

1 ENGROSSED HOUSE
2 BILL NO. 2831

By: Peters of the House

and

Newberry of the Senate

3
4
5
6
7 (Department of Consumer Credit - amending 14A O.S.
8 2001, Sections 3-503, 3-504, 3-505, 3-506, 6-113,
9 6-203 and 6-501 - Uniform Consumer Credit Code -
10 fees - Administrator of Consumer Credit - Consumer
11 Credit Advisory Committee - Oklahoma Open Meeting
12 Act - amending 24 O.S. 2001, Sections 143, 144, 145
13 and 146 - Credit Services Organization Act -
14 amending 59 O.S. 2001, Sections 1505 and 1506 - and
15 1508 - Oklahoma Pawnshop Act - amending 59 O.S.
16 2001, Sections 1525, 1526 and 1528 - Precious Metal
17 and Gem Dealer Licensing Act - amending 59 O.S.
18 2001, Sections 1953 and 1955 - Oklahoma Rental-
19 Purchase Act - amending 59 O.S. 2001, Sections
20 2002, 2009 and 2011 - Oklahoma Health Spa Act -
21 amending Sections 6, 8, 9, 10, 19, 20 and 26,
22 Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009,
23 Sections 2095.3, 2095.5, 2095.6, 2095.7, 2095.16,
24 2095.17 and 2095.23) - Oklahoma Secure and Fair

1 Enforcement for Mortgage Licensing Act - amending
2 Sections 13, 15 and 17, Chapter 240, O.S.L. 2003
3 (59 O.S. Supp. 2009, Sections 3113, 3115 and 3117)
4 - Deferred Deposit Lending Act - repealing 59 O.S.
5 2001, Section 1956 - Oklahoma Rental-Purchase Act -
6 repealing Section 9, Chapter 469, O.S.L. 2002, as
7 last amended by Section 13, Chapter 2, O.S.L. 2009
8 (59 O.S. Supp. 2009, Section 2093) - continuing
9 education courses for mortgage broker and mortgage
10 originator licenses - codification - effective date
11 emergency)

12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 14A O.S. 2001, Section 3-503, as
16 amended by Section 2, Chapter 431, O.S.L. 2009 (14A O.S. Supp. 2009,
17 Section 3-503), is amended to read as follows:

18 Section 3-503. (1) Application for a license shall be under
19 oath, shall give the approximate location from which the business is
20 to be conducted, and shall contain such relevant information as the
21 Administrator of Consumer Credit may require. When making
22 application for one or more licenses, the applicant shall pay ~~Two~~
23 ~~Hundred Twenty-five Dollars (\$225.00)~~ to the Administrator as an
24 investigation fee and ~~One Hundred Ninety Dollars (\$190.00)~~ for each

1 ~~license as the annual fee provided in this part for the current~~
2 ~~calendar year, provided if a license is granted after June 30, in~~
3 ~~any year, such fee shall be Ninety-five Dollars (\$95.00) for that~~
4 ~~year~~ an annual license fee.

5 (2) Every licensee shall maintain on file with the
6 Administrator a written appointment of a resident of this state as
7 the 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
10 be made on the Administrator.

11 (3) Every applicant shall, also, at the time of filing such
12 application, file with the Administrator, if required, a bond
13 satisfactory to the Administrator and in an amount not to exceed
14 Five Thousand Dollars (\$5,000.00) for the first license and One
15 Thousand Dollars (\$1,000.00) for each additional license with a
16 surety company qualified to do business in this state as surety,
17 whose total liability in the aggregate shall not exceed the amount
18 of such bond so fixed. The bond shall run to the state for the use
19 of the state and of any person or persons who may have cause of
20 action against the obligor of the bond under the provisions of this
21 title. Such bond shall be conditional that the obligor will
22 faithfully conform to and abide by the provisions of this title and
23 to all rules lawfully made by the Administrator hereunder and will
24 pay to the state and to any such person or persons any and all

1 amounts of money that may become due or owing to the state or to
2 such person or persons from such obligor under and by virtue of the
3 provisions of this title during the calendar year for which the bond
4 is given.

5 (4) As part of the investigation, the Administrator may conduct
6 a national criminal history check pursuant to subsection B of
7 Section 150.9 of Title 74 of the Oklahoma Statutes. The applicant
8 shall furnish to the Administrator, upon request by the
9 Administrator, a complete set of the applicant's fingerprints that
10 shall be certified by an authorized law enforcement officer.

11 ~~(5) Of the license fee provided for in subsection (1) of this~~
12 ~~section, One Hundred Fifty Dollars (\$150.00) shall be deposited in~~
13 ~~the General Revenue Fund of the State Treasury and Forty Dollars~~
14 ~~(\$40.00) shall be deposited in the Consumer Credit Administrative~~
15 ~~Expenses Revolving Fund created in Section 1 of this act.~~

16 ~~(6) Of the half year license fees provided for in subsection~~
17 ~~(1) of this section, Seventy five Dollars (\$75.00) shall be~~
18 ~~deposited in the General Revenue Fund of the State Treasury and~~
19 ~~Twenty Dollars (\$20.00) shall be deposited in the Consumer Credit~~
20 ~~Administrative Expenses Revolving Fund created in Section 1 of this~~
21 ~~act.~~

22 SECTION 2. AMENDATORY 14A O.S. 2001, Section 3-504, is
23 amended to read as follows:

24

1 Section 3-504. (1) On filing such application, bond, and
2 payment of the required fees, the Administrator of Consumer Credit
3 shall investigate the facts and if the Administrator shall find the
4 financial responsibility, experience, character and general fitness
5 of the applicant are such as to command the confidence of the public
6 and to warrant belief the business will be operated lawfully and
7 fairly, within the purposes of this title, and the applicant has
8 available for the operation of such business net assets of at least
9 Twenty-five Thousand Dollars (\$25,000.00), the Administrator shall
10 grant such application and issue to the applicant a license which
11 shall be the applicant's license and authority to make supervised
12 loans under the provisions of this title.

13 (2) If the Administrator shall not so find, the Administrator
14 shall notify the applicant, who shall, on request within thirty (30)
15 days be entitled to a hearing on such application within sixty (60)
16 days after the date of the request. The investigation fee shall be
17 retained by the Administrator, but the annual fee shall be returned
18 to the applicant in the event of denial.

19 (3) Each application for a license shall be granted or denied
20 within ninety (90) days from its filing with the required fees, or,
21 from the hearing thereon, if any, unless the period is extended by
22 written agreement between the applicant and the Administrator or the
23 independent hearing examiner.

24

1 (4) Each license shall state the address of the office from
2 which the business is to be conducted and the name of the licensee.
3 The license shall be displayed at the place of business named in the
4 license. The license shall not be transferable or assignable except
5 upon approval by the Administrator.

6 (5) Each license shall remain in full force and effect until
7 relinquished, suspended, revoked or expired. Every licensee shall,
8 on or before each December 1, pay to the Administrator ~~One Hundred~~
9 ~~Fifty Dollars (\$150.00)~~ a fee for each license held by the licensee,
10 as the annual fee for the succeeding calendar year. If the annual
11 fee remains unpaid fifteen (15) days after written notice of
12 delinquency has been given to the licensee by the Administrator, the
13 license shall thereupon expire but not before December 31 of any
14 year for which an annual fee has been paid. There shall be a late
15 fee ~~of Fifty Dollars (\$50.00)~~ for a late application for renewal of
16 a license received after December 1. The fee for a duplicate or
17 amended license shall be ~~Twenty-five Dollars (\$25.00)~~ prescribed by
18 rule of the Commission on Consumer Credit.

19 (6) Every licensee shall maintain net assets of at least
20 Twenty-five Thousand Dollars (\$25,000.00), either used or readily
21 available for use, in the conduct of the business of each licensed
22 office.

23 (7) A separate license shall be required for each office
24 operated under this title. The Administrator may issue more than

1 one license to any one person upon compliance with this part as to
2 each license. Nothing contained herein, however, shall be construed
3 to require a license for any place of business devoted to accounting
4 or other record keeping and where supervised loans are not made.

5 (8) When a licensee wishes to move an office to another
6 location, the licensee shall give thirty (30) days' written notice
7 to the Administrator, who shall amend the license accordingly.

8 (9) For purposes of this section, the term "office" shall mean
9 a location occupied by a licensee with the following
10 characteristics:

- 11 (a) a manager for the office who is not common to any
12 other supervised lender's office,
- 13 (b) a street and mailing address separate from any other
14 supervised lender's office,
- 15 (c) an entrance through which the public may access only
16 one supervised lender's office,
- 17 (d) separation from any other supervised lender's office
18 by walls or otherwise and through which neither
19 employees nor the public may pass, and
- 20 (e) any other characteristics required pursuant to rule
21 adopted by the Administrator.

22 (10) Any person holding a license under this title who shall
23 violate any provision hereof shall be subject to forfeiture of each
24 license held by the licensee and if a corporation, its charter shall

1 be subject to forfeiture, and it shall be the duty of the Attorney
2 General, when any such violation is called to the Attorney General's
3 attention, to file suit for such forfeiture of charter and
4 cancellation of the license in a district court in Oklahoma County.

5 SECTION 3. AMENDATORY 14A O.S. 2001, Section 3-505, is
6 amended to read as follows:

7 Section 3-505. (1) The Administrator of Consumer Credit shall
8 appoint an independent hearing examiner to conduct all
9 administrative hearings involving alleged violations of this title.
10 The independent hearing examiner shall have authority to exercise
11 all powers granted by Article II of the Administrative Procedures
12 Act in conducting hearings. The independent hearing examiner shall
13 recommend penalties authorized by this title and issue proposed
14 orders, with proposed findings of fact and proposed conclusions of
15 law, to the Administrator pursuant to Article II of the
16 Administrative Procedures Act. The Administrator shall review the
17 proposed order and issue a final agency order in accordance with
18 Article II of the Administrative Procedures Act. A final agency
19 order issued by the Administrator shall be appealable by all parties
20 to the district court as provided in Article II of the
21 Administrative Procedures Act. The costs of the hearing examiner
22 may be assessed by the hearing examiner against the respondent,
23 unless the respondent is the prevailing party.

24

1 (2) The Administrator ~~or the independent hearing examiner~~ may,
2 after notice and hearing, censure, probate, suspend, revoke or
3 refuse to renew any license, or in addition to or in lieu of
4 censure, probation, suspension or revocation, order refunds for
5 unlawful charges if the Administrator ~~or the independent hearing~~
6 ~~examiner~~ finds that:

7 (a) The licensee has failed to pay the annual license fee
8 imposed by this title, or an examination fee,
9 investigation fee or other fee or charge imposed by
10 the Administrator under the authority of this title,

11 (b) The licensee or any entity or individual subject to
12 the authority of this title, either knowingly or
13 without the exercise of due care to prevent the same,
14 has violated any provision of this title or any
15 regulation or order lawfully made pursuant to and
16 within the authority of this title, or

17 (c) Any fact or condition exists which, if it had existed
18 or had been known to exist at the time of the original
19 application for such license, clearly would have
20 justified the Administrator ~~or the independent hearing~~
21 ~~examiner~~ in refusing to issue such license, ~~or~~

22 ~~(d) The licensee acting as a mortgage broker as defined in~~
23 ~~the Mortgage Broker Licensure Act has violated the~~
24 ~~Mortgage Broker Licensure Act.~~

1 ~~(2) The hearing shall be held upon not less than twenty (20)~~
2 ~~days' notice in writing setting forth the time and place thereof and~~
3 ~~a concise statement of the facts alleged to sustain the~~
4 ~~administrative action, and its effective date shall be set forth in~~
5 ~~a written order accompanied by finding of fact and a copy thereof~~
6 ~~shall be forthwith delivered to the licensee. Such order, finding,~~
7 ~~and the evidence considered by the Administrator or the independent~~
8 ~~hearing examiner shall be filed with the public records of the~~
9 ~~Administrator.~~

10 (3) Any licensee may surrender any license by delivering it to
11 the Administrator with written notice of its surrender, but such
12 surrender shall not affect the administrative, civil or criminal
13 liability for acts committed prior thereto.

14 (4) No revocation, suspension, or surrender of any license
15 shall impair or affect the obligation of any preexisting lawful
16 contract between the licensee and any borrower.

17 (5) The Administrator ~~or the independent hearing examiner~~ may
18 reinstate suspended licenses or issue new licenses to a person whose
19 license or licenses have been revoked if no fact or condition then
20 exists which clearly would have justified the Administrator or the
21 independent hearing examiner in refusing originally to issue such
22 license under this part.

23 (6) Every licensee shall notify the Administrator of the
24 conviction of or plea of guilty or nolo contendere to any felony

1 within thirty (30) days after the plea is taken and also within
2 thirty (30) days of the entering of an order of judgment and
3 sentencing and shall notify the Administrator of any administrative
4 action resulting in revocation, suspension, or amendment of a
5 license taken against the licensee in another state within thirty
6 (30) days of the entering of the administrative order in that state.

7 SECTION 4. AMENDATORY 14A O.S. 2001, Section 3-506, is
8 amended to read as follows:

9 Section 3-506. (1) At such times as the Administrator of
10 Consumer Credit shall deem necessary, the Administrator or a duly
11 authorized representative shall make an examination of the place or
12 places of business of each licensee and shall inquire into and
13 examine the loans, transactions, books, accounts, papers,
14 correspondence, and records of such licensee insofar as they pertain
15 to the business regulated by this title. In the course of such
16 examination, the Administrator or the duly authorized representative
17 shall have free access to the office, place of business, files,
18 safes and vaults of such licensee, and shall have the right to make
19 copies of such books, accounts, papers, correspondence and records.
20 The Administrator or the duly authorized representative may, during
21 the course of such examination, administer oaths and examine any
22 person under oath upon any subject pertinent to any matter about
23 which the Administrator is authorized or required by this title to
24 consider, investigate, or secure information. Any licensee who

1 shall fail or refuse to let the Administrator or the duly authorized
2 representative examine or make copies of such books, or other
3 relevant documents shall thereby be deemed in violation of this
4 title and such failure or refusal shall constitute grounds for the
5 administrative action against such license. The information
6 obtained in the course of such examination shall be confidential.
7 Each licensee shall pay to the Administrator an ~~amount assessed by~~
8 ~~the Administrator to cover the direct and indirect cost of such~~
9 ~~examination and a proportionate share of general administrative~~
10 ~~expense, not to exceed Three Hundred Dollars (\$300.00); provided,~~
11 ~~however, that for any examination which lasts in excess of eight (8)~~
12 ~~hours, the Administrator shall charge an additional fee of Fifty~~
13 ~~Dollars (\$50.00) per hour for each examiner required to complete~~
14 ~~such an examination; provided, further, that the Administrator may~~
15 ~~waive the examination fee for any examination which takes one (1)~~
16 ~~hour or less. If an examination fee is due and is not paid upon~~
17 ~~completion of an examination, the Administrator shall bill the~~
18 ~~licensee, and there shall be a late fee of Fifty Dollars (\$50.00) if~~
19 ~~the amount due is not received within thirty (30) days of the~~
20 ~~invoice date. No licensee shall be assessed and charged a total fee~~
21 ~~in excess of Six Hundred Fifty Dollars (\$650.00) for each licensed~~
22 ~~office in any one (1) calendar year examination fee. The~~
23 Administrator may require payment of an examination fee either at
24

1 the time of initial application, renewal of the license, or after an
2 examination has been conducted.

3 (2) For the purpose of discovering violations of this title or
4 of securing information required hereunder, the Administrator or a
5 duly authorized representative may investigate the books, accounts,
6 papers, correspondence and records of any licensee or other person
7 whom the Administrator has reasonable cause to believe is violating
8 any provision of this title whether or not such person shall claim
9 to be within the authority or scope of this part. For the purpose
10 of this part, any person who advertises for, solicits or otherwise
11 communicates a willingness to make loans on which the loan finance
12 charge exceeds ten percent (10%) per year as determined according to
13 the provisions on loan finance charges for consumer loans, Section
14 3-201 of this title, shall be presumed to be engaged in the business
15 of making supervised loans.

16 (3) Each licensee shall keep or make available in this state
17 such books and records relating to loans made under this title as
18 are necessary to enable the Administrator to determine whether the
19 licensee is complying with this title. Such books and records shall
20 be consistent with accepted accounting practices.

21 (4) Each licensee shall preserve or make available such books
22 and records in this state relating to each of its loans for four (4)
23 years from the date of the loan, or two (2) years from the date of
24 the final entry made thereon, whichever is later. Each licensee's

1 system of records shall be accepted if it discloses such information
2 as may be reasonably required under this title. All obligations
3 signed by borrowers shall be kept at an office in this state
4 designated by the licensee, except when transferred under an
5 agreement which gives the Administrator access thereto.

6 (5) Each licensee shall, annually on or before the first day of
7 May, file a report with the Administrator setting forth such
8 relevant information as the Administrator may reasonably require
9 concerning the business and operations during the preceding calendar
10 year for each licensed place of business conducted by such licensee
11 with the state. Such report shall be made under oath and shall be
12 in the form prescribed by the Administrator, who shall make and
13 publish annually a consolidated analysis and recapitulation of such
14 reports, but the individual reports shall be held confidential.
15 There shall be a late fee of ~~Twenty-five Dollars (\$25.00)~~ for any
16 annual report received after May 1.

17 (6) The Administrator may promulgate rules necessary for the
18 enforcement of this title and consistent with all of its provisions.
19 Before adopting a rule the Administrator shall give every licensee
20 at least twenty (20) days' written notice of a public hearing,
21 stating the time and place thereof and the terms or substance of the
22 proposed rule. At the hearing, any licensee or other person may be
23 heard and introduce evidence, data, or arguments or place the same
24 on file. The Administrator shall adopt and promulgate every rule in

1 written form stating the date of adoption and the date of
2 promulgation. A copy of every rule shall be mailed to each licensee
3 prior to the effective date.

4 (7) On application of any person and payment of the costs
5 therefor, the Administrator shall furnish under the Administrator's
6 seal and signed by the Administrator or an assistant, a certificate
7 of good standing or a certified copy of any license, rule or order.

8 (8) Any transcript of any hearing held by the Administrator or
9 the independent hearing examiner under this title shall be a public
10 record and open to inspection at all reasonable times.

11 (9) Upon failure without lawful excuse to obey a subpoena or to
12 give testimony and upon reasonable notice to all persons affected
13 thereby, the Administrator or a representative may apply to a court
14 for an order compelling compliance, as provided by the
15 Administrative Procedures Act.

16 (10) There shall be assessed, in addition to any other
17 penalties provided for by law, an administrative service fee of
18 ~~Twenty five Dollars (\$25.00)~~ for each check returned to the
19 Department of Consumer Credit or any agent thereof by reason of the
20 refusal of the bank upon which such check was drawn to honor the
21 same. However, the fee provided in this subsection shall not be
22 assessed for any check returned because of "insufficient funds"
23 unless the check has been presented to the bank two times and
24 payment declined by the bank.

1 SECTION 5. AMENDATORY 14A O.S. 2001, Section 6-113, is
2 amended to read as follows:

3 Section 6-113. (1) After demand, the Administrator may bring a
4 civil action against a creditor for making or collecting charges in
5 excess of those permitted by ~~this act~~ the Uniform Consumer Credit
6 Code. An action may relate to transactions with more than one
7 debtor. If it is found that an excess charge has been made, the
8 court shall order the respondent to refund to the debtor or debtors
9 the amount of the excess charge. If a creditor has made an excess
10 charge in deliberate violation of or in reckless disregard for ~~this~~
11 ~~act~~ the Uniform Consumer Credit Code, or if a creditor has refused
12 to refund an excess charge within a reasonable time after demand by
13 the debtor or the Administrator the court may also order the
14 respondent to pay to the debtor or debtors a civil penalty in an
15 amount determined by the court not in excess of the greater of
16 either the amount of the credit service or loan finance charge or
17 ten times the amount of the excess charge. Refunds and penalties to
18 which the debtor is entitled pursuant to this subsection may be set
19 off against the debtor's obligation. If a debtor brings an action
20 against a creditor to recover an excess charge or civil penalty an
21 action by the Administrator to recover for the same excess charge or
22 civil penalty shall be stayed while the debtor's action is pending
23 and shall be dismissed if the debtor's action is dismissed with
24 prejudice or results in a final judgment granting or denying the

1 debtor's claim. With respect to excess charges arising from sales
2 made pursuant to revolving charge accounts or from loans made
3 pursuant to revolving loan accounts, no action pursuant to this
4 subsection may be brought more than two (2) years after the time the
5 excess charge was made. With respect to excess charges arising from
6 other consumer credit sales or consumer loans, no action pursuant to
7 this subsection may be brought more than one (1) year after the due
8 date of the last scheduled payment of the agreement pursuant to
9 which the charge was made. If the creditor establishes by a
10 preponderance of evidence that a violation is unintentional or the
11 result of a bona fide error, no liability to pay a penalty shall be
12 imposed under this subsection.

13 (2) The Administrator may bring a civil action against a
14 creditor or a person acting in his behalf to recover a civil penalty
15 for willfully violating ~~this act~~ the Uniform Consumer Credit Code,
16 and if the court finds that the defendant has engaged in a course of
17 repeated and willful violations of this act, it may assess a civil
18 penalty of no more than Five Thousand Dollars (\$5,000.00). No civil
19 penalty pursuant to this subsection may be imposed for violations of
20 ~~this act~~ the Uniform Consumer Credit Code occurring more than two
21 (2) years before the action is brought or for making unconscionable
22 agreements or engaging in a course of fraudulent or unconscionable
23 conduct.

24

1 (3) Any entity or individual offering to engage or engaged in
2 making consumer credit sales, consumer leases, consumer loans or
3 supervised loans in this state without a license or notification
4 filing required by this title shall be subject to a civil penalty
5 not to exceed Five Thousand Dollars (\$5,000.00).

6 (4) The Administrator may impose a civil penalty as prescribed
7 in subsection (3) of this section, after notice and hearing as
8 provided in Section 3-505 of this title and in accordance with
9 Article II of the Administrative Procedures Act. Any administrative
10 order or settlement agreement imposing a civil penalty pursuant to
11 this section may be enforced in the same manner as civil judgments
12 in this state. The Administrator may file an application to enforce
13 an administrative order or settlement agreement imposing a civil
14 penalty in the district court of Oklahoma County.

15 SECTION 6. AMENDATORY 14A O.S. 2001, Section 6-203, is
16 amended to read as follows:

17 Section 6-203. (1) Any person required to file notification
18 pursuant to the provisions of Section 6-201 of this title, on or
19 before January 31 of each year, shall pay to the Administrator of
20 Consumer Credit an annual fee of Twenty Dollars (\$20.00) for that
21 year for each business location. A late fee shall be charged for
22 any notification filed after January 31.

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~~ The term "licensee" or "license", as used in this
4 title, includes any entity or individual that has filed or is
5 required to file notification with the Administrator pursuant to the
6 provisions of Sections 6-201 through 6-203 of this title.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6-302 of Title 14A, unless there
9 is created a duplication in numbering, reads as follows:

10 (1) The Commission on Consumer Credit shall prescribe by
11 administrative rules all fees authorized by the Uniform Consumer
12 Credit Code. All fees prescribed by rule of the Commission shall be
13 in accordance with Article I of the Administrative Procedures Act.
14 Prior to July 1, 2011, the Commission shall establish all authorized
15 fees by emergency rule. Any fee established by emergency rule shall
16 remain effective until the fee is prescribed by permanent rule of
17 the Commission in accordance with Article I of the Administrative
18 Procedures Act. Any fees prescribed by rule after July 1, 2011,
19 shall be prescribed as permanent rules.

20 (2) Unless otherwise provided in Title 14A of the Oklahoma
21 Statutes, all fees and civil penalties authorized by the Uniform
22 Consumer Credit Code shall be deposited as follows:

23 (a) An amount up to One Hundred Fifty Dollars (\$150.00)
24 for supervised lender licenses shall be deposited in

1 the General Revenue Fund of the State Treasury. Any
2 amount in excess of One Hundred Fifty Dollars
3 (\$150.00) shall be deposited in the Consumer Credit
4 Administrative Expenses Revolving Fund established in
5 Section 6-301 of Title 14A of the Oklahoma Statutes.

6 (b) An amount up to Three Hundred Dollars (\$300.00) for
7 examination fees shall be deposited in the General
8 Revenue Fund of the State Treasury. Any amount in
9 excess of Three Hundred Dollars (\$300.00) shall be
10 deposited in the Consumer Credit Administrative
11 Expenses Revolving Fund established in Section 6-301
12 of Title 14A of the Oklahoma Statutes.

13 (c) An amount up to Two Hundred Twenty-five Dollars
14 (\$225.00) for an investigation fee shall be deposited
15 in the General Revenue Fund of the State Treasury.
16 Any amount in excess of Two Hundred Twenty-five
17 Dollars (\$225.00) shall be deposited in the Consumer
18 Credit Administrative Expenses Revolving Fund
19 established in Section 6-301 of Title 14A of the
20 Oklahoma Statutes.

21 (d) An amount up to Twenty Dollars (\$20.00) for
22 notification filings pursuant to Section 6-203 of
23 Title 14A of the Oklahoma Statutes shall be deposited
24 in the General Revenue Fund of the State Treasury.

1 Any amount in excess of Twenty Dollars (\$20.00) shall
2 be deposited in the Consumer Credit Administrative
3 Expenses Revolving Fund established in Section 6-301
4 of Title 14A of the Oklahoma Statutes.

5 (e) Civil penalties and all other fees authorized by the
6 Uniform Consumer Credit Code shall be deposited as
7 follows: seventy percent (70%) of civil penalties and
8 other authorized fees shall be deposited in the
9 Consumer Credit Administrative Expenses Revolving Fund
10 established in Section 6-301 of Title 14A of the
11 Oklahoma Statutes and thirty percent (30%) of civil
12 penalties and other authorized fees shall be deposited
13 in the General Revenue Fund of the State Treasury.

14 (3) Examination and investigation fees prescribed by rule of
15 the Commission shall not exceed Seven Hundred Fifty Dollars
16 (\$750.00). Examination and investigation fees shall not be
17 increased in an amount exceeding Two Hundred Dollars (\$200.00) in
18 any calendar year.

19 (4) Annual license fees prescribed by rule of the Commission
20 shall not exceed Five Hundred Dollars (\$500.00). Annual license
21 fees shall not be increased in an amount exceeding One Hundred
22 Dollars (\$100.00) in any calendar year.

23 SECTION 8. AMENDATORY 14A O.S. 2001, Section 6-501, is
24 amended to read as follows:

1 Section 6-501. There is hereby created:

2 (a) the Department of Consumer Credit;

3 (b) the Commission on Consumer Credit. The Commission
4 shall be the policy-making and governing authority of
5 the Department and shall appoint the Administrator and
6 be responsible for the enforcement of the Uniform
7 Consumer Credit Code; and

8 (c) the Office of Administrator of Consumer Credit. ~~The~~
9 ~~Commission shall be the policy-making and governing~~
10 ~~authority of the Department and shall appoint the~~
11 ~~Administrator and be responsible for the enforcement~~
12 ~~of this act; and~~

13 (d) the Consumer Credit Advisory Committee.

14 (i) The Consumer Credit Advisory Committee shall be
15 appointed by the Commission on Consumer Credit
16 and shall consist of the following members: two
17 licensed supervised lenders, one of whom shall be
18 recommended for appointment by the Oklahoma
19 Consumer Finance Association and one of whom
20 shall be recommended for appointment by the
21 Independent Finance Institute; one licensed
22 pawnbroker recommended for appointment by the
23 Oklahoma Pawnbrokers Association; one licensed
24 mortgage broker and mortgage loan originator

1 recommended for appointment by the Oklahoma
2 Association of Mortgage Professionals; one
3 licensed rental dealer recommended for
4 appointment by the Oklahoma Rental Dealers
5 Association; one licensed precious metal and gem
6 dealer; one licensed health spa; one licensed
7 credit services organization; one entity or
8 individual that has filed notification pursuant
9 to Section 6-202 of this title; one entity
10 licensed as a deferred deposit lender recommended
11 for appointment by the Community Financial
12 Services Association of America; and the
13 Administrator of Consumer Credit. The
14 Administrator of Consumer Credit shall serve as
15 the Chair of the Advisory Committee. If a
16 licensee is an entity, the Commission may appoint
17 an employee of the licensed entity to serve on
18 the Consumer Credit Advisory Committee. The
19 Commission shall have authority to prescribe
20 rules to govern appointments to the Consumer
21 Credit Advisory Committee.

22 (ii) The appointments shall be a public record of the
23 Department of Consumer Credit. The term of
24 office for each appointed member shall begin

1 January 1, 2011, and shall continue for a period
2 of four (4) years expiring on January 1. For
3 initial appointments, the Commission shall
4 appoint two members to serve for a term of one
5 (1) year, two members to serve for a term of two
6 (2) years, three members to serve for a term of
7 three (3) years, and three members to serve for a
8 term of four (4) years from their respective
9 dates of appointment and qualification. Each
10 appointed member shall be eligible for
11 reappointment.

12 (iii) The Consumer Credit Advisory Committee shall have
13 authority to review fees applicable to licensees
14 of the Department of Consumer Credit. The
15 Consumer Credit Advisory Committee shall make
16 recommendations to the Commission on Consumer
17 Credit regarding any fees applicable to licensees
18 of the Department. The Consumer Credit Advisory
19 Committee shall also have the authority to adopt
20 rules for conducting its proceedings.

21 (iv) The Consumer Credit Advisory Committee shall meet
22 on an annual basis and at such other times as
23 necessary.

1 (v) Meetings of the Consumer Credit Advisory
2 Committee shall be held in accordance with the
3 Oklahoma Open Meeting Act.

4 (vi) Members of the Consumer Credit Advisory Committee
5 may be reimbursed for travel costs in accordance
6 with the State Travel Reimbursement Act.

7 SECTION 9. AMENDATORY 24 O.S. 2001, Section 143, is
8 amended to read as follows:

9 Section 143. A. Upon the filing of an application and bond,
10 payment of ~~the~~ an annual license fee ~~of One Hundred Dollars~~
11 ~~(\$100.00)~~, and an investigation fee ~~of One Hundred Dollars~~
12 ~~(\$100.00)~~, the Administrator shall conduct an investigation. If the
13 Administrator of Consumer Credit finds that the financial
14 responsibility, experience, character and general fitness of the
15 applicant are such as to warrant belief that the business will be
16 operated pursuant to the Credit Services Organization Act and rules
17 promulgated pursuant thereto, the Administrator shall grant the
18 application and issue to the applicant a license which will evidence
19 ~~his~~ the authority of the applicant to do business under the
20 provisions of the Credit Services Organization Act.

21 B. If the Administrator does not so find facts sufficient to
22 warrant issuance of a license, he shall notify the applicant. If
23 within thirty (30) days of such notification the applicant requests
24 a hearing on the application, a hearing shall be held within sixty

1 (60) days after the date of the request. In the event of the denial
2 of a license, the investigation fee shall be retained by the
3 Administrator, but the annual license fee shall be returned to the
4 applicant.

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

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

21 E. The Commission on Consumer Credit may prescribe by rule a
22 fee for each license change, duplicate license or returned check.

23 SECTION 10. AMENDATORY 24 O.S. 2001, Section 144, is
24 amended to read as follows:

1 Section 144. A. Each license shall state the name of the
2 license and the address of which the business is to be conducted.
3 The license shall be displayed at the place of business named in the
4 license. The license shall not be transferable or assignable except
5 upon approval by the Administrator of Consumer Credit.

6 B. A separate license shall be required for each credit service
7 organization operated pursuant to the Credit Services Organization
8 Act.

9 The Administrator may issue more than one license to any one
10 person upon compliance with the provisions of the Credit Services
11 Organization Act as to each license. A licensee desiring to move
12 his credit service operation to another location shall give thirty
13 (30) days' written notice to the Administrator, who shall amend the
14 license accordingly.

15 C. Each license shall remain in full force and effect until
16 relinquished, suspended, revoked or expired. Every licensee, on or
17 before December 1 of each year, shall pay the Administrator ~~One~~
18 ~~Hundred Dollars (\$100.00)~~ a license renewal fee for each license
19 held by ~~him~~ the licensee as the annual fee for the succeeding
20 calendar year. If the annual fee remains unpaid fifteen (15) days
21 after written notice of delinquency has been given to the licensee
22 by the Administrator, the license shall thereupon expire, but
23 expiration shall not occur before December 31 of any year for which
24 an annual fee has been paid.

1 D. A late fee, as prescribed by rule of the Commission on
2 Consumer Credit, shall be imposed for any license renewed after
3 December 1.

4 SECTION 11. AMENDATORY 24 O.S. 2001, Section 145, is
5 amended to read as follows:

6 Section 145. A. The Administrator shall appoint an independent
7 hearing examiner to conduct all administrative hearings involving
8 alleged violations of the Credit Services Organization Act. The
9 independent hearing examiner shall have authority to exercise all
10 powers granted by Article II of the Administrative Procedures Act in
11 conducting hearings. The independent hearing examiner shall have
12 authority to recommend penalties authorized by the Credit Services
13 Organization Act and issue proposed orders, with proposed findings
14 of fact and proposed conclusions of law, to the Administrator
15 pursuant to Article II of the Administrative Procedures Act. The
16 Administrator shall review the proposed order and issue a final
17 agency order in accordance with Article II of the Administrative
18 Procedures Act. A final agency order issued by the Administrator
19 shall be appealable by all parties to the district court as provided
20 in Article II of the Administrative Procedures Act. The costs of
21 the hearing examiner may be assessed by the hearing examiner against
22 the respondent, unless the respondent is the prevailing party.

23 B. The Administrator may, after notice and hearing, decline to
24 renew a license, suspend or revoke any license, or in addition to or

1 in lieu of suspension or revocation, order refunds for any unlawful
2 charges or enter a cease and desist order if he the Administrator
3 finds that:

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

7 2. The licensee or any entity or individual subject to the
8 Credit Services Organization Act, either knowingly or without the
9 exercise of due care to prevent the same, has violated any
10 provisions of the Credit Services Organization Act or any regulation
11 or order lawfully made pursuant thereto; or

12 3. Any fact or condition exists which, if it had existed or had
13 been known to exist at the time of the original application for a
14 license, clearly would have justified the Administrator in refusing
15 the license.

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

1 C. Any licensee may surrender any license by delivering it to
2 the Administrator with written notice of its surrender, but such
3 surrender shall not affect the licensee's civil or criminal
4 liability for acts committed prior thereto.

5 D. No revocation, suspension or surrender of any license shall
6 impair or affect the obligation of any preexisting lawful contract
7 between the licensee and any customer.

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

13 F. On application of any person and payment of the cost
14 thereof, the Administrator shall furnish under ~~his~~ the seal and
15 signature of the Administrator a certificate of good standing or a
16 certified copy of any license.

17 G. Any entity or individual offering to engage or engaged as a
18 credit service organization without a license in this state shall be
19 subject to a civil penalty not to exceed Five Thousand Dollars
20 (\$5,000.00).

21 H. The Administrator may impose a civil penalty as prescribed
22 in subsection G of this section, after notice and hearing in
23 accordance with Article II of the Administrative Procedures Act.
24 Any administrative order or settlement agreement imposing a civil

1 penalty pursuant to this section may be enforced in the same manner
2 as civil judgments in this state. The Administrator may file an
3 application to enforce an administrative order or settlement
4 agreement imposing a civil penalty in the district court of Oklahoma
5 County.

6 SECTION 12. AMENDATORY 24 O.S. 2001, Section 146, is
7 amended to read as follows:

8 Section 146. A. At such times as the Administrator of Consumer
9 Credit may deem necessary, the Administrator or ~~his~~ a duly
10 authorized representative of the Administrator may make an
11 examination of the place of business of each licensee and may
12 inquire into and examine the transactions, books, accounts, papers,
13 correspondence and records of such licensee insofar as they pertain
14 to the business regulated by the Credit Services Organization Act.
15 Such books, accounts, papers, correspondence and records shall also
16 be open for inspection at any reasonable time by any peace officer,
17 without any need of judicial writ or other process. In the course
18 of an examination, the Administrator or ~~his~~ a duly authorized
19 representative of the Administrator shall have free access to the
20 office, place of business, files, safes and vaults of such licensee,
21 and shall have the right to make copies of any books, accounts,
22 papers, correspondence and records. The Administrator or ~~his~~ duly
23 authorized representative, during the course of such examination,
24 may administer oaths and examine any person under oath upon any

1 subject pertinent to any matter about which the Administrator is
2 authorized or required by the Credit Services Organization Act to
3 consider, investigate or secure information. Any licensee who fails
4 or refuses to permit the Administrator or ~~his~~ duly authorized
5 representative to examine or make copies of such books or other
6 relevant documents shall be deemed to be in violation of the Credit
7 Services Organization Act and such failure or refusal shall
8 constitute grounds for the suspension or revocation of such license.
9 The information obtained in the course of any examination or
10 inspection shall be confidential, except in civil or administrative
11 proceedings conducted by the Administrator, or criminal proceedings
12 instituted by the state. Each licensee shall pay to the
13 Administrator ~~an amount assessed by the Administrator to cover the~~
14 ~~direct or indirect cost of such examination, not to exceed Two~~
15 ~~Hundred Dollars (\$200.00) in any calendar year~~ examination fee. The
16 Administrator may require payment of an examination fee either at
17 the time of initial application, renewal of the license, or after an
18 examination has been conducted.

19 B. For the purpose of discovering violations of the Credit
20 Services Organization Act or of securing information required by the
21 Credit Services Organization Act, the Administrator or ~~his~~ duly
22 authorized representative may investigate the books, accounts,
23 papers, correspondence and records of any licensee or other person
24 who the Administrator has reasonable cause to believe is violating

1 any provision of the Credit Services Organization Act whether or not
2 such person shall claim to be within the authority or scope of the
3 Credit Services Organization Act.

4 C. Each licensee shall keep or make available in this state
5 such books and records relating to credit service transactions made
6 pursuant to the Credit Services Organization Act as are necessary to
7 enable the Administrator to determine whether the licensee is
8 complying with the Credit Services Organization Act. Such books and
9 records shall be consistent with accepted accounting practices.

10 D. Each licensee shall preserve or make available such books
11 and records in this state relating to each of its credit service
12 transactions for four (4) years from the date of the transaction, or
13 two (2) years from the date of the final entry made thereon,
14 whichever is later. Each licensee's system of records shall be
15 accepted if it discloses such information as may be reasonably
16 required pursuant to the Credit Services Organization Act. All
17 agreements signed by customers shall be kept at an office in this
18 state designated by the licensee, except when transferred under an
19 agreement which gives the Administrator access thereto.

20 E. Each licensee, annually on or before the first day of May or
21 other date thereafter fixed by the Administrator, shall file a
22 report with the Administrator setting forth such relevant
23 information as the Administrator may reasonably require concerning
24 the business and operations during the preceding calendar year for

1 each licensed place of business conducted by such licensee within
2 the state. Such report shall be made under oath and shall be in the
3 form prescribed by the Administrator, who may make and publish
4 annually a consolidated analysis and recapitulation of such reports,
5 but the individual reports shall be held confidential.

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

9 A. The Commission on Consumer Credit shall prescribe by
10 administrative rule all fees authorized by the Credit Services
11 Organization Act. All fees prescribed by rule of the Commission
12 shall be in accordance with Article I of the Administrative
13 Procedures Act. Prior to July 1, 2011, the Commission shall
14 establish all authorized fees by emergency rule. Any fee
15 established by emergency rule shall remain effective until the fee
16 is prescribed by permanent rule of the Commission in accordance with
17 Article I of the Administrative Procedures Act. Any fees prescribed
18 by rule after July 1, 2011, shall be prescribed as permanent rules.

19 B. Unless otherwise provided in the Credit Services
20 Organization Act, all fees and civil penalties prescribed by rule of
21 the Commission shall be deposited as follows:

22 1. An amount up to One Hundred Dollars (\$100.00) for annual
23 license fees shall be deposited in the General Revenue Fund of the
24 State Treasury. Any amount in excess of One Hundred Dollars

1 (\$100.00) shall be deposited in the Consumer Credit Administrative
2 Expenses Revolving Fund established in Section 6-301 of Title 14A of
3 the Oklahoma Statutes;

4 2. An amount up to Two Hundred Dollars (\$200.00) for
5 examination fees shall be deposited in the General Revenue Fund of
6 the State Treasury. Any amount in excess of Two Hundred Dollars
7 (\$200.00) shall be deposited in the Consumer Credit Administrative
8 Expenses Revolving Fund established in Section 6-301 of Title 14A of
9 the Oklahoma Statutes;

10 3. An amount up to One Hundred Dollars (\$100.00) for
11 investigation fees shall be deposited in the General Revenue Fund of
12 the State Treasury. Any amount in excess of One Hundred Dollars
13 (\$100.00) shall be deposited in the Consumer Credit Administrative
14 Expenses Revolving Fund established in Section 6-301 of Title 14A of
15 the Oklahoma Statutes; and

16 4. All other fees and civil penalties authorized by the Credit
17 Services Organization Act shall be deposited in the Consumer Credit
18 Administrative Expenses Revolving Fund created in Section 6-301 of
19 Title 14A of the Oklahoma Statutes.

20 C. Examination and investigation fees prescribed by rule of the
21 Commission shall not exceed Seven Hundred Fifty Dollars (\$750.00).
22 Examination and investigation fees shall not be increased in an
23 amount exceeding Two Hundred Dollars (\$200.00) in any calendar year.

24

1 D. Annual license fees prescribed by rule of the Commission
2 shall not exceed Five Hundred Dollars (\$500.00). Annual license
3 fees shall not be increased in an amount exceeding One Hundred
4 Dollars (\$100.00) in any calendar year.

5 SECTION 14. AMENDATORY 59 O.S. 2001, Section 1505, as
6 amended by Section 3, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009,
7 Section 1505), is amended to read as follows:

8 Section 1505. A. Upon the filing of an application and bond
9 and payment of ~~the~~ an annual license fee of ~~One Hundred Forty~~
10 ~~Dollars (\$140.00)~~ and an investigation fee of ~~One Hundred Twenty~~
11 ~~five Dollars (\$125.00)~~, the Administrator of Consumer Credit shall
12 conduct an investigation. If ~~he~~ the Administrator finds that the
13 financial responsibility, experience, character and general fitness
14 of the applicant are such as to warrant belief that the business
15 will be operated lawfully and fairly, within the purposes of ~~Section~~
16 ~~1501 et seq. of this title~~ the Oklahoma Pawnshop Act, and the
17 applicant meets the eligibility requirements of Section 1503A of
18 this title, ~~he~~ the Administrator shall grant the application and
19 issue to the applicant a license which will evidence ~~his~~ the
20 applicant's authority to do business under the provisions of ~~Section~~
21 ~~1501 et seq. of this title~~ the Oklahoma Pawnshop Act. Provided,
22 ~~that if a license is granted pursuant to an application filed after~~
23 ~~June 30 of any year the license fee for the balance of such year~~
24 ~~shall be Seventy Dollars (\$70.00).~~

1 B. If the Administrator does not so find facts sufficient to
2 warrant issuance of a license, ~~he~~ the Administrator shall notify the
3 applicant. If within thirty (30) days of such notification the
4 applicant requests a hearing on the application, a hearing shall be
5 held within sixty (60) days after the date of the request. In the
6 event of the denial of a license, the investigation fee shall be
7 retained by the Administrator, but the annual license fee shall be
8 returned to the applicant.

9 C. The Administrator shall grant or deny each application for
10 license within sixty (60) days from its filing with the required
11 fees, or from the hearing thereon, if any, unless the period is
12 extended by written agreement between the applicant and the
13 Administrator.

14 D. No license to engage in the business of a pawnbroker shall
15 be issued for any location where a license has been issued and is in
16 effect under the provisions of Section 3-501 et seq. of Title 14A of
17 the Oklahoma Statutes. The word "location" as used in this
18 subsection means the entire space in which a Title 14A licensee
19 conducts business. No pawnshop may be connected with any location
20 in which a Title 14A licensee conducts business, except by a
21 passageway to which the public is not admitted.

22 ~~E. Of the license fee provided for in subsection A of this~~
23 ~~section, One Hundred Dollars (\$100.00) shall be deposited in the~~
24 ~~General Revenue Fund of the State Treasury and Forty Dollars~~

1 ~~(\$40.00) shall be deposited in the Consumer Credit Administrative~~
2 ~~Expenses Revolving Fund created in Section 1 of this act.~~

3 ~~F. Of the half-year license fees provided for in subsection A~~
4 ~~of this section, Fifty Dollars (\$50.00) shall be deposited in the~~
5 ~~General Revenue Fund of the State Treasury and Twenty Dollars~~
6 ~~(\$20.00) shall be deposited in the Consumer Credit Administrative~~
7 ~~Expenses Revolving Fund created in Section 1 of this act.~~

8 SECTION 15. AMENDATORY 59 O.S. 2001, Section 1506, as
9 amended by Section 4, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009,
10 Section 1506), is amended to read as follows:

11 Section 1506. A. Each license shall state the name of the
12 licensee and the address at which the business is to be conducted.
13 The license shall be displayed at the place of business named in the
14 license. The license shall not be transferable or assignable except
15 upon approval by the Administrator of Consumer Credit.

16 B. A separate license shall be required for each pawnshop
17 operated under ~~this act~~ the Oklahoma Pawnshop Act.

18 The Administrator may issue more than one license to any one
19 person upon compliance with the provisions of this act as to each
20 license. When a licensee wishes to move ~~his~~ the licensee's pawnshop
21 to another location, ~~he~~ the licensee shall give thirty (30) days'
22 written notice to the Administrator, who shall amend the license
23 accordingly.

24

1 C. Each license shall remain in full force and effect until
2 relinquished, suspended, revoked or expired. Every licensee, on or
3 before each December 1, shall pay the Administrator ~~One Hundred~~
4 ~~Forty Dollars (\$140.00)~~ for each license held by him as the an
5 annual fee for the succeeding calendar year. If the annual fee
6 remains unpaid fifteen (15) days after written notice of delinquency
7 has been given to the licensee by the Administrator, the license
8 shall thereupon expire, but expiration shall not occur before
9 December 31 of any year for which an annual fee has been paid.

10 D. No licensing requirement or license fee shall be required,
11 levied or collected by any municipal corporation of this state;
12 provided that municipal corporations may require the payment of
13 regulatory fees not in excess of Fifty Dollars (\$50.00) per annum.

14 ~~E. Of the license fee provided for in subsection C of this~~
15 ~~section, One Hundred Dollars (\$100.00) shall be deposited in the~~
16 ~~General Revenue Fund of the State Treasury and Forty Dollars~~
17 ~~(\$40.00) shall be deposited in the Consumer Credit Administrative~~
18 ~~Expenses Revolving Fund created in Section 1 of this act.~~

19 SECTION 16. AMENDATORY 59 O.S. 2001, Section 1507, is
20 amended to read as follows:

21 Section 1507. A. The Administrator shall appoint an
22 independent hearing examiner to conduct all administrative hearings
23 involving alleged violations of the Oklahoma Pawnshop Act. The
24 independent hearing examiner shall have authority to exercise all

1 powers granted by Article II of the Administrative Procedures Act in
2 conducting hearings. The independent hearing examiner shall have
3 authority to recommend penalties authorized by the Oklahoma Pawnshop
4 Act and issue proposed orders, with proposed findings of fact and
5 proposed conclusions of law, to the Administrator pursuant to
6 Article II of the Administrative Procedures Act. The Administrator
7 shall review the proposed order and issue a final agency order in
8 accordance with Article II of the Administrative Procedures Act. A
9 final agency order issued by the Administrator shall be appealable
10 by all parties to the district court as provided in Article II of
11 the Administrative Procedures Act. The costs of the hearing
12 examiner may be assessed by the hearing examiner against the
13 respondent, unless the respondent is the prevailing party.

14 B. The Administrator may, after notice and hearing, decline to
15 renew a license, suspend or revoke any license, or in addition to or
16 in lieu of suspension or revocation, order refunds for any unlawful
17 charges or enter a cease and desist order if ~~he~~ the Administrator
18 finds that:

19 1. The licensee or any entity or individual subject to the
20 Oklahoma Pawnshop Act has failed to pay any fee or charge properly
21 imposed by the Administrator under the authority of ~~this act~~ the
22 Oklahoma Pawnshop Act;

23 2. The licensee, either knowingly or without the exercise of
24 due care to prevent the same, has violated any provision of ~~this act~~

1 the Oklahoma Pawnshop Act or any ~~regulation~~ rule or order lawfully
2 made pursuant to and within the authority of ~~this act~~ the Oklahoma
3 Pawnshop Act; or

4 3. Any fact or condition exists which, if it had existed or had
5 been known to exist at the time of the original application for a
6 license, clearly would have justified the Administrator in refusing
7 the license.

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

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

21 D. No revocation, suspension or surrender of any license shall
22 impair or affect the obligation of any preexisting lawful contract
23 between the licensee and any customer.

24

1 E. The Administrator may reinstate suspended licenses or issue
2 new licenses to a person whose license or licenses have been revoked
3 if no fact or condition then exists which clearly would have
4 justified the Administrator in refusing originally to issue such
5 license under ~~this act~~ the Oklahoma Pawnshop Act.

6 F. On application of any person and payment of the cost
7 thereof, the Administrator shall furnish under ~~his~~ the
8 Administrator's seal and signature a certificate of good standing or
9 a certified copy of any license.

10 G. The Commission on Consumer Credit shall prescribe by rule a
11 fee for each license change, duplicate license, or returned check.

12 H. A licensee shall pay a late fee as prescribed by rule of the
13 Commission on Consumer Credit if a license is not renewed by
14 December 1.

15 I. Any entity or individual offering to engage or engaged in
16 making pawn transactions in this state without a license shall be
17 subject to a civil penalty not to exceed Five Thousand Dollars
18 (\$5,000.00).

19 J. The Administrator may impose a civil penalty as prescribed
20 in subsection I of this section, after notice and hearing in
21 accordance with Article II of the Administrative Procedures Act.
22 Any administrative order or settlement agreement imposing a civil
23 penalty pursuant to this section may be enforced in the same manner
24 as civil judgments in this state. The Administrator may file an

1 application to enforce an administrative order or settlement
2 agreement imposing a civil penalty in the district court of Oklahoma
3 County.

4 SECTION 17. AMENDATORY 59 O.S. 2001, Section 1508, is
5 amended to read as follows:

6 Section 1508. A. At such times as the Administrator of
7 Consumer Credit may deem necessary, the Administrator or ~~his~~ a duly
8 authorized representative of the Administrator may make an
9 examination of the place of business of each licensee and may
10 inquire into and examine the transactions, books, accounts, papers,
11 correspondence and records of such licensee insofar as they pertain
12 to the business regulated by ~~Section 1501 et seq. of this title~~ the
13 Oklahoma Pawnshop Act. Such books, accounts, papers,
14 correspondence, records and property taken, purchased or received
15 shall also be open for inspection at any reasonable time to federal
16 law enforcement officials and the chief of police, district
17 attorney, sheriff or written designee of the law enforcement body in
18 whose jurisdiction the pawnshop is located, without any need of
19 judicial writ or other process. In the course of an examination,
20 the Administrator or ~~his~~ duly authorized representative or any
21 authorized peace officer shall have free access to the office, place
22 of business, files, safes and vaults of such licensee, and shall
23 have the right to make copies of any books, accounts, papers,
24 correspondence and records insofar as they pertain to the business

1 regulated by ~~Section 1501 et seq. of this title~~ the Oklahoma
2 Pawnshop Act. The Administrator or ~~his~~ duly authorized
3 representative may, during the course of such examination,
4 administer oaths and examine any person under oath upon any subject
5 pertinent to any matter about which the Administrator is authorized
6 or required by ~~this act~~ the Oklahoma Pawnshop Act to consider,
7 investigate or secure information. Any licensee who fails or
8 refuses to permit the Administrator or ~~his~~ duly authorized
9 representative or any authorized peace officer to examine or make
10 copies of such books or other relevant documents shall thereby be
11 deemed in violation of ~~this act~~ the Oklahoma Pawnshop Act and such
12 failure or refusal shall constitute grounds for the suspension or
13 revocation of such license. The information obtained in the course
14 of any examination or inspection shall be confidential, except in
15 civil or administrative proceedings conducted by the Administrator,
16 or criminal proceedings instituted by the state. Each licensee
17 shall pay to the Administrator an ~~amount assessed by the~~
18 ~~Administrator to cover the direct or indirect cost of such~~
19 ~~examination, not to exceed Two Hundred Dollars (\$200.00) in any~~
20 ~~calendar year~~ examination fee. The Administrator may require
21 payment of an examination fee either at the time of initial
22 application, renewal of the license, or after an examination has
23 been conducted.

24

1 B. Whenever a peace officer has probable cause to believe that
2 property in possession of a licensed pawnbroker is stolen or
3 embezzled, the peace officer of the local law enforcement agency of
4 the municipality or other political subdivision in which the
5 pawnshop resides may place a written hold order on the property.
6 The initial term of the written hold order shall not exceed thirty
7 (30) days. However, the holding period may be extended in
8 successive thirty (30) day increments upon written notification
9 prior to the expiration of the initial holding period. If the
10 holding period has expired and has not been extended, the hold order
11 shall be considered expired and no longer in effect, and title shall
12 vest in the pawnbroker subject to any restrictions contained in the
13 pawn contract. The initial written hold order shall contain the
14 following information:

15 1. Signature of the pawnbroker or ~~his~~ designee;

16 2. Name, title and identification number of the peace officer
17 placing the hold order;

18 3. Name and address of the agency to which the peace officer is
19 attached and the offense number;

20 4. Complete description of the property to be held, including
21 model number, serial number and transaction number;

22 5. Name of agency reporting the property to be stolen or
23 embezzled;

24 6. Mailing address of the pawnshop where the property is held;

1 7. Expiration date of the holding period.

2 C. While a hold order is in effect, the pawnbroker may consent
3 to release, upon written receipt, the stolen or embezzled property
4 to the custody of the local law enforcement agency to which the
5 peace officer placing the hold order is attached. The consent to
6 release the stolen or embezzled property to the custody of law
7 enforcement is not a waiver or release of the pawnbroker's property
8 rights or interest in the property. Otherwise, the pawnbroker shall
9 not release or dispose of the property except pursuant to a court
10 order or the expiration of the holding period including all
11 extensions. The district attorney's office shall notify the
12 pawnbroker in writing in cases where criminal charges have been
13 filed that the property may be needed as evidence. The notice shall
14 contain the case number, the style of the case, and a description of
15 the property. The pawnbroker shall hold such property until
16 receiving notice of the disposition of the case from the district
17 attorney's office. The district attorney's office shall notify the
18 pawnbroker in writing within fifteen (15) days of the disposition of
19 the case. Willful noncompliance of a pawnbroker to a written hold
20 order shall be cause for the pawnbroker's license to either be
21 suspended or revoked pursuant to paragraph 2 of subsection A of
22 Section 1507 of this title. A hold order may be released prior to
23 the expiration of any thirty-day holding period by written release
24 from the agency placing the initial hold order.

1 D. For the purpose of discovering violations of ~~this act~~ the
2 Oklahoma Pawnshop Act or of securing information required hereunder,
3 the Administrator or ~~his~~ duly authorized representative may
4 investigate the books, accounts, papers, correspondence and records
5 of any licensee or other person who the Administrator has reasonable
6 cause to believe is violating any provision of ~~this act~~ the Oklahoma
7 Pawnshop Act whether or not such person shall claim to be within the
8 authority or scope of ~~this act~~ the Oklahoma Pawnshop Act. For the
9 purpose of this section, any person who advertises for, solicits or
10 holds himself out as willing to make pawn transactions, shall be
11 presumed to be a pawnbroker.

12 E. Each licensee shall keep or make available in this state
13 such books and records relating to pawn transactions made under ~~this~~
14 ~~act~~ the Oklahoma Pawnshop Act as are necessary to enable the
15 Administrator to determine whether the licensee is complying with
16 ~~this act~~ the Oklahoma Pawnshop Act. Such books and records shall be
17 consistent with accepted accounting practices.

18 F. Each licensee shall preserve or make available such books
19 and records in this state relating to each of its pawn transactions
20 for four (4) years from the date of the transaction, or two (2)
21 years from the date of the final entry made thereon, whichever is
22 later. Each licensee's system of records shall be accepted if it
23 discloses such information as may be reasonably required under ~~this~~
24 ~~act~~ the Oklahoma Pawnshop Act. All agreements signed by customers

1 shall be kept at an office in this state designated by the licensee,
2 except when transferred under an agreement which gives the
3 Administrator access thereto. All credit sales made by a
4 pawnbroker, other than those sales defined in paragraph 6 of Section
5 1502 of this title, as a pawn transaction, shall be made in
6 accordance with and subject to the provisions of Title 14A of the
7 Oklahoma Statutes.

8 G. Each licensee shall, annually on or before the first day of
9 May or other date thereafter fixed by the Administrator, file a
10 report with the Administrator setting forth such relevant
11 information as the Administrator may reasonably require concerning
12 the business and operations during the preceding calendar year for
13 each licensed place of business conducted by such licensee within
14 the state. Such report shall be made under oath and shall be in the
15 form prescribed by the Administrator, who may make and publish
16 annually a consolidated analysis and recapitulation of such reports,
17 but the individual reports shall be held confidential.

18 H. The Administrator may ~~make regulations~~ promulgate rules
19 necessary for the enforcement of ~~this act~~ the Oklahoma Pawnshop Act
20 and consistent with all its provisions. Before making such a
21 ~~regulation~~ rule relating to the licensees subject to ~~this act~~ the
22 Oklahoma Pawnshop Act, the Administrator shall give each licensee at
23 least thirty (30) days' written notice of a public hearing, stating
24 the time and place thereof and the terms or substance of the

1 proposed regulation. At the hearing, any licensee or other person
2 may be heard and may introduce evidence, data or arguments or place
3 the same on file. The Administrator, after consideration of all
4 relevant matters presented, shall adopt and promulgate every
5 ~~regulation~~ rule in written form, stating the date of adoption and
6 date of promulgation. Each such ~~regulation~~ rule shall be entered in
7 a permanent record book which shall be public record and be kept in
8 the Administrator's office. A copy of every ~~regulation~~ rule shall
9 be mailed to each licensee, and no such ~~regulation~~ rule shall become
10 effective until the expiration of at least twenty (20) days after
11 such mailing. On the application of any person and payment of the
12 cost thereof, the Administrator shall furnish such person a
13 certified copy of such ~~regulation~~ rule.

14 I. Except as otherwise expressly provided in ~~this act~~ the
15 Oklahoma Pawnshop Act, the Administrative Procedures Act, Section
16 251 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes,
17 applies to and governs all administrative actions and civil
18 proceedings taken by the Administrator pursuant to ~~this act~~ the
19 Oklahoma Pawnshop Act.

20 SECTION 18. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1515.1 of Title 59, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The Commission on Consumer Credit shall prescribe by
24 administrative rules all fees authorized by the Oklahoma Pawnshop

1 Act. All fees prescribed by rule of the Commission shall be in
2 accordance with Article I of the Administrative Procedures Act.
3 Prior to July 1, 2011, the Commission shall establish all authorized
4 fees by emergency rule. Any fee established by emergency rule shall
5 remain effective until the fee is prescribed by permanent rule of
6 the Commission in accordance with Article I of the Administrative
7 Procedures Act. Any fees prescribed by rule after July 1, 2011,
8 shall be prescribed as permanent rules.

9 B. Unless otherwise provided in the Oklahoma Pawnshop Act, all
10 fees and civil penalties authorized by the Oklahoma Pawnshop Act
11 shall be deposited as follows:

12 1. An amount up to One Hundred Dollars (\$100.00) for annual
13 license fees shall be deposited in the General Revenue Fund of the
14 State Treasury. Any amount in excess of One Hundred Dollars
15 (\$100.00) shall be deposited in the Consumer Credit Administrative
16 Expenses Revolving Fund established in Section 6-301 of Title 14A of
17 the Oklahoma Statutes;

18 2. An amount up to Two Hundred Dollars (\$200.00) for
19 examination fees shall be deposited in the General Revenue Fund of
20 the State Treasury. Any amount in excess of Two Hundred Dollars
21 (\$200.00) shall be deposited in the Consumer Credit Administrative
22 Expenses Revolving Fund established in Section 6-301 of Title 14A of
23 the Oklahoma Statutes;

24

1 3. An amount up to One Hundred Twenty-five Dollars (\$125.00)
2 for an investigation fee shall be deposited in the General Revenue
3 Fund of the State Treasury. Any amount in excess of One Hundred
4 Twenty-five Dollars (\$125.00) shall be deposited in the Consumer
5 Credit Administrative Expenses Revolving Fund established in Section
6 6-301 of Title 14A of the Oklahoma Statutes; and

7 4. Civil penalties and all other license fees authorized by the
8 Oklahoma Pawnshop Act shall be deposited in the Consumer Credit
9 Administrative Expenses Revolving Fund created in Section 6-301 of
10 Title 14A of the Oklahoma Statutes.

11 C. Examination and investigation fees prescribed by rule of the
12 Commission shall not exceed Seven Hundred Fifty Dollars (\$750.00).
13 Examination and investigation fees shall not be increased in an
14 amount exceeding Two Hundred Dollars (\$200.00) in any calendar year.

15 D. Annual license fees prescribed by rule of the Commission
16 shall not exceed Five Hundred Dollars (\$500.00). Annual license
17 fees shall not be increased in an amount exceeding One Hundred
18 Dollars (\$100.00) in any calendar year.

19 SECTION 19. AMENDATORY 59 O.S. 2001, Section 1525, as
20 amended by Section 5, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009,
21 Section 1525), is amended to read as follows:

22 Section 1525. A. Upon the filing of an application, bond and
23 the payment of an annual license fee ~~of Two Hundred Dollars~~
24 ~~(\$200.00)~~ and a one-time investigation fee ~~of Two Hundred Twenty-~~

1 ~~five Dollars (\$225.00)~~ by a dealer, the Administrator of Consumer
2 Credit shall conduct an investigation of the applicant prior to
3 issuance of a dealer license.

4 B. Upon the filing of an application, and payment of the fee as
5 provided for in subsection A of Section 1526 of this title, and
6 payment of a ~~one hundred dollar~~ fee by an employee of a licensed
7 dealer, the Administrator shall conduct an investigation of the
8 applicant prior to issuance of an employee license.

9 C. Upon renewal of a license for either a dealer or an
10 employee, the Administrator may conduct an investigation at ~~his~~ the
11 Administrator's discretion or at the request of a district attorney
12 for any county in which the applicant has a permanent place of
13 business.

14 D. If the Administrator finds that the financial
15 responsibility, experience and character of the dealer are such as
16 to warrant belief that the business will be operated lawfully and
17 fairly, within the purposes of ~~this act~~ the Precious Metal and Gem
18 Dealer Licensing Act, the dealer shall be issued a license. ~~Any~~
19 ~~person engaged as a dealer or employee on the operative date of this~~
20 ~~act shall have thirty (30) days from the operative date of this act~~
21 ~~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 does not find facts sufficient to
6 warrant issuance of a license, ~~he~~ the Administrator 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, but the annual license fee shall be
12 returned to the applicant.

13 G. The Administrator shall grant or deny an application for
14 license within sixty (60) days from the day of filing or from the
15 last day of a hearing as provided in subsection F of this section,
16 unless the period is extended by written agreement between the
17 applicant and the Administrator.

18 H. The Administrator may issue more than one license to any one
19 person upon compliance with the provisions of ~~this act~~ the Precious
20 Metal and Gem Dealer Licensing Act as to each license. When a
21 dealer wishes to move ~~his~~ the dealer's business to another location,
22 ~~he~~ the dealer shall give thirty (30) days' written notice to the
23 Administrator, who shall 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 ~~J. Of the license fee provided for in subsection A of this
4 section, Fifty Dollars (\$50.00) shall be deposited in the General
5 Revenue Fund of the State Treasury and One Hundred Fifty Dollars
6 (\$150.00) shall be deposited in the Consumer Credit Administrative
7 Expenses Revolving Fund created in Section 1 of this act.~~

8 ~~K. Of the one time inspection fee provided for in subsection A
9 of this section, Fifty Dollars (\$50.00) shall be deposited in the
10 General Revenue Fund of the State Treasury and One Hundred Seventy-
11 five Dollars (\$175.00) shall be deposited in the Consumer Credit
12 Administrative Expenses Revolving Fund created in Section 1 of this
13 act.~~

14 ~~L. Of the fee required of employees as provided for in
15 subsection B of this section, Twenty five Dollars (\$25.00) shall be
16 deposited in the General Revenue Fund of the State Treasury and
17 Seventy five Dollars (\$75.00) shall be deposited in the Consumer
18 Credit Administrative Expenses Revolving Fund created in Section 1
19 of this act.~~

20 SECTION 20. AMENDATORY 59 O.S. 2001, Section 1526, as
21 amended by Section 6, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009,
22 Section 1526), is amended to read as follows:

23 Section 1526. A. Each year, every dealer, on or before each
24 December 1, shall pay the Administrator ~~Two Hundred Dollars~~

1 ~~(\$200.00)~~ of Consumer Credit a fee for each license held by ~~him~~ the
2 dealer as the annual fee for the succeeding calendar year. If not
3 renewed, expiration shall occur on December 31 of the year in which
4 the annual fee has been paid.

5 B. Each year, every employee, on or before December 1, shall
6 pay the Administrator ~~One Hundred Dollars (\$100.00)~~ a fee for the
7 license held by ~~him~~ the employee as the annual fee for the
8 succeeding calendar year. If not renewed, expiration shall occur on
9 December 31 of the year in which the annual fee has been paid.

10 C. There shall be a fee ~~of Fifty Dollars (\$50.00)~~ for a late
11 application for renewal of a license received after December 1,
12 which will be placed in the Consumer Credit Administrative Expenses
13 Revolving Fund created in Section ~~1 of this act~~ 6-301 of Title 14A
14 of the Oklahoma Statutes.

15 ~~D. Of the fee on dealers provided for in subsection A of this~~
16 ~~section, Fifty Dollars (\$50.00) shall be deposited in the General~~
17 ~~Revenue Fund of the State Treasury and One Hundred Fifty Dollars~~
18 ~~(\$150.00) shall be deposited in the Consumer Credit Administrative~~
19 ~~Expenses Revolving Fund created in Section 1 of this act.~~

20 ~~E. Of the one time inspection fee provided for in subsection A~~
21 ~~of this section, Fifty Dollars (\$50.00) shall be deposited in the~~
22 ~~General Revenue Fund of the State Treasury and One Hundred Seventy~~
23 ~~five Dollars (\$175.00) shall be deposited in the Consumer Credit~~

24

1 ~~Administrative Expenses Revolving Fund created in Section 1 of this~~
2 ~~act.~~

3 SECTION 21. AMENDATORY 59 O.S. 2001, Section 1528, is
4 amended to read as follows:

5 Section 1528. A. The Administrator shall appoint an
6 independent hearing examiner to conduct all administrative hearings
7 involving alleged violations of the Precious Metal and Gem Dealer
8 Licensing Act. The independent hearing examiner shall have
9 authority to exercise all powers granted by Article II of the
10 Administrative Procedures Act in conducting hearings. The
11 independent hearing examiner shall have authority to recommend
12 penalties authorized by the Precious Metal and Gem Dealer Licensing
13 Act and issue proposed orders, with proposed findings of fact and
14 proposed conclusions of law, to the Administrator pursuant to
15 Article II of the Administrative Procedures Act. The Administrator
16 shall review the proposed order and issue a final agency order in
17 accordance with Article II of the Administrative Procedures Act. A
18 final agency order issued by the Administrator shall be appealable
19 by all parties to the district court as provided in Article II of
20 the Administrative Procedures Act. The costs of the hearing
21 examiner may be assessed by the hearing examiner against the
22 respondent, unless the respondent is the prevailing party.

23

24

1 B. The Administrator may, after notice and hearing, deny,
2 decline to renew a license, suspend or revoke any license or order a
3 cease and desist order if it is found that:

4 1. The applicant has been convicted of a felony or crime
5 involving fraud, theft, receiving or possession of stolen property
6 in the five (5) years preceding the submission of the application;

7 2. The licensee has failed to pay any fee or charge properly
8 imposed by the Administrator under the authority of ~~this act~~ the
9 Precious Metal and Gem Dealer Licensing Act;

10 3. The licensee or any entity or individual subject to the
11 Precious Metal and Gem Dealer Licensing Act has violated any
12 provision of ~~this act~~ the Precious Metal and Gem Dealer Licensing
13 Act or any ~~regulation~~ rule promulgated or order made pursuant to and
14 within the authority of ~~this act~~ the Precious Metal and Gem Dealer
15 Licensing Act; or

16 4. Any fact or condition exists which, if it had existed or had
17 been known to exist at the time of the original application for a
18 license, clearly would have justified the Administrator in refusing
19 the license.

20 ~~B. The hearing for denial, suspension or revocation of a~~
21 ~~license shall be held upon twenty (20) days' notice in writing,~~
22 ~~setting forth the time and place thereof and a concise statement of~~
23 ~~the facts alleged to warrant the hearing. After the hearing, the~~
24 ~~Administrator shall prepare a written order setting forth the~~

1 ~~effective date of the order accompanied by findings of fact and a~~
2 ~~copy shall be delivered to the applicant or licensee. Such order,~~
3 ~~findings and the evidence considered by the Administrator shall be~~
4 ~~maintained as a part of the permanent public records of the~~
5 ~~Administrator.~~

6 C. Any licensee may surrender any license by delivering it to
7 the Administrator with written notice of its surrender. Such
8 surrender shall not affect the civil or criminal liability of the
9 licensee for acts committed prior to the surrender 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 E. The Commission on Consumer Credit shall prescribe by rule a
14 fee for each license change, duplicate license, or returned check.

15 F. Any entity or individual offering to engage or engaged as a
16 precious metal and gem dealer in this state without a license shall
17 be subject to a civil penalty not to exceed Five Thousand Dollars
18 (\$5,000.00).

19 G. The Administrator may impose a civil penalty as prescribed
20 in subsection F of this section, after notice and hearing in
21 accordance with Article II of the Administrative Procedures Act.
22 Any administrative order or settlement agreement imposing a civil
23 penalty pursuant to this section may be enforced in the same manner
24 as civil judgments in this state. The Administrator may file an

1 application to enforce an administrative order or settlement
2 agreement imposing a civil penalty in the district court of Oklahoma
3 County.

4 SECTION 22. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1532.1 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The Commission on Consumer Credit shall prescribe by
8 administrative rule all fees authorized by the Precious Metal and
9 Gem Dealer Licensing Act. All fees prescribed by rule of the
10 Commission shall be in accordance with Article I of the
11 Administrative Procedures Act. Prior to July 1, 2011, the
12 Commission shall establish all authorized fees by emergency rule.
13 Any fee established by emergency rule shall remain effective until
14 the fee is prescribed by permanent rule of the Commission in
15 accordance with Article I of the Administrative Procedures Act. Any
16 fees prescribed by rule after July 1, 2011, shall be prescribed as
17 permanent rules.

18 B. Unless otherwise provided in the Precious Metal and Gem
19 Dealer Licensing Act, all fees and civil penalties authorized by the
20 Precious Metal and Gem Dealer Licensing Act shall be deposited as
21 follows:

22 1. An amount up to Fifty Dollars (\$50.00) for a precious metal
23 dealer annual license fee shall be deposited in the General Revenue
24 Fund of the State Treasury. Any amount in excess of Fifty Dollars

1 (\$50.00) shall be deposited in the Consumer Credit Administrative
2 Expenses Revolving Fund established in Section 6-301 of Title 14A of
3 the Oklahoma Statutes;

4 2. An amount up to Twenty-five Dollars (\$25.00) for precious
5 metal employee annual license fees shall be deposited in the General
6 Revenue Fund of the State Treasury. Any amount in excess of Twenty-
7 five Dollars (\$25.00) shall be deposited in the Consumer Credit
8 Administrative Expenses Revolving Fund established in Section 6-301
9 of Title 14A of the Oklahoma Statutes;

10 3. An amount up to Fifty Dollars (\$50.00) for an investigation
11 fee shall be deposited in the General Revenue Fund of the State
12 Treasury. Any amount in excess of Fifty Dollars (\$50.00) shall be
13 deposited in the Consumer Credit Administrative Expenses Revolving
14 Fund established in Section 6-301 of Title 14A of the Oklahoma
15 Statutes; and

16 4. All other license fees and civil penalties authorized by the
17 Precious Metal and Gem Dealer Licensing Act shall be deposited in
18 the Consumer Credit Administrative Expenses Revolving Fund
19 established in Section 6-301 of Title 14A of the Oklahoma Statutes.

20 C. Investigation fees prescribed by rule of the Commission
21 shall not exceed Seven Hundred Fifty Dollars (\$750.00).
22 Investigation fees shall not be increased in an amount exceeding Two
23 Hundred Dollars (\$200.00) in any calendar year.

24

1 D. Annual license fees prescribed by rule of the Commission
2 shall not exceed Five Hundred Dollars (\$500.00). Annual license
3 fees shall not be increased in an amount exceeding One Hundred
4 Dollars (\$100.00) in any calendar year.

5 SECTION 23. AMENDATORY 59 O.S. 2001, Section 1953, is
6 amended to read as follows:

7 Section 1953. A. Lessors shall pay an initial investigation
8 and license fee and an annual license renewal fee of One Hundred
9 Dollars (\$100.00) per place of business, which fees shall accompany
10 the license renewal form. Any person engaged in the business of
11 rental-purchase transactions on the effective date of this act shall
12 not be held in violation of Section 3 of this act from the effective
13 date of this act to the date of licensing if the form and fees are
14 filed with the Administrator within thirty (30) days from the
15 effective date of this act. Provided, that if the license
16 application form is filed after June 30 of any year the license fee
17 for the balance of such year shall be Fifty Dollars (\$50.00)
18 Lessors shall also pay a fee for any returned check, address or
19 license change, or duplicate license request.

20 B. Lessors shall pay a rental-purchase agreement reviewal fee
21 as prescribed by rule of the Commission on Consumer Credit for any
22 rental-purchase agreement submitted to the Administrator of Consumer
23 Credit for review and approval. The Commission may prescribe by
24

1 rule a process for submitting rental-purchase agreements to the
2 Administrator for review and approval.

3 SECTION 24. AMENDATORY 59 O.S. 2001, Section 1955, is
4 amended to read as follows:

5 Section 1955. A. A consumer damaged by a violation of ~~this act~~
6 the Oklahoma Rental-Purchase Act by a lessor is entitled to recover
7 from the lessor:

8 1. Actual damages;

9 2. Twenty-five percent (25%) of an amount equal to the total
10 amount of payments required to obtain ownership of the merchandise
11 involved, except that the amount recovered under this section shall
12 not be less than One Hundred Dollars (\$100.00) nor more than One
13 Thousand Dollars (\$1,000.00), or in the case of a class action, an
14 amount the court may allow, except that as to each member of the
15 class no minimum recovery may be applicable and the total recovery
16 other than for actual damages in any class action or series of class
17 actions arising out of the same failure to comply by the same lessor
18 shall not be more than the lesser of Five Hundred Thousand Dollars
19 (\$500,000.00) or one percent (1%) of the net worth of the lessor;
20 and

21 3. Reasonable ~~attorneys~~ attorney fees and court costs.

22 B. In addition to the enforcement powers provided in Section
23 6-102 of Title 14A of the Oklahoma Statutes, the Administrator of
24 Consumer Credit or ~~his~~ a duly authorized representative of the

1 Administrator may investigate the books, accounts, papers,
2 correspondence and records of any lessor licensed under the Oklahoma
3 Rental-Purchase Act. For the purposes of this section, any person
4 who advertises for, solicits or holds himself out as willing to make
5 rental-purchase transactions, shall be presumed to be a
6 rental-purchase lessor. Each lessor shall pay to the Administrator
7 ~~an amount assessed by the Administrator to cover the direct or~~
8 ~~indirect cost of such examination, not to exceed Two Hundred Dollars~~
9 ~~(\$200.00) in any calendar year~~ examination fee as prescribed by rule
10 of the Commission on Consumer Credit. The Administrator may require
11 payment of an examination fee either at the time of initial
12 application, renewal of the license, or after an examination has
13 been conducted.

14 C. The Administrator may promulgate rules and regulations
15 necessary for the enforcement of the Oklahoma Rental-Purchase Act
16 and consistent with all its provisions.

17 D. The Administrator shall appoint an independent hearing
18 examiner to conduct all administrative hearings involving alleged
19 violations of the Oklahoma Rental-Purchase Act. The independent
20 hearing examiner shall have authority to exercise all powers granted
21 by Article II of the Administrative Procedures Act in conducting
22 hearings. The independent hearing examiner shall have authority to
23 recommend penalties authorized by the Oklahoma Rental-Purchase Act
24 and issue proposed orders, with proposed findings of fact and

1 proposed conclusions of law, to the Administrator pursuant to
2 Article II of the Administrative Procedures Act. The Administrator
3 shall review the proposed order and issue a final agency order in
4 accordance with Article II of the Administrative Procedures Act. A
5 final order issued by the Administrator shall be appealable by all
6 parties to the district court as provided in Article II of the
7 Administrative Procedures Act. The costs of the hearing examiner
8 may be assessed by the hearing examiner against the respondent,
9 unless the respondent is the prevailing party.

10 E. After notice and hearing, the Administrator may decline to
11 renew a license, suspend or revoke any license issued pursuant to
12 the Oklahoma Rental-Purchase Act for violating any provision of the
13 Oklahoma Rental-Purchase Act or any rules promulgated by the
14 Administrator, or in lieu of or in addition to such denial,
15 suspension or revocation, order the refund of any unlawful charges,
16 or enter a cease and desist order.

17 F. Except as otherwise expressly provided in the Oklahoma
18 Rental-Purchase Act, the Administrative Procedures Act, Sections 301
19 through 326 of Title 75 of the Oklahoma Statutes, applies to and
20 governs all administrative actions and civil proceedings taken by
21 the Administrator pursuant to the Oklahoma Rental-Purchase Act.

22 ~~E.~~ G. Where there are multiple lessees to a rental-purchase
23 agreement, there shall be no more than one recovery under the
24 Oklahoma Rental-Purchase Act for a violation.

1 ~~F.~~ H. A lessor is not liable under the Oklahoma Rental-Purchase
2 Act for a violation thereof caused by the lessor's error if before
3 the sixtieth day after the date the lessor discovers the error, and
4 before an action under this section is filed or written notice of
5 the error is received by the lessor from the lessee, the lessor
6 gives the lessee written notice of the error and makes adjustments
7 in the lessee's account as necessary to ensure that the lessee will
8 not be required to pay an amount in excess of the amount disclosed
9 and that the agreement otherwise complies with this subsection. Nor
10 may a lessor be held liable in any action brought under the Oklahoma
11 Rental-Purchase Act for a violation of the Oklahoma Rental-Purchase
12 Act if the lessor shows by a preponderance of the evidence that the
13 violation was not intentional and resulted from a bona fide error
14 notwithstanding the maintenance of procedures reasonably adopted to
15 avoid the error. A bona fide error includes, but is not limited to,
16 a clerical, calculation, computer malfunction in programming, and
17 printing error, but not an error of legal judgment with respect to a
18 lessor's disclosure obligations under the Oklahoma Rental-Purchase
19 Act.

20 I. Any entity or individual offering to engage or engaged as a
21 rental-purchase lessor in this state without a license shall be
22 subject to a civil penalty not to exceed Five Thousand Dollars
23 (\$5,000.00).

24

1 J. The Administrator may impose a civil penalty as prescribed
2 in subsection I of this section, after notice and hearing in
3 accordance with Article II of the Administrative Procedures Act.
4 Any administrative order or settlement agreement imposing a civil
5 penalty pursuant to this section may be enforced in the same manner
6 as civil judgments in this state. The Administrator may file an
7 application to enforce an administrative order or settlement
8 agreement imposing a civil penalty in the district court of Oklahoma
9 County.

10 SECTION 25. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1956.1 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The Commission on Consumer Credit shall prescribe by
14 administrative rule all fees authorized by the Oklahoma Rental-
15 Purchase Act. All fees prescribed by rule of the Commission shall
16 be in accordance with Article I of the Administrative Procedures
17 Act. Prior to July 1, 2011, the Commission shall establish all
18 authorized fees by emergency rule. Any fee established by emergency
19 rule shall remain effective until the fee is prescribed by permanent
20 rule of the Commission in accordance with Article I of the
21 Administrative Procedures Act. Any fees prescribed by rule after
22 July 1, 2011, shall be prescribed as permanent rules.

23
24

1 B. Unless otherwise provided in the Oklahoma Rental-Purchase
2 Act, all fees and civil penalties authorized by the Oklahoma Rental-
3 Purchase Act shall be deposited as follows:

4 1. An amount up to One Hundred Dollars (\$100.00) for annual
5 license fees shall be deposited in the General Revenue Fund of the
6 State Treasury. Any amount in excess of One Hundred Dollars
7 (\$100.00) shall be deposited in the Consumer Credit Administrative
8 Expenses Revolving Fund established in Section 6-301 of Title 14A of
9 the Oklahoma Statutes;

10 2. An amount up to Two Hundred Dollars (\$200.00) for
11 examination fees shall be deposited in the General Revenue Fund of
12 the State Treasury. Any amount in excess of Two Hundred Dollars
13 (\$200.00) shall be deposited in the Consumer Credit Administrative
14 Expenses Revolving Fund established in Section 6-301 of Title 14A of
15 the Oklahoma Statutes; and

16 3. Civil penalties and other fees authorized by the Oklahoma
17 Rental-Purchase Act shall be deposited in the Consumer Credit
18 Administrative Expenses Revolving Fund created in Section 6-301 of
19 Title 14A of the Oklahoma Statutes.

20 C. Examination and investigation fees prescribed by rule of the
21 Commission shall not exceed Seven Hundred Fifty Dollars (\$750.00).
22 Investigation fees shall not be increased in an amount exceeding Two
23 Hundred Dollars (\$200.00) in any calendar year.

24

1 D. Annual license fees prescribed by rule of the Commission
2 shall not exceed Five Hundred Dollars (\$500.00). Annual license
3 fees shall not be increased in an amount exceeding One Hundred
4 Dollars (\$100.00) in any calendar year.

5 SECTION 26. AMENDATORY 59 O.S. 2001, Section 2002, is
6 amended to read as follows:

7 Section 2002. A. No health spa shall offer or advertise health
8 spa services unless first being registered with the Administrator of
9 Consumer Credit. The registration shall:

10 1. Disclose the address, ownership, date of first sales and
11 date of first opening of the health spa;

12 2. State the name and address of the registered agent of the
13 registrant, if the registrant is a corporation;

14 3. Be renewed each succeeding calendar year; and

15 4. Be accompanied by ~~a fee of Two Hundred Dollars (\$200.00) per~~
16 ~~registration and annual renewal~~ an initial investigation and
17 registration fee and an annual registration fee as prescribed by
18 rule of the Commission on Consumer Credit.

19 B. Each separate location where health spa services are offered
20 shall be considered a separate health spa and shall file a separate
21 registration, even though the separate locations are owned or
22 operated by the same owner.

23

24

1 C. The Commission on Consumer Credit shall prescribe by rule a
2 fee for each registration change, duplicate registration, or
3 returned check.

4 D. The Commission on Consumer Credit shall prescribe by rule a
5 late fee for a registration not renewed on or before the expiration
6 date of the registration.

7 E. A health spa shall pay a contract reviewal fee as prescribed
8 by rule of the Commission on Consumer Credit for each health spa
9 contract submitted to the Administrator for review and approval.
10 The Commission may prescribe by rule a process for submitting health
11 spa contracts for review and approval by the Administrator.

12 SECTION 27. AMENDATORY 59 O.S. 2001, Section 2009, is
13 amended to read as follows:

14 Section 2009. A. Any person who engages in business as a
15 health spa without first being properly registered with the
16 Administrator of Consumer Credit as prescribed in the Oklahoma
17 Health Spa Act or who otherwise violates any provision of the
18 Oklahoma Health Spa Act, upon conviction, shall be guilty of a
19 misdemeanor and shall be punished by the imposition of a fine not to
20 exceed Five Thousand Dollars (\$5,000.00) or imprisonment in the
21 county jail for not more than one (1) year, or by both such fine and
22 imprisonment.

23

24

1 B. The provisions of Title 14A of the Oklahoma Statutes shall
2 also apply to those health spas registered pursuant to the Oklahoma
3 Health Spa Act.

4 C. The Oklahoma Health Spa Act shall only govern those health
5 spa contracts or membership agreements executed after November 1,
6 1987.

7 D. The Administrator shall appoint an independent hearing
8 examiner to conduct all administrative hearings involving alleged
9 violations of the Oklahoma Health Spa Act. The independent hearing
10 examiner shall have authority to exercise all powers granted by
11 Article II of the Administrative Procedures Act in conducting
12 hearings. The independent hearing examiner shall have authority to
13 recommend penalties authorized by the Oklahoma Health Spa Act and
14 issue proposed orders, with proposed findings of fact and proposed
15 conclusions of law, to the Administrator pursuant to Article II of
16 the Administrative Procedures Act. The Administrator shall review
17 the proposed order and issue a final agency order in accordance with
18 Article II of the Administrative Procedures Act. A final agency
19 order issued by the Administrator shall be appealable by all parties
20 to the district court as provided in Article II of the
21 Administrative Procedures Act. The costs of the hearing examiner
22 may be assessed by the hearing examiner against the respondent,
23 unless the respondent is the prevailing party.

24

1 E. After notice and hearing, the Administrator may decline to
2 renew a registration, suspend or revoke any registration issued
3 pursuant to the Oklahoma Health Spa Act or any rules promulgated by
4 the Administrator, or in lieu of or in addition to such denial,
5 suspension or revocation, order the refund of any unlawful charges,
6 or enter a cease and desist order.

7 F. Any entity or individual offering to engage or engaged as a
8 health spa in this state without a license shall be subject to a
9 civil penalty not to exceed Five Thousand Dollars (\$5,000.00).

10 G. The Administrator may impose a civil penalty as prescribed
11 in subsection F of this section, after notice and hearing in
12 accordance with Article II of the Administrative Procedures Act.
13 Any administrative order or settlement agreement imposing a civil
14 penalty pursuant to this section may be enforced as in the same
15 manner as civil judgments in this state. The Administrator may file
16 an application to enforce an administrative order or settlement
17 agreement imposing a civil penalty in the district court of Oklahoma
18 County.

19 SECTION 28. AMENDATORY 59 O.S. 2001, Section 2011, is
20 amended to read as follows:

21 Section 2011. A. There is hereby created in the State Treasury
22 a revolving fund for the Commission on Consumer Credit to be
23 designated the "Health Spa Revolving Fund". The fund shall be a
24 continuing fund, not subject to fiscal year limitations, and shall

1 consist of ~~registration and annual renewal fees provided for in~~
2 ~~Section 2002 of Title 59 of the Oklahoma Statutes~~ all fees and civil
3 penalties provided for in the Oklahoma Health Spa Act. All monies
4 accruing to the credit of said fund are hereby appropriated and may
5 be budgeted and expended by the Department of Consumer Credit for
6 the operating expenses of the Department and for the administration
7 of the Oklahoma Health Spa Act. Expenditures from said fund shall
8 be made upon warrants issued by the State Treasurer against claims
9 filed as prescribed by law with the Director of State Finance for
10 approval and payment.

11 B. The Commission on Consumer Credit shall prescribe by
12 administrative rule all fees authorized by the Oklahoma Health Spa
13 Act. All fees prescribed by rule of the Commission shall be in
14 accordance with Article I of the Administrative Procedures Act.
15 Prior to July 1, 2011, the Commission shall establish all authorized
16 fees by emergency rule. Any fee established by emergency rule shall
17 remain effective until the fee is prescribed by permanent rule of
18 the Commission in accordance with Article I of the Administrative
19 Procedures Act. Any fees prescribed by rule after July 1, 2011,
20 shall be prescribed as permanent rules.

21 C. Investigation fees prescribed by rule of the Commission
22 shall not exceed Seven Hundred Fifty Dollars (\$750.00).
23 Investigation fees shall not be increased in an amount exceeding Two
24 Hundred Dollars (\$200.00) in any calendar year.

1 D. Annual registration fees prescribed by rule of the
2 Commission shall not exceed Five Hundred Dollars (\$500.00). Annual
3 registration fees shall not be increased in an amount exceeding One
4 Hundred Dollars (\$100.00) in any calendar year.

5 SECTION 29. AMENDATORY Section 6, Chapter 190, O.S.L.
6 2009 (59 O.S. Supp. 2009, Section 2095.3), is amended to read as
7 follows:

8 Section 2095.3 The following are exempt from all provisions of
9 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act:

10 1. Registered mortgage loan originators, when acting for an
11 entity described in divisions (1), (2) and (3) of subparagraph a of
12 paragraph 17 of Section ~~5~~ 2095.2 of this ~~act~~ title;

13 2. An individual who offers or negotiates or modifies terms of
14 a residential mortgage loan with or on behalf of an immediate family
15 member of the individual;

16 3. An individual who offers or negotiates or modifies terms of
17 a residential mortgage loan secured by a dwelling that served as the
18 individual's residence; ~~or~~

19 4. A licensed attorney who negotiates or modifies the terms of
20 a residential mortgage loan on behalf of a client as an ancillary
21 matter to the attorney's representation of the client, unless the
22 attorney is compensated by a lender, a mortgage broker or other
23 mortgage loan originator or by any agent of such lender, mortgage
24 broker, or other mortgage loan originator; or

1 5. Entities described in divisions (1), (2) and (3) of
2 subparagraph a of paragraph 17 of Section 2095.2 of this title.

3 SECTION 30. AMENDATORY Section 8, Chapter 190, O.S.L.
4 2009 (59 O.S. Supp. 2009, Section 2095.5), is amended to read as
5 follows:

6 Section 2095.5 A. 1. An entity or individual, unless
7 specifically exempted from the Oklahoma Secure and Fair Enforcement
8 for Mortgage Licensing Act, as provided in Section ~~6~~ 2095.3 of this
9 ~~act title,~~ shall not engage in the business of a mortgage broker or
10 mortgage loan originator with respect to any dwelling located in
11 this state without first obtaining and maintaining annually a
12 license under ~~this act~~ the Oklahoma Secure and Fair Enforcement for
13 Mortgage Licensing Act. Each licensed mortgage broker ~~or~~ and
14 mortgage loan originator must register with and maintain a valid
15 unique identifier issued by the Nationwide Mortgage Licensing System
16 and Registry.

17 2. In order to facilitate an orderly transition to licensing
18 and minimize disruption in the mortgage marketplace, the effective
19 date for licensing all entities and individuals as provided in this
20 subsection, including those currently licensed as mortgage brokers
21 or mortgage loan originators, shall be July 31, 2010, or such later
22 date approved by the Secretary of the U.S. Department of Housing and
23 Urban Development, pursuant to the authority granted under 12
24 U.S.C., Section 5107.

1 B. A loan processor or underwriter who is an independent
2 contractor may not engage in the activities of a loan processor or
3 underwriter unless such independent contractor loan processor or
4 underwriter obtains and maintains a license as required by ~~this act~~
5 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.
6 Each independent contractor loan processor or underwriter licensed
7 as a mortgage broker or mortgage loan originator must have and
8 maintain a valid unique identifier issued by the Nationwide Mortgage
9 Licensing System and Registry.

10 C. For the purposes of implementing an orderly and efficient
11 licensing process, the Administrator of Consumer Credit may
12 establish licensing rules, upon approval by the Commission, and the
13 Administrator may establish interim procedures for licensing and
14 acceptance of applications. For previously registered or licensed
15 entities or individuals, the Administrator may establish expedited
16 review and licensing procedures.

17 SECTION 31. AMENDATORY Section 9, Chapter 190, O.S.L.
18 2009 (59 O.S. Supp. 2009, Section 2095.6), is amended to read as
19 follows:

20 Section 2095.6 A. Applicants for a license shall apply on a
21 form as prescribed by the Administrator of Consumer Credit.

22 B. In order to fulfill the purposes of ~~this act~~ the Oklahoma
23 Secure and Fair Enforcement for Mortgage Licensing Act, the
24 Administrator is authorized to establish relationships or contracts

1 with the Nationwide Mortgage Licensing System and Registry or other
2 entities designated by the Nationwide Mortgage Licensing System and
3 Registry to collect and maintain records and process transaction
4 fees or other fees related to licensees or other entities or
5 individuals subject to ~~this act~~ the Oklahoma Secure and Fair
6 Enforcement for Mortgage Licensing Act.

7 C. In connection with an application for licensing as a
8 mortgage loan originator, the applicant shall, at a minimum, furnish
9 to the Nationwide Mortgage Licensing System and Registry information
10 concerning the applicant's identity including:

11 1. Fingerprints for submission to the Federal Bureau of
12 Investigation and any governmental agency or entity authorized to
13 receive such information for a state, national and international
14 criminal history background check; and

15 2. Personal history and experience in a form prescribed by the
16 Nationwide Mortgage Licensing System and Registry and the
17 Administrator to obtain:

18 a. an independent credit report obtained from a consumer
19 reporting agency defined in 15 U.S.C., Section
20 1681a(p), and

21 b. information related to any administrative, civil or
22 criminal findings by any governmental jurisdiction.

23 D. In connection with an application for licensing as a
24 mortgage broker, the applicant shall, at a minimum, furnish to the

1 Nationwide Mortgage Licensing System and Registry information
2 concerning each owner, officer, director or partner, as applicable
3 including:

4 1. Fingerprints for submission to the Federal Bureau of
5 Investigation and any governmental agency or entity authorized to
6 receive such information for a state, national and international
7 criminal history background check; and

8 2. Personal history and experience in a form prescribed by the
9 Nationwide Mortgage Licensing System and Registry and the
10 Administrator to obtain:

11 a. an independent credit report obtained from a consumer
12 reporting agency described in 15 U.S.C., Section
13 1681a(p), and

14 b. information related to any administrative, civil or
15 criminal findings by any governmental jurisdiction.

16 E. For purposes of this section and, in order to reduce points
17 of contact which the Federal Bureau of Investigation may have to
18 maintain for purposes of paragraph 1 and subparagraph b of paragraph
19 2 of subsection D of this section, the Administrator may use the
20 Nationwide Mortgage Licensing System and Registry as a channeling
21 agent for requesting information from and distributing information
22 to the Department of Justice or any governmental agency.

23 F. For the purposes of this section and in order to reduce the
24 points of contact which the Administrator may have to maintain for

1 purposes of subparagraphs a and b of paragraph 2 of subsection D of
2 this section, the Administrator may use the Nationwide Mortgage
3 Licensing System and Registry as a channeling agent for requesting
4 and distributing information to and from any source so directed by
5 the Administrator.

6 G. A license issued under ~~this act~~ the Oklahoma Secure and Fair
7 Enforcement for Mortgage Licensing Act shall be valid for a period
8 of one (1) year, unless otherwise revoked or suspended by the
9 Administrator as provided in ~~this act~~ the Oklahoma Secure and Fair
10 Enforcement for Mortgage Licensing Act.

11 H. The Administrator, on determining that the applicant is
12 qualified and upon payment of the fees by the applicant, shall issue
13 a license to the applicant. An applicant who has been denied a
14 license may not reapply for the license for sixty (60) days from the
15 date of the previous application.

16 I. A licensee shall pay the renewal fee on or before December
17 1. If the license is not renewed by December 1, the licensee shall
18 pay a renewal fee that is double the amount of the license.
19 Licenses not renewed by December 31 shall expire and the licensee
20 shall not act as a mortgage broker or mortgage loan originator until
21 a new license is issued pursuant to ~~this act~~ the Oklahoma Secure and
22 Fair Enforcement for Mortgage Licensing Act. A license shall not be
23 granted to the holder of an expired license except as provided in
24

1 ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage
2 Licensing Act for the issuance of an original license.

3 J. On or before December 31, a licensee may request inactive
4 status for the following license year and the license shall be
5 placed on inactive status after payment to the Administrator of the
6 inactive status renewal fee prescribed in this section and the
7 surrender of the license to the Administrator. During inactive
8 status, an inactive license shall not act as a mortgage broker or
9 mortgage loan originator. A licensee may not be on inactive status
10 for more than two (2) consecutive years, nor for more than four (4)
11 years in any ten-year period. The license is deemed expired for
12 violation of any of the limitations of this subsection.

13 K. An inactive licensee may return to active status
14 notwithstanding the requirements of this section by making a request
15 in writing to the Administrator for reactivation and paying the
16 prorated portion of the annual fee that would have been charged to
17 the licensee to maintain normal active status. The licensee shall
18 also provide the Administrator with proof that the licensee meets
19 all of the other requirements for acting as a mortgage broker or
20 mortgage loan originator, including any applicable education and
21 testing requirements.

22 L. A licensee shall prominently display the mortgage broker or
23 mortgage loan originator license in the office of the mortgage
24

1 broker or mortgage loan originator and any branch office of the
2 mortgage broker.

3 M. 1. Initial and renewal license fees shall be ~~One Hundred~~
4 ~~Dollars (\$100.00) for each year~~ as prescribed by rule of the
5 Commission on Consumer Credit;

6 2. A late renewal fee shall be ~~Two Hundred Dollars (\$200.00)~~ as
7 prescribed by rule of the Commission on Consumer Credit;

8 3. Branch office fees shall be ~~Fifty Dollars (\$50.00)~~ as
9 prescribed by rule of the Commission on Consumer Credit for each
10 year;

11 4. Inactive status fees shall be ~~Fifty Dollars (\$50.00)~~ as
12 prescribed by rule of the Commission on Consumer Credit for each
13 year;

14 5. A fee of ~~Twenty five Dollars (\$25.00)~~ as prescribed by rule
15 of the Commission on Consumer Credit shall be charged for each
16 license change, duplicate license or returned check;

17 6. A fee of ~~Fifty Dollars (\$50.00)~~ as prescribed by rule of the
18 Commission on Consumer Credit shall be paid by applicants and
19 licensees into the Oklahoma Mortgage Broker and Mortgage Loan
20 Originator Recovery Fund as provided for in Section ~~23~~ 2095.20 of
21 this ~~act~~ title for each initial application and each renewal
22 application; ~~and~~

23 7. An examination fee shall be ~~Three Hundred Dollars (\$300.00)~~
24 ~~unless an additional fee is required in accordance with subsection C~~

1 ~~of Section 26 of this act~~ as prescribed by rule of the Commission on
2 Consumer Credit;

3 8. An application fee shall be as prescribed by rule of the
4 Commission on Consumer Credit;

5 9. The Commission on Consumer Credit shall prescribe by
6 administrative rule all fees authorized by the Oklahoma Secure and
7 Fair Enforcement for Mortgage Licensing Act. All fees prescribed by
8 rule of the Commission shall be in accordance with Article I of the
9 Administrative Procedures Act. Prior to July 1, 2011, the
10 Commission shall establish all authorized fees by emergency rule.
11 Any fee established by emergency rule shall remain effective until
12 the fee is prescribed by permanent rule of the Commission in
13 accordance with Article I of the Administrative Procedures Act. Any
14 fees prescribed by rule after July 1, 2011, shall be prescribed as
15 permanent rules; and

16 10. Application and examination fees prescribed by rule of the
17 Commission shall not exceed Seven Hundred Fifty Dollars (\$750.00).
18 Application and examination fees shall not be increased in an amount
19 exceeding Two Hundred Dollars (\$200.00) in any calendar year.

20 N. Annual license fees prescribed by rule of the Commission
21 shall not exceed Five Hundred Dollars (\$500.00). Annual license
22 fees shall not be increased in an amount exceeding One Hundred
23 Dollars (\$100.00) in any calendar year.

24

1 SECTION 32. AMENDATORY Section 10, Chapter 190, O.S.L.
2 2009 (59 O.S. Supp. 2009, Section 2095.7), is amended to read as
3 follows:

4 Section 2095.7 The Administrator of Consumer Credit shall not
5 issue a mortgage loan originator license unless the Administrator
6 makes at a minimum the following findings:

7 1. The applicant has never had a mortgage loan originator
8 license revoked in any governmental jurisdiction, except that a
9 subsequent formal vacation of such revocation shall not be deemed a
10 revocation;

11 2. The applicant has not been convicted of, or pled guilty or
12 nolo contendere to a felony in a domestic, foreign or military
13 court:

- 14 a. during the seven-year period preceding the date of the
15 application for licensing and registration, or
- 16 b. at any time preceding such date of application, if
17 such felony involved an act of fraud, dishonesty, a
18 breach of trust or money laundering.

19 Provided, that any pardon of a conviction shall not be a
20 conviction for purposes of this paragraph;

21 3. The applicant has demonstrated financial responsibility,
22 character and general fitness such as to command the confidence of
23 the community and to warrant a determination that the mortgage loan
24 originator will operate honestly, fairly and efficiently within the

1 purposes of ~~this act~~ the Oklahoma Secure and Fair Enforcement for
2 Mortgage Licensing Act. For purposes of this paragraph, an
3 individual has shown that he or she is not financially responsible
4 when he or she has shown a disregard in the management of his or her
5 own financial condition. A determination that an individual has not
6 shown financial responsibility may include, but not be limited to:

- 7 a. current outstanding judgments, except judgments solely
8 as a result of medical expenses,
- 9 b. current outstanding tax liens or other government
10 liens and filings,
- 11 c. foreclosures within the past three (3) years, or
12 d. pattern of seriously delinquent accounts within the
13 past three (3) years;

14 4. The applicant has completed the prelicensing education
15 requirement described in Section ~~11~~ 2095.8 of this ~~act~~ title;

16 5. The applicant has passed a written test that meets the test
17 requirement described in Section ~~12~~ 2095.9 of this ~~act~~ title; and

18 6. The applicant has paid into the Oklahoma Mortgage Broker and
19 Mortgage Loan Originator Recovery Fund as required by paragraph 6 of
20 subsection M of Section ~~9~~ 2095.6 of this ~~act~~ title; and

21 7. The applicant is sponsored by a licensed mortgage broker.
22 The Administrator of Consumer Credit may promulgate administrative
23 rules, subject to approval of the Commission on Consumer Credit, to
24 implement sponsorship procedures and requirements.

1 SECTION 33. AMENDATORY Section 19, Chapter 190, O.S.L.
2 2009 (59 O.S. Supp. 2009, Section 2095.16), is amended to read as
3 follows:

4 Section 2095.16 A. A mortgage broker or mortgage loan
5 originator shall deposit, prior to the end of the next business day,
6 all monies received from borrowers for third-party provider services
7 in a trust account of a federally insured financial institution
8 ~~located in this state.~~ The trust account shall be designated and
9 maintained for the benefit of borrowers. Monies maintained in the
10 trust account shall be exempt from execution, attachment, or
11 garnishment. A mortgage broker or mortgage loan originator shall
12 not in any way encumber the corpus of the trust account or commingle
13 any other operating funds with trust account funds.

14 B. Withdrawals from the trust account shall be only for the
15 payment of bona fide services rendered by a third-party provider or
16 for refunds to borrowers. Any interest earned on the trust account
17 shall be refunded or credited to the borrowers at closing. Any
18 monies remaining in the trust account after payment to third-party
19 providers shall be refunded to the borrower.

20 C. The mortgage broker or mortgage loan originator shall pay
21 third-party providers no later than thirty (30) days after
22 completion of the third-party service.

23 D. A mortgage broker or mortgage loan originator shall maintain
24 accurate, current, and readily available records of the trust

1 account until at least three (3) years have elapsed following the
2 effective period to which the records relate. The records shall be
3 subject to audit by the Administrator of Consumer Credit pursuant to
4 an examination or investigation.

5 E. The provisions of this section shall not apply to a
6 depository institution as defined in Section ~~5~~ 2095.2 of this ~~act~~
7 title, its subsidiaries and affiliates or any employee or exclusive
8 agent thereof.

9 SECTION 34. AMENDATORY Section 20, Chapter 190, O.S.L.
10 2009 (59 O.S. Supp. 2009, Section 2095.17), is amended to read as
11 follows:

12 Section 2095.17 A. In order to ensure the effective
13 supervision and enforcement of ~~this act~~ the Oklahoma Secure and Fair
14 Enforcement for Mortgage Licensing Act, the Administrator of
15 Consumer Credit ~~or an independent hearing examiner~~ may, after notice
16 and hearing pursuant to Article II of the Administrative Procedures
17 Act, impose any or any combination of the following penalties:

18 1. Deny, suspend, revoke, censure, place on probation or
19 decline to renew a license for a violation of ~~this act~~ the Oklahoma
20 Secure and Fair Enforcement for Mortgage Licensing Act, any rules
21 promulgated pursuant to ~~this act~~ the Oklahoma Secure and Fair
22 Enforcement for Mortgage Licensing Act and any order of the
23 Administrator or an independent hearing examiner issued pursuant to
24

1 ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage
2 Licensing Act;

3 2. Deny, suspend, revoke, censure, place on probation or
4 decline to renew a license if an applicant or licensee fails at any
5 time to meet the requirements of this act or withholds information
6 or makes a material misstatement in an application for a license or
7 renewal of a license;

8 3. Order restitution against entities or individuals subject to
9 ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage
10 Licensing Act for violations of ~~this act~~ the Oklahoma Secure and
11 Fair Enforcement for Mortgage Licensing Act; or

12 4. Issue orders or directives under ~~this act~~ the Oklahoma
13 Secure and Fair Enforcement for Mortgage Licensing Act as follows:

14 a. order or direct entities or individuals subject to
15 ~~this act~~ the Oklahoma Secure and Fair Enforcement for
16 Mortgage Licensing Act to cease and desist from
17 conducting business, including immediate temporary
18 orders to cease and desist,

19 b. order or direct entities or individuals subject to
20 ~~this act~~ the Oklahoma Secure and Fair Enforcement for
21 Mortgage Licensing Act to cease any harmful activities
22 or violations of ~~this act~~ the Oklahoma Secure and Fair
23 Enforcement for Mortgage Licensing Act, including
24 immediate temporary orders to cease and desist,

- 1 c. enter immediate temporary orders to cease business
2 under a license issued pursuant to the authority of
3 ~~this act~~ the Oklahoma Secure and Fair Enforcement for
4 Mortgage Licensing Act if the Administrator or an
5 independent hearing examiner determines that such
6 license was erroneously granted or the licensee is
7 currently in violation of ~~this act~~ the Oklahoma Secure
8 and Fair Enforcement for Mortgage Licensing Act,
- 9 d. order or direct such other affirmative action as the
10 Administrator or an independent hearing examiner deems
11 necessary, or
- 12 e. impose a civil penalty of not less than One Hundred
13 Dollars (\$100.00) nor more than Two Thousand Five
14 Hundred Dollars (\$2,500.00) for each violation of ~~this~~
15 ~~act~~ the Oklahoma Secure and Fair Enforcement for
16 Mortgage Licensing Act against a licensee or any other
17 entity or individual subject to ~~this act~~ the Oklahoma
18 Secure and Fair Enforcement for Mortgage Licensing
19 Act, not to exceed Five Thousand Dollars (\$5,000.00)
20 for all violations resulting from a single incident or
21 transaction.

22 B. Any immediate temporary order to cease and desist issued
23 pursuant to this act shall comply with the requirements for
24

1 emergency orders under Article II of the Administrative Procedures
2 Act.

3 C. Any administrative order or settlement agreement imposing a
4 civil penalty pursuant to this section may be enforced in the same
5 manner as civil judgments in this state. The Administrator may file
6 an application to enforce an administrative order or settlement
7 agreement imposing a civil penalty in the district court of Oklahoma
8 County.

9 D. The Administrator shall appoint an independent hearing
10 examiner to conduct all administrative hearings involving alleged
11 violations of the Oklahoma Secure and Fair Enforcement for Mortgage
12 Licensing Act. The independent hearing examiner shall have
13 authority to exercise all powers granted by Article II of the
14 Administrative Procedures Act in conducting hearings. The
15 independent hearing examiner shall have authority to recommend
16 penalties authorized by the Oklahoma Secure and Fair Enforcement for
17 Mortgage Licensing Act and issue proposed orders, with proposed
18 findings of fact and proposed conclusions of law, to the
19 Administrator pursuant to Article II of the Administrative
20 Procedures Act. The Administrator shall review the proposed order
21 and issue a final agency order in accordance with Article II of the
22 Administrative Procedures Act. A final agency order issued by the
23 Administrator shall be appealable by all parties to an Oklahoma
24 district court as provided in Article II of the Administrative

1 Procedures Act. The costs of the hearing examiner may be assessed
2 by the hearing examiner against the respondent, unless the
3 respondent is the prevailing party.

4 SECTION 35. AMENDATORY Section 26, Chapter 190, O.S.L.
5 2009 (59 O.S. Supp. 2009, Section 2095.23), is amended to read as
6 follows:

7 Section 2095.23 A. In addition to any authority allowed under
8 ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage
9 Licensing Act, the Administrator of Consumer Credit shall have the
10 authority to conduct investigations and examinations of the
11 following:

12 1. Criminal, civil and administrative history information,
13 including nonconviction data;

14 2. Personal history and experience information including
15 independent credit reports obtained from a consumer reporting agency
16 described in 15 U.S.C., Section 1681a(p); and

17 3. Any other documents, information or evidence the
18 Administrator deems relevant to the inquiry or investigation
19 regardless of the location, possession, control or custody of such
20 documents, information or evidence.

21 B. For the purposes of investigating violations or complaints
22 arising under ~~this act~~ the Oklahoma Secure and Fair Enforcement for
23 Mortgage Licensing Act or for the purposes of examination, the
24 Administrator may review, investigate or examine any licensee or

1 entity or individual subject to ~~this act~~ the Oklahoma Secure and
2 Fair Enforcement for Mortgage Licensing Act, as often as necessary
3 in order to carry out the purposes of ~~this act~~ the Oklahoma Secure
4 and Fair Enforcement for Mortgage Licensing Act. The Administrator
5 may direct, subpoena or order the attendance of and examine under
6 oath all individuals whose testimony may be required about the loans
7 or the business or subject matter of any such examination or
8 investigation and may direct, subpoena or order such individual to
9 produce books, accounts, records, files and any other documents the
10 Administrator deems relevant to the inquiry. Any examination or
11 investigation report and any information obtained during an
12 examination or investigation shall not be subject to disclosure
13 under the Oklahoma Open Records Act. However, any examination or
14 investigation report and any information obtained during an
15 examination or investigation shall be subject to disclosure pursuant
16 to a court order and may also be disclosed in an individual
17 proceeding and any order issued pursuant to ~~this act~~ the Oklahoma
18 Secure and Fair Enforcement for Mortgage Licensing Act.

19 C. The Administrator may require payment of an examination fee
20 either at the time of initial application, renewal of the license or
21 after an examination has been conducted. The examination fee shall
22 be ~~in accordance with the provisions of paragraph 7 of subsection M~~
23 ~~of Section 9 of this act.~~ If a licensee has more than one location,
24 ~~the examination fee shall be Three Hundred Dollars (\$300.00) for~~

1 ~~each location. If an examination exceeds eight (8) hours, the~~
2 ~~Administrator shall charge the licensee an additional Fifty Dollars~~
3 ~~(\$50.00) per hour for each examiner required to complete the~~
4 ~~examination; provided, further, that the Administrator may waive the~~
5 ~~examination fee for any examination which takes one (1) hour or~~
6 ~~less. If an examination fee is due and is not paid on completion of~~
7 ~~an examination, the Administrator shall bill the licensee, and there~~
8 ~~shall be a late fee of Fifty Dollars (\$50.00) if the amount due is~~
9 ~~not received within thirty (30) days of the invoice date prescribed~~
10 ~~by rule of the Commission on Consumer Credit.~~

11 D. Each licensee or entities or individuals subject to this act
12 shall make available to the Administrator, upon request, any books
13 and records relating to the requirements of ~~this act~~ the Oklahoma
14 Secure and Fair Enforcement for Mortgage Licensing Act. The
15 Administrator shall have access to such books and records and
16 interview the officers, principals, mortgage loan originators,
17 employees, independent contractors, agents and customers of the
18 licensee, entity or individual subject to this act concerning the
19 requirements of ~~this act~~ the Oklahoma Secure and Fair Enforcement
20 for Mortgage Licensing Act. Books and records shall be maintained
21 for a period of time required by rule of the Administrator.

22 E. Each licensee or entity or individual subject to ~~this act~~
23 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act
24 shall make or compile reports or prepare other information as

1 directed by the Administrator in order to carry out the purposes of
2 this section including, but not limited to:

- 3 1. Accounting compilations;
- 4 2. Information lists and data concerning loan transactions in a
5 format prescribed by the Administrator; or
- 6 3. Such other information deemed necessary to carry out the
7 purposes of this section.

8 F. In making any examination or investigation authorized by
9 ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage
10 Licensing Act, the Administrator may control access to any documents
11 and records of the licensee or entity or individual under
12 examination or investigation. The Administrator may take possession
13 of the documents and records or place an entity or individual in
14 exclusive charge of the documents and records in the place where
15 they are usually kept. During the period of control, no entity or
16 individual shall remove or attempt to remove any of the documents
17 and records except pursuant to a court order or with the consent of
18 the Administrator. Unless the Administrator has reasonable grounds
19 to believe the documents or records of the licensee have been, or
20 are at risk of being altered or destroyed for purposes of concealing
21 a violation of ~~this act~~ the Oklahoma Secure and Fair Enforcement for
22 Mortgage Licensing Act, the licensee or owner of the documents and
23 records shall have access to the documents or records as necessary
24 to conduct its ordinary business affairs.

1 G. In order to carry out the purposes of this section, the
2 Administrator may:

3 1. Retain attorneys, accountants, or other professionals and
4 specialists as examiners, auditors or investigators to conduct or
5 assist in the conduct of examinations or investigations;

6 2. Enter into agreements or relationships with other government
7 officials or regulatory associations in order to improve
8 efficiencies and reduce regulatory burden by sharing resources,
9 standardized or uniform methods or procedures and documents,
10 records, information or evidence obtained under this section;

11 3. Use, hire, contract or employ public or privately available
12 analytical systems, methods or software to examine or investigate
13 the licensee, entity or individual subject to ~~this act~~ the Oklahoma
14 Secure and Fair Enforcement for Mortgage Licensing Act;

15 4. Accept and rely on examination or investigation reports made
16 by other government officials, within or without this state; or

17 5. Accept audit reports made by an independent certified public
18 accountant for the licensee or entity or individual subject to this
19 act in the course of that part of the examination covering the same
20 general subject matter as the audit and may incorporate the audit
21 report in the report of the examination, report of investigation or
22 other writing of the Administrator.

23 H. The authority of this section shall remain in effect,
24 whether such a licensee or entity or individual subject to ~~this act~~

1 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act
2 acts or claims to act under any licensing or registration law of
3 this state or claims to act without such authority.

4 I. No licensee or entity or individual subject to investigation
5 or examination under this section may knowingly withhold, abstract,
6 remove, mutilate, destroy or secrete any books, records, computer
7 records or other information.

8 SECTION 36. AMENDATORY Section 13, Chapter 240, O.S.L.
9 2003 (59 O.S. Supp. 2009, Section 3113), is amended to read as
10 follows:

11 Section 3113. A. To qualify for a license issued pursuant to
12 ~~this act~~ the Deferred Deposit Lending Act, an applicant shall have:

13 1. A minimum net worth, determined in accordance with generally
14 accepted accounting principles, of at least Twenty-five Thousand
15 Dollars (\$25,000.00) available for operation of each licensed
16 location, with a maximum aggregate net worth requirement of Two
17 Hundred Fifty Thousand Dollars (\$250,000.00) for an owner of
18 multiple locations; and

19 2. The financial responsibility, character, experience and
20 general fitness so as to command the confidence of the public and to
21 warrant the belief that the business will be operated lawfully,
22 honestly, fairly and efficiently.

23 B. An application for a license pursuant to this act must be in
24 writing, under oath, and on a form prescribed by the Administrator

1 of Consumer Credit. The application must set forth all of the
2 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 may require.

16 C. On receipt of an application in the form prescribed by the
17 Administrator and accompanied by the required license fee, the
18 Administrator shall investigate whether the qualifications for
19 license are satisfied. If the Administrator finds that the
20 qualifications are satisfied, the Administrator shall issue to the
21 applicant a license to engage in the business of making deferred
22 deposit loans. If the Administrator fails to issue a license, the
23 Administrator shall notify the applicant of the denial and the

24

1 reasons for the denial. The provisions of the Administrative
2 Procedures Act shall apply to the appeal of the denial of a license.

3 D. Each application, regardless of the number of locations to
4 be operated by a single licensee, must be accompanied by payment of
5 an application fee ~~of Two Hundred Fifty Dollars (\$250.00)~~ as
6 prescribed by rule of the Commission on Consumer Credit and an
7 investigation fee ~~of Five Hundred Dollars (\$500.00)~~ as prescribed by
8 rule of the Commission on Consumer Credit. These fees shall not be
9 refundable or abatable. If the license is granted, however, payment
10 of the application fee shall satisfy the fee requirement for the
11 first license year or its remainder.

12 E. Each license shall remain in full force and effect until
13 relinquished, suspended, revoked or expired. A license expires
14 annually and may be renewed on payment ~~of a license fee of Two~~
15 ~~Hundred Fifty Dollars (\$250.00)~~ as prescribed by rule of the
16 Commission on Consumer Credit. The annual license renewal fee for
17 an application with more than one location shall be ~~Two Hundred~~
18 ~~Fifty Dollars (\$250.00)~~ as prescribed by rule of the Commission on
19 Consumer Credit for each location.

20 F. The Commission on Consumer Credit shall prescribe by rule a
21 fee for each license change, duplicate license or returned check.

22 G. The Commission on Consumer Credit shall prescribe by rule a
23 late fee if a license is not renewed on or before the expiration of
24 the license.

1 H. The Commission on Consumer Credit shall prescribe by
2 administrative rule all fees authorized by the Deferred Deposit
3 Lending Act. All fees prescribed by rule of the Commission shall be
4 in accordance with Article I of the Administrative Procedures Act.
5 Prior to July 1, 2011, the Commission shall establish all authorized
6 fees by emergency rule. Any fee established by emergency rule shall
7 remain effective until the fee is prescribed by permanent rule of
8 the Commission in accordance with Article I of the Administrative
9 Procedures Act. Any fees prescribed by rule after July 1, 2011,
10 shall be prescribed as permanent rules.

11 I. Examination and investigation fees prescribed by rule of the
12 Commission shall not exceed Seven Hundred Fifty Dollars (\$750.00).
13 Examination and investigation fees shall not be increased in an
14 amount exceeding Two Hundred Dollars (\$200.00) in any calendar year.

15 J. Annual license fees prescribed by rule of the Commission
16 shall not exceed Five Hundred Dollars (\$500.00). Annual license
17 fees shall not be increased in an amount exceeding One Hundred
18 Dollars (\$100.00) in any calendar year.

19 SECTION 37. AMENDATORY Section 15, Chapter 240, O.S.L.
20 2003 (59 O.S. Supp. 2009, Section 3115), is amended to read as
21 follows:

22 Section 3115. A. If the Administrator of Consumer Credit has
23 reasonable cause to believe a lender has violated any provision of
24 ~~this act~~ the Deferred Deposit Lending Act, the Administrator may

1 make an investigation to determine whether the act has been
2 committed, and, to the extent necessary for this purpose, may
3 administer oaths or affirmations, and upon the Administrator's own
4 motion or upon request of any party may subpoena witnesses, compel
5 their attendance, adduce evidence, and require the production of any
6 matter which is relevant to the investigation, including the
7 existence, description, nature, custody, condition, and location of
8 any books, documents, or other tangible things and the identity and
9 location of persons having knowledge of relevant facts, or any other
10 matter reasonably calculated to lead to the discovery of admissible
11 evidence.

12 B. If the person's records are located outside this state, the
13 person shall, at the person's option, either make them available to
14 the Administrator at a convenient location within this state, or pay
15 the reasonable and necessary expenses for the Administrator or a
16 representative to examine them at the place where they are
17 maintained. Payments for such necessary expenses shall be made to
18 the Commission on Consumer Credit. Any such payments so received by
19 the Department shall be deposited in the Oklahoma Deferred Deposit
20 Lending Regulatory Revolving Fund. The Administrator may designate
21 representatives, including comparable officials of the state in
22 which the records are located, to inspect them on the
23 Administrator's behalf.

24

1 C. Upon failure without lawful excuse to obey a subpoena or to
2 give testimony and upon reasonable notice to all persons affected
3 thereby the Administrator may apply to a court for an order
4 compelling compliance, as provided by the Administrative Procedures
5 Act, Sections 250.1 through 323 of Title 75 of the Oklahoma
6 Statutes.

7 D. The Administrator shall not make public the name or identity
8 of a person whose acts or conduct are investigated pursuant to this
9 section or the facts disclosed in the investigation, but this
10 subsection does not apply to disclosures in actions or enforcement
11 proceedings pursuant to ~~this act~~ the Deferred Deposit Lending Act.

12 E. The Administrator ~~or an independent hearing examiner~~ may,
13 after notice and hearing, censure, probate, suspend, revoke or
14 refuse to renew any license or enjoin violations of ~~this act~~ the
15 Deferred Deposit Lending Act if the Administrator ~~or an independent~~
16 ~~hearing examiner~~ finds that:

17 1. The licensee has failed to pay the annual license fee
18 imposed by ~~this act~~ the Deferred Deposit Lending Act, or an
19 examination fee, investigation fee or other fee or charge imposed by
20 the Administrator under the authority of ~~this act~~ the Deferred
21 Deposit Lending Act;

22 2. The licensee, either knowingly or without the exercise of
23 due care to prevent the same, has violated any provision of this act
24

1 or any rule or order lawfully made pursuant to and within the
2 authority of ~~this act~~ the Deferred Deposit Lending Act;

3 3. Any fact or condition exists which, if it had existed or had
4 been known to exist at the time of the original application for the
5 license, clearly would have justified the Administrator ~~or an~~
6 ~~independent hearing examiner~~ in refusing to issue the license;

7 4. The licensee has refused to permit examination by the
8 Administrator;

9 5. The licensee has demonstrated incompetency or
10 untrustworthiness to engage in the business of making deferred
11 deposit loans; or

12 6. The licensee, as an individual, has been convicted of a
13 felony or misdemeanor involving fraud, misrepresentation or deceit.

14 F. The hearing shall be held on not less than twenty (20) days'
15 notice in writing setting forth the time and place of the hearing
16 and a concise statement of the facts alleged to sustain the
17 administrative action, and its effective date shall be set forth in
18 a written order accompanied by finding of fact and a copy of the
19 findings shall be delivered immediately to the licensee. The order,
20 findings and evidence considered by the Administrator ~~or the~~
21 ~~independent hearing examiner~~ shall be filed with the public records
22 of the Administrator.

23 G. Any licensee may surrender any license by delivering it to
24 the Administrator with written notice of its surrender, but the

1 surrender shall not affect the responsibility of the licensee for
2 acts occurring prior to surrender of a license.

3 H. No revocation, suspension, or surrender of any license shall
4 impair or affect the obligation of any preexisting lawful contract
5 between the licensee and any debtor.

6 I. The Administrator ~~or an independent hearing examiner~~ may
7 reinstate suspended licenses or issue new licenses to a person whose
8 license or licenses have been revoked if no fact or condition then
9 exists which clearly would have justified the Administrator or the
10 independent hearing examiner in refusing originally to issue such
11 license under these subsections.

12 J. Every licensee shall notify the Administrator of the
13 conviction of or plea of guilty or nolo contendere to any felony
14 within thirty (30) days after the plea is taken and also within
15 thirty (30) days of the entering of an order of judgment and
16 sentencing and shall notify the Administrator of any administrative
17 action resulting in revocation, suspension or amendment of a license
18 taken against the licensee in another state within thirty (30) days
19 of the entering of the administrative order in that state.

20 K. Except as otherwise provided, the Administrative Procedures
21 Act applies to and governs all administrative action taken by the
22 Administrator pursuant to ~~this act~~ the Deferred Deposit Lending Act.

23 L. 1. After notice and hearing, the Administrator ~~or the~~
24 ~~independent hearing examiner~~ may order a lender or a person acting

1 in the lender's behalf to cease and desist from engaging in
2 violations of ~~this act~~ the Deferred Deposit Lending Act.

3 2. A respondent aggrieved by an order of the Administrator may
4 obtain judicial review of the order as provided by the
5 Administrative Procedures Act. In such a review proceeding, the
6 Administrator may apply for a decree enforcing the order. All such
7 proceedings shall be conducted and the court's authority in review
8 shall be exercised in accordance with the provisions of the
9 Administrative Procedures Act, with the following additions:

- 10 a. the court may grant any temporary relief or
11 restraining order it deems just,
- 12 b. if the court affirms or modifies the order, it shall
13 enter a decree enforcing and requiring compliance with
14 the order as affirmed or as modified,
- 15 c. an objection to the order not urged at the hearing
16 shall not be considered by the court unless the
17 failure to urge the objection is excused for good
18 cause shown, and
- 19 d. the copy of the testimony from the administrative
20 hearing shall be available at reasonable times to all
21 parties for examination without cost.

22 3. If no proceeding for review has been filed within the time
23 specified by law, the Administrator or a representative may obtain
24 from a court having jurisdiction over the respondent a decree for

1 enforcement of the order upon a showing that the order was issued in
2 compliance with this section, that no proceeding for review was
3 initiated within the time specified by law, and that the respondent
4 is subject to the jurisdiction of the court.

5 M. The Administrator shall appoint an independent hearing
6 examiner to conduct all administrative hearings involving alleged
7 violations of the Deferred Deposit Lending Act. The independent
8 hearing examiner shall have authority to exercise all powers granted
9 by Article II of the Administrative Procedures Act in conducting
10 hearings. The independent hearing examiner shall have authority to
11 recommend penalties authorized by the Deferred Deposit Lending Act
12 and issue proposed orders, with proposed findings of fact and
13 proposed conclusions of law, to the Administrator pursuant to
14 Article II of the Administrative Procedures Act. The Administrator
15 shall review the proposed order and issue a final agency order in
16 accordance with Article II of the Administrative Procedures Act. A
17 final agency order issued by the Administrator shall be appealable
18 by all parties to the district court as provided in Article II of
19 the Administrative Procedures Act. The costs of the hearing
20 examiner may be assessed by the hearing examiner against the
21 respondent, unless the respondent is the prevailing party.

22 SECTION 38. AMENDATORY Section 17, Chapter 240, O.S.L.
23 2003 (59 O.S. Supp. 2009, Section 3117), is amended to read as
24 follows:

1 Section 3117. A. The Administrator of Consumer Credit may
2 order and impose civil penalties upon a person subject to the
3 provisions of ~~this act~~ the Deferred Deposit Lending Act for
4 violations of ~~this act~~ the Deferred Deposit Lending Act or the rules
5 promulgated to implement ~~this act~~ the Deferred Deposit Lending Act
6 in an amount not to exceed One Thousand Dollars (\$1,000.00) per
7 violation. The Administrator may also order repayment of unlawful
8 ~~or excessive~~ fees charged to debtors.

9 B. Any administrative order or settlement agreement imposing a
10 civil penalty pursuant to this section may be enforced in the same
11 manner as civil judgments in this state. The Administrator may file
12 an application to enforce an administrative order or settlement
13 agreement imposing a civil penalty in the district court of Oklahoma
14 County.

15 SECTION 39. REPEALER 59 O.S. 2001, Section 1956, is
16 hereby repealed.

17 SECTION 40. REPEALER Section 9, Chapter 469, O.S.L.
18 2002, as last amended by Section 13, Chapter 2, O.S.L. 2009 (59 O.S.
19 Supp. 2009, Section 2093), is hereby repealed.

20 SECTION 41. This act shall become effective July 1, 2010.

21 SECTION 42. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
23 declared to exist, by reason whereof this act shall take effect and
24 be in full force from and after its passage and approval.

1 Passed the House of Representatives the 9th day of March, 2010.

2
3
4 Presiding Officer of the House of
Representatives

5
6 Passed the Senate the ____ day of _____, 2010.

7
8
9 Presiding Officer of the Senate