

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1387

By: Taylor

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8 COMMITTEE SUBSTITUTE

9 An Act relating to consumer credit; amending 14A O.S.
10 2011, Section 6-104, as amended by Section 3, Chapter
11 159, O.S.L. 2014 (14A O.S. Supp. 2018, Section 6-
12 104), which relates to power and duties of the
13 Administrator of Consumer Credit; allowing
14 Administrator to enter into certain agreements;
15 allowing Administrator to accept certain reports;
16 providing discretion in preparation of certain
17 reports; allowing for mailing of reports upon
18 request; providing for certain document retention
19 period; providing for limited confidentiality;
20 specifying certain public records; specifying certain
21 records as confidential; allowing certain employees
22 to divulge certain confidential information upon
23 written request; specifying content details of
24 written request; providing for reproduction and
electronic storage of documents; detailing document
reproduction fees; providing for certain interagency
data exchanges; providing for data confidentiality
upon interagency exchange; requiring certain
transfers of data from supervisory agencies remain
confidential; allowing retention of original
documents; providing for reimbursement; defining
terms; providing for codification; and providing an
effective date.

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

1 SECTION 1. AMENDATORY 14A O.S. 2011, Section 6-104, as
2 amended by Section 3, Chapter 159, O.S.L. 2014 (14A O.S. Supp. 2018,
3 Section 6-104), is amended to read as follows:

4 Section 6-104. (1) In addition to other powers granted by this
5 title, the Administrator of Consumer Credit may, within the
6 limitations provided by law:

7 (a) receive and act on complaints, take action designed to
8 obtain voluntary compliance with this title, or
9 commence proceedings on the Administrator's own
10 initiative,

11 (b) counsel persons and groups on their rights and duties
12 under this title,

13 (c) establish programs for the education of consumers with
14 respect to credit practices and problems,

15 (d) make studies appropriate to effectuate the purposes
16 and policies of this title and make the results
17 available to the public,

18 (e) with ~~commission~~ approval by the Commission on Consumer
19 Credit adopt, amend, and repeal substantive rules when
20 specifically authorized by this title, and adopt,
21 amend, and repeal procedural rules to carry out the
22 provisions of this title, all as provided by the
23 Administrative Procedures Act, and
24

1 (f) enforce the disclosure provisions of the Federal
2 Consumer Credit Protection Act as defined in Section
3 1-302 of ~~Title 14A of the Oklahoma Statutes~~ this
4 title.

5 (2) Except for refund of an excess charge, no liability is
6 imposed under this title for an act done or omitted in conformity
7 with a rule of the Administrator or written opinion of the
8 Administrator stating rights and duties issued on the
9 Administrator's own motion or in response to a request under
10 paragraph (b) of subsection (1) of this section notwithstanding that
11 after the act or omission the rule or opinion may be amended or
12 repealed or be determined by judicial or other authority to be
13 invalid for any reason. The opinions of the Administrator shall be
14 compiled and published no less often than annually.

15 (3) The Administrator shall report annually on or before
16 January 1 to the Governor and Legislature on the operation of the
17 Administrator's office, on the use of consumer credit in the state,
18 and on the problems of persons of small means obtaining credit from
19 persons regularly engaged in extending sales or loan credit. For
20 the purpose of making the report, the Administrator is authorized to
21 conduct research and make appropriate studies. The report shall
22 include a description of the examination and investigation
23 procedures and policies of the Administrator's office, a statement
24 of policies followed in deciding whether to investigate or examine

1 the offices of credit suppliers subject to this title, a statement
2 of the number and percentages of offices which are periodically
3 investigated or examined, a statement of the types of consumer
4 credit problems of both creditors and debtors which have come to
5 the Administrator's attention through examinations and
6 investigations and the disposition of them under existing law, and a
7 general statement of the activities of the Administrator's office
8 and of others to promote the purposes of this title. The report
9 shall not identify the creditors against whom action is taken by the
10 Administrator.

11 (4) The Administrator may enter into cooperative, coordinating
12 and information-sharing agreements with any other agencies that have
13 supervisory or regulatory responsibility over any entity that has
14 been or may be licensed by the Department of Consumer Credit or any
15 organization affiliated with or representing one or more agencies
16 with supervisory or regulatory responsibility over any entity that
17 has been or may be licensed by the Department, and the Administrator
18 may accept reports of examination and reports of investigation from
19 any such agency or organization in lieu of conducting the
20 Administrator's own examinations or investigations. The
21 Administrator may cooperate, coordinate and enter into information-
22 sharing agreements with the Oklahoma State Banking Department and
23 other state agencies with whom the agreements may be mutually
24 beneficial.

1 (5) The Administrator shall have the authority to adopt rules,
2 not inconsistent with the provisions of this title, to limit the
3 amount of the additional charges that lenders are permitted to
4 impose under subsections (1) and (2) of Section 3-202 of this title
5 and Section 3-203.2 of this title, or to limit the amount of
6 deferral charges that sellers and lenders may impose under
7 subsections (2) and (3) of Section 2-204 of this title and
8 subsections (2) and (3) of Section 3-204 of this title. The
9 Administrator shall:

10 (a) in promulgating, amending or repealing rules pursuant
11 to this section, take into consideration whether
12 limits on the additional charges permitted under
13 subsections (1) and (2) of Section 3-202 of this title
14 and Section 3-203.2 of this title, or limits on
15 deferral charges that sellers and lenders may impose
16 under subsections (2) and (3) of Section 2-204 of this
17 title and subsections (2) and (3) of Section 3-204 of
18 this title, would:

19 (i) place lenders located in this state at a
20 competitive disadvantage, with respect to the
21 additional charges, as compared to out-of-state
22 credit card lenders or place sellers and lenders
23 in this state at a competitive disadvantage with
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1 respect to the deferral charges, as compared to
2 out-of-state sellers and lenders,
3 (ii) require sellers or lenders located in this state
4 to impose higher finance charges, or
5 (iii) impede the growth of consumer credit sales or the
6 consumer lending industry in this state, and
7 (b) adopt rules limiting the dollar amounts of the
8 additional charges permitted under subsections (1) and
9 (2) of Section 3-202 of this title and Section 3-203.2
10 of this title, or the deferral charges permitted under
11 subsections (2) and (3) of Section 2-204 of this title
12 and subsections (2) and (3) of Section 3-204 of this
13 title, in the event that the Administrator determines
14 that such limits are necessary to protect debtors in
15 this state from being subjected to charges which are
16 unreasonable or excessive as compared to the
17 prevailing charges being imposed by out-of-state
18 lenders and sellers.

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6-116 of Title 14A, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Upon the conclusion of any examination conducted by the
23 Department of Consumer Credit pursuant to this or any other act
24 administered by the Administrator of Consumer Credit, the

1 Administrator may make and file in the Office of the Administrator a
2 report in detail disclosing the results of such examination or may,
3 on conditions prescribed by the Administrator, prepare a summary
4 memorandum regarding the results of such examination, and shall,
5 upon request by the examined party, mail a copy of such report or
6 memorandum to the examined party.

7 B. All examinations and reports received by the Administrator
8 shall be preserved in the Office of the Administrator for a period
9 of not less than five (5) years. Such examinations and reports and
10 all other records of licensed entities are to be kept confidential,
11 except as otherwise permitted by law. Copies of such examinations
12 and reports in the possession of an institution under the
13 Department's supervision are the property of the Department and are
14 not subject to disclosure to third parties, including disclosure or
15 production pursuant to subpoena or other request. However, an
16 institution in possession of a copy of such examinations and reports
17 may disclose the examinations and reports to its accountants,
18 advisors, consultants and legal counsel. An institution in
19 possession of a copy of examinations and reports may also disclose
20 such examinations and reports to other persons or entities with the
21 prior written approval of the Administrator or Deputy Administrator.
22 All requests for review of such examinations and reports, other than
23 an institution's accountants, advisors, consultants, legal counsel
24 or a third party that has obtained the written approval of the

1 Administrator or Deputy Administrator, shall be directed to the
2 Department and are subject to the requirements of Section 3 of this
3 act.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6-117 of Title 14A, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The following records in the Oklahoma Department of Consumer
8 Credit are designated as public records:

9 1. All applications for licensure and supporting information
10 with the exception of personal financial records of individual
11 applicants, dates of birth, Social Security numbers, signatures and
12 fingerprints;

13 2. All records introduced at administrative hearings; and

14 3. All records related to licensed entities filed in the Office
15 of the Secretary of State.

16 B. All other records in the Department shall be confidential
17 and not subject to public inspection. However, the Commission on
18 Consumer Credit, Administrator of Consumer Credit or Deputy
19 Administrator may divulge such confidential information with the
20 written approval of the Administrator after receipt of a written
21 request which shall:

22 1. Specify the record or records to which access is requested;
23 and

24 2. Give the reasons for the request.

1 Such records may also be produced pursuant to a valid judicial
2 subpoena or other legal process requiring production, if the
3 Administrator determines that the records are relevant to the
4 hearing or proceeding and that production is in the best interests
5 of justice. The records may be disclosed only after a determination
6 by the Administrator that good cause exists for the disclosure.
7 Either prior to or at the time of any disclosure, the Administrator
8 shall impose such terms and conditions as the Administrator deems
9 necessary to protect the confidential nature of the record, the
10 financial integrity of any institution to which the record relates
11 and the legitimate privacy interests of any individual named in such
12 records.

13 C. All documents which the Department is required, by any
14 provision of any act administered by the Administrator or by any
15 other statute or regulation of this state, to retain or preserve in
16 its possession may be retained and preserved, in lieu of retention
17 of the original records or copies, in an electronic format and
18 stored by electronic imaging or otherwise so that the documents may
19 be later reproduced as necessary. Any such electronically stored or
20 imaged document or reproduction shall have the same force and effect
21 as the original thereof and shall be admitted in evidence equally
22 with the original.

23 D. With respect to records of the Department which are
24 considered public records, and which are subject to the Oklahoma

1 Open Records Act, the Department may charge a document copying fee
2 of twenty-five cents (\$0.25) per page. With respect to records of
3 the Department which are not considered public records, the
4 Department may charge a document copying fee of One Dollar (\$1.00)
5 per page, and if the Administrator, pursuant to the provisions of
6 subsection B of this section, permits the inspection or copying of
7 an examination report prepared by the Department, a minimum fee of
8 One Hundred Dollars (\$100.00) shall be charged.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6-117.1 of Title 14A, unless
11 there is created a duplication in numbering, reads as follows:

12 A. A supervisory agency shall make available to a requesting
13 agency any data obtained or generated by, and in the possession of,
14 the supervisory agency and that the requesting agency deems
15 necessary for review in connection with the supervision of any
16 person over which the requesting agency has direct supervisory
17 authority. However, the requested data must relate to the person,
18 or an affiliate of the person, over which the requesting agency has
19 direct supervisory authority. An agency has direct supervisory
20 authority over a person if such authority is specifically provided
21 by statute, or the agency granted the charter, license or
22 registration of the person, or otherwise granted permission for the
23 person to conduct its business in this state.

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1 B. When a requesting agency and a federal regulatory agency or
2 self-regulatory association have concurrent jurisdiction over a
3 person, a requesting agency may share with such agency or
4 association data received from a supervisory agency. However, the
5 federal regulatory agency or self-regulatory association shall
6 return such shared data to the requesting agency unless the federal
7 regulatory agency or self-regulatory association has obtained
8 approval from the supervisory agency to retain the data. The term
9 "federal regulatory agency" shall not include law enforcement
10 agencies.

11 C. 1. All data received by a requesting agency from a
12 supervisory agency shall be and shall remain confidential and not
13 open to public inspection, subpoena or any other form of disclosure
14 while in the possession of the requesting agency. Any request for
15 inspection, subpoena or other form of disclosure shall be directed
16 to the supervisory agency from which the data originated and
17 disclosure thereof shall be subject to the laws, rules and policies
18 governing or relating to records of the supervisory agency.

19 2. The providing of data by a supervisory agency to a
20 requesting agency under this section shall not constitute a waiver
21 of or otherwise affect any privilege or claim of confidentiality
22 that a supervisory agency may claim with respect to such data under
23 any federal laws or laws of this state.

1 D. A supervisory agency shall not be required to share original
2 documents with a requesting agency. A requesting agency shall
3 reimburse the supervisory agency for costs associated with providing
4 copies of data to the requesting agency.

5 E. As used in this section:

6 1. "Affiliate" means any person that controls, is controlled by
7 or is under common control with another person. A person shall be
8 deemed to have "control" over any person if the person:

9 a. directly or indirectly or acting through one or more
10 other persons owns, controls or has power to vote ten
11 percent (10%) or more of any class of voting
12 securities of the other person, or

13 b. controls in any manner the election, appointment or
14 designation of a majority of the directors, trustees
15 or other managing officers of the person;

16 2. "Data" means copies of any documents, reports, examination
17 reports, letters, correspondence, orders, stipulations, memorandums
18 of understanding, agreements or any other records not open for
19 public inspection generated by a supervisory agency or obtained by a
20 supervisory agency from the person it supervises, whether in paper
21 or electronic format. However, "data" shall not include records
22 that a requesting agency receives from a supervisory agency pursuant
23 to this section;

1 3. "Requesting agency" means, as applicable, the Oklahoma
2 Department of Consumer Credit, the Oklahoma State Banking
3 Department, the Oklahoma Insurance Department or the Oklahoma
4 Department of Securities that requests from a supervisory agency
5 data relating to a person over which the requesting agency does not
6 have direct supervisory authority;

7 4. "Supervision" means any examination, assessment, order,
8 stipulation, agreement, report, memorandum of understanding or other
9 regulatory matter or process that a requesting agency is authorized
10 to perform in relation to a person; and

11 5. "Supervisory agency" means, as applicable, the Oklahoma
12 Department of Consumer Credit, the Oklahoma State Banking
13 Department, the Oklahoma Insurance Department or the Oklahoma
14 Department of Securities that maintains data relating to a person
15 over which the agency has direct supervisory authority.

16 SECTION 5. This act shall become effective November 1, 2019.

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18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
19 03/04/2019 - DO PASS, As Amended.
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