

1 ENGROSSED SENATE
2 BILL NO. 383

By: Myers of the Senate

3 and

4 Hickman of the House

5
6
7 [professions and occupations - Oklahoma Health Spa

8 Act -

9 effective date]

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

12 SECTION 1. AMENDATORY 59 O.S. 2001, Section 2002, is
13 amended to read as follows:

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

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

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

21 3. Be renewed each succeeding calendar year; and

22 4. Be accompanied by a fee of Two Hundred Dollars (\$200.00) per
23 registration and annual renewal.

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1 B. Each separate location where health spa services are offered
2 shall be considered a separate health spa and shall file a separate
3 registration, even though the separate locations are owned or
4 operated by the same owner.

5 C. The fee for a duplicate or amended registration shall be
6 Twenty-five Dollars (\$25.00).

7 D. There shall be assessed, in addition to any other penalties
8 provided for by law, an administrative service fee of Twenty-five
9 Dollars (\$25.00) for any check returned to the Department of
10 Consumer Credit or any agent of the Department. However, the fee
11 provided in this subsection shall not be assessed for any check
12 returned because of "insufficient funds" unless the check has been
13 presented to the bank two times and payment declined by the bank.

14 SECTION 2. AMENDATORY 59 O.S. 2001, Section 2005, is
15 amended to read as follows:

16 Section 2005. A. A copy of every health spa contract or
17 membership agreement shall be delivered to the buyer at the time the
18 contract or membership agreement is executed. All health spa
19 contracts or membership agreements shall:

- 20 1. Be in writing, signed by the buyer;
- 21 2. Designate the date on which the buyer actually signed the
22 contract or membership agreement and length of membership;
- 23 3. Identify services and facilities to be provided;

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1 4. Contain the provisions set forth in Section ~~6~~ 2004 of this
2 ~~act~~ title under a conspicuous caption: "BUYER'S RIGHT TO CANCEL";
3 and

4 5. Read substantially as follows:

5 If you wish to cancel this contract or membership agreement, you
6 may cancel by making or delivering written notice to this health
7 spa. The notice must say that you do not wish to be bound by the
8 contract or membership agreement and must be delivered or mailed
9 before midnight of the third business day after you sign this
10 contract or membership agreement. The notice must be delivered or
11 mailed to:

12

13 (Health spa shall insert its name and mailing address)

14 You may also cancel this contract or membership agreement if
15 this spa moves or goes out of business and fails to provide
16 alternative facilities within eight (8) miles of the location
17 designated in this contract or membership agreement. You may also
18 cancel if you become disabled_{7,1} and your estate may cancel in the
19 event of your death. You must prove such disability by a doctor's
20 certificate, and the health spa may also require that you submit to
21 a physical examination by a doctor agreeable to you and the health
22 spa. If you cancel, the health spa may retain or collect a portion
23 of the contract or membership agreement price equal to the

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1 proportionate value of the services or use of facilities you have
2 already received.

3 B. No health spa contract or membership agreement shall have a
4 duration for a period longer than thirty-six (36) months⁷; however,
5 the contract or membership agreement may give the buyer a right of
6 renewal.

7 C. The provisions of the Oklahoma Health Spa Act are not
8 exclusive and do not relieve the parties or the contracts or
9 membership agreements subject thereto from compliance with all other
10 applicable provisions of law.

11 D. Any health spa contract or membership agreement which does
12 not comply with the applicable provisions of the Oklahoma Health Spa
13 Act shall be voidable at the option of the buyer.

14 E. Any health spa contract or membership agreement entered into
15 by the buyer upon any false or misleading information,
16 representation, notice or advertisement of the health spa or the
17 health spa's agents shall be void and unenforceable.

18 F. Any waiver by the buyer of the provisions of the Oklahoma
19 Health Spa Act shall be deemed contrary to public policy and shall
20 be void and unenforceable.

21 G. All health spa contracts or membership agreements and any
22 promissory note executed by the buyer in connection therewith shall
23 contain the following provision on the face thereof in at least
24 ten-point, boldface type:

1 NOTICE

2 ANY HOLDER OF THIS CONTRACT OR MEMBERSHIP AGREEMENT IS SUBJECT TO
3 ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE
4 SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF.
5 RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY
6 THE DEBTOR HEREUNDER.

7 SECTION 3. AMENDATORY 59 O.S. 2001, Section 2011, is
8 amended to read as follows:

9 Section 2011. There is hereby created in the State Treasury a
10 revolving fund for the Commission on Consumer Credit to be
11 designated the "Health Spa Revolving Fund". The fund shall be a
12 continuing fund, not subject to fiscal year limitations, and shall
13 consist of ~~registration and annual renewal~~ any fees provided for in
14 Section 2002 of Title 59 of the Oklahoma Statutes. All monies
15 accruing to the credit of ~~said~~ the fund are hereby appropriated and
16 may be budgeted and expended by the Department of Consumer Credit
17 for the operating expenses of the Department and for the
18 administration of the Oklahoma Health Spa Act. Expenditures from
19 ~~said~~ the fund shall be made upon warrants issued by the State
20 Treasurer against claims filed as prescribed by law with the
21 Director of State Finance for approval and payment.

22 SECTION 4. This act shall become effective November 1, 2009.
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