

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 532

By: Brooks and McCortney of the
Senate

and

Fetgatter of the House

11 COMMITTEE SUBSTITUTE

12 An Act relating to foreclosure of medical marijuana
13 businesses; establishing procedures for continuation
14 of operations of certain foreclosed businesses;
15 requiring submission of certain proof to State
16 Department of Health; prohibiting certain additional
17 fees; requiring promulgation of certain rules;
18 amending Section 14 of Enrolled House Bill No. 2612
19 of the 1st Session of the Oklahoma Legislature, which
20 relates to medical marijuana business licenses;
21 modifying exclusions from licensure; providing for
22 codification; and providing an effective date.

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

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1560 of Title 12, unless there
is created a duplication in numbering, reads as follows:

1 A. In the event that a licensed medical marijuana dispensary,
2 commercial grower or processor is foreclosed, is the subject of an
3 order appointing a receiver, becomes insolvent, bankrupt or
4 otherwise ceases operations, a secured party or receiver may
5 continue operations at the dispensary, grower or processor upon
6 submitting to the Oklahoma Medical Marijuana Authority, State
7 Department of Health, proof that the secured party or receiver, or
8 if the secured party or receiver is a business entity, any
9 individual who has a financial interest in the secured party or
10 receiver, meets the requirements and restrictions set forth in:

11 1. For licensed medical marijuana dispensaries, Section 421 of
12 Title 63 of the Oklahoma Statutes;

13 2. For licensed commercial medical marijuana growers, Section
14 422 of Title 63 of the Oklahoma Statutes; or

15 3. For licensed medical marijuana processors, Section 423 of
16 Title 63 of the Oklahoma Statutes.

17 The Authority may prescribe the form and manner of submitting
18 proof under this subsection. Neither the state nor agency of this
19 state shall require an additional fee from the secured party or
20 receiver, other than payment of annual fees which may become due
21 during the operation by the secured party or receiver.

22 B. Subject to the requirements of subsection A of this section,
23 the Oklahoma Medical Marijuana Authority, State Department of
24

1 Health, shall promulgate rules for the manner and conditions under
2 which:

3 1. Marijuana items left by a deceased, insolvent or bankrupt
4 person or licensee, or subject to a security interest or a court
5 order appointing a receiver, may be foreclosed, sold under execution
6 or otherwise disposed whether by foreclosure or by sale as a going
7 concern;

8 2. The business of a licensee who is deceased, insolvent,
9 bankrupt, or the subject of an order appointing receiver or a
10 foreclosure by a secured party, may be operated for a reasonable
11 period following the death, insolvency, appointment of a receiver or
12 bankruptcy; and

13 3. A secured party or court-appointed receiver may continue to
14 operate a business for which a license has been issued under Section
15 421, 422 or 423 of Title 63 of the Oklahoma Statutes for a
16 reasonable period after default on the indebtedness by the debtor or
17 after the appointment of the receiver.

18 SECTION 2. AMENDATORY Section 14 of Enrolled House Bill
19 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
20 amended to read as follows:

21 Section 14. A. There is hereby created the medical marijuana
22 business license, which shall include the following categories:

- 23 1. Medical marijuana commercial grower;
24 2. Medical marijuana processor;

1 3. Medical marijuana dispensary;

2 4. Medical marijuana transporter; and

3 5. Medical marijuana testing laboratory.

4 B. The Oklahoma Medical Marijuana Authority, with the aid of
5 the Office of Management and Enterprise Services, shall develop a
6 website for medical marijuana business applications.

7 C. The Authority shall make available on its website ~~or the~~
8 ~~website of the Oklahoma Medical Marijuana Authority~~ in an easy-to-
9 find location, applications for a medical marijuana business.

10 D. The nonrefundable application fee for a medical marijuana
11 business license shall be Two Thousand Five Hundred Dollars
12 (\$2,500.00).

13 E. All applicants seeking licensure as a medical marijuana
14 business shall comply with the following general requirements:

15 1. All applications for licenses and registrations authorized
16 pursuant to this section shall be made upon forms prescribed by the
17 Authority;

18 2. Each application shall identify the city or county in which
19 the applicant seeks to obtain licensure as a medical marijuana
20 business;

21 3. Applicants shall submit a complete application to the
22 Department before the application may be accepted or considered;

23 4. All applications shall be complete and accurate in every
24 detail;

1 5. All applications shall include all attachments or
2 supplemental information required by the forms supplied by the
3 Authority;

4 6. All applications shall be accompanied by a full remittance
5 for the whole amount of the application fees. Application fees are
6 nonrefundable;

7 7. All applicants shall be approved for licensing review that,
8 at a minimum, meets the following criteria:

9 a. all applicants shall be age twenty-five (25) or older,

10 b. any applicant applying as an individual shall show
11 proof that the applicant is an Oklahoma resident
12 pursuant to paragraph 11 of this subsection,

13 c. any applicant applying as an entity shall show that
14 seventy-five percent (75%) of all members, managers,
15 executive officers, partners, board members or any
16 other form of business ownership are Oklahoma
17 residents pursuant to paragraph 11 of this subsection,

18 d. all applying individuals or entities shall be
19 registered to conduct business in the State of
20 Oklahoma,

21 e. all applicants shall disclose all ownership interests
22 pursuant to this act, and

23 f. applicants shall not have been convicted of a
24 nonviolent felony in the last two (2) years, and any

1 other felony conviction within the last five (5)
2 years, shall not be current inmates, or currently
3 incarcerated in a jail or corrections facility;

4 8. There shall be no limit to the number of medical marijuana
5 business licenses or categories that an individual or entity can
6 apply for or receive, although each application and each category
7 shall require a separate application and application fee. A
8 commercial grower, processor and dispensary, or any combination
9 thereof, are authorized to share the same address or physical
10 location, subject to the restrictions set forth in this act;

11 9. All applicants for a medical marijuana business license,
12 research facility license or education facility license authorized
13 by this act shall undergo an Oklahoma criminal history background
14 check conducted by the Oklahoma State Bureau of Investigation (OSBI)
15 within thirty (30) days prior to the application for the license,
16 including:

- 17 a. individual applicants applying on their own behalf,
- 18 b. individuals applying on behalf of an entity,
- 19 c. all principal officers of an entity, and
- 20 d. all owners of an entity as defined by this act;

21 10. All applicable fees charged by OSBI are the responsibility
22 of the applicant and shall not be higher than fees charged to any
23 other person or industry for such background checks;

1 11. In order to be considered an Oklahoma resident for purposes
2 of a medical marijuana business application, all applicants shall
3 provide proof of Oklahoma residency for at least two (2) years
4 immediately preceding the date of application or five (5) years of
5 continuous Oklahoma residency during the preceding twenty-five (25)
6 years immediately preceding the date of application. Sufficient
7 documentation of proof of residency shall include a combination of
8 the following:

- 9 a. an unexpired Oklahoma-issued driver license,
- 10 b. an Oklahoma voter identification card,
- 11 c. a utility bill preceding the date of application,
12 excluding cellular telephone and Internet bills,
- 13 d. a residential property deed to property in the State
14 of Oklahoma, and
- 15 e. a rental agreement preceding the date of application
16 for residential property located in the State of
17 Oklahoma;

18 12. All license applicants shall be required to submit a
19 registration with the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control as provided in Sections ~~2-202~~ 2-302 through
21 ~~2-204~~ 2-304 of Title 63 of the Oklahoma Statutes;

22 13. All applicants shall establish their identity through
23 submission of a color copy or digital image of one of the following
24 unexpired documents:

- a. front and back of an Oklahoma driver license,
- b. front and back of an Oklahoma identification card,
- c. a United States passport or other photo identification issued by the United States government,
- d. certified copy of the applicant's birth certificate for minor applicants who do not possess a document listed in this section, or
- e. a tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; and

14. All applicants shall submit an applicant photograph.

F. The Authority shall review the medical marijuana business application, approve or reject the application and mail the approval, rejection or status-update letter to the applicant within ninety (90) days of receipt of the application.

G. 1. The Authority shall review the medical marijuana business applications and conduct all investigations, inspections and interviews before approving the application.

2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under which shall act as proof of their approved status. Rejection letters shall provide a reason for the rejection. Applications may only be rejected based on the applicant not meeting the standards set forth in the provisions of this section, improper completion of the

1 application, or for a reason provided for in this act. If an
2 application is rejected for failure to provide required information,
3 the applicant shall have thirty (30) days to submit the required
4 information for reconsideration. No additional application fee
5 shall be charged for such reconsideration.

6 3. Status-update letters shall provide a reason for delay in
7 either approval or rejection should a situation arise in which an
8 application was submitted properly, but a delay in processing the
9 application occurred.

10 4. Approval, rejection or status-update letters shall be sent
11 to the applicant in the same method the application was submitted to
12 the Department.

13 H. A license provided by this act or by Section 421, 422, 423
14 or 425 of Title 63 of the Oklahoma Statutes shall not be issued
15 until all relevant local licenses and permits have been issued by
16 the municipality, including but not limited to an occupancy permit
17 or certificate of compliance.

18 I. In the event that an applicant has not received the
19 necessary permits, certificates or licenses from a municipality, but
20 the applicant has fulfilled all other obligations required by this
21 act, the Authority shall grant a conditional license. A conditional
22 license shall remain valid for a period of one (1) year or until the
23 applicant obtains the necessary local permits, certificates or
24 licenses. An applicant shall not transfer any medical marijuana,

1 concentrate or products to a medical marijuana business, patient or
2 caregiver until approval is received from the Authority.

3 J. A medical marijuana business license shall not be issued to
4 or held by:

5 1. A person until all required fees have been paid;

6 2. A person who has been convicted of a nonviolent felony
7 within two (2) years of the date of application, or within five (5)
8 years for any other felony;

9 3. A corporation, if the criminal history of any of its
10 officers, directors or stockholders indicates that the officer,
11 director or stockholder has been convicted of a nonviolent felony
12 within two (2) years of the date of application, or within five (5)
13 years for any other felony;

14 4. A person under twenty-five (25) years of age;

15 5. A person licensed pursuant to this section who, during a
16 period of licensure, or who, at the time of application, has failed
17 to:

18 a. file taxes, interest or penalties due related to a
19 medical marijuana business, or

20 b. pay taxes, interest or penalties due related to a
21 medical marijuana business;

22 6. A sheriff, deputy sheriff, police officer or prosecuting
23 officer, or an officer or employee of the Authority or municipality;
24 or

1 7. A person whose authority to be a caregiver as defined in
2 this act has been revoked by the Department;~~or~~

3 ~~8. A publicly traded company.~~

4 K. In investigating the qualifications of an applicant or a
5 licensee, the Department, Authority and municipalities may have
6 access to criminal history record information furnished by a
7 criminal justice agency subject to any restrictions imposed by such
8 an agency. In the event the Department considers the criminal
9 history record of the applicant, the Department shall also consider
10 any information provided by the applicant regarding such criminal
11 history record, including but not limited to evidence of
12 rehabilitation, character references and educational achievements,
13 especially those items pertaining to the period of time between the
14 last criminal conviction of the applicant and the consideration of
15 the application for a state license.

16 L. The failure of an applicant to provide the requested
17 information by the Authority deadline may be grounds for denial of
18 the application.

19 M. All applicants shall submit information to the Department
20 and Authority in a full, faithful, truthful and fair manner. The
21 Department and Authority may recommend denial of an application
22 where the applicant made misstatements, omissions,
23 misrepresentations or untruths in the application or in connection
24 with the background investigation of the applicant. This type of

1 conduct may be considered as the basis for additional administrative
2 action against the applicant. Typos and scrivener errors shall not
3 be grounds for denial.

4 N. A licensed medical marijuana business premises shall be
5 subject to and responsible for compliance with applicable provisions
6 for medical marijuana business facilities as described in the most
7 recent versions of the Oklahoma Uniform Building Code, the
8 International Building Code and the International Fire Code, unless
9 granted an exemption by the Authority or municipality.

10 O. All medical marijuana business licensees shall pay the
11 relevant licensure fees prior to receiving licensure to operate a
12 medical marijuana business, as defined in this act for each class of
13 license.

14 SECTION 3. This act shall become effective November 1, 2019.

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16 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/09/2019 - DO PASS,
17 As Amended.
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