

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 468

By: Newberry of the Senate

and

Echols of the House

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9 An Act relating to the State Banking Commissioner;
10 amending 14A O.S. 2011, Sections 6-502 and 6-504,
11 which relate to members of the Consumer Credit
12 Commission and meetings; making the State Banking
13 Commissioner a voting member of certain commissions;
14 authorizing certain meetings; making gender neutral;
15 amending 71 O.S. 2011, Section 1-601, as amended by
16 Section 643, Chapter 304, O.S.L. 2012 (71 O.S. Supp.
17 2016, Section 1-601), which relates to the Oklahoma
18 Securities Commission; modifying references; and
19 declaring an emergency.

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

24 SECTION 1. AMENDATORY 14A O.S. 2011, Section 6-502, is
amended to read as follows:

Section 6-502. A. The Commission on Consumer Credit shall
consist of nine (9) members to be appointed by the Governor by and
with the advice and consent of the Senate. The State Banking
Commissioner shall be an ex officio ~~nonvoting~~ voting tenth member of
the Commission.

1 B. It is unlawful for any member of the Commission, the
2 Administrator of Consumer Credit, or any other officer or employee
3 of the Department to use for personal benefit any information which
4 is filed with or obtained by the Administrator and which is not made
5 public. No provision of the Uniform Consumer Credit Code authorizes
6 any member of the Commission, the Administrator, or any other
7 officer or employee of the Department to disclose any information
8 except among themselves or when necessary or appropriate in a
9 proceeding or investigation according to the provisions of the
10 Uniform Consumer Credit Code. The provisions of the Uniform
11 Consumer Credit Code shall not be construed to create or derogate
12 any privilege that exists at common law or otherwise when
13 documentary or other evidence is sought under a subpoena directed to
14 any member of the Commission, the Administrator, or any other
15 officer or employee of the Department.

16 C. Except upon proof of corruption, no member of the Commission
17 shall be civilly liable to any applicant or other person for any
18 acts or omissions.

19 D. No member of the Commission shall participate in any
20 proceeding before the Commission involving any corporation,
21 partnership, or unincorporated association for which the member is
22 or was at any time in the preceding twelve (12) months a director,
23 officer, partner, employee, member, or stockholder. A member of the
24 Commission may disqualify himself or herself from participation in

1 any proceeding before the Commission for any cause deemed by him or
2 her to be sufficient.

3 SECTION 2. AMENDATORY 14A O.S. 2011, Section 6-504, is
4 amended to read as follows:

5 Section 6-504. Chairman - Meetings - Quorum - Minutes - Reports
6 - Records - Rules and Regulations.

7 The Commission shall select a ~~chairman~~ chair and is hereby
8 authorized to adopt rules for conducting its proceedings. A
9 majority of the voting members shall constitute a quorum for
10 transacting Commission business. The Commission ~~shall~~ may meet
11 monthly on such date as it may designate and may meet at such other
12 times as it may deem necessary, or when called by the ~~chairman~~ chair
13 or by any two members. Complete minutes of each meeting shall be
14 kept and filed in the Department of Consumer Credit and shall be
15 available for public inspection during reasonable office hours. The
16 Commission shall report annually to the Governor and to the Speaker
17 of the House of Representatives and the President Pro Tempore of the
18 Senate. The report shall contain a summary of the minutes of the
19 meetings held during the year, legislative recommendations, a
20 summary of violations of the Uniform Consumer Credit Code and action
21 taken thereon, and such other data and information as may be deemed
22 necessary or appropriate. Each member of the Commission shall have
23 unrestricted access to all offices and records of the Department.

1 The Commission may review, repeal, amend or modify any rule or
2 regulation adopted or promulgated by the Administrator.

3 SECTION 3. AMENDATORY 71 O.S. 2011, Section 1-601, as
4 amended by Section 643, Chapter 304, O.S.L. 2012 (71 O.S. Supp.
5 2016, Section 1-601), is amended to read as follows:

6 Section 1-601. A. The Administrator shall administer ~~this act~~
7 the Oklahoma Uniform Securities Act of 2004.

8 B. There are hereby created the Oklahoma Securities Commission
9 and the Department of Securities. The Commission shall be the
10 policy making and governing authority of the Department, shall
11 appoint the Administrator and shall be responsible for the
12 enforcement of ~~this act~~ the Oklahoma Uniform Securities Act of 2004.

13 C. 1. The Commission shall consist of four (4) members to be
14 appointed by the Governor by and with the advice and consent of the
15 Senate. One member will be a member of the Oklahoma Bar Association
16 appointed from a list of five nominees submitted by the Oklahoma Bar
17 Association; one member shall be an active officer of a bank or
18 trust company operating in the State of Oklahoma appointed from a
19 list of five nominees submitted by the Oklahoma Bankers Association;
20 and one member shall be a certified public accountant appointed from
21 a list of five nominees submitted by the Oklahoma Society of
22 Certified Public Accountants; and one member shall be engaged in the
23 securities industry and shall be appointed for a six-year initial
24 term from a list of five nominees submitted by the Oklahoma

1 Securities Industry Association; provided, that the State ~~Bank~~
2 Banking Commissioner ~~of Oklahoma~~ shall be and ~~he~~ is hereby made an
3 ex officio voting member of ~~said~~ the Commission.

4 2. Except for appointment of the member engaged in the
5 securities industry as provided for in subsection C of this section,
6 no person may be appointed to or by the Commission while ~~he~~ such
7 person is registered as a broker-dealer, agent, investment adviser,
8 or investment adviser representative under ~~this act~~ the Oklahoma
9 Uniform Securities Act of 2004, or while he or she is an officer,
10 director, or partner of any person so registered, or while he or she
11 is an officer, director, or partner of an issuer which has a
12 registration statement effective under ~~this act~~ the Oklahoma Uniform
13 Securities Act of 2004, or while he or she is occupying a similar
14 status or performing similar functions.

15 3. It is unlawful for any member of the Commission, the
16 Administrator, or any other officer or employee of the Department to
17 use for personal benefit any information which is filed with or
18 obtained by the Administrator and which is not made public. No
19 provision of ~~this act~~ the Oklahoma Uniform Securities Act of 2004
20 authorizes any member of the Commission, the Administrator or any
21 other officer or employee of the Department to disclose any such
22 information except among themselves or when necessary or appropriate
23 in a proceeding or investigation under ~~this act~~ the Oklahoma Uniform
24 Securities Act of 2004 or in connection with a proceeding or

1 investigation conducted by any state, federal or foreign law
2 enforcement agency, securities agency or self-regulatory
3 organization. No provision of ~~this act~~ the Oklahoma Uniform
4 Securities Act of 2004 either creates or derogates from any
5 privilege which exists at common law or otherwise when documentary
6 or other evidence is sought under a subpoena directed to any member
7 of the Commission, the Administrator or any other officer or
8 employee of the Department.

9 4. Except on proof of corruption, no Commissioner shall for his
10 or her acts or ~~his~~ failure to act be civilly liable to any investor,
11 applicant for registration, or any other person.

12 D. The Governor shall biennially appoint Commission members to
13 serve for a staggered term of six (6) years. Upon the expiration of
14 initial terms, the term of each member shall be six (6) years from
15 the date of his or her appointment and qualification, and until his
16 or her successor shall qualify. Vacancies shall be filled by the
17 Governor for the unexpired term. Members shall be eligible for
18 reappointment.

19 E. The Commission shall select a chair and is hereby authorized
20 to adopt rules for conducting its proceedings. Any three members
21 shall constitute a quorum for transacting Commission business. The
22 Commission shall meet bimonthly on such date as it may designate and
23 may meet at such other times as it may deem necessary, or when
24 called by the chair or by any two members. Complete minutes of each

1 meeting shall be kept and filed in the Department and shall be
2 available for public inspection during reasonable office hours. The
3 Commission shall report annually to the Governor, to the Speaker of
4 the House of Representatives and to the President Pro Tempore of the
5 Senate. The report shall contain the minutes of each meeting held
6 during the year, legislative recommendations, a summary of
7 violations of ~~this act~~ the Oklahoma Uniform Securities Act of 2004
8 and action taken thereon, a list of securities registered under ~~this~~
9 ~~act~~ the Oklahoma Uniform Securities Act of 2004 and such other data
10 and information as may be deemed necessary or appropriate. The
11 Commission is hereby authorized to publish such report, and the
12 Administrator may sell copies of such report at such price as is
13 reasonably sufficient to defray the expenses of the Department in
14 preparing, publishing, and disseminating the same. Each member of
15 the Commission shall have unrestricted access to all offices and
16 records under the jurisdiction of the Department. The Commission,
17 or a majority thereof, may exercise any power or perform any act
18 authorized for the Administrator under the provisions of ~~this act~~
19 the Oklahoma Uniform Securities Act of 2004.

20 F. The Commission shall appoint a full-time Administrator, who
21 shall serve at the pleasure of the Commission. ~~He~~ The Administrator
22 shall administer the ~~act~~ Oklahoma Uniform Securities Act of 2004
23 under the supervision of the Commission and in accordance with its
24 policies.

1 G. The Administrator shall be a person of good moral character,
2 at least thirty (30) years of age, a resident taxpayer of Oklahoma,
3 and thoroughly familiar with corporate organization, investment
4 banking, investment trusts, the sale of securities, and the
5 statistical details of the manufacturing industries and commerce of
6 this state. In addition, the Administrator shall:

7 1. Be a graduate of an accredited law school and a member of
8 the Oklahoma Bar Association, or shall have had ten (10) years'
9 experience as a certified public accountant; and

10 2. Have at least three (3) years' work experience involving
11 some aspect of the securities industry. The Commission may also
12 require additional qualifications. The salary of the Administrator
13 shall be fixed by the Commission.

14 H. The Administrator, with the approval of the Commission, may
15 designate a Deputy Securities Administrator, who shall possess the
16 same qualifications, including bond, required for the Administrator
17 and who shall perform all the duties required to be performed by the
18 Administrator when the Administrator is absent or unable to act for
19 any reason.

20 I. Before assuming office, the Administrator shall give a bond
21 in the sum of Fifty Thousand Dollars (\$50,000.00) payable to the
22 State of Oklahoma, to be approved by the Attorney General of the
23 State of Oklahoma, conditioned that he or she will faithfully
24 execute the duties of ~~his~~ the office. The Administrator may by rule

1 or order require any employee of the Department to be bonded on the
2 same condition and in the same or such lesser amount as he or she
3 determines. The expense of all such bonds shall be paid from funds
4 available to the Department.

5 J. 1. The internal administrative organization of the
6 Department shall be determined by the Commission in such manner as
7 to promote the efficient and effective enforcement of ~~this act~~ the
8 Oklahoma Uniform Securities Act of 2004. The Department shall
9 include, but not be limited to, divisions relating to:

- 10 a. registration of broker-dealers, agents, investment
- 11 advisers, and investment adviser representatives,
- 12 b. registration of securities,
- 13 c. investigation and enforcement, and
- 14 d. investor education.

15 2. Within the division of investor education, the Department
16 may provide the following services at the discretion of the
17 Administrator:

- 18 a. informing investors of all rights and remedies
- 19 available under this act,
- 20 b. informing investors of the availability of private
- 21 dispute resolution, including arbitration and
- 22 mediation, as an alternative to other courses of
- 23 action,
- 24

1 c. acting as a liaison between investors and the other
2 divisions of the Department, and

3 d. acting as a liaison between investors and issuers of
4 securities, broker-dealers or investment advisers
5 subject to the jurisdiction of the Department under
6 this act.

7 Nothing in this subsection shall authorize any employee of the
8 Department to represent the interests of, or to serve as counsel
9 for, investors in any proceeding or action to include an
10 administrative or civil proceeding brought by the Department or the
11 Securities and Exchange Commission, a proceeding brought by the
12 National Association of Securities Dealers, Inc., or an arbitration
13 or mediation proceeding. Further, no employee of the Department may
14 advise any person about the value of securities or as to the
15 advisability of investing in, purchasing or selling securities, or
16 as to the value or merits of pursuing a particular course of action.

17 3. Employees of the division of investor education shall not be
18 exempt from the provisions of the Open Records Act and Section 1-607
19 of this title.

20 K. The Administrator shall prepare in writing a manual of
21 necessary employee positions for the Department, including job
22 classifications, personnel qualifications, duties, maximum and
23 minimum salary schedules, and other personnel information, which
24 shall be approved by the Commission. The Administrator may select,

1 appoint, and employ such accountants, auditors, examiners, clerks,
2 stenographers, and other personnel as he or she deems necessary for
3 the proper administration of ~~this act~~ the Oklahoma Uniform
4 Securities Act of 2004, and may fix their compensation and the
5 salary of the Deputy Administrator. The Deputy Administrator and
6 other employees of the Department shall serve at the pleasure of the
7 Administrator.

8 L. The Commission and the Securities Department shall be
9 assigned offices in Oklahoma City, Oklahoma, by the Office of
10 Management and Enterprise Services, and all records of the
11 Commission and Department shall be kept in those offices, unless and
12 until transferred to the Records Management Division of the Oklahoma
13 Department of Libraries.

14 M. The Department of Securities' attorney, paralegal, legal
15 secretary, accountant, investigator, examiner, chief financial
16 officer, network administrator, business manager, and investor
17 education coordinator positions shall be in the unclassified service
18 and are in no way subject to any of the provisions of the Merit
19 System of Personnel Administration or of the rules promulgated by
20 the Office of Management and Enterprise Services except those
21 relating to leave regulations.

22 N. 1. Neither the Administrator nor any employee of the
23 Department, during their respective terms of employment, shall serve
24 as a director, officer, shareholder, member, partner, agent or

1 employee of any person who, during the period of such
2 Administrator's or employee's employment with the Department:

- 3 a. was licensed or applied for registration as a broker-
4 dealer, agent, investment adviser or investment
5 adviser representative under this act, or
- 6 b. applied for or secured the registration of securities
7 under ~~this act~~ the Oklahoma Uniform Securities Act of
8 2004.

9 2. Nothing in paragraph 1 of this subsection shall prohibit the
10 holding, purchasing or selling of any securities by the
11 Administrator or any employee of the Department in accordance with
12 regulations adopted by the Commission for the purpose of protecting
13 the public interest and avoiding conflicts of interest.

14 3. Nothing contained in paragraph 1 of this subsection shall
15 prohibit the holding, purchasing or selling of any securities of any
16 issuer described in subparagraph b of paragraph 1 of this subsection
17 of this section by the Administrator if either:

- 18 a. the Administrator together with his or her spouse, or
19 minor children, owns less than one percent (1%) of any
20 class of outstanding securities of any such issuer so
21 long as such securities are not purchased in an
22 initial public offering, or
- 23 b. such securities are held or purchased through a
24 management account or trust administered by a bank or

1 trust company authorized to do business in this state
2 that has sole investment discretion regarding the
3 holding, purchasing or selling of such securities and
4 the Administrator or employee did not, directly or
5 indirectly, advise, counsel or command the holding,
6 purchasing or selling of any securities or furnish any
7 information relating to any such securities to such
8 bank or trust company and further, such account or
9 trust does not at any time have more than ten percent
10 (10%) of its total assets invested in the securities
11 of any one issuer or hold more than five percent (5%)
12 of the outstanding securities of any class of
13 securities of any one issuer.

14 O. ~~This act~~ The Oklahoma Uniform Securities Act of 2004 does
15 not create or diminish a privilege or exemption that exists at
16 common law, by statute or rule, or otherwise.

17 P. The Administrator may develop and implement investor
18 education initiatives to inform the public about investing in
19 securities, with particular emphasis on the prevention and detection
20 of securities fraud. In developing and implementing these
21 initiatives, the Administrator may collaborate with public and
22 nonprofit organizations with an interest in investor education. The
23 Administrator may accept a grant or donation from a person that is
24 not affiliated with the securities industry or from a nonprofit

1 organization, regardless of whether the organization is affiliated
2 with the securities industry, to develop and implement investor
3 education initiatives. This subsection does not authorize the
4 Administrator to require participation or monetary contributions of
5 a registrant in an investor education program.

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

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11 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
12 PENSIONS, dated 04/11/2017 - DO PASS.
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