

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 1018

By: Sharp

4  
5  
6 AS INTRODUCED

7 An Act relating to Deferred Deposit Lending Act;  
8 amending 59 O.S. 2011, Sections 3102, 3103, 3104,  
9 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113,  
10 3114, 3115, 3116, 3117, 3118, as amended by Section  
11 294, Chapter 304, O.S.L. 2012 and 3119 (59 O.S. Supp.  
12 2012, Section 3118), which relate to definitions,  
13 credit terms, rescission, lending practices,  
14 collection procedure, finance charges, renewal  
15 transactions, advertising, licensure, investigations,  
16 powers of Administration of Commission on Consumer  
17 Credit, penalties, revolving fund, and payment for  
18 certain credit counseling; modifying language;  
19 deleting language; modifying references; modifying  
20 certain finance charges; increasing dishonored  
21 instrument charge; and providing an effective date.

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

23 SECTION 1. AMENDATORY 59 O.S. 2011, Section 3102, is  
24 amended to read as follows:

Section 3102. As used in the Deferred Deposit Lending Act:

1. "Administrative Procedures Act" means the general act of  
~~this state governing administrative procedures and is cited for this~~  
state as provided in Section 250 et seq. of Title 75 of the Oklahoma  
Statutes;

1           2. "Administrator" means the Administrator as defined in the  
2 Uniform Consumer Credit Code;

3           3. "Business instrument" means a draft, check or evidence of  
4 the proceeds paid to a debtor in a deferred deposit loan transaction  
5 by a deferred deposit lender;

6           4. "Consecutive loan" means a new deferred deposit loan that  
7 any lender enters into with a debtor no later than seven (7) days  
8 after the date on which a previous deferred deposit loan made to the  
9 same debtor is paid in full;

10          5. "Debtor" means the signer of an instrument which is  
11 initially payable to a deferred deposit lender;

12          6. "Deferred deposit lender" or "lender" means any person  
13 acting or licensed under ~~this act~~ the Deferred Deposit Lending Act  
14 to make deferred deposit loans, including an assignee of the  
15 lender's right to payment, but use of the term does not itself  
16 impose on an assignee any obligation of the lender with respect to  
17 events occurring before the assignment;

18          7. "Deferred deposit loan" means a transaction whereby a lender  
19 makes a cash advance to a debtor not as part of a revolving loan  
20 account as defined in Section 3-108 of Title 14A of the Oklahoma  
21 Statutes and, for a finance charge or other consideration, does the  
22 following:

23           a. accepts a dated instrument from the debtor,  
24

1           b. agrees to hold the instrument for a period of time  
2           prior to negotiation, deposit or presentation of the  
3           instrument for payment, and

4           c. advances to the debtor, credits to the debtor's  
5           account, or pays to another person on the debtor's  
6           behalf, the amount of the instrument, less the finance  
7           charge permitted by this act;

8           8. "Finance charge" means the finance charge as defined in  
9 Regulation Z;

10          9. "Instrument" means a personal check, negotiable order of  
11 withdrawal, or authorization to transfer or withdraw funds from a  
12 deposit account of the debtor signed by the debtor and made payable  
13 to a deferred deposit lender in a deferred deposit loan subject to  
14 ~~this act~~ the Deferred Deposit Lending Act;

15          10. "Licensed location" means the place of business where a  
16 lender is allowed to make deferred deposit loans under a license  
17 issued pursuant to ~~this act~~ the Deferred Deposit Lending Act;

18          11. "Licensee" means a person licensed to make deferred deposit  
19 loans pursuant to ~~this act~~ the Deferred Deposit Lending Act;

20          12. "Loan amount" means the principal which the debtor actually  
21 receives after signing an instrument payable initially to a deferred  
22 deposit lender;

1 13. "Person" includes a natural person, an individual,  
2 organization, partnership, corporation, joint venture, trust,  
3 association or any other legal entity, however organized;

4 14. "Principal of a deferred deposit loan" means the total of  
5 the net amount paid to, receivable by or paid or payable for the  
6 account of the debtor;

7 15. "Regulation Z" means Title 160, Chapter 45 of the Oklahoma  
8 Administrative Code, adopted in conformity with the Consumer Credit  
9 Protection Act, Public Law 90-321, 82 Stat. 146, as amended,  
10 including the amendments to the Federal Consumer Credit Protection  
11 Act in the Truth in Lending Simplification and Reform Act, Public  
12 Law 96-221, 94 Stat. 168-185; and

13 16. "Renewal" means a transaction in which a debtor pays in  
14 cash the finance charge payable under a deferred deposit loan and  
15 refinances all or part of the unpaid balance of the principal of the  
16 deferred deposit loan with a new deferred deposit loan. A  
17 transaction is also considered a renewal if a debtor pays off an  
18 existing deferred deposit loan with the proceeds of a deferred  
19 deposit loan from another lender.

20 SECTION 2. AMENDATORY 59 O.S. 2011, Section 3103, is  
21 amended to read as follows:

22 Section 3103. A. The scope of ~~this act~~ the Deferred Deposit  
23 Lending Act shall not apply to a supervised lender licensed under  
24 the Uniform Consumer Credit Code. Further, nothing in ~~this act~~ the

1 Deferred Deposit Lending Act shall modify, affect, alter, change or  
2 restrict practices or operations of supervised lenders under the  
3 Uniform Consumer Credit Code, rules of the Oklahoma Department of  
4 Consumer Credit or rules or interpretations of the Administrator of  
5 the Department of Consumer Credit.

6 B. Except as otherwise provided in subsection A of this  
7 section, the provisions of ~~this act~~ the Deferred Deposit Lending Act  
8 shall apply to all deferred deposit loans made; provided, the  
9 following lenders shall not be subject to the licensing requirements  
10 of ~~this act~~ the Deferred Deposit Lending Act:

11 1. A bank, savings institution, credit union or farm credit  
12 system organized under and regulated by the laws of the United  
13 States or any state;

14 2. Government or governmental agencies or instrumentalities; or

15 3. Pawnbrokers engaged in pawn transactions as defined in the  
16 Oklahoma Pawnshop Act.

17 C. The provisions of ~~this act~~ the Deferred Deposit Lending Act  
18 shall apply to transactions if the lender, wherever located, enters  
19 into the transaction with the debtor by mail, brochure, telephone,  
20 print, radio, television, Internet, or any other means.

21 SECTION 3. AMENDATORY 59 O.S. 2011, Section 3104, is  
22 amended to read as follows:

23 Section 3104. A. ~~Each~~ For purposes of the Deferred Deposit  
24 Lending Act, each deferred deposit loan shall be documented by a

1 written agreement executed by both the lender and the debtor. The  
2 written agreement shall contain the name or trade name of the  
3 lender, the license number of the lender, the toll-free telephone  
4 number of the Department of Consumer Credit, the transaction date,  
5 the loan amount, and a statement of the total amount of fees  
6 charged. The written agreement must expressly authorize the lender  
7 to defer presentment or deposit of the instrument until a specific  
8 date; provided, unless the debtor has entered into an installment  
9 payment plan pursuant to Section 3109 of this title, such date shall  
10 be not later than forty-five (45) days from the date the instrument  
11 is accepted by the lender.

12 B. The disclosure of the credit terms of a deferred deposit  
13 loan shall be according to and governed by the requirements of  
14 Regulation Z. ~~The definitions and requirements of that act,~~  
15 ~~regulation and commentary~~ Regulation Z shall apply to deferred  
16 deposit loans as if those provisions are fully set out in ~~this act~~  
17 the Deferred Deposit Lending Act.

18 C. A completed copy of the written agreement and "Notice of  
19 Cancellation" form as prescribed by the Administrator shall be given  
20 to and acknowledged in writing by the debtor when the written  
21 agreement is signed.

22 D. A lender may pay the proceeds of a deferred deposit loan to  
23 the debtor by a business instrument, money order or cash. A lender  
24

1 may not charge the debtor an additional fee for cashing the lender's  
2 business instrument.

3 E. A lender shall provide the following notices in a prominent  
4 place on each deferred deposit loan agreement in at least twelve-  
5 point type:

6 "A deferred deposit loan is not intended to meet long-term  
7 financial needs. This loan should be used only to meet  
8 short-term cash needs."

9 "You have the right to rescind this deferred deposit loan no  
10 later than 5 p.m. of the next business day following this  
11 loan transaction."

12 "If you enter into a deferred deposit loan and three  
13 consecutive deferred deposit loans, you have the right to  
14 pay off the fourth loan pursuant to an installment payment  
15 plan, subject to certain conditions."

16 F. A lender shall post at the licensed location a notice of the  
17 charges, terms, and effective annual percentage rate for deferred  
18 deposit loans made by the lender.

19 G. Prior to sale or assignment of instruments held by the  
20 lender as a result of a deferred deposit loan, the lender shall  
21 place a notice on the instrument in at least twelve-point type to  
22 read:

23 "This is a deferred deposit loan instrument regulated by the  
24 Oklahoma Department of Consumer Credit, Title 59, Sections 3101 et

1 seq. and any holder of this check takes it subject to all claims and  
2 defenses of the originator."

3 ~~and~~ The notice on the instrument shall include the address and  
4 toll-free telephone number of the Department of Consumer Credit.

5 H. At the time a debtor enters into a deferred deposit loan  
6 transaction, the lender shall provide the debtor with a pamphlet,  
7 approved by the Administrator of Consumer Credit, describing the  
8 availability of debt management and credit counseling services, the  
9 debtor's right to an installment payment plan and the debtor's  
10 rights and responsibilities in the transaction. The pamphlet shall  
11 indicate a toll-free telephone number for the Administrator that the  
12 debtor may contact to receive information relating to debt  
13 management and credit counseling services.

14 SECTION 4. AMENDATORY 59 O.S. 2011, Section 3105, is  
15 amended to read as follows:

16 Section 3105. ~~Without~~ Pursuant to the Deferred Deposit Lending  
17 Act, without penalty or cost of any kind, a debtor in a deferred  
18 deposit loan transaction shall have the right to rescind in writing  
19 the deferred deposit loan until 5 p.m. on the next business day  
20 following the day the debtor signs the deferred deposit loan  
21 agreement; provided, any attempted rescission will not be effective  
22 unless the notice is timely and is accompanied by a return of the  
23 full principal advanced by the lender to the debtor. Exercising  
24 rescission entitles the debtor to a full refund of all fees paid by



1 the debtor as part of the deferred deposit loan transaction.  
2 Rescission occurs when the debtor gives written notice of rescission  
3 to the lender at the address of the office of the licensee as stated  
4 in the deferred deposit agreement or at the location where the  
5 transaction occurred.

6 SECTION 5. AMENDATORY 59 O.S. 2011, Section 3106, is  
7 amended to read as follows:

8 Section 3106. A Pursuant to the Deferred Deposit Lending Act, a  
9 deferred deposit lender shall not:

- 10 1. Charge fees other than, or in excess of those authorized by  
11 the Deferred Deposit Lending Act;
- 12 2. Make deferred deposit loans at unlicensed locations;
- 13 3. Alter or delete the date on an instrument after it has been  
14 accepted by the lender pursuant to a deferred deposit loan;
- 15 4. Accept an undated instrument or an instrument dated on a  
16 date other than the date of the deferred deposit loan;
- 17 5. Accept an instrument unless the account on which the  
18 instrument is drawn is a legitimate, open and active account;
- 19 6. Require a debtor to provide security for the deferred  
20 deposit loan or require a debtor to provide a guaranty from another  
21 person;
- 22 7. Advance a loan amount greater than Five Hundred Dollars  
23 (\$500.00) to a borrower in one deferred deposit loan transaction  
24

1 exclusive of the finance charge allowed in Section 3108 of this  
2 title;

3 8. Engage in a deferred deposit loan with a term of less than  
4 twelve (12) days or more than forty-five (45) days;

5 9. Negotiate or present an instrument for payment unless the  
6 instrument is endorsed with the actual business name of the lender;

7 10. Negotiate any instrument presented by a borrower if the  
8 borrower has redeemed the instrument by paying the full amount due  
9 under the deferred deposit loan;

10 11. Make any charge for insurance in connection with a deferred  
11 deposit loan transaction;

12 12. Refuse the borrower's right to rescind the deferred deposit  
13 loan at any time between the time of the deferred deposit loan  
14 transaction and 5 p.m. of the next business day following the  
15 deferred deposit loan transaction;

16 13. Charge the borrower an additional finance charge or fee for  
17 cashing a lender's business instrument, if the lender pays the  
18 proceeds from the loan transaction in the form of a business  
19 instrument;

20 14. Require or accept more than one dated instrument per  
21 deferred deposit loan; or

22 15. Refuse the borrower's right to enter into an installment  
23 payment plan, pursuant to ~~this act~~ the Deferred Deposit Lending Act.

24

1 SECTION 6. AMENDATORY 59 O.S. 2011, Section 3107, is  
2 amended to read as follows:

3 Section 3107. ~~A.~~ Pursuant to the Deferred Deposit Lending Act:

4 1. A lender shall collect past-due accounts in a professional,  
5 fair and lawful manner, in accordance with the federal Fair Debt  
6 Collection Practices Act~~;~~;

7 ~~B.~~ 2. A lender shall not threaten or pursue criminal action  
8 against a debtor as a result of the debtor's instrument being  
9 returned unpaid or the debtor's deferred deposit loan account not  
10 being paid~~;~~ and

11 ~~C.~~ 3. A debtor shall not be subject to any criminal penalty if  
12 an instrument is dishonored.

13 SECTION 7. AMENDATORY 59 O.S. 2011, Section 3108, is  
14 amended to read as follows:

15 Section 3108. A. ~~Regardless of~~ Pursuant to the Deferred  
16 Deposit Lending Act, notwithstanding any other law governing the  
17 imposition of interest, fees, loan finance charges or the extension  
18 of credit, a deferred deposit lender may charge a finance charge for  
19 each deferred deposit loan that does not exceed ~~Fifteen Dollars~~  
20 ~~(\$15.00) for every One Hundred Dollars (\$100.00) advanced up to the~~  
21 ~~first Three Hundred Dollars (\$300.00) of the amount advanced; for~~  
22 ~~the advance amounts in excess of Three Hundred Dollars (\$300.00),~~  
23 ~~the lender may charge an additional finance charge of Ten Dollars~~  
24 ~~(\$10.00) for every One Hundred Dollars (\$100.00) advanced in excess~~

1 ~~of Three Hundred Dollars (\$300.00)~~ one hundred thirty-six percent  
2 per annum (136% APR) on the principal amount of the advance deposit,  
3 regardless of term of repayment. The credit terms of the deferred  
4 deposit loan shall be disclosed in accordance with Regulation Z,  
5 including the terms "finance charge" and "annual percentage rate".  
6 The finance charge under this subsection shall be deemed fully  
7 earned as of the date of the transaction. Except for a fee for a  
8 dishonored instrument and the actual database verification fee  
9 pursuant to subparagraph b of paragraph 2 of subsection B of Section  
10 3109 of this title, the lender may charge only those charges  
11 expressly authorized in this subsection in connection with a  
12 deferred deposit loan.

13 B. If an instrument held by a lender as a result of a deferred  
14 deposit loan is returned to the lender from a payor financial  
15 institution due to insufficient funds, a closed account or a stop  
16 payment order, the lender shall have the right to exercise all civil  
17 means authorized by law to collect the amount of the instrument. In  
18 addition, the lender may contract for and collect a dishonored  
19 instrument charge, not to exceed ~~Twenty-five Dollars (\$25.00)~~  
20 Thirty-five Dollars (\$35.00); however, a dishonored instrument  
21 charge shall not be allowed if the instrument is dishonored by a  
22 financial institution, or the debtor places a stop payment order,  
23 due to forgery or theft of the instrument.

24

1 SECTION 8. AMENDATORY 59 O.S. 2011, Section 3109, is  
2 amended to read as follows:

3 Section 3109. A. ~~A~~ Pursuant to the Deferred Deposit Lending  
4 Act, a lender may not enter into a renewal of a deferred deposit  
5 loan transaction.

6 B. Upon any application being made for a deferred deposit loan,  
7 the lender shall determine if the applicant has any outstanding  
8 deferred deposit loans as follows:

9 1. The applicant shall be required to sign an affidavit stating  
10 whether the applicant has any deferred deposit loans outstanding  
11 with the lender or any other deferred deposit lender licensed  
12 pursuant to the Deferred Deposit Lending Act and if so, the status  
13 of each such loan; and

14 2. The lender shall be required to verify the accuracy of the  
15 affidavit through commercially reasonable means. A lender's method  
16 of so verifying shall be considered in compliance with the  
17 provisions of this section if the verification method includes a  
18 manual investigation or an electronic query of:

19 a. the lender's own records, including both records  
20 maintained at the location where the loan is being  
21 applied for and records maintained at other locations  
22 that are owned and operated by the lender or the  
23 lender's affiliates, and  
24

1           b. any private database approved by the Administrator of  
2           Consumer Credit, ~~if the lender subscribes to such a~~  
3           ~~database; provided, all lenders shall be required to~~  
4           ~~subscribe to such a database or otherwise obtain the~~  
5           ~~required information in a manner approved by the~~  
6           ~~Administrator not later than July 1, 2004.~~ The lender  
7           may charge the applicant a fee for database  
8           verification not to exceed the actual fee charged to  
9           the lender by the database provider.

10           If the lender determines that the applicant has more than one  
11           outstanding deferred deposit loan, the loan applied for shall not be  
12           made.

13           C. A deferred deposit loan transaction is completed when the  
14           lender presents the instrument for payment or initiates an ACH debit  
15           to the debtor's bank account to collect on the instrument, or the  
16           debtor redeems the instrument by paying the full amount of the  
17           instrument to the lender. Once the debtor has completed the  
18           deferred deposit loan transaction, the lender may enter into a new  
19           deferred deposit loan agreement with the debtor, and the new  
20           deferred deposit loan transaction shall not be deemed to be a  
21           renewal of the previous deferred deposit loan; provided, a new  
22           deferred deposit loan made within thirteen (13) calendar days after  
23           a previous deferred deposit loan has been entered into between the  
24

1 lender and the debtor shall be considered a renewal and shall not be  
2 made.

3 D. If a debtor enters into a third consecutive loan, the lender  
4 shall provide the consumer an option to repay such loan and each  
5 consecutive loan pursuant to a written repayment plan subject to the  
6 following terms:

7 1. The debtor shall request the repayment plan, either orally  
8 or in writing, prior to the due date of the loan;

9 2. The debtor shall repay the loan in four equal installments  
10 with one installment due on each of the next four dates on which the  
11 customer receives regular wages or compensation from an employer,  
12 pursuant to a written repayment plan agreement;

13 3. The consumer shall pay a processing fee of ten percent (10%)  
14 of the principal amount of the loan per loan not to exceed Fifteen  
15 Dollars (\$15.00) for administration of the payment plan;

16 4. The consumer shall agree not to enter into any additional  
17 deferred presentment loans during the repayment plan term and for a  
18 period of fifteen (15) days after termination of the repayment plan  
19 term; and

20 5. Upon positive completion of the repayment plan, the lender  
21 shall report the debtor's positive payment history to at least one  
22 national consumer credit reporting agency.

23

24

1 E. A lender shall negotiate or present an instrument for  
2 payment only if the instrument is endorsed with the actual business  
3 name of the lender.

4 F. Prior to the lender negotiating or presenting the  
5 instrument, the debtor shall have the right to redeem any instrument  
6 held by a lender as a result of a deferred deposit loan if the  
7 debtor pays to the lender the unpaid balance of the principal and  
8 all accrued fees and charges.

9 SECTION 9. AMENDATORY 59 O.S. 2011, Section 3110, is  
10 amended to read as follows:

11 Section 3110. ~~After~~ Pursuant to the Deferred Deposit Lending  
12 Act, after the debtor has entered into a fifth consecutive deferred  
13 deposit loan, a lender shall not make a deferred deposit loan to a  
14 debtor until 8:00 a.m. on the second business day after the fifth  
15 consecutive deferred deposit ~~load~~ loan has been paid in full.

16 SECTION 10. AMENDATORY 59 O.S. 2011, Section 3111, is  
17 amended to read as follows:

18 Section 3111. A. No ~~lender~~ person shall engage in this state  
19 in false or misleading advertising concerning the terms or  
20 conditions of credit with respect to a deferred deposit loan as  
21 defined by the Deferred Deposit Lending Act.

22 B. Advertising which complies with Regulation Z does not  
23 violate subsection A of this section; provided, the lender is  
24 licensed pursuant to the Deferred Deposit Lending Act.



1 SECTION 11. AMENDATORY 59 O.S. 2011, Section 3112, is  
2 amended to read as follows:

3 Section 3112. A. No person may engage in the business of  
4 making deferred deposit loans without first obtaining a license  
5 pursuant to ~~this act~~ the Deferred Deposit Lending Act, unless exempt  
6 under subsection B of Section ~~3~~ 3103 of this ~~act~~ title. A separate  
7 license is required for each location where deferred deposit loans  
8 are made. The licensee shall post its license to engage in the  
9 business of making deferred deposit loans at each licensed location.

10 B. The Administrator may initiate administrative action against  
11 an unlicensed person as if the person held a license under ~~this act~~  
12 the Deferred Deposit Lending Act if the person is found to be  
13 engaged in the business of making deferred deposit loans.

14 C. The Administrator may issue a license for each location at  
15 which deferred deposit loans are to be made to any person making  
16 deferred deposit loans at multiple locations; provided, if such  
17 licensee is not in compliance with ~~this act~~ the Deferred Deposit  
18 Lending Act as to each license, any action to revoke, suspend or not  
19 renew one license shall be applicable to all licenses issued to that  
20 licensee. This subsection shall not be construed to require a  
21 license for any place of business devoted to accounting or other  
22 record keeping and where deferred deposit loans are not made.

23 D. When a licensee wishes to move a licensed location to  
24 another licensed location, the licensee shall give thirty (30) days'

1 written notice to the Administrator, who shall amend the license  
2 accordingly.

3 SECTION 12. AMENDATORY 59 O.S. 2011, Section 3113, is  
4 amended to read as follows:

5 Section 3113. A. To qualify for a license issued pursuant to  
6 the Deferred Deposit Lending Act, an applicant shall have:

7 1. A minimum net worth, determined in accordance with generally  
8 accepted accounting principles, of at least Twenty-five Thousand  
9 Dollars (\$25,000.00) available for operation of each licensed  
10 location, with a maximum aggregate net worth requirement of Two  
11 Hundred Fifty Thousand Dollars (\$250,000.00) for an owner of  
12 multiple locations; and

13 2. The financial responsibility, character, experience and  
14 general fitness so as to command the confidence of the public and to  
15 warrant the belief that the business will be operated lawfully,  
16 honestly, fairly and efficiently.

17 B. An application for a license pursuant to the Deferred  
18 Deposit Lending Act must be made in writing, signed under oath, and  
19 on a form prescribed by the Administrator of Consumer Credit. The  
20 application must set forth all of the following:

21 1. The legal name and residence and business addresses of the  
22 applicant and, if the applicant is a partnership, association or  
23 corporation, of every member, officer, managing employee and  
24 director of it;

1        2. The location of the registered office of the applicant;

2        3. The registered agent of the applicant if the applicant is  
3 required by other law to have a registered agent;

4        4. The addresses of the locations to be licensed; and

5        5. Other information concerning the financial responsibility,  
6 background, experience and activities, such as other partnerships,  
7 associations and corporations located at or adjacent to the licensed  
8 location of the applicant and its members, officers, managing  
9 employees and directors as the Administrator may require.

10       C. On receipt of an application in the form prescribed by the  
11 Administrator and accompanied by the required license fee, the  
12 Administrator shall investigate whether the qualifications for  
13 license are satisfied. If the Administrator finds that the  
14 qualifications are satisfied, the Administrator shall issue to the  
15 applicant a license to engage in the business of making deferred  
16 deposit loans. If the Administrator fails to issue a license, the  
17 Administrator shall notify the applicant of the denial and the  
18 reasons for the denial. The provisions of the Administrative  
19 Procedures Act shall apply to the appeal of the denial of a license.

20       D. Each application, regardless of the number of locations to  
21 be operated by a single licensee, must be accompanied by payment of  
22 an application fee as prescribed by rule of the Commission on  
23 Consumer Credit and an investigation fee as prescribed by rule of  
24 the Commission on Consumer Credit. These fees shall not be

1 refundable or abatable. If the license is granted, however, payment  
2 of the application fee shall satisfy the fee requirement for the  
3 first license year or its remainder.

4 E. Each license shall remain in full force and effect until  
5 relinquished, suspended, revoked or expired. A Each license expires  
6 annually and may be renewed on payment of a license fee as  
7 prescribed by rule of the Commission on Consumer Credit. The annual  
8 license renewal fee for an application with more than one location  
9 shall be as prescribed by rule of the Commission on Consumer Credit  
10 for each location.

11 F. The Commission on Consumer Credit shall prescribe by rule a  
12 fee for each license change, duplicate license or returned check.

13 G. The Commission on Consumer Credit shall prescribe by rule a  
14 late fee if a license is not renewed on or before the expiration of  
15 the license.

16 SECTION 13. AMENDATORY 59 O.S. 2011, Section 3114, is  
17 amended to read as follows:

18 Section 3114. A. ~~At~~ Pursuant to the Deferred Deposit Lending  
19 Act, at such times as the Administrator of Consumer Credit shall  
20 deem necessary, the Administrator or a duly authorized  
21 representative shall make an examination of all licensed locations  
22 of each licensee and shall inquire into and examine the loans,  
23 transactions, books, accounts, papers, correspondence and records of  
24 the licensee insofar as ~~they pertain~~ each pertains to the business

1 of cash advances regulated by ~~this act~~ the Deferred Deposit Lending  
2 Act. In the course of the examination, the Administrator or a duly  
3 authorized representative shall have free access to the office,  
4 place of business, files, safes and vaults of the licensee, and  
5 shall have the right to make copies of the books, accounts, papers,  
6 correspondence and records. The Administrator or a duly authorized  
7 representative may, during the course of the examination, administer  
8 oaths and examine any person under oath on any subject pertinent to  
9 any matter about which the Administrator is authorized or required  
10 by ~~this act~~ the Deferred Deposit Lending Act to consider,  
11 investigate or secure information. Any licensee who shall fail or  
12 refuse to let the Administrator or a duly authorized representative  
13 examine or make copies of the books, or other relevant documents  
14 shall be deemed in violation of ~~this act~~ the Deferred Deposit  
15 Lending Act and the failure or refusal shall constitute grounds for  
16 administrative action against the person or licensee. The  
17 information obtained in the course of the examination shall be  
18 confidential. Each licensee shall pay to the Administrator an  
19 amount assessed by the Administrator to cover the direct and  
20 indirect cost of the examination and a proportionate share of  
21 general administrative expense, not to exceed Three Hundred Dollars  
22 (\$300.00) for each location; provided, however, that for any  
23 examination which lasts in excess of eight (8) hours, the  
24 Administrator shall charge an additional fee of Fifty Dollars

1 (\$50.00) per hour for each examiner required to complete the  
2 examination; provided, further, that the Administrator may waive the  
3 examination fee for any examination which takes one (1) hour or  
4 less. If an examination fee is due and is not paid on completion of  
5 an examination, the Administrator shall bill the licensee, and there  
6 shall be a late fee of Fifty Dollars (\$50.00) if the amount due is  
7 not received within thirty (30) days of the invoice date.

8 B. For the purpose of discovering violations of ~~this act~~ the  
9 Deferred Deposit Lending Act or of securing information required  
10 under ~~this act~~ the Deferred Deposit Lending Act, the Administrator  
11 or a duly authorized representative may investigate the books,  
12 accounts, papers, correspondence and records of any licensee or  
13 other person whom the Administrator has reasonable cause to believe  
14 is in violation of any provision of ~~this act~~ the Deferred Deposit  
15 Lending Act whether or not that person shall claim to be within the  
16 authority or scope of ~~this act~~ the Deferred Deposit Lending Act.  
17 For the purpose of this subsection, any person who advertises for,  
18 solicits or otherwise communicates a willingness to make deferred  
19 payment loans shall be presumed to be engaged in the business of  
20 making deferred deposit loans.

21 C. Every licensee shall maintain on file with the Administrator  
22 a written appointment of a resident of this state as the agent for  
23 service of all judicial or other process or legal notice, unless the  
24 licensee has appointed an agent under another statute of this state.

1 In case of noncompliance, such service may be made on the  
2 Administrator.

3 D. Each licensee shall keep or make available in this state the  
4 books and records relating to loans made under ~~this act~~ the Deferred  
5 Deposit Lending Act as are necessary to enable the Administrator to  
6 determine whether the licensee is complying with ~~this act~~ the  
7 Deferred Deposit Lending Act. The books and records shall be  
8 maintained in a manner consistent with accepted accounting  
9 practices.

10 E. Each licensee shall preserve or make available its books and  
11 records in the state relating to each of its loans for four (4)  
12 years from the date of the loan, or two (2) years from the date of  
13 the final entry made thereon, whichever is later. Each licensee's  
14 system of records shall be accepted if it discloses its information  
15 as may be reasonably required under ~~this act~~ the Deferred Deposit  
16 Lending Act. All deferred deposit loan agreements and notices of  
17 cancellation signed by debtors shall be kept at an office in this  
18 state designated by the licensee, except when transferred under an  
19 agreement which gives the Administrator access to the agreements.

20 F. Each lender shall, annually on or before the first day of  
21 May, file a report with the Administrator setting forth such  
22 relevant information as the Administrator may reasonably require  
23 concerning the business and operations during the preceding calendar  
24 year for each place of business conducted by such lender. Such

1 report shall be made under oath and shall be in the form prescribed  
2 by the Administrator, who shall make and publish annually a  
3 consolidated analysis and recapitulation of such reports, but the  
4 individual reports and their contents shall be held confidential.  
5 There shall be a late fee of Twenty-five Dollars (\$25.00) for any  
6 annual report received after May 1.

7 G. Any transcript of any hearing held by the Administrator or  
8 an independent hearing examiner under ~~this act~~ the Deferred Deposit  
9 Lending Act shall be a public record and open to inspection at all  
10 reasonable times.

11 H. On failure without lawful excuse to obey a subpoena or to  
12 give testimony and on reasonable notice to all persons affected, the  
13 Administrator or a representative may apply to a court for an order  
14 compelling compliance, as provided by the Administrative Procedures  
15 Act.

16 SECTION 14. AMENDATORY 59 O.S. 2011, Section 3115, is  
17 amended to read as follows:

18 Section 3115. A. ~~If~~ Pursuant to the Deferred Deposit Lending  
19 Act, if the Administrator of Consumer Credit has reasonable cause to  
20 believe a lender has violated any provision of the Deferred Deposit  
21 Lending Act, the Administrator may make an investigation to  
22 determine whether the act has been committed, and, to the extent  
23 necessary for this purpose, may administer oaths or affirmations,  
24 and upon the Administrator's own motion or upon request of any party



1 may subpoena witnesses, compel their attendance, adduce evidence,  
2 and require the production of any matter which is relevant to the  
3 investigation, including the existence, description, nature,  
4 custody, condition, and location of any books, documents, or other  
5 tangible things and the identity and location of persons having  
6 knowledge of relevant facts, or any other matter reasonably  
7 calculated to lead to the discovery of admissible evidence.

8       B. If the person's records are located outside this state, the  
9 person shall, at the person's option, either make them available to  
10 the Administrator at a convenient location within this state, or pay  
11 the reasonable and necessary expenses for the Administrator or a  
12 representative to examine them at the place where they are  
13 maintained. Payments for such necessary expenses shall be made to  
14 the Commission on Consumer Credit. Any such payments so received by  
15 the Department shall be deposited in the Oklahoma Deferred Deposit  
16 Lending Regulatory Revolving Fund. The Administrator may designate  
17 representatives, including comparable officials of the state in  
18 which the records are located, to inspect them on the  
19 Administrator's behalf.

20       C. Upon failure without lawful excuse to obey a subpoena or to  
21 give testimony and upon reasonable notice to all persons affected  
22 thereby the Administrator may apply to a court for an order  
23 compelling compliance, as provided by the Administrative Procedures  
24

1 Act, Sections 250.1 through 323 of Title 75 of the Oklahoma  
2 Statutes.

3 D. The Administrator shall not make public the name or identity  
4 of a person whose acts or conduct are investigated pursuant to this  
5 section or the facts disclosed in the investigation, but this  
6 subsection does not apply to disclosures in actions or enforcement  
7 proceedings pursuant to the Deferred Deposit Lending Act.

8 E. The Administrator may, after notice and hearing, censure,  
9 probate, suspend, revoke or refuse to renew any license or enjoin  
10 violations of the Deferred Deposit Lending Act if the Administrator  
11 finds that:

12 1. The licensee has failed to pay the annual license fee  
13 imposed by the Deferred Deposit Lending Act, or an examination fee,  
14 investigation fee or other fee or charge imposed by the  
15 Administrator under the authority of the Deferred Deposit Lending  
16 Act;

17 2. The licensee, either knowingly or without the exercise of  
18 due care to prevent the same, has violated any provision of the  
19 Deferred Deposit Lending Act or any rule or order lawfully made  
20 pursuant to and within the authority of the Deferred Deposit Lending  
21 Act;

22 3. Any fact or condition exists which, if it had existed or had  
23 been known to exist at the time of the original application for the  
24

1 license, clearly would have justified the Administrator in refusing  
2 to issue the license;

3 4. The licensee has refused to permit examination by the  
4 Administrator;

5 5. The licensee has demonstrated incompetency or  
6 untrustworthiness to engage in the business of making deferred  
7 deposit loans; or

8 6. The licensee, as an individual, has been convicted of a  
9 felony or misdemeanor involving fraud, misrepresentation or deceit.

10 F. The hearing shall be held on not less than twenty (20) days'  
11 notice in writing setting forth the time and place of the hearing  
12 and a concise statement of the facts alleged to sustain the  
13 administrative action, and its effective date shall be set forth in  
14 a written order accompanied by finding of fact and a copy of the  
15 findings shall be delivered immediately to the licensee. The order,  
16 findings and evidence considered by the Administrator shall be filed  
17 with the public records of the Administrator.

18 G. Any licensee may surrender any license by delivering it to  
19 the Administrator with written notice of its surrender, but the  
20 surrender shall not affect the responsibility of the licensee for  
21 acts occurring prior to surrender of a license.

22 H. No revocation, suspension, or surrender of any license shall  
23 impair or affect the obligation of any preexisting lawful contract  
24 between the licensee and any debtor.

1 I. The Administrator may reinstate suspended licenses or issue  
2 new licenses to a person whose license or licenses have been revoked  
3 if no fact or condition then exists which clearly would have  
4 justified the Administrator or the independent hearing examiner in  
5 refusing originally to issue such license under these subsections.

6 J. Every licensee shall notify the Administrator of the  
7 conviction of or plea of guilty or nolo contendere to any felony  
8 within thirty (30) days after the plea is taken and also within  
9 thirty (30) days of the entering of an order of judgment and  
10 sentencing and shall notify the Administrator of any administrative  
11 action resulting in revocation, suspension or amendment of a license  
12 taken against the licensee in another state within thirty (30) days  
13 of the entering of the administrative order in that state.

14 K. Except as otherwise provided, the Administrative Procedures  
15 Act applies to and governs all administrative action taken by the  
16 Administrator pursuant to the Deferred Deposit Lending Act.

17 L. 1. After notice and hearing, the Administrator may order a  
18 lender or a person acting in the lender's behalf to cease and desist  
19 from engaging in violations of the Deferred Deposit Lending Act.

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

1 shall be exercised in accordance with the provisions of the  
2 Administrative Procedures Act, with the following additions:

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

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

22 M. The Administrator shall appoint an independent hearing  
23 examiner to conduct all administrative hearings involving alleged  
24 violations of the Deferred Deposit Lending Act. The independent

1 hearing examiner shall have authority to exercise all powers granted  
2 by Article II of the Administrative Procedures Act in conducting  
3 hearings. The independent hearing examiner shall have authority to  
4 recommend penalties authorized by the Deferred Deposit Lending Act  
5 and issue proposed orders, with proposed findings of fact and  
6 proposed conclusions of law, to the Administrator pursuant to  
7 Article II of the Administrative Procedures Act. The Administrator  
8 shall review the proposed order and issue a final agency order in  
9 accordance with Article II of the Administrative Procedures Act. A  
10 final agency order issued by the Administrator shall be appealable  
11 by all parties to the district court as provided in Article II of  
12 the Administrative Procedures Act. The costs of the hearing  
13 examiner may be assessed by the hearing examiner against the  
14 respondent, unless the respondent is the prevailing party.

15 SECTION 15. AMENDATORY 59 O.S. 2011, Section 3116, is  
16 amended to read as follows:

17 Section 3116. A. In addition to other powers granted by ~~this~~  
18 ~~act~~ the Deferred Deposit Lending Act, the Administrator of Consumer  
19 Credit may, within the limitations provided by law:

20 1. Maintain a list of licensees, which shall be available to  
21 interested persons and the public. The Administrator shall also  
22 provide a toll-free number whereby consumers may obtain information  
23 about licensees;

24

1           2. Establish a complaint process whereby an aggrieved debtor or  
2 a member of the public may file a complaint against a licensee or  
3 nonlicensee who violates any provision of this act. The  
4 Administrator shall hold hearings upon the request of a party to the  
5 complaint, make findings of fact and conclusions of law, issue cease  
6 and desist orders and suspend or revoke a license granted under ~~this~~  
7 ~~act~~ the Deferred Deposit Lending Act;

8           3. Take action designed to obtain voluntary compliance with  
9 this act or commence proceedings on the Administrator's own  
10 initiative;

11           4. Counsel persons and groups on their rights and duties under  
12 ~~this act~~ the Deferred Deposit Lending Act; and

13           5. With approval of the Commission on Consumer Credit,  
14 promulgate, amend and repeal administrative rules to carry out the  
15 provisions of the ~~act~~ Deferred Deposit Lending Act, as provided by  
16 the Administrative Procedures Act.

17           B. The Administrator may conduct a study regarding the system  
18 of verification of the existence of deferred deposit loans as  
19 provided in paragraph 2 of subsection B of Section ~~9~~ 3109 of this  
20 ~~act~~ title to determine:

21           1. If the system adequately provides lenders with information  
22 as to the existence of outstanding deferred deposit loans made by  
23 other lenders; and  
24

1           2. If it is feasible for the Department of Consumer Credit to  
2 develop and maintain a database of outstanding deferred deposit  
3 loans to provide such information to lenders.

4           ~~The Administrator shall consult with representatives of deferred~~  
5 ~~deposit lenders, advocates for consumers of this state and other~~  
6 ~~interested parties to conduct the study. The Administrator shall~~  
7 ~~issue a report of any such findings to the President Pro Tempore of~~  
8 ~~the Senate and the Speaker of the House of Representatives not later~~  
9 ~~than December 1, 2004.~~

10           SECTION 16.           AMENDATORY           59 O.S. 2011, Section 3117, is  
11 amended to read as follows:

12           Section 3117. A. ~~The~~ Pursuant to the Deferred Deposit Lending  
13 Act, the Administrator of Consumer Credit may order and impose ~~civil~~  
14 administrative penalties upon a person subject to the provisions of  
15 the Deferred Deposit Lending Act for violations of the Deferred  
16 Deposit Lending Act or the rules promulgated ~~to implement the~~  
17 ~~Deferred Deposit Lending Act~~ pursuant thereto in an amount not to  
18 exceed One Thousand Dollars (\$1,000.00) per violation. The  
19 Administrator may also order repayment of unlawful fees charged to  
20 debtors.

21           B. Any administrative order or settlement agreement imposing a  
22 ~~civil~~ an administrative penalty pursuant to this section may be  
23 enforced in the same manner as civil judgments in this state. The  
24 Administrator may file an application to enforce an administrative



1 order or settlement agreement imposing ~~a civil~~ an administrative  
2 penalty in the district court of Oklahoma County.

3 SECTION 17. AMENDATORY 59 O.S. 2011, Section 3118, as  
4 amended by Section 294, Chapter 304, O.S.L. 2012 (59 O.S. Supp.  
5 2012, Section 3118), is amended to read as follows:

6 Section 3118. There is hereby created in the State Treasury a  
7 revolving fund for the Commission on Consumer Credit to be  
8 designated the "Consumer Credit Counseling Revolving Fund". The  
9 fund shall consist of fees received by the Administrator of Consumer  
10 Credit, pursuant to the Deferred Deposit Lending Act, from deferred  
11 deposit lenders for consumer credit counseling services pursuant to  
12 the provisions of Section 3119 of this title. The revolving fund  
13 shall be a continuing fund not subject to fiscal year limitations  
14 and shall be under the administrative direction of the  
15 Administrator. Monies accruing to the credit of this fund are  
16 hereby appropriated and may be budgeted and expended by the  
17 Administrator upon warrants issued by the State Treasurer against  
18 claims filed as prescribed by law with the Director of the Office of  
19 Management and Enterprise Services for approval and payment.

20 SECTION 18. AMENDATORY 59 O.S. 2011, Section 3119, is  
21 amended to read as follows:

22 Section 3119. A. ~~Each~~ Pursuant to the Deferred Deposit Lending  
23 Act, each lender shall pay five cents (\$0.05) for each deferred  
24 deposit loan entered into to be deposited into the Consumer Credit

1 Counseling Revolving Fund. The schedule for payment shall be  
2 determined by the Administrator of Consumer Credit. Lenders shall  
3 be prohibited from including ~~such~~ the payment in the fees and  
4 charges provided for under Section 3108 of this title. Ten percent  
5 (10%) of each scheduled payment of fees pursuant to this section may  
6 be transferred to the Consumer Credit Administrative Expenses  
7 Revolving Fund established in Section 6-301 of Title 14A of the  
8 Oklahoma Statutes for expenses incurred in administering the  
9 requirements of this section.

10 B. Funds collected pursuant to this section shall be paid by  
11 the Administrator to a third-party, Oklahoma-based consumer credit  
12 counseling provider with a verifiable history of work with both  
13 industry and consumers in the appropriate field for a program of  
14 research and implementation of voluntary consumer counseling and  
15 education specifically designed for consumers utilizing deferred  
16 deposit loans. The program shall be:

17 1. Selected by a bid process, pursuant to The Oklahoma Central  
18 Purchasing Act; and

19 2. Designed in consultation with representatives of both the  
20 industry and consumers.

21 SECTION 19. This act shall become effective November 1, 2013.

22

23 54-1-287 NP 1/17/2013 5:51:08 PM

24