

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 463

By: Hall of the Senate

and

Kannady of the House

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8
9
10 [motor license agents - removal of motor license
11 agents - noncompliance and violation - effective
12 date]

13
14 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

15 SECTION 1. AMENDATORY 47 O.S. 2011, Section 1140, as
16 last amended by Section 2, Chapter 195, O.S.L. 2019 (47 O.S. Supp.
17 2020, Section 1140), is amended to read as follows:

18 Section 1140. A. The Oklahoma Tax Commission shall adopt rules
19 prescribing minimum qualifications and requirements for locating
20 motor license agencies and for persons applying for appointment as a
21 motor license agent. Such qualifications and requirements shall
22 include, but not be limited to, the following:

23 1. Necessary job skills and experience;

24 2. Minimum office hours;

1 3. Provision for sufficient staffing, equipment, office space
2 and parking to provide maximum efficiency and maximum convenience to
3 the public;

4 4. Obtainment of a faithful performance surety bond as provided
5 for by law;

6 5. In counties with a population in excess of thirty thousand
7 (30,000) persons according to the latest Federal Decennial Census, a
8 requirement that operation of a motor license agency be the primary
9 source of income for the agent;

10 6. That the applicant has not been convicted of a felony and
11 that no felony charges are pending against the applicant;

12 7. That a complete financial statement be submitted by the
13 applicant on forms provided by the Tax Commission;

14 8. That a report of the applicant's credit history be obtained
15 through the appropriate credit bureau; and

16 9. That the location specified in the application for
17 appointment as a motor license agent not be owned by a member of the
18 Oklahoma Tax Commission or an employee of the Oklahoma Tax
19 Commission or any person related to a member of the Oklahoma Tax
20 Commission or an employee of the Tax Commission within the third
21 degree by consanguinity or affinity and that the location not be
22 within a three-mile radius of an existing motor license agency
23 unless the applicant is assuming the location of an operating
24 agency. If the applicant is assuming the location of an existing or

1 operating agency, the current agent may submit a letter of
2 resignation contingent upon the appointment of the applicant
3 regardless of the population of the municipality in which the agency
4 is located. The Tax Commission may, at its discretion, approve the
5 relocation of an existing agency within a three-mile radius of
6 another existing agency only if a naturally intervening geographic
7 barrier within that radius causes the locations to be separated by
8 not less than three (3) miles of roadway by the most direct route.

9 B. After the necessary information has been forwarded to the
10 Tax Commission, the Tax Commission or its designees may select
11 applicants to be interviewed and each item of information shall be
12 reviewed.

13 Any person making application to the Tax Commission for the
14 purpose of becoming a motor license agent shall pay when submitting
15 the application, a nonrefundable application fee of One Hundred
16 Dollars (\$100.00). All such application fees shall be deposited in
17 the Oklahoma Tax Commission Revolving Fund.

18 C. Upon application by a person to serve as a motor license
19 agent, in such counties, the Tax Commission is authorized to make a
20 determination whether such person and such location meets the
21 qualifications and requirements prescribed herein and, if such be
22 the case, may appoint such person to serve as a motor license agent.

23 D. A motor license agent, appointed pursuant to this
24 subsection, shall be permitted to operate a motor license agency at

1 a single location and shall be prohibited from operating subagencies
2 or branch agencies.

3 Motor license agents appointed pursuant to this section shall be
4 subject to all laws relating to motor license agents and shall be
5 subject to removal ~~at the will of~~ for cause by the Tax Commission.

6 Any action taken by the Tax Commission to remove a motor license
7 agent from his or her position shall be pursuant to and in
8 accordance with the provisions of the Administrative Procedures Act.

9 For the purposes of this section, "for cause" shall be defined as
10 follows:

11 1. Repeated violations of written rules, regulations and
12 statutes pertaining to motor license agents after written warning by
13 the Tax Commission and an opportunity to correct such violations;

14 2. Failure of the motor license agent to promptly remit funds
15 owed to the Tax Commission upon written demand;

16 3. Being charged with a felony crime involving dishonesty or
17 moral turpitude;

18 4. Failure to timely file state and federal income tax returns;
19 or

20 5. Any act of official misconduct as set forth in Section 93 of
21 Title 51 of the Oklahoma Statutes.

22 The Tax Commission shall appoint as many motor license agents as
23 it deems necessary to carry out the provisions of the Motor Vehicle
24 License and Registration Act. Provided, that in counties with a

1 population in excess of twenty-five thousand (25,000) persons,
2 according to the latest Federal Decennial Census, having only one
3 motor license agent serving the county, the Tax Commission shall
4 establish at least one additional agency to serve the county.

5 E. All motor license agents shall be self-employed independent
6 contractors and shall be under the supervision of the Tax
7 Commission; provided, any agent authorized to issue registrations
8 pursuant to the International Registration Plan shall also be under
9 the supervision of the Corporation Commission, subject to rules
10 promulgated by the Corporation Commission pursuant to the provisions
11 of subsection E of Section 1166 of this title. Any such agent, upon
12 being appointed, shall furnish and file with the Tax Commission a
13 bond in such amount as may be fixed by the Tax Commission. Such
14 agent shall be removable at the will of the Tax Commission. Such
15 agent shall perform all duties and do such things in the
16 administration of the laws of this state as shall be enjoined upon
17 and required by the Tax Commission or the Corporation Commission.
18 Provided, the Tax Commission may operate a motor license agency in
19 any county where a vacancy occurs.

20 F. In the event of a vacancy existing by reason of resignation,
21 removal, death or otherwise, in the position of any motor license
22 agent, the Tax Commission is hereby empowered and authorized to take
23 any and all actions it deems appropriate in order to provide for the
24 orderly transition and for the maintenance of operations of the

1 motor license agency including but not limited to the designation of
2 one of its regular employees to serve as "acting agent" without
3 bond, and to receive and expend all fees or charges authorized or
4 provided by law and exercise the same powers and authority as a
5 regularly appointed motor license agent. An acting agent may be
6 authorized by the Tax Commission equally as the preceding agent to
7 make disbursements from any balances in the preceding motor license
8 agent's operating account and the agent's operating funds for the
9 payment of expenses of operations and salaries and other overhead.
10 If such funds are insufficient, the Tax Commission is authorized to
11 expend from funds appropriated for the operation of the Tax
12 Commission such amounts as are necessary to maintain and continue
13 the operation of any such motor license agency until a successor
14 agent is appointed and qualified. The Tax Commission may require a
15 blanket fiduciary bond of the agency employees.

16 ~~G. Any motor license agency operated by a motor license agent~~
17 ~~who has been charged with a felony shall be closed immediately. The~~
18 ~~Tax Commission shall determine whether the motor license agency~~
19 ~~shall be reopened and operated by the motor license agent. The~~
20 ~~determination shall be effected as soon as possible to prevent~~
21 ~~additional inconvenience to the public.~~

22 ~~H.~~ When an application for registration is made with the Tax
23 Commission, Corporation Commission or a motor license agent, a
24 registration fee of One Dollar and seventy-five cents (\$1.75) shall

1 be collected for each license plate or decal issued. Such fees
2 shall be in addition to the registration fees on motor vehicles and
3 when an application for registration is made to the motor license
4 agent such motor license agent shall retain a fee as provided in
5 Section 1141.1 of this title. When the fee is paid by a person
6 making application directly with the Tax Commission or Corporation
7 Commission, as applicable, the registration fees shall be in the
8 same amount as provided for motor license agents and the fee
9 provided by Section 1141.1 of this title shall be deposited in the
10 Oklahoma Tax Commission Revolving Fund or as provided in Section
11 1167 of this title, as applicable. The Tax Commission shall prepare
12 schedules of registration fees and charges for titles which shall
13 include the fees for such agents and all fees and charges paid by a
14 person shall be listed separately on the application and
15 registration and totaled on the application and registration. The
16 motor license agents shall charge only such fees as are specifically
17 provided for by law, and all such authorized fees shall be posted in
18 such a manner that any person shall have notice of all fees that are
19 imposed by law.

20 ~~I.~~ H. No person shall be appointed as a motor license agent
21 unless the person has attested under oath that the person is not
22 related by affinity or consanguinity within the third degree to:

- 23 1. Any member of the Oklahoma Tax Commission; or
- 24 2. Any employee of the Tax Commission.

1 ~~+~~ I. Any motor license agent appointed under the provisions of
2 this title shall be responsible for all costs incurred by the Tax
3 Commission when relocating an existing motor license agency. The
4 Tax Commission may waive payment of such costs in case of unforeseen
5 business or emergency conditions beyond the control of the agent.

6 SECTION 2. AMENDATORY 47 O.S. 2011, Section 1142, is
7 amended to read as follows:

8 Section 1142. A. There is hereby created as an official
9 depository of the Oklahoma Tax Commission a special agency account.
10 The Tax Commission is hereby authorized and directed to assign an
11 appropriate and distinctive number or designation for the account
12 herein created which shall be designated the Oklahoma Tax Commission
13 Motor License Agent Account. The Tax Commission shall assign an
14 appropriate and distinctive subaccount number or designation for
15 each motor license agent. Every motor license agent appointed under
16 the provisions of the Oklahoma Vehicle License and Registration Act
17 shall safeguard and preserve, in the manner herein required, all
18 monies paid to such agent which the agent is bound to account for
19 and pay over to the Tax Commission.

20 B. Each motor license agent shall establish, in a bank or banks
21 authorized to do a banking business in the state, such special
22 agency account and at any time that the motor license agent
23 accumulates a total amount of receipts of One Hundred Dollars
24 (\$100.00) or more then such motor license agent shall deposit within

1 a period of one (1) banking business day after the close of
2 business, all receipts which the agent is obligated to account for
3 and remit to the Tax Commission in the designated Oklahoma Tax
4 Commission Motor License Agent Account and no such monies shall be
5 deposited in any other banks or other depositories unless the said
6 bank accounts are maintained by the Tax Commission. Provided that,
7 where a motor license agent is doing business in a municipality
8 where there is no bank located, such motor license agent shall have
9 a period of three (3) banking business days after the close of
10 business to make such deposits. Advice of deposit receipts or
11 duplicate deposit receipts, in a form and in an amount prescribed by
12 the Tax Commission, shall be obtained and preserved as directed by
13 the Tax Commission. One shall be retained by the agent, and one
14 shall be immediately forwarded to the Tax Commission. Withdrawals
15 or transfers from such Oklahoma Tax Commission Motor License Agent
16 Account shall be made only by the duly authorized agent of the Tax
17 Commission. That part of the agent's fees to be retained by the
18 agent as the agent's personal compensation shall not be deposited in
19 said Oklahoma Tax Commission Motor License Agent Account.

20 Each motor license agent shall submit the appropriate reports
21 designated by the Tax Commission to properly account for all funds,
22 regardless of source, received by a motor license agent in the
23 performance of the agent's duties. Reports shall cover a period
24 from the first day of the month to the fifteenth day of the month

1 and from the sixteenth day of the month to the last day of the
2 month. It shall be the responsibility of the motor license agent to
3 mail or deliver such reports and all documents of all transactions
4 to the Tax Commission within a time period to be established by the
5 Tax Commission.

6 C. Motor license agents shall deposit in such account all
7 monies, taxes and fees collected and received by them as such
8 agents, which they are obligated to account for and remit to the Tax
9 Commission, and it is specifically required that checks or similar
10 instruments accepted or received by such agents for taxes or fees
11 must be deposited in such account, less any amount provided by this
12 act that the agents are entitled to retain as fees.

13 No motor license agent shall withdraw any funds from the agent's
14 motor license agent account. All checks, drafts, orders and
15 vouchers so deposited shall bear an endorsement to the motor license
16 agent account which endorsement shall include the assigned account
17 number and the agent's subaccount number. Items deposited shall be
18 credited at par and should payment be refused on any such check,
19 draft, order or voucher, or should the same prove otherwise
20 worthless, the amount thereof shall not be charged by the Tax
21 Commission against the individual subaccounts of the agent. The
22 agent shall continue to attempt to require proper payment of all
23 such worthless items, but shall not be personally liable to the Tax
24 Commission for their payment. The Tax Commission or agent shall

1 charge the person issuing the check a fee of Twenty-five Dollars
2 (\$25.00) for each check to cover the costs of the processing of each
3 returned check, and all necessary travel expenses of collection, as
4 provided by the State Travel Reimbursement Act; provided, such
5 charge shall not be made unless efforts have been made to present
6 such check, draft, order or voucher for payment a second time. Any
7 motor license agent who collects a dishonored check pursuant to the
8 provisions of Section 1121 of this title shall also collect a fee of
9 Twenty-five Dollars (\$25.00) and shall be entitled to retain such
10 fee.

11 D. Notwithstanding anything to the contrary, the Tax Commission
12 shall continue to have the exclusive authority and standing to
13 collect any taxes or other revenues owed to the State of Oklahoma or
14 any political subdivision thereof pursuant to the provisions of the
15 Motor Vehicle License and Registration Act.

16 E. It is specifically provided that nothing in this section
17 shall be considered or construed as in any way affecting, relieving
18 or relinquishing the liability of such agent to the Tax Commission
19 for any monies collected by the agent and due the state or the
20 liability of such agent or any surety on or under the agent's bond
21 made to the Tax Commission.

22 Unless provided otherwise, any motor license agent who fails to
23 comply with any provision of this section shall pay a penalty to be
24 imposed by the Tax Commission. Monies collected for payment of the

1 penalty shall be deposited to the credit of the General Revenue Fund
2 of the State Treasury. Any motor license agent who pays a penalty
3 pursuant to this section shall not allocate his or her payment
4 thereof as a part of his or her operating expenses, but shall use
5 his or her personal funds for payment of the penalty. Such penalty
6 shall be equal to one percent (1%) of the gross amount of the
7 receipts received by the motor license agent for that particular day
8 that the agent fails to deposit all such funds required by this
9 section or one percent (1%) of the gross amount of the receipts
10 received by the motor license agent for the report period that the
11 agent fails to timely mail the required report or remit any excess
12 agent funds as provided in subsection B of this section. Such
13 penalty shall be increased to three percent (3%) of the gross amount
14 of the receipts received for that particular day if the motor
15 license agent fails to fulfill any of said requirements within a
16 period of five (5) days. Provided that such penalty shall be three
17 percent (3%) of the gross amount of the receipts received by the
18 motor license agent for the report period that the agent fails to
19 timely mail the required report or remit any excess agent funds as
20 provided in subsection B of this section if the motor license agent
21 fails to fulfill these requirements within five (5) days.

22 The Tax Commission may waive the penalty for failing to timely
23 file the accounting report required by this section if the Tax
24 Commission finds that:

1 1. The funds to which the report applies have been properly
2 deposited;

3 2. The failure to timely file the report was due to emergency
4 conditions beyond the control of the agent; and

5 3. The report has been filed within a week of the date on which
6 it was required to be filed.

7 ~~It shall be the duty of the Tax Commission to discharge~~
8 ~~immediately any motor license agent who fails, neglects or refuses~~
9 ~~to comply with the provisions of this section.~~

10 SECTION 3. AMENDATORY 47 O.S. 2011, Section 1142.1, as
11 amended by Section 4, Chapter 195, O.S.L. 2019 (47 O.S. Supp. 2020,
12 Section 1142.1), is amended to read as follows:

13 Section 1142.1. A. It shall be unlawful for any motor license
14 agent or any employee of such motor license agent to carry on a
15 messenger service, courier service or pick up and delivery service
16 for the recording of a security interest or for the registration of
17 a motor vehicle or boat or a motor, or obtaining license plates and
18 decals, or for the issuance of a certificate of title for any motor
19 vehicle or boat or motor. Provided, nothing in this subsection
20 shall be construed to prevent a motor license agent or any employee
21 of such motor license agent from performing such services for the
22 motor license agent's depository bank, when the motor license agent
23 or his employee goes to the agent's depository bank to deposit tax
24 monies into the agent's designated Oklahoma Tax Commission Motor

1 License Agent Account. After September 1, 1991, the Oklahoma Tax
2 Commission shall not designate or assign a motor license agent more
3 than one active Oklahoma Tax Commission Motor License Agent Account.
4 Accounts designated prior to September 1, 1991, may remain active.

5 B. It shall be unlawful for any motor license agent to
6 compensate in any manner a messenger service, courier service or
7 pick up and delivery service or any one attempting to provide
8 messenger service, courier service or pick up and delivery service
9 for recording a security interest or for the registration of a motor
10 vehicle or boat or motor, or obtaining license plates and decals, or
11 for the issuance of a certificate of title for any motor vehicle or
12 boat or motor.

13 C. A motor license agent who violates the provisions of this
14 section shall be subject to a fine of Two Thousand Dollars
15 (\$2,000.00) per occurrence ~~and shall be removed immediately by the~~
16 ~~Oklahoma Tax Commission.~~

17 SECTION 4. AMENDATORY 75 O.S. 2011, Section 250.4, as
18 last amended by Section 214, Chapter 408, O.S.L. 2019 (75 O.S. Supp.
19 2020, Section 250.4), is amended to read as follows:

20 Section 250.4. A. 1. Except as is otherwise specifically
21 provided in this subsection, each agency is required to comply with
22 Article I of the Administrative Procedures Act.

23 2. The Corporation Commission shall be required to comply with
24 the provisions of Article I of the Administrative Procedures Act

1 except for subsections A, B, C and E of Section 303 of this title
2 and Section 306 of this title. To the extent of any conflict or
3 inconsistency with Article I of the Administrative Procedures Act,
4 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
5 it is expressly declared that Article I of the Administrative
6 Procedures Act is an amendment to and alteration of Sections 18
7 through 34 of Article IX of the Oklahoma Constitution.

8 3. The Oklahoma Military Department shall be exempt from the
9 provisions of Article I of the Administrative Procedures Act to the
10 extent it exercises its responsibility for military affairs.
11 Military publications, as defined in Section 801 of Title 44 of the
12 Oklahoma Statutes, shall be exempt from the provisions of Article I
13 and Article II of the Administrative Procedures Act, except as
14 provided in Section 251 of this title.

15 4. The Oklahoma Ordnance Works Authority, the Northeast
16 Oklahoma Public Facilities Authority, the Oklahoma Office of
17 Homeland Security and the Board of Trustees of the Oklahoma College
18 Savings Plan shall be exempt from Article I of the Administrative
19 Procedures Act.

20 5. The Transportation Commission and the Department of
21 Transportation shall be exempt from Article I of the Administrative
22 Procedures Act to the extent they exercise their authority in
23 adopting standard specifications, special provisions, plans, design
24 standards, testing procedures, federally imposed requirements and

1 generally recognized standards, project planning and programming,
2 and the operation and control of the State Highway System.

3 6. The Oklahoma State Regents for Higher Education shall be
4 exempt from Article I of the Administrative Procedures Act with
5 respect to:

- 6 a. prescribing standards of higher education,
- 7 b. prescribing functions and courses of study in each
- 8 institution to conform to the standards,
- 9 c. granting of degrees and other forms of academic
- 10 recognition for completion of the prescribed courses,
- 11 d. allocation of state-appropriated funds, and
- 12 e. fees within the limits prescribed by the Legislature.

13 7. Institutional governing boards within The Oklahoma State
14 System of Higher Education shall be exempt from Article I of the
15 Administrative Procedures Act.

- 16 8. a. The Commissioner of Public Safety shall be exempt from
- 17 Sections 303.1, 304, 307.1, 308 and 308.1 of this
- 18 title insofar as it is necessary to promulgate rules
- 19 pursuant to the Oklahoma Motor Carrier Safety and
- 20 Hazardous Materials Transportation Act, to maintain a
- 21 current incorporation of federal motor carrier safety
- 22 and hazardous material regulations, or pursuant to
- 23 Chapter 6 of Title 47 of the Oklahoma Statutes, to
- 24 maintain a current incorporation of federal commercial

1 driver license regulations, for which the Commissioner
2 has no discretion when the state is mandated to
3 promulgate rules identical to federal rules and
4 regulations.

5 b. Such rules may be adopted by the Commissioner and
6 shall be deemed promulgated twenty (20) days after
7 notice of adoption is published in "The Oklahoma
8 Register". Such publication need not set forth the
9 full text of the rule but may incorporate the federal
10 rules and regulations by reference.

11 c. Such copies of promulgated rules shall be filed with
12 the Secretary as required by Section 251 of this
13 title.

14 d. For any rules for which the Commissioner has
15 discretion to allow variances, tolerances or
16 modifications from the federal rules and regulations,
17 the Commissioner shall fully comply with Article I of
18 the Administrative Procedures Act.

19 9. The Council on Judicial Complaints shall be exempt from
20 Section 306 of Article I of the Administrative Procedures Act, with
21 respect to review of the validity or applicability of a rule by an
22 action for declaratory judgment, or any other relief based upon the
23 validity or applicability of a rule, in the district court or by an
24 appellate court. A party aggrieved by the validity or applicability

1 of a rule made by the Council on Judicial Complaints may petition
2 the Court on the Judiciary to review the rules and issue opinions
3 based upon them.

4 10. The Department of Corrections, State Board of Corrections,
5 county sheriffs and managers of city jails shall be exempt from
6 Article I of the Administrative Procedures Act with respect to:

7 a. prescribing internal management procedures for the
8 management of the state prisons, county jails and city
9 jails and for the management, supervision and control
10 of all incarcerated prisoners, and

11 b. prescribing internal management procedures for the
12 management of the probation and parole unit of the
13 Department of Corrections and for the supervision of
14 probationers and parolees.

15 11. The State Board of Education shall be exempt from Article I
16 of the Administrative Procedures Act with respect to prescribing
17 subject matter standards as provided for in Section 11-103.6a of
18 Title 70 of the Oklahoma Statutes.

19 B. As specified, the following agencies or classes of agency
20 activities are not required to comply with the provisions of Article
21 II of the Administrative Procedures Act:

22 1. The Oklahoma Tax Commission, except as provided in
23 subsection G of Section 1140 of Title 47 of the Oklahoma Statutes;

24 2. The Commission for Human Services;

- 1 3. The Oklahoma Ordnance Works Authority;
- 2 4. The Corporation Commission;
- 3 5. The Pardon and Parole Board;
- 4 6. The Midwestern Oklahoma Development Authority;
- 5 7. The Grand River Dam Authority;
- 6 8. The Northeast Oklahoma Public Facilities Authority;
- 7 9. The Council on Judicial Complaints;
- 8 10. The Board of Trustees of the Oklahoma College Savings Plan;
- 9 11. The supervisory or administrative agency of any penal,
- 10 mental, medical or eleemosynary institution, only with respect to
- 11 the institutional supervision, custody, control, care or treatment
- 12 of inmates, prisoners or patients therein; provided, that the
- 13 provisions of Article II shall apply to and govern all
- 14 administrative actions of the Oklahoma Alcohol Prevention, Training,
- 15 Treatment and Rehabilitation Authority;
- 16 12. The Board of Regents or employees of any university,
- 17 college, or other institution of higher learning;
- 18 13. The Oklahoma Horse Racing Commission, its employees or
- 19 agents only with respect to hearing and notice requirements on the
- 20 following classes of violations which are an imminent peril to the
- 21 public health, safety and welfare:
- 22 a. any rule regarding the running of a race,
- 23 b. any violation of medication laws and rules,
- 24

1 c. any suspension or revocation of an occupation license
2 by any racing jurisdiction recognized by the
3 Commission,

4 d. any assault or other destructive acts within
5 Commission-licensed premises,

6 e. any violation of prohibited devices, laws and rules,
7 or

8 f. any filing of false information;

9 14. The Commissioner of Public Safety only with respect to
10 driver license hearings and hearings conducted pursuant to the
11 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

12 15. The Administrator of the Department of Securities only with
13 respect to hearings conducted pursuant to provisions of the Oklahoma
14 Take-over Disclosure Act of 1985;

15 16. Hearings conducted by a public agency pursuant to Section
16 962 of Title 47 of the Oklahoma Statutes;

17 17. The Oklahoma Military Department;

18 18. The University Hospitals Authority, including all hospitals
19 or other institutions operated by the University Hospitals
20 Authority;

21 19. The Oklahoma Health Care Authority Board and the
22 Administrator of the Oklahoma Health Care Authority; and

23 20. The Oklahoma Office of Homeland Security.
24

SECTION 5. This act shall become effective November 1, 2021.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03/30/2021 -
DO PASS, As Amended.