

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2122

6 By: Shelton

7 COMMITTEE SUBSTITUTE

8 An Act relating to debtors and creditors; amending 24
9 O.S. 2001, Sections 136, 138, 142, 143 and 145, which
10 relate to the Credit Services Organization Act;
11 modifying disclosure requirements; modifying
12 penalties for certain violations; authorizing
13 Administrator of the Department of Consumer Credit to
14 develop additional licensing requirements;
15 authorizing promulgation of certain rules; requiring
16 Commission on Consumer Credit approval of rules;
17 allowing for additional educational requirements;
18 authorizing the imposition of fines for certain
19 violations; providing fine income be placed in
20 certain fund; establishing Oklahoma Credit Services
21 Organization Revolving Fund; exempting fund from
22 annual fiscal limits; providing for administration of
23 fund; providing for codification; providing an
24 effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 24 O.S. 2001, Section 136, is
amended to read as follows:

Section 136. The information statement required pursuant to
Section ~~5~~ 135 of this act ~~title~~ shall include all of the following:

1 5. A statement specifying that the credit services organization
2 does not perform accounting services and that the representatives of
3 the organization are not certified public accountants;

4 6. A statement asserting the buyer's right to proceed against
5 the bond or trust account required under Section 3 133 of this act
6 title; and

7 ~~5.~~ 7. The name and address of the surety company that issued
8 the bond, or the name and address of the depository and the trustee
9 and the account number of the trust account.

10 SECTION 2. AMENDATORY 24 O.S. 2001, Section 138, is
11 amended to read as follows:

12 Section 138. A. Any waiver by a buyer of any part of ~~this act~~
13 the Credit Services Organization Act is void. Any attempt by a
14 credit services organization to have a buyer waive rights given by
15 this act is a violation of this act.

16 B. In any proceeding involving this act, the burden of proving
17 an exemption or an exception from a definition is upon the person
18 claiming it.

19 C. Any ~~person who violates this act~~ is salespersons, agents,
20 and representatives, or independent contractors of credit services
21 organizations violating any of the provisions of Section 133 of this
22 title shall be guilty of a misdemeanor. ~~Any district court of this~~
23 ~~state has jurisdiction in equity to restrain and enjoin the~~
24 ~~violation of this act~~ and upon conviction thereof may be punished by

1 a fine of not less than One Hundred Dollars (\$100.00) nor more than
2 Five Hundred Dollars (\$500.00), or by imprisonment in the county
3 jail for not more than thirty (30) days, or by both such fine and
4 imprisonment.

5 D. Any salespersons, agents, and representatives, or
6 independent contractors of credit services organizations conspiring
7 to defraud buyers with intent to acquire money or assets valued at
8 more than One Thousand Dollars (\$1,000.00) shall be guilty of a
9 felony and upon conviction thereof shall be punished by imprisonment
10 in the custody of the Department of Corrections for not more than
11 one (1) year and restitution to the buyers.

12 E. This section does not prohibit the enforcement by any person
13 of any right provided by this or any other law.

14 SECTION 3. AMENDATORY 24 O.S. 2001, Section 142, is
15 amended to read as follows:

16 Section 142. A. The Administrator of the Department of
17 Consumer Credit shall require license applicants to demonstrate the
18 ability to comply with the provisions of the Credit Services
19 Organization Act. The Administrator shall develop standards and
20 requirements, including but not limited to written examinations, for
21 license applicants. The Administrator may also require that
22 applicants complete an educational course or program.

23 B. The Administrator is hereby authorized to promulgate, adopt,
24 amend, and repeal rules consistent with the provisions of the Credit

1 Services Organization Act for the purpose of governing the
2 establishment and levying of administrative fines and the
3 examination and licensure of applicants. All final rules shall be
4 approved by the Commission on Consumer Credit.

5 C. Applications for a credit service organization license shall
6 be under oath and shall state the full name and place of residence
7 of the applicant. If the applicant is a partnership, the full name
8 and place of residence of each member thereof shall be stated. If
9 the applicant is a corporation, the full name and place of residence
10 of 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 may require.

14 ~~B.~~ D. Each licensee shall maintain on file with the
15 Administrator a written appointment of a resident of this state as
16 his agent for service of all judicial or other process or legal
17 notice, unless the licensee has appointed an agent pursuant to
18 another statute of this state. In case of noncompliance with the
19 provision of this section, such service may be made on the
20 Administrator on behalf of the licensee.

21 SECTION 4. AMENDATORY 24 O.S. 2001, Section 143, is
22 amended to read as follows:

23 Section 143. A. Upon the filing of an application and bond,
24 payment of the annual license fee of One Hundred Dollars (\$100.00),

1 and an investigation fee of One Hundred Dollars (\$100.00), the
2 Administrator shall conduct an investigation. If the Administrator
3 finds that the applicant has successfully met the requirements of
4 subsection A of Section 142 of this title and that the financial
5 responsibility, experience, character and general fitness of the
6 applicant are such as to warrant belief that the business will be
7 operated pursuant to the Credit Services Organization Act and rules
8 promulgated pursuant thereto, the Administrator shall grant the
9 application and issue to the applicant a license which will evidence
10 his authority to do business under the provisions of the Credit
11 Services Organization Act.

12 B. If the Administrator does not so find facts sufficient to
13 warrant issuance of a license, he shall notify the applicant. If
14 within thirty (30) days of such notification the applicant requests
15 a hearing on the application, a hearing shall be held within sixty
16 (60) days after the date of the request. In the event of the denial
17 of a license, the investigation fee shall be retained by the
18 Administrator, but the annual license fee shall be returned to the
19 applicant.

20 C. The Administrator shall grant or deny such application for
21 license within sixty (60) days from its filing with the required
22 fees, or from the hearing thereon, if any, unless the period is
23 extended by written agreement between the applicant and the
24 Administrator.

1 D. No license to engage in the business of a credit services
2 organization shall be issued for any location if a license has been
3 issued and is in effect under the provisions of Sections 3-501
4 through 3-514 of Title 14A of the Oklahoma Statutes. As used in
5 this subsection the term "location" means the entire area in which a
6 person licensed pursuant to any provision of Title 14A of the
7 Oklahoma Statutes conducts business. No credit service organization
8 may be connected with any location in which a person licensed
9 pursuant to any provision of Title 14A of the Oklahoma Statutes
10 conducts business, except by a passageway to which the public is not
11 admitted.

12 SECTION 5. AMENDATORY 24 O.S. 2001, Section 145, is
13 amended to read as follows:

14 Section 145. A. The Administrator may, after notice and
15 hearing, suspend or revoke any license if he finds that:

16 1. The licensee has failed to pay any fee or charge properly
17 imposed by the Administrator under the authority of the Credit
18 Services Organization Act;

19 2. The licensee, either knowingly or without the exercise of
20 due care to prevent the same, has violated any provisions of the
21 Credit Services Organization Act or any regulation or order lawfully
22 made pursuant thereto; or

23 3. Any fact or condition exists which, if it had existed or had
24 been known to exist at the time of the original application for a

1 license, clearly would have justified the Administrator in refusing
2 the license.

3 B. The Administrator may, after notice and hearing, impose a
4 fine, not to exceed One Thousand Dollars (\$1,000.00), for any
5 violation of the Credit Services Organization Act. Such fine may be
6 in addition to, or in lieu of, any suspension or revocation as
7 provided in subsection A of this section. Any income generated by
8 such fine shall be deposited in the Oklahoma Credit Services
9 Organization Revolving Fund, as provided in Section 6 of this act.

10 C. The hearing shall be held upon twenty (20) days' notice in
11 writing, setting forth the time and place thereof and a concise
12 statement of the facts alleged to warrant suspension or revocation.
13 At the conclusion of the hearing, the Administrator shall prepare a
14 written order setting forth the effective date of any suspension or
15 revocation accompanied by findings of fact and a copy thereof shall
16 be forthwith delivered to the licensee. Such order, findings and
17 the evidence considered by the Administrator shall be filed with the
18 public records of the Administrator.

19 ~~C.~~ D. Any licensee may surrender any license by delivering it
20 to the Administrator with written notice of its surrender, but such
21 surrender shall not affect the licensee's civil or criminal
22 liability for acts committed prior thereto.

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1 ~~D.~~ E. No revocation, suspension or surrender of any license
2 shall impair or affect the obligation of any preexisting lawful
3 contract between the licensee and any customer.

4 ~~E.~~ F. The Administrator may reinstate suspended licenses or
5 issue new licenses to a person whose license or licenses have been
6 revoked if no fact or condition then exists which clearly would have
7 justified the Administrator in refusing originally to issue such
8 license pursuant to the Credit Services Organization Act.

9 ~~F.~~ G. On application of any person and payment of the cost
10 thereof, the Administrator shall furnish under his seal and
11 signature a certificate of good standing or a certified copy of any
12 license.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 148.1 of Title 24, unless there
15 is created a duplication in numbering, reads as follows:

16 There is hereby created in the State Treasury a revolving fund
17 for the Commission on Consumer Credit to be designated the "Oklahoma
18 Credit Services Organization Revolving Fund". The fund shall
19 consist of all fees and fines received by the Administrator of
20 Consumer Credit pursuant to the Credit Services Organization Act.
21 The revolving fund shall be a continuing fund not subject to fiscal
22 year limitations and shall be under the administrative direction of
23 the Administrator. Monies accruing to the credit of this fund are
24 hereby appropriated and may be budgeted and expended by the

1 Administrator upon warrants issued by the State Treasurer against
2 claims filed as prescribed by law with the Director of State Finance
3 for approval and payment.

4 SECTION 7. This act shall become effective July 1, 2009.

5 SECTION 8. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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