

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3687

By: Kannady

7 AS INTRODUCED

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2021, Sections 3150.1 and 3150.10,
10 which relate to the Oklahoma Small Lenders Act;
11 defining term; providing exception; providing
12 disclosure; and providing an effective date.

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

14 SECTION 1. AMENDATORY 59 O.S. 2021, Section 3150.1, is
15 amended to read as follows:

16 Section 3150.1 As used in this act, unless the context requires
17 otherwise:

18 1. "Administrator" means the Administrator of the Department of
19 Consumer Credit or the Administrator's designee;

20 2. "Affiliate" means a person or organization directly or
21 indirectly controlling, controlled by or under common control with
22 the licensee;

23 3. "Control" means possession, directly or indirectly, of the
24 power to direct or cause the direction of management and policies of

1 a person, whether through ownership of voting securities, by
2 contract or otherwise. No individual shall be deemed to control a
3 person solely on account of being a director, officer or employee of
4 the person. For purposes of this paragraph, a person who directly
5 or indirectly owns, controls, holds the power to vote or holds
6 proxies representing twenty-five percent (25%) or more of the
7 current outstanding voting securities issued by another person is
8 presumed to control the other person, and the Administrator may
9 determine whether a person, in fact, controls another person;

10 4. "Controlling person" means any person in control of a
11 licensee;

12 5. "Department" means the Department of Consumer Credit;

13 6. "Small loan" means a loan made pursuant to a written
14 agreement subject to this act between a licensee and customer
15 establishing a credit plan under which the licensee contemplates
16 credit transactions from time to time that:

- 17 a. shall be unsecured,
- 18 b. shall not have a term longer than twelve (12) months
19 or less than sixty (60) days,
- 20 c. shall be fully amortized and payable in substantially
21 equal periodic payments, and
- 22 d. are subject to prepayment in whole or in part at any
23 time without penalty;

1 7. "Licensee" means a person licensed to offer small loans
2 pursuant to this act;

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

6 9. "Default" means:

- 7 a. the failure of a customer to make a required payment
8 within a certain number of days of the due date as
9 agreed upon by the licensee and the customer per the
10 small loan agreement; provided, that such agreed-upon
11 number of days not exceed sixty-one (61) days after a
12 failure to make a required payment on the due date, or
13 b. the customer's failure to otherwise perform the
14 obligations under the small loan agreement; and

15 10. "Written authorization" means:

- 16 a. written authorization signed by the consumer that
17 includes a physical signature by the consumer,
18 b. verbal authorization agreed to by the consumer with a
19 telephone call retained for at least two (2) years in
20 accordance with NACHA ACH authorization guidelines,
21 and
22 c. electronic consent obtained in accordance with the
23 federal E-Sign Act.

1 SECTION 2. AMENDATORY 59 O.S. 2021, Section 3150.10, is
2 amended to read as follows:

3 Section 3150.10 A. A licensee authorized to make small loans
4 under this act may charge and collect fees in a manner consistent
5 with this section.

6 B. A licensee may only charge and collect a periodic interest
7 rate not to exceed seventeen percent (17%) per month unless
8 otherwise provided by this title.

9 C. The maximum aggregated principal loan amount of all small
10 loans outstanding across all licensees per customer shall be One
11 Thousand Five Hundred Dollars (\$1,500.00) and adjusted every other
12 year by the Administrator of the Department of Consumer Credit to
13 reflect the percentage changes in the Consumer Price Index published
14 by the Bureau of Labor Statistics of the Department of Labor. To
15 ensure that the maximum aggregated principal amount is not exceeded,
16 the licensee shall verify outstanding amounts by using a private
17 database approved by the Administrator. To comply with the
18 verification required under this act, a lender may be charged a fee
19 by the database provider not to exceed Two Dollars and twenty cents
20 (\$2.20) for each full or partial 30-day period that a balance is
21 scheduled to be outstanding.

22 D. 1. Notwithstanding the maximum aggregate loan amount
23 established in subsection C of this section, a lender is prohibited
24 from making a small loan if the total scheduled payments coming due

1 in a month exceeds twenty percent (20%) of the borrower's gross
2 monthly income.

3 2. For the purposes of determining a borrower's gross monthly
4 income under this subsection, a lender shall obtain and maintain
5 documentation of the borrower's proof of income or third-party
6 verification of all income considered in making the borrower's gross
7 monthly income determination.

8 3. For the purposes of this subsection, "month" means a period
9 extending from a given date in one (1) calendar month to the same
10 date in the succeeding calendar month; or if there is no same date
11 in the succeeding calendar month, the last day of the succeeding
12 calendar month.

13 E. Any small loan under this act shall require payment in the
14 form of cash, money order, debit card, prepaid credit card,
15 automated clearinghouse debit (ACH payment), remotely created check
16 debit (RCC payment) or any other instrument for payment of money on
17 or after the due date of each billing cycle. If the borrower
18 chooses to authorize the electronic payment of money, the lender:

19 1. Must get written authorization from the borrower to
20 establish the debit;

21 2. Must give written notice to the borrower before the initial
22 funds are transferred;

1 3. Must get additional written approval from the borrower after
2 a second failed consecutive attempt to make a loan payment due to
3 insufficient funds~~;~~and.

4 This paragraph shall not apply if the licensee obtains, at the
5 point of origination, a voluntary authorization that should a second
6 failed consecutive attempt return due to insufficient funds, the
7 licensee shall provide the form in at least 12-point font and
8 include the following disclosure:

9 "You are not required to sign this form. This form only permits
10 a licensee to continue to process your regularly scheduled
11 electronic payments after two (2) consecutive attempts failed due to
12 insufficient funds. You may revoke or cease this authorization at
13 any time by providing verbal or written notice to the licensee.
14 Please file any customer complaints or concerns with [Department
15 Information here]."; and

16 4. Is permitted to provide electronic written notices to the
17 borrower as long as the borrower consents to electronic
18 communications.

19 F. If a customer defaults under the terms of a small loan and
20 the licensee refers the customer's account to an attorney for
21 collection, the licensee may, if the small loan so provides, charge
22 and collect from the customer a reasonable attorney fee not to
23 exceed fifteen percent (15%) of the outstanding amount.

1 ~~G. If a check, ACH payment or RCC payment is returned to a~~
2 ~~licensee from a payor financial institution due to insufficient~~
3 ~~funds, a licensee shall have the authority to assess a twenty five~~
4 ~~dollar fee against the maker or drawer of the returned check.~~

5 SECTION 3. This act shall become effective November 1, 2024.

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7 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
8 PENSIONS, dated 02/27/2024 - DO PASS.
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