

OKLAHOMA STATUTES

TITLE 24. DEBTOR AND CREDITOR

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§24-1. Debtor defined.

A debtor, within the meaning of this chapter, is one who, by reason of an existing obligation, is, or may become, liable to pay money to another, whether such liability is certain or contingent.
R.L. 1910, § 2892.

§24-2. Creditor defined.

A creditor, within the meaning of this chapter, is one in whose favor an obligation exists, by reason of which he is, or may become, entitled to the payment of money.
R.L. 1910, § 2893.

§24-3. Fraud only invalidates contracts of debtor.

In the absence of fraud, every contract of a debtor is valid against all his creditors, existing or subsequent, who have not acquired a lien on the property affected by such contract.
R.L. 1910, § 2894.

§24-4. Alternative right to several funds.

Where a creditor is entitled to resort to each of several funds for the satisfaction of his claim, and another person has an interest in or is entitled as a creditor to resort to some but not all of them, the latter may require the former to seek satisfaction from those funds to which the latter has no such claim, so far as it can be done without impairing the right of the former to complete satisfaction, and without doing injustice to third persons.
R.L. 1910, § 2895.

§24-5. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-6. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-7. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-8. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-9. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-10. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-11. Preferences permitted.

Any person in this state indebted to other persons shall have the right to prefer one or more of such creditors in good faith to secure a valid debt, which preference may be manifested by payment, by mortgages, either real or chattel, or by the transfer of personal property or real estate, and if received by the creditor in good faith, such conveyance or mortgage shall be valid in the hands of the mortgagee and constitute a preference to the extent thereof, subject to the laws relating to the filing and recording of mortgages.

R.L. 1910, § 2901.

§24-12. Fraudulent debts - When due.

In all cases where a debtor has fraudulently contracted a debt, or fraudulently incurred a liability or obligation, for which suit is about to be or has been brought, such debt, liability or obligation shall be deemed due at the time such liability was incurred.

R.L. 1910, § 2902.

§24-13. Insurance on life of debtor - Conditions.

A. Whenever a credit life insurance policy or other insurance policy is obtained on the life of a debtor under or pursuant to the terms of a contract for the sale of a motor vehicle, merchandise or other property, the person, firm, company or corporation obtaining or receiving the policy shall furnish a copy of the policy, or a certificate or statement of insurance in the case of a group policy, to the insured not later than thirty (30) days after receipt thereof. Such policy shall be on a form approved by the State Insurance Commissioner, and the principal amount payable thereunder shall not be in excess of the total amount the debtor agrees to pay when he enters into such contract, provided, however, that where the indebtedness is repayable in installments, the amount of the insurance shall not exceed the approximate unpaid balance of the loan. If all amounts payable under such contract are paid before the same become due, such policy shall be cancelled at the request of the insured who shall be paid any refund for unearned premium on the policy within fifteen (15) days after such cancellation.

B. Whenever a credit life insurance policy or other insurance policy obtained pursuant to this section is denied or cancelled prior to the satisfaction of the debt by the insurer, notice shall

be given by the insurer to the debtor by certified mail with return receipt requested within sixty (60) days of the denial or cancellation.

Laws 1957, p. 215, § 1; Laws 1992, c. 18, § 1, eff. Sept. 1, 1992.

§24-14. Insurance on life of debtor - Penalties.

Any person, firm, company or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Laws 1957, p. 215, § 2.

§24-15. Debt pooling - Prohibition.

No person, firm, company or corporation shall engage in or operate a business known as debt pooling.

Laws 1957, p. 161, § 1.

§24-16. Debt pooling - Definition.

Debt pooling is defined as making a contract with a particular debtor whereby the debtor agrees to pay a sum or sums of money periodically to the person engaged in the debt pooling who shall distribute the same among certain specified creditors in accordance with a plan agreed upon and the debtor further agrees to pay such person any valuable consideration for such services or for any other services rendered in connection therewith.

Laws 1957, p. 161, § 2.

§24-17. Debt pooling - Penalties.

Any person, firm, company or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Laws 1957, p. 161, § 3.

§24-18. Debt pooling - Application of act.

The provisions of this act shall not apply to any retail merchants' trade association, nonprofit association formed for the purpose of collecting accounts and exchanging credit information, bankruptcy actions filed pursuant to the Federal Bankruptcy Act or acts of duly licensed attorneys distributing funds on behalf of clients.

Laws 1957, p. 161, § 4; Laws 1975, c. 76, § 1, emerg. eff. April 22, 1975.

§24-31. Allowable, when - Preference, effect of.

An insolvent debtor may, in good faith, execute an assignment of property to one or more assignees, in trust towards the satisfaction of his creditors, in conformity to the provisions of this chapter; subject, however, to the provisions of the law relative to trusts and to fraudulent transfers, and to the restrictions imposed by law upon assignments by special partnerships, by corporations or by other specified classes of persons: Provided, that such assignment shall not be valid if it be upon or contain any trust or condition by which any creditor is to receive a preference or priority over any other creditor; but in such case the property of the insolvent shall become a trust fund to be administered in equity, in the district court, and shall inure to the benefit of all the creditors in proportion to their respective claims or demands.

R.L. 1910, § 214.

§24-32. Insolvency defined.

A debtor is insolvent, within the meaning of this chapter, when he is unable to pay his debts from his own means as they become due.

R.L. 1910, § 215.

§24-33. Subsisting liabilities.

An assignment for the benefit of creditors may provide for any subsisting liability of the assignor which he might lawfully pay, whether absolute or contingent.

R.L. 1910, § 216.

§24-34. Assignments void in certain cases.

An assignment for the benefit of creditors is void against any creditor of the assignor not assenting thereto, in the following cases:

1. If it tend to coerce any creditor to release or compromise his demand.

2. If it provide for the payment of any claim known to the assignor to be false or fraudulent; or for the payment of more upon any claim than is known to be justly due from the assignor.

3. If it reserve any interest in the assigned property, or in any part thereof, to the assignor, or for his benefit, before all his existing debts are paid, other than property exempt by law from execution.

4. If it confer upon the assignee any power which, if exercised, might prevent or delay the immediate conversion of the assigned property to the purposes of the trust.

5. If it exempt him from liability for neglect of duty or misconduct.

R.L. 1910, § 217.

§24-35. Assignment to be in writing and signed - Acknowledgment, proof and certification.

An assignment for the benefit of creditors must be in writing, subscribed by the assignor, or by his agent, thereto authorized in writing. It must be acknowledged, or proved and certified, in the mode prescribed by Sections 223 and 224.
R.L. 1910, § 218.

§24-36. Void unless made as prescribed.

Unless the provisions of the last sections are complied with, an assignment for the benefit of creditors is void against every creditor of the assignor not assenting thereto.
R.L. 1910, § 219.

§24-37. Rights of assignee.

An assignee for the benefit of creditors is not to be regarded as a purchaser for value, and has no greater rights than his assignor had, in respect to things in action transferred by the assignment.
R.L. 1910, § 220.

§24-38. Inventory, necessity and requisites of.

Within twenty (20) days after an assignment is made for the benefit of creditors, the assignor must make and file in the manner prescribed by Section 223 a full and true inventory, showing:

1. All the creditors of the assignor;
2. The place of residence of each creditor, if known to the assignor, or, if not known, that fact must be stated;
3. The sum owing to each creditor, and the nature of each debt or liability, whether arising on written security, account or otherwise;
4. The true consideration of the liability in each case, and the place where it arose;
5. Every existing judgment, mortgage, or other security for the payment of any debt or liability of the assignor;
6. All property of the assignor at the date of the assignment, which is exempt by law from execution; and
7. All the assignor's property at the date of the assignment both real and personal, of every kind not so exempt, and the encumbrances existing thereon, and all vouchers and securities relating thereto, and the value of such property according to the best knowledge of the assignor.

R.L. 1910, § 221.

§24-39. Inventory verified.

An affidavit must be made by every person executing an assignment for the benefit of creditors, to be annexed to and filed with the inventory mentioned in the last section, to effect that the same is in all respects just and true, according to the best of the assignor's knowledge and belief.

R.L. 1910, § 222.

§24-40. Record of assignment and inventory - Place of filing - Nonresidents.

An assignment for the benefit of creditors must be recorded, and the inventory required by Section 221 filed with the register of deeds of the county in which the assignor resided at the date of the assignment; or, if he did not then reside in this state, with the like officer of the county in which his principal place of business was then situated; or, if he had not then a residence or place of business in this state, with the like officer of the county in which the principal part of the assigned property was then situated.

R.L. 1910, § 223.

§24-41. More than one assignor - Recording assignment - Filing inventory - Nonresidents.

If an assignment for the benefit of creditors is executed by more than one assignor, it must be recorded, and a copy of the inventory required by Section 221 must be filed with the register of deeds of every county in which any of the assignors resided at its date, or in which any of them, not then residing in this state, had then a place of business.

R.L. 1910, § 224.

§24-42. Time of recording - Effect of failure to record within time specified.

An assignment for the benefit of creditors is void against creditors of the assignor, and against purchasers and encumbrancers in good faith and for value, if the assignment is not recorded, and the inventory required by Section 221 filed, pursuant to Section 223, within twenty (20) days after date of assignment.

R.L. 1910, § 225.

§24-43. Real property.

Where an assignment for the benefit of creditors embraces real property, it is subject to the provisions of all laws relating to the acknowledgment and recording of transfers of real property, as well as those of this chapter.

R.L. 1910, § 226.

§24-44. Bond of assignee.

Within thirty (30) days after the date of an assignment for the benefit of creditors the assignee must enter into a bond to the state, with sufficient sureties, the amount of said bond to be named and approved by the judge of the district court of the county in which the original inventory is filed, and conditioned for the faithful discharge of the trust, and due accounting for all monies received by the assignee, which bond must be filed in the same office with the original inventory.

R.L. 1910, § 227; Laws 1915, c. 206, § 1.

§24-45. Authority of assignee begins, when.

Until the inventory and affidavit required by Sections 221 and 222 have been made, and the assignment has been duly recorded and the inventory filed, and the assignee has given a bond as required by the last section, an assignee for the benefit of creditors has no authority to dispose of the estate or convert it to the purposes of the trust.

R.L. 1910, § 228.

§24-46. Accounting by assignee - Supervision by judge of district court - Removal or discharge - Bankruptcy proceedings.

After the lapse of six (6) months from the date of filing his bond the assignee, on motion of any one of the creditors, with ten (10) days' notice, accompanied by an affidavit of the creditor, his agent or attorney, setting forth his claim and the amount thereof, and that no account has been filed within six (6) months, may be ordered by the court or by the judge thereof, at any place in his judicial district, to render an account of his proceedings, within a given time, to be fixed by the court, or the judge thereof, not to exceed fifteen days. All proceedings under this chapter shall be subject to the order and supervision of the judge of the district court of the county in which such assignment was made, and such judge may, from time to time, in his discretion, on the petition of one or more of his creditors, by order, citation, attachment or otherwise, require any assignee or assignees to render accounts and file reports of his or their proceedings and of the conditions of such trust estate, and may order or decree distribution thereof; and such judge may, in his discretion, for cause shown, remove any assignee or assignees and appoint another or others instead, who shall give such bond as the judge, in view of the conditions and value of the estate, may direct, and such order or removal and appointment, shall in terms transfer to such new assignee or assignees all the trust estate, real, personal and mixed, and may be recorded in the deed records in the office of registers of deeds of any county wherein any real estate affected by the assignment may be situated. And such judge may by order, which may be enforced as upon proceedings for contempt, compel the assignee or assignees so

removed to deliver all property, money, choses in action, book accounts and vouchers, to the assignee or assignees so appointed, and to make, execute and deliver to such new assignee or assignees such deeds, assignments and transfers as such judge may deem proper, and to render a full account and report of all matters connected with such trust estate. Whenever any assignee so removed shall have fully accounted for and turned over to the assignee or assignees appointed by the judge all the trust estate, and made a full report of all his doings, and complied with all orders of the judge touching such estate, and also whenever an assignee has fully complied with his trust, he may by order of the judge be fully discharged from all further duties, liabilities and responsibilities connected with the trust. In either case he shall give notice by publication in some newspaper of the county, if there be one printed and published therein, and if not, a newspaper published at the capital of the state, once in each week for at least three (3) weeks, that he will apply to such judge for such discharge, at a time and place to be stated in such notice, which time shall not be more than three (3) weeks after the last publication of the notice. If, upon the hearing, the judge shall be satisfied that the assignee is entitled to be discharged, he shall make an order accordingly; or if, in the opinion of the judge, anything remains to be done by such assignee, he may require the performance thereof before making such order. Such order shall have the effect of discharging the assignee and his sureties from all further responsibility in respect to the trust, and such order shall not be refused on account of any failure on the part of the assignee to comply with the formal provision of law, where no loss or damage to anyone shall have occurred through such failure. Whenever the trust estate shall have been taken out of the hands of the assignee by proceedings in bankruptcy in the federal court, the assignee may in like manner be discharged, upon showing that he has fully accounted with the assignee in bankruptcy, and turned over to him the whole of the trust estate.

R.L. 1910, § 229.

§24-47. Exempt property and life insurance do not pass - Exception.

Property exempt from execution and insurances upon the life of the assignor do not pass to the assignee by a general assignment for the benefit of the creditors, unless the instrument specially mentions them, and declares an intention that they should pass thereby.

R.L. 1910, § 230.

§24-48. Compensation of assignee.

In the absence of any provision in the assignment to the contrary, an assignee for the benefit of creditors is entitled to the same commissions as are allowed by law to executors and

guardians; but the assignment cannot grant more and may restrict the commissions to a less amount, or deny them altogether.

R.L. 1910, § 231.

§24-49. Good faith protects assignee.

An assignee for the benefit of creditors is not to be held liable for his acts done in good faith in the execution of the trust merely for the reason that the assignment is afterwards adjudged void.

R.L. 1910, § 232.

§24-50. Cancellation or modification of assignment - Assent of creditor affected.

An assignment for the benefit of creditors, which has been executed and recorded so as to transfer the property to the assignee, cannot afterward be canceled or modified by the parties thereto, without the consent of every creditor affected thereby.

R.L. 1910, § 233.

§24-71. Repealed by Laws 1961, p. 181, § 10-102.

§24-72. Repealed by Laws 1961, p. 181, § 10-102.

§24-73. Repealed by Laws 1961, p. 181, § 10-102.

§24-74. Repealed by Laws 1961, p. 181, § 10-102.

§24-81. Persons furnishing ratings to request statement of assets and liabilities.

Any person, firm or corporation engaged in or purporting to furnish retail merchants the financial or credit rating of any person who is the actual or prospective customer of such retail merchant shall, before furnishing such rating, submit, either in person or by mailing, to his last known post office address, to the person whose rating is about to be reported, a request asking for a statement of the assets and liabilities of such person.

R.L. 1910, § 2906.

§24-82. Copy of opinion furnished person to whom it relates.

Whenever an opinion in writing upon the financial or credit standing of any person is about to be submitted for the purpose of establishing a financial or credit rating of customers, to be used by the retail business concerns, the person, firm or corporation submitting such opinion shall first mail a copy of such opinion to the person about whom the opinion is given, at his proper post office address.

R.L. 1910, § 2907.

§24-83. False credit information or false rating - Penalty - Damages.

A. Any person, firm or corporation who knowingly and willfully introduces, attempts to introduce or causes to be introduced false information into the files of a consumer reporting agency or credit bureau for the purpose of wrongfully damaging or wrongfully enhancing the credit information of any individual, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

B. Any person, firm or corporation who knowingly promulgates or publishes a false opinion or statement in any book or list as to the credit or financial standing of any person, and circulates such book or list among wholesale or retail business concerns, shall be liable in damages to the person about whom the false opinion or statement is made, for the full amount of injury sustained, and in addition thereto for exemplary damages in any sum to be fixed by the jury, and shall also be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

R.L. 1910, § 2908; Laws 1984, c. 59, § 1, emerg. eff. March 27, 1984.

§24-84. Person rated may see rate book - Penalty.

Whenever a credit or financial rating of any person is contained in any book or list which was circulated among retail business concerns for the purpose of establishing a financial or credit rating of consumers, any person, firm or corporation having such book or list in his or its possession, custody or control shall, upon demand made in person, produce and show such rating to the person so rated; and any person, firm or corporation failing or refusing to comply with the above requirements shall be guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00).

R.L.1910, § 2909.

§24-85. False credit statement.

Every person, firm or corporation, or the agent, clerk or employee thereof, who knowingly makes, causes to be made, or permits to be made, any false credit statement to any wholesale dealer, for the purpose of establishing credit in general or with such dealer, or to any person, firm or corporation engaged in furnishing credit statements to wholesale merchants in general or to any particular

person, firm or corporation engaged in the wholesale business, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

R.L. 1910, § 2910; Laws 1984, c. 59, § 2, emerg. eff. March 27, 1984.

§24-86. Restrictions on inclusion of tax lien information in credit report or rating.

A consumer reporting agency, credit bureau or any similar agency which furnishes a credit report or rating may include in such report or rating information on tax liens, executed pursuant to Article 2 of the Oklahoma Tax Code, only when the information is obtained directly from the Oklahoma Tax Commission. A consumer reporting agency, credit bureau or any similar agency which furnishes a credit report or rating shall use due diligence in updating the status of a tax lien.

Added by Laws 1994, c. 278, § 1, eff. Sept. 1, 1994.

§24-91. Repealed by Laws 2004, c. 153, § 9, eff. Nov. 1, 2004.

§24-92. Repealed by Laws 2004, c. 153, § 9, eff. Nov. 1, 2004.

§24-93. Repealed by Laws 2004, c. 153, § 9, eff. Nov. 1, 2004.

§24-101. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-102. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-103. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-104. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-105. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-106. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-107. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-108. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-109. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-110. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-111. Repealed by Laws 1986, c. 100, § 13, eff. Nov. 1, 1986.

§24-112. Short title.

This act shall be known and may be cited as the "Uniform Fraudulent Transfer Act".

Added by Laws 1986, c. 100, § 1, eff. Nov. 1, 1986.

§24-113. Definitions.

As used in the Uniform Fraudulent Transfer Act:

1. "Affiliate" means:

- a. a person who directly or indirectly owns, controls or holds with power to vote, twenty percent (20%) or more of the outstanding voting securities of the debtor, other than a person who holds the securities:
 - (1) as a fiduciary or agent without sole discretionary power to vote the securities, or
 - (2) solely to secure a debt, if the person has not exercised the power to vote;
- b. a corporation, twenty percent (20%) or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote, by the debtor or a person who directly or indirectly owns, controls or holds, with power to vote, twenty percent (20%) or more of the outstanding voting securities of the debtor, other than a person who holds the securities:
 - (1) as a fiduciary or agent without sole power to vote the securities, or
 - (2) solely to secure a debt, if the person has not in fact exercised the power to vote;
- c. a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or
- d. a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

2. "Asset" means property of a debtor, but the term does not include:

- a. property to the extent it is encumbered by a valid lien; or
- b. property to the extent it is generally exempt under nonbankruptcy law; or
- c. an interest in property held in tenancy by the entirety to the extent it is not subject to process by a creditor holding a claim against only one tenant.

3. "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent,

matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.

4. "Creditor" means a person who has a claim.

5. "Debt" means liability on a claim.

6. "Debtor" means a person who is liable on a claim.

7. "Insider" includes:

a. if the debtor is an individual:

(1) a relative of the debtor or of a general partner of the debtor, or

(2) a partnership in which the debtor is a general partner, or

(3) a general partner in a partnership described in division (2) of this subparagraph, or

(4) a corporation of which the debtor is a director, officer or person in control;

b. if the debtor is a corporation:

(1) a director of the debtor, or

(2) an officer of the debtor, or

(3) a person in control of the debtor, or

(4) a partnership in which the debtor is a general partner, or

(5) a general partner in a partnership described in division (4) of this subparagraph, or

(6) a relative of a general partner, director, officer, or person in control of the debtor;

c. if the debtor is a partnership:

(1) a general partner in the debtor, or

(2) a relative of a general partner in, a general partner of, or a person in control of the debtor, or

(3) another partnership in which the debtor is a general partner, or

(4) a general partner in a partnership described in division (3) of this subparagraph, or

(5) a person in control of the debtor;

d. an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

e. a managing agent of the debtor.

8. "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien or a statutory lien.

9. "Person" means an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

10. "Property" means anything that may be the subject of ownership.

11. "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

12. "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

13. "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

Added by Laws 1986, c. 100, § 2, eff. Nov. 1, 1986.

§24-114. Tests for determining insolvency.

A. A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

B. A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

C. A partnership is insolvent pursuant to the provisions of subsection A of this section if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

D. Assets pursuant to the provisions of this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable pursuant to the provisions of the Uniform Fraudulent Transfer Act.

E. Debts pursuant to the provisions of this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

Added by Laws 1986, c. 100, § 3, eff. Nov. 1, 1986.

§24-115. Value defined.

A. Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

B. For the purposes of paragraph 2 of subsection A of Section 5 and Section 6 of this act, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset

pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

C. A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous. Added by Laws 1986, c. 100, § 4, eff. Nov. 1, 1986.

§24-116. Transfers fraudulent to creditors.

A. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

1. With actual intent to hinder, delay, or defraud any creditor of the debtor; or

2. Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

- a. was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction, or
- b. intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

B. In determining actual intent pursuant to the provisions of paragraph 1 of subsection A of this section, consideration may be given, among other factors, to whether:

1. The transfer or obligation was to an insider;
2. The debtor retained possession or control of the property transferred after the transfer;
3. The transfer or obligation was disclosed or concealed;
4. Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
5. The transfer was of substantially all the debtor's assets;
6. The debtor absconded;
7. The debtor removed or concealed assets;
8. The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;
9. The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;
10. The transfer occurred shortly before or shortly after a substantial debt was incurred; and
11. The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

Added by Laws 1986, c. 100, § 5, eff. Nov. 1, 1986.

§24-117. Transfer fraudulent to creditor whose claim arose before transfer made or obligation incurred.

A. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

B. A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

Added by Laws 1986, c. 100, § 6, eff. Nov. 1, 1986.

§24-118. Tests for determining when transfer is made or obligation incurred.

For the purposes of the Uniform Fraudulent Transfer Act:

1. A transfer is made:

- a. with respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and
- b. with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than in accordance with the provisions of the Uniform Fraudulent Transfer Act that is superior to the interest of the transferee.

2. If applicable law permits the transfer to be perfected as provided for in paragraph 1 of this section and the transfer is not so perfected before the commencement of an action for relief pursuant to the provisions of the Uniform Fraudulent Transfer Act, the transfer is deemed made immediately before the commencement of the action.

3. If applicable law does not permit the transfer to be perfected as provided for in paragraph 1 of this section, the transfer is made when it becomes effective between the debtor and the transferee.

4. A transfer is not made until the debtor has acquired rights in the asset transferred.

5. An obligation is incurred:

- a. if oral, when it becomes effective between the parties; or
- b. if evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee.

Added by Laws 1986, c. 100, § 7, eff. Nov. 1, 1986.

§24-119. Creditor's remedies.

A. In an action for relief against a transfer or obligation pursuant to the provisions of the Uniform Fraudulent Transfer Act, a creditor, subject to the limitations of Section 9 of this act, may obtain:

1. Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim; or

2. An attachment or other provisional remedy against the asset transferred or other property of the transferee as provided for by law; or

3. Subject to applicable principles of equity and in accordance with applicable rules of civil procedure:

- a. an injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property, or
- b. appointment of a receiver to take charge of the asset transferred or of other property of the transferee, or
- c. any other relief the circumstances may require.

B. If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

Added by Laws 1986, c. 100, § 8, eff. Nov. 1, 1986.

§24-120. Voidable and nonvoidable transfers - Creditor's remedies and limitations thereon.

A. A transfer or obligation is not voidable as provided for in paragraph 1 of subsection A of Section 5 of this act against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

B. Except as otherwise provided for in this section, to the extent a transfer is voidable in an action by a creditor pursuant to the provisions of paragraph 1 of subsection A of Section 8 of this act, the creditor may recover judgment for the value of the asset transferred, as adjusted in accordance with the provisions of subsection C of this section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

1. The first transferee of the asset or the person for whose benefit the transfer was made; or

2. Any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

C. If the judgment provided for in subsection B of this section is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

D. Notwithstanding voidability of a transfer or an obligation pursuant to the provisions of the Uniform Fraudulent Transfer Act, a good faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

1. A lien on or a right to retain any interest in the asset transferred;

2. Enforcement of any obligation incurred; or

3. A reduction in the amount of the liability on the judgment.E. A transfer from:

1. Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

2. Enforcement of a security interest in compliance with Article 9 of the Uniform Commercial Code.

F. A transfer is not voidable pursuant to the provisions of subsection B of Section 6 of this act:

1. To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien; or

2. If made in the ordinary course of business or financial affairs of the debtor and the insider; or

3. If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

Added by Laws 1986, c. 100, § 9, eff. Nov. 1, 1986.

§24-121. Limitation of actions.

A cause of action with respect to a fraudulent transfer or obligation pursuant to the provisions of the Uniform Fraudulent Transfer Act, Section 112 et seq. of this title, is extinguished unless action is brought:

1. Pursuant to the provisions of paragraph 1 of subsection A of Section 116 of this title, within four (4) years after the transfer was made or the obligation was incurred or, if later, within one (1) year after the transfer or obligation was or could reasonably have been discovered by the claimant;

2. Pursuant to the provisions of paragraph 2 of subsection A of Section 116 of this title or subsection A of Section 117 of this title, within four (4) years after the transfer was made or the obligation was incurred;

3. Pursuant to the provisions of subsection B of Section 117 of this title, within one (1) year after the transfer was made or the obligation was incurred; or

4. For the purpose of transfers made or obligations incurred prior to November 1, 1986, the statute of limitations in effect prior to November 1, 1986, shall apply to claims or causes of action based thereon, but in no event shall a claim or cause of action be brought with respect to such transfers or obligations incurred any later than November 1, 1990.

Added by Laws 1986, c. 100, § 10, eff. Nov. 1, 1986. Amended by Laws 1988, c. 325, § 1, eff. Nov. 1, 1988.

§24-122. Supplementary principles of law and equity.

Unless displaced by the provisions of the Uniform Fraudulent Transfer Act, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement the provisions of the Uniform Fraudulent Transfer Act.

Added by Laws 1986, c. 100, § 11, eff. Nov. 1, 1986.

§24-123. Application and construction of act.

The Uniform Fraudulent Transfer Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

Added by Laws 1986, c. 100, § 12, eff. Nov. 1, 1986.

§24-131. Short title.

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

Added by Laws 1987, c. 35, § 1, emerg. eff. April 20, 1987.

§24-132. Definitions.

As used in the Credit Services Organization Act:

1. "Buyer" means any individual who is solicited to purchase or who purchases the services of a credit services organization;

2. a. "Credit services organization" means any person who, with respect to the extension of credit by others, sells, provides, performs, or represents that the person can or will sell, provide, or perform, in return for the payment of money or other valuable consideration from any source, any of the following services more than twelve times in a calendar year:
- (1) improving a buyer's credit record, history, or rating,
 - (2) obtaining an extension of credit for a buyer, or

- (3) providing advice or assistance to a buyer with regard to division (1) or (2) of this subparagraph,
- b. "Credit services organization" does not include:
 - (1) any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act,
 - (2) any bank, savings and loan institution or credit union whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration or a subsidiary of such bank, savings and loan institution or credit union,
 - (3) any nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code,
 - (4) any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license,
 - (5) any person licensed to practice law in this state if the person renders services within the course and scope of the practice of the person as an attorney,
 - (6) any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of that regulation,
 - (7) any consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 through 1681t,
 - (8) any person authorized to file electronic income tax returns who does not receive any consideration for refund anticipation loans,
 - (9) any residential mortgage broker as defined in the Mortgage Broker Licensure Act, or
 - (10) any insurance company, its affiliates and subsidiaries, authorized to do business in this state by the Insurance Commissioner, including insurance agents licensed in this state;

3. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes, or to anyone whose principal occupation is agricultural in nature; and

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

Added by Laws 1987, c. 35, § 2, emerg. eff. April 20, 1987. Amended by Laws 1987, c. 208, § 53, operative July 1, 1987; Laws 1987, c. 236, § 79, emerg. eff. July 20, 1987; Laws 1991, c. 312, § 6, eff. July 1, 1991; Laws 1992, c. 210, § 1, emerg. eff. May 15, 1992; Laws 1997, c. 401, § 12, eff. Nov. 1, 1997; Laws 1998, c. 130, § 1, eff. Nov. 1, 1998; Laws 2002, c. 171, § 1.

§24-133. Restrictions.

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

1. Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for the buyer, unless the credit services organization has obtained a surety bond of Ten Thousand Dollars (\$10,000.00) issued by a surety company admitted to do business in this state and established a trust account at a federally insured bank or savings and loan association located in this state;

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

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

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

Added by Laws 1987, c. 35, § 3, emerg. eff. April 20, 1987.

§24-134. Exemption from bond and trust account provisions - Responsibility for employees or agents.

If a credit services organization is in compliance with paragraph 1 of Section 3 of this act, the salesperson, agent, or representative who sells the services of that organization is not required to obtain a surety bond and establish a trust account. Provided, however, said organization or entity shall be responsible for the acts of their employees or agents performed within the scope of their employment.
Added by Laws 1987, c. 35, § 4, emerg. eff. April 20, 1987.

§24-135. Information statement - Written statement required.

Before the execution of a contract or agreement between the buyer and a credit services organization or before the receipt by the credit services organization of any money or other valuable consideration, whichever occurs first, the credit services organization shall provide the buyer with a statement, in writing, containing all the information required by Section 6 of this act. The credit services organization shall maintain on file for a period of two (2) years an exact copy of the statement, personally signed by the buyer, acknowledging receipt of a copy of the statement.
Added by Laws 1987, c. 35, § 5, emerg. eff. April 20, 1987.

§24-136. Information statement - Contents.

The information statement required pursuant to Section 5 of this act shall include all of the following:

1. a. a complete and accurate statement of the buyer's right to review any file on the buyer maintained by any consumer reporting agency, as provided under the Federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 through 1681t,
 - b. a statement that the buyer may review his or her consumer reporting agency file at no charge if a request is made to the consumer credit reporting agency within thirty (30) days after receiving notice that credit has been denied, and
 - c. the approximate price the buyer will be charged by the consumer reporting agency to review his or her consumer reporting agency file;
2. A complete and accurate statement of the buyer's right to dispute the completeness or accuracy of any item contained in any file on the buyer maintained by any consumer reporting agency;
3. A complete and detailed description of the services to be performed by the credit services organization for the buyer and the total amount the buyer will have to pay, or become obligated to pay, for the services;
4. A statement asserting the buyer's right to proceed against the bond or trust account required under Section 3 of this act; and

5. The name and address of the surety company that issued the bond, or the name and address of the depository and the trustee and the account number of the trust account.

Added by Laws 1987, c. 35, § 6, emerg. eff. April 20, 1987.

§24-137. Contracts - Contents - Form for "Notice of Cancellation" - Copies.

A. Each contract between the buyer and a credit services organization for the purchase of the services of the credit services organization shall be in writing, dated, signed by the buyer, and include the following:

1. A conspicuous statement in bold face type, in immediate proximity to the space reserved for the signature of the buyer, as follows: "You, the buyer, may cancel this contract at any time prior to midnight of the fifth day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right";

2. The terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit services organization or to some other person;

3. A full and detailed description of the services to be performed by the credit services organization for the buyer, including all guarantees and all promises of full or partial refunds, and the estimated date by which the services are to be performed, or estimated length of time for performing the services; and

4. The credit services organization's principal business address which shall be the actual office location of the organization and the name and address of its agent in the state authorized to receive service of process.

B. The contract shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" that shall be attached to the contract, be easily detachable, and contain in bold face type the following statement written in the same language as used in the contract:

"Notice of Cancellation

You may cancel this contract, without any penalty or obligation, within five (5) days from the date the contract is signed.

If you cancel any payment made by you under this contract, it will be returned within ten (10) days following receipt by the seller of your cancellation notice.

To cancel this contract, mail or deliver a signed dated copy of this cancellation notice, or any other written notice to
(name of seller) at (address of seller)
(place of business) not later than midnight (date)

I hereby cancel this transaction,

(date)
(purchaser's signature) "

C. The credit services organization shall give to the buyer a copy of the completed contract and all other documents the credit services organization requires the buyer to sign at the time they are signed.

Added by Laws 1987, c. 35, § 7, emerg. eff. April 20, 1987.

§24-138. Waivers - Burden of proof - Violations and jurisdiction - Enforcement of rights.

A. Any waiver by a buyer of any part of this act is void. Any attempt by a credit services organization to have a buyer waive rights given by this act is a violation of this act.

B. In any proceeding involving this act, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

C. Any person who violates this act is guilty of a misdemeanor. Any district court of this state has jurisdiction in equity to restrain and enjoin the violation of this act.

D. This section does not prohibit the enforcement by any person of any right provided by this or any other law.

Added by Laws 1987, c. 35, § 8, emerg. eff. April 20, 1987.

§24-139. Action for damages - Remedies not exclusive.

A. Any buyer injured by a violation of this act may bring any action for recovery of damages. Judgment shall be entered for actual damages, but in no case less than the amount paid by the buyer to the credit services organization, plus reasonable attorney's fees and costs. An award may also be entered for punitive damages.

B. The remedies provided under this act are in addition to any other procedures or remedies for any violation or conduct provided for in any other law.

Added by Laws 1987, c. 35, § 9, emerg. eff. April 20, 1987.

§24-140. Rules and regulations.

The Department of Consumer Credit shall administer and promulgate rules and regulations to implement the provisions of this act.

Added by Laws 1987, c. 35, § 10, emerg. eff. April 20, 1987.

§24-141. License required - Extensions of credit in compliance with law.

No person shall engage in business as a credit service organization without first obtaining a license from the Administrator pursuant to the provisions of the Credit Services Organization Act. Any extensions of credit brokered or arranged on behalf of a buyer by a credit service organization must comply with

the provisions of the Uniform Consumer Credit Code and the Credit Services Organization Act.

Added by Laws 1987, c. 208, § 46, operative July 1, 1987. Amended by Laws 1987, c. 236, § 72, emerg. eff. July 20, 1987; Laws 2002, c. 171, § 2.

§24-142. Application for license - Resident agent.

A. Applications for a credit service organization license shall be under oath and shall state the full name and place of residence of the applicant. If the applicant is a partnership, the full name and place of residence of each member thereof shall be stated. If the applicant is a corporation, the full name and place of residence of each officer or major stockholder thereof shall be stated. The application shall give the approximate location from which the business is to be conducted, and shall contain such relevant information as the Administrator may require.

B. Each licensee shall maintain on file with the Administrator a written appointment of a resident of this state as his agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent pursuant to another statute of this state. In case of noncompliance with the provision of this section, such service may be made on the Administrator on behalf of the licensee.

Added by Laws 1987, c. 208, § 47, operative July 1, 1987 and Laws 1987, c. 236, § 73, emerg. eff. July 20, 1987.

§24-143. Fees - Administrator's investigation - Issuance or denial of license.

A. Upon the filing of an application and bond, payment of an annual license fee and an investigation fee, the Administrator of Consumer Credit shall conduct an investigation. If the Administrator finds that the financial responsibility, experience, character and general fitness of the applicant are such as to warrant belief that the business will be operated pursuant to the Credit Services Organization Act and rules promulgated pursuant thereto, the Administrator shall grant the application and issue to the applicant a license which will evidence the authority of the applicant to do business under the provisions of the Credit Services Organization Act.

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

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

D. No license to engage in the business of a credit services organization shall be issued for any location if a license has been issued and is in effect under the provisions of Sections 3-501 through 3-514 of Title 14A of the Oklahoma Statutes. As used in this subsection the term "location" means the entire area in which a person licensed pursuant to any provision of Title 14A of the Oklahoma Statutes conducts business. No credit service organization may be connected with any location in which a person licensed pursuant to any provision of Title 14A of the Oklahoma Statutes conducts business, except by a passageway to which the public is not admitted.

E. The Commission on Consumer Credit may prescribe by rule a fee for each license change, duplicate license or returned check. Added by Laws 1987, c. 208, § 48, operative July 1, 1987. Amended by Laws 1987, c. 236, § 74, emerg. eff. July 20, 1987; Laws 2010, c. 415, § 10, eff. July 1, 2010.

§24-144. Licenses - Contents - Display - Number - Term - Annual fee.

A. Each license shall state the name of the license and the address of which the business is to be conducted. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable except upon approval by the Administrator of Consumer Credit.

B. A separate license shall be required for each credit service organization operated pursuant to the Credit Services Organization Act.

The Administrator may issue more than one license to any one person upon compliance with the provisions of the Credit Services Organization Act as to each license. A licensee desiring to move a licensed credit service operation to another location shall give thirty (30) days' written notice to the Administrator, who shall amend the license accordingly.

C. Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee, on or before December 1 of each year, shall pay the Administrator a license renewal fee for each license held by the licensee as the annual fee for the succeeding calendar year. The license shall expire December 31 of any year for which an annual fee has not been paid.

D. A late fee, as prescribed by rule of the Commission on Consumer Credit, shall be imposed for any license renewed after December 1.

Added by Laws 1987, c. 208, § 49, operative July 1, 1987. Amended by Laws 1987, c. 236, § 75, emerg. eff. July 20, 1987; Laws 2010, c. 415, § 11, eff. July 1, 2010; Laws 2015, c. 152, § 2, eff. Nov. 1, 2015.

§24-145. Administrative hearing - Suspension, revocation or surrender of license.

A. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Credit Services Organization Act. The independent hearing examiner shall have authority to exercise all powers granted by Article II of the Administrative Procedures Act in conducting hearings. The independent hearing examiner shall have authority to recommend penalties authorized by the Credit Services Organization Act and issue proposed orders, with proposed findings of fact and proposed conclusions of law, to the Administrator pursuant to Article II of the Administrative Procedures Act. The Administrator shall review the proposed order and issue a final agency order in accordance with Article II of the Administrative Procedures Act. A final agency order issued by the Administrator shall be appealable by all parties to the district court as provided in Article II of the Administrative Procedures Act. The costs of the hearing examiner may be assessed by the hearing examiner against the respondent, unless the respondent is the prevailing party.

B. The Administrator may, after notice and hearing, decline to renew a license, suspend or revoke any license, or in addition to or in lieu of suspension or revocation, order refunds for any unlawful charges or enter a cease and desist order if the Administrator finds that:

1. The licensee has failed to pay any fee or charge properly imposed by the Administrator under the authority of the Credit Services Organization Act;

2. The licensee or any entity or individual subject to the Credit Services Organization Act, either knowingly or without the exercise of due care to prevent the same, has violated any provisions of the Credit Services Organization Act or any regulation or order lawfully made pursuant thereto; or

3. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for a license, clearly would have justified the Administrator in refusing the license.

C. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender, but such

surrender shall not affect the licensee's civil or criminal liability for acts committed prior thereto.

D. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any customer.

E. The Administrator may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the Administrator in refusing originally to issue such license pursuant to the Credit Services Organization Act.

F. On application of any person and payment of the cost thereof, the Administrator shall furnish under the seal and signature of the Administrator a certificate of good standing or a certified copy of any license.

G. Any entity or individual offering to engage or engaged as a credit service organization without a license in this state shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00).

H. The Administrator may impose a civil penalty as prescribed in subsection G of this section, after notice and hearing in accordance with Article II of the Administrative Procedures Act. Any administrative order or settlement agreement imposing a civil penalty pursuant to this section may be enforced in the same manner as civil judgments in this state. The Administrator may file an application to enforce an administrative order or settlement agreement imposing a civil penalty in the district court of Oklahoma County.

Added by Laws 1987, c. 208, § 50, operative July 1, 1987. Amended by Laws 1987, c. 236, § 76, emerg. eff. July 20, 1987; Laws 2010, c. 415, § 12, eff. July 1, 2010.

§24-146. Investigation and examination of books and records.

A. At such times as the Administrator of Consumer Credit may deem necessary, the Administrator or a duly authorized representative of the Administrator may make an examination of the place of business of each licensee and may inquire into and examine the transactions, books, accounts, papers, correspondence and records of such licensee insofar as they pertain to the business regulated by the Credit Services Organization Act. Such books, accounts, papers, correspondence and records shall also be open for inspection at any reasonable time by any peace officer, without any need of judicial writ or other process. In the course of an examination, the Administrator or a duly authorized representative of the Administrator shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of any books, accounts, papers, correspondence and records. The Administrator or duly authorized

representative, during the course of such examination, may administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Administrator is authorized or required by the Credit Services Organization Act to consider, investigate or secure information. Any licensee who fails or refuses to permit the Administrator or duly authorized representative to examine or make copies of such books or other relevant documents shall be deemed to be in violation of the Credit Services Organization Act and such failure or refusal shall constitute grounds for the suspension or revocation of such license. The information obtained in the course of any examination or inspection shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state. Each licensee shall pay to the Administrator an examination fee. The Administrator may require payment of an examination fee either at the time of initial application, renewal of the license, or after an examination has been conducted.

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

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

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

E. Each licensee, annually on or before the first day of May or other date thereafter fixed by the Administrator, shall file a report with the Administrator setting forth such relevant information as the Administrator may reasonably require concerning

the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the Administrator, who may make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential.

Added by Laws 1987, c. 208, § 51, operative July 1, 1987. Amended by Laws 1987, c. 236, § 77, emerg. eff. July 20, 1987; Laws 2010, c. 415, § 13, eff. July 1, 2010.

§24-147. Disclosures to consumer - Applicability of disclosure requirements - Credit histories - Fees.

A. Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

1. The nature and substance of all information, except medical information, in its files on the consumer at the time of the request;

2. The sources of the information, except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed. Provided, in the event an action is brought under this act, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought; and

3. The recipients of any consumer report on the consumer which it has furnished:

- a. for employment purposes within the two-year period preceding the request, and
- b. for any other purpose within the six-month period preceding the request.

B. The requirements of subsection A of this section respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this act, except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

C. All consumer reporting agencies, as such agencies are defined in the Federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 through 1681t, which operate offices in the State of Oklahoma shall allow any requesting person to receive his or her credit history.

D. A consumer reporting agency shall make all disclosures and furnish all consumer reports without charge to the consumer if requested within thirty (30) days after receipt by such consumer of a notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating

may be or has been adversely affected. Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer:

1. For making disclosure to such consumer, the charge for which shall be indicated to the consumer prior to making disclosure; and

2. For furnishing credit histories authorized in subsection C of this section, notifications, statements, summaries or codifications to persons designated by the consumer, the charge for which shall be indicated to the consumer prior to furnishing such information.

Provided, no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

Added by Laws 1987, c. 208, § 52, operative July 1, 1987 and Laws 1987, c. 236, § 78, emerg. eff. July 20, 1987. Amended by Laws 1988, c. 196, § 5, operative July 1, 1988.

§24-148. Request of consumer report - Notice to subject of report.

A. Prior to requesting a consumer report for employment purposes, the requestor or user of the consumer report shall provide written notice to the person who is the subject of the consumer report. The notice shall inform the consumer that a consumer report will be used and the notice shall contain a box that the consumer may check to receive a copy of the consumer report. If the consumer requests a copy of the report, the user of the consumer report shall request that a copy be provided to the consumer when the user of the consumer report requests its copy from the credit reporting agency. The report sent to the consumer shall be provided at no charge to the consumer. As used in this section, "consumer report" shall have the same meaning as that term is defined in the federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 et seq.

B. No person shall be held liable for any violation of this section if such person shows by a preponderance of the evidence that, at the time of the alleged violation, such person maintained reasonable procedures to assure compliance with this section.

Added by Laws 2000, c. 170, § 1, eff. Nov. 1, 2000.

§24-149. Short title.

This act shall be known and may be cited as the "Oklahoma Consumer Report Security Freeze Act".

Added by Laws 2006, c. 283, § 1, eff. Jan. 1, 2007.

§24-150. Definitions.

As used in this act:

1. "Consumer" means an individual who is also a resident of this state;

2. "Consumer report" has the meaning ascribed to it in 15 U.S.C., Section 1681a(d);

3. "Consumer reporting agency" has the meaning ascribed to it in 15 U.S.C., Section 1681a(f);

4. "Proper identification" has the meaning ascribed to it in 15 U.S.C., Section 1681h(a)(1); and

5. "Security freeze" means a notice placed in a consumer report of a consumer, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer report or credit score of the consumer relating to the opening of new accounts or the extension of credit. Added by Laws 2006, c. 283, § 2, eff. Jan. 1, 2007.

§24-151. Written request for security freeze - Processing time - Confirmation of freeze and identification number - Disclosures.

A. A consumer may request that a security freeze be placed on his or her consumer report by sending a request in writing by certified mail to a consumer reporting agency at an address designated by the consumer reporting agency to receive such requests. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer report of a consumer.

B. A consumer reporting agency shall place a security freeze on a consumer report of a consumer no later than five (5) business days after receiving from the consumer:

1. A written request as provided in subsection A of this section;

2. Proper identification; and

3. Payment of the required fee, if applicable.

Provided, however, with respect to any security freeze requested before May 1, 2007, the deadline stated in this subsection shall be ten (10) business days if a consumer reporting agency in good faith is unable to process during normal business hours the quantity of security freeze requests being received.

C. The consumer reporting agency shall send a written confirmation of the placement of the security freeze to the consumer within ten (10) business days. Upon placing the security freeze on the consumer report of the consumer, the consumer reporting agency shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her consumer report for a specific period of time.

D. If a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer report of the consumer for a period of time while the freeze is in place.

Added by Laws 2006, c. 283, § 3, eff. Jan. 1, 2007.

§24-152. Requests to temporarily lift freeze - Time for compliance - Request procedures.

A. If the consumer wishes to allow his or her consumer report to be accessed for a specific period of time while a freeze is in place, he or she shall contact the consumer reporting agency using a method of contact designated by the consumer reporting agency, requesting that the freeze be temporarily lifted, and providing, to complete the request, all of the following:

1. Proper identification;
2. The unique personal identification number or password provided by the consumer reporting agency pursuant to subsection C of Section 3 of this act;
3. The proper information regarding the time period for which the report shall be available to users of the credit report; and
4. The required fee, if applicable.

B. A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on his or her consumer report, accompanied by all of the items listed in subsection A of this section, shall comply with the request no later than three (3) business days after receiving the completed request.

C. A consumer reporting agency may develop procedures involving the use of telephone, facsimile, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a consumer report pursuant to subsection A of this section in an expedited manner.

Added by Laws 2006, c. 283, § 4, eff. Jan. 1, 2007.

§24-153. Mandatory removal or temporary lifting of freeze - Notice to consumer - Third party requests.

A. A consumer reporting agency shall remove or temporarily lift a freeze placed on the consumer report of a consumer only in the following cases:

1. Upon consumer request, pursuant to Sections 4 and 6 of this act; or
2. If the consumer report of the consumer was frozen due to a material misrepresentation of fact by the consumer.

If a consumer reporting agency intends to remove a freeze upon a consumer report of a consumer, and is not doing so at the request of the consumer, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer report of the consumer.

B. If a third party requests access to a consumer report on which a security freeze is in effect, this request is in connection with an application for credit or any other use, and the consumer does not allow his or her consumer report to be accessed for that period of time, the third party may treat the application as incomplete.

Added by Laws 2006, c. 283, § 5, eff. Jan. 1, 2007.

§24-154. Removal of freeze by consumer request - Identification required.

A. A security freeze shall remain in place until the consumer requests, using a method of contact designated by the consumer reporting agency, that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three (3) business days of receiving such a request for removal from the consumer, who provides along with it:

1. Proper identification;
2. The unique personal identification number or password provided by the consumer reporting agency pursuant to Section 3 of this act; and
3. The required fee, if applicable.

B. A consumer reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

Added by Laws 2006, c. 283, § 6, eff. Jan. 1, 2007.

§24-155. Exceptions.

The provisions of this act do not apply to the use of a consumer credit report by any of the following:

1. A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owed by the consumer to that person or entity, or a prospective assignee of a financial obligation owed by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owed for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;
2. A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;
3. Any state or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena;
4. A child support agency acting pursuant to Title IV-D of the Social Security Act;
5. The state or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory

responsibilities, provided such responsibilities are consistent with a permissible purpose under Section 1681b of Title 15 of the United States Code;

6. The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act;

7. Any person or entity administering a credit file monitoring subscription or similar service to which the consumer has subscribed;

8. Any person or entity for the purpose of providing a consumer with a copy of his or her consumer report or credit score upon the request of the consumer; or

9. Any person using the information in connection with the underwriting of insurance.

Added by Laws 2006, c. 283, § 7, eff. Jan. 1, 2007.

§24-156. Fees - Written notice of changes.

A. This act does not prevent a consumer reporting agency from charging a fee of no more than Ten Dollars (\$10.00) to a consumer for each freeze, removal of the freeze, or temporary lifting of the freeze for a period of time, regarding access to a consumer credit report.

B. A consumer reporting agency shall not charge any fee to:

1. A victim of identity theft who has submitted, at the time the security freeze is requested, a copy of a valid investigative or incident report or complaint with a law enforcement agency about the unlawful use of the victim's identifying information by another person; or

2. A consumer sixty-five (65) years of age or older for the initial placement and removal of a security freeze.

C. If a security freeze is in place, a consumer reporting agency shall not change any of the following official information in a consumer report without sending a written confirmation of the change to the consumer within thirty (30) days of the change being posted to the file of the consumer:

1. Name;
2. Date of birth;
3. Social security number; and
4. Address.

D. Written confirmation is not required for technical modifications of official information of a consumer, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

Added by Laws 2006, c. 283, § 8, eff. Jan. 1, 2007.

§24-157. Entities not required to place security freeze.

The following entities are not required to place a security freeze on a consumer report:

1. A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of credit information from which new consumer reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer report by another consumer reporting agency;

2. A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; or

3. A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine (ATM) abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

Added by Laws 2006, c. 283, § 9, eff. Jan. 1, 2007.

§24-158. Notice of rights.

At any time a consumer is required to receive a summary of rights required under Section 1681g of Title 15 of the United States Code, the following notice shall be included:

"Oklahoma Consumers Have the Right to Obtain a Security Freeze.

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, Internet credit card transaction, or other services, including an extension of credit at point of sale. When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit

report for a period of time after the freeze is in place. To provide that authorization you must contact the consumer reporting agency by one of the methods that it requires, and provide all of the following:

1. The personal identification number or password;
2. Proper identification to verify your identity;
3. The proper information regarding the period of time for which the report shall be available; and
4. The payment of the appropriate fee.

A consumer reporting agency must authorize the release of your credit report no later than three (3) business days after receiving all of the above items by any method that the consumer reporting agency allows.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring civil action against anyone, including a consumer reporting agency who willfully or negligently fails to comply with any requirement of the Oklahoma Consumer Report Security Freeze Act.

A consumer reporting agency has the right to charge you up to Ten Dollars (\$10.00) to place a freeze on your credit report, up to Ten Dollars (\$10.00) to temporarily lift a freeze on your credit report, and up to Ten Dollars (\$10.00) to remove a freeze from your credit report. However, you shall not be charged any fee if you are a victim of identity theft who has submitted, at the time the security freeze is requested, a copy of a valid investigative or incident report or complaint with a law enforcement agency about the unlawful use of your identifying information by another person, or if you are sixty-five (65) years of age or older for the initial placement and removal of a security freeze."

Added by Laws 2006, c. 283, § 10, eff. Jan. 1, 2007.

§24-159. Failure to comply - Use of false pretenses - Penalties.

A. Any person who willfully fails to comply with any requirement imposed under the provisions of this act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

1. Any actual damages sustained by the consumer; and
2. In the case of any successful action to enforce any liability under the provisions of this act, the costs of the action together with reasonable attorney fees as determined by the court.

B. Any person who obtains a consumer report, requests a security freeze, or requests the temporary lift of a security freeze or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or One Thousand Dollars (\$1,000.00), whichever is greater.

C. Any person who is negligent in failing to comply with any requirement imposed under this act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

1. Any actual damages sustained by the consumer as a result of the failure; and

2. In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney fees as determined by the court.

D. Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under the provisions of this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party reasonable attorney fees in relation to the work expended in responding to the pleading, motion, or other paper.

Added by Laws 2006, c. 283, § 11, eff. Jan. 1, 2007.

§24-161. Short title.

This act shall be known and may be cited as the "Security Breach Notification Act".

Added by Laws 2008, c. 86, § 1, eff. Nov. 1, 2008.

§24-162. Definitions.

As used in the Security Breach Notification Act:

1. "Breach of the security of a system" means the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by an individual or entity as part of a database of personal information regarding multiple individuals and that causes, or the individual or entity reasonably believes has caused or will cause, identity theft or other fraud to any resident of this state. Good faith acquisition of personal information by an employee or agent of an individual or entity for the purposes of the individual or the entity is not a breach of the security of the system, provided that the personal information is not used for a purpose other than a lawful purpose of the individual or entity or subject to further unauthorized disclosure;

2. "Entity" includes corporations, business trusts, estates, partnerships, limited partnerships, limited liability partnerships, limited liability companies, associations, organizations, joint ventures, governments, governmental subdivisions, agencies, or

instrumentalities, or any other legal entity, whether for profit or not-for-profit;

3. "Encrypted" means transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key, or securing the information by another method that renders the data elements unreadable or unusable;

4. "Financial institution" means any institution the business of which is engaging in financial activities as defined by 15 U.S.C., Section 6809;

5. "Individual" means a natural person;

6. "Personal information" means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of this state, when the data elements are neither encrypted nor redacted:

- a. social security number,
- b. driver license number or state identification card number issued in lieu of a driver license, or
- c. financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to the financial accounts of a resident.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public;

7. "Notice" means:

- a. written notice to the postal address in the records of the individual or entity,
- b. telephone notice,
- c. electronic notice, or
- d. substitute notice, if the individual or the entity required to provide notice demonstrates that the cost of providing notice will exceed Fifty Thousand Dollars (\$50,000.00), or that the affected class of residents to be notified exceeds one hundred thousand (100,000) persons, or that the individual or the entity does not have sufficient contact information or consent to provide notice as described in subparagraph a, b or c of this paragraph. Substitute notice consists of any two of the following:
 - (1) e-mail notice if the individual or the entity has e-mail addresses for the members of the affected class of residents,
 - (2) conspicuous posting of the notice on the Internet web site of the individual or the entity if the individual or the entity maintains a public Internet web site, or

(3) notice to major statewide media; and

8. "Redact" means alteration or truncation of data such that no more than the following are accessible as part of the personal information:

- a. five digits of a social security number, or
- b. the last four digits of a driver license number, state identification card number or account number.

Added by Laws 2008, c. 86, § 2, eff. Nov. 1, 2008.

§24-163. Duty to disclose breach.

A. An individual or entity that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach of the security of the system to any resident of this state whose unencrypted and unredacted personal information was or is reasonably believed to have been accessed and acquired by an unauthorized person and that causes, or the individual or entity reasonably believes has caused or will cause, identity theft or other fraud to any resident of this state. Except as provided in subsection D of this section or in order to take any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the system, the disclosure shall be made without unreasonable delay.

B. An individual or entity must disclose the breach of the security of the system if encrypted information is accessed and acquired in an unencrypted form or if the security breach involves a person with access to the encryption key and the individual or entity reasonably believes that such breach has caused or will cause identity theft or other fraud to any resident of this state.

C. An individual or entity that maintains computerized data that includes personal information that the individual or entity does not own or license shall notify the owner or licensee of the information of any breach of the security of the system as soon as practicable following discovery, if the personal information was or if the entity reasonably believes was accessed and acquired by an unauthorized person.

D. Notice required by this section may be delayed if a law enforcement agency determines and advises the individual or entity that the notice will impede a criminal or civil investigation or homeland or national security. Notice required by this section must be made without unreasonable delay after the law enforcement agency determines that notification will no longer impede the investigation or jeopardize national or homeland security.

Added by Laws 2008, c. 86, § 3, eff. Nov. 1, 2008.

§24-164. Notice procedures deemed in compliance.

A. An entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of personal information and that are consistent with the timing requirements of this act shall be deemed to be in compliance with the notification requirements of this act if it notifies residents of this state in accordance with its procedures in the event of a breach of security of the system.

B. 1. A financial institution that complies with the notification requirements prescribed by the Federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice is deemed to be in compliance with the provisions of this act.

2. An entity that complies with the notification requirements or procedures pursuant to the rules, regulation, procedures, or guidelines established by the primary or functional federal regulator of the entity shall be deemed to be in compliance with the provisions of this act.

Added by Laws 2008, c. 86, § 4, eff. Nov. 1, 2008.

§24-165. Enforcement - Civil penalty limitation.

A. A violation of this act that results in injury or loss to residents of this state may be enforced by the Attorney General or a district attorney in the same manner as an unlawful practice under the Oklahoma Consumer Protection Act.

B. Except as provided in subsection C of this section, the Attorney General or a district attorney shall have exclusive authority to bring action and may obtain either actual damages for a violation of this act or a civil penalty not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) per breach of the security of the system or series of breaches of a similar nature that are discovered in a single investigation.

C. A violation of this act by a state-chartered or state-licensed financial institution shall be enforceable exclusively by the primary state regulator of the financial institution.

Added by Laws 2008, c. 86, § 5, eff. Nov. 1, 2008.

§24-166. Application of act.

This act shall apply to the discovery or notification of a breach of the security of the system that occurs on or after November 1, 2008.

Added by Laws 2008, c. 86, § 6, eff. Nov. 1, 2008.

§24-170. Short title - Oklahoma Student Borrower's Bill of Rights Act.

This act shall be known and may be cited as the "Oklahoma Student Borrower's Bill of Rights Act".

Added by Laws 2021, c. 272, § 1, eff. Nov. 1, 2021.

§24-171. Definitions.

As used in the Oklahoma Student Borrower's Bill of Rights Act:

1. "Guarantor" means a nonprofit or state organization that works with a lender, servicer, school and the U.S. Department of Education to help students successfully repay certain federal student loans;
2. "Student loan borrower" means:
 - a. any resident of this state who has received or agreed to pay a student education loan, or
 - b. any person who shares responsibility with such resident for repaying the student education loan;
3. "Student loan servicer" means any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower;
4. "Servicing" means:
 - a. receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan,
 - b. applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan, and
 - c. performing other administrative services with respect to a student education loan.

Servicing does not include default aversion efforts provided by state or nonprofit guaranty agencies as required by their agreement with the U.S. Department of Education under the Higher Education Act of 1965; and

5. "Student education loan" means any loan primarily for personal use to finance education or other school-related expenses. Added by Laws 2021, c. 272, § 2, eff. Nov. 1, 2021.

§24-172. Oklahoma Student Borrower's Bill of Rights.

A. The Attorney General shall prepare a written statement that includes an "Oklahoma Student Borrower's Bill of Rights" for a student loan borrower who takes out a student education loan that is serviced by a student loan servicer. The statement shall incorporate all items from subsection B of this section and be made available to the public and written in plain language designed to be easily understood by the average student loan borrower.

B. No student loan servicer shall:

1. Directly or indirectly employ any scheme, device or artifice to defraud or mislead student loan borrowers;
2. Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with

the servicing of a student education loan including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;

3. Obtain property by fraud or misrepresentation;

4. Incorrectly apply or fail to apply student education loan payments to the outstanding balance of a student education loan;

5. Provide inaccurate information to a credit bureau, thereby harming a student loan borrower's creditworthiness;

6. Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to a credit bureau, except in the case of loan rehabilitation;

7. Refuse to communicate with an authorized representative of the student loan borrower who provides a written authorization signed by the student loan borrower, provided the student loan servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower;

8. Make any false statement or misrepresentation by omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by a governmental agency;

9. Fail to inform borrowers of the federal income repayment options before offering deferment or forbearance as an option; or

10. Fail to inform student loan borrowers if their type of loan does not qualify for loan forgiveness programs.

Added by Laws 2021, c. 272, § 3, eff. Nov. 1, 2021. Amended by Laws 2023, c. 109, § 1, eff. Nov. 1, 2023.