

An Act

ENROLLED HOUSE
BILL NO. 2831

By: Peters and Shelton of the
House

and

Myers and Newberry of the
Senate

An Act relating to the Department of Consumer Credit; amending 14A O.S. 2001, Sections 3-503, as amended by Section 2, Chapter 431, O.S.L. 2009, 3-504, 3-505, 3-506, 6-113, 6-203 and 6-501 (14A O.S. Supp. 2009, Section 3-503), which relate to the Uniform Consumer Credit Code; removing specified fees from statute; modifying the authority of the Administrator of Consumer Credit; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; providing for civil penalties; providing for enforcement of civil penalties; setting maximum amount for civil penalties; giving the Administrator discretion to determine when to require payment of examination fee; defining term; authorizing establishment of fees authorized by the Uniform Consumer Credit Code, the Credit Services Organization Act, the Oklahoma Pawnshop Act, the Precious Metal and Gem Dealer Licensing Act, the Oklahoma Rental-Purchase Act, the Oklahoma Health Spa Act, the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and the Deferred Deposit Lending Act by rule by the Commission on Consumer Credit; requiring legislative approval after a certain date; limiting amount certain fees may be increased during a three-year period; providing for distribution of revenue from fees and civil penalties authorized by the Uniform Consumer Credit Code, the Credit Services Organization Act, the Oklahoma Pawnshop Act, the

Precious Metal and Gem Dealer Licensing Act, the Oklahoma Rental-Purchase Act, the Oklahoma Health Spa Act, the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and the Deferred Deposit Lending Act by rule by the Commission on Consumer Credit; requiring legislative approval after a certain date; limiting amount certain fees may be increased during a three-year period; creating the Consumer Credit Advisory Committee; providing for composition and terms of office; making appointments public record; providing duties and authority of Committee; providing for meetings; making meetings subject to the Oklahoma Open Meeting Act; providing for travel reimbursement; amending 24 O.S. 2001, Sections 143, 144, 145 and 146, which relate to the Credit Services Organization Act; removing specified fees from statute; authorizing fee for license change, duplicate licenses, and returned checks; authorizing fee for late license renewals; modifying powers of the Administrator; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; modifying powers of the Administrator; providing for civil penalties for certain violation; providing for enforcement of civil penalties; amending 59 O.S. 2001, Sections 1505 and 1506, as amended by Sections 3 and 4, Chapter 431, O.S.L. 2009, 1507 and 1508 (59 O.S. Supp. 2009, Sections 1505 and 1506), which relate to the Oklahoma Pawnshop Act; removing specified fees from statute; authorizing fee for license change, duplicate licenses, and returned checks; authorizing fee for late license renewals; modifying powers of the Administrator; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; modifying powers of the Administrator; providing for civil penalties; providing for enforcement of civil penalties; amending 59 O.S. 2001, Sections 1525, as amended by Section 5, Chapter 431, O.S.L. 2009, 1526, as amended by Section 6, Chapter 431, O.S.L. 2009 and

1528 (59 O.S. Supp. 2009, Sections 1525 and 1526), which relate to the Precious Metal and Gem Dealer Licensing Act; removing specified fees from statute; authorizing fee for license change, duplicate licenses, and returned checks; authorizing fee for late license renewals; modifying powers of the Administrator; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; providing for civil penalties; providing for enforcement of civil penalties; amending 59 O.S. 2001, Sections 1953 and 1955, which relate to the Oklahoma Rental-Purchase Act; removing specified fees from statute; authorizing fee for license change, duplicate licenses, and returned checks; authorizing fee for initial investigation and license fee; requiring payment of rental-purchase agreement renewal fee; providing for rules, fee and review and approval process; providing for examination fee; modifying powers of the Administrator; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; providing for civil penalties; providing for enforcement of civil penalties; amending 59 O.S. 2001, Sections 2002 and 2009, which relate to the Oklahoma Health Spa Act; removing specified fees from statute; authorizing fee for investigation, registration change, duplicate registration, and returned checks; authorizing fee for late registration renewals; providing for contract reviewal; providing for reviewal fee and review and approval process; authorizing certain acts by the Administrator; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; providing for civil penalties; providing for enforcement of civil penalties; amending Sections 6, 8, 9, 10, 19, 20 and 26, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Sections 2095.3, 2095.5, 2095.6, 2095.7,

2095.16, 2095.17 and 2095.23), which relate to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act; modifying exemptions; modifying registration and identifier requirements; removing specified fees from statute; authorizing application fee; modifying findings required for issuance of a mortgage loan originator license; modifying requirements for financial institution in which trust accounts may be located; providing for enforcement of civil penalties; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; amending Sections 13, 15 and 17, Chapter 240, O.S.L. 2003, Section 18, Chapter 240, O.S.L. 2003, as amended by Section 8, Chapter 557, O.S.L. 2004 and Section 9, Chapter 557, O.S.L. 2004 (59 O.S. Supp. 2009, Sections 3113, 3115, 3117, 3118 and 3119), which relate to the Deferred Deposit Lending Act; removing specified fees from statute; authorizing fees for license change, duplicate license or returned check; authorizing late fee; modifying authority of independent hearing examiner; providing for appointment, powers and duties of independent hearing examiner; providing procedure for review; providing for issuance of final agency orders; providing for appeals; providing for assessment of costs; providing exception; providing for enforcement of civil penalties; renaming a revolving fund; modifying source of funding; providing for transfer of certain percentage of fees; providing purpose for transfer; repealing 14A O.S. 2001, Sections 6-106A and 6-512, which relate to the Consumer Credit Investigation Fund and distribution of fees collected by the Commission on Consumer Credit; repealing 59 O.S. 2001, Section 1956, which relates to deposit of certain fees derived pursuant to the Oklahoma Rental-Purchase Act; repealing 59 O.S. 2001, Section 2011, which relates to the Health Spa Revolving Fund; repealing Section 9, Chapter 469, O.S.L. 2002, as last amended by Section 13, Chapter 2, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2093), which relates to continuing education courses for mortgage broker and mortgage originator licenses; repealing Section 29,

Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.26), which relates to the Oklahoma Mortgage Broker and Mortgage Loan Originator Revolving Fund; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 14A O.S. 2001, Section 3-503, as amended by Section 2, Chapter 431, O.S.L. 2009 (14A O.S. Supp. 2009, Section 3-503), is amended to read as follows:

Section 3-503. (1) Application for a license shall be under oath, shall give the approximate location from which the business is to be conducted, and shall contain such relevant information as the Administrator of Consumer Credit may require. When making application for one or more licenses, the applicant shall pay ~~Two Hundred Twenty five Dollars (\$225.00) to the Administrator as an investigation fee and One Hundred Ninety Dollars (\$190.00) for each license as the annual fee provided in this part for the current calendar year, provided if a license is granted after June 30, in any year, such fee shall be Ninety five Dollars (\$95.00) for that year~~ an annual license fee.

(2) Every licensee shall maintain on file with the Administrator a written appointment of a resident of this state as the agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this state. In case of noncompliance, such service may be made on the Administrator.

(3) Every applicant shall, also, at the time of filing such application, file with the Administrator, if required, a bond satisfactory to the Administrator and in an amount not to exceed Five Thousand Dollars (\$5,000.00) for the first license and One Thousand Dollars (\$1,000.00) for each additional license with a surety company qualified to do business in this state as surety, whose total liability in the aggregate shall not exceed the amount of such bond so fixed. The bond shall run to the state for the use of the state and of any person or persons who may have cause of action against the obligor of the bond under the provisions of this title. Such bond shall be conditional that the obligor will faithfully conform to and abide by the provisions of this title and

to all rules lawfully made by the Administrator hereunder and will pay to the state and to any such person or persons any and all amounts of money that may become due or owing to the state or to such person or persons from such obligor under and by virtue of the provisions of this title during the calendar year for which the bond is given.

(4) As part of the investigation, the Administrator may conduct a national criminal history check pursuant to subsection B of Section 150.9 of Title 74 of the Oklahoma Statutes. The applicant shall furnish to the Administrator, upon request by the Administrator, a complete set of the applicant's fingerprints that shall be certified by an authorized law enforcement officer.

~~(5) Of the license fee provided for in subsection (1) of this section, One Hundred Fifty Dollars (\$150.00) shall be deposited in the General Revenue Fund of the State Treasury and Forty Dollars (\$40.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

~~(6) Of the half year license fees provided for in subsection (1) of this section, Seventy five Dollars (\$75.00) shall be deposited in the General Revenue Fund of the State Treasury and Twenty Dollars (\$20.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

SECTION 2. AMENDATORY 14A O.S. 2001, Section 3-504, is amended to read as follows:

Section 3-504. (1) On filing such application, bond, and payment of the required fees, the Administrator of Consumer Credit shall investigate the facts and if the Administrator shall find the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief the business will be operated lawfully and fairly, within the purposes of this title, and the applicant has available for the operation of such business net assets of at least Twenty-five Thousand Dollars (\$25,000.00), the Administrator shall grant such application and issue to the applicant a license which shall be the applicant's license and authority to make supervised loans under the provisions of this title.

(2) If the Administrator shall not so find, the Administrator shall notify the applicant, who shall, on request within thirty (30)

days be entitled to a hearing on such application within sixty (60) days after the date of the request. The investigation fee shall be retained by the Administrator, but the annual fee shall be returned to the applicant in the event of denial.

(3) Each application for a license shall be granted or denied within ninety (90) 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 or the independent hearing examiner.

(4) Each license shall state the address of the office from which the business is to be conducted and the name of the licensee. 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.

(5) Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee shall, on or before each December 1, pay to the Administrator ~~One Hundred Fifty Dollars (\$150.00)~~ a fee for each license held by the licensee, as the annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the Administrator, the license shall thereupon expire but not before December 31 of any year for which an annual fee has been paid. There shall be a late fee of ~~Fifty Dollars (\$50.00)~~ for a late application for renewal of a license received after December 1. The fee for a duplicate or amended license shall be ~~Twenty five Dollars (\$25.00)~~ prescribed by rule of the Commission on Consumer Credit.

(6) Every licensee shall maintain net assets of at least Twenty-five Thousand Dollars (\$25,000.00), either used or readily available for use, in the conduct of the business of each licensed office.

(7) A separate license shall be required for each office operated under this title. The Administrator may issue more than one license to any one person upon compliance with this part as to each license. Nothing contained herein, however, shall be construed to require a license for any place of business devoted to accounting or other record keeping and where supervised loans are not made.

(8) When a licensee wishes to move an office to another location, the licensee shall give thirty (30) days' written notice to the Administrator, who shall amend the license accordingly.

(9) For purposes of this section, the term "office" shall mean a location occupied by a licensee with the following characteristics:

- (a) a manager for the office who is not common to any other supervised lender's office,
- (b) a street and mailing address separate from any other supervised lender's office,
- (c) an entrance through which the public may access only one supervised lender's office,
- (d) separation from any other supervised lender's office by walls or otherwise and through which neither employees nor the public may pass, and
- (e) any other characteristics required pursuant to rule adopted by the Administrator.

(10) Any person holding a license under this title who shall violate any provision hereof shall be subject to forfeiture of each license held by the licensee and if a corporation, its charter shall be subject to forfeiture, and it shall be the duty of the Attorney General, when any such violation is called to the Attorney General's attention, to file suit for such forfeiture of charter and cancellation of the license in a district court in Oklahoma County.

SECTION 3. AMENDATORY 14A O.S. 2001, Section 3-505, is amended to read as follows:

Section 3-505. (1) The Administrator of Consumer Credit shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of this title. 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 recommend penalties authorized by this title 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.

(2) The Administrator ~~or the independent hearing examiner~~ may, after notice and hearing, censure, probate, suspend, revoke or refuse to renew any license, or in addition to or in lieu of censure, probation, suspension or revocation, order refunds for unlawful charges if the Administrator or the independent hearing examiner finds that:

- (a) The licensee has failed to pay the annual license fee imposed by this title, or an examination fee, investigation fee or other fee or charge imposed by the Administrator under the authority of this title,
- (b) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this title or any regulation or order lawfully made pursuant to and within the authority of this title, or
- (c) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the Administrator ~~or the independent hearing examiner~~ in refusing to issue such license, ~~or~~
- ~~(d) The licensee acting as a mortgage broker as defined in the Mortgage Broker Licensure Act has violated the Mortgage Broker Licensure Act.~~

~~(2) The hearing shall be held upon not less than twenty (20) days' notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the administrative action, and its effective date shall be set forth in a written order accompanied by finding of fact and a copy thereof shall be forthwith delivered to the licensee. Such order, finding, and the evidence considered by the Administrator or the independent hearing examiner shall be filed with the public records of the Administrator.~~

(3) 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 administrative, civil or criminal liability for acts committed prior thereto.

(4) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

(5) The Administrator ~~or the independent hearing examiner~~ 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 or the independent hearing examiner in refusing originally to issue such license under this part.

(6) Every licensee shall notify the Administrator of the conviction of or plea of guilty or nolo contendere to any felony within thirty (30) days after the plea is taken and also within thirty (30) days of the entering of an order of judgment and sentencing and shall notify the Administrator of any administrative action resulting in revocation, suspension, or amendment of a license taken against the licensee in another state within thirty (30) days of the entering of the administrative order in that state.

SECTION 4. AMENDATORY 14A O.S. 2001, Section 3-506, is amended to read as follows:

Section 3-506. (1) At such times as the Administrator of Consumer Credit shall deem necessary, the Administrator or a duly authorized representative shall make an examination of the place or places of business of each licensee and shall inquire into and examine the loans, transactions, books, accounts, papers, correspondence, and records of such licensee insofar as they pertain to the business regulated by this title. In the course of such examination, the Administrator or the duly authorized representative 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 such books, accounts, papers, correspondence and records. The Administrator or the duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Administrator is authorized or required by this title to consider, investigate, or secure information. Any licensee who

shall fail or refuse to let the Administrator or the duly authorized representative examine or make copies of such books, or other relevant documents shall thereby be deemed in violation of this title and such failure or refusal shall constitute grounds for the administrative action against such license. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the Administrator an amount assessed by the Administrator to cover the direct and indirect cost of such examination and a proportionate share of general administrative expense, not to exceed Three Hundred Dollars (\$300.00); provided, however, that for any examination which lasts in excess of eight (8) hours, the Administrator shall charge an additional fee of Fifty Dollars (\$50.00) per hour for each examiner required to complete such an examination; provided, further, that the Administrator may waive the examination fee for any examination which takes one (1) hour or less. If an examination fee is due and is not paid upon completion of an examination, the Administrator shall bill the licensee, and there shall be a late fee of Fifty Dollars (\$50.00) if the amount due is not received within thirty (30) days of the invoice date. No licensee shall be assessed and charged a total fee in excess of Six Hundred Fifty Dollars (\$650.00) for each licensed office in any one (1) calendar year 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.

(2) For the purpose of discovering violations of this title or of securing information required hereunder, the Administrator or a duly authorized representative may investigate the books, accounts, papers, correspondence and records of any licensee or other person whom the Administrator has reasonable cause to believe is violating any provision of this title whether or not such person shall claim to be within the authority or scope of this part. For the purpose of this part, any person who advertises for, solicits or otherwise communicates a willingness to make loans on which the loan finance charge exceeds ten percent (10%) per year as determined according to the provisions on loan finance charges for consumer loans, Section 3-201 of this title, shall be presumed to be engaged in the business of making supervised loans.

(3) Each licensee shall keep or make available in this state such books and records relating to loans made under this title as are necessary to enable the Administrator to determine whether the licensee is complying with this title. Such books and records shall be consistent with accepted accounting practices.

(4) Each licensee shall preserve or make available such books and records in this state relating to each of its loans for four (4) years from the date of the loan, 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 under this title. All obligations signed by borrowers 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.

(5) Each licensee shall, annually on or before the first day of May, 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 ~~with~~ within the state. Such report shall be made under oath and shall be in the form prescribed by the Administrator, who shall make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential. There shall be a late fee of ~~Twenty five Dollars (\$25.00)~~ for any annual report received after May 1.

(6) The Administrator may promulgate rules necessary for the enforcement of this title and consistent with all of its provisions. Before adopting a rule the Administrator shall give every licensee at least twenty (20) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed rule. At the hearing, any licensee or other person may be heard and introduce evidence, data, or arguments or place the same on file. The Administrator shall adopt and promulgate every rule in written form stating the date of adoption and the date of promulgation. A copy of every rule shall be mailed to each licensee prior to the effective date.

(7) On application of any person and payment of the costs therefor, the Administrator shall furnish under the Administrator's seal and signed by the Administrator or an assistant, a certificate of good standing or a certified copy of any license, rule or order.

(8) Any transcript of any hearing held by the Administrator or the independent hearing examiner under this title shall be a public record and open to inspection at all reasonable times.

(9) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the Administrator or a representative may apply to a court for an order compelling compliance, as provided by the Administrative Procedures Act.

(10) There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of ~~Twenty five Dollars (\$25.00)~~ for each check returned to the Department of Consumer Credit or any agent thereof by reason of the refusal of the bank upon which such check was drawn to honor the same. However, the fee provided in this subsection shall not be assessed for any check returned because of "insufficient funds" unless the check has been presented to the bank two times and payment declined by the bank.

SECTION 5. AMENDATORY 14A O.S. 2001, Section 6-113, is amended to read as follows:

Section 6-113. (1) After demand, the Administrator of Consumer Credit may bring a civil action against a creditor for making or collecting charges in excess of those permitted by ~~this act~~ the Uniform Consumer Credit Code. An action may relate to transactions with more than one debtor. If it is found that an excess charge has been made, the court shall order the respondent to refund to the debtor or debtors the amount of the excess charge. If a creditor has made an excess charge in deliberate violation of or in reckless disregard for ~~this act~~ the Uniform Consumer Credit Code, or if a creditor has refused to refund an excess charge within a reasonable time after demand by the debtor or the Administrator the court may also order the respondent to pay to the debtor or debtors a civil penalty in an amount determined by the court not in excess of the greater of either the amount of the credit service or loan finance charge or ten times the amount of the excess charge. Refunds and penalties to which the debtor is entitled pursuant to this subsection may be set off against the debtor's obligation. If a debtor brings an action against a creditor to recover an excess charge or civil penalty an action by the Administrator to recover for the same excess charge or civil penalty shall be stayed while the debtor's action is pending and shall be dismissed if the debtor's action is dismissed with prejudice or results in a final judgment granting or denying the debtor's claim. With respect to excess charges arising from sales made pursuant to revolving charge accounts or from loans made pursuant to revolving loan accounts, no action pursuant to this subsection may be brought more than two (2)

years after the time the excess charge was made. With respect to excess charges arising from other consumer credit sales or consumer loans, no action pursuant to this subsection may be brought more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was made. If the creditor establishes by a preponderance of evidence that a violation is unintentional or the result of a bona fide error, no liability to pay a penalty shall be imposed under this subsection.

(2) The Administrator may bring a civil action against a creditor or a person acting in his behalf to recover a civil penalty for willfully violating ~~this act~~ the Uniform Consumer Credit Code, and if the court finds that the defendant has engaged in a course of repeated and willful violations of ~~this act~~ the Uniform Consumer Credit Code, it may assess a civil penalty of no more than Five Thousand Dollars (\$5,000.00). No civil penalty pursuant to this subsection may be imposed for violations of ~~this act~~ the Uniform Consumer Credit Code occurring more than two (2) years before the action is brought or for making unconscionable agreements or engaging in a course of fraudulent or unconscionable conduct.

(3) Any entity or individual offering to engage or engaged in making consumer credit sales, consumer leases, consumer loans or supervised loans in this state without a license or notification filing required by this title shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00).

(4) The Administrator may impose a civil penalty as prescribed in subsection (3) of this section, after notice and hearing as provided in Section 3-505 of this title and 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.

SECTION 6. AMENDATORY 14A O.S. 2001, Section 6-203, is amended to read as follows:

Section 6-203. (1) Any person required to file notification pursuant to the provisions of Section 6-201 of this title, on or before January 31 of each year, shall pay to the Administrator of Consumer Credit an annual fee of ~~Twenty Dollars (\$20.00) for that~~

year for each business location. A late fee shall be charged for any notification filed after January 31.

~~(2) Persons required to file notification pursuant to the provisions of Section 6-201 of this title who are sellers, lessors, or lenders shall pay an additional fee, at the time and in the manner stated in subsection (1) of this section, of Ten Dollars (\$10.00) for each One Hundred Thousand Dollars (\$100,000.00), or part thereof, in excess of One Hundred Thousand Dollars (\$100,000.00) of the original unpaid balances arising from consumer credit sales, consumer leases, and consumer loans made in this state within the preceding calendar year and held either by the seller, lessor, or lender for more than thirty (30) days after the inception of the sale, lease, or loan giving rise to the obligations, or held by an assignee who has not filed notification. A refinancing of a sale, lease, or loan resulting in an increase in the amount of an obligation is considered a new sale, lease, or loan to the extent of the amount of the increase.~~

~~(3) Persons required to file notification pursuant to the provisions of Section 6-201 of this title who are assignees shall pay an additional fee, at the time and in the manner stated in subsection (1) of this section, of Ten Dollars (\$10.00) for each One Hundred Thousand Dollars (\$100,000.00), or part thereof, of the unpaid balances at the time of the assignment of obligations arising from consumer credit sales, consumer leases, and consumer loans made in this state taken by assignment during the preceding calendar year, but an assignee need not pay a fee with respect to an obligation on which the assignor or other person has already paid a fee.~~

~~(4) All fees collected pursuant to the provisions of this section shall be deposited into the General Revenue Fund of the State Treasury. The term "licensee" or "license", as used in this title, includes any entity or individual that has filed or is required to file notification with the Administrator pursuant to the provisions of Sections 6-201 through 6-203 of this title.~~

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-302 of Title 14A, unless there is created a duplication in numbering, reads as follows:

(1) The Commission on Consumer Credit shall prescribe by administrative rules all fees authorized by the Uniform Consumer Credit Code, the Credit Services Organization Act, the Oklahoma

Pawnshop Act, the Precious Metal and Gem Dealer Licensing Act, the Oklahoma Rental-Purchase Act, the Oklahoma Health Spa Act, the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and the Deferred Deposit Lending Act. All fees prescribed by rule of the Commission shall be in accordance with Article I of the Administrative Procedures Act and this subsection. Prior to July 1, 2011, the Commission shall establish all authorized fees by emergency rule. Any fee established by emergency rule shall remain effective until the fee is prescribed by permanent rule of the Commission in accordance with Article I of the Administrative Procedures Act. Any fees prescribed by rule after July 1, 2011, shall be prescribed as permanent rules; provided, no fee prescribed after July 1, 2011, shall become effective unless approved by the Legislature.

(2) Examination and investigation fees shall not be increased more than Two Hundred Dollars (\$200.00) in a three-calendar-year period.

(3) Annual license fees shall not be increased more than One Hundred Dollars (\$100.00) in a three-calendar-year period.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-303 of Title 14A, unless there is created a duplication in numbering, reads as follows:

(1) Effective July 1, 2010, seventy percent (70%) of all fees and civil penalties collected by the Department of Consumer Credit pursuant to the Uniform Consumer Credit Code, the Credit Services Organization Act, the Oklahoma Pawnshop Act, the Precious Metal and Gem Dealer Licensing Act, the Oklahoma Rental-Purchase Act, the Oklahoma Health Spa Act, the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and the Deferred Deposit Lending Act shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund established in Section 6-301 of Title 14A of the Oklahoma Statutes.

(2) Effective July 1, 2010, thirty percent (30%) of all fees and civil penalties collected by the Department of Consumer Credit pursuant to the Uniform Consumer Credit Code, the Credit Services Organization Act, the Oklahoma Pawnshop Act, the Precious Metal and Gem Dealer Licensing Act, the Oklahoma Rental-Purchase Act, the Oklahoma Health Spa Act, the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and the Deferred Deposit Lending Act

shall be deposited in the General Revenue Fund of the State Treasury.

(3) On July 1, 2010, any unencumbered, unobligated and unexpended funds remaining in the Consumer Credit Investigation Fund, the Health Spa Revolving Fund, the Oklahoma Mortgage Broker and Mortgage Loan Originator Revolving Fund and the Oklahoma Deferred Deposit Lending Regulatory Revolving Fund shall be transferred to the credit of the Consumer Credit Administrative Expenses Revolving Fund.

(4) The provisions of this section shall not apply to fees received for the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund and fees received from deferred deposit lenders for consumer counseling services pursuant to Section 3119 of Title 59 of the Oklahoma Statutes.

SECTION 9. AMENDATORY 14A O.S. 2001, Section 6-501, is amended to read as follows:

Section 6-501. There is hereby created:

- (a) the Department of Consumer Credit;
- (b) the Commission on Consumer Credit. The Commission shall be the policy-making and governing authority of the Department and shall appoint the Administrator and be responsible for the enforcement of the Uniform Consumer Credit Code; and
- (c) the Office of Administrator of Consumer Credit. ~~The Commission shall be the policy making and governing authority of the Department and shall appoint the Administrator and be responsible for the enforcement of this act; and~~
- (d) the Consumer Credit Advisory Committee.
 - (i) The Consumer Credit Advisory Committee shall be appointed by the Commission on Consumer Credit and shall consist of the following members: two licensed supervised lenders, one of whom shall be recommended for appointment by the Oklahoma Consumer Finance Association and one of whom shall be recommended for appointment by the

Independent Finance Institute; one licensed pawnbroker recommended for appointment by the Oklahoma Pawnbrokers Association; one licensed mortgage broker and mortgage loan originator recommended for appointment by the Oklahoma Association of Mortgage Professionals; one licensed rental dealer recommended for appointment by the Oklahoma Rental Dealers Association; one licensed precious metal and gem dealer; one licensed health spa; one licensed credit services organization; one entity or individual that has filed notification pursuant to Section 6-202 of this title; one entity licensed as a deferred deposit lender recommended for appointment by the Community Financial Services Association of America; and the Administrator of Consumer Credit. The Administrator of Consumer Credit shall serve as the Chair of the Advisory Committee. If a licensee is an entity, the Commission may appoint an employee of the licensed entity to serve on the Consumer Credit Advisory Committee. The Commission shall have authority to prescribe rules to govern appointments to the Consumer Credit Advisory Committee.

(ii) The appointments shall be a public record of the Department of Consumer Credit. The term of office for each appointed member shall begin January 1, 2011, and shall continue for a period of four (4) years expiring on January 1. For initial appointments, the Commission shall appoint two members to serve for a term of one (1) year, two members to serve for a term of two (2) years, three members to serve for a term of three (3) years, and three members to serve for a term of four (4) years from their respective dates of appointment and qualification. Each appointed member shall be eligible for reappointment.

(iii) The Consumer Credit Advisory Committee shall have authority to review fees applicable to licensees of the Department of Consumer Credit. The Consumer Credit Advisory Committee shall make

recommendations to the Commission on Consumer Credit regarding any fees applicable to licensees of the Department. The Consumer Credit Advisory Committee shall also have the authority to adopt rules for conducting its proceedings.

- (iv) The Consumer Credit Advisory Committee shall meet on an annual basis and at such other times as necessary.
- (v) Meetings of the Consumer Credit Advisory Committee shall be held in accordance with the Oklahoma Open Meeting Act.
- (vi) Members of the Consumer Credit Advisory Committee may be reimbursed for travel costs in accordance with the State Travel Reimbursement Act.

SECTION 10. AMENDATORY 24 O.S. 2001, Section 143, is amended to read as follows:

Section 143. A. Upon the filing of an application and bond, payment of the an annual license fee of One Hundred Dollars (\$100.00), and an investigation fee of One Hundred Dollars (\$100.00), 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 his 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, he 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.

SECTION 11. AMENDATORY 24 O.S. 2001, Section 144, is amended to read as follows:

Section 144. 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 ~~his~~ 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 ~~One Hundred Dollars (\$100.00)~~ a license renewal fee for each license held by ~~him~~ the licensee as the annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days

after written notice of delinquency has been given to the licensee by the Administrator, the license shall thereupon expire, but expiration shall not occur before December 31 of any year for which an annual fee has 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.

SECTION 12. AMENDATORY 24 O.S. 2001, Section 145, is amended to read as follows:

Section 145. 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 ~~he~~ 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.

~~B. The hearing shall be held upon twenty (20) days' notice in writing, setting forth the time and place thereof and a concise statement of the facts alleged to warrant suspension or revocation. At the conclusion of the hearing, the Administrator shall prepare a written order setting forth the effective date of any suspension or revocation accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee. Such order, findings and the evidence considered by the Administrator shall be filed with the public records of the Administrator.~~

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 ~~his~~ 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.

SECTION 13. AMENDATORY 24 O.S. 2001, Section 146, is amended to read as follows:

Section 146. A. At such times as the Administrator of Consumer Credit may deem necessary, the Administrator or ~~his~~ 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 ~~his~~ 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 ~~his~~ 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 ~~his~~ 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 ~~amount assessed by the Administrator to cover the direct or indirect cost of such examination, not to exceed Two Hundred Dollars (\$200.00) in any calendar year~~ 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 ~~his~~ 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.

SECTION 14. AMENDATORY 59 O.S. 2001, Section 1505, as amended by Section 3, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009, Section 1505), is amended to read as follows:

Section 1505. A. Upon the filing of an application and bond and payment of ~~the~~ an annual license fee ~~of One Hundred Forty~~

~~Dollars (\$140.00) and an investigation fee of One Hundred Twenty-five Dollars (\$125.00), the Administrator of Consumer Credit shall conduct an investigation. If ~~he~~ 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 lawfully and fairly, within the purposes of ~~Section 1501 et seq. of this title~~ the Oklahoma Pawnshop Act, and the applicant meets the eligibility requirements of Section 1503A of this title, ~~he~~ the Administrator shall grant the application and issue to the applicant a license which will evidence ~~his~~ the applicant's authority to do business under the provisions of ~~Section 1501 et seq. of this title~~ the Oklahoma Pawnshop Act. ~~Provided, that if a license is granted pursuant to an application filed after June 30 of any year the license fee for the balance of such year shall be Seventy Dollars (\$70.00).~~~~

B. If the Administrator does not so find facts sufficient to warrant issuance of a license, ~~he~~ 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 each 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 pawnbroker shall be issued for any location where a license has been issued and is in effect under the provisions of Section 3-501 et seq. of Title 14A of the Oklahoma Statutes. The word "location" as used in this subsection means the entire space in which a Title 14A licensee conducts business. No pawnshop may be connected with any location in which a Title 14A licensee conducts business, except by a passageway to which the public is not admitted.

~~E. Of the license fee provided for in subsection A of this section, One Hundred Dollars (\$100.00) shall be deposited in the General Revenue Fund of the State Treasury and Forty Dollars (\$40.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

~~F. Of the half year license fees provided for in subsection A of this section, Fifty Dollars (\$50.00) shall be deposited in the General Revenue Fund of the State Treasury and Twenty Dollars (\$20.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

SECTION 15. AMENDATORY 59 O.S. 2001, Section 1506, as amended by Section 4, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009, Section 1506), is amended to read as follows:

Section 1506. A. Each license shall state the name of the licensee and the address at 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 pawnshop operated under ~~this act~~ the Oklahoma Pawnshop Act.

The Administrator may issue more than one license to any one person upon compliance with the provisions of ~~this act~~ the Oklahoma Pawnshop Act as to each license. When a licensee wishes to move ~~his~~ the licensee's pawnshop to another location, ~~he~~ the licensee 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 each December 1, shall pay the Administrator ~~One Hundred Forty Dollars (\$140.00)~~ for each license held by him as the an annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the Administrator, the license shall thereupon expire, but expiration shall not occur before December 31 of any year for which an annual fee has been paid.

D. No licensing requirement or license fee shall be required, levied or collected by any municipal corporation of this state; provided that municipal corporations may require the payment of regulatory fees not in excess of Fifty Dollars (\$50.00) per annum.

~~E. Of the license fee provided for in subsection C of this section, One Hundred Dollars (\$100.00) shall be deposited in the General Revenue Fund of the State Treasury and Forty Dollars~~

~~(\$40.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

SECTION 16. AMENDATORY 59 O.S. 2001, Section 1507, is amended to read as follows:

Section 1507. A. The Administrator of Consumer Credit shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Oklahoma Pawnshop 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 Oklahoma Pawnshop 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 he the Administrator finds that:

1. The licensee or any entity or individual subject to the Oklahoma Pawnshop Act has failed to pay any fee or charge properly imposed by the Administrator under the authority of this act the Oklahoma Pawnshop Act;

2. The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this act the Oklahoma Pawnshop Act or any regulation rule or order lawfully made pursuant to and within the authority of this act the Oklahoma Pawnshop Act; 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.

~~B. The hearing shall be held upon twenty (20) days' notice in writing, setting forth the time and place thereof and a concise statement of the facts alleged to warrant suspension or revocation. At the conclusion of the hearing, the Administrator shall prepare a written order setting forth the effective date of any suspension or revocation accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee. Such order, findings and the evidence considered by the Administrator shall be filed with the public records of the Administrator.~~

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 under ~~this act~~ the Oklahoma Pawnshop Act.

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

G. The Commission on Consumer Credit shall prescribe by rule a fee for each license change, duplicate license, or returned check.

H. A licensee shall pay a late fee as prescribed by rule of the Commission on Consumer Credit if a license is not renewed by December 1.

I. Any entity or individual offering to engage or engaged in making pawn transactions in this state without a license shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00).

J. The Administrator may impose a civil penalty as prescribed in subsection I 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.

SECTION 17. AMENDATORY 59 O.S. 2001, Section 1508, is amended to read as follows:

Section 1508. A. At such times as the Administrator of Consumer Credit may deem necessary, the Administrator or ~~his~~ 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 ~~Section 1501 et seq. of this title the~~ Oklahoma Pawnshop Act. Such books, accounts, papers, correspondence, records and property taken, purchased or received shall also be open for inspection at any reasonable time to federal law enforcement officials and the chief of police, district attorney, sheriff or written designee of the law enforcement body in whose jurisdiction the pawnshop is located, without any need of judicial writ or other process. In the course of an examination, the Administrator or ~~his~~ duly authorized representative or any authorized peace officer 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 insofar as they pertain to the business regulated by ~~Section 1501 et seq. of this title the~~ Oklahoma Pawnshop Act. The Administrator or ~~his~~ duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Administrator is authorized or required by ~~this act~~ the Oklahoma Pawnshop Act to consider, investigate or secure information. Any licensee who fails or refuses to permit the Administrator or ~~his~~ duly authorized representative or any authorized peace officer to examine or make copies of such books or other relevant documents shall thereby be deemed in violation of ~~this act~~ the Oklahoma Pawnshop 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 ~~amount assessed by the Administrator to cover the direct or indirect cost of such examination, not to exceed Two Hundred Dollars (\$200.00) in any calendar year~~ 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. Whenever a peace officer has probable cause to believe that property in possession of a licensed pawnbroker is stolen or embezzled, the peace officer of the local law enforcement agency of the municipality or other political subdivision in which the pawnshop resides may place a written hold order on the property. The initial term of the written hold order shall not exceed thirty (30) days. However, the holding period may be extended in successive thirty (30) day increments upon written notification prior to the expiration of the initial holding period. If the holding period has expired and has not been extended, the hold order shall be considered expired and no longer in effect, and title shall vest in the pawnbroker subject to any restrictions contained in the pawn contract. The initial written hold order shall contain the following information:

1. Signature of the pawnbroker or his designee;
2. Name, title and identification number of the peace officer placing the hold order;
3. Name and address of the agency to which the peace officer is attached and the offense number;
4. Complete description of the property to be held, including model number, serial number and transaction number;
5. Name of agency reporting the property to be stolen or embezzled;
6. Mailing address of the pawnshop where the property is held;
7. Expiration date of the holding period.

C. While a hold order is in effect, the pawnbroker may consent to release, upon written receipt, the stolen or embezzled property to the custody of the local law enforcement agency to which the peace officer placing the hold order is attached. The consent to release the stolen or embezzled property to the custody of law enforcement is not a waiver or release of the pawnbroker's property rights or interest in the property. Otherwise, the pawnbroker shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period including all extensions. The district attorney's office shall notify the pawnbroker in writing in cases where criminal charges have been filed that the property may be needed as evidence. The notice shall contain the case number, the style of the case, and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the district attorney's office. The district attorney's office shall notify the pawnbroker in writing within fifteen (15) days of the disposition of the case. Willful noncompliance of a pawnbroker to a written hold order shall be cause for the pawnbroker's license to either be suspended or revoked pursuant to paragraph 2 of subsection A of Section 1507 of this title. A hold order may be released prior to the expiration of any thirty-day holding period by written release from the agency placing the initial hold order.

D. For the purpose of discovering violations of ~~this act~~ the Oklahoma Pawnshop Act or of securing information required hereunder, the Administrator or ~~his~~ 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 ~~this act~~ the Oklahoma Pawnshop Act whether or not such person shall claim to be within the authority or scope of ~~this act~~ the Oklahoma Pawnshop Act. For the purpose of this section, any person who advertises for, solicits or holds himself out as willing to make pawn transactions, shall be presumed to be a pawnbroker.

E. Each licensee shall keep or make available in this state such books and records relating to pawn transactions made under ~~this act~~ the Oklahoma Pawnshop Act as are necessary to enable the Administrator to determine whether the licensee is complying with ~~this act~~ the Oklahoma Pawnshop Act. Such books and records shall be consistent with accepted accounting practices.

F. Each licensee shall preserve or make available such books and records in this state relating to each of its pawn 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 under ~~this act~~ the Oklahoma Pawnshop 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. All credit sales made by a pawnbroker, other than those sales defined in paragraph 6 of Section 1502 of this title, as a pawn transaction, shall be made in accordance with and subject to the provisions of Title 14A of the Oklahoma Statutes.

G. Each licensee shall, annually on or before the first day of May or other date thereafter fixed by the Administrator, 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.

H. The Administrator may ~~make regulations~~ promulgate rules necessary for the enforcement of ~~this act~~ the Oklahoma Pawnshop Act and consistent with all its provisions. Before making such a ~~regulation~~ rule relating to the licensees subject to ~~this act~~ the Oklahoma Pawnshop Act, the Administrator shall give each licensee at least thirty (30) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or other person may be heard and may introduce evidence, data or arguments or place the same on file. The Administrator, after consideration of all relevant matters presented, shall adopt and promulgate every ~~regulation~~ rule in written form, stating the date of adoption and date of promulgation. Each such ~~regulation~~ rule shall be entered in a permanent record book which shall be public record and be kept in the Administrator's office. A copy of every ~~regulation~~ rule shall be mailed to each licensee, and no such ~~regulation~~ rule shall become effective until the expiration of at least twenty (20) days after such mailing. On the application of any person and payment of the cost thereof, the Administrator shall furnish such person a certified copy of such ~~regulation~~ rule.

I. Except as otherwise expressly provided in ~~this act~~ the Oklahoma Pawnshop Act, the Administrative Procedures Act, Section 251 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes, applies to and governs all administrative actions and civil proceedings taken by the Administrator pursuant to ~~this act~~ the Oklahoma Pawnshop Act.

SECTION 18. AMENDATORY 59 O.S. 2001, Section 1525, as amended by Section 5, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009, Section 1525), is amended to read as follows:

Section 1525. A. Upon the filing of an application, bond and the payment of an annual license fee of ~~Two Hundred Dollars (\$200.00)~~ and a one-time investigation fee of ~~Two Hundred Twenty-five Dollars (\$225.00)~~ by a dealer, the Administrator of Consumer Credit shall conduct an investigation of the applicant prior to issuance of a dealer license.

B. Upon the filing of an application, and payment of the fee as provided for in subsection A of Section 1526 of this title, and payment of a ~~one hundred dollar~~ fee by an employee of a licensed dealer, the Administrator shall conduct an investigation of the applicant prior to issuance of an employee license.

C. Upon renewal of a license for either a dealer or an employee, the Administrator may conduct an investigation at ~~his~~ the Administrator's discretion or at the request of a district attorney for any county in which the applicant has a permanent place of business.

D. If the Administrator finds that the financial responsibility, experience and character of the dealer are such as to warrant belief that the business will be operated lawfully and fairly, within the purposes of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act, the dealer shall be issued a license. ~~Any person engaged as a dealer or employee on the operative date of this act shall have thirty (30) days from the operative date of this act to apply for a license.~~

E. A separate license shall be required for each location, place or premises used by a dealer for the conducting of business pursuant to the provisions of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act and each license shall designate the location, place, or premises to which it applies. The business of the dealer

shall not be conducted in any place other than that designated by the license. The license shall not be transferable.

F. If the Administrator does not find facts sufficient to warrant issuance of a license, ~~he~~ 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 day 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.

G. The Administrator shall grant or deny an application for license within sixty (60) days from the day of filing or from the last day of a hearing as provided in subsection F of this section, unless the period is extended by written agreement between the applicant and the Administrator.

H. The Administrator may issue more than one license to any one person upon compliance with the provisions of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act as to each license. When a dealer wishes to move ~~his~~ the dealer's business to another location, ~~he~~ the dealer shall give thirty (30) days' written notice to the Administrator, who shall amend the license accordingly.

I. Licensed pawnbrokers shall not be subject to any of the fees provided for in this section.

~~J. Of the license fee provided for in subsection A of this section, Fifty Dollars (\$50.00) shall be deposited in the General Revenue Fund of the State Treasury and One Hundred Fifty Dollars (\$150.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

~~K. Of the one time inspection fee provided for in subsection A of this section, Fifty Dollars (\$50.00) shall be deposited in the General Revenue Fund of the State Treasury and One Hundred Seventy-five Dollars (\$175.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

~~L. Of the fee required of employees as provided for in subsection B of this section, Twenty five Dollars (\$25.00) shall be deposited in the General Revenue Fund of the State Treasury and Seventy five Dollars (\$75.00) shall be deposited in the Consumer~~

~~Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

SECTION 19. AMENDATORY 59 O.S. 2001, Section 1526, as amended by Section 6, Chapter 431, O.S.L. 2009 (59 O.S. Supp. 2009, Section 1526), is amended to read as follows:

Section 1526. A. Each year, every dealer, on or before each December 1, shall pay the Administrator ~~Two Hundred Dollars (\$200.00)~~ of Consumer Credit a fee for each license held by ~~him~~ the dealer as the annual fee for the succeeding calendar year. If not renewed, expiration shall occur on December 31 of the year in which the annual fee has been paid.

B. Each year, every employee, on or before December 1, shall pay the Administrator ~~One Hundred Dollars (\$100.00)~~ a fee for the license held by ~~him~~ the employee as the annual fee for the succeeding calendar year. If not renewed, expiration shall occur on December 31 of the year in which the annual fee has been paid.

C. There shall be a fee ~~of Fifty Dollars (\$50.00)~~ for a late application for renewal of a license received after December 1, which will be placed in the Consumer Credit Administrative Expenses Revolving Fund created in Section ~~1 of this act~~ 6-301 of Title 14A of the Oklahoma Statutes.

~~D. Of the fee on dealers provided for in subsection A of this section, Fifty Dollars (\$50.00) shall be deposited in the General Revenue Fund of the State Treasury and One Hundred Fifty Dollars (\$150.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

~~E. Of the one time inspection fee provided for in subsection A of this section, Fifty Dollars (\$50.00) shall be deposited in the General Revenue Fund of the State Treasury and One Hundred Seventy-five Dollars (\$175.00) shall be deposited in the Consumer Credit Administrative Expenses Revolving Fund created in Section 1 of this act.~~

SECTION 20. AMENDATORY 59 O.S. 2001, Section 1528, is amended to read as follows:

Section 1528. A. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Precious Metal and Gem Dealer

Licensing 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 Precious Metal and Gem Dealer Licensing 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, deny, decline to renew a license, suspend or revoke any license or order a cease and desist order if it is found that:

1. The applicant has been convicted of a felony or crime involving fraud, theft, receiving or possession of stolen property in the five (5) years preceding the submission of the application;

2. The licensee has failed to pay any fee or charge properly imposed by the Administrator under the authority of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act;

3. The licensee or any entity or individual subject to the Precious Metal and Gem Dealer Licensing Act has violated any provision of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act or any ~~regulation~~ rule promulgated or order made pursuant to and within the authority of ~~this act~~ the Precious Metal and Gem Dealer Licensing Act; or

4. 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.

~~B. The hearing for denial, suspension or revocation of a license shall be held upon twenty (20) days' notice in writing, setting forth the time and place thereof and a concise statement of the facts alleged to warrant the hearing. After the hearing, the Administrator shall prepare a written order setting forth the~~

~~effective date of the order accompanied by findings of fact and a copy shall be delivered to the applicant or licensee. Such order, findings and the evidence considered by the Administrator shall be maintained as a part of the permanent public records of the Administrator.~~

C. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender. Such surrender shall not affect the civil or criminal liability of the licensee for acts committed prior to the surrender of the license.

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 Commission on Consumer Credit shall prescribe by rule a fee for each license change, duplicate license, or returned check.

F. Any entity or individual offering to engage or engaged as a precious metal and gem dealer in this state without a license shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00).

G. The Administrator may impose a civil penalty as prescribed in subsection F 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.

SECTION 21. AMENDATORY 59 O.S. 2001, Section 1953, is amended to read as follows:

Section 1953. A. Lessors shall pay an initial investigation and license fee and an annual license renewal fee of One Hundred Dollars (\$100.00) per place of business, which fees shall accompany the license renewal form. Any person engaged in the business of rental purchase transactions on the effective date of this act shall not be held in violation of Section 3 of this act from the effective date of this act to the date of licensing if the form and fees are filed with the Administrator within thirty (30) days from the effective date of this act. Provided, that if the license

~~application form is filed after June 30 of any year the license fee for the balance of such year shall be Fifty Dollars (\$50.00)~~
Lessors shall also pay a fee for any returned check, address or license change, or duplicate license request.

B. Lessors shall pay a rental-purchase agreement reviewal fee as prescribed by rule of the Commission on Consumer Credit for any rental-purchase agreement submitted to the Administrator of Consumer Credit for review and approval. The Commission may prescribe by rule a process for submitting rental-purchase agreements to the Administrator for review and approval.

SECTION 22. AMENDATORY 59 O.S. 2001, Section 1955, is amended to read as follows:

Section 1955. A. A consumer damaged by a violation of ~~this act~~ the Oklahoma Rental-Purchase Act by a lessor is entitled to recover from the lessor:

1. Actual damages;

2. Twenty-five percent (25%) of an amount equal to the total amount of payments required to obtain ownership of the merchandise involved, except that the amount recovered under this section shall not be less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or in the case of a class action, an amount the court may allow, except that as to each member of the class no minimum recovery may be applicable and the total recovery other than for actual damages in any class action or series of class actions arising out of the same failure to comply by the same lessor shall not be more than the lesser of Five Hundred Thousand Dollars (\$500,000.00) or one percent (1%) of the net worth of the lessor; and

3. Reasonable ~~attorneys~~ attorney fees and court costs.

B. In addition to the enforcement powers provided in Section 6-102 of Title 14A of the Oklahoma Statutes, the Administrator of Consumer Credit or ~~his~~ a duly authorized representative of the Administrator may investigate the books, accounts, papers, correspondence and records of any lessor licensed under the Oklahoma Rental-Purchase Act. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make rental-purchase transactions, shall be presumed to be a rental-purchase lessor. Each lessor shall pay to the Administrator

an amount assessed by the Administrator to cover the direct or indirect cost of such examination, not to exceed Two Hundred Dollars (\$200.00) in any calendar year examination fee as prescribed by rule of the Commission on Consumer Credit. 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.

C. The Administrator may promulgate rules and regulations necessary for the enforcement of the Oklahoma Rental-Purchase Act and consistent with all its provisions.

D. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Oklahoma Rental-Purchase 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 Oklahoma Rental-Purchase 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 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.

E. After notice and hearing, the Administrator may decline to renew a license, or suspend or revoke any license issued pursuant to the Oklahoma Rental-Purchase Act for violating any provision of the Oklahoma Rental-Purchase Act or any rules promulgated by the Administrator, or in lieu of or in addition to such denial, suspension or revocation, order the refund of any unlawful charges, or enter a cease and desist order.

F. Except as otherwise expressly provided in the Oklahoma Rental-Purchase Act, the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes, applies to and governs all administrative actions and civil proceedings taken by the Administrator pursuant to the Oklahoma Rental-Purchase Act.

~~E.~~ G. Where there are multiple lessees to a rental-purchase agreement, there shall be no more than one recovery under the Oklahoma Rental-Purchase Act for a violation.

~~F.~~ H. A lessor is not liable under the Oklahoma Rental-Purchase Act for a violation thereof caused by the lessor's error if before the sixtieth day after the date the lessor discovers the error, and before an action under this section is filed or written notice of the error is received by the lessor from the lessee, the lessor gives the lessee written notice of the error and makes adjustments in the lessee's account as necessary to ensure that the lessee will not be required to pay an amount in excess of the amount disclosed and that the agreement otherwise complies with this subsection. Nor may a lessor be held liable in any action brought under the Oklahoma Rental-Purchase Act for a violation of the Oklahoma Rental-Purchase Act if the lessor shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. A bona fide error includes, but is not limited to, a clerical, calculation, computer malfunction in programming, and printing error, but not an error of legal judgment with respect to a lessor's disclosure obligations under the Oklahoma Rental-Purchase Act.

I. Any entity or individual offering to engage or engaged as a rental-purchase lessor in this state without a license shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00).

J. The Administrator may impose a civil penalty as prescribed in subsection I 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.

SECTION 23. AMENDATORY 59 O.S. 2001, Section 2002, is amended to read as follows:

Section 2002. A. No health spa shall offer or advertise health spa services unless first being registered with the Administrator of Consumer Credit. The registration shall:

1. Disclose the address, ownership, date of first sales and date of first opening of the health spa;

2. State the name and address of the registered agent of the registrant, if the registrant is a corporation;

3. Be renewed each succeeding calendar year; and

4. Be accompanied by a ~~fee of Two Hundred Dollars (\$200.00) per registration and annual renewal~~ an initial investigation and registration fee and an annual registration fee as prescribed by rule of the Commission on Consumer Credit.

B. Each separate location where health spa services are offered shall be considered a separate health spa and shall file a separate registration, even though the separate locations are owned or operated by the same owner.

C. The Commission on Consumer Credit shall prescribe by rule a fee for each registration change, duplicate registration, or returned check.

D. The Commission on Consumer Credit shall prescribe by rule a late fee for a registration not renewed on or before the expiration date of the registration.

E. A health spa shall pay a contract reviewal fee as prescribed by rule of the Commission on Consumer Credit for each health spa contract submitted to the Administrator for review and approval. The Commission may prescribe by rule a process for submitting health spa contracts for review and approval by the Administrator.

SECTION 24. AMENDATORY 59 O.S. 2001, Section 2009, is amended to read as follows:

Section 2009. A. Any person who engages in business as a health spa without first being properly registered with the Administrator of Consumer Credit as prescribed in the Oklahoma Health Spa Act or who otherwise violates any provision of the Oklahoma Health Spa Act, upon conviction, shall be guilty of a misdemeanor and shall be punished by the imposition of a fine not to exceed Five Thousand Dollars (\$5,000.00) or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

B. The provisions of Title 14A of the Oklahoma Statutes shall also apply to those health spas registered pursuant to the Oklahoma Health Spa Act.

C. The Oklahoma Health Spa Act shall only govern those health spa contracts or membership agreements executed after November 1, 1987.

D. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Oklahoma Health Spa 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 Oklahoma Health Spa 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.

E. After notice and hearing, the Administrator may decline to renew a registration, or suspend or revoke any registration issued pursuant to the Oklahoma Health Spa Act or any rules promulgated by the Administrator, or in lieu of or in addition to such denial, suspension or revocation, order the refund of any unlawful charges, or enter a cease and desist order.

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

G. The Administrator may impose a civil penalty as prescribed in subsection F 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 as 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.

SECTION 25. AMENDATORY Section 6, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.3), is amended to read as follows:

Section 2095.3 The following are exempt from all provisions of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act:

1. Registered mortgage loan originators, when acting for an entity described in divisions (1), (2) and (3) of subparagraph a of paragraph 17 of Section ~~5~~ 2095.2 of this ~~act~~ title;

2. An individual who offers or negotiates or modifies terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

3. An individual who offers or negotiates or modifies terms of a residential mortgage loan secured by a dwelling that served as the individual's residence; ~~or~~

4. A licensed attorney who negotiates or modifies the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; or

5. Entities described in divisions (1), (2) and (3) of subparagraph a of paragraph 17 of Section 2095.2 of this title.

SECTION 26. AMENDATORY Section 8, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.5), is amended to read as follows:

Section 2095.5 A. 1. An entity or individual, unless specifically exempted from the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, as provided in Section ~~6~~ 2095.3 of this ~~act~~ title, shall not engage in the business of a mortgage broker or mortgage loan originator with respect to any dwelling located in this state without first obtaining and maintaining annually a license under ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. Each licensed mortgage broker ~~or~~ and mortgage loan originator must register with and maintain a valid

unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

2. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective date for licensing all entities and individuals as provided in this subsection, including those currently licensed as mortgage brokers or mortgage loan originators, shall be July 31, 2010, or such later date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under 12 U.S.C., Section 5107.

B. A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a license as required by ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. Each independent contractor loan processor or underwriter licensed as a mortgage broker or mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

C. For the purposes of implementing an orderly and efficient licensing process, the Administrator of Consumer Credit may establish licensing rules, upon approval by the Commission, and the Administrator may establish interim procedures for licensing and acceptance of applications. For previously registered or licensed entities or individuals, the Administrator may establish expedited review and licensing procedures.

SECTION 27. AMENDATORY Section 9, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.6), is amended to read as follows:

Section 2095.6 A. Applicants for a license shall apply on a form as prescribed by the Administrator of Consumer Credit.

B. In order to fulfill the purposes of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, the Administrator is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other entities or

individuals subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.

C. In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity including:

1. Fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

2. Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry and the Administrator to obtain:

- a. an independent credit report obtained from a consumer reporting agency defined in 15 U.S.C., Section 1681a(p), and
- b. information related to any administrative, civil or criminal findings by any governmental jurisdiction.

D. In connection with an application for licensing as a mortgage broker, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning each owner, officer, director or partner, as applicable including:

1. Fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

2. Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry and the Administrator to obtain:

- a. an independent credit report obtained from a consumer reporting agency described in 15 U.S.C., Section 1681a(p), and
- b. information related to any administrative, civil or criminal findings by any governmental jurisdiction.

E. For purposes of this section and, in order to reduce points of contact which the Federal Bureau of Investigation may have to maintain for purposes of paragraph 1 and subparagraph b of paragraph 2 of subsection D of this section, the Administrator may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

F. For the purposes of this section and in order to reduce the points of contact which the Administrator may have to maintain for purposes of subparagraphs a and b of paragraph 2 of subsection D of this section, the Administrator may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the Administrator.

G. A license issued under ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act shall be valid for a period of one (1) year, unless otherwise revoked or suspended by the Administrator as provided in ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.

H. The Administrator, on determining that the applicant is qualified and upon payment of the fees by the applicant, shall issue a license to the applicant. An applicant who has been denied a license may not reapply for the license for sixty (60) days from the date of the previous application.

I. A licensee shall pay the renewal fee on or before December 1. If the license is not renewed by December 1, the licensee shall pay a renewal fee that is double the amount of the license. Licenses not renewed by December 31 shall expire and the licensee shall not act as a mortgage broker or mortgage loan originator until a new license is issued pursuant to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. A license shall not be granted to the holder of an expired license except as provided in ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act for the issuance of an original license.

J. On or before December 31, a licensee may request inactive status for the following license year and the license shall be placed on inactive status after payment to the Administrator of the inactive status renewal fee prescribed in this section and the surrender of the license to the Administrator. During inactive status, an inactive license shall not act as a mortgage broker or

mortgage loan originator. A licensee may not be on inactive status for more than two (2) consecutive years, nor for more than four (4) years in any ten-year period. The license is deemed expired for violation of any of the limitations of this subsection.

K. An inactive licensee may return to active status notwithstanding the requirements of this section by making a request in writing to the Administrator for reactivation and paying the prorated portion of the annual fee that would have been charged to the licensee to maintain normal active status. The licensee shall also provide the Administrator with proof that the licensee meets all of the other requirements for acting as a mortgage broker or mortgage loan originator, including any applicable education and testing requirements.

L. A licensee shall prominently display the mortgage broker or mortgage loan originator license in the office of the mortgage broker or mortgage loan originator and any branch office of the mortgage broker.

M. 1. Initial and renewal license fees shall be ~~One Hundred Dollars (\$100.00)~~ for each year as prescribed by rule of the Commission on Consumer Credit;

2. A late renewal fee shall be ~~Two Hundred Dollars (\$200.00)~~ as prescribed by rule of the Commission on Consumer Credit;

3. Branch office fees shall be ~~Fifty Dollars (\$50.00)~~ as prescribed by rule of the Commission on Consumer Credit for each year;

4. Inactive status fees shall be ~~Fifty Dollars (\$50.00)~~ as prescribed by rule of the Commission on Consumer Credit for each year;

5. A fee of ~~Twenty five Dollars (\$25.00)~~ as prescribed by rule of the Commission on Consumer Credit shall be charged for each license change, duplicate license or returned check;

6. A fee of ~~Fifty Dollars (\$50.00)~~ as prescribed by rule of the Commission on Consumer Credit shall be paid by applicants and licensees into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund as provided for in Section ~~23~~ 2095.20 of this ~~act~~ title for each initial application and each renewal application; ~~and~~

7. An examination fee shall be ~~Three Hundred Dollars (\$300.00)~~ unless an additional fee is required in accordance with subsection C of Section 26 of this act as prescribed by rule of the Commission on Consumer Credit; and

8. An application fee shall be as prescribed by rule of the Commission on Consumer Credit.

SECTION 28. AMENDATORY Section 10, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.7), is amended to read as follows:

Section 2095.7 The Administrator of Consumer Credit shall not issue a mortgage loan originator license unless the Administrator makes at a minimum the following findings:

1. The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation;

2. The applicant has not been convicted of, or pled guilty or nolo contendere to a felony in a domestic, foreign or military court:

- a. during the seven-year period preceding the date of the application for licensing and registration, or
- b. at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering.

Provided, that any pardon of a conviction shall not be a conviction for purposes of this paragraph;

3. The applicant has demonstrated financial responsibility, character and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly and efficiently within the purposes of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. For purposes of this paragraph, an individual has shown that he or she is not financially responsible when he or she has shown a disregard in the management of his or her own financial condition. A determination that an individual has not shown financial responsibility may include, but not be limited to:

- a. current outstanding judgments, except judgments solely as a result of medical expenses,
- b. current outstanding tax liens or other government liens and filings,
- c. foreclosures within the past three (3) years, or
- d. pattern of seriously delinquent accounts within the past three (3) years;

4. The applicant has completed the prelicensing education requirement described in Section ~~11~~ 2095.8 of this ~~act~~ title;

5. The applicant has passed a written test that meets the test requirement described in Section ~~12~~ 2095.9 of this ~~act~~ title; ~~and~~

6. The applicant has paid into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund as required by paragraph 6 of subsection M of Section ~~9~~ 2095.6 of this ~~act~~ title; and

7. The applicant is sponsored by a licensed mortgage broker. The Administrator of Consumer Credit may promulgate administrative rules, subject to approval of the Commission on Consumer Credit, to implement sponsorship procedures and requirements.

SECTION 29. AMENDATORY Section 19, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.16), is amended to read as follows:

Section 2095.16 A. A mortgage broker or mortgage loan originator shall deposit, prior to the end of the next business day, all monies received from borrowers for third-party provider services in a trust account of a federally insured financial institution ~~located in this state~~. The trust account shall be designated and maintained for the benefit of borrowers. Monies maintained in the trust account shall be exempt from execution, attachment, or garnishment. A mortgage broker or mortgage loan originator shall not in any way encumber the corpus of the trust account or commingle any other operating funds with trust account funds.

B. Withdrawals from the trust account shall be only for the payment of bona fide services rendered by a third-party provider or for refunds to borrowers. Any interest earned on the trust account

shall be refunded or credited to the borrowers at closing. Any monies remaining in the trust account after payment to third-party providers shall be refunded to the borrower.

C. The mortgage broker or mortgage loan originator shall pay third-party providers no later than thirty (30) days after completion of the third-party service.

D. A mortgage broker or mortgage loan originator shall maintain accurate, current, and readily available records of the trust account until at least three (3) years have elapsed following the effective period to which the records relate. The records shall be subject to audit by the Administrator of Consumer Credit pursuant to an examination or investigation.

E. The provisions of this section shall not apply to a depository institution as defined in Section ~~5~~ 2095.2 of this ~~act~~ title, its subsidiaries and affiliates or any employee or exclusive agent thereof.

SECTION 30. AMENDATORY Section 20, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.17), is amended to read as follows:

Section 2095.17 A. In order to ensure the effective supervision and enforcement of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, the Administrator of Consumer Credit ~~or an independent hearing examiner~~ may, after notice and hearing pursuant to Article II of the Administrative Procedures Act, impose any or any combination of the following penalties:

1. Deny, suspend, revoke, censure, place on probation or decline to renew a license for a violation of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, any rules promulgated pursuant to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and any order of the Administrator or an independent hearing examiner issued pursuant to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act;

2. Deny, suspend, revoke, censure, place on probation or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act or withholds information

or makes a material misstatement in an application for a license or renewal of a license;

3. Order restitution against entities or individuals subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act for violations of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act; or

4. Issue orders or directives under ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act as follows:

- a. order or direct entities or individuals subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act to cease and desist from conducting business, including immediate temporary orders to cease and desist,
- b. order or direct entities or individuals subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act to cease any harmful activities or violations of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, including immediate temporary orders to cease and desist,
- c. enter immediate temporary orders to cease business under a license issued pursuant to the authority of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act if the Administrator or an independent hearing examiner determines that such license was erroneously granted or the licensee is currently in violation of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act,
- d. order or direct such other affirmative action as the Administrator or an independent hearing examiner deems necessary, or
- e. impose a civil penalty of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for each violation of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act against a licensee or any other entity or individual subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, not to exceed Five Thousand Dollars (\$5,000.00)

for all violations resulting from a single incident or transaction.

B. Any immediate temporary order to cease and desist issued pursuant to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act shall comply with the requirements for emergency orders under Article II of the Administrative Procedures Act.

C. 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.

D. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing 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 Oklahoma Secure and Fair Enforcement for Mortgage Licensing 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 an Oklahoma 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.

SECTION 31. AMENDATORY Section 26, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.23), is amended to read as follows:

Section 2095.23 A. In addition to any authority allowed under ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, the Administrator of Consumer Credit shall have the authority to conduct investigations and examinations of the following:

1. Criminal, civil and administrative history information, including nonconviction data;

2. Personal history and experience information including independent credit reports obtained from a consumer reporting agency described in 15 U.S.C., Section 1681a(p); and

3. Any other documents, information or evidence the Administrator deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.

B. For the purposes of investigating violations or complaints arising under ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act or for the purposes of examination, the Administrator may review, investigate or examine any licensee or entity or individual subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, as often as necessary in order to carry out the purposes of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. The Administrator may direct, subpoena or order the attendance of and examine under oath all individuals whose testimony may be required about the loans or the business or subject matter of any such examination or investigation and may direct, subpoena or order such individual to produce books, accounts, records, files and any other documents the Administrator deems relevant to the inquiry. Any examination or investigation report and any information obtained during an examination or investigation shall not be subject to disclosure under the Oklahoma Open Records Act. However, any examination or investigation report and any information obtained during an examination or investigation shall be subject to disclosure pursuant to a court order and may also be disclosed in an individual proceeding and any order issued pursuant to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.

C. 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. The examination fee shall be ~~in accordance with the provisions of paragraph 7 of subsection M of Section 9 of this act. If a licensee has more than one location, the examination fee shall be Three Hundred Dollars (\$300.00) for each location. If an examination exceeds eight (8) hours, the Administrator shall charge the licensee an additional Fifty Dollars (\$50.00) per hour for each examiner required to complete the~~

~~examination; provided, further, that the Administrator may waive the examination fee for any examination which takes one (1) hour or less. If an examination fee is due and is not paid on completion of an examination, the Administrator shall bill the licensee, and there shall be a late fee of Fifty Dollars (\$50.00) if the amount due is not received within thirty (30) days of the invoice date prescribed by rule of the Commission on Consumer Credit.~~

D. Each licensee or entities or individuals subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act shall make available to the Administrator, upon request, any books and records relating to the requirements of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. The Administrator shall have access to such books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents and customers of the licensee, entity or individual subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act concerning the requirements of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. Books and records shall be maintained for a period of time required by rule of the Administrator.

E. Each licensee or entity or individual subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act shall make or compile reports or prepare other information as directed by the Administrator in order to carry out the purposes of this section including, but not limited to:

1. Accounting compilations;
2. Information lists and data concerning loan transactions in a format prescribed by the Administrator; or
3. Such other information deemed necessary to carry out the purposes of this section.

F. In making any examination or investigation authorized by ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, the Administrator may control access to any documents and records of the licensee or entity or individual under examination or investigation. The Administrator may take possession of the documents and records or place an entity or individual in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no entity or

individual shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the Administrator. Unless the Administrator has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being altered or destroyed for purposes of concealing a violation of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

G. In order to carry out the purposes of this section, the Administrator may:

1. Retain attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

2. Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures and documents, records, information or evidence obtained under this section;

3. Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the licensee, entity or individual subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act;

4. Accept and rely on examination or investigation reports made by other government officials, within or without this state; or

5. Accept audit reports made by an independent certified public accountant for the licensee or entity or individual subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the Administrator.

H. The authority of this section shall remain in effect, whether such a licensee or entity or individual subject to ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act acts or claims to act under any licensing or registration law of this state or claims to act without such authority.

I. No licensee or entity or individual subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

SECTION 32. AMENDATORY Section 13, Chapter 240, O.S.L. 2003 (59 O.S. Supp. 2009, Section 3113), is amended to read as follows:

Section 3113. A. To qualify for a license issued pursuant to ~~this act~~ the Deferred Deposit Lending Act, an applicant shall have:

1. A minimum net worth, determined in accordance with generally accepted accounting principles, of at least Twenty-five Thousand Dollars (\$25,000.00) available for operation of each licensed location, with a maximum aggregate net worth requirement of Two Hundred Fifty Thousand Dollars (\$250,000.00) for an owner of multiple locations; and

2. The financial responsibility, character, experience and general fitness so as to command the confidence of the public and to warrant the belief that the business will be operated lawfully, honestly, fairly and efficiently.

B. An application for a license pursuant to ~~this act~~ the Deferred Deposit Lending Act must be in writing, under oath, and on a form prescribed by the Administrator of Consumer Credit. The application must set forth all of the following:

1. The legal name and residence and business addresses of the applicant and, if the applicant is a partnership, association or corporation, of every member, officer, managing employee and director of it;

2. The location of the registered office of the applicant;

3. The registered agent of the applicant if the applicant is required by other law to have a registered agent;

4. The addresses of the locations to be licensed; and

5. Other information concerning the financial responsibility, background, experience and activities, such as other partnerships, associations and corporations located at or adjacent to the licensed

location of the applicant and its members, officers, managing employees and directors as the Administrator may require.

C. On receipt of an application in the form prescribed by the Administrator and accompanied by the required license fee, the Administrator shall investigate whether the qualifications for license are satisfied. If the Administrator finds that the qualifications are satisfied, the Administrator shall issue to the applicant a license to engage in the business of making deferred deposit loans. If the Administrator fails to issue a license, the Administrator shall notify the applicant of the denial and the reasons for the denial. The provisions of the Administrative Procedures Act shall apply to the appeal of the denial of a license.

D. Each application, regardless of the number of locations to be operated by a single licensee, must be accompanied by payment of an application fee of ~~Two Hundred Fifty Dollars (\$250.00)~~ as prescribed by rule of the Commission on Consumer Credit and an investigation fee of ~~Five Hundred Dollars (\$500.00)~~ as prescribed by rule of the Commission on Consumer Credit. These fees shall not be refundable or abatable. If the license is granted, however, payment of the application fee shall satisfy the fee requirement for the first license year or its remainder.

E. Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. A license expires annually and may be renewed on payment of a license fee of ~~Two Hundred Fifty Dollars (\$250.00)~~ as prescribed by rule of the Commission on Consumer Credit. The annual license renewal fee for an application with more than one location shall be ~~Two Hundred Fifty Dollars (\$250.00)~~ as prescribed by rule of the Commission on Consumer Credit for each location.

F. The Commission on Consumer Credit shall prescribe by rule a fee for each license change, duplicate license or returned check.

G. The Commission on Consumer Credit shall prescribe by rule a late fee if a license is not renewed on or before the expiration of the license.

SECTION 33. AMENDATORY Section 15, Chapter 240, O.S.L. 2003 (59 O.S. Supp. 2009, Section 3115), is amended to read as follows:

Section 3115. A. If the Administrator of Consumer Credit has reasonable cause to believe a lender has violated any provision of ~~this act~~ the Deferred Deposit Lending Act, the Administrator may make an investigation to determine whether the act has been committed, and, to the extent necessary for this purpose, may administer oaths or affirmations, and upon the Administrator's own motion or upon request of any party may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

B. If the person's records are located outside this state, the person shall, at the person's option, either make them available to the Administrator at a convenient location within this state, or pay the reasonable and necessary expenses for the Administrator or a representative to examine them at the place where they are maintained. Payments for such necessary expenses shall be made to the Commission on Consumer Credit. Any such payments so received by the Department shall be deposited in the Oklahoma Deferred Deposit Lending Regulatory Revolving Fund. The Administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the Administrator's behalf.

C. Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby the Administrator may apply to a court for an order compelling compliance, as provided by the Administrative Procedures Act, Sections 250.1 through 323 of Title 75 of the Oklahoma Statutes.

D. The Administrator shall not make public the name or identity of a person whose acts or conduct are investigated pursuant to this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings pursuant to ~~this act~~ the Deferred Deposit Lending Act.

E. The Administrator ~~or an independent hearing examiner~~ may, after notice and hearing, censure, probate, suspend, revoke or refuse to renew any license or enjoin violations of ~~this act~~ the

Deferred Deposit Lending Act if the Administrator ~~or an independent hearing examiner~~ finds that:

1. The licensee has failed to pay the annual license fee imposed by ~~this act~~ the Deferred Deposit Lending Act, or an examination fee, investigation fee or other fee or charge imposed by the Administrator under the authority of ~~this act~~ the Deferred Deposit Lending Act;

2. The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of ~~this act~~ the Deferred Deposit Lending Act or any rule or order lawfully made pursuant to and within the authority of ~~this act~~ the Deferred Deposit Lending Act;

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 the license, clearly would have justified the Administrator ~~or an independent hearing examiner~~ in refusing to issue the license;

4. The licensee has refused to permit examination by the Administrator;

5. The licensee has demonstrated incompetency or untrustworthiness to engage in the business of making deferred deposit loans; or

6. The licensee, as an individual, has been convicted of a felony or misdemeanor involving fraud, misrepresentation or deceit.

F. The hearing shall be held on not less than twenty (20) days' notice in writing setting forth the time and place of the hearing and a concise statement of the facts alleged to sustain the administrative action, and its effective date shall be set forth in a written order accompanied by finding of fact and a copy of the findings shall be delivered immediately to the licensee. The order, findings and evidence considered by the Administrator ~~or the independent hearing examiner~~ shall be filed with the public records of the Administrator.

G. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender, but the surrender shall not affect the responsibility of the licensee for acts occurring prior to surrender of a license.

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

I. The Administrator ~~or an independent hearing examiner~~ 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 or the independent hearing examiner in refusing originally to issue such license under these subsections.

J. Every licensee shall notify the Administrator of the conviction of or plea of guilty or nolo contendere to any felony within thirty (30) days after the plea is taken and also within thirty (30) days of the entering of an order of judgment and sentencing and shall notify the Administrator of any administrative action resulting in revocation, suspension or amendment of a license taken against the licensee in another state within thirty (30) days of the entering of the administrative order in that state.

K. Except as otherwise provided, the Administrative Procedures Act applies to and governs all administrative action taken by the Administrator pursuant to ~~this act~~ the Deferred Deposit Lending Act.

L. 1. After notice and hearing, the Administrator ~~or the independent hearing examiner~~ may order a lender or a person acting in the lender's behalf to cease and desist from engaging in violations of ~~this act~~ the Deferred Deposit Lending Act.

2. A respondent aggrieved by an order of the Administrator may obtain judicial review of the order as provided by the Administrative Procedures Act. In such a review proceeding, the Administrator may apply for a decree enforcing the order. All such proceedings shall be conducted and the court's authority in review shall be exercised in accordance with the provisions of the Administrative Procedures Act, with the following additions:

- a. the court may grant any temporary relief or restraining order it deems just,
- b. if the court affirms or modifies the order, it shall enter a decree enforcing and requiring compliance with the order as affirmed or as modified,

- c. an objection to the order not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown, and
- d. the copy of the testimony from the administrative hearing shall be available at reasonable times to all parties for examination without cost.

3. If no proceeding for review has been filed within the time specified by law, the Administrator or a representative may obtain from a court having jurisdiction over the respondent a decree for enforcement of the order upon a showing that the order was issued in compliance with this section, that no proceeding for review was initiated within the time specified by law, and that the respondent is subject to the jurisdiction of the court.

M. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Deferred Deposit Lending 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 Deferred Deposit Lending 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.

SECTION 34. AMENDATORY Section 17, Chapter 240, O.S.L. 2003 (59 O.S. Supp. 2009, Section 3117), is amended to read as follows:

Section 3117. A. The Administrator of Consumer Credit may order and impose civil penalties upon a person subject to the provisions of ~~this act~~ the Deferred Deposit Lending Act for violations of ~~this act~~ the Deferred Deposit Lending Act or the rules promulgated to implement ~~this act~~ the Deferred Deposit Lending Act in an amount not to exceed One Thousand Dollars (\$1,000.00) per

violation. The Administrator may also order repayment of unlawful ~~or excessive~~ fees charged to debtors.

B. 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.

SECTION 35. AMENDATORY Section 18, Chapter 240, O.S.L. 2003, as amended by Section 8, Chapter 557, O.S.L. 2004 (59 O.S. Supp. 2009, Section 3118), is amended to read as follows:

Section 3118. There is hereby created in the State Treasury a revolving fund for the Commission on Consumer Credit to be designated the "~~Oklahoma Deferred Deposit Lending Regulatory Revolving Fund~~ Consumer Credit Counseling Revolving Fund". The fund shall consist of ~~all monies received by the Administrator of Consumer Credit as license fees, examination fees, investigation fees, application fees, fees imposed for consumer credit counseling education and any administrative fines imposed pursuant to the Deferred Deposit Lending Act~~ fees received by the Administrator of Consumer Credit from deferred deposit lenders for consumer credit counseling services pursuant to the provisions of Section 3119 of this title. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the administrative direction of the Administrator. Monies accruing to the credit of this fund are hereby appropriated and may be budgeted and expended by the Administrator upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.

SECTION 36. AMENDATORY Section 9, Chapter 557, O.S.L. 2004 (59 O.S. Supp. 2009, Section 3119), is amended to read as follows:

Section 3119. A. Each lender shall pay five cents (\$0.05) for each deferred deposit loan entered into to be deposited into the ~~Oklahoma Deferred Deposit Lending Regulatory Revolving Fund~~ Consumer Credit Counseling Revolving Fund. The schedule for payment shall be determined by the Administrator of Consumer Credit. Lenders shall be prohibited from including such payment in the fees and charges provided for under Section 3108 of ~~Title 59 of the Oklahoma Statutes~~ this title. Ten percent (10%) of each scheduled payment of fees

pursuant to this section may be transferred to the Consumer Credit Administrative Expenses Revolving Fund established in Section 6-301 of Title 14A of the Oklahoma Statutes for expenses incurred in administering the requirements of this section.

B. ~~All funds~~ Funds collected pursuant to this section shall be paid by the Administrator to a third-party, Oklahoma-based consumer credit counseling provider with a verifiable history of work with both industry and consumers in the appropriate field for a program of research and implementation of voluntary consumer counseling and education specifically designed for consumers utilizing deferred deposit loans. The program shall be:

1. Selected by a bid process, pursuant to The Oklahoma Central Purchasing Act; and

2. Designed in consultation with representatives of both the industry and consumers.

SECTION 37. REPEALER 14A O.S. 2001, Sections 6-106A and 6-512, are hereby repealed.

SECTION 38. REPEALER 59 O.S. 2001, Section 1956, is hereby repealed.

SECTION 39. REPEALER 59 O.S. 2001, Section 2011, is hereby repealed.

SECTION 40. REPEALER Section 9, Chapter 469, O.S.L. 2002, as last amended by Section 13, Chapter 2, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2093), is hereby repealed.

SECTION 41. REPEALER Section 29, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.26), is hereby repealed.

SECTION 42. This act shall become effective July 1, 2010.

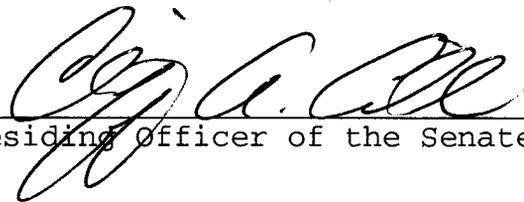
SECTION 43. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 27th day of May, 2010.



Presiding Officer of the House of Representatives

Passed the Senate the 28th day of May, 2010.



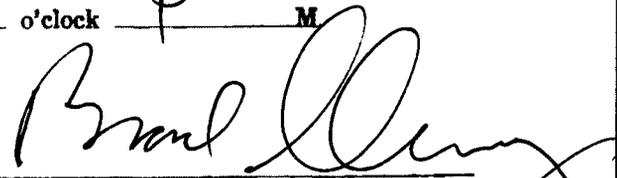
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 28th
day of May, 2010,
at 8:45 o'clock P M.

By: [Signature]

Approved by the Governor of the State of Oklahoma the 9th day of
June, 2010, at 10:41 o'clock P M.



Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
10th day of June, 2010,
at 3:08 o'clock P M.

By: [Signature]