

1 **SENATE FLOOR VERSION**

2 February 14, 2013

3 **AS AMENDED**

4 SENATE BILL NO. 520

By: Newberry of the Senate

and

Armes of the House

5
6
7
8 An Act relating to supervised lenders; amending 14A
9 O.S. 2011, Sections 1-106, 3-508A and 6-108, which
10 relate to required changes in dollar amounts for
11 certain loans, loan charges and administrative
12 orders; deleting supervised lenders from automatic
13 change under certain Reference Base Index; modifying
14 maximum loan amounts and charges; allowing certain
15 origination fees; setting maximum origination fee;
16 providing an administrative fine; setting minimum and
17 maximum fine amounts; providing an effective date;
18 and declaring an emergency.

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

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

22 Section 1-106. (1) From time to time the dollar amounts in
23 Sections 2-201(2)(a), (b) and (c), 2-203(1)(a), 2-407(1), 2-413, 3-
24 203(1)(b), 3-203.1, ~~3-508A(2)(a)~~, 3-508B(1), 3-510(1), 3-511(1)(a)
and (b), 3-514, and 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,

1 according to and to the extent of changes in the Consumer Price
2 Index for Urban Wage Earners and Clerical Workers: U.S. City
3 Average, All Items, 1967=100, compiled by the Bureau of Labor
4 Statistics, United States Department of Labor, and hereafter
5 referred to as the Index. The Index for December of the year 1973
6 shall be deemed the Reference Base Index. The dollar amounts
7 established by rule of the Administrator in Sections 2-104(1)(e), 2-
8 106(1)(b) and 3-104(4) in effect on January 1, 1982, shall remain in
9 full force and effect.

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

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

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

24

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

11 (4) The rules of the Administrator shall:

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

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

22 (c) provide for appropriate notice to licensees and other
23 interested persons of any changes in the dollar
24 amounts which result from changes required by

1 subsection (2) of this section no later than April 30
2 of each year. Each dollar amount subject to change as
3 provided in this section shall be listed in an
4 appendix to the rules of the Administrator and shall
5 be published in the Oklahoma Administrative Code.
6 Changes to the appendix shall be submitted to the
7 Secretary of State prior to the annual deadline for
8 submitting material for publication in the Code.
9 Changes in the appendix shall not be construed as
10 rulemaking.

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

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

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

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

1 (a) the total of:

2 (i) ~~thirty percent (30%)~~ twenty-seven percent (27%)
3 per year on that part of the unpaid balances of
4 the principal which is ~~Three Hundred Dollars~~
5 ~~(\$300.00)~~ Two Thousand Nine Hundred Ten Dollars
6 (\$2,910.00) or less;

7 (ii) ~~twenty-one percent (21%)~~ twenty-four percent
8 (24%) per year on that part of the unpaid
9 balances of the principal which is more than
10 ~~Three Hundred Dollars (\$300.00)~~ Two Thousand Nine
11 Hundred Ten Dollars (\$2,910.00) but does not
12 exceed ~~One Thousand Dollars (\$1,000.00)~~ Six
13 Thousand Two Hundred Dollars (\$6,200.00); and

14 (iii) ~~fifteen percent (15%)~~ twenty-one percent (21%)
15 per year on that part of the unpaid balances of
16 the principal which is more than ~~One Thousand~~
17 ~~Dollars (\$1,000.00)~~ Six Thousand Two Hundred
18 Dollars (\$6,200.00); or

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

21 (3) This section does not limit or restrict the manner of
22 contracting for the loan finance charge, whether by way of add-on,
23 discount, or otherwise, so long as the rate of the loan finance
24

1 charge does not exceed that permitted by this section. If the loan
2 is precomputed:

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

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

8 (4) The term of a loan, for the purpose of this section,
9 commences on the date the loan is made. Differences in the lengths
10 of months are disregarded and a day may be counted as one-thirtieth
11 (1/30) of a month. Subject to classifications and differentiations
12 the lender may reasonably establish, a part of a month in excess of
13 fifteen (15) days may be treated as a full month if periods of
14 fifteen (15) days or less are disregarded and if that procedure is
15 not consistently used to obtain a greater yield than would otherwise
16 be permitted.

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

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

24

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

7 (6) In addition to the loan finance charge provided for in this
8 section, a supervised lender may contract for the following:

9 (a) with respect to a loan that is not made pursuant to a
10 revolving loan account, a loan origination fee of not
11 more than two percent (2%) of the loan amount; and

12 (b) with respect to a loan that is made pursuant to a
13 revolving loan account, a loan origination fee of not
14 more than two percent (2%) of the line of credit
15 contracted.

16 (7) The charges provided for in subsection (6) of this section
17 are:

18 (a) not subject to refund or rebate; and

19 (b) limited to two percent (2%) of the loan amount, but in
20 no event shall the charge exceed Fifty Dollars
21 (\$50.00), if the loan is not primarily secured by an
22 interest in land.

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

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

5 (2) A respondent aggrieved by an order of the Administrator may
6 obtain judicial review of the order as provided by the
7 Administrative Procedures Act. In such a review proceeding, the
8 Administrator may apply for a decree enforcing the order. All such
9 proceedings shall be conducted and the court's authority in review
10 shall be exercised in accordance with the provisions of the
11 Administrative Procedures Act, with the following additions:

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

24

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

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

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

24 SECTION 4. This act shall become effective July 1, 2013.

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

5 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
6 February 14, 2013 - DO PASS AS AMENDED
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24