

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3434

By: Shelton

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6 AS INTRODUCED

7 An Act relating to consumer credit; amending 24 O.S.
8 2011, Sections 133, 140, 143 and 146, which relate to
9 the Credit Services Organization Act; increasing
10 surety bond amount; directing Department of Consumer
11 Credit to establish complaint hotline; providing for
12 posting of hotline number; requiring Department to
13 investigate hotline complaints; directing
14 Administrator conduct background check on license
15 applicant; providing for Administrator to retain
16 background check fee; authorizing Administrator or
17 representative to perform audit; increasing time for
18 books and records to be kept; and providing an
19 effective date.

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

21 SECTION 1. AMENDATORY 24 O.S. 2011, Section 133, is
22 amended to read as follows:

23 Section 133. A credit services organization, its salespersons,
24 agents, and representatives, and independent contractors who sell or
attempt to sell the services of a credit services organization may
not do any of the following:

1. Charge or receive any money or other valuable consideration
prior to full and complete performance of the services the credit

1 services organization has agreed to perform for the buyer, unless
2 the credit services organization has obtained a surety bond of ~~Ten~~
3 ~~Thousand Dollars (\$10,000.00)~~ One Million Dollars (\$1,000,000.00)
4 issued by a surety company admitted to do business in this state and
5 established a trust account at a federally insured bank or savings
6 and loan association located in this state;

7 2. Charge or receive any money or other valuable consideration
8 solely for referral of the buyer to a retail seller who will or may
9 extend credit to the buyer if the credit that is or will be extended
10 to the buyer is upon substantially the same terms as those available
11 to the general public;

12 3. Make or counsel or advise any buyer to make any statement
13 that is untrue or misleading or that should be known by the exercise
14 of reasonable care to be untrue or misleading, to a credit reporting
15 agency or to any person who has extended credit to a buyer or to
16 whom a buyer is applying for an extension of credit with respect to
17 a buyer's credit worthiness, credit standing, or credit capacity; or

18 4. Make or use any untrue or misleading representations in the
19 offer or sale of the services of a credit services organization or
20 engage, directly or indirectly, in any act, practice, or course of
21 business that operates or would operate as fraud or deception upon
22 any person in connection with the offer or sale of the services of a
23 credit services organization.

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1 SECTION 2. AMENDATORY 24 O.S. 2011, Section 140, is
2 amended to read as follows:

3 Section 140. A. The Department of Consumer Credit shall
4 administer and promulgate rules and regulations to implement the
5 provisions of ~~this act~~ the Credit Services Organization Act.

6 B. The Department of Consumer Credit shall establish a
7 telephone hotline for consumers to make complaints about credit
8 services organizations. The telephone hotline number shall be
9 posted on the Department website. The Department shall investigate
10 consumer complaints to determine if the credit services organization
11 is in violation of the provisions of the Credit Services
12 Organization Act.

13 SECTION 3. AMENDATORY 24 O.S. 2011, Section 143, is
14 amended to read as follows:

15 Section 143. A. Upon the filing of an application and bond,
16 payment of an annual license fee and an investigation fee, the
17 Administrator of Consumer Credit shall conduct an investigation and
18 background check. If the Administrator finds that the financial
19 responsibility, experience, character and general fitness of the
20 applicant are such as to warrant belief that the business will be
21 operated pursuant to the Credit Services Organization Act and rules
22 promulgated pursuant thereto, the Administrator shall grant the
23 application and issue to the applicant a license which will evidence
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1 the authority of the applicant to do business under the provisions
2 of the Credit Services Organization Act.

3 B. If the Administrator does not so find facts sufficient to
4 warrant issuance of a license, the Administrator shall notify the
5 applicant. If within thirty (30) days of such notification the
6 applicant requests a hearing on the application, a hearing shall be
7 held within sixty (60) days after the date of the request. In the
8 event of the denial of a license, the investigation and background
9 check fee shall be retained by the Administrator, but the annual
10 license fee shall be returned to the applicant.

11 C. The Administrator shall grant or deny such application for
12 license within sixty (60) days from its filing with the required
13 fees, or from the hearing thereon, if any, unless the period is
14 extended by written agreement between the applicant and the
15 Administrator.

16 D. No license to engage in the business of a credit services
17 organization shall be issued for any location if a license has been
18 issued and is in effect under the provisions of Sections 3-501
19 through 3-514 of Title 14A of the Oklahoma Statutes. As used in
20 this subsection the term "location" means the entire area in which a
21 person licensed pursuant to any provision of Title 14A of the
22 Oklahoma Statutes conducts business. No credit service organization
23 may be connected with any location in which a person licensed
24 pursuant to any provision of Title 14A of the Oklahoma Statutes

1 conducts business, except by a passageway to which the public is not
2 admitted.

3 E. The Commission on Consumer Credit may prescribe by rule a
4 fee for each license change, duplicate license or returned check.

5 SECTION 4. AMENDATORY 24 O.S. 2011, Section 146, is
6 amended to read as follows:

7 Section 146. A. At such times as the Administrator of Consumer
8 Credit may deem necessary, the Administrator or a duly authorized
9 representative of the Administrator may make an examination of the
10 place of business of each licensee and may inquire into ~~and~~, examine
11 and perform an audit on the transactions, books, accounts, papers,
12 correspondence and records of such licensee insofar as they pertain
13 to the business regulated by the Credit Services Organization Act.
14 Such books, accounts, papers, correspondence and records shall also
15 be open for inspection at any reasonable time by any peace officer,
16 without any need of judicial writ or other process. In the course
17 of an examination or audit, the Administrator or a duly authorized
18 representative of the Administrator shall have free access to the
19 office, place of business, files, safes and vaults of such licensee,
20 and shall have the right to make copies of any books, accounts,
21 papers, correspondence and records. The Administrator or duly
22 authorized representative, during the course of such examination or
23 audit, may administer oaths and examine any person under oath upon
24 any subject pertinent to any matter about which the Administrator is

1 authorized or required by the Credit Services Organization Act to
2 consider, investigate or secure information. Any licensee who fails
3 or refuses to permit the Administrator or duly authorized
4 representative to examine, audit or make copies of such books or
5 other relevant documents shall be deemed to be in violation of the
6 Credit Services Organization Act and such failure or refusal shall
7 constitute grounds for the suspension or revocation of such license.
8 The information obtained in the course of any examination, audit or
9 inspection shall be confidential, except in civil or administrative
10 proceedings conducted by the Administrator, or criminal proceedings
11 instituted by the state. Each licensee shall pay to the
12 Administrator an examination fee. The Administrator may require
13 payment of an examination fee either at the time of initial
14 application, renewal of the license, or after an examination has
15 been conducted.

16 B. For the purpose of discovering violations of the Credit
17 Services Organization Act or of securing information required by the
18 Credit Services Organization Act, the Administrator or duly
19 authorized representative may investigate the books, accounts,
20 papers, correspondence and records of any licensee or other person
21 who the Administrator has reasonable cause to believe is violating
22 any provision of the Credit Services Organization Act whether or not
23 such person shall claim to be within the authority or scope of the
24 Credit Services Organization Act.

1 C. Each licensee shall keep or make available in this state
2 such books and records relating to credit service transactions made
3 pursuant to the Credit Services Organization Act as are necessary to
4 enable the Administrator to determine whether the licensee is
5 complying with the Credit Services Organization Act. Such books and
6 records shall be consistent with accepted accounting practices.

7 D. Each licensee shall preserve or make available such books
8 and records in this state relating to each of its credit service
9 transactions for ~~four (4)~~ seven (7) years from the date of the
10 transaction, or two (2) years from the date of the final entry made
11 thereon, whichever is later. Each licensee's system of records
12 shall be accepted if it discloses such information as may be
13 reasonably required pursuant to the Credit Services Organization
14 Act. All agreements signed by customers shall be kept at an office
15 in this state designated by the licensee, except when transferred
16 under an agreement which gives the Administrator access thereto.

17 E. Each licensee, annually on or before the first day of May or
18 other date thereafter fixed by the Administrator, shall file a
19 report with the Administrator setting forth such relevant
20 information as the Administrator may reasonably require concerning
21 the business and operations during the preceding calendar year for
22 each licensed place of business conducted by such licensee within
23 the state. Such report shall be made under oath and shall be in the
24 form prescribed by the Administrator, who may make and publish

1 annually a consolidated analysis and recapitulation of such reports,
2 but the individual reports shall be held confidential.

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

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