

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1698

By: Newberry of the Senate

and

Armes of the House

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10 COMMITTEE SUBSTITUTE

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

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:

 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

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

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

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

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

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

20 (4) The rules of the Administrator shall:

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

24

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

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

21 (5) A person does not violate this act with respect to a
22 transaction otherwise complying with this act if he relies on dollar
23 amounts either determined according to subsection (2) of this
24

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

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

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

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

12 (a) the total of:

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

18 (ii) ~~twenty-one percent (21%)~~ twenty-three percent
19 (23%) per year on that part of the unpaid
20 balances of the principal which is more than
21 ~~Three Hundred Dollars (\$300.00)~~ Two Thousand Nine
22 Hundred Ten Dollars (\$2,910.00) but does not
23 exceed ~~One Thousand Dollars (\$1,000.00)~~ Six
24 Thousand Two Hundred Dollars (\$6,200.00); and

1 (iii) ~~fifteen percent (15%)~~ twenty percent (20%) per
2 year on that part of the unpaid balances of the
3 principal which is more than ~~One Thousand Dollars~~
4 ~~(\$1,000.00)~~ Six Thousand Two Hundred Dollars
5 (\$6,200.00); or

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

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

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

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

18 (4) The term of a loan, for the purpose of this section,
19 commences on the date the loan is made. Differences in the lengths
20 of months are disregarded and a day may be counted as one-thirtieth
21 (1/30) of a month. Subject to classifications and differentiations
22 the lender may reasonably establish, a part of a month in excess of
23 fifteen (15) days may be treated as a full month if periods of
24 fifteen (15) days or less are disregarded and if that procedure is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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23 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL
24 SERVICES, dated 04/03/2014 - DO PASS, As Amended.