

SB 383

Senate Bill No. 383  
As Amended

SENATE BILL NO. 383 - By: Myers of the Senate and Hickman of the House.

[ professions and occupations - Oklahoma Health Spa Act - effective date ]

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

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

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

- 1. Disclose the address, ownership, date of first sales and date of first opening of the health spa;
- 2. State the name and address of the registered agent of the registrant, if the registrant is a corporation;
- 3. Be renewed each succeeding calendar year; and
- 4. Be accompanied by a fee of Two Hundred Dollars (\$200.00) per registration and annual renewal.

B. Each separate location where health spa services are offered shall be considered a separate health spa and shall file a separate

1 registration, even though the separate locations are owned or  
2 operated by the same owner.

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

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

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

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

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

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

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) months~~7~~1; 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

1 contain the following provision on the face thereof in at least  
2 ten-point, boldface type:

3 NOTICE

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

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

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

1           SECTION 4. This act shall become effective November 1, 2009.  
2   COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-9-09 -  
3   DO PASS, As Amended and Coauthored.