date shall be set forth in  
19 a written order accompanied by finding of fact and a copy thereof  
20 shall be forthwith delivered to the licensee. Such order, finding,  
21 and the evidence considered by the ~~Administrator~~ Attorney General or  
22 the independent hearing examiner shall be filed with the public  
23 records of the ~~Administrator~~ Attorney General.



1 (3) Any licensee may surrender any license by delivering it to  
2 the ~~Administrator~~ Attorney General with written notice of its  
3 surrender, but such surrender shall not affect the administrative,  
4 civil or criminal liability for acts committed prior thereto.

5 (4) No revocation, suspension, or surrender of any license  
6 shall impair or affect the obligation of any preexisting lawful  
7 contract between the licensee and any borrower.

8 (5) The ~~Administrator~~ Attorney General or the independent  
9 hearing examiner may reinstate suspended licenses or issue new  
10 licenses to a person whose license or licenses have been revoked if  
11 no fact or condition then exists which clearly would have justified  
12 the ~~Administrator~~ Attorney General or the independent hearing  
13 examiner in refusing originally to issue such license under this  
14 part.

15 (6) Every licensee shall notify the ~~Administrator~~ Attorney  
16 General of the conviction of or plea of guilty or nolo contendere to  
17 any felony within thirty (30) days after the plea is taken and also  
18 within thirty (30) days of the entering of an order of judgment and  
19 sentencing and shall notify the ~~Administrator~~ Attorney General of  
20 any administrative action resulting in revocation, suspension, or  
21 amendment of a license taken against the licensee in another state  
22 within thirty (30) days of the entering of the administrative order  
23 in that state.

1 SECTION 47. AMENDATORY 14A O.S. 2001, Section 3-506, is  
2 amended to read as follows:

3 Section 3-506. (1) At such times as the ~~Administrator~~ Attorney  
4 General shall deem necessary, the ~~Administrator~~ Attorney General or  
5 a duly authorized representative shall make an examination of the  
6 place or places of business of each licensee and shall inquire into  
7 and examine the loans, transactions, books, accounts, papers,  
8 correspondence, and records of such licensee insofar as they pertain  
9 to the business regulated by this title. In the course of such  
10 examination, the ~~Administrator~~ Attorney General or the duly  
11 authorized representative shall have free access to the office,  
12 place of business, files, safes and vaults of such licensee, and  
13 shall have the right to make copies of such books, accounts, papers,  
14 correspondence and records. The ~~Administrator~~ Attorney General or  
15 the duly authorized representative may, during the course of such  
16 examination, administer oaths and examine any person under oath upon  
17 any subject pertinent to any matter about which the ~~Administrator~~  
18 Attorney General is authorized or required by this title to  
19 consider, investigate, or secure information. Any licensee who  
20 shall fail or refuse to let the ~~Administrator~~ Attorney General or  
21 the duly authorized representative examine or make copies of such  
22 books, or other relevant documents shall thereby be deemed in  
23 violation of this title and such failure or refusal shall constitute  
24 grounds for the administrative action against such license. The

1 information obtained in the course of such examination shall be  
2 confidential. Each licensee shall pay to the ~~Administrator~~ Attorney  
3 General an amount assessed by the ~~Administrator~~ Attorney General to  
4 cover the direct and indirect cost of such examination and a  
5 proportionate share of general administrative expense, not to exceed  
6 Three Hundred Dollars (\$300.00); provided, however, that for any  
7 examination which lasts in excess of eight (8) hours, the  
8 ~~Administrator~~ Attorney General shall charge an additional fee of  
9 Fifty Dollars (\$50.00) per hour for each examiner required to  
10 complete such an examination; provided, further, that the  
11 ~~Administrator~~ Attorney General may waive the examination fee for any  
12 examination which takes one (1) hour or less. If an examination fee  
13 is due and is not paid upon completion of an examination, the  
14 ~~Administrator~~ Attorney General shall bill the licensee, and there  
15 shall be a late fee of Fifty Dollars (\$50.00) if the amount due is  
16 not received within thirty (30) days of the invoice date. No  
17 licensee shall be assessed and charged a total fee in excess of Six  
18 Hundred Fifty Dollars (\$650.00) for each licensed office in any one  
19 (1) calendar year.

20 (2) For the purpose of discovering violations of this title or  
21 of securing information required hereunder, the ~~Administrator~~  
22 Attorney General or a duly authorized representative may investigate  
23 the books, accounts, papers, correspondence and records of any  
24 licensee or other person whom the ~~Administrator~~ Attorney General has

1 reasonable cause to believe is violating any provision of this title  
2 whether or not such person shall claim to be within the authority or  
3 scope of this part. For the purpose of this part, any person who  
4 advertises for, solicits or otherwise communicates a willingness to  
5 make loans on which the loan finance charge exceeds ten percent  
6 (10%) per year as determined according to the provisions on loan  
7 finance charges for consumer loans, Section 3-201 of this title,  
8 shall be presumed to be engaged in the business of making supervised  
9 loans.

10 (3) Each licensee shall keep or make available in this state  
11 such books and records relating to loans made under this title as  
12 are necessary to enable the ~~Administrator~~ Attorney General to  
13 determine whether the licensee is complying with this title. Such  
14 books and records shall be consistent with accepted accounting  
15 practices.

16 (4) Each licensee shall preserve or make available such books  
17 and records in this state relating to each of its loans for four (4)  
18 years from the date of the loan, or two (2) years from the date of  
19 the final entry made thereon, whichever is later. Each licensee's  
20 system of records shall be accepted if it discloses such information  
21 as may be reasonably required under this title. All obligations  
22 signed by borrowers shall be kept at an office in this state  
23 designated by the licensee, except when transferred under an  
24

1 agreement which gives the ~~Administrator~~ Attorney General access  
2 thereto.

3 (5) Each licensee shall, annually on or before the first day of  
4 May, file a report with the ~~Administrator~~ Attorney General setting  
5 forth such relevant information as the ~~Administrator~~ Attorney  
6 General may reasonably require concerning the business and  
7 operations during the preceding calendar year for each licensed  
8 place of business conducted by such licensee with the state. Such  
9 report shall be made under oath and shall be in the form prescribed  
10 by the ~~Administrator~~ Attorney General, who shall make and publish  
11 annually a consolidated analysis and recapitulation of such reports,  
12 but the individual reports shall be held confidential. There shall  
13 be a late fee of Twenty-five Dollars (\$25.00) for any annual report  
14 received after May 1.

15 (6) The ~~Administrator~~ Attorney General may promulgate rules  
16 necessary for the enforcement of this title and consistent with all  
17 of its provisions. Before adopting a rule the ~~Administrator~~  
18 Attorney General shall give every licensee at least twenty (20)  
19 days' written notice of a public hearing, stating the time and place  
20 thereof and the terms or substance of the proposed rule. At the  
21 hearing, any licensee or other person may be heard and introduce  
22 evidence, data, or arguments or place the same on file. The  
23 ~~Administrator~~ Attorney General shall adopt and promulgate every rule  
24 in written form stating the date of adoption and the date of

1 promulgation. A copy of every rule shall be mailed to each licensee  
2 prior to the effective date.

3 (7) On application of any person and payment of the costs  
4 therefor, the ~~Administrator~~ Attorney General shall furnish under the  
5 ~~Administrator's~~ seal of the Attorney General and signed by the  
6 ~~Administrator~~ Attorney General or an assistant, a certificate of  
7 good standing or a certified copy of any license, rule or order.

8 (8) Any transcript of any hearing held by the ~~Administrator~~  
9 Attorney General or the independent hearing examiner under this  
10 title shall be a public record and open to inspection at all  
11 reasonable times.

12 (9) Upon failure without lawful excuse to obey a subpoena or to  
13 give testimony and upon reasonable notice to all persons affected  
14 thereby, the ~~Administrator~~ Attorney General or a representative may  
15 apply to a court for an order compelling compliance, as provided by  
16 the Administrative Procedures Act.

17 (10) There shall be assessed, in addition to any other  
18 penalties provided for by law, an administrative service fee of  
19 Twenty-five Dollars (\$25.00) for each check returned to the  
20 ~~Department of Consumer Credit~~ Attorney General or any agent thereof  
21 by reason of the refusal of the bank upon which such check was drawn  
22 to honor the same. However, the fee provided in this subsection  
23 shall not be assessed for any check returned because of  
24

1 "insufficient funds" unless the check has been presented to the bank  
2 two times and payment declined by the bank.

3 SECTION 48. AMENDATORY 14A O.S. 2001, Section 3-507, is  
4 amended to read as follows:

5 Section 3-507. Except as otherwise provided, the general act of  
6 this state governing administrative procedures (Title 75, Oklahoma  
7 Statutes, Chapters 7 and 8) applies to and governs all  
8 administrative action taken by the ~~Administrator~~ Attorney General  
9 pursuant to this part.

10 SECTION 49. AMENDATORY 14A O.S. 2001, Section 3-509, is  
11 amended to read as follows:

12 Section 3-509. A lender may not, whether acting independently  
13 or in concert with one or more other lenders, use multiple  
14 agreements or split a loan (including any refinancing thereof) into  
15 multiple loans with intent to obtain a higher rate or amount of loan  
16 finance charge under Section 3-508A or 3-508B, whichever is  
17 appropriate, than would otherwise be permitted by this article or to  
18 avoid disclosure of an annual percentage rate pursuant to the  
19 provisions on disclosure and advertising (Part 3). The excess  
20 amount of loan finance charge provided for in agreements or split  
21 loans in violation of this section are excess charges for the  
22 purposes of the provisions on effect of violation on rights of  
23 parties (Section 5-202) and the provisions on civil actions by  
24 ~~Administrator~~ Attorney General (Section 6-113).

1 SECTION 50. AMENDATORY 14A O.S. 2001, Section 3-512, is  
2 amended to read as follows:

3 Section 3-512. (1) A licensee who is authorized to make  
4 supervised loans under this Part shall not engage in the business of  
5 making sales of goods at any location where supervised loans are  
6 made; provided, however, a licensee may make sales of goods through  
7 vending machines at the location where supervised loans are made and  
8 may sell other goods approved by the ~~Administrator of the Department~~  
9 ~~of Consumer Credit~~ Attorney General which are paid for by a consumer  
10 in cash and not with the proceeds of a loan by the licensee also  
11 making the sale. The word "location" as used in this section means  
12 the entire space in which supervised loans are made and said  
13 location must be separated from any location in which merchandise is  
14 sold or displayed by walls which may be broken only by a passageway  
15 to which the public is not admitted.

16 (2) A sale of goods or services pursuant to a lender credit  
17 card or similar arrangement made at a place of business other than  
18 that of a licensee does not violate this section.

19 (3) An occasional sale of property used in the ordinary course  
20 of the business of the licensee does not violate this section.

21 (4) A sale of items repossessed by the licensee does not  
22 violate this section.

23

24



1 (5) No licensee shall conduct the business of making loans  
2 under this act under any name, or at any place of business within  
3 this state, other than that stated in the license.

4 SECTION 51. AMENDATORY 14A O.S. 2001, Section 4-104, is  
5 amended to read as follows:

6 Section 4-104. (1) Except as otherwise provided in this  
7 article and subject to the provisions on additional charges (Section  
8 2-202 and Section 3-202) and maximum charges (Part 2 of Article 2  
9 and Article 3), a creditor may agree to provide insurance, and may  
10 contract for and receive a charge for insurance separate from and in  
11 addition to other charges. A creditor need not make a separate  
12 charge for insurance provided or required by him. This act does not  
13 authorize the issuance of any insurance prohibited under any  
14 statute, or rule thereunder, governing the business of insurance.

15 (2) The excess amount of a charge for insurance provided for in  
16 agreements in violation of this article is an excess charge for the  
17 purposes of the provisions of the article on remedies and penalties  
18 (Article 5) as to effect of violations on rights of parties (Section  
19 5-202) and of the provisions of the article on administration  
20 (Article 6) as to civil actions by the ~~Administrator~~ Attorney  
21 General (Section 6-113).

22 SECTION 52. AMENDATORY 14A O.S. 2001, Section 4-111, is  
23 amended to read as follows:

24

1 Section 4-111. The ~~Administrator~~ Attorney General and the  
2 Insurance Department are authorized and directed to consult and  
3 assist one another in maintaining compliance with this article.  
4 They may jointly pursue investigations, prosecute suits, and take  
5 other official action, as may seem to them appropriate, if either of  
6 them is otherwise empowered to take the action. If the  
7 ~~Administrator~~ Attorney General is informed of a violation or  
8 suspected violation by an insurer of this article, or of the  
9 insurance laws, rules, and regulations of this state, he shall  
10 advise the Insurance Department of the circumstances.

11 SECTION 53. AMENDATORY 14A O.S. 2001, Section 5-105, is  
12 amended to read as follows:

13 Section 5-105. (1) For the purpose of this part

14 (a) "disposable earnings" means that part of the earnings  
15 of an individual remaining after the deduction from  
16 those earnings of amounts required by law to be  
17 withheld; and

18 (b) "garnishment" means any legal or equitable procedure  
19 through which the earnings of an individual are  
20 required to be withheld for payment of a debt.

21 (2) The maximum part of the aggregate disposable earnings of an  
22 individual for any workweek which is subjected to garnishment to  
23 enforce payment of a judgment arising from a consumer credit sale,  
24 consumer lease, or consumer loan may not exceed the lesser of

1 (a) twenty-five percent (25%) of his disposable earnings  
2 for that week; or

3 (b) the amount by which his disposable earnings for that  
4 week exceed thirty times the federal minimum hourly  
5 wage prescribed by Section 6(a) (1) of the Fair Labor  
6 Standards Act of 1938, U.S.C. Title 29, Section 206(a)  
7 (1), in effect at the time the earnings are payable.

8 (c) in the case of earnings for a pay period other than a  
9 week, the ~~Administrator~~ Attorney General shall by rule  
10 prescribe a multiple of the federal minimum hourly  
11 wage equivalent in effect to that set forth in  
12 paragraph (b).

13 (3) No court may make, execute, or enforce an order or process  
14 in violation of this section.

15 SECTION 54. AMENDATORY 14A O.S. 2001, Section 5-202, as  
16 amended by Section 13, Chapter 330, O.S.L. 2003 (14A O.S. Supp.  
17 2007, Section 5-202), is amended to read as follows:

18 Section 5-202. (1) If a creditor has violated the provisions  
19 of this act applying to certain negotiable instruments (Section  
20 2-403 of this title), or limitations on the schedule of payments or  
21 loan term for supervised loans (Section 3-512 of this title), the  
22 debtor is not obligated to pay the credit service charge or loan  
23 finance charge and has a right to recover from the person violating  
24 this act or from an assignee of that person's rights who undertakes

1 direct collection of payments or enforcement of rights arising from  
2 the debt a penalty in an amount determined by the court not in  
3 excess of three times the amount of the credit service charge or  
4 loan finance charge. No action pursuant to this subsection may be  
5 brought more than one (1) year after the due date of the last  
6 scheduled payment of the agreement with respect to which the  
7 violation occurred.

8 (2) If a creditor has violated the provisions of this act  
9 applying to authority to make supervised loans (Section 3-502 of  
10 this title), the loan is void and the debtor is not obligated to pay  
11 either the principal or loan finance charge. If he has paid any  
12 part of the principal or of the loan finance charge, he has a right  
13 to recover the payment from the person violating this act or from an  
14 assignee of that person's rights who undertakes direct collection of  
15 payments or enforcement of rights arising from the debt. With  
16 respect to violations arising from loans made pursuant to revolving  
17 loan accounts, no action pursuant to this subsection may be brought  
18 more than two (2) years after the violation occurred. With respect  
19 to violations arising from other loans, no action pursuant to this  
20 subsection may be brought more than one (1) year after the due date  
21 of the last scheduled payment of the agreement pursuant to which the  
22 charge was paid.

23 (3) Any creditor or servicer who fails to comply with any  
24 requirement for subsection 10 mortgages under Section 10 of this

1 act, with respect to any person is liable to that person in an  
2 amount equal to the sum of all finance charges and fees paid by the  
3 consumer, unless the creditor demonstrates that the failure to  
4 comply is not material. No action pursuant to this subsection may  
5 be brought more than one (1) year after the due date of the last  
6 scheduled payment of the agreement with respect to which the  
7 violation occurred.

8 (4) A debtor is not obligated to pay a charge in excess of that  
9 allowed by this act, and if the debtor has paid an excess charge  
10 the debtor has a right to a refund. A refund may be made by  
11 reducing the debtor's obligation by the amount of the excess charge.  
12 If the debtor has paid an amount in excess of the lawful obligation  
13 under the agreement, the debtor may recover the excess amount from  
14 the person who made the excess charge or from an assignee of that  
15 person's rights who undertakes direct collection of payments from or  
16 enforcement of rights against debtors arising from the debt.

17 (5) If a debtor is entitled to a refund and a person liable to  
18 the debtor refuses to make a refund within a reasonable time after  
19 demand, the debtor may recover from that person a penalty in an  
20 amount determined by a court not exceeding the greater of either the  
21 amount of the credit service or loan finance charge or ten times the  
22 amount of the excess charge. If the creditor has made an excess  
23 charge in deliberate violation of or in reckless disregard for this  
24 act, the penalty may be recovered even though the creditor has

1 refunded the excess charge. No penalty pursuant to this subsection  
2 may be recovered if a court has ordered a similar penalty assessed  
3 against the same person in a civil action by the ~~Administrator~~  
4 Attorney General (Section 6-113 of this title). With respect to  
5 excess charges arising from sales made pursuant to revolving charge  
6 accounts or from loans made pursuant to revolving loan accounts, no  
7 action pursuant to this subsection may be brought more than two (2)  
8 years after the time the excess charge was made. With respect to  
9 excess charges arising from other consumer credit sales or consumer  
10 loans, no action pursuant to this subsection may be brought more  
11 than one (1) year after the due date of the last scheduled payment  
12 of the agreement pursuant to which the charge was made.

13 (6) Except as otherwise provided, no violation of this act  
14 impairs rights on a debt.

15 (7) If an employer discharges an employee in violation of the  
16 provisions prohibiting discharge (Section 5-106 of this title), the  
17 employee may within thirty (30) days bring a civil action for  
18 recovery of wages lost as a result of the violation and for an order  
19 requiring the reinstatement of the employee. Damages recoverable  
20 shall not exceed lost wages for six (6) weeks.

21 (8) If the creditor establishes by a preponderance of evidence  
22 that a violation is unintentional or the result of a bona fide error  
23 no liability is imposed under subsections (1), (2) and (5) of this  
24 section and the validity of the transaction is not affected.

1 (9) In any case in which it is found that a creditor has  
2 violated this act, the court may award reasonable attorney fees  
3 incurred by the debtor.

4 SECTION 55. AMENDATORY 14A O.S. 2001, Section 5-203, as  
5 amended by Section 14, Chapter 330, O.S.L. 2003 (14A O.S. Supp.  
6 2007, Section 5-203), is amended to read as follows:

7 Section 5-203. (1) Except as otherwise provided in this  
8 section, any creditor who fails to comply with any requirement  
9 imposed by the provisions on disclosure (Part 3), other than the  
10 provisions on advertising pursuant to Sections 2-313 of Article 2 of  
11 this title and 3-312 of Article 3 of this title, or with any  
12 requirement imposed by the provision on the right to rescind  
13 pursuant to Section 5-204 of this title, with respect to any person  
14 is liable to that person in an amount equal to the sum of:

15 (a) any actual damage sustained by that person as a result  
16 of the failure;

17 (b) (i) (aa) in the case of an individual action twice  
18 the amount of the credit service or loan  
19 finance charge in connection with the  
20 transaction,

21 (bb) in the case of an individual action relating  
22 to a consumer lease twenty-five percent  
23 (25%) of the total amount of monthly  
24 payments under the lease but the liability

1                   pursuant to this part of this paragraph  
2                   shall be not less than One Hundred Dollars  
3                   (\$100.00) nor more than One Thousand Dollars  
4                   (\$1,000.00), or

5                   (cc) in the case of an individual action relating  
6                   to a credit transaction not under an open-  
7                   end credit plan that is secured by real  
8                   property or a dwelling, not less than Two  
9                   Hundred Dollars (\$200.00) or greater than  
10                  Two Thousand Dollars (\$2,000.00); or

11                  (ii) in the case of a class action, an amount the  
12                  court may allow, except that as to each member of  
13                  the class no minimum recovery shall be applicable  
14                  and the total recovery other than for actual  
15                  damages in any class action or series of class  
16                  actions arising out of the same failure to comply  
17                  by the same creditor shall not be more than the  
18                  lesser of Five Hundred Thousand Dollars  
19                  (\$500,000.00) or one percent (1%) of the net  
20                  worth of the creditor;

21                  (c) in the case of a successful action to enforce the  
22                  liability under paragraph (b) of this subsection or in  
23                  any action in which a person is determined to have a  
24                  right of rescission under Section 5-204 of this title,



1 the costs of the action together with reasonable  
2 attorney fees as determined by the court. In  
3 determining the amount of award in any class action,  
4 the court shall consider among other relevant factors  
5 the amount of any actual damages awarded, the  
6 frequency and persistence of failures of compliance by  
7 the creditor, the resources of the creditor, the  
8 number of persons adversely affected, and the extent  
9 to which the creditor's failure of compliance was  
10 intentional. In connection with the disclosures  
11 required by Sections 2-310 and 3-309 of this title, a  
12 creditor shall have a liability determined under  
13 paragraph (b) of this subsection only for failing to  
14 comply with the requirements of Section 5-204 of this  
15 title, Sections 2-310(1) and 3-309(1) of this title,  
16 subsections (2)(d) through (k) of Section 2-310 of  
17 this title, and subsections (2)(d) through (k) of  
18 Section 3-309 of this title. In connection with the  
19 disclosures referred to in subsections (1) through (7)  
20 of Sections 2-310.1 and 3-309.1 of this title, a card  
21 issuer shall have a liability under this section only  
22 to a cardholder who pays a fee described in Section 2-  
23 310.1(1)(d), Section 2-310.1(5)(a)(i), Section 3-  
24 309.1(1)(d) or Section 3-309.1(5)(a)(i) of this title

1 or who uses the credit card or charge card. In  
2 connection with disclosures for closed-end credit, a  
3 creditor shall have a liability determined under  
4 paragraph (b) of this subsection only for failing to  
5 comply with the requirements of Section 5-204 of this  
6 title, subsections (2)(b) insofar as it requires a  
7 disclosure of the amount financed, through (f) and  
8 subsection (j) of Section 2-306 of this title, and  
9 subsections (2)(b) insofar as it requires a disclosure  
10 of the amount financed, through (f) and subsection (h)  
11 of Section 3-306 of this title. With respect to any  
12 failure to make disclosure, liability shall be imposed  
13 only upon the creditor required to make disclosure,  
14 except as provided in subsection (3) of Section 2-302  
15 of this title, subsection (3) of Section 3-302 of this  
16 title and otherwise in this section; and

17 (d) in the case of a failure to comply with any  
18 requirement under Section 3-309.4 of this title, an  
19 amount equal to the sum of all finance charges and  
20 fees paid by the consumer, unless the creditor  
21 demonstrates that the failure to comply is not  
22 material.

23 (2) A creditor or assignee has no liability under this section,  
24 Section 5-302 of this title or Article 6 of this title in relation

1 to disclosure if within sixty (60) days after discovering an error  
2 whether pursuant to a final written examination report or notice  
3 issued under subsection (4) of Section 6-105 of this title or  
4 through the creditor's or assignee's own procedures, and prior to  
5 the institution of an action under this section or the receipt of  
6 written notice of the error from the obligor, the creditor or  
7 assignee notifies the person concerned of the error and makes  
8 whatever adjustments in the appropriate account are necessary to  
9 assure that the person will not be required to pay a credit service  
10 charge or loan finance charge in excess of the amount actually  
11 disclosed or the dollar equivalent of the percentage rate actually  
12 disclosed, whichever is lower.

13 (3) A creditor or assignee may not be held liable in any action  
14 brought under this section or Section 5-204 of this title for a  
15 violation of this title if the creditor or assignee shows by a  
16 preponderance of evidence that the violation was not intentional and  
17 resulted from a bona fide error notwithstanding the maintenance of  
18 procedures reasonably adapted to avoid the error. A bona fide error  
19 includes, but is not limited to, a clerical, calculation, computer  
20 malfunction and programming, and printing error, but not an error of  
21 legal judgment with respect to a person's disclosure obligations  
22 under this title.

23 (4) (a) Except as otherwise specifically provided in this  
24 section, any civil action for a violation of this

1 section or administrative proceeding for restitution  
2 which may be brought against the original creditor in  
3 any transaction may be maintained against any  
4 subsequent assignee of the original creditor in any  
5 transaction where the violation from which the alleged  
6 liability arose is apparent on the face of the  
7 disclosure statement unless the assignment was  
8 involuntary. For the purpose of this section, a  
9 violation apparent on the face of the disclosure  
10 statement includes, but is not limited to, a  
11 disclosure which can be determined to be incomplete or  
12 inaccurate from the face of the disclosure statement  
13 or other documents assigned or a disclosure which does  
14 not use the terms required to be used by this title.

15 (b) (i) Except as otherwise specifically provided in this  
16 title, any civil action against a creditor for a  
17 violation of this title, and any administrative  
18 proceeding against a creditor, with respect to a  
19 consumer credit transaction secured by real  
20 property may be maintained against any assignee  
21 of such creditor only if:

22 (aa) the violation for which such action or  
23 proceeding is brought is apparent on the  
24 face of the disclosure statement provided in

1 connection with such transaction pursuant to  
2 this title; and

3 (bb) the assignment to the assignee was  
4 voluntary.

5 (ii) For the purpose of this section, a violation is  
6 apparent on the face of the disclosure statement  
7 if:

8 (aa) the disclosure can be determined to be  
9 incomplete or inaccurate by a comparison  
10 among the disclosure statement, any  
11 itemization of the amount financed, the  
12 note, or any other disclosure of  
13 disbursement; or

14 (bb) the disclosure statement does not use the  
15 terms or format required to be used by this  
16 title.

17 (5) Any person who has the right to rescind a transaction under  
18 Section 5-204 of this title may rescind the transaction as against  
19 any assignee of the obligation.

20 (6) No action pursuant to this section may be brought more than  
21 one (1) year after the date of the occurrence of the violation.

22 (7) (a) In this section, "creditor" includes sellers, lessors,  
23 lenders, persons who regularly offer to lease or  
24 arrange to lease under consumer leases and any other

1 person required to make disclosures under Part 3 of  
2 either Article 2 or Article 3 of this title.

3 (b) (i) A servicer of a consumer obligation arising from  
4 a consumer credit transaction shall not be  
5 treated as an assignee of such obligation for  
6 purposes of this section unless the servicer is  
7 or was the owner of the obligation.

8 (ii) A servicer of a consumer obligation arising from  
9 a consumer credit transaction shall not be  
10 treated as the owner of the obligation for  
11 purposes of this section on the basis of an  
12 assignment of the obligation from the creditor or  
13 another assignee to the servicer solely for the  
14 administrative convenience of the servicer in  
15 servicing the obligation. Upon written request  
16 by the obligor, the servicer shall provide the  
17 obligor, to the best knowledge of the servicer,  
18 with the name, address, and telephone number of  
19 the owner of the obligation or the master  
20 servicer of the obligation.

21 (iii) For purposes of this subsection, the term  
22 "servicer" has the same meaning as in Section  
23 6(i)(2) of the Real Estate Settlement Procedures  
24 Act of 1974.

1 (iv) This subsection shall apply to all consumer  
2 credit transactions in existence or consummated  
3 on or after September 30, 1995.

4 (8) Where there are multiple obligors in a consumer credit  
5 transaction or consumer lease, there shall be no more than one  
6 recovery under paragraph (b) of subsection (1) of this section for a  
7 violation of this title.

8 (9) The multiple failure to disclose to any person any  
9 information required under this title to be disclosed in connection  
10 with a single account under an open-end consumer credit plan, other  
11 single consumer credit sale, consumer loan, consumer lease, or other  
12 extension of consumer credit shall entitle the person to a single  
13 recovery under this section but continued failure to disclose after  
14 a recovery has been granted shall give rise to rights to additional  
15 recoveries. This subsection does not bar any remedy permitted by  
16 Section 5-204 of this title.

17 (10) A person may not take any action to offset any amount for  
18 which a creditor or assignee is potentially liable to that person  
19 under paragraph b of subsection (1) of this section against any  
20 amount owed by that person unless the amount of the creditor's or  
21 assignee's liability has been determined by judgment of a court of  
22 competent jurisdiction in an action to which the person was a party.  
23 This subsection does not bar a person then in default on the  
24 obligation from asserting a violation of disclosure requirements as

1 an original action or as a defense or counterclaim to an action to  
2 collect amounts owed by the person brought by another person liable  
3 under this title if the claim is not time barred, or as a setoff or  
4 defense in accordance with Section 5-205 of this title.

5 (11) (a) Any person who purchases or is otherwise assigned a  
6 mortgage referred to in subsection (10) of Section 1-  
7 301 of this title shall be subject to all claims and  
8 defenses with respect to that mortgage that the  
9 consumer could assert against the creditor of the  
10 mortgage, unless the purchaser or assignee  
11 demonstrates, by a preponderance of the evidence, that  
12 a reasonable person exercising ordinary due diligence,  
13 could not determine, based on the documentation  
14 required by this title, the itemization of the amount  
15 financed, and other disclosure of disbursements that  
16 the mortgage was a mortgage referred to in subsection  
17 (10) of Section 1-301 of this title. The preceding  
18 sentence does not affect rights of a consumer under  
19 paragraph (a) of subsection (4) or subsection (5) of  
20 this section or any other provision of this title.

21 (b) Notwithstanding any other provision of law, relief  
22 provided as a result of any action made permissible by  
23 paragraph (a) of this subsection may not exceed:  
24



1 (i) with respect to actions based upon a violation of  
2 this title, the amount specified in subsection  
3 (1) of this section; and

4 (ii) with respect to all other causes of action, the  
5 sum of:

6 (aa) the amount of all remaining indebtedness;

7 and

8 (bb) the total amount paid by the consumer in  
9 connection with the transaction.

10 (c) The amount of damages that may be awarded under  
11 subparagraph (ii) of paragraph (b) of this subsection  
12 shall be reduced by the amount of any damages awarded  
13 under subparagraph (i) of paragraph (b) of this  
14 subsection.

15 (d) Any person who sells or otherwise assigns a mortgage  
16 referred to in subsection (10) of Section 1-301 of  
17 this title shall include a prominent notice of the  
18 potential liability under this subsection as  
19 determined by the ~~Administrator~~ Attorney General.

20 SECTION 56. AMENDATORY 14A O.S. 2001, Section 5-204, is  
21 amended to read as follows:

22 Section 5-204. (1) Except as otherwise provided in this  
23 section, in the case of a consumer credit sale or consumer loan,  
24 including opening or increasing the credit limit for an open-end

1 credit plan, with respect to which a security interest, including  
2 any such interest arising by operation of law, is or will be  
3 retained or acquired in any real or personal property which is used  
4 as the principal dwelling of the person to whom credit is extended,  
5 each person in whose principal dwelling a security interest is or  
6 will be retained or acquired, if that person's ownership interest in  
7 the dwelling is or will be subject to the security interest, shall  
8 have the right to rescind the transaction until midnight of the  
9 third business day following the consummation of the transaction or  
10 the delivery of the information and rescission forms required under  
11 this section together with a statement containing the material  
12 disclosures as defined in subsection (7) of this section, whichever  
13 is later, by notifying the creditor, in accordance with rules of the  
14 ~~Administrator~~ Attorney General, of the person's intention to do so.  
15 The creditor shall clearly and conspicuously disclose, in accordance  
16 with rules of the ~~Administrator~~ Attorney General, in a transaction  
17 subject to this section the rights of the person having the right of  
18 rescission under this section. The creditor shall also provide, in  
19 accordance with rules of the ~~Administrator~~ Attorney General,  
20 appropriate forms and an adequate opportunity to a person having the  
21 right of rescission to exercise the right to rescind any transaction  
22 subject to this section. If the required notice and material  
23 disclosures are not delivered, the right to rescind shall expire no  
24 later than three (3) years after the date of consummation of the

1 transaction giving rise to the right of rescission, or upon sale of  
2 the property, whichever occurs first; except that if the  
3 ~~Administrator~~ Attorney General or any other appropriate agency  
4 institutes a proceeding to enforce the provisions of this section  
5 within three (3) years after the date of consummation of the  
6 transaction and finds a violation of this section and the right to  
7 rescind is based in whole or in part on any matter involved in such  
8 proceeding, then the right of rescission shall expire three (3)  
9 years after the date of consummation of the transaction or upon the  
10 earlier sale of the property, or upon the expiration of one (1) year  
11 following the conclusion of the proceeding, or any judicial review  
12 or period for judicial review thereof, whichever is later.

13 (2) When the right of rescission is exercised under subsection  
14 (1) of this section, the debtor or person exercising the right of  
15 rescission is not liable for any credit service charge, loan finance  
16 charge or other charge, and any security interest given, including  
17 any such interest arising by operation of law, becomes void upon the  
18 rescission. Within twenty (20) days after receipt of a notice of  
19 rescission, the creditor shall return any money or property given as  
20 earnest money, down payment or otherwise, and shall take any action  
21 necessary or appropriate to reflect the termination of any security  
22 interest created under the transaction. If the creditor has  
23 delivered any property to the person exercising the right of  
24 rescission, such person may retain possession of it. Upon the

1 performance of the creditor's obligations under this section, the  
2 person exercising the right of rescission shall tender to the  
3 creditor all property delivered by the creditor in the consumer  
4 credit transaction, except that if return of the property in kind  
5 would be impractical or inequitable, tender of its reasonable value  
6 shall be made. Tender shall be made at the location of the property  
7 or at the principal dwelling of the person exercising the right of  
8 rescission, at the option of the person. If the creditor does not  
9 take possession of the property within twenty (20) days after tender  
10 by the person exercising the right of rescission, such person may  
11 keep it without further obligation. The procedures prescribed by  
12 this subsection shall apply except when otherwise ordered by a  
13 court.

14 (3) Notwithstanding any rule of evidence, written  
15 acknowledgment of receipt of any disclosure required under this  
16 title by a person to whom information, forms, and a statement is  
17 required to be given pursuant to this section does no more than  
18 create a rebuttable presumption of delivery thereof.

19 (4) The person entitled to exercise the right of rescission may  
20 modify or waive the right to rescind if that person determines that  
21 the extension of credit is necessary in order to meet a bona fide  
22 personal financial emergency. To modify or waive the right, the  
23 person shall give the creditor a dated written statement that  
24 describes the emergency, specifically modifies or waives the right

1 to rescind, and bears the signature of all of the persons entitled  
2 to rescind. Printed forms for this purpose are prohibited.

3 (5) This section does not apply to the creation or retention of  
4 a consensual lien against a principal dwelling to finance the  
5 acquisition or initial construction of that dwelling; a transaction  
6 which constitutes a refinancing or consolidation (with no new  
7 advances) of the principal balance then due and any accrued and  
8 unpaid finance charges of an existing extension of credit by the  
9 same creditor secured by an interest in the same property; a  
10 transaction in which an agency of a state is the creditor; or  
11 advances under a preexisting open-end credit plan if a security  
12 interest has already been retained or acquired and such advances are  
13 in accordance with a previously established credit limit for such  
14 plan.

15 (6) In any action in which it is determined that a creditor has  
16 violated this section, in addition to rescission the court may award  
17 relief under Section 5-203 of this title for violations of this  
18 title not relating to the right to rescind.

19 (7) The term "material disclosures" means the disclosure, as  
20 required by this title, of the annual percentage rate, the method of  
21 determining the finance charge and the balance upon which a finance  
22 charge will be imposed, the amount of the finance charge, the amount  
23 to be financed, the total of payments, the number and amount of  
24

1 payments, and the due dates or periods of payments scheduled to  
2 repay the indebtedness.

3 (8) An obligor shall have no rescission rights arising solely  
4 from the form of written notice used by the creditor to inform the  
5 obligor of the rights of the obligor under this section, if the  
6 creditor provided the obligor the appropriate form of written notice  
7 published and adopted by the ~~Administrator~~ Attorney General, or a  
8 comparable written notice of the rights of the obligor, that was  
9 properly completed by the creditor, and otherwise complied with all  
10 other requirements of this section regarding notice.

11 (9) (a) Notwithstanding the provisions of Section 21 of this  
12 act, and subject to the time period provided in  
13 subsection (1) of this section, in addition to any  
14 other right of rescission available under this section  
15 for a transaction, after the initiation of any  
16 judicial or nonjudicial foreclosure process on the  
17 primary dwelling of an obligor securing an extension  
18 of credit, the obligor shall have a right to rescind  
19 the transaction equivalent to other rescission rights  
20 provided by this section, if:

21 (i) a mortgage broker fee is not included in the  
22 finance charge in accordance with the laws and  
23 regulations in effect at the time the consumer  
24 credit transaction was consummated; or

1 (ii) the form of notice of rescission for the  
2 transaction is not the appropriate form of  
3 written notice published and adopted by the  
4 ~~Administrator~~ Attorney General or a comparable  
5 written notice, and otherwise complied with all  
6 the requirements of this section regarding  
7 notice.

8 (b) Notwithstanding the provisions of subsection (6) of  
9 Section 3-304 of this title, and subject to the time  
10 period provided in subsection (1) of this section, for  
11 the purposes of exercising any rescission rights after  
12 the initiation of any judicial or nonjudicial  
13 foreclosure process on the principal dwelling of the  
14 obligor securing an extension of credit, the  
15 disclosure of the finance charge and other disclosures  
16 affected by any finance charge shall be treated as  
17 being accurate for purposes of this section if the  
18 amount disclosed as the finance charge does not vary  
19 from the actual finance charge by more than Thirty-  
20 five Dollars (\$35.00) or is greater than the amount  
21 required to be disclosed under this title.

22 (c) Nothing in this subsection affects a consumer's right  
23 of rescission in recoupment under law.  
24

1 (d) This subsection shall apply to all consumer credit  
2 transactions in existence or consummated on or after  
3 September 30, 1995.

4 SECTION 57. AMENDATORY 14A O.S. 2001, Section 5-206, is  
5 amended to read as follows:

6 Section 5-206. (1) For any closed-end consumer credit  
7 transaction that is secured by real property or a dwelling, that is  
8 subject to Title 14A of the Oklahoma Statutes, and that is  
9 consummated before September 30, 1995, a creditor or any assignee of  
10 a creditor shall have no civil, administrative, or criminal  
11 liability under Title 14A of the Oklahoma Statutes for, and a  
12 consumer shall have no extended rescission rights under subsection  
13 (1) of Section 5-204 of Title 14A of the Oklahoma Statutes with  
14 respect to:

15 (a) the creditor's treatment, for disclosure purpose, of:

16 (i) taxes described in paragraph (a) of subsection  
17 (1) of Section 3-202 of Title 14A of the Oklahoma  
18 Statutes;

19 (ii) fees described in paragraphs (d) and (e) of  
20 subsection (1) of Section 3-202 of Title 14A of  
21 the Oklahoma Statutes;

22 (iii) fees and amounts referred to in the third  
23 sentence of paragraph (b) of subsection (1) of  
24



1 Section 3-109 of Title 14A of the Oklahoma  
2 Statutes; or

3 (iv) borrower-paid mortgage broker fees referred to in  
4 subparagraph (vi) of paragraph (b) of subsection  
5 (1) of Section 3-109 of Title 14A of the Oklahoma  
6 Statutes;

7 (b) the form of written notice used by the creditor to  
8 inform the obligor of the rights of the obligor under  
9 Section 5-204 of Title 14A of the Oklahoma Statutes if  
10 the creditor provided the obligor with a properly  
11 dated form of written notice published and adopted by  
12 the ~~Administrator~~ Attorney General or a comparable  
13 written notice, and otherwise complied with all the  
14 requirements of this section regarding notice; or

15 (c) any disclosure relating to the finance charge imposed  
16 with respect to the transaction if the amount or  
17 percentage actually disclosed:

18 (i) may be treated as accurate for purposes of this  
19 title if the amount disclosed as the finance  
20 charge does not vary from the actual finance  
21 charge by more than Two Hundred Dollars  
22 (\$200.00);

23 (ii) may, under paragraph (b) of subsection (6) of  
24 Section 3-304 of Title 14A of the Oklahoma

1 Statutes, be treated as accurate for purposes of  
2 Section 5-204 of Title 14A of the Oklahoma  
3 Statutes; or

4 (iii) is greater than the amount or percentage required  
5 to be disclosed under Title 14A of the Oklahoma  
6 Statutes.

7 (2) Subsection (1) of this section shall not apply to:

8 (a) any individual action or counterclaim brought under  
9 Title 14A of the Oklahoma Statutes which was filed  
10 before June 1, 1995;

11 (b) any class action brought under Title 14A of the  
12 Oklahoma Statutes for which a final order certifying a  
13 class was entered before January 1, 1995;

14 (c) the named individual plaintiffs in any class action  
15 brought under Title 14A of the Oklahoma Statutes which  
16 was filed before June 1, 1995; or

17 (d) any consumer credit transaction with respect to which  
18 a timely notice of rescission was sent to the creditor  
19 before June 1, 1995.

20 SECTION 58. AMENDATORY 14A O.S. 2001, Section 5-302, is  
21 amended to read as follows:

22 Section 5-302. A person is guilty of a misdemeanor and upon  
23 conviction may be sentenced to pay a fine not exceeding Five  
24

1 Thousand Dollars (\$5,000.00), or to imprisonment not exceeding one  
2 (1) year, or both, if he willfully and knowingly

3 (1) gives false or inaccurate information or fails to provide  
4 information which he is required to disclose under the provisions of  
5 this act on disclosure and advertising (Part 3) of the article on  
6 credit sales (Article 2) or of the article on loans (Article 3), or  
7 of any related rule of the ~~Administrator~~ Attorney General adopted  
8 pursuant to this act;

9 (2) uses any rate table or chart, the use of which is  
10 authorized by rule of the ~~Administrator~~ Attorney General adopted  
11 pursuant to the provisions on calculation of rate to be disclosed  
12 (Section 2-304 and Section 3-304), in a manner which consistently  
13 understates the annual percentage rate determined according to those  
14 provisions; or

15 (3) otherwise fails to comply with any requirement of the  
16 provisions of this act on disclosure and advertising (Part 3) of the  
17 article on credit sales (Article 2) or of the article on loans  
18 (Article 3), or of any related rule of the ~~Administrator~~ Attorney  
19 General adopted pursuant to this act.

20 SECTION 59. AMENDATORY 14A O.S. 2001, Section 6-102, is  
21 amended to read as follows:

22 Section 6-102. (1) This part applies to persons who in this  
23 state make or solicit consumer credit sales, consumer leases, and  
24 consumer loans; or who directly collect payments from or enforce

1 rights against debtors arising from the sales, leases, or loans  
2 previously specified wherever they are made.

3 (2) In relation to the powers of the ~~Administrator~~ Attorney  
4 General to administer the provisions on disclosure (Parts 3 of  
5 Articles 2 and 3) and the right of rescission (Section 5-204), a  
6 consumer credit sale and a consumer loan shall include the  
7 transactions covered in Sections 2-301 and 3-301 and those excluded  
8 by Section 1-202(5).

9 SECTION 60. AMENDATORY 14A O.S. 2001, Section 6-103, is  
10 amended to read as follows:

11 Section 6-103. "~~Administrator~~" "Attorney General" means the  
12 ~~Administrator of Consumer Affairs~~ Attorney General of the State of  
13 Oklahoma as provided in Article 6, Part 5.

14 SECTION 61. AMENDATORY 14A O.S. 2001, Section 6-104, as  
15 amended by Section 3, Chapter 65, O.S.L. 2003 (14A O.S. Supp. 2007,  
16 Section 6-104), is amended to read as follows:

17 Section 6-104. (1) In addition to other powers granted by this  
18 title, the ~~Administrator~~ Attorney General may, within the  
19 limitations provided by law:

20 (a) receive and act on complaints, take action designed to  
21 obtain voluntary compliance with this title, or  
22 commence proceedings on the ~~Administrator's own~~  
23 initiative of the Attorney General,

24

- 1 (b) counsel persons and groups on their rights and duties  
2 under this title,
- 3 (c) establish programs for the education of consumers with  
4 respect to credit practices and problems,
- 5 (d) make studies appropriate to effectuate the purposes  
6 and policies of this title and make the results  
7 available to the public, and
- 8 (e) with commission approval adopt, amend, and repeal  
9 substantive rules when specifically authorized by this  
10 title, and adopt, amend, and repeal procedural rules  
11 to carry out the provisions of this title, all as  
12 provided by the Administrative Procedures Act.

13 (2) The ~~Administrator~~ Attorney General shall adopt rules not  
14 inconsistent with the Federal Consumer Credit Protection Act, 15  
15 U.S.C., Section 601 et seq., to assure a meaningful disclosure of  
16 terms so that prospective debtors or lessees will be able to compare  
17 more readily the various terms available to them and to avoid the  
18 uninformed use of credit. These rules may supersede any provisions  
19 of this title which are inconsistent with the Federal Consumer  
20 Credit Protection Act and may contain classifications,  
21 differentiations or other provisions, and may provide for  
22 adjustments and exceptions for any class of transactions subject to  
23 this title which in the judgment of the ~~Administrator~~ Attorney  
24 General are necessary or proper to effectuate the purposes or to

1 prevent circumvention or evasion of, or to facilitate compliance  
2 with, the provisions of this title relating to disclosure of terms.  
3 The ~~Administrator~~ Attorney General also shall publish model  
4 disclosure forms and clauses for common transactions to facilitate  
5 compliance with the disclosure requirements of this title and to aid  
6 the buyer, debtor or lessee in understanding the transaction by  
7 utilizing readily understandable language to simplify the technical  
8 nature of the disclosures. In devising the forms, consideration of  
9 the use by creditors or lessors of data processing or similar  
10 automated equipment shall be given. No creditor or lessor need use  
11 any model form or clause published by the ~~Administrator~~ Attorney  
12 General. Any rule of the ~~Administrator~~ Attorney General or  
13 amendment requiring any disclosure which differs from a disclosure  
14 previously required shall have an effective date of that October 1  
15 which follows by at least six (6) months the date of promulgation,  
16 except that the ~~Administrator~~ Attorney General may lengthen the  
17 period to facilitate creditors or lessors adjusting forms to  
18 accommodate new or changed requirements or shorten the period when  
19 the ~~Administrator~~ Attorney General makes a specific finding that  
20 such action is necessary to comply with the findings of a court or  
21 to prevent unfair or deceptive disclosure practices. A creditor or  
22 lessor may, in accordance with any guidelines of the ~~Administrator~~  
23 Attorney General, comply with a newly promulgated disclosure  
24 requirement prior to its effective date.

1 (3) To keep the ~~Administrator's~~ rules of the Attorney General  
2 in harmony with the Federal Consumer Credit Protection Act and the  
3 regulations prescribed from time to time pursuant to that Act by the  
4 Board of Governors of the Federal Reserve System and with the rules  
5 of administrators in other jurisdictions which enact the Uniform  
6 Consumer Credit Code, the ~~Administrator~~ Attorney General, so far as  
7 is consistent with the purposes, policies and provisions of this  
8 title, shall:

9 (a) before adopting, amending, and repealing rules, advise  
10 and consult with administrators in other jurisdictions  
11 which enact the Uniform Consumer Credit Code, and

12 (b) in adopting, amending, and repealing rules, take into  
13 consideration:

14 (i) the regulations so prescribed by the Board of  
15 Governors of the Federal Reserve System, and

16 (ii) the rules of administrators in other  
17 jurisdictions which enact the Uniform Consumer  
18 Credit Code.

19 (4) Except for refund of an excess charge, no liability is  
20 imposed under this title for an act done or omitted in conformity  
21 with a rule of the ~~Administrator~~ Attorney General or written opinion  
22 of the ~~Administrator~~ Attorney General stating rights and duties  
23 issued on the ~~Administrator's own~~ motion of the Attorney General or  
24 in response to a request under paragraph (b) of subsection (1) of

1 this section notwithstanding that after the act or omission the rule  
2 or opinion may be amended or repealed or be determined by judicial  
3 or other authority to be invalid for any reason. A creditor or  
4 lessor shall be deemed to be in compliance with the disclosure  
5 provisions of this title with respect to other than numerical  
6 disclosures if the creditor or lessor uses any appropriate model  
7 form or clause as published by the ~~Administrator~~ Attorney General or  
8 uses any model form or clause and changes it by deleting any  
9 information not required by this title or rearranging the format if  
10 in doing so the substance, clarity or meaningful sequence of the  
11 disclosure is not affected. The opinions of the ~~Administrator~~  
12 Attorney General shall be compiled and published no less often than  
13 annually.

14 (5) The ~~Administrator~~ Attorney General shall report annually on  
15 or before January 1 to the Governor and Legislature on the operation  
16 of the ~~Administrator's office~~ Office of the Attorney General, on the  
17 use of consumer credit in the state, and on the problems of persons  
18 of small means obtaining credit from persons regularly engaged in  
19 extending sales or loan credit. For the purpose of making the  
20 report, the ~~Administrator~~ Attorney General is authorized to conduct  
21 research and make appropriate studies. The report shall include a  
22 description of the examination and investigation procedures and  
23 policies of the ~~Administrator's office~~ Office of the Attorney  
24 General, a statement of policies followed in deciding whether to



1 investigate or examine the offices of credit suppliers subject to  
2 this title, a statement of the number and percentages of offices  
3 which are periodically investigated or examined, a statement of the  
4 types of consumer credit problems of both creditors and debtors  
5 which have come to the ~~Administrator's~~ attention of the Attorney  
6 General through examinations and investigations and the disposition  
7 of them under existing law, a statement of the extent to which the  
8 rules of the ~~Administrator~~ Attorney General pursuant to this title  
9 are not in harmony with the regulations prescribed by the Board of  
10 Governors of the Federal Reserve System pursuant to the Federal  
11 Consumer Credit Protection Act or the rules of administrators in  
12 other jurisdictions which enact the Uniform Consumer Credit Code and  
13 the reasons for such variations, and a general statement of the  
14 activities of the ~~Administrator's office~~ Office of the Attorney  
15 General and of others to promote the purposes of this title. The  
16 report shall not identify the creditors against whom action is taken  
17 by the ~~Administrator~~ Attorney General.

18 (6) The ~~Administrator~~ Attorney General shall have the authority  
19 to adopt rules, not inconsistent with the provisions of this title,  
20 to limit the amount of the additional charges that lenders are  
21 permitted to impose under subsections (1) and (2) of Section 3-202  
22 of this title and Section 3-203.2 of this title, or to limit the  
23 amount of deferral charges that sellers and lenders may impose under  
24 subsections (2) and (3) of Section 2-204 of this title and

1 subsections (2) and (3) of Section 3-204 of this title. The  
2 ~~Administrator~~ Attorney General shall:

3 (a) in promulgating, amending or repealing rules pursuant  
4 to this section, take into consideration whether  
5 limits on the additional charges permitted under  
6 subsections (1) and (2) of Section 3-202 of this title  
7 and Section 3-203.2 of this title, or limits on  
8 deferral charges that sellers and lenders may impose  
9 under subsections (2) and (3) of Section 2-204 of this  
10 title and subsections (2) and (3) of Section 3-204 of  
11 this title, would:

12 (i) place lenders located in this state at a  
13 competitive disadvantage, with respect to the  
14 additional charges, as compared to out-of-state  
15 credit card lenders or place sellers and lenders  
16 in this state at a competitive disadvantage with  
17 respect to the deferral charges, as compared to  
18 out-of-state sellers and lenders,

19 (ii) require sellers or lenders located in this state  
20 to impose higher finance charges, or

21 (iii) impede the growth of consumer credit sales or the  
22 consumer lending industry in this state, and

23 (b) adopt rules limiting the dollar amounts of the  
24 additional charges permitted under subsections (1) and

1 (2) of Section 3-202 of this title and Section 3-203.2  
2 of this title, or the deferral charges permitted under  
3 subsections (2) and (3) of Section 2-204 of this title  
4 and subsections (2) and (3) of Section 3-204 of this  
5 title, in the event that the ~~Administrator~~ Attorney  
6 General determines that such limits are necessary to  
7 protect debtors in this state from being subjected to  
8 charges which are unreasonable or excessive as  
9 compared to the prevailing charges being imposed by  
10 out-of-state lenders and sellers.

11 SECTION 62. AMENDATORY 14A O.S. 2001, Section 6-105, is  
12 amended to read as follows:

13 Section 6-105. (1) With respect to supervised financial  
14 organizations, the powers of examination and investigation under  
15 Sections 3-506 and 6-106 of this title and administrative  
16 enforcement under Section 6-108 of this title shall be exercised by  
17 the official or agency to whose supervision the organization is  
18 subject. All other powers of the ~~Administrator~~ Attorney General  
19 under this title may be exercised by the ~~Administrator~~ Attorney  
20 General with respect to a supervised financial organization.

21 (2) If the ~~Administrator~~ Attorney General receives a complaint  
22 or other information concerning noncompliance with this title by a  
23 supervised financial organization, the ~~Administrator~~ Attorney  
24 General shall inform the official or agency having supervisory

1 authority over the organization concerned. The ~~Administrator~~  
2 Attorney General may request information about supervised financial  
3 organizations from the officials or agencies supervising them.

4 (3) The ~~Administrator~~ Attorney General and any official or  
5 agency of this state having supervisory authority over a supervised  
6 financial organization are authorized and directed to consult and  
7 assist one another in maintaining compliance with this title. They  
8 may jointly pursue investigations, prosecute suits, and take other  
9 official action, as they deem appropriate, if either of them is  
10 otherwise empowered to take the action.

11 (4) (a) In carrying out their enforcement activities each  
12 agency having administrative responsibility with  
13 respect to persons subject to this title, including  
14 the ~~Administrator~~ Attorney General, in cases where an  
15 annual percentage rate or finance charge was  
16 inaccurately disclosed, shall notify the creditor of  
17 such disclosure error and are authorized in accordance  
18 with the provisions of this subsection to require the  
19 creditor to make an adjustment to the account of the  
20 person to whom credit was extended, to assure that  
21 such person will not be required to pay a finance  
22 charge in excess of the finance charge actually  
23 disclosed or the dollar equivalent of the annual  
24 percentage rate actually disclosed, whichever is

1 lower. For the purposes of this subsection, except  
2 where such disclosure error resulted from a willful  
3 violation which was intended to mislead the person to  
4 whom credit was extended, in determining whether a  
5 disclosure error has occurred and in calculating any  
6 adjustment:

7 (i) each agency shall apply:

8 (aa) with respect to the annual percentage rate,  
9 a tolerance of one-quarter of one percent  
10 (1/4 of 1%) more or less than the actual  
11 rate, determined without regard to tolerance  
12 rules for other purposes, and

13 (bb) with respect to the finance charge, a  
14 corresponding numerical tolerance as  
15 generated by the tolerance provided under  
16 this subsection for the annual percentage  
17 rate; except that:

18 (ii) with respect to transactions consummated after  
19 two (2) years following March 31, 1980, each  
20 agency shall apply:

21 (aa) for transactions that have a scheduled  
22 amortization of ten (10) years or less, with  
23 respect to the annual percentage rate, a  
24 tolerance not to exceed one-quarter of one

1 percent (1/4 of 1%) more or less than the  
2 actual rate, determined without regard to  
3 tolerance rules for other purposes, but in  
4 no event a tolerance of less than the  
5 tolerances allowed for other purposes,

6 (bb) for transactions that have a scheduled  
7 amortization of more than ten (10) years,  
8 with respect to the annual percentage rate,  
9 only such tolerances as are allowed for  
10 other purposes, and

11 (cc) for all transactions, with respect to the  
12 finance charge, a corresponding numerical  
13 tolerance as generated by the tolerances  
14 provided under this subsection for the  
15 annual percentage rate.

16 (iii) In connection with credit transactions not under  
17 an open-end credit plan that are secured by real  
18 property or a dwelling, the disclosure of the  
19 finance charge and other disclosures affected by  
20 any finance charge:

21 (aa) shall be treated as being accurate for  
22 purposes of this title if the amount  
23 disclosed as the finance charge:  
24

1 (I) does not vary from the actual finance  
2 charge by more than One Hundred Dollars  
3 (\$100.00), or

4 (II) is greater than the amount required to  
5 be disclosed under this title, and

6 (bb) shall be treated as being accurate for  
7 purposes of Section 5-204 of this title if:

8 (I) except as provided in subparagraph (ii)  
9 of this paragraph, the amount disclosed  
10 as the finance charge does not vary  
11 from the actual finance charge by more  
12 than an amount equal to one-half of one  
13 percent (1/2 of 1%) of the total amount  
14 of credit extended, or

15 (II) in the case of a transaction, other  
16 than a subsection 10 mortgage referred  
17 to in subsection (10) of Section 1-301  
18 of this title, which:

19 (A) is a refinancing of the principal  
20 balance then due and any accrued  
21 and unpaid finance charges of a  
22 residential mortgage transaction  
23 as defined in subsection (17) of  
24 Section 1-301 of this title, or is

1 any subsequent refinancing of such  
2 a transaction, and

3 (B) does not provide any new  
4 consolidation or new advance,

5 if the amount disclosed as the finance charge does not  
6 vary from the actual finance charge by more than an  
7 amount equal to one percent (1%) of the total amount  
8 of credit extended.

9 (b) Each agency shall require such an adjustment when it  
10 determines that such disclosure error resulted from:

11 (i) a clear and consistent pattern or practice of  
12 violations,

13 (ii) gross negligence, or

14 (iii) a willful violation which was intended to mislead  
15 the person to whom the credit was extended.

16 Notwithstanding the preceding sentence, except where  
17 such disclosure error resulted from a willful  
18 violation which was intended to mislead the person to  
19 whom credit was extended, an agency need not require  
20 such an adjustment if it determines that such  
21 disclosure error:

22 (aa) resulted from an error involving the  
23 disclosure of a fee or charge that would  
24 otherwise be excludable in computing the



1 finance charge, including but not limited to  
2 violations involving the disclosures  
3 concerning consumer credit insurance,  
4 property and liability insurance, and  
5 official fees, in which event the agency may  
6 require such remedial action as it  
7 determines to be equitable, except that for  
8 transactions consummated after two (2) years  
9 following March 31, 1980, such an adjustment  
10 shall be ordered for violations of

11 disclosure of consumer credit insurance,

12 (bb) involved a disclosed amount which was ten  
13 percent (10%) or less of the amount that  
14 should have been disclosed and in cases  
15 where the error involved a disclosed finance  
16 charge, the annual percentage rate was  
17 disclosed correctly, and in cases where the  
18 error involved a disclosed annual percentage  
19 rate, the finance charge was disclosed  
20 correctly; in which event the agency may  
21 require such adjustment as it determines to  
22 be equitable,

23 (cc) involved a total failure to disclose either  
24 the annual percentage rate or the finance

1 charge, in which event the agency may  
2 require such adjustment as it determines to  
3 be equitable, or

4 (dd) resulted from any other unique circumstance  
5 involving clearly technical and  
6 nonsubstantive disclosure violations that do  
7 not adversely affect information provided to  
8 the buyer, debtor or lessee and that have  
9 not misled or otherwise deceived the buyer,  
10 debtor or lessee.

11 In the case of other such disclosure errors, each  
12 agency may require such an adjustment.

13 (c) Notwithstanding the provisions of paragraph (b) of  
14 this subsection, no adjustment shall be ordered:

15 (i) if it would have a significantly adverse impact  
16 upon the safety or soundness of the creditor, but  
17 in any such case, the agency may require a  
18 partial adjustment in an amount which does not  
19 have such an impact except that with respect to  
20 any transaction consummated after March 1, 1980,  
21 the agency shall require the full adjustment, but  
22 permit the creditor to make the required  
23 adjustment in partial payments over an extended  
24

1 period of time which the agency considers to be  
2 reasonable,

3 (ii) if the amount of the adjustment would be less  
4 than One Dollar (\$1.00), except that if more than  
5 one (1) year has elapsed since the date of the  
6 violation, the agency may require that such  
7 amount be paid to the ~~Administrator~~ Attorney  
8 General, or

9 (iii) except where such disclosure error resulted from  
10 a willful violation which was intended to mislead  
11 the person to whom credit was extended, in the  
12 case of an open-end credit plan, more than two  
13 (2) years after the violation, or in the case of  
14 any other extension of credit, as follows:

15 (aa) with respect to creditors that are subject  
16 to examination by the agencies referred to  
17 in this section, except in connection with  
18 violations arising from practices identified  
19 in the current examination and only in  
20 connection with transactions that are  
21 consummated after the date of the  
22 immediately preceding examination, except  
23 that where practices giving rise to  
24 violations identified in earlier

1 examinations have not been corrected,  
2 adjustments for those violations shall be  
3 required in connection with transactions  
4 consummated after the date of the  
5 examination in which such practices were  
6 first identified,

7 (bb) with respect to creditors that are not  
8 subject to examination, except in connection  
9 with transactions that are consummated after  
10 May 10, 1978, and

11 (cc) in no event after the later of the  
12 expiration of the life of the credit  
13 extension, or two (2) years after the  
14 agreement to extend credit was consummated.

15 (d) Notwithstanding any other provision of this  
16 subsection, an adjustment under this subsection may be  
17 required by an agency only by an order issued in  
18 accordance with cease and desist procedures either as  
19 prescribed in a statute governing that agency or in  
20 Section 6-108 of this title.

21 (e) Except as otherwise specifically provided in this  
22 subsection, no agency may require a creditor to make  
23 dollar adjustments for disclosure errors in any  
24 requirements under this title.

1 (f) A creditor shall not be subject to an order to make an  
2 adjustment, if within sixty (60) days after  
3 discovering a disclosure error, whether pursuant to a  
4 final written examination report or through the  
5 creditor's own procedures, the creditor notifies the  
6 person concerned of the error and adjusts the account  
7 so as to assure that such person will not be required  
8 to pay a finance charge in excess of the finance  
9 charge actually disclosed or the dollar equivalent of  
10 the annual percentage rate actually disclosed,  
11 whichever is lower.

12 (g) Notwithstanding the second sentence of paragraph (a)  
13 of this subsection and divisions (aa) and (bb) of  
14 subparagraph (iii) of paragraph (c) of this  
15 subsection, each agency shall require an adjustment  
16 for an annual percentage rate disclosure error that  
17 exceeds a tolerance of one-quarter of one percent ( $1/4$   
18 of 1%) less than the actual rate, determined without  
19 regard to tolerance rules for other purposes, except  
20 in the case of an irregular mortgage lending  
21 transaction, with respect to any transaction  
22 consummated between January 1, 1977, and April 1,  
23 1980.  
24

1 (h) The ~~Administrator~~ Attorney General may prescribe  
2 guidelines and interpretations to govern agency action  
3 under this subsection.

4 SECTION 63. AMENDATORY 14A O.S. 2001, Section 6-106, is  
5 amended to read as follows:

6 Section 6-106. (1) If the ~~Administrator~~ Attorney General has  
7 probable cause to believe that a person has engaged in an act which  
8 is subject to action by the ~~Administrator~~ Attorney General, he may  
9 make an investigation to determine whether the act has been  
10 committed, and, to the extent necessary for this purpose, may  
11 administer oaths or affirmations, and upon his own motion or upon  
12 request of any party may subpoena witnesses, compel their  
13 attendance, adduce evidence, and require the production of any  
14 matter which is relevant to the investigation, including the  
15 existence, description, nature, custody, condition, and location of  
16 any books, documents, or other tangible things and the identity and  
17 location of persons having knowledge of relevant facts, or any other  
18 matter reasonably calculated to lead to the discovery of admissible  
19 evidence.

20 (2) If the person's records are located outside this state, the  
21 person shall, at his option, either make them available to the  
22 ~~Administrator~~ Attorney General at a convenient location within this  
23 state, or pay the reasonable and necessary expenses for the  
24 ~~Administrator~~ Attorney General or his representative to examine them

1 at the place where they are maintained. Payments for such necessary  
2 expenses shall be made to the ~~Commission on Consumer Credit~~ Attorney  
3 General. Any such payments so received by the Department shall be  
4 deposited in the Consumer Credit Investigation Fund. The  
5 ~~Administrator~~ Attorney General may designate representatives,  
6 including comparable officials of the state in which the records are  
7 located, to inspect them on his behalf.

8 (3) Upon failure without lawful excuse to obey a subpoena or to  
9 give testimony and upon reasonable notice to all persons affected  
10 thereby the ~~Administrator~~ Attorney General may apply to a court for  
11 an order compelling compliance, as provided by the general act of  
12 this state governing administrative procedures (Title 75, Oklahoma  
13 Statutes, Chapters 7 and 8).

14 (4) The ~~Administrator~~ Attorney General shall not make public  
15 the name or identity of a person whose acts or conduct he  
16 investigates pursuant to this section or the facts disclosed in the  
17 investigation, but this subsection does not apply to disclosures in  
18 actions or enforcement proceedings pursuant to this act.

19 SECTION 64. AMENDATORY 14A O.S. 2001, Section 6-106A, is  
20 amended to read as follows:

21 Section 6-106A. There is hereby created in the State Treasury a  
22 revolving fund for the ~~Commission on Consumer Credit~~ Attorney  
23 General to be called the Consumer Credit Investigation Fund. The  
24 said revolving fund shall consist of all monies received for

1 recovery of reasonable and necessary expenses for the ~~Administrator~~  
2 Attorney General or his representatives to examine records located  
3 outside this state, under the provisions of Section 6-106 of ~~Title~~  
4 ~~14A of the Oklahoma Statutes~~ this title. The revolving fund herein  
5 created shall be a continuing fund not subject to fiscal year  
6 limitations and expenditures from said fund shall be made  
7 exclusively for the purpose of carrying out the provisions of  
8 subsection (1) of Section 3-506 of ~~Title 14A of the Oklahoma~~  
9 ~~Statutes~~ this title when the records of a licensee are located  
10 outside this state. Warrants for expenditures from said revolving  
11 fund shall be based on claims signed by an authorized employee or  
12 employees of the ~~Commission on Consumer Credit~~ Attorney General and  
13 approved for payment by the Director of State Finance.

14 SECTION 65. AMENDATORY 14A O.S. 2001, Section 6-107, is  
15 amended to read as follows:

16 Section 6-107. Except as otherwise provided, the State  
17 Administrative Procedure Act (Title 75, Oklahoma Statutes, Chapters  
18 7 and 8) applies to and governs all administrative action taken by  
19 the ~~Administrator~~ Attorney General pursuant to this article or the  
20 part on regulated and supervised Loans (Part 5) of the article on  
21 loans (Article 3).

22 SECTION 66. AMENDATORY 14A O.S. 2001, Section 6-108, is  
23 amended to read as follows:

24



1 Section 6-108. (1) After notice and hearing, the ~~Administrator~~  
2 Attorney General or the independent hearing examiner may order a  
3 creditor or a person acting in the creditor's behalf to cease and  
4 desist from engaging in violations of this title.

5 (2) A respondent aggrieved by an order of the ~~Administrator~~  
6 Attorney General may obtain judicial review of the order as provided  
7 by the Administrative Procedures Act. In such a review proceeding,  
8 the ~~Administrator~~ Attorney General may apply for a decree enforcing  
9 the order. All such proceedings shall be conducted and the court's  
10 authority in review shall be exercised in accordance with the  
11 provisions of the Administrative Procedures Act, with the following  
12 additions:

13 (a) the court may grant any temporary relief or  
14 restraining order it deems just,

15 (b) if the court affirms or modifies the order, it shall  
16 enter a decree enforcing and requiring compliance with  
17 the order as affirmed or as modified,

18 (c) an objection to the order not urged at the hearing  
19 shall not be considered by the court unless the  
20 failure to urge the objection is excused for good  
21 cause shown, and

22 (d) the copy of the testimony from the administrative  
23 hearing shall be available at reasonable times to all  
24 parties for examination without cost.

1 (3) If no proceeding for review has been filed within the time  
2 specified by law, the ~~Administrator~~ Attorney General or a  
3 representative may obtain from a court having jurisdiction over the  
4 respondent a decree for enforcement of the order upon a showing that  
5 the order was issued in compliance with this section, that no  
6 proceeding for review was initiated within the time specified by  
7 law, and that the respondent is subject to the jurisdiction of the  
8 court.

9 (4) With respect to unconscionable agreements or fraudulent or  
10 unconscionable conduct by the respondent, the ~~Administrator~~ Attorney  
11 General or a representative may not issue an order pursuant to this  
12 section but may bring a civil action for an injunction under Section  
13 6-111 of this title.

14 SECTION 67. AMENDATORY 14A O.S. 2001, Section 6-109, is  
15 amended to read as follows:

16 Section 6-109. If it is claimed that a person has engaged in  
17 conduct subject to an order by the ~~Administrator~~ Attorney General  
18 (Section 6-108) or by a court (Sections 6-110 through 6-112), the  
19 ~~Administrator~~ Attorney General may accept an assurance in writing  
20 that the person will not engage in the conduct in the future. If a  
21 person giving an assurance of discontinuance fails to comply with  
22 its terms, the assurance is evidence that prior to the assurance he  
23 engaged in the conduct described in the assurance.

24

1 SECTION 68. AMENDATORY 14A O.S. 2001, Section 6-110, is  
2 amended to read as follows:

3 Section 6-110. The ~~Administrator~~ Attorney General may bring a  
4 civil action to restrain a person from violating this act and for  
5 other appropriate relief.

6 SECTION 69. AMENDATORY 14A O.S. 2001, Section 6-111, is  
7 amended to read as follows:

8 Section 6-111. (1) The ~~Administrator~~ Attorney General may  
9 bring a civil action to restrain a creditor or a person acting in  
10 his behalf from engaging in a course of

11 (a) making or enforcing unconscionable terms or provisions  
12 of consumer credit sales, consumer leases, or consumer  
13 loans;

14 (b) fraudulent or unconscionable conduct in inducing  
15 debtors to enter into consumer credit sales, consumer  
16 leases, or consumer loans; or

17 (c) fraudulent or unconscionable conduct in the collection  
18 of debts arising from consumer credit sales, consumer  
19 leases, or consumer loans.

20 (2) In an action brought pursuant to this section the court may  
21 grant relief only if it finds

22 (a) that the respondent has made unconscionable agreements  
23 or has engaged or is likely to engage in a course of  
24 fraudulent or unconscionable conduct;

- 1 (b) that the agreements or conduct of the respondent has  
2 caused or is likely to cause injury to consumers; and  
3 (c) that the respondent has been able to cause or will be  
4 able to cause the injury primarily because the  
5 transactions involved are credit transactions.

6 (3) In applying this section, consideration shall be given to  
7 each of the following factors, among others:

- 8 (a) belief by the creditor at the time consumer credit  
9 sales, consumer leases, or consumer loans are made  
10 that there was no reasonable probability of payment in  
11 full of the obligation by the debtor;
- 12 (b) in the case of consumer credit sales or consumer  
13 leases, knowledge by the seller or lessor at the time  
14 of the sale or lease of the inability of the buyer or  
15 lessee to receive substantial benefits from the  
16 property or services sold or leased;
- 17 (c) in the case of consumer credit sales or consumer  
18 leases, gross disparity between the price of the  
19 property or services sold or leased and the value of  
20 the property or services measured by the price at  
21 which similar property or services are readily  
22 obtainable in credit transactions by like buyers or  
23 lessees;
- 24

1 (d) the fact that the creditor contracted for or received  
2 separate charges for insurance with respect to  
3 consumer credit sales or consumer loans with the  
4 effect of making the sales or loans, considered as a  
5 whole, unconscionable; and

6 (e) the fact that the respondent has knowingly taken  
7 advantage of the inability of the debtor reasonably to  
8 protect his interests by reason of physical or mental  
9 infirmities, ignorance, illiteracy or inability to  
10 understand the language of the agreement, or similar  
11 factors.

12 (4) In an action brought pursuant to this section, a charge or  
13 practice expressly permitted by this act is not in itself  
14 unconscionable.

15 SECTION 70. AMENDATORY 14A O.S. 2001, Section 6-112, is  
16 amended to read as follows:

17 Section 6-112. With respect to an action brought to enjoin  
18 violations of the act (Section 6-110) or unconscionable agreements  
19 or fraudulent or unconscionable conduct (Section 6-111), the  
20 ~~Administrator~~ Attorney General may apply to the court for  
21 appropriate temporary relief against a respondent, pending final  
22 determination of proceedings. If the court finds after a hearing  
23 held upon notice to the respondent that there is reasonable cause to  
24 believe that the respondent is engaging in or is likely to engage in

1 conduct sought to be restrained, it may grant any temporary relief  
2 or restraining order it deems appropriate.

3 SECTION 71. AMENDATORY 14A O.S. 2001, Section 6-113, is  
4 amended to read as follows:

5 Section 6-113. (1) After demand, the ~~Administrator~~ Attorney  
6 General may bring a civil action against a creditor for making or  
7 collecting charges in excess of those permitted by this act. An  
8 action may relate to transactions with more than one debtor. If it  
9 is found that an excess charge has been made, the court shall order  
10 the respondent to refund to the debtor or debtors the amount of the  
11 excess charge. If a creditor has made an excess charge in  
12 deliberate violation of or in reckless disregard for this act, or if  
13 a creditor has refused to refund an excess charge within a  
14 reasonable time after demand by the debtor or the ~~Administrator~~  
15 Attorney General the court may also order the respondent to pay to  
16 the debtor or debtors a civil penalty in an amount determined by the  
17 court not in excess of the greater of either the amount of the  
18 credit service or loan finance charge or ten times the amount of the  
19 excess charge. Refunds and penalties to which the debtor is  
20 entitled pursuant to this subsection may be set off against the  
21 debtor's obligation. If a debtor brings an action against a  
22 creditor to recover an excess charge or civil penalty an action by  
23 the ~~Administrator~~ Attorney General to recover for the same excess  
24 charge or civil penalty shall be stayed while the debtor's action is

1 pending and shall be dismissed if the debtor's action is dismissed  
2 with prejudice or results in a final judgment granting or denying  
3 the debtor's claim. With respect to excess charges arising from  
4 sales made pursuant to revolving charge accounts or from loans made  
5 pursuant to revolving loan accounts, no action pursuant to this  
6 subsection may be brought more than two (2) years after the time the  
7 excess charge was made. With respect to excess charges arising from  
8 other consumer credit sales or consumer loans, no action pursuant to  
9 this subsection may be brought more than one (1) year after the due  
10 date of the last scheduled payment of the agreement pursuant to  
11 which the charge was made. If the creditor establishes by a  
12 preponderance of evidence that a violation is unintentional or the  
13 result of a bona fide error, no liability to pay a penalty shall be  
14 imposed under this subsection.

15 (2) The ~~Administrator~~ Attorney General may bring a civil action  
16 against a creditor or a person acting in his behalf to recover a  
17 civil penalty for willfully violating this act, and if the court  
18 finds that the defendant has engaged in a course of repeated and  
19 willful violations of this act, it may assess a civil penalty of no  
20 more than Five Thousand Dollars (\$5,000.00). No civil penalty  
21 pursuant to this subsection may be imposed for violations of this  
22 act occurring more than two (2) years before the action is brought  
23 or for making unconscionable agreements or engaging in a course of  
24 fraudulent or unconscionable conduct.

1 SECTION 72. AMENDATORY 14A O.S. 2001, Section 6-114, is  
2 amended to read as follows:

3 Section 6-114. In an action brought by the ~~Administrator~~  
4 Attorney General under this act, the ~~Administrator~~ Attorney General  
5 has no right to trial by jury.

6 SECTION 73. AMENDATORY 14A O.S. 2001, Section 6-115, is  
7 amended to read as follows:

8 Section 6-115. The grant of powers to the ~~Administrator~~  
9 Attorney General in this article does not affect remedies available  
10 to debtors under this act or under other principles of law or  
11 equity.

12 SECTION 74. AMENDATORY 14A O.S. 2001, Section 6-202, is  
13 amended to read as follows:

14 Section 6-202. (1) Persons subject to this part shall file  
15 notification with the ~~Administrator~~ Attorney General within thirty  
16 (30) days after commencing business in this state, and thereafter,  
17 on or before January 31 of each year. The notification shall state

- 18 (a) name of the person;
- 19 (b) name in which business is transacted if different from  
20 (1);
- 21 (c) address of principal office, which may be outside this  
22 state;
- 23 (d) address of all offices or retail stores, if any, in  
24 this state at which consumer credit sales, consumer



1 leases, or consumer loans are made, or in the case of  
2 a person taking assignments of obligations, the  
3 offices or places of business within this state at  
4 which business is transacted;

5 (e) if consumer credit sales, consumer leases, or consumer  
6 loans are made otherwise than at an office or retail  
7 store in this state, a brief description of the manner  
8 in which they are made;

9 (f) address of designated agent upon whom service of  
10 process may be made in this state (Section 1-203); and

11 (g) whether regulated or supervised loans or both are  
12 made.

13 (2) If information in a notification becomes inaccurate after  
14 filing, no further notification is required until the following  
15 January 31.

16 SECTION 75. AMENDATORY 14A O.S. 2001, Section 6-203, is  
17 amended to read as follows:

18 Section 6-203. (1) Any person required to file notification  
19 pursuant to the provisions of Section 6-201 of this title, on or  
20 before January 31 of each year, shall pay to the ~~Administrator~~  
21 Attorney General an annual fee of Twenty Dollars (\$20.00) for that  
22 year.

23 (2) Persons required to file notification pursuant to the  
24 provisions of Section 6-201 of this title who are sellers, lessors,

1 or lenders shall pay an additional fee, at the time and in the  
2 manner stated in subsection (1) of this section, of Ten Dollars  
3 (\$10.00) for each One Hundred Thousand Dollars (\$100,000.00), or  
4 part thereof, in excess of One Hundred Thousand Dollars  
5 (\$100,000.00) of the original unpaid balances arising from consumer  
6 credit sales, consumer leases, and consumer loans made in this state  
7 within the preceding calendar year and held either by the seller,  
8 lessor, or lender for more than thirty (30) days after the inception  
9 of the sale, lease, or loan giving rise to the obligations, or held  
10 by an assignee who has not filed notification. A refinancing of a  
11 sale, lease, or loan resulting in an increase in the amount of an  
12 obligation is considered a new sale, lease, or loan to the extent of  
13 the amount of the increase.

14 (3) Persons required to file notification pursuant to the  
15 provisions of Section 6-201 of this title who are assignees shall  
16 pay an additional fee, at the time and in the manner stated in  
17 subsection (1) of this section, of Ten Dollars (\$10.00) for each One  
18 Hundred Thousand Dollars (\$100,000.00), or part thereof, of the  
19 unpaid balances at the time of the assignment of obligations arising  
20 from consumer credit sales, consumer leases, and consumer loans made  
21 in this state taken by assignment during the preceding calendar  
22 year, but an assignee need not pay a fee with respect to an  
23 obligation on which the assignor or other person has already paid a  
24 fee.

1 (4) All fees collected pursuant to the provisions of this  
2 section shall be deposited into the General Revenue Fund of the  
3 State Treasury.

4 SECTION 76. AMENDATORY 14A O.S. 2001, Section 6-501, is  
5 amended to read as follows:

6 Section 6-501. ~~There is hereby created~~

7 ~~(a) the Department of Consumer Credit;~~

8 ~~(b) the Commission on Consumer Credit; and~~

9 ~~(c) the Office of Administrator of Consumer Credit.~~

10 The ~~Commission~~ Attorney General of this state shall be the policy-  
11 making and governing authority of the ~~Department and shall appoint~~  
12 ~~the Administrator~~ Uniform Consumer Credit Code and be responsible  
13 for the enforcement of ~~this act~~ the Uniform Consumer Credit Code.

14 SECTION 77. AMENDATORY 24 O.S. 2001, Section 132, as  
15 amended by Section 1, Chapter 171, O.S.L. 2002 (24 O.S. Supp. 2007,  
16 Section 132), is amended to read as follows:

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

18 1. "Buyer" means any individual who is solicited to purchase or  
19 who purchases the services of a credit services organization;

20 2. a. "Credit services organization" means any person who,  
21 with respect to the extension of credit by others,  
22 sells, provides, performs, or represents that the  
23 person can or will sell, provide, or perform, in  
24 return for the payment of money or other valuable

1 consideration from any source, any of the following  
2 services more than twelve times in a calendar year:

3 (1) improving a buyer's credit record, history, or  
4 rating,

5 (2) obtaining an extension of credit for a buyer, or

6 (3) providing advice or assistance to a buyer with  
7 regard to division (1) or (2) of this  
8 subparagraph,

9 b. "Credit services organization" does not include:

10 (1) any person authorized to make loans or extensions  
11 of credit under the laws of this state or the  
12 United States who is subject to regulation and  
13 supervision by this state or the United States or  
14 a lender approved by the United States Secretary  
15 of Housing and Urban Development for  
16 participation in any mortgage insurance program  
17 under the National Housing Act,

18 (2) any bank, savings and loan institution or credit  
19 union whose deposits or accounts are eligible for  
20 insurance by the Federal Deposit Insurance  
21 Corporation, the Federal Savings and Loan  
22 Insurance Corporation, or the National Credit  
23 Union Administration or a subsidiary of such  
24

1 bank, savings and loan institution or credit  
2 union,

3 (3) any nonprofit organization exempt from taxation  
4 under Section 501(c)(3) of the Internal Revenue  
5 Code,

6 (4) any person licensed as a real estate broker by  
7 this state if the person is acting within the  
8 course and scope of that license,

9 (5) any person licensed to practice law in this state  
10 if the person renders services within the course  
11 and scope of the practice of the person as an  
12 attorney,

13 (6) any broker-dealer registered with the Securities  
14 and Exchange Commission or the Commodity Futures  
15 Trading Commission if the broker-dealer is acting  
16 within the course and scope of that regulation,

17 (7) any consumer reporting agency as defined in the  
18 Federal Fair Credit Reporting Act, 15 U.S.C.,  
19 Sections 1681 through 1681t,

20 (8) any person authorized to file electronic income  
21 tax returns who does not receive any  
22 consideration for refund anticipation loans,

23 (9) any residential mortgage broker as defined in the  
24 Mortgage Broker Licensure Act, or

1 (10) any insurance company, its affiliates and  
2 subsidiaries, authorized to do business in this  
3 state by the Insurance Commissioner, including  
4 insurance agents licensed in this state;

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

9 4. ~~"Administrator"~~ "Attorney General" means the ~~Administrator~~  
10 ~~of the Department of Consumer Credit~~ Attorney General of the State  
11 of Oklahoma.

12 SECTION 78. AMENDATORY 24 O.S. 2001, Section 140, is  
13 amended to read as follows:

14 Section 140. The ~~Department of Consumer Credit~~ Attorney General  
15 shall administer and promulgate rules and regulations to implement  
16 the provisions of this act.

17 SECTION 79. AMENDATORY 24 O.S. 2001, Section 141, as  
18 amended by Section 2, Chapter 171, O.S.L. 2002 (24 O.S. Supp. 2007,  
19 Section 141), is amended to read as follows:

20 Section 141. No person shall engage in business as a credit  
21 service organization without first obtaining a license from the  
22 ~~Administrator~~ Attorney General pursuant to the provisions of the  
23 Credit Services Organization Act. Any extensions of credit brokered  
24 or arranged on behalf of a buyer by a credit service organization

1 must comply with the provisions of the Uniform Consumer Credit Code  
2 and the Credit Services Organization Act.

3 SECTION 80. AMENDATORY 24 O.S. 2001, Section 142, is  
4 amended to read as follows:

5 Section 142. A. Applications for a credit service organization  
6 license shall be under oath and shall state the full name and place  
7 of residence of the applicant. If the applicant is a partnership,  
8 the full name and place of residence of each member thereof shall be  
9 stated. If the applicant is a corporation, the full name and place  
10 of residence of each officer or major stockholder thereof shall be  
11 stated. The application shall give the approximate location from  
12 which the business is to be conducted, and shall contain such  
13 relevant information as the ~~Administrator~~ Attorney General may  
14 require.

15 B. Each licensee shall maintain on file with the ~~Administrator~~  
16 Attorney General a written appointment of a resident of this state  
17 as his agent for service of all judicial or other process or legal  
18 notice, unless the licensee has appointed an agent pursuant to  
19 another statute of this state. In case of noncompliance with the  
20 provision of this section, such service may be made on the  
21 ~~Administrator~~ Attorney General on behalf of the licensee.

22 SECTION 81. AMENDATORY 24 O.S. 2001, Section 143, is  
23 amended to read as follows:

24

1 Section 143. A. Upon the filing of an application and bond,  
2 payment of the annual license fee of One Hundred Dollars (\$100.00),  
3 and an investigation fee of One Hundred Dollars (\$100.00), the  
4 ~~Administrator~~ Attorney General shall conduct an investigation. If  
5 the ~~Administrator~~ Attorney General finds that the financial  
6 responsibility, experience, character and general fitness of the  
7 applicant are such as to warrant belief that the business will be  
8 operated pursuant to the Credit Services Organization Act and rules  
9 promulgated pursuant thereto, the ~~Administrator~~ Attorney General  
10 shall grant the application and issue to the applicant a license  
11 which will evidence his authority to do business under the  
12 provisions of the Credit Services Organization Act.

13 B. If the ~~Administrator~~ Attorney General does not so find facts  
14 sufficient to warrant issuance of a license, he shall notify the  
15 applicant. If within thirty (30) days of such notification the  
16 applicant requests a hearing on the application, a hearing shall be  
17 held within sixty (60) days after the date of the request. In the  
18 event of the denial of a license, the investigation fee shall be  
19 retained by the ~~Administrator~~ Attorney General, but the annual  
20 license fee shall be returned to the applicant.

21 C. The ~~Administrator~~ Attorney General shall grant or deny such  
22 application for license within sixty (60) days from its filing with  
23 the required fees, or from the hearing thereon, if any, unless the  
24



1 period is extended by written agreement between the applicant and  
2 the ~~Administrator~~ Attorney General.

3 D. No license to engage in the business of a credit services  
4 organization shall be issued for any location if a license has been  
5 issued and is in effect under the provisions of Sections 3-501  
6 through 3-514 of Title 14A of the Oklahoma Statutes. As used in  
7 this subsection the term "location" means the entire area in which a  
8 person licensed pursuant to any provision of Title 14A of the  
9 Oklahoma Statutes conducts business. No credit service organization  
10 may be connected with any location in which a person licensed  
11 pursuant to any provision of Title 14A of the Oklahoma Statutes  
12 conducts business, except by a passageway to which the public is not  
13 admitted.

14 SECTION 82. AMENDATORY 24 O.S. 2001, Section 144, is  
15 amended to read as follows:

16 Section 144. A. Each license shall state the name of the  
17 license and the address of which the business is to be conducted.  
18 The license shall be displayed at the place of business named in the  
19 license. The license shall not be transferable or assignable except  
20 upon approval by the ~~Administrator~~ Attorney General.

21 B. A separate license shall be required for each credit service  
22 organization operated pursuant to the Credit Services Organization  
23 Act.

24

1       The ~~Administrator~~ Attorney General may issue more than one  
2 license to any one person upon compliance with the provisions of the  
3 Credit Services Organization Act as to each license. A licensee  
4 desiring to move his credit service operation to another location  
5 shall give thirty (30) days' written notice to the ~~Administrator~~  
6 Attorney General, who shall amend the license accordingly.

7       C. Each license shall remain in full force and effect until  
8 relinquished, suspended, revoked or expired. Every licensee, on or  
9 before December 1 of each year, shall pay the ~~Administrator~~ Attorney  
10 General One Hundred Dollars (\$100.00) for each license held by him  
11 as the annual fee for the succeeding calendar year. If the annual  
12 fee remains unpaid fifteen (15) days after written notice of  
13 delinquency has been given to the licensee by the ~~Administrator~~  
14 Attorney General, the license shall thereupon expire, but expiration  
15 shall not occur before December 31 of any year for which an annual  
16 fee has been paid.

17       SECTION 83.        AMENDATORY        24 O.S. 2001, Section 145, is  
18 amended to read as follows:

19       Section 145. A. The ~~Administrator~~ Attorney General may, after  
20 notice and hearing, suspend or revoke any license if he finds that:

21       1. The licensee has failed to pay any fee or charge properly  
22 imposed by the ~~Administrator~~ Attorney General under the authority of  
23 the Credit Services Organization Act;

24

1           2. The licensee, either knowingly or without the exercise of  
2 due care to prevent the same, has violated any provisions of the  
3 Credit Services Organization Act or any regulation or order lawfully  
4 made pursuant thereto; or

5           3. Any fact or condition exists which, if it had existed or had  
6 been known to exist at the time of the original application for a  
7 license, clearly would have justified the ~~Administrator~~ Attorney  
8 General in refusing the license.

9           B. The hearing shall be held upon twenty (20) days' notice in  
10 writing, setting forth the time and place thereof and a concise  
11 statement of the facts alleged to warrant suspension or revocation.  
12 At the conclusion of the hearing, the ~~Administrator~~ Attorney General  
13 shall prepare a written order setting forth the effective date of  
14 any suspension or revocation accompanied by findings of fact and a  
15 copy thereof shall be forthwith delivered to the licensee. Such  
16 order, findings and the evidence considered by the ~~Administrator~~  
17 Attorney General shall be filed with the public records of the  
18 ~~Administrator~~ Attorney General.

19           C. Any licensee may surrender any license by delivering it to  
20 the ~~Administrator~~ Attorney General with written notice of its  
21 surrender, but such surrender shall not affect the licensee's civil  
22 or criminal liability for acts committed prior thereto.

1 D. No revocation, suspension or surrender of any license shall  
2 impair or affect the obligation of any preexisting lawful contract  
3 between the licensee and any customer.

4 E. The ~~Administrator~~ Attorney General may reinstate suspended  
5 licenses or issue new licenses to a person whose license or licenses  
6 have been revoked if no fact or condition then exists which clearly  
7 would have justified the ~~Administrator~~ Attorney General in refusing  
8 originally to issue such license pursuant to the Credit Services  
9 Organization Act.

10 F. On application of any person and payment of the cost  
11 thereof, the ~~Administrator~~ Attorney General shall furnish under his  
12 seal and signature a certificate of good standing or a certified  
13 copy of any license.

14 SECTION 84. AMENDATORY 24 O.S. 2001, Section 146, is  
15 amended to read as follows:

16 Section 146. A. At such times as the ~~Administrator~~ Attorney  
17 General may deem necessary, the ~~Administrator~~ Attorney General or  
18 his duly authorized representative may make an examination of the  
19 place of business of each licensee and may inquire into and examine  
20 the transactions, books, accounts, papers, correspondence and  
21 records of such licensee insofar as they pertain to the business  
22 regulated by the Credit Services Organization Act. Such books,  
23 accounts, papers, correspondence and records shall also be open for  
24 inspection at any reasonable time by any peace officer, without any

1 need of judicial writ or other process. In the course of an  
2 examination, the ~~Administrator~~ Attorney General or his duly  
3 authorized representative shall have free access to the office,  
4 place of business, files, safes and vaults of such licensee, and  
5 shall have the right to make copies of any books, accounts, papers,  
6 correspondence and records. The ~~Administrator~~ Attorney General or  
7 his duly authorized representative, during the course of such  
8 examination, may administer oaths and examine any person under oath  
9 upon any subject pertinent to any matter about which the  
10 ~~Administrator~~ Attorney General is authorized or required by the  
11 Credit Services Organization Act to consider, investigate or secure  
12 information. Any licensee who fails or refuses to permit the  
13 ~~Administrator~~ Attorney General or his duly authorized representative  
14 to examine or make copies of such books or other relevant documents  
15 shall be deemed to be in violation of the Credit Services  
16 Organization Act and such failure or refusal shall constitute  
17 grounds for the suspension or revocation of such license. The  
18 information obtained in the course of any examination or inspection  
19 shall be confidential, except in civil or administrative proceedings  
20 conducted by the ~~Administrator~~ Attorney General, or criminal  
21 proceedings instituted by the state. Each licensee shall pay to the  
22 Administrator an amount assessed by the ~~Administrator~~ Attorney  
23 General to cover the direct or indirect cost of such examination,  
24 not to exceed Two Hundred Dollars (\$200.00) in any calendar year.

1 B. For the purpose of discovering violations of the Credit  
2 Services Organization Act or of securing information required by the  
3 Credit Services Organization Act, the ~~Administrator~~ Attorney General  
4 or his duly authorized representative may investigate the books,  
5 accounts, papers, correspondence and records of any licensee or  
6 other person who the ~~Administrator~~ Attorney General has reasonable  
7 cause to believe is violating any provision of the Credit Services  
8 Organization Act whether or not such person shall claim to be within  
9 the authority or scope of the Credit Services Organization Act.

10 C. Each licensee shall keep or make available in this state  
11 such books and records relating to credit service transactions made  
12 pursuant to the Credit Services Organization Act as are necessary to  
13 enable the ~~Administrator~~ Attorney General to determine whether the  
14 licensee is complying with the Credit Services Organization Act.  
15 Such books and records shall be consistent with accepted accounting  
16 practices.

17 D. Each licensee shall preserve or make available such books  
18 and records in this state relating to each of its credit service  
19 transactions for four (4) years from the date of the transaction, or  
20 two (2) years from the date of the final entry made thereon,  
21 whichever is later. Each licensee's system of records shall be  
22 accepted if it discloses such information as may be reasonably  
23 required pursuant to the Credit Services Organization Act. All  
24 agreements signed by customers shall be kept at an office in this

1 state designated by the licensee, except when transferred under an  
2 agreement which gives the ~~Administrator~~ Attorney General access  
3 thereto.

4 E. Each licensee, annually on or before the first day of May or  
5 other date thereafter fixed by the ~~Administrator~~ Attorney General,  
6 shall file a report with the ~~Administrator~~ Attorney General setting  
7 forth such relevant information as the ~~Administrator~~ Attorney  
8 General may reasonably require concerning the business and  
9 operations during the preceding calendar year for each licensed  
10 place of business conducted by such licensee within the state. Such  
11 report shall be made under oath and shall be in the form prescribed  
12 by the ~~Administrator~~ Attorney General, who may make and publish  
13 annually a consolidated analysis and recapitulation of such reports,  
14 but the individual reports shall be held confidential.

15 SECTION 85. AMENDATORY 59 O.S. 2001, Section 1502, is  
16 amended to read as follows:

17 Section 1502. As used in this act:

18 1. ~~"Administrator"~~ "Attorney General" means the ~~Administrator~~  
19 ~~of Consumer Affairs defined in the Uniform Consumer Credit Code~~  
20 Attorney General of the State of Oklahoma.

21 2. "Month" means that period of time from one date in a  
22 calendar month to the corresponding date in the following calendar  
23 month, but if there is no such corresponding date, then the last day  
24

1 of such following month, and when computations are made for a  
2 fraction of a month, a day shall be one-thirtieth (1/30) of a month.

3 3. "Pawnbroker" means a person engaged in the business of  
4 making pawn transactions.

5 4. "Pawn finance charge" means the sum of all charges, payable  
6 directly or indirectly by the customer and imposed directly or  
7 indirectly by the pawnbroker as an incident to the pawn transaction.

8 5. "Pawnshop" means the location at which or premises in which  
9 a pawnbroker regularly conducts business.

10 6. "Pawn transaction" means the act of lending money on the  
11 security of pledged goods or the act of purchasing tangible personal  
12 property on condition that it may be redeemed or repurchased by the  
13 seller for a fixed price within a fixed period of time.

14 7. "Person" means an individual, partnership, corporation,  
15 joint venture, trust, association or any other legal entity however  
16 organized.

17 8. "Pledged goods" means tangible personal property other than  
18 choses in action, securities or printed evidences of indebtedness,  
19 which property is deposited with or otherwise actually delivered  
20 into the possession of a pawnbroker in the course of his business in  
21 connection with a pawn transaction.

22 SECTION 86. AMENDATORY 59 O.S. 2001, Section 1503, is  
23 amended to read as follows:

24



1 Section 1503. No person shall engage in business as a  
2 pawnbroker without first obtaining a license from the ~~Administrator~~  
3 Attorney General specifically authorizing engagement in such  
4 business.

5 SECTION 87. AMENDATORY 59 O.S. 2001, Section 1503A, is  
6 amended to read as follows:

7 Section 1503A. A. To be eligible for a pawnshop license, an  
8 applicant shall:

9 1. Be of good moral character;

10 2. Have net assets of at least Twenty-five Thousand Dollars  
11 (\$25,000.00); and

12 3. Show that the pawnshop will be operated lawfully and fairly  
13 within the purpose of the Oklahoma Pawnshop Act, Section 1501 et  
14 seq. of ~~Title 59 of the Oklahoma Statutes~~ this title.

15 B. The ~~Administrator~~ Attorney General shall find ineligible an  
16 applicant who has a felony conviction which directly relates to the  
17 duties and responsibilities of the occupation of pawnbroker.

18 C. If the ~~Administrator~~ Attorney General is unable to verify  
19 that the applicant meets the net assets requirement for a pawnshop  
20 license, the ~~Administrator~~ Attorney General may require a finding,  
21 including the presentation of a current balance sheet, by an  
22 accounting firm or individual holding a permit to practice public  
23 accounting in this state, that the accountant has reviewed the books  
24

1 and records of the applicant and that the applicant meets the net  
2 assets requirement.

3 SECTION 88. AMENDATORY 59 O.S. 2001, Section 1504, is  
4 amended to read as follows:

5 Section 1504. A. Applications for a pawnshop license shall be  
6 under oath and shall state the full name and place of residence of  
7 the applicant. If the applicant is a partnership, the full name and  
8 place of residence of each member thereof shall be stated. If the  
9 applicant is a corporation, the full name and place of residence of  
10 each officer or major stockholder thereof shall be stated. The  
11 application shall give the approximate location from which the  
12 business is to be conducted, and shall contain such relevant  
13 information as the ~~Administrator~~ Attorney General may require.

14 B. Each applicant for a pawnshop license at the time of filing  
15 application shall file with the ~~Administrator~~ Attorney General a  
16 bond satisfactory to him and in the amount of Five Thousand Dollars  
17 (\$5,000.00) for each license with a surety company qualified to do  
18 business in this state. The said bond shall run to the state for  
19 the use of the state and of any person or persons who may have cause  
20 of action against the obligor of said bond under the provisions of  
21 this act. Such bond shall be conditioned that the obligor will  
22 comply with the provisions of this act and of all rules and  
23 regulations lawfully made by the ~~Administrator~~ Attorney General  
24 hereunder, and will pay to the state and to any such person or

1 persons any and all amounts of money that may become due or owing to  
2 the state or to such person or persons from said obligor under and  
3 by virtue of the provisions of this act during the time such bond is  
4 in effect.

5 C. Each licensee shall maintain on file with the ~~Administrator~~  
6 Attorney General a written appointment of a resident of this state  
7 as his agent for service of all judicial or other process or legal  
8 notice, unless the licensee has appointed an agent under another  
9 statute of this state. In case of noncompliance, such service may be  
10 made on the ~~Administrator~~ Attorney General.

11 SECTION 89. AMENDATORY 59 O.S. 2001, Section 1505, is  
12 amended to read as follows:

13 Section 1505. A. Upon the filing of an application and bond  
14 and payment of the annual license fee of One Hundred Dollars  
15 (\$100.00) and an investigation fee of One Hundred Twenty-five  
16 Dollars (\$125.00), the ~~Administrator~~ Attorney General shall conduct  
17 an investigation. If he finds that the financial responsibility,  
18 experience, character and general fitness of the applicant are such  
19 as to warrant belief that the business will be operated lawfully and  
20 fairly, within the purposes of Section 1501 et seq. of this title,  
21 and the applicant meets the eligibility requirements of Section 7  
22 1503A of this ~~act~~ title, he shall grant the application and issue to  
23 the applicant a license which will evidence his authority to do  
24 business under the provisions of Section 1501 et seq. of this title.

1 Provided, that if a license is granted pursuant to an application  
2 filed after June 30 of any year the license fee for the balance of  
3 such year shall be Fifty Dollars (\$50.00).

4 B. If the ~~Administrator~~ Attorney General does not so find facts  
5 sufficient to warrant issuance of a license, he shall notify the  
6 applicant. If within thirty (30) days of such notification the  
7 applicant requests a hearing on the application, a hearing shall be  
8 held within sixty (60) days after the date of the request. In the  
9 event of the denial of a license, the investigation fee shall be  
10 retained by the ~~Administrator~~ Attorney General, but the annual  
11 license fee shall be returned to the applicant.

12 C. The ~~Administrator~~ Attorney General shall grant or deny each  
13 application for license within sixty (60) days from its filing with  
14 the required fees, or from the hearing thereon, if any, unless the  
15 period is extended by written agreement between the applicant and  
16 the ~~Administrator~~ Attorney General.

17 D. No license to engage in the business of a pawnbroker shall  
18 be issued for any location where a license has been issued and is in  
19 effect under the provisions of Section 3-501 et seq. of Title 14A of  
20 the Oklahoma Statutes. The word "location" as used in this  
21 subsection means the entire space in which a Title 14A licensee  
22 conducts business. No pawnshop may be connected with any location  
23 in which a Title 14A licensee conducts business, except by a  
24 passageway to which the public is not admitted.

1 SECTION 90. AMENDATORY 59 O.S. 2001, Section 1506, is  
2 amended to read as follows:

3 Section 1506. A. Each license shall state the name of the  
4 licensee and the address at which the business is to be conducted.  
5 The license shall be displayed at the place of business named in the  
6 license. The license shall not be transferable or assignable except  
7 upon approval by the ~~Administrator~~ Attorney General.

8 B. A separate license shall be required for each pawnshop  
9 operated under this act.

10 The ~~Administrator~~ Attorney General may issue more than one  
11 license to any one person upon compliance with the provisions of  
12 this act as to each license. When a licensee wishes to move his  
13 pawnshop to another location, he shall give thirty (30) days'  
14 written notice to the ~~Administrator~~ Attorney General, who shall  
15 amend the license accordingly.

16 C. Each license shall remain in full force and effect until  
17 relinquished, suspended, revoked or expired. Every licensee, on or  
18 before each December 1, shall pay the ~~Administrator~~ Attorney General  
19 One Hundred Dollars (\$100.00) for each license held by him as the  
20 annual fee for the succeeding calendar year. If the annual fee  
21 remains unpaid fifteen (15) days after written notice of delinquency  
22 has been given to the licensee by the ~~Administrator~~ Attorney  
23 General, the license shall thereupon expire, but expiration shall  
24

1 not occur before December 31 of any year for which an annual fee has  
2 been paid.

3 D. No licensing requirement or license fee shall be required,  
4 levied or collected by any municipal corporation of this state;  
5 provided that municipal corporations may require the payment of  
6 regulatory fees not in excess of Fifty Dollars (\$50.00) per annum.

7 SECTION 91. AMENDATORY 59 O.S. 2001, Section 1507, is  
8 amended to read as follows:

9 Section 1507. A. The ~~Administrator~~ Attorney General may, after  
10 notice and hearing, suspend or revoke any license if he finds that:

11 1. The licensee has failed to pay any fee or charge properly  
12 imposed by the ~~Administrator~~ Attorney General under the authority of  
13 this act;

14 2. The licensee, either knowingly or without the exercise of  
15 due care to prevent the same, has violated any provision of this act  
16 or any regulation or order lawfully made pursuant to and within the  
17 authority of this act; or

18 3. Any fact or condition exists which, if it had existed or had  
19 been known to exist at the time of the original application for a  
20 license, clearly would have justified the ~~Administrator~~ Attorney  
21 General in refusing the license.

22 B. The hearing shall be held upon twenty (20) days' notice in  
23 writing, setting forth the time and place thereof and a concise  
24 statement of the facts alleged to warrant suspension or revocation.

1 At the conclusion of the hearing, the ~~Administrator~~ Attorney General  
2 shall prepare a written order setting forth the effective date of  
3 any suspension or revocation accompanied by findings of fact and a  
4 copy thereof shall be forthwith delivered to the licensee. Such  
5 order, findings and the evidence considered by the ~~Administrator~~  
6 Attorney General shall be filed with the public records of the  
7 ~~Administrator~~ Attorney General.

8 C. Any licensee may surrender any license by delivering it to  
9 the ~~Administrator~~ Attorney General with written notice of its  
10 surrender, but such surrender shall not affect the licensee's civil  
11 or criminal liability for acts committed prior thereto.

12 D. No revocation, suspension or surrender of any license shall  
13 impair or affect the obligation of any preexisting lawful contract  
14 between the licensee and any customer.

15 E. The ~~Administrator~~ Attorney General may reinstate suspended  
16 licenses or issue new licenses to a person whose license or licenses  
17 have been revoked if no fact or condition then exists which clearly  
18 would have justified the ~~Administrator~~ Attorney General in refusing  
19 originally to issue such license under this act.

20 F. On application of any person and payment of the cost  
21 thereof, the ~~Administrator~~ Attorney General shall furnish under his  
22 seal and signature a certificate of good standing or a certified  
23 copy of any license.

24

1           SECTION 92.           AMENDATORY           59 O.S. 2001, Section 1508, is  
2 amended to read as follows:  
3           Section 1508. A. At such times as the ~~Administrator~~ Attorney  
4 General may deem necessary, the ~~Administrator~~ Attorney General or  
5 his duly authorized representative may make an examination of the  
6 place of business of each licensee and may inquire into and examine  
7 the transactions, books, accounts, papers, correspondence and  
8 records of such licensee insofar as they pertain to the business  
9 regulated by Section 1501 et seq. of this title. Such books,  
10 accounts, papers, correspondence, records and property taken,  
11 purchased or received shall also be open for inspection at any  
12 reasonable time to federal law enforcement officials and the chief  
13 of police, district attorney, sheriff or written designee of the law  
14 enforcement body in whose jurisdiction the pawnshop is located,  
15 without any need of judicial writ or other process. In the course  
16 of an examination, the ~~Administrator~~ Attorney General or his duly  
17 authorized representative or any authorized peace officer shall have  
18 free access to the office, place of business, files, safes and  
19 vaults of such licensee, and shall have the right to make copies of  
20 any books, accounts, papers, correspondence and records insofar as  
21 they pertain to the business regulated by Section 1501 et seq. of  
22 this title. The ~~Administrator~~ Attorney General or his duly  
23 authorized representative may, during the course of such  
24 examination, administer oaths and examine any person under oath upon



1 any subject pertinent to any matter about which the ~~Administrator~~  
2 Attorney General is authorized or required by this act to consider,  
3 investigate or secure information. Any licensee who fails or  
4 refuses to permit the ~~Administrator~~ Attorney General or his duly  
5 authorized representative or any authorized peace officer to examine  
6 or make copies of such books or other relevant documents shall  
7 thereby be deemed in violation of this act and such failure or  
8 refusal shall constitute grounds for the suspension or revocation of  
9 such license. The information obtained in the course of any  
10 examination or inspection shall be confidential, except in civil or  
11 administrative proceedings conducted by the ~~Administrator~~ Attorney  
12 General, or criminal proceedings instituted by the state. Each  
13 licensee shall pay to the ~~Administrator~~ Attorney General an amount  
14 assessed by the ~~Administrator~~ Attorney General to cover the direct  
15 or indirect cost of such examination, not to exceed Two Hundred  
16 Dollars (\$200.00) in any calendar year.

17 B. Whenever a peace officer has probable cause to believe that  
18 property in possession of a licensed pawnbroker is stolen or  
19 embezzled, the peace officer of the local law enforcement agency of  
20 the municipality or other political subdivision in which the  
21 pawnshop resides may place a written hold order on the property.  
22 The initial term of the written hold order shall not exceed thirty  
23 (30) days. However, the holding period may be extended in  
24 successive thirty (30) day increments upon written notification

1 prior to the expiration of the initial holding period. If the  
2 holding period has expired and has not been extended, the hold order  
3 shall be considered expired and no longer in effect, and title shall  
4 vest in the pawnbroker subject to any restrictions contained in the  
5 pawn contract. The initial written hold order shall contain the  
6 following information:

7 1. Signature of the pawnbroker or his designee;

8 2. Name, title and identification number of the peace officer  
9 placing the hold order;

10 3. Name and address of the agency to which the peace officer is  
11 attached and the offense number;

12 4. Complete description of the property to be held, including  
13 model number, serial number and transaction number;

14 5. Name of agency reporting the property to be stolen or  
15 embezzled;

16 6. Mailing address of the pawnshop where the property is held;  
17 and

18 7. Expiration date of the holding period.

19 C. While a hold order is in effect, the pawnbroker may consent  
20 to release, upon written receipt, the stolen or embezzled property  
21 to the custody of the local law enforcement agency to which the  
22 peace officer placing the hold order is attached. The consent to  
23 release the stolen or embezzled property to the custody of law  
24 enforcement is not a waiver or release of the pawnbroker's property

1 rights or interest in the property. Otherwise, the pawnbroker shall  
2 not release or dispose of the property except pursuant to a court  
3 order or the expiration of the holding period including all  
4 extensions. The district attorney's office shall notify the  
5 pawnbroker in writing in cases where criminal charges have been  
6 filed that the property may be needed as evidence. The notice shall  
7 contain the case number, the style of the case, and a description of  
8 the property. The pawnbroker shall hold such property until  
9 receiving notice of the disposition of the case from the district  
10 attorney's office. The district attorney's office shall notify the  
11 pawnbroker in writing within fifteen (15) days of the disposition of  
12 the case. Willful noncompliance of a pawnbroker to a written hold  
13 order shall be cause for the pawnbroker's license to either be  
14 suspended or revoked pursuant to paragraph 2 of subsection A of  
15 Section 1507 of this title. A hold order may be released prior to  
16 the expiration of any thirty-day holding period by written release  
17 from the agency placing the initial hold order.

18 D. For the purpose of discovering violations of this act or of  
19 securing information required hereunder, the ~~Administrator~~ Attorney  
20 General or his duly authorized representative may investigate the  
21 books, accounts, papers, correspondence and records of any licensee  
22 or other person who the ~~Administrator~~ Attorney General has  
23 reasonable cause to believe is violating any provision of this act  
24 whether or not such person shall claim to be within the authority or

1 scope of this act. For the purpose of this section, any person who  
2 advertises for, solicits or holds himself out as willing to make  
3 pawn transactions, shall be presumed to be a pawnbroker.

4 E. Each licensee shall keep or make available in this state  
5 such books and records relating to pawn transactions made under this  
6 act as are necessary to enable the ~~Administrator~~ Attorney General to  
7 determine whether the licensee is complying with this act. Such  
8 books and records shall be consistent with accepted accounting  
9 practices.

10 F. Each licensee shall preserve or make available such books  
11 and records in this state relating to each of its pawn transactions  
12 for four (4) years from the date of the transaction, or two (2)  
13 years from the date of the final entry made thereon, whichever is  
14 later. Each licensee's system of records shall be accepted if it  
15 discloses such information as may be reasonably required under this  
16 act. All agreements signed by customers shall be kept at an office  
17 in this state designated by the licensee, except when transferred  
18 under an agreement which gives the ~~Administrator~~ Attorney General  
19 access thereto. All credit sales made by a pawnbroker, other than  
20 those sales defined in paragraph 6 of Section 1502 of this title, as  
21 a pawn transaction, shall be made in accordance with and subject to  
22 the provisions of Title 14A of the Oklahoma Statutes.

23 G. Each licensee shall, annually on or before the first day of  
24 May or other date thereafter fixed by the ~~Administrator~~ Attorney

1 General, file a report with the ~~Administrator~~ Attorney General  
2 setting forth such relevant information as the ~~Administrator~~  
3 Attorney General may reasonably require concerning the business and  
4 operations during the preceding calendar year for each licensed  
5 place of business conducted by such licensee within the state. Such  
6 report shall be made under oath and shall be in the form prescribed  
7 by the ~~Administrator~~ Attorney General, who may make and publish  
8 annually a consolidated analysis and recapitulation of such reports,  
9 but the individual reports shall be held confidential.

10 H. The ~~Administrator~~ Attorney General may make regulations  
11 necessary for the enforcement of this act and consistent with all  
12 its provisions. Before making such a regulation relating to the  
13 licensees subject to this act, the ~~Administrator~~ Attorney General  
14 shall give each licensee at least thirty (30) days' written notice  
15 of a public hearing, stating the time and place thereof and the  
16 terms or substance of the proposed regulation. At the hearing, any  
17 licensee or other person may be heard and may introduce evidence,  
18 data or arguments or place the same on file. The ~~Administrator~~  
19 Attorney General, after consideration of all relevant matters  
20 presented, shall adopt and promulgate every regulation in written  
21 form, stating the date of adoption and date of promulgation. Each  
22 such regulation shall be entered in a permanent record book which  
23 shall be public record and be kept in the ~~Administrator's~~ office of of  
24 the Attorney General. A copy of every regulation shall be mailed to

1 each licensee, and no such regulation shall become effective until  
2 the expiration of at least twenty (20) days after such mailing. On  
3 the application of any person and payment of the cost thereof, the  
4 ~~Administrator~~ Attorney General shall furnish such person a certified  
5 copy of such regulation.

6 I. Except as otherwise expressly provided in this act the  
7 Administrative Procedures Act, ~~Section 251 et seq. and 301 et seq.~~  
8 ~~of Title 75 of the Oklahoma Statutes~~, applies to and governs all  
9 administrative actions and civil proceedings taken by the  
10 ~~Administrator~~ Attorney General pursuant to this act.

11 SECTION 93. AMENDATORY 59 O.S. 2001, Section 1509, is  
12 amended to read as follows:

13 Section 1509. A. General Disclosure Requirements. 1. All  
14 disclosures required by this act shall be made in accordance with  
15 the regulations of the ~~Administrator~~ Attorney General and, in  
16 addition, such disclosures as applicable:

- 17 a. shall be made clearly and conspicuously;
- 18 b. shall be in writing, a copy of which shall be  
19 delivered to the customer;
- 20 c. may be supplemented by additional information or  
21 explanations supplied by the pawnbroker;
- 22 d. need be made only to the extent applicable and only as  
23 to those items for which the pawnbroker makes a  
24 separate charge to the customer; and

1 e. shall comply with this section although rendered  
2 inaccurate by any act, occurrence or agreement  
3 subsequent to the required disclosure.

4 2. The disclosures required by this section shall be made  
5 before credit is extended, but may be made in the pawn transaction,  
6 refinancing or consolidation agreement, or other evidence of the  
7 pawn transaction agreement to be signed by the customer if set forth  
8 conspicuously therein, and need be made only to one customer if  
9 there is more than one.

10 3. If any evidence of the pawn transaction agreement is signed  
11 by the customer, the pawnbroker shall give him a copy when the  
12 writing is signed.

13 4. Except as provided with respect to civil liability for  
14 violations of disclosure provisions, written acknowledgment of  
15 receipt by a customer to whom a statement is required to be given  
16 pursuant to this section:

17 a. in an action or proceeding by or against the original  
18 pawnbroker, creates a presumption that the statement  
19 was given; and

20 b. in an action or proceeding by or against an assignee  
21 without knowledge to the contrary when he acquires the  
22 obligation, is conclusive proof of the delivery of the  
23 statement and, unless the violation is apparent on the  
24 face of the statement, of compliance with this act.

1           5. Where the terms "finance charge" and "annual percentage  
2 rate" are required to be used, they shall be printed more  
3 conspicuously than other terminology required by this act. All  
4 numerical amounts and percentages shall be stated in figures and  
5 shall be printed in not less than the equivalent of ten point type,  
6 .075-inch computer type, or elite size typewritten numerals, or  
7 shall be legibly handwritten.

8           B. Calculation of Rate to be Disclosed. 1. If a pawnbroker  
9 is required to give to a customer a statement of the rate of the  
10 pawn finance charge, he shall state the rate in terms of an annual  
11 percentage rate calculated according to the actuarial method  
12 designated as "annual percentage rate" with respect to a pawn  
13 transaction, which is the quotient expressed as a percentage of the  
14 total pawn finance charge for the period to which it relates divided  
15 by the amount financed, multiplied by the number of these periods in  
16 a year.

17           2. A statement of rate complies with this act if it does not  
18 vary from the accurately computed rate by more than one quarter of  
19 one percent (1/4 of 1%) for a pawn transaction.

20           C. Overstatement. The disclosure of an amount or percentage  
21 which is greater than the amount or percentage required to be  
22 disclosed under this act does not in itself constitute a violation  
23 of this act if the overstatement is not materially misleading and is  
24 not used to avoid meaningful disclosure.



1 D. Specific Disclosure Provisions. 1. The pawnbroker shall  
2 give the customer the following information:

3 a. the name and address of the pawnbroker;

4 b. the name and address of the customer and the  
5 ~~customer's~~ description of the customer or the  
6 distinctive number from ~~customer's driver's~~ driver  
7 license of the customer or military identification;

8 c. the date of the transaction;

9 d. the net amount paid to, receivable by, or paid or  
10 payable for the account of the customer, designated as  
11 "amount financed";

12 e. the amount of the pawn finance charge, designated as  
13 "finance charge";

14 f. the rate of the pawn finance charge as applied to the  
15 amount financed, in accordance with the provisions on  
16 calculation of rate in Section 9, subsection B, of  
17 this act designated as "annual percentage rate";

18 g. the total amount which must be paid to redeem the  
19 pledged goods on the maturity date, designated as the  
20 "total of payments";

21 h. an identification of the property to which any  
22 security interest held or to be retained or acquired  
23 relates, and shall include serial numbers if  
24 reasonably available;

- 1 i. the maturity date of the pawn transaction; and
- 2 j. a statement to the effect that the customer is not
- 3 obligated to redeem the pledged goods, and that the
- 4 pledged goods may be forfeited to the pawnbroker
- 5 thirty (30) days after the specified maturity date,
- 6 provided that the pledged goods may be redeemed by the
- 7 customer within thirty (30) days following the
- 8 maturity date of the pawn transaction by payment of
- 9 the originally agreed redemption price and the payment
- 10 of an additional pawn finance charge equal to
- 11 one-thirtieth (1/30) of the original monthly pawn
- 12 finance charge for each day following the original
- 13 maturity date including the day on which the pledged
- 14 goods are finally redeemed.

15 E. Consolidation. If the parties to a pawn transaction or

16 consumer credit sale agree to a consolidation, the pawnbroker shall

17 give to the customer the information required with respect to pawn

18 transaction provisions. That portion of the pawn finance charge

19 earned at the time of consolidation shall be no greater than

20 one-thirtieth (1/30) of the pawn finance charge for each elapsed day

21 from the date of the transaction. The amount with respect to the

22 previous transaction or sale to be consolidated shall be separately

23 stated and shall be added to the net amount paid to, receivable by,

24

1 or paid or payable for the account of the customer in connection  
2 with the subsequent transaction.

3 F. Advertising. 1. No pawnbroker shall engage in this state  
4 in false or misleading advertising concerning the terms or  
5 conditions of credit with respect to a pawn transaction.

6 2. Without limiting the generality of subsection 1 of this  
7 section an advertisement with respect to a pawn transaction made by  
8 the posting of a public sign, or by catalog, magazine, newspaper,  
9 radio, television or similar mass media, is misleading if:

- 10 a. it states the rate of the pawn finance charge and the  
11 rate is not stated in the form required by the  
12 provisions on calculation of rate to be disclosed; or  
13 b. it states the dollar amounts of the pawn finance  
14 charge and does not also state the rate of any pawn  
15 finance charge.

16 3. In this section a catalog or other multiple-page  
17 advertisement is considered a single advertisement if it clearly and  
18 conspicuously displays a credit terms table setting forth the  
19 information required by this section.

20 4. This section imposes no liability on the owner or  
21 personnel, as such, of any medium in which an advertisement appears  
22 or through which it is disseminated.

23

24

1           5. Advertising which complies with the Federal Consumer Credit  
2 Protection Act does not violate ~~subsection~~ paragraph 2 of this  
3 ~~section~~ subsection.

4           SECTION 94.           AMENDATORY           59 O.S. 2001, Section 1511, is  
5 amended to read as follows:

6           Section 1511. A. Multiple Agreements. No pawnbroker shall  
7 separate or divide a pawn transaction into two or more transactions  
8 for the purpose or with the effect of obtaining a total pawn finance  
9 charge in excess of that authorized for an amount equal to the total  
10 of the amounts financed in the resulting transactions.

11           B. Customer's Personal Liabilities Prohibited. Even though a  
12 pawn transaction subject to Section 1501 et seq. of this title  
13 creates a debtor-creditor relationship, no pawnbroker shall make any  
14 agreement requiring the personal liability of a customer in  
15 connection with a pawn transaction, and no customer shall have an  
16 obligation to redeem pledged goods or make any payment on a pawn  
17 transaction. The only recourse of a pawnbroker where the customer  
18 has pledged goods shall be to the pledged goods themselves, unless  
19 the pledged goods are found to be stolen, embezzled, mortgaged or  
20 otherwise pledged or encumbered. Upon the customer being officially  
21 notified by a peace officer that the goods he pledged or sold to a  
22 pawnbroker were stolen or embezzled, the customer shall be liable to  
23 repay the pawnbroker the full amount the customer received from the  
24 pawn or buy transaction. Any pledged goods not redeemed within

1 thirty (30) days following the last fixed maturity date may  
2 thereafter, at the option of the pawnbroker, be forfeited and become  
3 the property of the pawnbroker.

4 C. Prohibited Practices. A pawnbroker shall not:

5 1. Accept a pledge or purchase property from a person, male or  
6 female, under the age of eighteen (18) years;

7 2. Accept any waiver, in writing or otherwise, of any right or  
8 protection accorded a customer under this act;

9 3. Fail to exercise reasonable care to protect pledged goods  
10 from loss or damage;

11 4. Fail to return pledged goods to a customer upon payment of  
12 the full amount due the pawnbroker on the pawn transaction, unless a  
13 hold order has been placed on the pledged goods by an authorized  
14 peace officer or the pledged goods are in the custody of law  
15 enforcement;

16 5. Make any charge for insurance in connection with a pawn  
17 transaction, except as provided in subsection F of this section;

18 6. Enter any pawn transaction which has a maturity date more  
19 than one (1) month after the date of the transaction; or

20 7. Accept collateral or buy merchandise from a person unable to  
21 supply verification of identity by photo I.D. by either a state-  
22 issued identification card, driver's license or federal government-  
23 issued identification card or by readable fingerprint of right or  
24

1 left index finger on the back of the pawn or buy transaction copy to  
2 be retained for the pawnbroker's record.

3 D. Presumption. Except as otherwise provided by this act, any  
4 person properly identifying himself as the original customer in the  
5 pawn transaction or as the assignee thereof, and presenting a pawn  
6 transaction agreement to the pawnbroker shall be presumed to be  
7 entitled to redeem the pledged goods described therein.

8 E. Lost or Destroyed Transaction Agreement. If the pawn  
9 transaction agreement is lost, destroyed or stolen, the customer may  
10 so notify the pawnbroker in writing, and receipt of such notice  
11 shall invalidate such pawn transaction agreement, if the pledged  
12 goods have not previously been redeemed. Before delivering the  
13 pledged goods or issuing a new pawn transaction agreement, the  
14 pawnbroker may require the customer to make affidavit of the loss,  
15 destruction or theft of the agreement.

16 F. Insurance. 1. A pawnbroker may offer insurance to a  
17 customer at the time of the pawn transaction to provide coverage  
18 during the pawn contract period for the declared value of the items  
19 pawned. The purchase of insurance shall be at the option of the  
20 customer.

21 2. A pawnbroker may not offer insurance coverage unless the  
22 pawnbroker:

23 a. is licensed as a limited insurance representative for  
24 the purpose of providing insurance coverage for pawned

1 merchandise, as required by Section 1424 of Title 36  
2 of the Oklahoma Statutes,

- 3 b. has filed with the ~~Administrator of the Department of~~  
4 ~~Consumer Credit~~ Attorney General a copy of the  
5 insurance policy which shall have been issued by an  
6 insurer authorized by the Insurance Commissioner to  
7 transact insurance in this state, and
- 8 c. has posted a copy of the policy in a conspicuous place  
9 which is readily available to the customer.

10 SECTION 95. AMENDATORY 59 O.S. 2001, Section 1512, is  
11 amended to read as follows:

12 Section 1512. A. Rule Making Power. The ~~Administrator~~  
13 Attorney General shall have the same authority to adopt, amend and  
14 repeal rules as is conferred upon him by paragraph (e) of subsection  
15 (1), and subsections (2) and (3) of Section 6-104 of Title 14A of  
16 the Oklahoma Statutes, as applicable, and such rules shall have the  
17 same effect as provided in subsection (4) of Section 6-104  
18 thereunder. In addition, the ~~Administrator~~ Attorney General may  
19 adopt, amend and repeal such other rules as are necessary for the  
20 enforcement of the provisions of Section 1501 et seq. of this title  
21 and consistent with all its provisions.

22 B. Administrative Enforcement. Compliance with the provisions  
23 of this act may be enforced by the ~~Administrator~~ Attorney General  
24 who may exercise, for such purpose, all the powers enumerated in

1 Part 1 of Article 6, Title 14A of the Oklahoma Statutes, in the same  
2 manner as in relation to consumer credit transactions under that  
3 act, as well as those powers conferred in this act.

4 C. Criminal Penalties. 1. Any person who engages in the  
5 business of operating a pawn shop without first securing the license  
6 prescribed by this act shall be guilty of a misdemeanor and upon  
7 conviction thereof shall be punished by a fine not in excess of One  
8 Thousand Dollars (\$1,000.00), by confinement in the county jail for  
9 not more than six (6) months or by both.

10 2. Any person selling or pledging property to a pawnbroker who  
11 uses false or altered identification or a false declaration of  
12 ownership as related to the provisions of Section 1515 of this title  
13 shall be guilty of a felony, and upon conviction shall be punished  
14 by imprisonment in the ~~State Penitentiary~~ custody of the Department  
15 of Corrections for a term not to exceed five (5) years or in the  
16 county jail for a term not to exceed one (1) year, or by a fine not  
17 to exceed Five Hundred Dollars (\$500.00), or by both such  
18 imprisonment and fine.

19 3. Any person who fails to repay a pawnbroker the full amount  
20 received from a pawn or buy transaction after being officially  
21 notified by a peace officer that the goods he pledged or sold in  
22 that transaction were stolen or embezzled shall be guilty of a  
23 misdemeanor and upon conviction shall be punished by imprisonment in  
24 the county jail for a term not to exceed six (6) months, or a fine



1 not to exceed Five Hundred Dollars (\$500.00), or by both such fine  
2 and imprisonment.

3 D. Private Enforcement. 1. If any person engages in the  
4 business of operating a pawnshop without first securing the license  
5 prescribed by this act, or if any pawnbroker contracts for, charges  
6 or receives a pawn finance charge in excess of that authorized by  
7 this act, the pawn transaction shall be void and the customer is not  
8 obligated to pay either the amount financed or the pawn finance  
9 charge in connection with the transaction, and upon the customer's  
10 demand, the pawnbroker shall be obligated to return to the customer,  
11 as a refund, all amounts paid in connection with the transaction by  
12 the customer and the pledged goods delivered to the pawnbroker in  
13 connection with the pawn transaction or their value if the goods  
14 cannot be returned. If a customer is entitled to a refund under  
15 this section and a pawnbroker liable to the customer refuses to make  
16 the refund within a reasonable time after demand, the customer shall  
17 have an action against the pawnbroker and in the case of a  
18 successful action to enforce such liability, the costs of the action  
19 together with attorney's fees as determined by the court shall be  
20 awarded to the customer.

21 2. A pawnbroker who fails to disclose information to a customer  
22 entitled to the information under this act is liable to that person  
23 in an amount equal to the sum of:  
24

- 1 a. twice the amount of the pawn finance charge in  
2 connection with the transaction, or One Hundred  
3 Dollars (\$100.00), whichever is greater; and  
4 b. in the case of a successful action to enforce the  
5 liability under paragraph 1 of this subsection, the  
6 costs of the action together with reasonable  
7 ~~attorneys'~~ attorney fees as determined by the court.

8 SECTION 96. AMENDATORY 59 O.S. 2001, Section 1515, is  
9 amended to read as follows:

10 Section 1515. A. Any pawnbroker shall make available a copy or  
11 report within three (3) days of any buy transaction to the local law  
12 enforcement agency of the municipality or other political  
13 subdivision in which the pawnshop is located; provided, merchandise  
14 bought on invoice from a manufacturer or wholesaler with an  
15 established place of business is exempt from this reporting  
16 requirement. However, such invoice shall be shown upon request to  
17 the ~~Administrator~~ Attorney General or his duly authorized  
18 representative or any authorized peace officer. The copy or report  
19 shall include:

- 20 1. The name and address of the pawnshop;  
21 2. The name, address, race, sex, weight, height, date of birth  
22 and either identification number of the seller as verified by either  
23 a state-issued identification card, ~~driver's~~ driver license or  
24 federal government-issued identification card or by readable

1 fingerprint of right or left index finger on the back of the pawn or  
2 buy transaction copy to be retained for the pawnbroker's record;

3 3. The buy transaction number;

4 4. The date and time of the transaction;

5 5. The manufacturer of the item;

6 6. A description of the item; and

7 7. The serial number and model number where available and any  
8 other identifying markings.

9 B. Items bought, except on invoice from a manufacturer or  
10 wholesaler with an established place of business, shall be held for  
11 ten (10) days before being disposed of or sold.

12 C. Any pawnbroker shall make available a copy or report within  
13 three (3) days of any pawn transaction to the local law enforcement  
14 agency of the municipality or other political subdivision in which  
15 the pawnshop is located. The copy or report shall include:

16 1. The name and address of the pawnshop;

17 2. The name, address, race, sex, weight, height, date of birth  
18 and either identification number of the person making the pawn  
19 transaction with the pawnshop as verified by either a state-issued  
20 identification card, ~~driver's~~ driver license or federal  
21 government-issued identification card or by readable fingerprint of  
22 right or left index finger on the back of the pawn or buy  
23 transaction copy to be retained for the pawnbroker's record;

24 3. The pawn transaction number;

- 1 4. The date and time of the transaction;
- 2 5. The manufacturer of the item;
- 3 6. A description of the item; and
- 4 7. The serial number and model number where available and any
- 5 other identifying markings.

6 D. The pawnbroker shall obtain a written declaration of  
7 ownership from the seller or pledgor on all buy and pawn  
8 transactions, except refinance pawn transactions or merchandise  
9 bought from a manufacturer or wholesaler with an established place  
10 of business. The seller or pledgor shall be required to state how  
11 long he has owned the property described in the transaction. The  
12 declaration of ownership shall appear on the bill of sale or pawn  
13 ticket, to be completed by the seller or the pledgor at the time of  
14 the transaction.

15 SECTION 97. AMENDATORY 59 O.S. 2001, Section 1522, is  
16 amended to read as follows:

17 Section 1522. As used in this act:

18 1. ~~"Administrator"~~ "Attorney General" means the ~~Administrator~~  
19 ~~of the Department of Consumer Credit~~ Attorney General of the State  
20 of Oklahoma;

21 2. "Dealer" means any person, partnership, sole proprietorship,  
22 corporation or association which, in the regular course of business,  
23 takes, receives, pays for or transfers used precious metals or gems  
24 excluding any supervised financial institution as defined by the

1 Consumer Credit Code, pawnbrokers licensed pursuant to Section 1501  
2 et seq. of this title, and jewelers whose principal business is the  
3 sale of items purchased directly from the original manufacturer,  
4 wholesaler or their authorized representative and who in the regular  
5 course of such business, accept trade-in of items defined in this  
6 act as precious metals or gems, so long as the item or items to be  
7 traded are not greater in value than the item or items to be  
8 purchased. For purposes of this exception, retail jewelers may not  
9 buy used precious metals or gems for cash consideration only;

10 3. "Employee" means any person working for a dealer, whether or  
11 not the person is in the direct employment of the dealer or works  
12 full time or part time, who handles used precious metals or gems for  
13 the dealer. Employee shall not mean a person employed by a bank,  
14 armored car company or other business entity acting in the sole  
15 capacity of bailee-for-hire relationship with a dealer;

16 4. "Gem" means any precious or semiprecious stone or item  
17 containing a precious or semiprecious stone customarily used in  
18 jewelry or ornamentation;

19 5. "Precious metal" means platinum, gold or silver, but shall  
20 not mean any ingot or bar manufactured by a commercial mint nor  
21 shall it mean any or all coins; and

22 6. "Used" means previously sold or traded.

23 SECTION 98. AMENDATORY 59 O.S. 2001, Section 1523, is  
24 amended to read as follows:

1 Section 1523. No person, unless exempt by this act, shall  
2 operate as a dealer or employee as defined in this act without first  
3 obtaining a license from the ~~Administrator~~ Attorney General  
4 specifically authorizing the person to act in such capacity.

5 SECTION 99. AMENDATORY 59 O.S. 2001, Section 1524, as  
6 amended by Section 6, Chapter 204, O.S.L. 2003 (59 O.S. Supp. 2007,  
7 Section 1524), is amended to read as follows:

8 Section 1524. A. An application for a license pursuant to the  
9 provisions of the Precious Metal and Gem Dealer Licensing Act shall  
10 be under oath and state:

11 1. If the applicant is an individual, the full name and place  
12 of residence of the applicant;

13 2. If the applicant is a partnership, the full name and place  
14 of residence of each member of the partnership; and

15 3. If the applicant is a corporation, the full name and place  
16 of residence of each officer or major stockholder of the  
17 corporation.

18 B. The application shall state the location where the business  
19 is to be conducted and contain such additional relevant information  
20 as the ~~Administrator~~ Attorney General may require.

21 C. In addition to the application provided for in subsection A  
22 of this section, every applicant shall file with the ~~Administrator~~  
23 Attorney General a bond satisfactory to said ~~Administrator~~ Attorney  
24 General and in the amount of Ten Thousand Dollars (\$10,000.00) for

1 each license sought, with a surety company qualified to do business  
2 in this state as surety. The bond shall be furnished to the state  
3 for the use of the state and of any person or persons who may have a  
4 cause of action against the obligor of the bond pursuant to the  
5 provisions of the Precious Metal and Gem Dealer Licensing Act. The  
6 bond shall be conditional that the obligor will comply with the  
7 provisions of the Precious Metal and Gem Dealer Licensing Act and  
8 all rules and regulations made pursuant to the Precious Metal and  
9 Gem Dealer Licensing Act, and will pay all amounts of money that may  
10 be due to the state or any individual from the obligor during the  
11 time such bond is in effect.

12 D. Each applicant shall submit a full set of fingerprints and a  
13 photograph with each application for an original license. The  
14 fingerprints may be used for a national criminal history record  
15 check as defined in Section 150.9 of Title 74 of the Oklahoma  
16 Statutes.

17 E. Each licensee shall maintain on file with the ~~Administrator~~  
18 Attorney General a written appointment of a resident of this state  
19 as his agent for service of all judicial or other process or legal  
20 notice, unless the licensee has appointed such an agent pursuant to  
21 the provisions of another statute of this state.

22 SECTION 100. AMENDATORY 59 O.S. 2001, Section 1525, is  
23 amended to read as follows:

24

1 Section 1525. A. Upon the filing of an application, bond and  
2 the payment of an annual license fee of Fifty Dollars (\$50.00) and a  
3 one-time investigation fee of Fifty Dollars (\$50.00) by a dealer,  
4 the ~~Administrator~~ Attorney General shall conduct an investigation of  
5 the applicant prior to issuance of a dealer license.

6 B. Upon the filing of an application and payment of a  
7 twenty-five-dollar fee by an employee of a licensed dealer, the  
8 ~~Administrator~~ Attorney General shall conduct an investigation of the  
9 applicant prior to issuance of an employee license.

10 C. Upon renewal of a license for either a dealer or an  
11 employee, the ~~Administrator~~ Attorney General may conduct an  
12 investigation at his discretion or at the request of a district  
13 attorney for any county in which the applicant has a permanent place  
14 of business.

15 D. If the ~~Administrator~~ Attorney General finds that the  
16 financial responsibility, experience and character of the dealer are  
17 such as to warrant belief that the business will be operated  
18 lawfully and fairly, within the purposes of this act, the dealer  
19 shall be issued a license. Any person engaged as a dealer or  
20 employee on the operative date of this act shall have thirty (30)  
21 days from the operative date of this act to apply for a license.

22 E. A separate license shall be required for each location,  
23 place or premises used by a dealer for the conducting of business  
24 pursuant to the provisions of this act and each license shall



1 designate the location, place, or premises to which it applies. The  
2 business of the dealer shall not be conducted in any place other  
3 than that designated by the license. The license shall not be  
4 transferable.

5 F. If the ~~Administrator~~ Attorney General does not find facts  
6 sufficient to warrant issuance of a license, he shall notify the  
7 applicant. If within thirty (30) days of such notification the  
8 applicant requests a hearing on the application, a hearing shall be  
9 held within sixty (60) days after the day of the request. In the  
10 event of the denial of a license, the investigation fee shall be  
11 retained by the ~~Administrator~~ Attorney General, but the annual  
12 license fee shall be returned to the applicant.

13 G. The ~~Administrator~~ Attorney General shall grant or deny an  
14 application for license within sixty (60) days from the day of  
15 filing or from the last day of a hearing as provided in subsection F  
16 of this section, unless the period is extended by written agreement  
17 between the applicant and the ~~Administrator~~ Attorney General.

18 H. The ~~Administrator~~ Attorney General may issue more than one  
19 license to any one person upon compliance with the provisions of  
20 this act as to each license. When a dealer wishes to move his  
21 business to another location, he shall give thirty (30) days'  
22 written notice to the ~~Administrator~~ Attorney General, who shall  
23 amend the license accordingly.

24

1 I. Licensed pawnbrokers shall not be subject to any of the fees  
2 provided for in this section.

3 SECTION 101. AMENDATORY 59 O.S. 2001, Section 1526, is  
4 amended to read as follows:

5 Section 1526. A. Each year, every dealer, on or before each  
6 December 1, shall pay the ~~Administrator~~ Attorney General Fifty  
7 Dollars (\$50.00) for each license held by him as the annual fee for  
8 the succeeding calendar year. If not renewed, expiration shall  
9 occur on December 31 of the year in which the annual fee has been  
10 paid.

11 B. Each year, every employee, on or before December 1, shall  
12 pay the ~~Administrator~~ Attorney General Twenty-five Dollars (\$25.00)  
13 for the license held by him as the annual fee for the succeeding  
14 calendar year. If not renewed, expiration shall occur on December 31  
15 of the year in which the annual fee has been paid.

16 SECTION 102. AMENDATORY 59 O.S. 2001, Section 1527, is  
17 amended to read as follows:

18 Section 1527. No additional licensing requirement or license  
19 fee shall be required by any municipal corporation of this state.  
20 This act shall not annul or supersede any existing municipal  
21 ordinances, nor prevent the enactment of such ordinances, unless  
22 such ordinances specifically conflict with the provisions of this  
23 act or regulations issued by the ~~Administrator~~ Attorney General  
24 pursuant to the provisions of this act.

1 SECTION 103. AMENDATORY 59 O.S. 2001, Section 1528, is  
2 amended to read as follows:

3 Section 1528. A. The ~~Administrator~~ Attorney General may, after  
4 notice and hearing, deny, suspend or revoke any license if it is  
5 found that:

6 1. The applicant has been convicted of a felony or crime  
7 involving fraud, theft, receiving or possession of stolen property  
8 in the five (5) years preceding the submission of the application;

9 2. The licensee has failed to pay any fee or charge properly  
10 imposed by the ~~Administrator~~ Attorney General under the authority of  
11 this act;

12 3. The licensee has violated any provision of this act or any  
13 regulation or order made pursuant to and within the authority of  
14 this act; or

15 4. Any fact or condition exists which, if it had existed or had  
16 been known to exist at the time of the original application for a  
17 license, clearly would have justified the ~~Administrator~~ Attorney  
18 General in refusing the license.

19 B. The hearing for denial, suspension or revocation of a  
20 license shall be held upon twenty (20) days' notice in writing,  
21 setting forth the time and place thereof and a concise statement of  
22 the facts alleged to warrant the hearing. After the hearing, the  
23 ~~Administrator~~ Attorney General shall prepare a written order setting  
24 forth the effective date of the order accompanied by findings of

1 fact and a copy shall be delivered to the applicant or licensee.  
2 Such order, findings and the evidence considered by the  
3 ~~Administrator~~ Attorney General shall be maintained as a part of the  
4 permanent public records of the ~~Administrator~~ Attorney General.

5 C. Any licensee may surrender any license by delivering it to  
6 the ~~Administrator~~ Attorney General with written notice of its  
7 surrender. Such surrender shall not affect the civil or criminal  
8 liability of the licensee for acts committed prior to the surrender  
9 of the license.

10 D. No revocation, suspension or surrender of any license shall  
11 impair or affect the obligation of any preexisting lawful contract  
12 between the licensee and any customer.

13 SECTION 104. AMENDATORY 59 O.S. 2001, Section 1531, is  
14 amended to read as follows:

15 Section 1531. A. Every dealer must keep at the business  
16 location designated in the license application, all used articles  
17 made, in whole or in part, of precious metals or gems, for  
18 inspection by any law enforcement officer at reasonable times for a  
19 period of ten (10) days or until the articles have been released by  
20 written authorization of any law enforcement officer authorized by  
21 the law enforcement agency or its designee, except as provided for  
22 in subsection C of Section ~~5~~ 1525 of this ~~act~~ title. During this  
23 period, the appearance of such articles shall not be altered in any  
24 way. A dealer is not prohibited from selling or arranging to sell

1 such articles during the ten-day period as long as such articles  
2 remain in his possession as required by this section.

3 B. A dealer may also designate an additional location for  
4 storage of items required to be held under the provisions of this  
5 act. This location shall be either a vault or a bank. The address  
6 of the designated additional location shall be filed with the  
7 ~~Administrator~~ Attorney General. The ~~Administrator~~ Attorney General  
8 shall release the designated location only to law enforcement  
9 agencies. The designated additional location shall be available for  
10 inspection by any law enforcement officer of this state authorized  
11 by the law enforcement agency to inspect the same.

12 SECTION 105. AMENDATORY 59 O.S. 2001, Section 1951, is  
13 amended to read as follows:

14 Section 1951. As used in the Oklahoma Rental-Purchase Act:

15 1. ~~"Administrator" means the Administrator of the Department of~~  
16 ~~Consumer Credit as designated in Section 6-501 of Title 14A of the~~  
17 ~~Oklahoma Statutes;~~

18 2. "Advertisement" means any commercial message in any medium  
19 that promotes, directly or indirectly, a consumer rental-purchase  
20 agreement;

21 2. "Attorney General" means the Attorney General of the State  
22 of Oklahoma as designated in Section 6-501 of Title 14A of the  
23 Oklahoma Statutes;

24

1       3. "Consummation" means the time a lessee becomes contractually  
2 obligated on a consumer rental-purchase agreement;

3       4. "Lessee" means a natural person who rents personal property  
4 under a consumer rental-purchase agreement;

5       5. "Lessor" means a person who regularly provides the use of  
6 property through consumer rental-purchase agreement;

7       6. "Rental-purchase agreement" means an agreement for the use  
8 of personal property by a consumer for personal, family, or  
9 household purposes, for an initial period of four (4) months or  
10 less, that is renewable with each payment after the initial period,  
11 and that permits the consumer to become the owner of the property.  
12 An agreement that complies with this definition is not a consumer  
13 credit sale as defined in Section 2-104 of Title 14A of the Oklahoma  
14 Statutes, or a consumer loan as defined in Section 3-104 of Title  
15 14A of the Oklahoma Statutes, or a refinancing or consolidation  
16 thereof, or a consumer lease as defined in Section 2-106 of Title  
17 14A of the Oklahoma Statutes, or a lease or agreement which  
18 constitutes a security interest as defined in paragraph ~~(37)~~ (35) of  
19 Section 1-201 of Title 12A of the Oklahoma Statutes or a lease or  
20 agreement which constitutes a sale of goods as defined in subsection  
21 (4) of Section 2-105 of Title 14A of the Oklahoma Statutes;

22       7. "Initial period" means from the date of inception to the  
23 first scheduled installment; and  
24

1 8. "Initial fee" means any fee charged to initiate a contract  
2 however designated.

3 SECTION 106. AMENDATORY 59 O.S. 2001, Section 1952, is  
4 amended to read as follows:

5 Section 1952. A. No person shall engage in business as a  
6 rental-purchase lessor without first obtaining a license issued by  
7 the ~~Administrator~~ Attorney General. Each license shall state the  
8 address of the office from which business is to be conducted and the  
9 name of the licensee. The license shall be displayed at the place of  
10 business named in the license. The license shall not be  
11 transferable or assignable except upon approval by the ~~Administrator~~  
12 Attorney General. A separate license shall be required for each  
13 office operated pursuant to the Oklahoma Rental-Purchase Act. The  
14 ~~Administrator~~ Attorney General may issue more than one license to  
15 any one person upon compliance with this section as to each license.  
16 This subsection shall not be construed to require a license for any  
17 place of business devoted to accounting or other record keeping and  
18 where rental-purchase agreements are not made.

19 B. Each person shall file a license application form with the  
20 ~~Administrator~~ Attorney General within thirty (30) days prior to  
21 commencing business in this state for each place of business in  
22 which rental-purchase agreements are transacted, and thereafter, by  
23 December 1st of each year. The license application must state:

24 1. The name of the person;

1        2. The name in which business is transacted if different from  
2 paragraph 1 or 3 of this subsection;

3        3. The address of the principal office;

4        4. An indication that the lessor engages in the business of  
5 making rental-purchase agreements;

6        5. The address of the designated agent upon whom service of  
7 process may be made in this state; and

8        6. Such other relevant information as the ~~Administrator~~  
9 Attorney General may desire.

10       C. If information in an application becomes inaccurate after  
11 filing, modifications to the application shall be brought to the  
12 attention of the ~~Department of Consumer Credit~~ Attorney General  
13 within thirty (30) days from such change.

14       D. The license application shall be on a form or forms provided  
15 by the ~~Administrator~~ Attorney General.

16       SECTION 107.        AMENDATORY        59 O.S. 2001, Section 1953, is  
17 amended to read as follows:

18       Section 1953. Lessors shall pay an annual license renewal fee  
19 of One Hundred Dollars (\$100.00) per place of business, which fees  
20 shall accompany the license renewal form. Any person engaged in the  
21 business of rental-purchase transactions on the effective date of  
22 this act shall not be held in violation of Section ~~3~~ 1952 of this  
23 ~~act~~ title from the effective date of this act to the date of  
24 licensing if the form and fees are filed with the ~~Administrator~~



1 Attorney General within thirty (30) days from the effective date of  
2 this act. Provided, that if the license application form is filed  
3 after June 30 of any year the license fee for the balance of such  
4 year shall be Fifty Dollars (\$50.00).

5 SECTION 108. AMENDATORY 59 O.S. 2001, Section 1955, is  
6 amended to read as follows:

7 Section 1955. A. A consumer damaged by a violation of this act  
8 by a lessor is entitled to recover from the lessor:

9 1. Actual damages;

10 2. Twenty-five percent (25%) of an amount equal to the total  
11 amount of payments required to obtain ownership of the merchandise  
12 involved, except that the amount recovered under this section shall  
13 not be less than One Hundred Dollars (\$100.00) nor more than One  
14 Thousand Dollars (\$1,000.00), or in the case of a class action, an  
15 amount the court may allow, except that as to each member of the  
16 class no minimum recovery may be applicable and the total recovery  
17 other than for actual damages in any class action or series of class  
18 actions arising out of the same failure to comply by the same lessor  
19 shall not be more than the lesser of Five Hundred Thousand Dollars  
20 (\$500,000.00) or one percent (1%) of the net worth of the lessor;  
21 and

22 3. Reasonable attorneys fees and court costs.

23 B. In addition to the enforcement powers provided in Section  
24 6-102 of Title 14A of the Oklahoma Statutes, the ~~Administrator~~

1 Attorney General or his duly authorized representative may  
2 investigate the books, accounts, papers, correspondence and records  
3 of any lessor licensed under the Oklahoma Rental-Purchase Act. For  
4 the purposes of this section, any person who advertises for,  
5 solicits or holds himself out as willing to make rental-purchase  
6 transactions, shall be presumed to be a rental-purchase lessor.  
7 Each lessor shall pay to the ~~Administrator~~ Attorney General an  
8 amount assessed by the ~~Administrator~~ Attorney General to cover the  
9 direct or indirect cost of such examination, not to exceed Two  
10 Hundred Dollars (\$200.00) in any calendar year.

11 C. The ~~Administrator~~ Attorney General may promulgate rules and  
12 regulations necessary for the enforcement of the Oklahoma  
13 Rental-Purchase Act and consistent with all its provisions.

14 D. Except as otherwise expressly provided in the Oklahoma  
15 Rental-Purchase Act, the Administrative Procedures Act, ~~Sections 301~~  
16 ~~through 326 of Title 75 of the Oklahoma Statutes,~~ applies to and  
17 governs all administrative actions and civil proceedings taken by  
18 the ~~Administrator~~ Attorney General pursuant to the Oklahoma  
19 Rental-Purchase Act.

20 E. Where there are multiple lessees to a rental-purchase  
21 agreement, there shall be no more than one recovery under the  
22 Oklahoma Rental-Purchase Act for a violation.

23 F. A lessor is not liable under the Oklahoma Rental-Purchase  
24 Act for a violation thereof caused by the lessor's error if before

1 the sixtieth day after the date the lessor discovers the error, and  
2 before an action under this section is filed or written notice of  
3 the error is received by the lessor from the lessee, the lessor  
4 gives the lessee written notice of the error and makes adjustments  
5 in the lessee's account as necessary to ensure that the lessee will  
6 not be required to pay an amount in excess of the amount disclosed  
7 and that the agreement otherwise complies with this subsection. Nor  
8 may a lessor be held liable in any action brought under the Oklahoma  
9 Rental-Purchase Act for a violation of the Oklahoma Rental-Purchase  
10 Act if the lessor shows by a preponderance of the evidence that the  
11 violation was not intentional and resulted from a bona fide error  
12 notwithstanding the maintenance of procedures reasonably adopted to  
13 avoid the error. A bona fide error includes, but is not limited to,  
14 a clerical, calculation, computer malfunction in programming, and  
15 printing error, but not an error of legal judgment with respect to a  
16 lessor's disclosure obligations under the Oklahoma Rental-Purchase  
17 Act.

18 SECTION 109. AMENDATORY 59 O.S. 2001, Section 1956, is  
19 amended to read as follows:

20 Section 1956. All monies received by the ~~Department of Consumer~~  
21 ~~Credit~~ Attorney General from fees for licensing and examinations  
22 pursuant to the Oklahoma Rental-Purchase Act shall be deposited  
23 monthly to the credit of the General Revenue Fund of the State  
24 Treasury.

1 SECTION 110. AMENDATORY 59 O.S. 2001, Section 2001, is  
2 amended to read as follows:

3 Section 2001. As used in the Oklahoma Health Spa Act:

4 1. ~~"Administrator" means the Administrator of Consumer Credit~~  
5 ~~as defined in Section 6-501 of Title 14A of the Oklahoma Statutes;~~

6 2. "Business day" means any day except a Sunday or a legal  
7 holiday;

8 3. 2. "Buyer/Member" means a natural person who enters into a  
9 health spa contract or membership;

10 4. ~~"Membership agreement" means any agreement between a member~~  
11 ~~and a health spa for use of health spa services;~~

12 5. 3. "Commissioner" means the State Commissioner of Health as  
13 defined in Section 1-102 of Title 63 of the Oklahoma Statutes;

14 4. "Health spa" means and includes any person, firm,  
15 corporation, organization, club or association engaged in a program  
16 of physical exercise, which includes the use of one or more of a  
17 sauna, whirlpool, weight-lifting room, massage, steam room, or  
18 exercising machine or device, or exercise rooms, or engaged in the  
19 sale of the right or privilege to use exercise equipment or  
20 facilities, such as a sauna, whirlpool, weight-lifting room,  
21 massage, steam room or exercising machine or device or exercise  
22 rooms. The term "health spa" shall not include the following:

23 a. bona fide nonprofit organizations, including, but not  
24 limited to, the Young Men's Christian Association,

1 Young Women's Christian Association, or similar  
2 organizations whose functions as health spas are only  
3 incidental to their overall functions and purposes,

4 b. any private club owned and operated by its members,

5 c. any organization solely operated for the purpose of  
6 teaching a particular form of self-defense such as  
7 judo or karate,

8 d. any facility owned or operated by the United States,

9 e. any facility owned or operated by this state or any of  
10 its political subdivisions,

11 f. any nonprofit public or private school, college or  
12 university, and

13 g. any facility operated solely for aerobics or toning;

14 ~~6.~~ 5. "Health spa services" means and includes services,  
15 privileges, or rights offered for sale or provided by a health spa;

16 ~~7.~~ 6. "Initiation fee" means a nonrecurring fee charged at or  
17 near the beginning of a health spa membership;

18 7. "Membership agreement" means any agreement between a member  
19 and a health spa for use of health spa services;

20 8. "Monthly fee" means the total consideration, including but  
21 not limited to, equipment or locker rental, credit check, finance,  
22 medical and dietary evaluation, class and training fees, and all  
23 other similar fees or charges and interest, but excluding any  
24 initiation fee, to be paid by a buyer, divided by the total number

1 of months of health spa service use allowed by the buyer's contract  
2 or membership, including months or time periods called "free" or  
3 "bonus" months or time periods and such months or time periods which  
4 are described in any other terms suggesting that they are provided  
5 free of charge, which months or time periods are given or  
6 contemplated when the contract or membership is initially executed;

7 9. "Prepayment" means any amount paid in advance of the  
8 maturity of the health spa membership, to include payment in part or  
9 in full, accelerated monthly fees or any required down payment or  
10 initiation fee;

11 10. "Program" means any use of a health spa facility for the  
12 purpose of physical exercise in a structured or nonstructured  
13 environment; and

14 11. "Presale" means payment of any consideration for services  
15 or the use of facilities made prior to the day on which the services  
16 or facilities of the health spa are fully open and available for  
17 regular use by the members.

18 SECTION 111. AMENDATORY 59 O.S. 2001, Section 2002, is  
19 amended to read as follows:

20 Section 2002. A. No health spa shall offer or advertise health  
21 spa services unless first being registered with the ~~Administrator~~  
22 State Commissioner of Health. The registration shall:

23 1. Disclose the address, ownership, date of first sales and  
24 date of first opening of the health spa;

1           2. State the name and address of the registered agent of the  
2 registrant, if the registrant is a corporation;

3           3. Be renewed each succeeding calendar year; and

4           4. Be accompanied by a fee of Two Hundred Dollars (\$200.00) per  
5 registration and annual renewal.

6           B. Each separate location where health spa services are offered  
7 shall be considered a separate health spa and shall file a separate  
8 registration, even though the separate locations are owned or  
9 operated by the same owner.

10           SECTION 112.           AMENDATORY           59 O.S. 2001, Section 2003, is  
11 amended to read as follows:

12           Section 2003. A. 1. Except as otherwise provided in this  
13 section, each health spa which offers or sells contracts or  
14 membership agreements or health spa services on a presale basis  
15 shall notify the ~~Administrator~~ State Commissioner of Health of the  
16 proposed location of the spa for which presale monies will be  
17 solicited and shall deposit all funds received from such presale  
18 contracts or membership agreements in an account established in a  
19 financial institution authorized to transact business in this state  
20 until the health spa has commenced operations and has remained open  
21 for a period of sixty (60) days. The account shall be established  
22 and maintained only in a financial institution which agrees in  
23 writing with the ~~Administrator~~ State Commissioner of Health to hold  
24 all funds deposited and not to release such funds until receipt of

1 written authorization from the ~~Administrator~~ State Commissioner of  
2 Health. The presale funds deposited will be eligible for withdrawal  
3 by the health spa after the health spa has been open and providing  
4 services pursuant to its health spa contracts or membership  
5 agreements for sixty (60) days and the ~~Administrator~~ State  
6 Commissioner of Health gives written authorization for withdrawal.

7 2. Any buyer who has paid money which is on deposit in a  
8 presale account may, upon written authorization from the  
9 ~~Administrator~~ State Commissioner of Health, obtain a refund from the  
10 financial institution holding such account if the health spa has not  
11 been substantially completed and opened within six (6) months of the  
12 date of the buyer's health spa contract or membership agreement.

13 B. The provisions of subsection A of this section shall not  
14 apply to:

15 1. a. Any health spa duly registered under the provisions of  
16 Section 2002 of this title which has filed with the  
17 ~~Administrator~~ State Commissioner of Health a current  
18 financial statement, certified by an accounting firm  
19 or individual holding a permit to practice public  
20 accounting in this state indicating:

21 (1) a net worth in excess of One Million Dollars

22 (\$1,000,000.00), or

23 (2) total assets in excess of Five Million Dollars

24 (\$5,000,000.00).



1           b. For purposes of this paragraph:

2                   (1) "current" means that the ending period of the  
3                               financial statement is not over eighteen (18)  
4                               months prior to the date of the filing of such  
5                               statement, and

6                   (2) the financial statement filed by the health spa  
7                               may include the financial results of any  
8                               corporation controlled by, or that is under  
9                               common control with, the health spa; or

10           2. Any health spa duly registered under the provisions of  
11 Section 2002 of ~~Title 59 of the Oklahoma Statutes~~ this title which  
12 has posted a bond or letter of credit in the amount of Seventy  
13 Thousand Dollars (\$70,000.00) as provided for in Section 2007 of  
14 this title and has been in continuous operation in Oklahoma for at  
15 least eighteen (18) months prior to the sale of prepayment contracts  
16 or membership agreements.

17           SECTION 113.           AMENDATORY           59 O.S. 2001, Section 2007, is  
18 amended to read as follows:

19           Section 2007. A. 1. Every health spa, before it enters into a  
20 health spa contract or membership agreement or accepts an initiation  
21 or prepayment fee in excess of Fifty Dollars (\$50.00), shall file  
22 and maintain with the ~~Administrator~~ State Commissioner of Health, in  
23 form and substance satisfactory to him, a bond with a corporate  
24 surety, from a company authorized to transact business in this state

1 or a letter of credit from a bank insured by the Federal Deposit  
2 Insurance Corporation in the amounts indicated below:

3	Number of unexpired	Amount of bond
4	contracts or membership agreements	or letter of
5	exceeding six (6) months	credit
6	500 or less	\$30,000.00
7	501 to 1000	\$40,000.00
8	1001 to 1500	\$50,000.00
9	1501 to 2000	\$60,000.00
10	2001 or more	\$70,000.00

11 2. The number of unexpired contracts or membership agreements  
12 exceeding six (6) months shall be separately calculated for each  
13 location where health spa services are offered.

14 3. Each separate location where health spa services are offered  
15 shall be considered a separate health spa and shall file a separate  
16 bond or letter of credit with respect thereto, even though the  
17 separate locations are owned or operated by the same owner.

18 4. No owner shall be required to file with the ~~Administrator~~  
19 State Commissioner of Health bonds or letters of credit in excess of  
20 Seventy Thousand Dollars (\$70,000.00). If the seventy-thousand-  
21 dollar limit is applicable, then the bonds or letters of credit  
22 filed by such owner shall apply to all health spas owned or operated  
23 by the same owner.

24

1 B. The bond or letter of credit required by this section shall  
2 be in favor of the state for the benefit of:

3 1. Any buyer injured by having paid money to the health spa  
4 posting the bond or letter of credit for health spa services in a  
5 facility which fails to open within sixty (60) days after the date  
6 upon which the buyer and the health spa entered into a contract or  
7 membership agreement or goes out of business prior to the expiration  
8 of the buyer's health spa contract or membership agreement; or

9 2. Any buyer injured as a result of a violation of the Oklahoma  
10 Health Spa Act by the health spa posting the bond or letter of  
11 credit.

12 C. The aggregate liability of the bond or letter of credit to  
13 all persons for all breaches of the conditions of the bond or letter  
14 of credit shall in no event exceed the amount of the bond or letter  
15 of credit. The bond or letter of credit shall not be canceled or  
16 terminated except with the consent of the ~~Administrator~~ State  
17 Commissioner of Health.

18 SECTION 114. AMENDATORY 59 O.S. 2001, Section 2008, is  
19 amended to read as follows:

20 Section 2008. For purposes of the Oklahoma Health Spa Act, a  
21 health spa shall be considered a new health spa and subject to the  
22 requirements of a bond or letter of credit at the time the health  
23 spa changes ownership. A change in ownership shall not release,  
24 cancel or terminate liability under any bond or letter of credit

1 previously filed unless the ~~Administrator~~ State Commissioner of  
2 Health agrees in writing to such release, cancellation or  
3 termination because the new owner has filed a new bond or letter of  
4 credit for the benefit of the previous owner's members or because  
5 the former owner has refunded all unearned payments to its members.

6 SECTION 115. AMENDATORY 59 O.S. 2001, Section 2009, is  
7 amended to read as follows:

8 Section 2009. A. Any person who engages in business as a  
9 health spa without first being properly registered with the  
10 ~~Administrator~~ State Commissioner of Health as prescribed in the  
11 Oklahoma Health Spa Act or who otherwise violates any provision of  
12 the Oklahoma Health Spa Act, upon conviction, shall be guilty of a  
13 misdemeanor and shall be punished by the imposition of a fine not to  
14 exceed Five Thousand Dollars (\$5,000.00) or imprisonment in the  
15 county jail for not more than one (1) year, or by both such fine and  
16 imprisonment.

17 B. The provisions of Title 14A of the Oklahoma Statutes shall  
18 also apply to those health spas registered pursuant to the Oklahoma  
19 Health Spa Act.

20 C. The Oklahoma Health Spa Act shall only govern those health  
21 spa contracts or membership agreements executed after November 1,  
22 1987.

23 SECTION 116. AMENDATORY 59 O.S. 2001, Section 2010, is  
24 amended to read as follows:

1 Section 2010. The ~~Administrator~~ State Commissioner of Health  
2 may adopt, amend and repeal such administrative rules as are  
3 necessary to implement and enforce the provisions of the Oklahoma  
4 Health Spa Act.

5 SECTION 117. AMENDATORY 59 O.S. 2001, Section 2011, is  
6 amended to read as follows:

7 Section 2011. There is hereby created in the State Treasury a  
8 revolving fund for the ~~Commission on Consumer Credit~~ State  
9 Department of Health to be designated the "Health Spa Revolving  
10 Fund". The fund shall be a continuing fund, not subject to fiscal  
11 year limitations, and shall consist of registration and annual  
12 renewal fees provided for in Section 2002 of ~~Title 59 of the~~  
13 ~~Oklahoma Statutes~~ this title. All monies accruing to the credit of  
14 said fund are hereby appropriated and may be budgeted and expended  
15 by the ~~Department of Consumer Credit~~ State Department of Health for  
16 the ~~operating expenses of the Department and for~~ associated with the  
17 administration of the Oklahoma Health Spa Act. Expenditures from  
18 said fund shall be made upon warrants issued by the State Treasurer  
19 against claims filed as prescribed by law with the Director of State  
20 Finance for approval and payment.

21 SECTION 118. AMENDATORY 59 O.S. 2001, Section 2082, as  
22 last amended by Section 41, Chapter 16, O.S.L. 2006 (59 O.S. Supp.  
23 2007, Section 2082), is amended to read as follows:

24 Section 2082. As used in the Mortgage Broker Licensure Act:

1       1. ~~"Administrator" means the Administrator of Consumer Credit;~~  
2       2. "Affiliate" means an entity which directly or indirectly,  
3 through one or more intermediaries, controls, is controlled by or is  
4 under common control with the entity specified;  
5       ~~3.~~ 2. "Borrower" means any person who consults with or retains  
6 a mortgage broker or loan originator in an effort to obtain or seek  
7 advice or information on obtaining or applying to obtain a  
8 residential mortgage loan for himself, herself, or persons including  
9 himself or herself, regardless of whether the person actually  
10 obtains such a loan;  
11       ~~4.~~ ~~"Commission" means the Commission on Consumer Credit;~~  
12       ~~5.~~ 3. "Commissioner" means the State Banking Commissioner as  
13 defined in Section 102 of Title 6 of the Oklahoma Statutes;  
14       4. "Compensation" means anything of value or any benefit  
15 including points, commissions, bonuses, referral fees and loan  
16 origination fees;  
17       ~~6.~~ 5. "Employee" means an individual who has an employment  
18 relationship acknowledged by both the employee and the mortgage  
19 broker, and the individual is treated as an employee by the mortgage  
20 broker for purposes of compliance with federal income tax laws;  
21       ~~7.~~ 6. "Independent contractor" or "person who independently  
22 contracts" means any person that expressly or implicitly contracts  
23 to perform mortgage brokering services for another and that with  
24 respect to its manner or means of performing the services is not

1 subject to the other's right of control, and that is not treated as  
2 an employee by the other for purposes of compliance with federal  
3 income tax laws;

4 ~~8.~~ 7. "Investor" means a person who lends or invests money in  
5 mortgage loans;

6 ~~9.~~ 8. "Loan processor" means an individual who works under the  
7 instruction of a mortgage loan originator or mortgage broker and  
8 performs only clerical functions such as gathering information,  
9 requesting information, word processing, sending correspondence or  
10 amending files;

11 ~~10.~~ 9. "Mortgage loan originator" means a person employed,  
12 either directly or indirectly, or retained as an independent  
13 contractor by a person required to be licensed as a mortgage broker  
14 and who is not exempt under Section 2083 of this title and who for  
15 compensation or in the expectation of compensation either directly  
16 or indirectly makes, negotiates or offers to make or negotiate a  
17 residential mortgage loan for or on behalf of a licensed mortgage  
18 broker;

19 ~~11.~~ 10. "Mortgage banker" means any person who accepts an  
20 application for a mortgage loan or makes a mortgage loan and:

21 a. is an approved or authorized mortgagee with direct  
22 endorsement underwriting authority granted by the  
23 United States Department of Housing and Urban  
24 Development, or

1           b.    closes mortgage loans in its corporate name as the  
2                    originating mortgagee and funds a minimum of eighty  
3                    percent (80%) of the total annual numeric volume of  
4                    mortgage loans it originates for sale into the  
5                    secondary mortgage market with its own corporate  
6                    funds, or

7           c.    is approved as a seller or servicer by the Federal  
8                    National Mortgage Association, Federal Home Loan  
9                    Mortgage Association or the Government National  
10                  Mortgage Association;

11       ~~12.~~ 11. "Mortgage broker" means any person who is not exempt  
12 under Section 2083 of this title and who for compensation or in the  
13 expectation of compensation either directly or indirectly makes,  
14 negotiates or offers to make or negotiate a residential mortgage  
15 loan;

16       ~~13.~~ 12. "Person" means an individual, corporation, company,  
17 limited liability company, partnership, association, or similar  
18 legal entity;

19       ~~14.~~ 13. "Mortgage loan" means any loan secured by a mortgage,  
20 deed of trust or any lien interest on residential real estate  
21 located in this state created with the consent of the owner of the  
22 real estate; and

23       ~~15.~~ 14. "Third-party provider" means any person other than a  
24 mortgage broker or lender who provides goods or services to the



1 mortgage broker in connection with the preparation of the borrower's  
2 loan and includes, but is not limited to, credit reporting agencies,  
3 title companies, appraisers, structural and pest inspectors, or  
4 escrow companies.

5 SECTION 119. AMENDATORY 59 O.S. 2001, Section 2083, as  
6 last amended by Section 2, Chapter 131, O.S.L. 2005 (59 O.S. Supp.  
7 2007, Section 2083), is amended to read as follows:

8 Section 2083. The following are exempt from all provisions of  
9 the Mortgage Broker Licensure Act:

10 1. Any person authorized to do business under the laws of this  
11 state or the United States regulating commercial banks, bank holding  
12 companies, savings banks, trust companies, savings and loan  
13 associations, credit unions, supervised lenders as defined in  
14 paragraph 2 of Section 3-501 of Title 14A of the Oklahoma Statutes  
15 or affiliates or subsidiaries thereof, or real estate investment  
16 trusts as defined in 26 U.S.C., Section 856 and the affiliates,  
17 subsidiaries, and service corporations thereof;

18 2. Any attorney licensed to practice law in this state who is  
19 not principally engaged in the business of negotiating residential  
20 mortgage loans when such attorney renders services in the course of  
21 his or her practice as an attorney;

22 3. Any person making or acquiring a residential mortgage loan  
23 solely with his or her own funds for his or her own investment  
24 without intending to resell the residential mortgage loans;

1 4. Any mortgage broker solely engaged in transactions approved  
2 and subject to auditing by the Federal National Mortgage  
3 Association, the Government National Mortgage Association, the  
4 Department of Housing and Urban Development (HUD), the Federal Home  
5 Loan Mortgage Corporation, or the Department of Veterans Affairs;

6 5. The United States of America, the State of Oklahoma, any  
7 other state and any political subdivision of this state, or their  
8 instrumentalities;

9 6. Any real estate broker or sales associate licensed by this  
10 state who assists the borrower in obtaining financing for a real  
11 estate transaction involving a bona fide sale of real estate in the  
12 performance of his or her duties as a real estate broker or  
13 associate and who receives only the customary real estate broker's  
14 or associate's commission in connection with the transaction;

15 7. Any real estate broker or sales associate licensed by this  
16 state who provides only information regarding rates, terms, and  
17 lenders, who receives a fee for providing such information, who  
18 conforms to all rules of the Oklahoma Real Estate Commission with  
19 respect to the providing of such service, and who discloses on a  
20 form approved by the ~~Administrator of Consumer Credit~~ State Banking  
21 Commissioner that to obtain a loan the borrower must deal directly  
22 with a mortgage broker or lender; however, such real estate broker  
23 or sales associate shall not be exempt if he or she does any of the  
24 following:

- a. holds himself or herself out as able to obtain a mortgage loan from a lender for another,
- b. accepts a mortgage loan application, or submits a mortgage loan application to a lender,
- c. accepts any deposit for third-party services or any compensation from a borrower, whether such compensation is paid before, upon, or after the closing of the mortgage loan, or
- d. negotiates rates or terms with a lender on behalf of a borrower;

8. Any insurance company or its affiliates, subsidiaries, and service corporations authorized to do business under the laws of this state and any agent of any such insurance company, affiliate, subsidiary, or service corporation:

- a. if the agent holds a current license as an insurance agent from the Insurance Department,
- b. if the agent performs services which would otherwise require a license under the Mortgage Broker Licensure Act only for an insurance company, affiliate, subsidiary, or service corporation for which the agent has been appointed and the appointment has been approved by the Insurance Commissioner, and

1 c. if the insurance company, affiliate, subsidiary, or  
2 service corporation agrees to accept liability for the  
3 acts of its agents;

4 9. Any employee of a person licensed or exempt from licensing  
5 under this act when acting within the scope of their employment; and

6 10. A mortgage banker as defined in paragraph ~~11~~ 10 of Section  
7 2082 of this title.

8 SECTION 120. AMENDATORY 59 O.S. 2001, Section 2084, is  
9 amended to read as follows:

10 Section 2084. Unless exempt from licensure under the Mortgage  
11 Broker Licensure Act, a person may not engage in the business of a  
12 mortgage broker without first obtaining and maintaining a license  
13 under the Mortgage Broker Licensure Act. However, a person who  
14 independently contracts with a licensed mortgage broker to perform  
15 mortgage broker services need not be licensed if the licensed  
16 mortgage broker and the independent contractor have on file with the  
17 ~~Administrator of Consumer Credit~~ State Banking Commissioner a  
18 binding written agreement under which the licensed mortgage broker  
19 assumes responsibility for the independent contractor's violations  
20 of any provision of this act or rules promulgated pursuant to the  
21 provisions of the Mortgage Broker Licensure Act.

22 SECTION 121. AMENDATORY 59 O.S. 2001, Section 2085, as  
23 last amended by Section 1, Chapter 372, O.S.L. 2004 (59 O.S. Supp.  
24 2007, Section 2085), is amended to read as follows:

1 Section 2085. A. 1. A person of good moral character who:

2 a. has at least three (3) years' experience in the  
3 residential mortgage loan industry as a mortgage loan  
4 originator or mortgage broker or real estate sales,  
5 title or lending industry during the five (5) years  
6 immediately preceding the time of application, or

7 b. has satisfactorily completed applicable educational  
8 requirements as established by rule of the ~~Commission~~  
9 ~~on Consumer Credit~~ State Banking Department during the  
10 three (3) years immediately preceding the time of  
11 application, and

12 c. has passed a mortgage broker test pursuant to Section  
13 2092 of this title not more than one (1) year  
14 preceding the time of application,

15 may make application to the ~~Administrator of Consumer Credit~~ State  
16 Banking Commissioner for a mortgage broker license.

17 2. Application for a mortgage broker license shall be made upon  
18 forms prescribed by the ~~Administrator~~ State Banking Commissioner and  
19 shall be accompanied by a nonrefundable application fee as set by  
20 rule of the State Banking Commission. The ~~Commission~~ State Banking  
21 Department or ~~Administrator~~ State Banking Commissioner may require  
22 additional information on the experience, background, honesty,  
23 truthfulness, integrity and competency of the applicant and any  
24 responsible individual designated by the applicant. If the

1 applicant is a person other than a natural person, the ~~Administrator~~  
2 State Banking Commissioner may require information as to the  
3 honesty, truthfulness, integrity and competency of any officer,  
4 director, shareholder or other interested party of the applicant.

5 3. Upon approval by the ~~Administrator~~ State Banking  
6 Commissioner of the application and payment of the license fee  
7 provided for in the Mortgage Broker Licensure Act the ~~Administrator~~  
8 State Banking Commissioner shall issue to the applicant a license  
9 which shall authorize the applicant to act as a mortgage broker.

10 4. If a licensee is a person other than a natural person, the  
11 license issued entitles all officers, directors, members, partners,  
12 trustees and employees of the licensed corporation, partnership,  
13 association or trust to engage in the mortgage business if one  
14 officer, director, member, partner, employee or trustee of the  
15 person is designated in the license as the individual responsible  
16 for the person under this article. If a licensee is a natural  
17 person, the license entitles all employees of the licensee to engage  
18 in the mortgage business. If the natural person is not a resident  
19 of this state, an employee of the licensee shall be designated in  
20 the license as the individual responsible for the licensee under the  
21 provisions of this article. For purposes of this paragraph, an  
22 employee does not include an independent contractor. A responsible  
23 individual shall be a resident of this state, shall be in active  
24 management of the activities of the licensee governed by the

1 Mortgage Broker Licensure Act and shall meet the qualifications set  
2 forth in this subsection for a licensee.

3 5. A licensee shall notify the ~~Administrator~~ State Banking  
4 Commissioner that its responsible individual will cease to be in  
5 active management of the activities of the licensee within ten (10)  
6 days of knowledge of that fact. The licensee has ninety (90) days  
7 after the notification is received by the ~~Administrator~~ State  
8 Banking Commissioner within which to replace the responsible  
9 individual with a qualified replacement and to notify the  
10 ~~Administrator~~ State Banking Commissioner of the replacement. If the  
11 license is not placed under active management of a qualified  
12 responsible individual and if notice is not given to the  
13 ~~Administrator~~ State Banking Commissioner within the ninety-day  
14 period, the license shall expire.

15 6. A licensee shall not employ any person unless the licensee:  
16 a. conducts a reasonable investigation of the background,  
17 honesty, truthfulness, integrity and competency of the  
18 employee before hiring the employee, and  
19 b. keeps a record of the background investigation for a  
20 minimum of two (2) years after termination of the  
21 employee from employment with the licensee.

22 7. A license is not transferable nor may it be assigned and  
23 control of a licensee may not be acquired through a stock purchase  
24 or other device without the prior written consent of the

1 ~~Administrator~~ State Banking Commissioner. Written consent shall not  
2 be given if the ~~Administrator~~ State Banking Commissioner finds that  
3 any of the grounds for denial, revocation or suspension of a license  
4 as set forth in Section 2088 of this title are applicable to the  
5 acquiring person. For purposes of this paragraph, "control" means  
6 the power to vote more than twenty percent (20%) of outstanding  
7 voting shares of a licensed corporation, partnership, association or  
8 trust.

9 8. The licensee is liable for any damage caused by any  
10 employees while acting within the scope of employment as an employee  
11 of the licensee.

12 9. The examination and course of study requirements of this  
13 section may be waived by the ~~Administrator~~ State Banking  
14 Commissioner for any person applying for a license who, within six  
15 (6) months immediately prior to the submission of the application to  
16 the ~~Administrator~~ State Banking Commissioner, has been a licensee or  
17 a responsible person pursuant to the Mortgage Broker Licensure Act.

18 B. A license issued under this act shall be valid for a period  
19 of one (1) year, unless otherwise revoked or suspended by the  
20 ~~Administrator~~ State Banking Commissioner.

21 C. The ~~Administrator~~ State Banking Commissioner, on determining  
22 that the applicant is qualified and upon payment of the fees by the  
23 applicant, shall issue a license to the applicant which is evidenced  
24 by a continuous certificate. The ~~Administrator~~ State Banking



1 Commissioner shall grant or deny a license within thirty (30) days  
2 after receipt of the completed application and appropriate fees. An  
3 applicant who has been denied a license may not reapply for the  
4 license for sixty (60) days from the date of the previous  
5 application.

6 D. A licensee shall pay the renewal fee on or before December  
7 31. Licenses not renewed by December 31 will be suspended and the  
8 licensee shall not act as a mortgage broker until the license is  
9 renewed or a new license is issued pursuant to the Mortgage Broker  
10 Licensure Act. A person may renew a suspended license by paying the  
11 renewal fee plus Twenty-five Dollars (\$25.00) for each day after  
12 December 31 that a license renewal fee is not received by the  
13 ~~Administrator~~ State Banking Commissioner and making application for  
14 renewal in the manner prescribed by the ~~Administrator~~ State Banking  
15 Commissioner. Licenses which are not renewed by February 1 of the  
16 subsequent year shall expire. A license shall not be granted to the  
17 holder of an expired license except as provided in the Mortgage  
18 Broker Licensure Act for the issuance of an original license.

19 E. On or before December 31, a licensee may request inactive  
20 status for the following license year, and the license shall be  
21 placed on inactive status after payment to the ~~Administrator~~ State  
22 Banking Commissioner of the inactive status renewal fee prescribed  
23 in this section and the surrender of the license to the  
24 ~~Administrator~~ State Banking Commissioner. During inactive status,

1 an inactive licensee shall not act as a mortgage broker. A licensee  
2 may not be on inactive status for more than two (2) consecutive  
3 years, nor for more than four (4) years in any ten-year period. The  
4 license is deemed expired for violation of any of the limitations of  
5 this subsection.

6 F. An inactive licensee may return to active status  
7 notwithstanding the requirement of this section by making a request  
8 in writing to the ~~Administrator~~ State Banking Commissioner for  
9 reactivation and paying the prorated portion of the annual fee that  
10 would have been charged to the licensee to maintain normal active  
11 status. The licensee shall also provide the ~~Administrator~~ State  
12 Banking Commissioner with proof that the licensee meets all of the  
13 other requirements for acting as a mortgage broker.

14 G. A licensee shall prominently display the mortgage broker  
15 license in the office of the mortgage broker.

16 H. Every licensed mortgage broker shall designate and maintain  
17 a principal place of business in this state for the transaction of  
18 business. The license shall specify the address of the principal  
19 place of business. If a licensee wishes to maintain one or more  
20 locations for the transaction of business in addition to a principal  
21 place of business, the licensee shall first obtain a branch office  
22 license from the ~~Administrator~~ State Banking Commissioner and  
23 designate a person for each branch office to oversee the operations  
24 of that branch office. The licensee shall submit a fee as set forth

1 in this section for each branch office license issued. If the  
2 ~~Administrator~~ State Banking Commissioner determines that the  
3 applicant is qualified, the ~~Administrator~~ State Banking Commissioner  
4 shall issue a branch office license indicating the address of the  
5 branch office. The licensee shall conspicuously display the branch  
6 office license in the branch office. If the address of the  
7 principal place of business or of any branch office is changed, the  
8 licensee shall immediately notify the ~~Administrator~~ State Banking  
9 Commissioner of the change and the ~~Administrator~~ State Banking  
10 Commissioner shall endorse the change of address on the license for  
11 a fee as prescribed in this section.

12 I. 1. Initial and renewal license fees shall be One Hundred  
13 Dollars (\$100.00) for each year.

14 2. Branch office fees shall be Fifty Dollars (\$50.00) for each  
15 year.

16 3. Inactive status fees shall be Fifty Dollars (\$50.00) for  
17 each year.

18 4. A fee of Ten Dollars (\$10.00) shall be charged for each  
19 change of address on a branch office license.

20 5. Individual and renewal license fees for a mortgage loan  
21 originator license shall be Fifty Dollars (\$50.00) for each year.

22 6. A fee of Ten Dollars (\$10.00) shall be charged for each  
23 change of a sponsor listed on the license of a mortgage loan  
24 originator.

1        These fees shall be deposited in the Oklahoma Mortgage Brokers  
2 Recovery Fund.

3        J. A person may be denied a license for any of the causes set  
4 forth in subsection B of Section 2088 of this title.

5        K. A mortgage broker who held a current license as of July 1,  
6 2003, which was issued under the Mortgage Broker Licensure Act shall  
7 be granted an initial license by the ~~Administrator~~ State Banking  
8 Commissioner pursuant to the provisions of this section.

9        L. To be eligible to be a licensed mortgage loan originator, a  
10 person must make application to the ~~Administrator of Consumer Credit~~  
11 State Banking Commissioner. The person making application must meet  
12 the following criteria:

13        1. The person must be an individual who is at least eighteen  
14 (18) years of age;

15        2. The person must be a citizen of the United States of America  
16 or a lawfully admitted alien;

17        3. The person must designate in the application the name of the  
18 licensed mortgage broker sponsoring the mortgage loan originator;

19        4. The person must have at least eighteen (18) months of  
20 experience as a mortgage loan originator as evidenced by documentary  
21 proof of full-time employment as a mortgage loan originator with a  
22 licensed mortgage broker or a person exempt from licensure under  
23 Section 2083 of this title, or passes a mortgage loan originator  
24

1 test pursuant to Section 2092 of this title not more than one (1)  
2 year preceding the application; and

3 5. The person has not been convicted of a criminal offense the  
4 ~~Administrator~~ State Banking Commissioner determines directly relates  
5 to the occupation of a mortgage loan originator.

6 SECTION 122. AMENDATORY 59 O.S. 2001, Section 2086, as  
7 last amended by Section 1, Chapter 172, O.S.L. 2006 (59 O.S. Supp.  
8 2007, Section 2086), is amended to read as follows:

9 Section 2086. A. A mortgage broker shall have a written  
10 correspondent or loan brokerage agreement with a lender before any  
11 solicitation of, or contracting with, the public.

12 B. Upon receipt of a loan application and before the receipt of  
13 any monies from a borrower, a mortgage broker shall provide to a  
14 borrower the disclosures required by the Real Estate Settlement  
15 Procedures Act, 12 U.S.C., Section 2601 et seq. (RESPA) and  
16 Regulation X, 24 C.F.R., Section 3500.1 et seq., as promulgated by  
17 HUD. Compliance with the disclosure requirements mandated by RESPA  
18 and HUD's Regulation X constitutes compliance with this act.

19 C. If a borrower is unable to obtain a loan for any reason and  
20 the borrower has paid for an appraisal, title report, or credit  
21 report, the mortgage broker shall give a copy of the appraisal,  
22 title report, or credit report to the borrower and transmit the  
23 originals to any other mortgage broker or lender to whom the  
24 borrower directs that the documents be transmitted. The mortgage

1 broker must provide the copies or transmit the documents within five  
2 (5) business days after the borrower has made the request in  
3 writing.

4 D. 1. Except as otherwise permitted by this subsection, no  
5 mortgage broker or mortgage loan originator shall receive a fee,  
6 commission, or compensation of any kind in connection with the  
7 preparation, negotiation, and brokering of a residential mortgage  
8 loan unless a borrower actually obtains a loan from a lender on the  
9 terms and conditions agreed upon by the borrower and mortgage  
10 broker.

11 2. A mortgage broker may solicit or receive fees for third-  
12 party provider goods or services in advance. The mortgage broker  
13 may not charge more for the goods and services than the actual costs  
14 of the goods or services charged by the third-party provider.

15 E. ~~The Commission on Consumer Credit~~ State Banking Department,  
16 in accordance with the Administrative Procedures Act shall have the  
17 authority to adopt rules not inconsistent with disclosures mandated  
18 by RESPA and HUD's Regulation X and which are within, but not  
19 beyond, the statutory scope and other provisions of this act to  
20 facilitate compliance with the disclosure and other requirements of  
21 this act.

22 SECTION 123. AMENDATORY 59 O.S. 2001, Section 2087, is  
23 amended to read as follows:

24

1 Section 2087. A. A mortgage broker shall deposit, prior to the  
2 end of the next business day, all monies received from borrowers for  
3 third-party provider services in a trust account of a federally  
4 insured financial institution located in this state. The trust  
5 account shall be designated and maintained for the benefit of  
6 borrowers. Monies maintained in the trust account shall be exempt  
7 from execution, attachment, or garnishment. A mortgage broker shall  
8 not in any way encumber the corpus of the trust account or commingle  
9 any other operating funds with trust account funds.

10 B. Withdrawals from the trust account shall be only for the  
11 payment of bona fide services rendered by a third-party provider or  
12 for refunds to borrowers. Any interest earned on the trust account  
13 shall be refunded or credited to the borrowers at closing. Any  
14 monies remaining in the trust account after payment to third-party  
15 providers shall be refunded to the borrower.

16 C. The mortgage broker shall pay third-party providers no later  
17 than thirty (30) days after completion of the third-party service.

18 D. A mortgage broker shall maintain accurate, current, and  
19 readily available records of the trust account until at least three  
20 (3) years have elapsed following the effective period to which the  
21 records relate. The records shall be subject to audit by the  
22 ~~Administrator of Consumer Credit~~ State Banking Commissioner pursuant  
23 to an investigation conducted under Section 2088 of this title.  
24

1 SECTION 124. AMENDATORY 59 O.S. 2001, Section 2088, as  
2 last amended by Section 3, Chapter 330, O.S.L. 2003 (59 O.S. Supp.  
3 2007, Section 2088), is amended to read as follows:

4 Section 2088. A. The ~~Administrator of Consumer Credit State~~  
5 Banking Commissioner may upon his or her own motion, and shall upon  
6 written complaint filed by any person, investigate the business  
7 transactions of any mortgage broker or mortgage loan originator and,  
8 after notice and hearing, may, for any cause as set forth in  
9 subsection B of this section, impose the following sanctions:

- 10 1. Reprimand;
- 11 2. Probation for a specified period of time;
- 12 3. Suspension of license for specified periods of time;
- 13 4. Revocation of license;
- 14 5. Imposition of an administrative fine which shall be not less  
15 than One Hundred Dollars (\$100.00) nor more than Two Thousand  
16 Dollars (\$2,000.00) for each violation nor exceed Five Thousand  
17 Dollars (\$5,000.00) for all violations resulting from a single  
18 incident or transaction;
- 19 6. Restitution of actual damages suffered by the complaining  
20 person; or
- 21 7. Any combination of sanctions as provided for by paragraphs 1  
22 through 6 of this subsection.

23 B. Cause shall be established upon clear and convincing  
24 evidence that any mortgage broker, mortgage loan originator or



1 employee of a mortgage broker or mortgage loan originator has  
2 performed or has attempted to perform, or is performing or is  
3 attempting to perform any of the following acts:

4 1. Making a materially false or fraudulent statement in an  
5 application for license;

6 2. Making substantial misrepresentations or false promises in  
7 the conduct of business as a mortgage broker or through advertising;

8 3. Failing to escrow, account for, or remit monies or documents  
9 as required by this act;

10 4. Commingling monies as prohibited by this act;

11 5. Having been convicted in a court of competent jurisdiction  
12 of having violated any provision of the federal fair housing laws,  
13 42 U.S.C., Section 3601 et seq.;

14 6. Having been convicted in a court of competent jurisdiction  
15 in this or any other state of the crime of forgery, embezzlement,  
16 obtaining money under false pretenses, extortion, conspiracy to  
17 defraud, fraud, or any similar offense or offenses, or pleading  
18 guilty or nolo contendere to any such offense or offenses;

19 7. Failing to pay the fees or obtain a license as required  
20 under the Mortgage Broker Licensure Act or to comply with an order  
21 lawfully issued pursuant to the Mortgage Broker Licensure Act; or

22 8. Having violated any provision of the Mortgage Broker  
23 Licensure Act.

24

1 SECTION 125. AMENDATORY 59 O.S. 2001, Section 2089, as  
2 last amended by Section 4, Chapter 330, O.S.L. 2003 (59 O.S. Supp.  
3 2007, Section 2089), is amended to read as follows:

4 Section 2089. A. In addition to any other penalties provided  
5 by law, any person without a license as required by the Mortgage  
6 Broker Licensure Act who engages in the business of a mortgage  
7 broker or mortgage loan originator or who willingly and knowingly  
8 violates any provision of the Mortgage Broker Licensure Act, upon  
9 conviction, shall be guilty of a misdemeanor which shall be  
10 punishable by a fine of not more than One Thousand Dollars  
11 (\$1,000.00) for each violation. Each violation shall be a separate  
12 offense under this section.

13 B. In addition to any civil or criminal actions authorized by  
14 law, the ~~Administrator of Consumer Credit~~ State Banking  
15 Commissioner, the Attorney General, or the district attorney may  
16 apply to the district court in the county in which a violation of  
17 the Mortgage Broker Licensure Act has allegedly occurred for an  
18 order enjoining or restraining the person from continuing the acts  
19 specified in the complaint. The court may grant any temporary or  
20 permanent injunction or restraining order, without bond, as it deems  
21 just and proper.

22 SECTION 126. AMENDATORY 59 O.S. 2001, Section 2090, as  
23 last amended by Section 2, Chapter 172, O.S.L. 2006 (59 O.S. Supp.  
24 2007, Section 2090), is amended to read as follows:

1 Section 2090. A. There is hereby created the "Mortgage Broker  
2 Advisory Committee" which shall advise the ~~Commission on Consumer~~  
3 ~~Credit~~ State Banking Department on matters pertaining to the  
4 licensure, regulation, and discipline of mortgage brokers and  
5 mortgage loan originators required to be licensed under the  
6 provisions of the Mortgage Broker Licensure Act. Any  
7 recommendations made by the Mortgage Broker Advisory Committee to  
8 the ~~Commission on Consumer Credit~~ State Banking Department  
9 pertaining to the licensure, regulation and discipline of mortgage  
10 brokers and mortgage loan originators may be cause for promulgation  
11 of administrative rules as prescribed by subsection A of Section  
12 308.2 of Title 75 of the Oklahoma Statutes, upon a vote of the  
13 ~~Commission on Consumer Credit~~ State Banking Department.

14 B. 1. Except as provided in paragraph 2 of this subsection,  
15 the Committee shall be comprised of four licensed mortgage brokers  
16 and one person with experience in the title industry. Three members  
17 of the Committee shall be appointed by the Governor, two licensed  
18 mortgage brokers and one person with experience in the title  
19 industry. The remaining two members of the Committee shall be  
20 appointed by the Oklahoma Association of Mortgage Brokers. Each  
21 member shall serve a term of three (3) years and until a successor  
22 is appointed and qualified. Members may be removed for misconduct,  
23 incompetency, or neglect of duty.

24

1           2. Members initially appointed to the Committee shall have been  
2 active in the mortgage broker business in this state for at least  
3 two (2) years prior to appointment and shall complete licensure  
4 requirements within one (1) year of appointment. Initial members  
5 shall serve staggered terms as follows: two members shall be  
6 appointed for a term of one (1) year each, two members shall be  
7 appointed for a term of two (2) years each, and one member shall be  
8 appointed for a term of three (3) years. Thereafter, these members  
9 may be appointed for three-year terms of office. All terms of  
10 office shall expire on October 31.

11           C. The Committee shall elect a chair from among its membership.  
12 Meetings shall be held at least quarterly. Special meetings may be  
13 called by request of the ~~Commission~~ State Banking Department. A  
14 majority of the Committee shall constitute a quorum for the  
15 transaction of business. Each member shall receive reimbursement  
16 for travel expenses in accordance with the provisions of the State  
17 Travel Reimbursement Act. The Committee shall be subject to the  
18 provisions of the Oklahoma Open Meeting Act and the Oklahoma Open  
19 Records Act.

20           SECTION 127.           AMENDATORY           59 O.S. 2001, Section 2091, is  
21 amended to read as follows:

22           Section 2091. A. 1. There is hereby created in the State  
23 Treasury a revolving fund for the ~~Commission on Consumer Credit~~  
24 State Banking Department to be designated the "Oklahoma Mortgage

1 Brokers Recovery Fund". The fund shall consist of monies received  
2 by the ~~Administrator of Consumer Credit~~ State Banking Commissioner  
3 as license fees, application fees and any administrative fines  
4 imposed pursuant to the Mortgage Broker Licensure Act.

5 2. The revolving fund shall be a continuing fund not subject to  
6 fiscal year limitations and shall be under the administrative  
7 direction of the ~~Administrator~~ State Banking Commissioner. Monies  
8 accruing to the credit of this fund are hereby appropriated and may  
9 be budgeted and expended by the ~~Commission~~ State Banking Department,  
10 pursuant to rules promulgated by the ~~Commission~~ State Banking  
11 Department, for the purposes specified in subsection B of this  
12 section and for reimbursement or payment of any direct and indirect  
13 administrative expenses incurred by the ~~Commission~~ State Banking  
14 Department. The provisions of this paragraph shall have retroactive  
15 and prospective application.

16 3. Expenditures from the fund shall be made upon warrants  
17 issued by the State Treasurer against claims filed as prescribed by  
18 law with the Director of State Finance for approval and payment.

19 B. 1. Subject to the limitations of this subsection, monies in  
20 the fund shall be used to reimburse any person in an amount not to  
21 exceed Five Thousand Dollars (\$5,000.00) who has been adjudged by a  
22 court of competent jurisdiction to have suffered monetary damages by  
23 a person required to have a license under the Mortgage Broker  
24 Licensure Act in any transaction or series of transactions for which

1 a license is required under the Mortgage Broker Licensure Act  
2 because of the acquisition of money or property by fraud,  
3 misrepresentation, deceit, false pretenses, artifice, trickery, or  
4 by any other act which would constitute a violation of the Mortgage  
5 Broker Licensure Act.

6 2. Payments for claims based on judgments against any one  
7 person required to have a license under this act shall not exceed in  
8 the aggregate Thirty Thousand Dollars (\$30,000.00).

9 3. Payments for claims may only be made for a cause of action  
10 which has accrued on or after November 1, 1997, and which has  
11 accrued not more than two (2) years prior to filing the action in  
12 district court.

13 SECTION 128. AMENDATORY Section 8, Chapter 469, O.S.L.  
14 2002, as amended by Section 5, Chapter 330, O.S.L. 2003 (59 O.S.  
15 Supp. 2007, Section 2092), is amended to read as follows:

16 Section 2092. A. The ~~Administrator of Consumer Credit State~~  
17 Banking Commissioner shall appoint the Mortgage Broker Advisory  
18 Committee to serve as a testing committee to create, periodically  
19 update and establish standards for passing a test for mortgage  
20 brokers and all mortgage loan originators. The test is subject to  
21 the approval of the ~~Administrator~~ State Banking Commissioner.

22 B. Each applicant for an original license as a mortgage broker  
23 or as a mortgage loan originator, before issuance of the license,  
24 shall personally take and pass the written test given under the

1 supervision of the ~~Administrator~~ State Banking Commissioner. The  
2 test must reasonably examine the applicant's knowledge of:

3 1. The obligations between principal and agent, the applicable  
4 canons of business ethics, the provisions of the Mortgage Broker  
5 Licensure Act and the rules adopted under the Mortgage Broker  
6 Licensure Act;

7 2. The arithmetical computations common to mortgage brokerage;

8 3. The principles of real estate lending; and

9 4. The general purposes and legal effect of mortgages, deeds of  
10 trust and security agreements.

11 C. The ~~Administrator~~ State Banking Commissioner shall  
12 administer the test to applicants for licenses not less than once  
13 every three (3) months. The ~~Administrator~~ State Banking  
14 Commissioner shall reasonably prescribe the time, place and conduct  
15 of testing and collect a fee for administration of the test to be  
16 assessed to all persons taking the test. The fee is One Hundred  
17 Fifty Dollars (\$150.00) per testing. An applicant may not take the  
18 test more than two times within a twelve-month period.

19 D. All tests shall be given, conducted and graded in a fair and  
20 impartial manner and without unfair discrimination between  
21 individuals tested. The ~~Administrator~~ State Banking Commissioner  
22 shall inform the applicant of the result of the test within thirty  
23 (30) business days.

24

1 E. For testing purposes, the ~~Administrator~~ State Banking  
2 Commissioner shall prepare a handbook for mortgage brokers and  
3 mortgage loan originators and distribute the handbook to all  
4 applicants for a fee that shall not exceed the actual cost of  
5 producing and distributing the handbook.

6 F. For the purposes of this section, "applicant" means a person  
7 who has submitted a completed application in the form prescribed by  
8 law.

9 SECTION 129. AMENDATORY Section 9, Chapter 469, O.S.L.  
10 2002, as last amended by Section 3, Chapter 172, O.S.L. 2006 (59  
11 O.S. Supp. 2007, Section 2093), is amended to read as follows:

12 Section 2093. A. As a condition of renewal or reactivation of  
13 the mortgage broker license or the mortgage loan originator license,  
14 each licensee shall submit to the ~~Administrator of Consumer Credit~~  
15 State Banking Commissioner evidence of completion of a specified  
16 number of hours of continuing education courses approved by the  
17 ~~Administrator~~ State Banking Commissioner, within the preceding term  
18 for which the license is to be issued. The number of hours, or its  
19 equivalent, required for each licensed term shall be determined by  
20 the Mortgage Broker Advisory Committee and promulgated by rule.  
21 Each licensee shall be required to complete and include as part of  
22 said continuing education a certain number of required subjects as  
23 prescribed by rule.



1 B. The continuing education courses required by this section  
2 shall be satisfied by courses approved by the ~~Administrator~~ State  
3 Banking Commissioner and offered by:

- 4 1. The ~~Commission on Consumer Credit~~ State Banking Department;
- 5 2. A technology center school;
- 6 3. A college or university;
- 7 4. A private school;
- 8 5. The Oklahoma Association of Mortgage Brokers, the National  
9 Association of Mortgage Brokers, or any affiliate thereof;
- 10 6. The Oklahoma Bar Association, American Bar Association, or  
11 any affiliate thereof; or
- 12 7. An education provider.

13 C. The ~~Administrator~~ State Banking Commissioner shall maintain  
14 a list of courses which are approved by the ~~Administrator~~ State  
15 Banking Commissioner.

16 D. The ~~Administrator~~ State Banking Commissioner shall not issue  
17 an active renewal license or reactivate a license unless the  
18 continuing education requirement set forth in this section is  
19 satisfied within the prescribed time period.

20 E. The provisions of this section do not apply:

- 21 1. During the period a license is on inactive status; or
- 22 2. To a nonresident licensee licensed in this state if the  
23 licensee maintains a current license in another state and has  
24

1 satisfied the continuing education requirement for license renewal  
2 in that state.

3 SECTION 130. AMENDATORY Section 2, Chapter 240, O.S.L.  
4 2003, as amended by Section 1, Chapter 557, O.S.L. 2004 (59 O.S.  
5 Supp. 2007, Section 3102), is amended to read as follows:

6 Section 3102. As used in the Deferred Deposit Lending Act:

7 1. "Administrative Procedures Act" means the general act of  
8 this state governing administrative procedures and is cited in  
9 Section 250 et seq. of Title 75 of the Oklahoma Statutes;

10 2. ~~"Administrator" means the Administrator as defined in the~~  
11 ~~Uniform Consumer Credit Code;~~

12 3. "Business instrument" means a draft, check or evidence of  
13 the proceeds paid to a debtor in a deferred deposit loan transaction  
14 by a deferred deposit lender;

15 3. "Commissioner" means the State Banking Commissioner as  
16 defined in Section 102 of Title 6 of the Oklahoma Statutes;

17 4. "Consecutive loan" means a new deferred deposit loan that  
18 any lender enters into with a debtor no later than seven (7) days  
19 after the date on which a previous deferred deposit loan made to the  
20 same debtor is paid in full;

21 5. "Debtor" means the signer of an instrument which is  
22 initially payable to a deferred deposit lender;

23 6. "Deferred deposit lender" or "lender" means any person  
24 licensed under this act to make deferred deposit loans, including an

1 assignee of the lender's right to payment, but use of the term does  
2 not itself impose on an assignee any obligation of the lender with  
3 respect to events occurring before the assignment;

4 7. "Deferred deposit loan" means a transaction whereby a lender  
5 makes a cash advance to a debtor not as part of a revolving loan  
6 account as defined in Section 3-108 of Title 14A of the Oklahoma  
7 Statutes and, for a finance charge or other consideration, does the  
8 following:

- 9 a. accepts a dated instrument from the debtor,
- 10 b. agrees to hold the instrument for a period of time  
11 prior to negotiation, deposit or presentation of the  
12 instrument for payment, and
- 13 c. advances to the debtor, credits to the debtor's  
14 account, or pays to another person on the debtor's  
15 behalf, the amount of the instrument, less the finance  
16 charge permitted by this act;

17 8. "Finance charge" means the finance charge as defined in  
18 Regulation Z;

19 9. "Instrument" means a personal check, negotiable order of  
20 withdrawal, or authorization to transfer or withdraw funds from a  
21 deposit account of the debtor signed by the debtor and made payable  
22 to a deferred deposit lender in a deferred deposit loan subject to  
23 this act;

24

1       10. "Licensed location" means the place of business where a  
2 lender is allowed to make deferred deposit loans under a license  
3 issued pursuant to this act;

4       11. "Licensee" means a person licensed to make deferred deposit  
5 loans pursuant to this act;

6       12. "Loan amount" means the principal which the debtor actually  
7 receives after signing an instrument payable initially to a deferred  
8 deposit lender;

9       13. "Person" includes a natural person, an individual,  
10 organization, partnership, corporation, joint venture, trust,  
11 association or any other legal entity, however organized;

12       14. "Principal of a deferred deposit loan" means the total of  
13 the net amount paid to, receivable by or paid or payable for the  
14 account of the debtor;

15       15. "Regulation Z" means Title 160, Chapter 45 of the Oklahoma  
16 Administrative Code, adopted in conformity with the Consumer Credit  
17 Protection Act, Public Law 90-321, 82 Stat. 146, as amended,  
18 including the amendments to the Federal Consumer Credit Protection  
19 Act in the Truth in Lending Simplification and Reform Act, Public  
20 Law 96-221, 94 Stat. 168-185; and

21       16. "Renewal" means a transaction in which a debtor pays in  
22 cash the finance charge payable under a deferred deposit loan and  
23 refinances all or part of the unpaid balance of the principal of the  
24 deferred deposit loan with a new deferred deposit loan. A

1 transaction is also considered a renewal if a debtor pays off an  
2 existing deferred deposit loan with the proceeds of a deferred  
3 deposit loan from another lender.

4 SECTION 131. AMENDATORY Section 3, Chapter 240, O.S.L.  
5 2003, as amended by Section 2, Chapter 557, O.S.L. 2004 (59 O.S.  
6 Supp. 2007, Section 3103), is amended to read as follows:

7 Section 3103. A. The scope of this act shall not apply to a  
8 supervised lender licensed under the Uniform Consumer Credit Code.  
9 Further, nothing in this act shall modify, affect, alter, change or  
10 restrict practices or operations of supervised lenders under the  
11 Uniform Consumer Credit Code, rules of the ~~Oklahoma Department of~~  
12 ~~Consumer Credit~~ Office of the Attorney General or rules or  
13 interpretations of the ~~Administrator of the Department of Consumer~~  
14 ~~Credit~~ Attorney General.

15 B. Except as otherwise provided in subsection A of this  
16 section, the provisions of this act shall apply to all deferred  
17 deposit loans made; provided, the following lenders shall not be  
18 subject to the licensing requirements of this act:

19 1. A bank, savings institution, credit union or farm credit  
20 system organized under and regulated by the laws of the United  
21 States or any state;

22 2. Government or governmental agencies or instrumentalities; or

23 3. Pawnbrokers engaged in pawn transactions as defined in the  
24 Oklahoma Pawnshop Act.

1 C. The provisions of this act shall apply to transactions if  
2 the lender, wherever located, enters into the transaction with the  
3 debtor by mail, brochure, telephone, print, radio, television,  
4 Internet, or any other means.

5 SECTION 132. AMENDATORY Section 4, Chapter 240, O.S.L.  
6 2003, as amended by Section 3, Chapter 557, O.S.L. 2004 (59 O.S.  
7 Supp. 2007, Section 3104), is amended to read as follows:

8 Section 3104. A. Each deferred deposit loan shall be  
9 documented by a written agreement executed by both the lender and  
10 the debtor. The written agreement shall contain the name or trade  
11 name of the lender, the license number of the lender, the toll-free  
12 telephone number of the ~~Department of Consumer Credit~~ State Banking  
13 Department, the transaction date, the loan amount, and a statement  
14 of the total amount of fees charged. The written agreement must  
15 expressly authorize the lender to defer presentment or deposit of  
16 the instrument until a specific date; provided, unless the debtor  
17 has entered into an installment payment plan pursuant to Section  
18 3109 of this title, such date shall be not later than forty-five  
19 (45) days from the date the instrument is accepted by the lender.

20 B. The disclosure of the credit terms of a deferred deposit  
21 loan shall be according to and governed by the requirements of  
22 Regulation Z. The definitions and requirements of that act,  
23 regulation and commentary shall apply to deferred deposit loans as  
24 if those provisions are fully set out in this act.

1 C. A completed copy of the written agreement and "Notice of  
2 Cancellation" form as prescribed by the ~~Administrator~~ State Banking  
3 Commissioner shall be given to and acknowledged in writing by the  
4 debtor when the written agreement is signed.

5 D. A lender may pay the proceeds of a deferred deposit loan to  
6 the debtor by a business instrument, money order or cash. A lender  
7 may not charge the debtor an additional fee for cashing the lender's  
8 business instrument.

9 E. A lender shall provide the following notices in a prominent  
10 place on each deferred deposit loan agreement in at least twelve-  
11 point type:

12 "A deferred deposit loan is not intended to meet long-term  
13 financial needs. This loan should be used only to meet  
14 short-term cash needs."

15 "You have the right to rescind this deferred deposit loan no  
16 later than 5 p.m. of the next business day following this  
17 loan transaction."

18 "If you enter into a deferred deposit loan and three  
19 consecutive deferred deposit loans, you have the right to  
20 pay off the fourth loan pursuant to an installment payment  
21 plan, subject to certain conditions."

22 F. A lender shall post at the licensed location a notice of the  
23 charges, terms, and effective annual percentage rate for deferred  
24 deposit loans made by the lender.

1 G. Prior to sale or assignment of instruments held by the  
2 lender as a result of a deferred deposit loan, the lender shall  
3 place a notice on the instrument in at least twelve-point type to  
4 read:

5 "This is a deferred deposit loan instrument regulated by the  
6 Oklahoma State Banking Department of Consumer Credit, Title 59,  
7 ~~Sections~~ Section 3101 et seq. of this title, and any holder of this  
8 check takes it subject to all claims and defenses of the  
9 originator."

10 and shall include the address and toll-free telephone number of the  
11 ~~Department of Consumer Credit~~ State Banking Department.

12 H. At the time a debtor enters into a deferred deposit loan  
13 transaction, the lender shall provide the debtor with a pamphlet,  
14 approved by the ~~Administrator of Consumer Credit~~ State Banking  
15 Commissioner, describing the availability of debt management and  
16 credit counseling services, the debtor's right to an installment  
17 payment plan and the debtor's rights and responsibilities in the  
18 transaction. The pamphlet shall indicate a toll-free telephone  
19 number for the ~~Administrator~~ State Banking Commissioner that the  
20 debtor may contact to receive information relating to debt  
21 management and credit counseling services.

22 SECTION 133. AMENDATORY Section 9, Chapter 240, O.S.L.  
23 2003, as amended by Section 6, Chapter 557, O.S.L. 2004 (59 O.S.  
24 Supp. 2007, Section 3109), is amended to read as follows:



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

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

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

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

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

20 b. any private database approved by the ~~Administrator of~~  
21 ~~Consumer Credit~~ State Banking Commissioner, if the  
22 lender subscribes to such a database; provided, all  
23 lenders shall be required to subscribe to such a  
24 database or otherwise obtain the required information

1 in a manner approved by the ~~Administrator~~ State  
2 Banking Commissioner not later than July 1, 2004. The  
3 lender may charge the applicant a fee for database  
4 verification not to exceed the actual fee charged to  
5 the lender by the database provider.

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

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

22 D. If a debtor enters into a third consecutive loan, the lender  
23 shall provide the consumer an option to repay such loan and each  
24

1 consecutive loan pursuant to a written repayment plan subject to the  
2 following terms:

3 1. The debtor shall request the repayment plan, either orally  
4 or in writing, prior to the due date of the loan;

5 2. The debtor shall repay the loan in four equal installments  
6 with one installment due on each of the next four dates on which the  
7 customer receives regular wages or compensation from an employer,  
8 pursuant to a written repayment plan agreement;

9 3. The consumer shall pay a processing fee of ten percent (10%)  
10 of the principal amount of the loan per loan not to exceed Fifteen  
11 Dollars (\$15.00) for administration of the payment plan;

12 4. The consumer shall agree not to enter into any additional  
13 deferred presentment loans during the repayment plan term and for a  
14 period of fifteen (15) days after termination of the repayment plan  
15 term; and

16 5. Upon positive completion of the repayment plan, the lender  
17 shall report the debtor's positive payment history to at least one  
18 national consumer credit reporting agency.

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

22 F. Prior to the lender negotiating or presenting the  
23 instrument, the debtor shall have the right to redeem any instrument  
24 held by a lender as a result of a deferred deposit loan if the

1 debtor pays to the lender the unpaid balance of the principal and  
2 all accrued fees and charges.

3 SECTION 134. AMENDATORY Section 12, Chapter 240, O.S.L.  
4 2003 (59 O.S. Supp. 2007, Section 3112), is amended to read as  
5 follows:

6 Section 3112. A. No person may engage in the business of  
7 making deferred deposit loans without first obtaining a license  
8 pursuant to this act, unless exempt under subsection B of Section 3  
9 of this act. A separate license is required for each location where  
10 deferred deposit loans are made. The licensee shall post its  
11 license to engage in the business of making deferred deposit loans  
12 at each licensed location.

13 B. The ~~Administrator~~ State Banking Commissioner may initiate  
14 administrative action against an unlicensed person as if the person  
15 held a license under this act if the person is found to be engaged  
16 in the business of making deferred deposit loans.

17 C. The ~~Administrator~~ State Banking Commissioner may issue a  
18 license for each location at which deferred deposit loans are to be  
19 made to any person making deferred deposit loans at multiple  
20 locations; provided, if such licensee is not in compliance with this  
21 act as to each license, any action to revoke, suspend or not renew  
22 one license shall be applicable to all licenses issued to that  
23 licensee. This subsection shall not be construed to require a  
24

1 license for any place of business devoted to accounting or other  
2 record keeping and where deferred deposit loans are not made.

3 D. When a licensee wishes to move a licensed location to  
4 another licensed location, the licensee shall give thirty (30) days'  
5 written notice to the ~~Administrator~~ State Banking Commissioner, who  
6 shall amend the license accordingly.

7 SECTION 135. AMENDATORY Section 13, Chapter 240, O.S.L.  
8 2003 (59 O.S. Supp. 2007, Section 3113), is amended to read as  
9 follows:

10 Section 3113. A. To qualify for a license issued pursuant to  
11 this act, an applicant shall have:

12 1. A minimum net worth, determined in accordance with generally  
13 accepted accounting principles, of at least Twenty-five Thousand  
14 Dollars (\$25,000.00) available for operation of each licensed  
15 location, with a maximum aggregate net worth requirement of Two  
16 Hundred Fifty Thousand Dollars (\$250,000.00) for an owner of  
17 multiple locations; and

18 2. The financial responsibility, character, experience and  
19 general fitness so as to command the confidence of the public and to  
20 warrant the belief that the business will be operated lawfully,  
21 honestly, fairly and efficiently.

22 B. An application for a license pursuant to this act must be in  
23 writing, under oath, and on a form prescribed by the ~~Administrator~~

24

1 ~~of Consumer Credit~~ State Banking Commissioner. The application must  
2 set forth all of the following:

3 1. The legal name and residence and business addresses of the  
4 applicant and, if the applicant is a partnership, association or  
5 corporation, of every member, officer, managing employee and  
6 director of it;

7 2. The location of the registered office of the applicant;

8 3. The registered agent of the applicant if the applicant is  
9 required by other law to have a registered agent;

10 4. The addresses of the locations to be licensed; and

11 5. Other information concerning the financial responsibility,  
12 background, experience and activities, such as other partnerships,  
13 associations and corporations located at or adjacent to the licensed  
14 location of the applicant and its members, officers, managing  
15 employees and directors as the ~~Administrator~~ State Banking  
16 Commissioner may require.

17 C. On receipt of an application in the form prescribed by the  
18 ~~Administrator~~ State Banking Commissioner and accompanied by the  
19 required license fee, the ~~Administrator~~ State Banking Commissioner  
20 shall investigate whether the qualifications for license are  
21 satisfied. If the ~~Administrator~~ State Banking Commissioner finds  
22 that the qualifications are satisfied, the ~~Administrator~~ State  
23 Banking Commissioner shall issue to the applicant a license to  
24 engage in the business of making deferred deposit loans. If the

1 ~~Administrator~~ State Banking Commissioner fails to issue a license,  
2 the ~~Administrator~~ State Banking Commissioner shall notify the  
3 applicant of the denial and the reasons for the denial. The  
4 provisions of the Administrative Procedures Act shall apply to the  
5 appeal of the denial of a license.

6 D. Each application, regardless of the number of locations to  
7 be operated by a single licensee, must be accompanied by payment of  
8 an application fee of Two Hundred Fifty Dollars (\$250.00) and an  
9 investigation fee of Five Hundred Dollars (\$500.00). These fees  
10 shall not be refundable or abatable. If the license is granted,  
11 however, payment of the application fee shall satisfy the fee  
12 requirement for the first license year or its remainder.

13 E. Each license shall remain in full force and effect until  
14 relinquished, suspended, revoked or expired. A license expires  
15 annually and may be renewed on payment of a license fee of Two  
16 Hundred Fifty Dollars (\$250.00). The annual license renewal fee for  
17 an application with more than one location shall be Two Hundred  
18 Fifty Dollars (\$250.00) for each location.

19 SECTION 136. AMENDATORY Section 14, Chapter 240, O.S.L.  
20 2003 (59 O.S. Supp. 2007, Section 3114), is amended to read as  
21 follows:

22 Section 3114. A. At such times as the ~~Administrator of~~  
23 ~~Consumer Credit~~ State Banking Commissioner shall deem necessary, the  
24 ~~Administrator~~ State Banking Commissioner or a duly authorized

1 representative shall make an examination of all licensed locations  
2 of each licensee and shall inquire into and examine the loans,  
3 transactions, books, accounts, papers, correspondence and records of  
4 the licensee insofar as they pertain to the business regulated by  
5 this act. In the course of the examination, the ~~Administrator~~ State  
6 Banking Commissioner or a duly authorized representative shall have  
7 free access to the office, place of business, files, safes and  
8 vaults of the licensee, and shall have the right to make copies of  
9 the books, accounts, papers, correspondence and records. The  
10 ~~Administrator~~ State Banking Commissioner or a duly authorized  
11 representative may, during the course of the examination, administer  
12 oaths and examine any person under oath on any subject pertinent to  
13 any matter about which the ~~Administrator~~ State Banking Commissioner  
14 is authorized or required by this act to consider, investigate or  
15 secure information. Any licensee who shall fail or refuse to let  
16 the ~~Administrator~~ State Banking Commissioner or a duly authorized  
17 representative examine or make copies of the books, or other  
18 relevant documents shall be deemed in violation of this act and the  
19 failure or refusal shall constitute grounds for administrative  
20 action against the licensee. The information obtained in the course  
21 of the examination shall be confidential. Each licensee shall pay  
22 to the ~~Administrator~~ State Banking Commissioner an amount assessed  
23 by the ~~Administrator~~ State Banking Commissioner to cover the direct  
24 and indirect cost of the examination and a proportionate share of



1 general administrative expense, not to exceed Three Hundred Dollars  
2 (\$300.00) for each location; provided, however, that for any  
3 examination which lasts in excess of eight (8) hours, the  
4 ~~Administrator~~ State Banking Commissioner shall charge an additional  
5 fee of Fifty Dollars (\$50.00) per hour for each examiner required to  
6 complete the examination; provided, further, that the ~~Administrator~~  
7 State Banking Commissioner may waive the examination fee for any  
8 examination which takes one (1) hour or less. If an examination fee  
9 is due and is not paid on completion of an examination, the  
10 ~~Administrator~~ State Banking Commissioner shall bill the licensee,  
11 and there shall be a late fee of Fifty Dollars (\$50.00) if the  
12 amount due is not received within thirty (30) days of the invoice  
13 date.

14 B. For the purpose of discovering violations of this act or of  
15 securing information required under this act, the ~~Administrator~~  
16 State Banking Commissioner or a duly authorized representative may  
17 investigate the books, accounts, papers, correspondence and records  
18 of any licensee or other person whom the ~~Administrator~~ State Banking  
19 Commissioner has reasonable cause to believe is in violation of any  
20 provision of this act whether or not that person shall claim to be  
21 within the authority or scope of this act. For the purpose of this  
22 subsection, any person who advertises for, solicits or otherwise  
23 communicates a willingness to make deferred payment loans shall be

24

1 presumed to be engaged in the business of making deferred deposit  
2 loans.

3 C. Every licensee shall maintain on file with the ~~Administrator~~  
4 State Banking Commissioner a written appointment of a resident of  
5 this state as the agent for service of all judicial or other process  
6 or legal notice, unless the licensee has appointed an agent under  
7 another statute of this state. In case of noncompliance, such  
8 service may be made on the ~~Administrator~~ State Banking Commissioner.

9 D. Each licensee shall keep or make available in this state the  
10 books and records relating to loans made under this act as are  
11 necessary to enable the ~~Administrator~~ State Banking Commissioner to  
12 determine whether the licensee is complying with this act. The  
13 books and records shall be maintained in a manner consistent with  
14 accepted accounting practices.

15 E. Each licensee shall preserve or make available its books and  
16 records in the state relating to each of its loans for four (4)  
17 years from the date of the loan, or two (2) years from the date of  
18 the final entry made thereon, whichever is later. Each licensee's  
19 system of records shall be accepted if it discloses its information  
20 as may be reasonably required under this act. All deferred deposit  
21 loan agreements and notices of cancellation signed by debtors shall  
22 be kept at an office in this state designated by the licensee,  
23 except when transferred under an agreement which gives the  
24 ~~Administrator~~ State Banking Commissioner access to the agreements.

1 F. Each lender shall, annually on or before the first day of  
2 May, file a report with the ~~Administrator~~ State Banking Commissioner  
3 setting forth such relevant information as the ~~Administrator~~ State  
4 Banking Commissioner may reasonably require concerning the business  
5 and operations during the preceding calendar year for each place of  
6 business conducted by such lender. Such report shall be made under  
7 oath and shall be in the form prescribed by the ~~Administrator~~ State  
8 Banking Commissioner, who shall make and publish annually a  
9 consolidated analysis and recapitulation of such reports, but the  
10 individual reports and their contents shall be held confidential.  
11 There shall be a late fee of Twenty-five Dollars (\$25.00) for any  
12 annual report received after May 1.

13 G. Any transcript of any hearing held by the ~~Administrator~~  
14 State Banking Commissioner or an independent hearing examiner under  
15 this act shall be a public record and open to inspection at all  
16 reasonable times.

17 H. On failure without lawful excuse to obey a subpoena or to  
18 give testimony and on reasonable notice to all persons affected, the  
19 ~~Administrator~~ State Banking Commissioner or a representative may  
20 apply to a court for an order compelling compliance, as provided by  
21 the Administrative Procedures Act.

22 SECTION 137. AMENDATORY Section 15, Chapter 240, O.S.L.  
23 2003 (59 O.S. Supp. 2007, Section 3115), is amended to read as  
24 follows:

1       Section 3115. A. If the ~~Administrator of Consumer Credit State~~  
2 Banking Commissioner has reasonable cause to believe a lender has  
3 violated any provision of this act, the ~~Administrator~~ State Banking  
4 Commissioner may make an investigation to determine whether the act  
5 has been committed, and, to the extent necessary for this purpose,  
6 may administer oaths or affirmations, and upon the ~~Administrator's~~  
7 ~~own~~ motion of the State Banking Commissioner or upon request of any  
8 party may subpoena witnesses, compel their attendance, adduce  
9 evidence, and require the production of any matter which is relevant  
10 to the investigation, including the existence, description, nature,  
11 custody, condition, and location of any books, documents, or other  
12 tangible things and the identity and location of persons having  
13 knowledge of relevant facts, or any other matter reasonably  
14 calculated to lead to the discovery of admissible evidence.

15       B. If the person's records are located outside this state, the  
16 person shall, at the person's option, either make them available to  
17 the ~~Administrator~~ State Banking Commissioner at a convenient  
18 location within this state, or pay the reasonable and necessary  
19 expenses for the ~~Administrator~~ State Banking Commissioner or a  
20 representative to examine them at the place where they are  
21 maintained. Payments for such necessary expenses shall be made to  
22 the ~~Commission on Consumer Credit~~ State Banking Commissioner. Any  
23 such payments so received by the State Banking Department shall be  
24 deposited in the Oklahoma Deferred Deposit Lending Regulatory

1 Revolving Fund. The ~~Administrator~~ State Banking Commissioner may  
2 designate representatives, including comparable officials of the  
3 state in which the records are located, to inspect them on ~~the~~  
4 ~~Administrator's~~ behalf of the State Banking Commissioner.

5 C. Upon failure without lawful excuse to obey a subpoena or to  
6 give testimony and upon reasonable notice to all persons affected  
7 thereby the ~~Administrator~~ State Banking Commissioner may apply to a  
8 court for an order compelling compliance, as provided by the  
9 Administrative Procedures Act, Sections 250.1 through 323 of Title  
10 75 of the Oklahoma Statutes.

11 D. The ~~Administrator~~ State Banking Commissioner shall not make  
12 public the name or identity of a person whose acts or conduct are  
13 investigated pursuant to this section or the facts disclosed in the  
14 investigation, but this subsection does not apply to disclosures in  
15 actions or enforcement proceedings pursuant to this act.

16 E. The ~~Administrator~~ State Banking Commissioner or an  
17 independent hearing examiner may, after notice and hearing, censure,  
18 probate, suspend, revoke or refuse to renew any license or enjoin  
19 violations of this act if the ~~Administrator~~ State Banking  
20 Commissioner or an independent hearing examiner finds that:

21 1. The licensee has failed to pay the annual license fee  
22 imposed by this act, or an examination fee, investigation fee or  
23 other fee or charge imposed by the ~~Administrator~~ State Banking  
24 Commissioner under the authority of this act;

1           2. The licensee, either knowingly or without the exercise of  
2 due care to prevent the same, has violated any provision of this act  
3 or any rule or order lawfully made pursuant to and within the  
4 authority of this act;

5           3. Any fact or condition exists which, if it had existed or had  
6 been known to exist at the time of the original application for the  
7 license, clearly would have justified the ~~Administrator~~ State  
8 Banking Commissioner or an independent hearing examiner in refusing  
9 to issue the license;

10           4. The licensee has refused to permit examination by the  
11 ~~Administrator~~ State Banking Commissioner;

12           5. The licensee has demonstrated incompetency or  
13 untrustworthiness to engage in the business of making deferred  
14 deposit loans; or

15           6. The licensee, as an individual, has been convicted of a  
16 felony or misdemeanor involving fraud, misrepresentation or deceit.

17           F. The hearing shall be held on not less than twenty (20) days'  
18 notice in writing setting forth the time and place of the hearing  
19 and a concise statement of the facts alleged to sustain the  
20 administrative action, and its effective date shall be set forth in  
21 a written order accompanied by finding of fact and a copy of the  
22 findings shall be delivered immediately to the licensee. The order,  
23 findings and evidence considered by the ~~Administrator~~ State Banking  
24

1 Commissioner or the independent hearing examiner shall be filed with  
2 the public records of the ~~Administrator~~ State Banking Commissioner.

3 G. Any licensee may surrender any license by delivering it to  
4 the ~~Administrator~~ State Banking Commissioner with written notice of  
5 its surrender, but the surrender shall not affect the responsibility  
6 of the licensee for acts occurring prior to surrender of a license.

7 H. No revocation, suspension, or surrender of any license shall  
8 impair or affect the obligation of any preexisting lawful contract  
9 between the licensee and any debtor.

10 I. The ~~Administrator~~ State Banking Commissioner or an  
11 independent hearing examiner may reinstate suspended licenses or  
12 issue new licenses to a person whose license or licenses have been  
13 revoked if no fact or condition then exists which clearly would have  
14 justified the ~~Administrator~~ State Banking Commissioner or the  
15 independent hearing examiner in refusing originally to issue such  
16 license under these subsections.

17 J. Every licensee shall notify the ~~Administrator~~ State Banking  
18 Commissioner of the conviction of or plea of guilty or nolo  
19 contendere to any felony within thirty (30) days after the plea is  
20 taken and also within thirty (30) days of the entering of an order  
21 of judgment and sentencing and shall notify the ~~Administrator~~ State  
22 Banking Commissioner of any administrative action resulting in  
23 revocation, suspension or amendment of a license taken against the  
24

1 licensee in another state within thirty (30) days of the entering of  
2 the administrative order in that state.

3 K. Except as otherwise provided, the Administrative Procedures  
4 Act applies to and governs all administrative action taken by the  
5 ~~Administrator~~ State Banking Commissioner pursuant to this act.

6 L. 1. After notice and hearing, the ~~Administrator~~ State  
7 Banking Commissioner or the independent hearing examiner may order a  
8 lender or a person acting in the lender's behalf to cease and desist  
9 from engaging in violations of this act.

10 2. A respondent aggrieved by an order of the ~~Administrator~~  
11 State Banking Commissioner may obtain judicial review of the order  
12 as provided by the Administrative Procedures Act. In such a review  
13 proceeding, the ~~Administrator~~ State Banking Commissioner may apply  
14 for a decree enforcing the order. All such proceedings shall be  
15 conducted and the court's authority in review shall be exercised in  
16 accordance with the provisions of the Administrative Procedures Act,  
17 with the following additions:

- 18 a. the court may grant any temporary relief or  
19 restraining order it deems just,
- 20 b. if the court affirms or modifies the order, it shall  
21 enter a decree enforcing and requiring compliance with  
22 the order as affirmed or as modified,
- 23 c. an objection to the order not urged at the hearing  
24 shall not be considered by the court unless the



1 failure to urge the objection is excused for good  
2 cause shown, and

3 d. the copy of the testimony from the administrative  
4 hearing shall be available at reasonable times to all  
5 parties for examination without cost.

6 3. If no proceeding for review has been filed within the time  
7 specified by law, the ~~Administrator~~ State Banking Commissioner or a  
8 representative may obtain from a court having jurisdiction over the  
9 respondent a decree for enforcement of the order upon a showing that  
10 the order was issued in compliance with this section, that no  
11 proceeding for review was initiated within the time specified by  
12 law, and that the respondent is subject to the jurisdiction of the  
13 court.

14 SECTION 138. AMENDATORY Section 16, Chapter 240, O.S.L.  
15 2003 (59 O.S. Supp. 2007, Section 3116), is amended to read as  
16 follows:

17 Section 3116. A. In addition to other powers granted by this  
18 act, the ~~Administrator of Consumer Credit~~ State Banking Commissioner  
19 may, within the limitations provided by law:

20 1. Maintain a list of licensees, which shall be available to  
21 interested persons and the public. The ~~Administrator~~ State Banking  
22 Commissioner shall also provide a toll-free number whereby consumers  
23 may obtain information about licensees;

1           2. Establish a complaint process whereby an aggrieved debtor or  
2 a member of the public may file a complaint against a licensee or  
3 nonlicensee who violates any provision of this act. The  
4 ~~Administrator~~ State Banking Commissioner shall hold hearings upon  
5 the request of a party to the complaint, make findings of fact and  
6 conclusions of law, issue cease and desist orders and suspend or  
7 revoke a license granted under this act;

8           3. Take action designed to obtain voluntary compliance with  
9 this act or commence proceedings on the ~~Administrator's own~~  
10 initiative of the State Banking Commissioner;

11           4. Counsel persons and groups on their rights and duties under  
12 this act; and

13           5. With approval of the ~~Commission on Consumer Credit~~ State  
14 Banking Department, promulgate, amend and repeal administrative  
15 rules to carry out the provisions of the act, as provided by the  
16 Administrative Procedures Act.

17           B. The ~~Administrator~~ State Banking Commissioner may conduct a  
18 study regarding the system of verification of the existence of  
19 deferred deposit loans as provided in paragraph 2 of subsection B of  
20 Section ~~9~~ 3109 of this ~~act~~ title to determine:

21           1. If the system adequately provides lenders with information  
22 as to the existence of outstanding deferred deposit loans made by  
23 other lenders; and  
24

1           2. If it is feasible for the ~~Department of Consumer Credit~~  
2 State Banking Department to develop and maintain a database of  
3 outstanding deferred deposit loans to provide such information to  
4 lenders.

5           The ~~Administrator~~ State Banking Commissioner shall consult with  
6 representatives of deferred deposit lenders, advocates for consumers  
7 of this state and other interested parties to conduct the study.

8 The ~~Administrator~~ State Banking Commissioner shall issue a report of  
9 any such findings to the President Pro Tempore of the Senate and the  
10 Speaker of the House of Representatives not later than December 1,  
11 2004.

12           SECTION 139.           AMENDATORY           Section 17, Chapter 240, O.S.L.  
13 2003 (59 O.S. Supp. 2007, Section 3117), is amended to read as  
14 follows:

15           Section 3117. The ~~Administrator of Consumer Credit~~ State  
16 Banking Commissioner may order and impose civil penalties upon a  
17 person subject to the provisions of this act for violations of this  
18 act or the rules promulgated to implement this act in an amount not  
19 to exceed One Thousand Dollars (\$1,000.00) per violation. The  
20 ~~Administrator~~ State Banking Commissioner may also order repayment of  
21 unlawful or excessive fees charged to debtors.

22           SECTION 140.           AMENDATORY           Section 18, Chapter 240, O.S.L.  
23 2003, as amended by Section 8, Chapter 557, O.S.L. 2004 (59 O.S.  
24 Supp. 2007, Section 3118), is amended to read as follows:

1 Section 3118. There is hereby created in the State Treasury a  
2 revolving fund for the ~~Commission on Consumer Credit~~ State Banking  
3 Department to be designated the "Oklahoma Deferred Deposit Lending  
4 Regulatory Revolving Fund". The fund shall consist of all monies  
5 received by the ~~Administrator of Consumer Credit~~ State Banking  
6 Commissioner as license fees, examination fees, investigation fees,  
7 application fees, fees imposed for consumer credit counseling  
8 education and any administrative fines imposed pursuant to the  
9 Deferred Deposit Lending Act. The revolving fund shall be a  
10 continuing fund not subject to fiscal year limitations and shall be  
11 under the administrative direction of the ~~Administrator~~ State  
12 Banking Commissioner. Monies accruing to the credit of this fund  
13 are hereby appropriated and may be budgeted and expended by the  
14 ~~Administrator~~ State Banking Commissioner upon warrants issued by the  
15 State Treasurer against claims filed as prescribed by law with the  
16 Director of State Finance for approval and payment.

17 SECTION 141. AMENDATORY Section 9, Chapter 557, O.S.L.  
18 2004 (59 O.S. Supp. 2007, Section 3119), is amended to read as  
19 follows:

20 Section 3119. A. Each lender shall pay five cents (\$0.05) for  
21 each deferred deposit loan entered into to be deposited into the  
22 Oklahoma Deferred Deposit Lending Regulatory Revolving Fund. The  
23 schedule for payment shall be determined by the ~~Administrator of~~  
24 ~~Consumer Credit~~ State Banking Commissioner. Lenders shall be

1 prohibited from including such payment in the fees and charges  
2 provided for under Section 3108 of Title 59 of the Oklahoma  
3 Statutes.

4 B. All funds collected pursuant to this section shall be paid  
5 by the ~~Administrator~~ State Banking Commissioner to a third-party,  
6 Oklahoma-based consumer credit counseling provider with a verifiable  
7 history of work with both industry and consumers in the appropriate  
8 field for a program of research and implementation of voluntary  
9 consumer counseling and education specifically designed for  
10 consumers utilizing deferred deposit loans. The program shall be:

11 1. Selected by a bid process, pursuant to the Oklahoma Central  
12 Purchasing Act; and

13 2. Designed in consultation with representatives of both the  
14 industry and consumers.

15 SECTION 142. AMENDATORY 74 O.S. 2001, Section 18b, is  
16 amended to read as follows:

17 Section 18b. A. The duties of the Attorney General as the  
18 chief law officer of the state shall be:

19 1. To appear for the state and prosecute and defend all actions  
20 and proceedings, civil or criminal, in the Supreme Court and Court  
21 of Criminal Appeals in which the state is interested as a party;

22 2. To appear for the state and prosecute and defend all actions  
23 and proceedings in any of the federal courts in which the state is  
24 interested as a party;

1           3. To initiate or appear in any action in which the interests  
2 of the state or the people of the state are at issue, or to appear  
3 at the request of the Governor, the Legislature, or either branch  
4 thereof, and prosecute and defend in any court or before any  
5 commission, board or officers any cause or proceeding, civil or  
6 criminal, in which the state may be a party or interested; and when  
7 so appearing in any such cause or proceeding, the Attorney General  
8 may, if the Attorney General deems it advisable and to the best  
9 interest of the state, take and assume control of the prosecution or  
10 defense of the state's interest therein;

11           4. To consult with and advise district attorneys, when  
12 requested by them, in all matters pertaining to the duties of their  
13 offices, when said district attorneys shall furnish the Attorney  
14 General with a written opinion supported by citation of authorities  
15 upon the matter submitted;

16           5. To give an opinion in writing upon all questions of law  
17 submitted to the Attorney General by the Legislature or either  
18 branch thereof, or by any state officer, board, commission or  
19 department, provided, that the Attorney General shall not furnish  
20 opinions to any but district attorneys, the Legislature or either  
21 branch thereof, or any other state official, board, commission or  
22 department, and to them only upon matters in which they are  
23 officially interested;

24

1       6. At the request of the Governor, State Auditor and Inspector,  
2 State Treasurer, or either branch of the Legislature, to prosecute  
3 any official bond or any contract in which the state is interested,  
4 upon a breach thereof, and to prosecute or defend for the state all  
5 actions, civil or criminal, relating to any matter connected with  
6 either of their Departments;

7       7. Whenever requested by any state officer, board or  
8 commission, to prepare proper drafts for contracts, forms and other  
9 writing which may be wanted for the use of the state;

10       8. To prepare drafts of bills and resolutions for individual  
11 members of the Legislature upon their written request stating the  
12 gist of the bill or resolution desired;

13       9. To enforce the proper application of monies appropriated by  
14 the Legislature and to prosecute breaches of trust in the  
15 administration of such funds;

16       10. To institute actions to recover state monies illegally  
17 expended, to recover state property and to prevent the illegal use  
18 of any state property, upon the request of the Governor or the  
19 Legislature;

20       11. To pay into the State Treasury, immediately upon its  
21 receipt, all monies received by the Attorney General belonging to  
22 the state;

23       12. To keep and file copies of all opinions, contracts, forms  
24 and letters of the office, and to keep an index of all opinions,

1 contracts and forms according to subject and section of the law  
2 construed or applied;

3 13. To keep a register or docket of all actions, demands and  
4 investigations prosecuted, defended or conducted by the Attorney  
5 General in behalf of the state. Said register or docket shall give  
6 the style of the case or investigation, where pending, court number,  
7 office number, the gist of the matter, result and the names of the  
8 assistants who handled the matter;

9 14. To keep a complete office file of all cases and  
10 investigations handled by the Attorney General on behalf of the  
11 state;

12 15. To report to the Legislature or either branch thereof  
13 whenever requested upon any business relating to the duties of the  
14 Attorney General's office;

15 16. To institute civil actions against members of any state  
16 board or commission for failure of such members to perform their  
17 duties as prescribed by the statutes and the Constitution and to  
18 prosecute members of any state board or commission for violation of  
19 the criminal laws of this state where such violations have occurred  
20 in connection with the performance of such members' official duties;

21 17. To respond to any request for an opinion of the Attorney  
22 General's office, submitted by a member of the Legislature,  
23 regardless of subject matter, by written opinion determinative of  
24 the law regarding such subject matter;



1 18. To convene multicounty grand juries in such manner and for  
2 such purposes as provided by law; provided, such grand juries are  
3 composed of citizens from each of the counties on a pro rata basis  
4 by county;

5 19. To investigate any report by the State Auditor and  
6 Inspector filed with the Attorney General pursuant to Section 223 of  
7 this title and prosecute all actions, civil or criminal, relating to  
8 such reports or any irregularities or derelictions in the management  
9 of public funds or property which are violations of the laws of this  
10 state;

11 20. To represent and protect the collective interests of all  
12 utility consumers of this state in rate-related proceedings before  
13 the Corporation Commission or in any other state or federal judicial  
14 or administrative proceeding;

15 21. To represent and protect the collective interests of  
16 insurance consumers of this state in rate-related proceedings before  
17 the Insurance Property and Casualty Rate Board or in any other state  
18 or federal judicial or administrative proceeding;

19 22. To certify local crimestoppers programs qualified to  
20 receive repayments of rewards pursuant to Section 991a of Title 22  
21 of the Oklahoma Statutes; and

22 23. To investigate and prosecute any criminal action relating  
23 to insurance fraud, if in the opinion of the Attorney General a  
24

1 criminal prosecution is warranted, or to refer such matters to the  
2 appropriate district attorney;

3 24. Enforce and administer the Oklahoma Uniform Consumer Credit  
4 Code;

5 25. Enforce and administer the Credit Services Organization  
6 Act;

7 26. Enforce and administer the Oklahoma Pawnshop Act;

8 27. Enforce and administer the Precious Metal and Gem Dealer  
9 Licensing Act; and

10 28. Enforce and administer the Oklahoma Rental-Purchase Act.

11 B. Nothing in this section shall be construed as requiring the  
12 Attorney General to appear and defend or prosecute in any court any  
13 cause or proceeding for or on behalf of the Oklahoma Tax Commission,  
14 the Board of Managers of the State Insurance Fund, or the  
15 Commissioners of the Land Office.

16 C. In all appeals from the Corporation Commission to the  
17 Supreme Court of Oklahoma in which the state is a party, the  
18 Attorney General shall have the right to designate counsel of the  
19 Corporation Commission as the Attorney General's legally appointed  
20 representative in such appeals, and it shall be the duty of the said  
21 Corporation Commission counsel to act when so designated and to  
22 consult and advise with the Attorney General regarding such appeals  
23 prior to taking action therein.

24

1 SECTION 143. AMENDATORY 74 O.S. 2001, Section 18 l, is  
2 amended to read as follows:

3 Section 18 l. The Office of the Attorney General may levy and  
4 collect a reasonable fee from the ~~Department of Consumer Credit, the~~  
5 Office of Personnel Management, the Teachers' Retirement System of  
6 Oklahoma, the Oklahoma Public Employees Retirement System, the  
7 Oklahoma Development Finance Authority, the Oklahoma Industrial  
8 Finance Authority, the Oklahoma Student Loan Authority, the  
9 Department of Mental Health and Substance Abuse Services, the  
10 Oklahoma Health Care Authority, the Board of Regents of Oklahoma  
11 Colleges, the Oklahoma State Regents for Higher Education, the  
12 Oklahoma Department of Career and Technology Education, the Oklahoma  
13 Department of Veterans Affairs, the State Fire Marshal Commission,  
14 the Commission on Children and Youth, the State Department of  
15 Agriculture, the Oklahoma Human Rights Commission, the Oklahoma Law  
16 Enforcement Retirement System, the Oklahoma Police Pension and  
17 Retirement System, the Oklahoma Tourism and Recreation Department,  
18 and the Department of Rehabilitation Services for the purpose of  
19 providing legal services requested by such entities. All fees  
20 collected in accordance with the provisions of this section shall be  
21 deposited in the Attorney General's Revolving Fund created pursuant  
22 to Section 20 of this title.

23  
24

1 SECTION 144. AMENDATORY 74 O.S. 2001, Section 150.9, as  
2 amended by Section 11, Chapter 204, O.S.L. 2003 (74 O.S. Supp. 2007,  
3 Section 150.9), is amended to read as follows:

4 Section 150.9 A. The Oklahoma State Bureau of Investigation  
5 shall procure, file and maintain criminal history records for each  
6 person subject to the mandatory reporting provisions of this act,  
7 including photographs, descriptions, fingerprints, measurements and  
8 other pertinent information relating to such persons. It shall be  
9 the duty of law enforcement officers and agencies, sheriffs, police,  
10 courts, judicial officials, district attorneys, and the persons in  
11 charge of any state correctional facility or institution to furnish  
12 criminal history records to the Bureau as required by Section 150.1  
13 et seq. of this title. The Oklahoma State Bureau of Investigation  
14 shall cooperate with and assist the sheriffs, chiefs of police and  
15 other law enforcement officers of the state by maintaining a  
16 complete criminal history record on each person subject to the  
17 mandatory reporting requirements of this act, and shall have on file  
18 the fingerprint impressions of all such persons together with other  
19 pertinent information as may from time to time be received from the  
20 law enforcement officers of this and other states or as may be  
21 required by law.

22 B. ~~The Oklahoma Department of Consumer Credit, the Oklahoma~~  
23 State Insurance Commission, the Oklahoma Horse Racing Commission, or  
24 any other state agency, board, department or commission or any other

1 person or entity requesting a criminal history record or an analysis  
2 of fingerprints for commercial, licensing or other purposes, except  
3 law enforcement purposes, shall pay a fee to the Bureau for each  
4 criminal history record or fingerprint analysis as follows:

5	Oklahoma criminal history record only	\$15.00 each
6	Oklahoma criminal history record	
7	with fingerprint analysis	\$19.00 each
8	National criminal history record	
9	with fingerprint analysis	\$41.00 each

10 1. For purposes of this section, "a national criminal history  
11 record check" means a check of criminal history records entailing  
12 the fingerprinting of the individual and submission of the  
13 fingerprints to the United States Federal Bureau of Investigation  
14 (FBI) for the purpose of obtaining the national criminal history  
15 record of the person from the FBI. A criminal history record check  
16 may be obtained only when a check is authorized or required by state  
17 or federal law.

18 2. Unless a national criminal history record is specifically  
19 requested, a fingerprint analysis shall be limited to only those  
20 records available at the Oklahoma State Bureau of Investigation.  
21 Following receipt of the appropriate fee, the Bureau shall provide,  
22 as soon as possible, the criminal history record requested;  
23 provided, however, it shall be the duty and responsibility of the  
24 requesting authority to evaluate the criminal history record as such

1 record may apply to a specific purpose or intent. An individual may  
2 submit a certified court record showing that a charge was dismissed  
3 or a certified copy of a gubernatorial pardon to the Oklahoma State  
4 Bureau of Investigation, and upon verification of that record the  
5 Bureau records shall reflect the dismissal of that charge.

6 C. The Oklahoma Bureau of Investigation may maintain an  
7 identification file, including fingerprint impressions, on any  
8 person under eighteen (18) years of age who is arrested or subject  
9 to criminal or juvenile delinquency proceedings, provided all such  
10 information shall be confidential and shall only be made available  
11 to the Bureau and other law enforcement agencies. Whenever a  
12 fingerprint impression or other identification information is  
13 submitted to the Bureau on a person under eighteen (18) years of  
14 age, the Bureau may retain and file such fingerprint and  
15 identification information for identification purposes only. The  
16 Bureau shall ensure that the information received and maintained for  
17 identification purposes on persons under eighteen (18) years of age  
18 shall be handled and processed with great care to keep such  
19 information confidential from the general public. The Bureau may  
20 receive and maintain the fingerprints and other identification  
21 information on any person under eighteen (18) years of age believed  
22 to be the subject of a runaway, missing, or abduction investigation,  
23 for identification purposes at the request of a parent, guardian or  
24 legal custodian of the person.

1 D. Any person who knowingly procures, utters, or offers any  
2 false, forged or materially altered criminal history record shall be  
3 guilty of a felony and upon conviction shall be punished by  
4 imprisonment in the State Penitentiary for a period not to exceed  
5 five (5) years or by a fine not to exceed Five Thousand Dollars  
6 (\$5,000.00), or by both such fine and imprisonment.

7 SECTION 145. AMENDATORY 74 O.S. 2001, Section 840-5.5,  
8 as last amended by Section 21, Chapter 326, O.S.L. 2007 (74 O.S.  
9 Supp. 2007, Section 840-5.5), is amended to read as follows:

10 Section 840-5.5 A. The following offices, positions, and  
11 personnel shall be in the unclassified service and shall not be  
12 placed under the classified service:

13 1. Persons chosen by popular vote or appointment to fill an  
14 elective office, and their employees, except the employees of the  
15 Corporation Commission, the State Department of Education and the  
16 Department of Labor;

17 2. Members of boards and commissions, and heads of agencies;  
18 also one principal assistant or deputy and one executive secretary  
19 for each state agency;

20 3. All judges, elected or appointed, and their employees;

21 4. Persons employed with one-time, limited duration, federal or  
22 other grant funding that is not continuing or indefinitely  
23 renewable. The length of the unclassified employment shall not  
24

1 exceed the period of time for which that specific federal funding is  
2 provided;

3 5. All officers and employees of The Oklahoma State System of  
4 Higher Education, State Board of Education and Oklahoma Department  
5 of Career and Technology Education;

6 6. Persons employed in a professional or scientific capacity to  
7 make or conduct a temporary and special inquiry, investigation, or  
8 examination on behalf of the Legislature or a committee thereof or  
9 by authority of the Governor. These appointments and authorizations  
10 shall terminate on the first day of the regular legislative session  
11 immediately following the appointment, if not terminated earlier.  
12 However, nothing in this paragraph shall prevent the reauthorization  
13 and reappointment of any such person. Any such appointment shall be  
14 funded from the budget of the appointing authority;

15 7. Election officials and employees;

16 8. Temporary employees employed to work less than one thousand  
17 (1,000) hours in any twelve-month period, seasonal employees  
18 employed by the Oklahoma Tourism and Recreation Department pursuant  
19 to Section 2241 of this title who work less than one thousand two  
20 hundred (1,200) hours in any twelve-month period, and seasonal  
21 employees employed at lodges and golf courses operated by the  
22 Oklahoma Tourism and Recreation Department pursuant to Section 2241  
23 of this title who work less than one thousand six hundred (1,600)  
24 hours in any twelve-month period;



1           9. Department of Public Safety employees occupying the  
2 following offices or positions:

- 3           a. administrative aides to the Commissioner,
- 4           b. executive secretaries to the Commissioner,
- 5           c. the Governor's representative of the Oklahoma Highway  
6           Safety Office who shall be appointed by the Governor,
- 7           d. Highway Patrol Colonel,
- 8           e. Highway Patrol Lieutenant Colonel,
- 9           f. Director of Finance,
- 10          g. noncommissioned pilots,
- 11          h. Information Systems Administrator,
- 12          i. Law Enforcement Telecommunications System Specialist,
- 13          j. Director of Driver Compliance,
- 14          k. Director of Transportation Division,
- 15          l. Director of the Oklahoma Highway Safety Office,
- 16          m. Civil Rights Administrator,
- 17          n. Budget Analyst,
- 18          o. Comptroller,
- 19          p. Chaplain,
- 20          q. Helicopter Mechanic,
- 21          r. Director of Safety Compliance,
- 22          s. Human Resources Director,
- 23          t. Administrator of Department Services, and

1 u. a maximum of seven (7) positions for the purpose of  
2 administering programs in the Oklahoma Highway Safety  
3 Office, within full-time employee limitations of the  
4 Department, employed with federal funding that is  
5 continuing or indefinitely renewable. The  
6 authorization for such positions shall be terminated  
7 if the federal funding for positions is discontinued;  
8 provided, any person appointed to a position prescribed in  
9 subparagraph d or e of this paragraph shall have a right of return  
10 to the classified commissioned position without any loss of rights,  
11 privileges or benefits immediately upon completion of the duties in  
12 the unclassified commissioned position;

13 10. Professional trainees only during the prescribed length of  
14 their course of training or extension study;

15 11. Students who are employed on a part-time basis, which shall  
16 be seventy-five percent (75%) of a normal forty-hour work week or  
17 thirty (30) hours per week, or less, or on a full-time basis if the  
18 employment is pursuant to a cooperative education program such as  
19 that provided for under Title I IV-D of the Higher Education Act of  
20 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly  
21 enrolled in:

22 a. an institution of higher learning within The Oklahoma  
23 State System of Higher Education,  
24

- 1           b.    an institution of higher learning qualified to become  
2                    coordinated with The Oklahoma State System of Higher  
3                    Education. For purposes of this section, a student  
4                    shall be considered a regularly enrolled student if  
5                    the student is enrolled in a minimum of five (5) hours  
6                    of accredited graduate courses or a minimum of ten  
7                    (10) hours of accredited undergraduate courses,  
8                    provided, however, the student shall only be required  
9                    to be enrolled in a minimum of six (6) hours of  
10                   accredited undergraduate courses during the summer, or  
11           c.    high school students regularly enrolled in a high  
12                   school in Oklahoma and regularly attending classes  
13                   during such time of enrollment;

14           12. The spouses of personnel who are employed on a part-time  
15 basis to assist or work as a relief for their spouses in the  
16 Oklahoma Tourism and Recreation Department;

17           13. Service substitute attendants who are needed to replace  
18 museum and site attendants who are unavoidably absent. Service  
19 substitutes may work as part-time or full-time relief for absentees  
20 for a period of not more than four (4) weeks per year in the  
21 Oklahoma Historical Society sites and museums; such substitutes will  
22 not count towards the agency's full-time-equivalent (FTE) employee  
23 limit;

1 14. Employees of the Oklahoma House of Representatives, the  
2 State Senate, or the Legislative Service Bureau;

3 15. Corporation Commission personnel occupying the following  
4 offices and positions:

- 5 a. Administrative aides, and executive secretaries to the  
6 Commissioners,
- 7 b. Directors of all the divisions, personnel managers and  
8 comptrollers,
- 9 c. General Counsel,
- 10 d. Public Utility Division Chief Engineer,
- 11 e. Public Utility Division Chief Accountant,
- 12 f. Public Utility Division Chief Economist,
- 13 g. Public Utility Division Deputy Director,
- 14 h. Secretary of the Commission,
- 15 i. Deputy Conservation Director,
- 16 j. Manager of Pollution Abatement,
- 17 k. Manager of Field Operations,
- 18 l. Manager of Technical Services,
- 19 m. Public Utility Division Chief of Telecommunications,
- 20 n. Director of Information Services, and
- 21 o. All Data Processing employees hired on or after  
22 September 1, 2005;

23 16. At the option of the employing agency, the Supervisor,  
24 Director, or Educational Coordinator in any other state agency

1 having a primary responsibility to coordinate educational programs  
2 operated for children in state institutions;

3 17. Department of Mental Health and Substance Abuse Services  
4 personnel occupying the following offices and positions at each  
5 facility:

- 6 a. Director of Facility,
- 7 b. Deputy Director for Administration,
- 8 c. Clinical Services Director,
- 9 d. Executive Secretary to Director, and
- 10 e. Directors or Heads of Departments or Services;

11 18. Office of State Finance personnel occupying the following  
12 offices and positions:

- 13 a. State Comptroller,
- 14 b. Administrative Officers,
- 15 c. Alternator Claims Auditor,
- 16 d. Employees hired to fulfill state compliance agency  
17 requirements under Model Tribal Gaming Compacts,
- 18 e. Employees of the Budget Division,
- 19 f. Employees of the Fiscal and Research Division,
- 20 g. Employees hired to work on the CORE Systems Project;  
21 and
- 22 h. The following employees of the Information Services  
23 Division:
  - 24 (1) Information Services Division Manager,

- 1 (2) Network Manager,
- 2 (3) Network Technicians,
- 3 (4) Security Manager,
- 4 (5) Contracts/Purchasing Manager,
- 5 (6) Operating and Applications Manager,
- 6 (7) Project Manager,
- 7 (8) Help Desk Manager,
- 8 (9) Help Desk Technicians,
- 9 (10) Quality Assurance Manager,
- 10 (11) ISD Analysts,
- 11 (12) CORE Manager,
- 12 (13) Enterprise System/Database Software Manager,
- 13 (14) Data Center Operations and Production Manager,
- 14 (15) Voice Communications Manager,
- 15 (16) Applications Development Manager,
- 16 (17) Projects Manager,
- 17 (18) PC's Manager,
- 18 (19) Servers Manager,
- 19 (20) Portal Manager,
- 20 (21) Procurement Specialists,
- 21 (22) Security Technicians,
- 22 (23) Enterprise Communications and Network  
23 Administrator,
- 24 (24) Server Support Specialists,

- 1 (25) Senior Server Support Specialists,  
2 (26) Systems Support Specialists, and  
3 (27) Senior Systems Support Specialists;
- 4 19. Employees of the Oklahoma Industrial Finance Authority;
- 5 20. Those positions so specified in the annual business plan of  
6 the Oklahoma Department of Commerce;
- 7 21. Those positions so specified in the annual business plan of  
8 the Oklahoma Center for the Advancement of Science and Technology;
- 9 22. The following positions and employees of the Oklahoma  
10 School of Science and Mathematics:
- 11 a. positions for which the annual salary is Twenty-four  
12 Thousand One Hundred Ninety-three Dollars (\$24,193.00)  
13 or more, as determined by the Office of Personnel  
14 Management, provided no position shall become  
15 unclassified because of any change in salary or grade  
16 while it is occupied by a classified employee,
- 17 b. positions requiring certification by the State  
18 Department of Education, and
- 19 c. positions and employees authorized to be in the  
20 unclassified service of the state elsewhere in this  
21 section or in subsection B of this section;
- 22 23. Office of Personnel Management employees occupying the  
23 following positions:
- 24 a. the Carl Albert Internship Program Coordinator,

1           b.    one Administrative Assistant, and

2           c.    one Workforce Planning Manager;

3           24.  Department of Labor personnel occupying the following  
4 offices and positions:

5           a.    two Deputy Commissioners,

6           b.    two Executive Secretaries to the Commissioner,

7           c.    Chief of Staff,

8           d.    two Administrative Assistants,

9           e.    Information Systems Administrator,

10          f.    three Safety and Health Directors,

11          g.    Research Director,

12          h.    Employment Standards Director,

13          i.    Asbestos Director, and

14          j.    General Counsel;

15          25.  The State Bond Advisor and his or her employees;

16          26.  The Oklahoma Employment Security Commission employees  
17 occupying the following positions:

18          a.    Associate Director,

19          b.    Secretary to the Associate Director, and

20          c.    Assistant to the Executive Director;

21          27.  Oklahoma Human Rights Commission personnel occupying the  
22 position of Administrative Assistant;

23          28.  Officers and employees of the State Banking Department;

24



1           29. Officers and employees of the University Hospitals  
2 Authority except personnel in the state classified service pursuant  
3 to Section 3211 of Title 63 of the Oklahoma Statutes and members of  
4 the University Hospitals Authority Model Personnel System created  
5 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma  
6 Statutes or as otherwise provided for in Section 3213.2 of Title 63  
7 of the Oklahoma Statutes;

8           30. Alcoholic Beverage Laws Enforcement Commission employees  
9 occupying the following positions:

- 10           a. three Administrative Service Assistant positions,  
11                 however, employees in such positions who are in the  
12                 unclassified service on June 4, 2003, may make an  
13                 election to be in the classified service without a  
14                 loss in salary by September 1, 2003, and
- 15           b. the Deputy Director position in addition to the one  
16                 authorized by paragraph 2 of this subsection;

17           31. The Oklahoma State Bureau of Investigation employees  
18 occupying the following positions:

- 19           a. five assistant directors,
- 20           b. six special investigators,
- 21           c. one information representative,
- 22           d. one federally funded physical evidence technician,
- 23           e. four federally funded laboratory analysts,

24

- f. a maximum of fourteen positions employed for the purpose of managing the automated information systems of the agency, and
- g. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics Commission,
- b. five Department of Transportation Assistant Director positions,
- c. eight field division engineer positions, and
- d. one pilot position;

33. Commissioners of the Land Office employees occupying the following positions:

- a. Director of the Investments Division,
- b. Assistant Director of the Investments Division,
- c. one Administrative Assistant,
- d. one Audit Tech position,
- e. one Auditor I position,
- f. two Accounting Tech I positions,
- g. two Administrative Assistant I positions,
- h. two Imaging Specialist positions, and
- i. one Information Systems Specialist position;

34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

1 a. six Narcotics Agent positions and three Typist  
2 Clerk/Spanish transcriptionists, including a Typist  
3 Clerk Supervisor/Spanish transcriptionist, provided,  
4 authorization for such positions shall be terminated  
5 if the federal funding for the positions is  
6 discontinued,

7 b. one executive secretary in addition to the one  
8 authorized pursuant to paragraph 2 of this subsection,

9 c. one fiscal officer,

10 d. one full-time Programmer, and

11 e. one full-time Network Engineer;

12 35. The Military Department of the State of Oklahoma is  
13 authorized such unclassified employees within full-time employee  
14 limitations to work in any of the Department of Defense directed  
15 youth programs, the State of Oklahoma Juvenile Justice youth  
16 programs, those persons reimbursed from Armory Board or Billeting  
17 Fund accounts, and skilled trade positions;

18 36. Within the Oklahoma Commission on Children and Youth the  
19 following unclassified positions:

20 a. one Oversight Specialist and one Community Development  
21 Planner,

22 b. one State Plan Grant Coordinator, provided  
23 authorization for the position shall be terminated  
24 when federal support for the position by the United

1 States Department of Education Early Intervention  
2 Program is discontinued, and

- 3 c. one executive secretary in addition to the one  
4 authorized pursuant to paragraph 2 of this subsection;

5 37. The following positions and employees of the Department of  
6 Central Services:

7 a. one Executive Secretary in addition to the Executive  
8 Secretary authorized by paragraph 2 of this  
9 subsection,

10 b. the Director of Central Purchasing,

11 c. one Alternate Fuels Administrator,

12 d. one Director of Special Projects,

13 e. three postauditors,

14 f. four high-technology contracting officers,

15 g. one Executive Assistant to the Purchasing Director,

16 h. four Contracts Managers,

17 i. one Associate Director,

18 j. one specialized HiTech/Food Contracting Officer,

19 k. one State Use Contracting Officer,

20 l. one Property Distribution Administrator,

21 m. three licensed architects assigned to the Facilities  
22 and Properties Division,

23 n. three licensed engineers assigned to the Facilities  
24 and Properties Division,

- 1           o.   four construction consultants assigned to the
- 2               Facilities and Properties Division,
- 3           p.   one attorney assigned to the Facilities and Properties
- 4               Division,
- 5           q.   three positions assigned to the Information Services
- 6               Division, which shall include one Information
- 7               Technology Manager, one Applications Specialist and
- 8               one Data Planning Specialist, and
- 9           r.   four positions assigned to Fleet Management, which
- 10               shall include one Deputy Fleet Manager and three
- 11               Management Analysts;

12           38.   Four Water Quality Specialists, and four Water Resources  
13 Division Chiefs within the Oklahoma Water Resources Board;

14           39.   J.D. McCarty Center for Children with Developmental  
15 Disabilities personnel occupying the following offices and  
16 positions:

- 17           a.   Physical Therapists,
- 18           b.   Physical Therapist Assistants,
- 19           c.   Occupational Therapists,
- 20           d.   Certified Occupational Therapist Aides, and
- 21           e.   Speech Pathologists;

22           40.   The Development Officer and the Director of the State  
23 Museum of History within the Oklahoma Historical Society;

1       41. Oklahoma Department of Agriculture, Food, and Forestry  
2 personnel occupying the following positions:

- 3           a. one Executive Secretary in addition to the Executive  
4           Secretary authorized by paragraph 2 of this subsection  
5           and one Executive Assistant,
- 6           b. nineteen Agricultural Marketing Coordinator III  
7           positions,
- 8           c. temporary fire suppression personnel, regardless of  
9           the number of hours worked, who are employed by the  
10          Oklahoma Department of Agriculture, Food, and  
11          Forestry; provided, however, notwithstanding the  
12          provisions of any other section of law, the hours  
13          worked by such employees shall not entitle such  
14          employees to any benefits received by full-time  
15          employees,
- 16          d. one Administrator for Human Resources,
- 17          e. one Director of Administrative Services,
- 18          f. one Water Quality Consumer Complaint Coordinator,
- 19          g. one hydrologist position,
- 20          h. Public Information Office Director,
- 21          i. Market Development Services Director,
- 22          j. Legal Services Director,
- 23          k. Animal Industry Services Director,

- 1           l.    Agricultural Environmental Management Services  
2            Director,  
3           m.    Forestry Services Director,  
4           n.    Plant Industry and Consumer Services Director,  
5           o.    one Grants Administrator position,  
6           p.    Director of Laboratory Services,  
7           q.    Chief of Communications,  
8           r.    Public Information Manager,  
9           s.    Inventory/Supply Officer,  
10          t.    five Agriculture Field Inspector positions assigned  
11            the responsibility for conducting inspections and  
12            audits of agricultural grain storage warehouses.  All  
13            other Agriculture Field Inspector positions and  
14            employees of the Oklahoma Department of Agriculture,  
15            Food, and Forestry shall be classified and subject to  
16            the provisions of the Merit System of Personnel  
17            Administration.  On November 1, 2002, all other  
18            unclassified Agriculture Field Inspectors shall be  
19            given status in the classified service as provided in  
20            Section 840-4.2 of this title,  
21          u.    Rural Fire Coordinator,  
22          v.    one Agricultural Marketing Coordinator III,  
23          w.    Food Safety Division Director,  
24          x.    two Environmental Program Specialists,

1 y. two Scale Technicians, and

2 z. two Plant Protection Specialists;

3 42. The Contracts Administrator within the Oklahoma State  
4 Employees Benefits Council;

5 43. The Development Officer within the Oklahoma Department of  
6 Libraries;

7 44. Oklahoma Real Estate Commission personnel occupying the  
8 following offices and positions:

9 a. Educational Program Director, and

10 b. Data Processing Manager;

11 45. A Chief Consumer Credit Examiner for the ~~Department of~~  
12 ~~Consumer Credit~~ Attorney General;

13 46. All officers and employees of the Oklahoma Capitol Complex  
14 and Centennial Commemoration Commission;

15 47. All officers and employees of the Oklahoma Motor Vehicle  
16 Commission;

17 48. One Museum Archivist of The Will Rogers Memorial  
18 Commission;

19 49. One Fire Protection Engineer of the Office of the State  
20 Fire Marshal;

21 50. Acting incumbents employed pursuant to Section 209 of Title  
22 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not  
23 be included in any limitation on full-time equivalency imposed by  
24 law on an agency. Permanent classified employees may request a



1 leave of absence from classified status and accept an unclassified  
2 appointment and compensation as an acting incumbent with the same  
3 agency; provided, the leave shall expire no later than two (2) years  
4 from the date of the acting incumbent appointment. An appointing  
5 authority may establish unclassified positions and appoint  
6 unclassified employees to perform the duties of a permanent  
7 classified employee who is on leave of absence from a classified  
8 position to serve as an acting incumbent. All unclassified  
9 appointments created pursuant to this paragraph shall expire no  
10 later than two (2) years from the date of appointment. Classified  
11 employees accepting unclassified appointments and compensation  
12 pursuant to this paragraph shall be entitled to participate without  
13 interruption in any benefit programs available to classified  
14 employees, including retirement and insurance programs. Immediately  
15 upon termination of an unclassified appointment pursuant to this  
16 paragraph, an employee on assignment from the classified service  
17 shall have a right to be restored to the classified service and  
18 reinstated to the former job family level and compensation plus any  
19 adjustments and increases in salary or benefits which the employee  
20 would have received but for the leave of absence;

21 51. The Oklahoma Homeland Security Director and all other  
22 positions assigned the responsibilities of working in the Oklahoma  
23 Office of Homeland Security;

24

1       52. The following eighteen (18) positions in the State  
2 Department of Health:

- 3           a. one surveillance supervisor,
- 4           b. one surveillance project monitor,
- 5           c. two bilingual interviewers,
- 6           d. eight senior interviewers, and
- 7           e. six interviewers; and

8       53. State Board of Registration for Professional Engineers and  
9 Land Surveyors personnel occupying the following offices and  
10 positions:

- 11           a. one Director of Enforcement, and
- 12           b. one Board Investigator.

13       B. If an agency has the authority to employ personnel in the  
14 following offices and positions, the appointing authority shall have  
15 the discretion to appoint personnel to the unclassified service:

- 16           1. Licensed medical doctors, osteopathic physicians, dentists,  
17 psychologists, and nurses;
- 18           2. Certified public accountants;
- 19           3. Licensed attorneys;
- 20           4. Licensed veterinarians; and
- 21           5. Licensed pharmacists.

22       C. Effective July 1, 1996, authorization for unclassified  
23 offices, positions, or personnel contained in a bill or joint  
24 resolution shall terminate June 30 of the ensuing fiscal year after

1 the authorization unless the authorization is codified in the  
2 Oklahoma Statutes or the termination is otherwise provided in the  
3 legislation.

4 D. The appointing authority of agencies participating in the  
5 statewide information systems project may establish unclassified  
6 positions and appoint unclassified employees to the project as  
7 needed. Additional unclassified positions may be established, if  
8 required, to appoint an unclassified employee to perform the duties  
9 of a permanent classified employee who is temporarily absent from a  
10 classified position as a result of assignment to this project. All  
11 unclassified appointments under this authority shall expire no later  
12 than December 31, 2007, and all unclassified positions established  
13 to support the project shall be abolished. Both the positions and  
14 appointments resulting from this authority shall be exempt from any  
15 agency FTE limitations and any limits imposed on the number of  
16 unclassified positions authorized. Permanent classified employees  
17 may request a leave of absence from classified status and accept an  
18 unclassified appointment and compensation with the same agency under  
19 the provisions of this subsection; provided, the leave shall expire  
20 no later than December 31, 2007. Employees accepting the  
21 appointment and compensation shall be entitled to participate  
22 without interruption in any benefit programs available to classified  
23 employees, including retirement and insurance programs. Immediately  
24 upon termination of an unclassified appointment pursuant to this

1 subsection, an employee on assignment from the classified service  
2 shall have a right to be restored to the classified service and  
3 reinstated to the former job family level and compensation plus any  
4 adjustments and increases in salary or benefits which the employee  
5 would have received but for the leave of absence.

6 SECTION 146. REPEALER 14A O.S. 2001, Sections 6-502, 6-  
7 503, 6-504, 6-506, 6-507, 6-508, 6-509, 6-510 and 9-101, are hereby  
8 repealed.

9 SECTION 147. Sections 1 and 3 through 146 of this act shall  
10 become effective January 1, 2009.

11 SECTION 148. Section 2 of this act shall become effective July  
12 1, 2008.

13 SECTION 149. It being immediately necessary for the  
14 preservation of the public peace, health and safety, an emergency is  
15 hereby declared to exist, by reason whereof this act shall take  
16 effect and be in full force from and after its passage and approval.

17  
18 51-2-9772 CJB 01/17/08  
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