STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1698 By: Newberry of the Senate

and

Armes of the House

COMMITTEE SUBSTITUTE

An Act relating to supervised lenders; amending 14A O.S. 2011, Sections 1-106, 3-508A and 6-108, which relate to required changes in dollar amounts for certain loans, loan charges and administrative orders; deleting supervised lenders from automatic change under certain Reference Base Index; modifying maximum loan amounts and charges; limiting time for certain loan to be repaid; providing an administrative fine; setting minimum and maximum fine amounts; providing an effective date; and declaring an emergency.

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

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

Section 1-106. (1) From time to time the dollar amounts in ~~Sections~~ paragraphs (a), (b) and (c) of subsection (2) of Section 2-201~~(2)(a), (b) and (c)~~, paragraph (a) of subsection (1) of Section 2-203~~(1)(a)~~, subsection (1) of Section 2-407~~(1)~~, Section 2-413,

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

(2) The designated dollar amounts shall change on July 1 of each year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is ten percent (10%) or more, but:

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

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

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

(4) The rules of the Administrator shall:

(a) include the method for calculating the changes in dollar amounts required by subsection (2) of this section;

(b) be amended in accordance with the Administrative Procedures Act to include changes in the Index required by subsection (3) of this section including, if applicable, the numerical equivalent of the Reference Base Index under a revised Reference Base Index and the designation or title of any index superseding the Index; and

(c) provide for appropriate notice to licensees and other interested persons of any changes in the dollar amounts which result from changes required by subsection (2) of this section no later than April 30 of each year. Each dollar amount subject to change as provided in this section shall be listed in an appendix to the rules of the Administrator and shall be published in the Oklahoma Administrative Code. Changes to the appendix shall be submitted to the Secretary of State prior to the annual deadline for submitting material for publication in the Code. Changes in the appendix shall not be construed as rulemaking.

(5) A person does not violate this act with respect to a transaction otherwise complying with this act if he relies on dollar amounts either determined according to subsection (2) of this

section or appearing in the last rule of the Administrator announcing the then current dollar amounts.

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

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

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

(a) the total of:

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

(ii) ~~twenty-one percent (21%)~~ twenty-three percent (23%) per year on that part of the unpaid balances of the principal which is more than ~~Three Hundred Dollars ($300.00)~~ Two Thousand Nine Hundred Ten Dollars ($2,910.00) but does not exceed ~~One Thousand Dollars ($1,000.00)~~ Six Thousand Two Hundred Dollars ($6,200.00); and

(iii) ~~fifteen percent (15%)~~ twenty percent (20%) per year on that part of the unpaid balances of the principal which is more than ~~One Thousand Dollars ($1,000.00)~~ Six Thousand Two Hundred Dollars ($6,200.00); or

(b) ~~twenty-one percent (21%)~~ twenty-five percent (25%) per year on the unpaid balances of the principal.

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

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

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

(4) The term of a loan, for the purpose of this section, commences on the date the loan is made. Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is

not consistently used to obtain a greater yield than would otherwise be permitted. A loan made under this section shall not be repayable in fewer than twelve (12) months.

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

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

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

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

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

(2) A respondent aggrieved by an order of the Administrator may obtain judicial review of the order as provided by the

Administrative Procedures Act. In such a review proceeding, the Administrator may apply for a decree enforcing the order. All such proceedings shall be conducted and the court's authority in review shall be exercised in accordance with the provisions of the Administrative Procedures Act, with the following additions:

(a) the court may grant any temporary relief or restraining order it deems just,

(b) if the court affirms or modifies the order, it shall enter a decree enforcing and requiring compliance with the order as affirmed or as modified,

(c) an objection to the order not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown, and

(d) the copy of the testimony from the administrative hearing shall be available at reasonable times to all parties for examination without cost.

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

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

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

SECTION 4. This act shall become effective July 1, 2014.

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

54-2-10779 EK 04/03/14