

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 8, 2019

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 532

By: Brooks and McCortney of the Senate and Fetgatter of the House


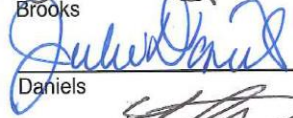


Title: Foreclosure of medical marijuana businesses; establishing procedures for continuation of operations of certain foreclosed businesses. Effective date.

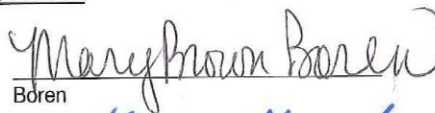
together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.

Respectfully submitted,

SENATE CONFEREES:


Brooks

Daniels

Paxton

Leewright


Boren

Floyd

HOUSE CONFEREES:

Conference Committee on Rules

Senate Action _____ Date _____ House Action _____ Date _____

epc

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 532 By: Brooks and McCortney of the
Senate
3
4 and
5 Fetgatter of the House
6
7
8 An Act relating to foreclosure of medical marijuana
9 businesses; establishing procedures for continuation
10 of operations of certain foreclosed businesses;
11 requiring submission of certain proof to State
12 Department of Health; prohibiting certain additional
13 fees; requiring promulgation of certain rules;
14 providing for codification; and providing an
15 effective date.
16
17 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
and replace with:
18
19 "An Act relating to foreclosure of medical marijuana
20 businesses; establishing procedures for continuation
21 of operations of certain foreclosed businesses;
22 requiring submission of certain proof to State
23 Department of Health; prohibiting certain additional
24 fees; requiring promulgation of certain rules;
amending Section 14 of Enrolled House Bill No. 2612
of the 1st Session of the Oklahoma Legislature,
which relates to medical marijuana business
licenses; modifying exclusions from licensure;
providing for codification; and providing an
effective date.
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

16 2. For licensed commercial medical marijuana growers, Section
17 422 of Title 63 of the Oklahoma Statutes; or

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

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

1 B. Subject to the requirements of subsection A of this section,
2 the Oklahoma Medical Marijuana Authority, State Department of
3 Health, shall promulgate rules for the manner and conditions under
4 which:

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

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

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

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

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

1 1. Medical marijuana commercial grower;

2 2. Medical marijuana processor;

3 3. Medical marijuana dispensary;

4 4. Medical marijuana transporter; and

5 5. Medical marijuana testing laboratory.

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

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

12 D. The nonrefundable application fee for a medical marijuana
13 business license shall be Two Thousand Five Hundred Dollars
14 (\$2,500.00).

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

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

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

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

1 4. All applications shall be complete and accurate in every
2 detail;

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

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

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

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

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

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

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

23 e. all applicants shall disclose all ownership interests
24 pursuant to this act, and

1 f. applicants shall not have been convicted of a
2 nonviolent felony in the last two (2) years, and any
3 other felony conviction within the last five (5)
4 years, shall not be current inmates, or currently
5 incarcerated in a jail or corrections facility;

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

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

- 19 a. individual applicants applying on their own behalf,
20 b. individuals applying on behalf of an entity,
21 c. all principal officers of an entity, and
22 d. all owners of an entity as defined by this act;
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1 10. All applicable fees charged by OSBI are the responsibility
2 of the applicant and shall not be higher than fees charged to any
3 other person or industry for such background checks;

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

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

21 12. All license applicants shall be required to submit a
22 registration with the Oklahoma State Bureau of Narcotics and
23 Dangerous Drugs Control as provided in Sections ~~2-202~~ 2-302 through
24 ~~2-204~~ 2-304 of Title 63 of the Oklahoma Statutes;

1 13. All applicants shall establish their identity through
2 submission of a color copy or digital image of one of the following
3 unexpired documents:

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

14 14. All applicants shall submit an applicant photograph.

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

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

22 2. Approved applicants shall be issued a medical marijuana
23 business license for the specific category applied under which shall
24 act as proof of their approved status. Rejection letters shall

1 provide a reason for the rejection. Applications may only be
2 rejected based on the applicant not meeting the standards set forth
3 in the provisions of this section, improper completion of the
4 application, or for a reason provided for in this act. If an
5 application is rejected for failure to provide required information,
6 the applicant shall have thirty (30) days to submit the required
7 information for reconsideration. No additional application fee
8 shall be charged for such reconsideration.

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

13 4. Approval, rejection or status-update letters shall be sent
14 to the applicant in the same method the application was submitted to
15 the Department.

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

21 I. In the event that an applicant has not received the
22 necessary permits, certificates or licenses from a municipality, but
23 the applicant has fulfilled all other obligations required by this
24 act, the Authority shall grant a conditional license. A conditional

1 license shall remain valid for a period of one (1) year or until the
2 applicant obtains the necessary local permits, certificates or
3 licenses. An applicant shall not transfer any medical marijuana,
4 concentrate or products to a medical marijuana business, patient or
5 caregiver until approval is received from the Authority.

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

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

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

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

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

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

21 a. file taxes, interest or penalties due related to a
22 medical marijuana business, or

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

1 6. A sheriff, deputy sheriff, police officer or prosecuting
2 officer, or an officer or employee of the Authority or municipality;
3 or

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

6 ~~8. A publicly traded company.~~

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

19 L. The failure of an applicant to provide the requested
20 information by the Authority deadline may be grounds for denial of
21 the application.

22 M. All applicants shall submit information to the Department
23 and Authority in a full, faithful, truthful and fair manner. The
24 Department and Authority may recommend denial of an application

1 where the applicant made misstatements, omissions,
2 misrepresentations or untruths in the application or in connection
3 with the background investigation of the applicant. This type of
4 conduct may be considered as the basis for additional administrative
5 action against the applicant. Typos and scrivener errors shall not
6 be grounds for denial.

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

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

17 SECTION 3. This act shall become effective November 1, 2019."
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1 Passed the House of Representatives the 18th day of April, 2019.

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4 Presiding Officer of the House of
Representatives
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6 Passed the Senate the ____ day of _____, 2019.

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9 Presiding Officer of the Senate
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1 ENGROSSED SENATE
2 BILL NO. 532

By: Brooks and McCortney of the
Senate

3 and

4 Fetgatter of the House

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6
7 An Act relating to foreclosure of medical marijuana
8 businesses; establishing procedures for continuation
9 of operations of certain foreclosed businesses;
10 requiring submission of certain proof to State
11 Department of Health; prohibiting certain additional
12 fees; requiring promulgation of certain rules;
13 providing for codification; and providing an
14 effective date.

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

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1560 of Title 12, unless there
18 is created a duplication in numbering, reads as follows:

19 A. In the event that a licensed medical marijuana dispensary,
20 commercial grower or processor is foreclosed, is the subject of an
21 order appointing a receiver, becomes insolvent, bankrupt or
22 otherwise ceases operations, a secured party or receiver may
23 continue operations at the dispensary, grower or processor upon
24 submitting to the Oklahoma Medical Marijuana Authority, State
Department of Health, proof that the secured party or receiver, or
if the secured party or receiver is a business entity, any

1 individual who has a financial interest in the secured party or
2 receiver, meets the requirements and restrictions set forth in:

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

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6 422 of Title 63 of the Oklahoma Statutes; or

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

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

14 B. Subject to the requirements of subsection A of this section,
15 the Oklahoma Medical Marijuana Authority, State Department of
16 Health, shall promulgate rules for the manner and conditions under
17 which:

18 1. Marijuana items left by a deceased, insolvent or bankrupt
19 person or licensee, or subject to a security interest or a court
20 order appointing a receiver, may be foreclosed, sold under execution
21 or otherwise disposed whether by foreclosure or by sale as a going
22 concern;

23 2. The business of a licensee who is deceased, insolvent,
24 bankrupt, or the subject of an order appointing receiver or a

1 foreclosure by a secured party, may be operated for a reasonable
2 period following the death, insolvency, appointment of a receiver or
3 bankruptcy; and

4 3. A secured party or court-appointed receiver may continue to
5 operate a business for which a license has been issued under Section
6 421, 422 or 423 of Title 63 of the Oklahoma Statutes for a
7 reasonable period after default on the indebtedness by the debtor or
8 after the appointment of the receiver.

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

10 Passed the Senate the 5th day of March, 2019.

11
12 _____
13 Presiding Officer of the Senate

14 Passed the House of Representatives the ____ day of _____,
15 2019.

16
17 _____
18 Presiding Officer of the House
19 of Representatives
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