STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1314 By: Holt

AS INTRODUCED

An Act relating to consumer credit; creating the Flexible Credit Act; providing short title; defining terms; requiring certain license; requiring service agent; stating requirements for licensure; directing periodic review for compliance; providing for rulemaking; stating content of certain application; setting certain fees; requiring financial statement and certain bond; allowing letter of credit in lieu of bond; stating purpose of bond; authorizing suit against bond for nonpayment; designating Oklahoma County for venue of certain actions; requiring criminal history records check with fingerprints; providing for refusal to conduct criminal history records check; designating OSBI or FBI to conduct certain criminal records checks; making applicant pay cost of records checks; authorizing certain investigation; requiring posting of license; setting duration of license; providing for written denial of license; setting time to deny a license; providing for hearing on denial of license; providing for license renewals; allowing a supervision fee; providing for continuation of operation pending renewal; allowing a biennial license; making license nontransferable; providing for change of control of a business; providing for violations; requiring notification of change of address or name; authorizing certain charges, fees and interest; requiring books be kept for certain period; prohibiting unfair practices; requiring compliance with federal laws; prohibiting certain conditions in loan plan; making certain conditions void and unenforceable; making provisions of act exclusive; authorizing promulgation of rules; directing mailing of rules; providing for examination of certain records for certain purpose; requiring payment for

certain examinations; providing exemption for examination costs under supervision fee; providing for suspension and revocation of license under certain conditions; stating conditions; allowing all licenses of a violator to be suspended or revoked; setting time for notice and hearing; establishing penalties for violations; allowing civil penalty of certain amounts; allowing a person to be barred for certain time; authorizing certain consent orders; authorizing criminal actions; providing for complaints; requiring written reports on certain occurrences; directing filing of annual reports by licensees; providing for confidentiality of certain information; directing annual report be submitted to Governor and legislature; providing for participation in multi-state automated licensing; granting certain powers and authority; construing authority under multi-state licensing system; directing costs of multi-state licensing system be paid by applicant and licensees; providing for sharing and confidentiality of certain information; providing certain provision to supersede other provisions; construing certain confidentiality; prohibiting certain governmental units from regulating flex plan loans; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100 of Title 14A, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Flexible Credit Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.1 of Title 14A, unless there is created a duplication in numbering, reads as follows:

As used in this act, unless the context requires otherwise:

1. "Commissioner" means the Commissioner of the Department of Consumer Credit or the Commissioner's designee;

2. "Control" means possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person, whether through ownership of voting securities by contract or otherwise, if no individual shall be deemed to control a person solely on account of being a director, officer, or employee of the person. For purposes of this paragraph, a person who, directly or indirectly, owns, controls, holds the power to vote, or holds proxies representing twenty-five percent (25%) or more of the current outstanding voting securities issued by another person is presumed to control the other person, and the Commissioner may determine whether a person, in fact, controls another person;

3. "Controlling person" means any person in control of a licensee;

4. "Department" means the Department of Consumer Credit;

5. "Flex loan" means a loan made pursuant to a flex loan plan;

6. "Flex loan plan" means a written agreement subject to this subtitle between a licensee and customer establishing an open-end credit plan under which the licensee contemplates credit transactions from time to time that:

a. may be unsecured or secured by personal property,

b. may be without a fixed maturity date or a limitation as to the length of the loan term, and

c. are subject to prepayment in whole or in part at any time without penalty;

7. "Licensee" means a person licensed to offer flex loans pursuant to the subtitle;

8. "Person means an individual, group of individuals, partnership, association, corporation, or any other business, unit, or legal entity; and

9. "Default" means:

a. the failure of a customer to make a required payment pursuant to a periodic billing statement within a certain number of days of the due date as agreed upon by the licensee and the customer in the flex loan plan, provided that such a period may not exceed sixty-one (61) days after the due date on the billing statement, or

b. the customer's failure to otherwise perform the obligations under the flex loan plan.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.2 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. No person shall engage in the business of making flex loans unless the person is licensed to make flex loans pursuant to this

act. A person shall be deemed to be engaged in the business of making flex loans in this state if the person induces a consumer, while located in this state, to enter into a flex loan plan in this state through the use of facsimile, telephone, Internet, or other means. A separate license shall be required for each location from which the business of making flex loans is conducted.

B. Any nonresident person seeking licensure under this act shall furnish the Commissioner of the Department of Consumer Credit with the name and address of a resident of this state upon whom notices or orders issued by the Commissioner, or process affecting a licensee under this act, may be served. A nonresident licensee shall promptly notify the Commissioner in writing of any change in its designated agent for service of process, and the change shall not become effective until approved by the Commissioner.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.3 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. An applicant for a license to make flex loans shall meet the following requirements:

1. A tangible net worth that comprises tangible assets, less liabilities, of not less than Fifty Thousand Dollars ($50,000.00) for each location; and

2. The financial responsibility, financial condition, business experience, character, and general fitness of the applicant shall

reasonably warrant the belief that the applicant's business shall be conducted, lawfully, honestly, carefully and efficiently. In determining whether these qualifications have been met, and for the purpose of investigating compliance with this subtitle, the Commissioner may review and approve:

a. the relevant business records and the capital adequacy of the applicant,

b. the competence, experience, integrity, and financial ability of any person who is a director, a shareholder with ten percent (10%) or more shares of the applicant, or a person who owns or controls the applicant, and

c. any record of the applicant or any person referred to in this act for any criminal activity, any fraud or other act of personal dishonesty, any act, omission, or practice that constitutes a breach of a fiduciary duty, or any suspension, revocation, or removal by any agency or department of the United States or any state, from participation in the conduct of any business.

B. The Commissioner shall periodically review the licensee's compliance with subsection A of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.4 of Title 14A, unless there is created a duplication in numbering, reads as follows:

Each application for a license shall be in a form established by the Commissioner of the Department of Consumer Credit by promulgation of an administrative rule, including the following:

1. The legal name, residence and business address of the applicant, and if the applicant is a partnership, association, or corporation, the legal name, residence and business address of every member, officer, managing employee and director of the applicant;

2. Every person licensed under this act shall maintain an agent in this state for service of process. The name, address, telephone number, and electronic mail address of the agent shall be filed with the application. The Commissioner shall be notified in writing by the licensee at least five (5) days prior to any change in the status of an agent; and

3. Other data and information the Commissioner may require about the applicant, its directors, trustees, officers, members, managing employees, or agents.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.5 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Each application for a license required by this act shall be accompanied by:

1. A filing fee of Five Hundred Dollars ($500.00), which shall not be subject to refund unless the license is granted and the filing fee shall constitute the license fee for the first license

year or part thereof, unless a nonrefundable supervision fee is established by the Commissioner, by administrative rule promulgated pursuant to this act, the nonrefundable supervision fee shall be in lieu of the filing fee. The filing fee or supervision fee shall be applicable to each location;

2. An audited financial statement including but not limited to a balance sheet, a statement of income or loss, and a statement of changes in financial position for the immediately preceding fiscal year, prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm, neither of which is affiliated with the applicant. For a newly created entity, the Commissioner may accept only a balance sheet prepared by a certified public accountant or public accounting firm, neither of which is affiliated with the applicant, accompanied by a projected income statement demonstrating that the applicant will have adequate capital after payment of start-up costs; and

3. A surety bond, issued by an insurer regulated under State Insurance Commissioner of this state and not affiliated with the applicant, in the amount of Twenty-five Thousand Dollars ($25,000.00) for each location. However, the aggregate amount of the surety bond required for a single licensee shall not exceed Two Hundred Thousand Dollars ($200,000.00). In lieu of the surety bond, the applicant shall file an irrevocable letter of credit, in the amount of the surety bond, issued by any federally insured bank,

savings bank, or credit union, none of which is affiliated with the applicant. The surety bond or irrevocable letter of credit shall be in a form satisfactory to the Commissioner and shall be payable to the Department of Consumer Credit for the benefit of any person who is injured pursuant to a flex loan plan by the fraud, misrepresentation, breach of contract, financial failure or violation of any provision of this act by a licensee. In the case of a surety bond, the aggregate liability of the surety bond shall not exceed the principal sum of the surety bond. In the case of an irrevocable letter of credit, applicants shall obtain letters of credit for terms of not less than three (3) years and renew the letters of credit annually. If the licensee fails to pay a person or the Commissioner, as required by this act, then a person may bring suit against the licensee directly on the surety bond or irrevocable letter of credit in any court of competent jurisdiction, or the Commissioner may bring suit in the District Court of Oklahoma County, which shall have exclusive venue in all matters relating to this section on behalf of those persons, in either one (1) or successive actions. The surety bond or irrevocable letter of credit shall be maintained by the licensee for not less than three (3) years following the expiration, revocation, or surrender of the licensee's license.

B. 1. The Commissioner is authorized to require an applicant for a license to consent to a criminal history records check and to

provide fingerprints with the application in a form acceptable to the Commissioner. The Commissioner may require such consent and fingerprints from any individual who is a director, officer, or ten percent (10%) or more shareholder of the applicant or who owns or controls the applicant, as well as from any other individual associated with the applicant as is reasonably necessary to meet the purposes of this act. Refusal of any person to consent to a criminal history records check or to provide fingerprints pursuant to this subsection constitutes grounds for the Commissioner to deny the applicant a license.

2. Any criminal history records check conducted pursuant to this subsection shall be conducted by the Oklahoma State Bureau of Investigation, the Federal Bureau of Investigation, or both, and the results of the criminal history records check shall be forwarded to the Commissioner. All costs incurred in conducting the criminal history records check shall be paid by the applicant, in addition to any other fees required by this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.6 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of an application in a form prescribed by the Commissioner, accompanied by the fee and documents required by this act, the Commissioner shall investigate to ascertain whether the requirements prescribed by this act have been satisfied. If the

Commissioner finds that the requirements have been satisfied, and approves the documents, the Commissioner shall issue to the applicant a license to engage in the business of making flex loans in this state.

B. The license shall be conspicuously posted in the licensee's place of business at all times.

C. A license issued pursuant to this act shall remain in force and effect through the remainder of the year ending December 31 after its date of issuance unless earlier surrendered, suspended or revoked pursuant to this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.7 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. If the Commissioner determines that an applicant is not qualified to receive a license, the Commissioner shall notify the applicant in writing that the application has been denied, stating the basis for denial.

B. If the Commissioner denies an application, or if the Commissioner fails to act on an application within ninety (90) days after the filing of a properly completed application, the applicant may make a written demand to the Commissioner for a hearing before the Commissioner on the question of whether the license should be granted.

C. Any hearing on the denial of a license shall be conducted pursuant to the Administrative Procedures Act, provided that the burden of proof that the applicant is entitled to a license shall be on the applicant. A decision of the Commissioner following any hearing on the denial of a license is subject to review pursuant to the provisions of the Administrative Procedures Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.8 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Licenses issued pursuant to this act shall expire on December 31. Each license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of this act, and the payment to the Commissioner annually, between November 1 and December 31, of a license renewal fee of Five Hundred Dollars ($500.00). If a supervision fee is established pursuant to this act, the Commissioner shall require licensees under this act to instead pay the nonrefundable supervision fee in place of the license renewal fee.

B. A licensee making timely and complete application for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied.

C. The Commissioner may establish, by promulgation of an administrative rule, a biennial license arrangement for the filing of the application for license renewal, but the license fee or supervision fee, if established pursuant to authority of the act, shall not be payable for more than one (1) year at a time.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.9 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. A license issued pursuant to this act is not transferable or assignable.

B. 1. The prior written approval of the Commissioner is required for the continued operation of a flex loan business whenever a change in control of a licensee is proposed. The Commissioner may require information deemed necessary to determine whether a new application is required. Reasonable and actual costs incurred by the Commissioner in investigating a change of control request shall be paid by the person requesting approval. If the person acquiring control of a licensee is already licensed under this act, the person must notify the Commissioner thirty (30) days prior to the acquisition.

2. Whenever control is acquired or exercised in violation of this section, the license shall be deemed revoked as of the date of the unlawful acquisition of control. The licensee or its

controlling person shall surrender the license to the Commissioner on demand.

C. A licensee shall notify the Commissioner five (5) days before any change in the licensee's principal place of business, branch office or name.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.10 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other statutory limitation, a licensee authorized to make flex loans under this act may charge and collect interest, fees, and charges in a manner consistent with this section.

B. A licensee may charge and collect a periodic interest rate not to exceed twenty-four percent (24%) per annum.

C. 1. In addition to the periodic interest rate authorized under subsection B of this section, a licensee may also charge and collect a customary fee to defray the ordinary costs of opening, administering, and terminating a flex loan plan, including, but not limited to, costs associated with:

a. underwriting and documenting the account,

b. securing and maintaining account information,

c. validating customer information,

d. offering phone access to accounts,

e. processing account transactions,

f. responding to customer inquiries,

g. providing periodic billing statements,

i. inspection, verification, and protection of collateral and establishment, perfection, and release of the security interest, and

j. all other services or activities conducted by the licensee under the flex loan plan.

2. The customary fee shall not be deemed interest for any purpose of law.

D. The maximum principal loan amount of a flex loan shall be adjusted every other year by the State Banking Commissioner to reflect the percentage changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

E. Any flex loan under this act shall require payment, in the form of cash, money order, debit card, or prepaid debit card, or any other instrument for payment of money, whether or not negotiable, including any authorization for electronic payment of money, on or before the due date of each billing cycle in an amount sufficient to reduce any outstanding principal balance by at least three percent (3%) per calendar month.

F. 1. If a customer defaults under the terms of a flex loan plan and the licensee refers the customer's account to an attorney, including a regular salaried employee of the licensee, for collection, the licensee may:

a. if the flex loan plan so provides, charge and collect from the customer a reasonable attorney's fee, and

b. if the flex loan plan, or in the case of secured plans, the security agreement or similar instrument, so provides, recover from the customer all collection and court costs, including, in the case of secured plans, all costs of enforcing the security agreement or similar instrument actually incurred by the licensee, including those incurred on appeal.

2. A licensee may charge and collect interest following default of the customer or judgment in favor of the licensee at the periodic rate permitted by this section.

3. Disposition of property after default shall occur in a commercially reasonable manner in accordance with law.

G. If a check is returned to a licensee from a payor financial institution due to insufficient funds, no licensee shall have the authority to assess a handling charge against the maker or drawer of the returned check.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.11 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. A licensee shall provide each prospective customer, before consummation of a flex loan plan, a written explanation, in clear, understandable language, of the interest, fees, and charges to be

charged by the licensee. The style, content and method of executing the required written explanation shall comply with federal truth-in-lending laws and shall contain a statement that the customer may prepay the unpaid balance in whole or in part at any time without penalty. The Commissioner may promulgate administrative rules establishing additional requirements in order to assure complete and accurate disclosure of the interest, fees, and charges to be charged by a licensee under a flex loan plan.

B. The account-opening statement for any flex loan plan shall include, along with other state or federal law requirements:

1. A next-business-day customer's right of rescission for any requested draw under the flex loan plan; and

2. A notice informing the customer that complaints may be made to the Commissioner, including the Commissioner's telephone number and address.

C. The account-opening statement for any flex loan plan shall not require or provide the licensee the authority to require the customer to draw the full amount of credit available under a flex loan plan at any time.

D. A licensee shall provide customers with a periodic billing statement in compliance with federal truth-in-lending laws.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.12 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Each licensee shall keep and use in its business any books, accounts and records the Commissioner may require to effectuate this act and the rules promulgated thereto. Every licensee shall preserve the books, accounts and records for at least two (2) years. Any licensee, after receiving the prior written approval of the Commissioner, may maintain records at a location within or outside this state.

B. A licensee shall not engage in unfair or deceptive acts, practices or advertising in the conduct of the licensed business.

C. A licensee shall not use any device or agreement, including agreements with affiliated licensees, with the intent to obtain greater charges than otherwise would be authorized by this subtitle.

D. A licensee shall comply with any state or federal law, rule, or regulation applicable to any business authorized or conducted under this act, including, but not limited to, the federal Truth in Lending Act, 15 U.S.C. sec 1601 et seq., the federal Equal Credit Opportunity Act, 15 U.S.C. secs. 1691-1691f, and the federal Fair Debt Collection Practices Act, 15 U.S.C. sec 1692 et seq.

E. 1. No flex loan plan subject to this act shall:

a. provide that the law of a jurisdiction other than this state applies,

b. provide that the customer consents to the jurisdiction of another state or foreign country,

c. establish venue, or

d. waive any provision of this act.

2. Any provision described in this section that is contained in a flex loan plan subject to this act shall be void and not enforceable as a matter of public policy.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.13 of Title 14A, unless there is created a duplication in numbering, reads as follows:

The business of making flex loans in accordance with this act shall not be subject to or controlled by any other statute governing the imposition of interest, fees, or loan charges. A licensee shall not have the powers enumerated in this act without first complying with the law regulating the particular transaction involved, but licensees legally exercising any of the powers set forth in this act shall not be deemed in violation of any other provision of law.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.14 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may promulgate administrative rules in accordance with the Administrative Procedures Act, for the enforcement of this act. A copy of any administrative rules by the Commissioner shall be mailed to the principal place of business of each license holder at least thirty (30) days before the date it takes effect.

B. To assure compliance with this act, the Commissioner may examine the relevant business, books and records of any licensee. Further, for the purposes of discovering violations of this act and determining whether persons are subject to this act, the Commissioner may examine or investigate persons licensed under this act and persons reasonably suspected by the Commissioner of conducting business that requires a license under this act by exercising authority that includes, but is not limited to, the power to summon witnesses and examine them under oath or affirmation, and to compel the production of books and records that may be relevant to the examination or investigation.

C. 1. A licensee or unlicensed person subject to the licensing requirements of this act, that is examined or investigated in accordance with this act, shall pay to the Commissioner the reasonable and actual expenses of the investigation or examination. The expenses shall be payable in addition to all other fees, taxes and costs required by law.

2. If a supervision fee is established pursuant to this act, then licensees who pay the supervision fee will no longer be required to pay examination expenses pursuant to this subsection for examinations that occur after payment of the supervision fee.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.15 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may, after notice and hearing, suspend or revoke any license if the Commissioner finds that the licensee has knowingly or through lack of due care:

1. Failed to pay any fees, expenses, or costs imposed by the Commissioner under the authority of this act;

2. Has committed any fraud, engaged in any dishonest activities or made any misrepresentations;

3. Has violated any provision of this act, any administrative rule promulgated pursuant to this act, or any other law in the course of the licensee's dealings as a licensee;

4. Has made a false statement in the application for the license or failed to give a true reply to a question in the application; or

5. Has demonstrated incompetency or untrustworthiness to act as a licensee.

B. If the reason for revocation or suspension of a licensee's license at any one (1) location is of general application to all locations operated by a licensee, the Commissioner may revoke or suspend all licenses issued to a licensee.

C. A hearing shall be held on written notice given at least twenty (20) days prior to the date of the hearing and shall be conducted in accordance Administrative Procedures Act.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.16 of Title 14A, unless there is created a duplication in numbering, reads as follows:

After notice and opportunity for a hearing, if the Commissioner finds that a person has violated this act, or any administrative rule promulgated thereto, the Commissioner may take the following actions or any combination of such actions:

1. Order the person to cease and desist violating the act or any administrative rule promulgated pursuant thereto;

2. Require the refund of any fees collected by the person in violation of this act; or

3. Order the person to pay to the Commissioner a civil penalty of not more than One Thousand Dollars ($1,000.00) for each transaction in violation of this act or for each day that a violation occurs or continues. Such civil penalty shall be deposited to the credit of the General Revenue Fund.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.17 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner, after notice and opportunity for a hearing, may censure, suspend for a period not to exceed twelve (12) months, or bar a person from any position of employment, management or control of a licensee, if the Commissioner finds that the:

1. Censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this subtitle, administrative regulation, or any rule or order of the Commissioner; or

2. Person has been:

a. convicted or pled guilty to, or pled nolo contendere to, any crime, or

b. held liable in any civil action by final judgment, or any administrative judgment by any public agency, if the criminal, civil or administrative judgment involved any offense reasonably related to the qualifications, functions, or duties of a person engaged in the business of making flex loans pursuant to this subtitle.

B. Persons suspended or barred under this section are prohibited from participating in any business activity of a licensee and from engaging in any business activity on the premises where a licensee is conducting its business. This subsection shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensee.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.18 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may enter into a consent order at any time with any person to resolve any matter arising under this act. A

consent order shall be signed by the person to whom it is issued, or a duly authorized representative, and shall indicate agreement to the terms contained in the order. A consent order need not constitute an admission by any person that any provision of this act, or any administrative rule or order promulgated or issued under this act has been violated, nor need it constitute a finding by the Commissioner that the person has violated this act, or any administrative rule, or order issued under this act.

B. Notwithstanding the issuance of a consent order, the Commissioner may seek civil or criminal penalties concerning matters encompassed by the consent order.

C. In cases involving extraordinary circumstances requiring immediate action, the Commissioner may take any enforcement action authorized by this act without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken that is filed with the Commissioner within twenty (20) days after receipt of the notice of the Commissioner's emergency action.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.19 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Any person aggrieved by the conduct of a licensee under this act in connection with the licensee's regulated activities may file

a written complaint with the Commissioner who may investigate the complaint.

B. In the course of the investigation of the complaint, the Commissioner may:

1. Subpoena witnesses;

2. Administer oaths;

3. Examine any individual under oath or affirmation; and

4. Compel the production of records, books, papers, contracts or other documents relevant to the investigation.

C. If any person fails to comply with a subpoena of the Commissioner under this act or to testify concerning any matter about which the person may be interrogated under this act, the Commissioner may petition any court of competent jurisdiction for enforcement.

D. The license of any licensee under this act who fails to comply with a subpoena of the Commissioner may be suspended pending compliance with the subpoena.

E. The Commissioner shall have exclusive administrative power to investigate and enforce any and all complaints relating to the business of making flex loans filed by any person that are not criminal in nature.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.20 of Title 14A, unless there is created a duplication in numbering, reads as follows:

Within fifteen (15) days of the occurrence of any one (1) of the following events, a licensee shall file a written report with the Commissioner describing the event and its expected impact on the activities of the licensee in this state:

1. The filing for bankruptcy or reorganization by the licensee;

2. Revocation or suspension proceedings instituted against the licensee by any state or governmental authority;

3. The denial of the opportunity to engage in the business of making loans by any state or governmental authority;

4. Any felony indictment of the licensee or any of its directors, officers or principals;

5. Any felony conviction of the licensee or any of its directors, officers or principals; and

6. Other events that the Commissioner may determine and identify by administrative regulation.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.21 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Each licensee shall file an annual report with the Commissioner on the date of the renewal application required in Section 8 containing the following information:

1. The names and addresses of persons owning a controlling interest in each licensee;

2. The location of all places of business operated by the licensee and the nature of the business conducted at each location;

3. The names and addresses of all affiliated entities regulated under this title doing business in this state;

4. An audited financial statement, including, but not limited to, a balance sheet, statement of income or loss, and statement of changes in financial position, for the immediately preceding fiscal year end, prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm, neither of which is affiliated with the licensee; and

5. If the licensee is a corporation, the names and addresses of its officers and directors; if the licensee is a partnership, the names and addresses of the partners; or if the licensee is a limited liability company, the names and addresses of the board of governors or managers of the limited liability company.

B. If the licensee holds two (2) or more licenses or is affiliated with other licensees a composite report may be filed, but may not be required.

C. The reports shall be filed in a form that may reasonably be required by the Commissioner and shall be sworn to by a responsible officer of the licensee.

D. The information submitted by licensees pursuant to this section shall be afforded the same degree of confidentiality by the

Department of Consumer Credit and the Commissioner as is applicable to reports filed by loan and thrift companies pursuant to law.

E. The Commissioner shall prepare and submit to the governor and legislature, annually, an analysis and recapitulation of the reports for the preceding calendar year for the purpose of reflecting the general results of operations under this subtitle.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.22 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. In addition to any other powers conferred upon the Commissioner of the Department of Consumer Credit by law, the Commissioner is authorized to require persons subject to this act to be licensed through a multi-state automated licensing system. Pursuant to this authority, the Commissioner may:

1. Promulgate administrative rules that are reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system;

2. Establish relationships or enter into agreements that are reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system. The agreements may include, but are not limited to, operating agreements, information sharing agreements, interstate cooperative agreements and technology licensing agreements;

3. Require that applications for licensing under this act and renewals of such licenses be filed with a multi-state automated licensing system;

4. Require that any fees required to be paid under this act be paid through a multi-state automated licensing system;

5. Establish deadlines for transitioning licensees to a multi-state automated licensing system. The Commissioner has the authority to deny any applications or renewal applications not filed with a multi-state automated licensing system after such deadlines have passed, notwithstanding any dates established elsewhere in this act; provided, however, the Commissioner shall provide reasonable notice of any transition deadlines to licensees; and

6. Take such further actions as are reasonably necessary to give effect to this section.

B. Nothing in this section shall authorize the Commissioner to require a person who is not subject to this act to submit information to, or to participate in, a multi-state automated licensing system that is operated, or participated in, pursuant to this act.

C. Notwithstanding this section, the Commissioner retains full authority and discretion to license persons under this act and to enforce this act to its fullest extent. Nothing in this section shall be deemed to be a reduction or derogation of that authority and discretion.

D. Applicants for and holders of licenses issued under this act shall pay all costs associated with submitting an application to or transitioning a license to a multi-state automated licensing system, as well as all costs required by a multi-state automated licensing system for maintaining and renewing any license issued by the Commissioner on a multi-state automated licensing system.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.23 of Title 14A, unless there is created a duplication in numbering, reads as follows:

The Commissioner of the Department of Consumer Credit is authorized to use a multi-state automated licensing system as an agent for channeling information, whether criminal or noncriminal in nature, whether derived from or distributed to the United States Department of Justice or any other state or federal governmental agency, or any other source, that the Commissioner is authorized to request from, or distribute to, under this act.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.24 of Title 14A, unless there is created a duplication in numbering, reads as follows:

In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

A. The requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to a multi-state automated licensing system, and any

privilege arising under federal or state law, including the rules of any federal or state court with respect to such information or material, shall continue to apply to the information or material after the information or material has been disclosed to a multi-state automated licensing system. The information or material may be shared with all state and federal regulatory officials with consumer credit oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law, including the protection available under state law.

B. For purposes of this section, the Commissioner is authorized to enter into agreements or sharing agreements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the Commissioner.

C. Information or material that is subject to a privilege or confidential under this section shall not be subject to:

1. Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or any agency of the federal government or the respective state; or

2. Subpoena, discovery, or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by a multi-state automated licensing system applicable to such information or material, the person to whom such

information or material pertains waives that privilege, in whole or in part, in the discretion of such person.

D. This section shall supersede any inconsistent provisions of law pertaining to the records open to public inspection.

E. This section shall not apply with respect to information or material relating to publicly adjudicated disciplinary and enforcement actions against persons subject to this act that is included in a multi-state automated licensing system for access by the public.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-100.25 of Title 14A, unless there is created a duplication in numbering, reads as follows:

Local government units, including, but not limited to, cities, towns and counties, shall have no authority to regulate flex plan loans.

SECTION 27. This act shall become effective November 1, 2016.

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