

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1698 By: Newberry of the Senate
3 and
4 Armes of the House
5
6

7 An Act relating to the Consumer Credit Code; amending
8 14A O.S. 2011, Section 6-108, which relates to
9 administrative enforcement orders; providing for
10 administrative fines; setting fine amounts; and
11 providing an effective date.

12 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
13 and insert
14

15 "An Act relating to supervised lenders; amending 14A
16 O.S. 2011, Sections 1-106, 3-508A and 6-108, which
17 relate to required changes in dollar amounts for
18 certain loans, loan charges and administrative
19 orders; deleting supervised lenders from automatic
20 change under certain Reference Base Index; modifying
21 maximum loan amounts and charges; limiting time for
22 certain loan to be repaid; providing an
23 administrative fine; and setting minimum and maximum
24 fine amounts.

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

23 SECTION 1. AMENDATORY 14A O.S. 2011, Section 1-106, is
24 amended to read as follows:

1 Section 1-106. (1) From time to time the dollar amounts in
2 ~~Sections paragraphs (a), (b) and (c) of subsection (2) of Section 2-~~
3 ~~201(2)(a), (b) and (c), paragraph (a) of subsection (1) of Section~~
4 ~~2-203(1)(a), subsection (1) of Section 2-407(1), Section 2-413,~~
5 ~~paragraph (b) of subsection (1) of Section 3-203(1)(b), Section 3-~~
6 ~~203.1, 3-508A(2)(a), subsection (1) of Section 3-508B(1), subsection~~
7 ~~(1) of Section 3-510(1), paragraphs (a) and (b) of Section 3-~~
8 ~~511(1)(a) and (b), Section 3-514, and subsections (2) and (3) of~~
9 ~~Section 5-103(2) and (3) of the Uniform Consumer Credit Code, are~~
10 hereby designated as subject to change and shall change, as provided
11 in this section and the rules of the Administrator, according to and
12 to the extent of changes in the Consumer Price Index for Urban Wage
13 Earners and Clerical Workers: U.S. City Average, All Items,
14 1967=100, compiled by the Bureau of Labor Statistics, United States
15 Department of Labor, and hereafter referred to as the Index. The
16 Index for December of the year 1973 shall be deemed the Reference
17 Base Index. The dollar amounts established by rule of the
18 Administrator in ~~Sections~~ paragraph (e) of subsection (1) of Section
19 2-104(1)(e), paragraph (b) of subsection (1) of Section 2-106(1)(b)
20 and paragraph (d) of Section 3-104(4) of the Uniform Consumer Credit
21 Code in effect on January 1, 1982, shall remain in full force and
22 effect.

23 (2) The designated dollar amounts shall change on July 1 of
24 each year if the percentage of change, calculated to the nearest

1 whole percentage point, between the Index at the end of the
2 preceding year and the Reference Base Index is ten percent (10%) or
3 more, but:

4 (a) the portion of the percentage change in the Index in
5 excess of a multiple of ten percent (10%) shall be
6 disregarded and the dollar amounts shall change only
7 in multiples of ten percent (10%) of the amounts
8 appearing in this Code; and

9 (b) the dollar amounts shall not change if the amounts
10 required by this section are those currently in effect
11 pursuant to this Code as a result of earlier
12 application of this section.

13 (3) If the Index is revised, the percentage of change pursuant
14 to this section shall be calculated on the basis of the revised
15 Index. If a revision of the Index changes the Reference Base Index,
16 a revised Reference Base Index shall be determined by multiplying
17 the Reference Base Index then applicable by the rebasing factor
18 furnished by the United States Bureau of Labor Statistics. If the
19 Index is superseded, the Index referred to in this section shall be
20 the one represented by the United States Bureau of Labor Statistics
21 as reflecting most accurately changes in the purchasing power of the
22 dollar for consumers.

23 (4) The rules of the Administrator shall:
24

- 1 (a) include the method for calculating the changes in
2 dollar amounts required by subsection (2) of this
3 section;
- 4 (b) be amended in accordance with the Administrative
5 Procedures Act to include changes in the Index
6 required by subsection (3) of this section including,
7 if applicable, the numerical equivalent of the
8 Reference Base Index under a revised Reference Base
9 Index and the designation or title of any index
10 superseding the Index; and
- 11 (c) provide for appropriate notice to licensees and other
12 interested persons of any changes in the dollar
13 amounts which result from changes required by
14 subsection (2) of this section no later than April 30
15 of each year. Each dollar amount subject to change as
16 provided in this section shall be listed in an
17 appendix to the rules of the Administrator and shall
18 be published in the Oklahoma Administrative Code.
19 Changes to the appendix shall be submitted to the
20 Secretary of State prior to the annual deadline for
21 submitting material for publication in the Code.
22 Changes in the appendix shall not be construed as
23 rulemaking.
- 24

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

6 SECTION 2. AMENDATORY 14A O.S. 2011, Section 3-508A, is
7 amended to read as follows:

8 Section 3-508A. (1) With respect to a supervised loan,
9 including a loan pursuant to a revolving loan account, a supervised
10 lender may contract for and receive a loan finance charge not
11 exceeding that permitted by this section.

12 (2) The loan finance charge, calculated according to the
13 actuarial method, may not exceed the equivalent of the greater of
14 either of the following:

15 (a) the total of:

16 (i) ~~thirty percent (30%)~~ twenty-seven percent (27%)
17 per year on that part of the unpaid balances of
18 the principal which is ~~Three Hundred Dollars~~
19 ~~(\$300.00)~~ Two Thousand Nine Hundred Ten Dollars
20 (\$2,910.00) or less;

21 (ii) ~~twenty-one percent (21%)~~ twenty-three percent
22 (23%) per year on that part of the unpaid
23 balances of the principal which is more than
24 ~~Three Hundred Dollars (\$300.00)~~ Two Thousand Nine

1 Hundred Ten Dollars (\$2,910.00) but does not

2 exceed ~~One Thousand Dollars (\$1,000.00)~~ Six

3 Thousand Two Hundred Dollars (\$6,200.00); and

4 (iii) ~~fifteen percent (15%)~~ twenty percent (20%) per

5 year on that part of the unpaid balances of the

6 principal which is more than ~~One Thousand Dollars~~

7 ~~(\$1,000.00)~~ Six Thousand Two Hundred Dollars

8 (\$6,200.00); or

9 (b) ~~twenty one percent (21%)~~ twenty-five percent (25%) per

10 year on the unpaid balances of the principal.

11 (3) This section does not limit or restrict the manner of
12 contracting for the loan finance charge, whether by way of add-on,
13 discount, or otherwise, so long as the rate of the loan finance
14 charge does not exceed that permitted by this section. If the loan
15 is precomputed:

16 (a) the loan finance charge may be calculated on the
17 assumption that all scheduled payments will be made
18 when due; and

19 (b) the effect of prepayment is governed by the provisions
20 on rebate upon prepayment (Section 3-210).

21 (4) The term of a loan, for the purpose of this section,
22 commences on the date the loan is made. Differences in the lengths
23 of months are disregarded and a day may be counted as one-thirtieth
24 (1/30) of a month. Subject to classifications and differentiations

1 the lender may reasonably establish, a part of a month in excess of
2 fifteen (15) days may be treated as a full month if periods of
3 fifteen (15) days or less are disregarded and if that procedure is
4 not consistently used to obtain a greater yield than would otherwise
5 be permitted. A loan made under this section shall not be repayable
6 in fewer than twelve (12) months.

7 (5) Subject to classifications and differentiations the lender
8 may reasonably establish, he may make the same loan finance charge
9 on all principal amounts within a specified range. A loan finance
10 charge so made does not violate subsection (2) of this section if:

11 (a) when applied to the median amount within each range,
12 it does not exceed the maximum permitted in subsection
13 (2) of this section; and

14 (b) when applied to the lowest amount within each range,
15 it does not produce a rate of loan finance charge
16 exceeding the rate calculated according to paragraph
17 (a) of this subsection by more than eight percent (8%)
18 of the rate calculated according to paragraph (a) of
19 this subsection.

20 SECTION 3. AMENDATORY 14A O.S. 2011, Section 6-108, is
21 amended to read as follows:

22 Section 6-108. (1) After notice and hearing, the Administrator
23 or the independent hearing examiner may order a creditor or a person
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1 acting in the creditor's behalf to cease and desist from engaging in
2 violations of this title.

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 (4) With respect to unconscionable agreements or fraudulent or
6 unconscionable conduct by the respondent, the Administrator or a
7 representative may not issue an order pursuant to this section but
8 may bring a civil action for an injunction under Section 6-111 of
9 this title.

10 (5) In order to ensure the effective supervision and
11 enforcement of supervised lenders licensed pursuant to Section 3-
12 508A of this title, the Administrator of Consumer Credit may, after
13 notice and hearing pursuant to Article II of the Administrative
14 Procedures Act, seek any relief against the supervised lender
15 licensee authorized by subsection (1), (2) or (3) of this section
16 and may impose an administrative fine in an amount not less than One
17 Hundred Dollars (\$100.00) nor more than Two Thousand Five Hundred
18 Dollars (\$2,500.00) for each violation of the Uniform Consumer
19 Credit Code, not to exceed Five Thousand Dollars (\$5,000.00) for all
20 violations resulting from a single incident or transaction."

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1 ENGROSSED SENATE
2 BILL NO. 1698

By: Newberry of the Senate

3 and

4 Armes of the House

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6 An Act relating to the Consumer Credit Code; amending
7 14A O.S. 2011, Section 6-108, which relates to
8 administrative enforcement orders; providing for
9 administrative fines; setting fine amounts; and
10 providing an effective date.

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

12 SECTION 4. AMENDATORY 14A O.S. 2011, Section 6-108, is
13 amended to read as follows:

14 Section 6-108. (1) After notice and hearing, the Administrator
15 or the independent hearing examiner may order a creditor or a person
16 acting in the creditor's behalf to cease and desist from engaging in
17 violations of this title.

18 (2) A respondent aggrieved by an order of the Administrator may
19 obtain judicial review of the order as provided by the
20 Administrative Procedures Act. In such a review proceeding, the
21 Administrator may apply for a decree enforcing the order. All such
22 proceedings shall be conducted and the court's authority in review
23 shall be exercised in accordance with the provisions of the
24 Administrative Procedures Act, with the following additions:

- 1 (a) the court may grant any temporary relief or
2 restraining order it deems just,
- 3 (b) if the court affirms or modifies the order, it shall
4 enter a decree enforcing and requiring compliance with
5 the order as affirmed or as modified,
- 6 (c) an objection to the order not urged at the hearing
7 shall not be considered by the court unless the
8 failure to urge the objection is excused for good
9 cause shown, and
- 10 (d) the copy of the testimony from the administrative
11 hearing shall be available at reasonable times to all
12 parties for examination without cost.

13 (3) If no proceeding for review has been filed within the time
14 specified by law, the Administrator or a representative may obtain
15 from a court having jurisdiction over the respondent a decree for
16 enforcement of the order upon a showing that the order was issued in
17 compliance with this section, that no proceeding for review was
18 initiated within the time specified by law, and that the respondent
19 is subject to the jurisdiction of the court.

20 (4) With respect to unconscionable agreements or fraudulent or
21 unconscionable conduct by the respondent, the Administrator or a
22 representative may not issue an order pursuant to this section but
23 may bring a civil action for an injunction under Section 6-111 of
24 this title.

1 (5) In order to ensure the effective supervision and
2 enforcement of supervised lenders licensed pursuant to Section 3-
3 508A of this title, the Administrator of Consumer Credit may, after
4 notice and hearing pursuant to Article II of the Administrative
5 Procedures Act, seek any relief against the supervised lender
6 licensee authorized by subsection (1), (2) or (3) of this section
7 and may impose an administrative fine in an amount not less than One
8 Hundred Dollars (\$100.00) nor more than Two Thousand Five Hundred
9 Dollars (\$2,500.00) for each violation of the Oklahoma Consumer
10 Credit Code, not to exceed Five Thousand Dollars (\$5,000.00) for all
11 violations resulting from a single incident or transaction.

12 SECTION 5. This act shall become effective November 1, 2014.

13 Passed the Senate the 4th day of March, 2014.

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Presiding Officer of the Senate

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17 Passed the House of Representatives the ____ day of _____,

18 2014.

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Presiding Officer of the House
of Representatives

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