

# An Act

ENROLLED HOUSE  
BILL NO. 1387

By: Vancuren of the House

and

Leewright of the Senate

An Act relating to consumer credit; amending 14A O.S. 2011, Section 6-104, as amended by Section 3, Chapter 159, O.S.L. 2014 (14A O.S. Supp. 2018, Section 6-104), which relates to power and duties of the Administrator of Consumer Credit; allowing Administrator to enter into certain agreements; allowing Administrator to accept certain reports; providing discretion in preparation of certain reports; allowing for mailing of reports upon request; providing for certain document retention period; providing for limited confidentiality; specifying certain public records; specifying certain records as confidential; allowing certain employees to divulge certain confidential information upon written request; specifying content details of 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.

SUBJECT: Consumer credit

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

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

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

- (a) receive and act on complaints, take action designed to obtain voluntary compliance with this title, or commence proceedings on the Administrator's own initiative,
- (b) counsel persons and groups on their rights and duties under this title,
- (c) establish programs for the education of consumers with respect to credit practices and problems,
- (d) make studies appropriate to effectuate the purposes and policies of this title and make the results available to the public,
- (e) with ~~commission~~ approval by the Commission on Consumer Credit adopt, amend, and repeal substantive rules when specifically authorized by this title, and adopt, amend, and repeal procedural rules to carry out the provisions of this title, all as provided by the Administrative Procedures Act, and
- (f) enforce the disclosure provisions of the Federal Consumer Credit Protection Act as defined in Section 1-302 of ~~Title 14A of the Oklahoma Statutes~~ this title.

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

(3) The Administrator shall report annually on or before January 1 to the Governor and Legislature on the operation of the Administrator's office, on the use of consumer credit in the state, and on the problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit. For the purpose of making the report, the Administrator is authorized to conduct research and make appropriate studies. The report shall include a description of the examination and investigation procedures and policies of the Administrator's office, a statement of policies followed in deciding whether to investigate or examine the offices of credit suppliers subject to this title, a statement of the number and percentages of offices which are periodically investigated or examined, a statement of the types of consumer credit problems of both creditors and debtors which have come to the Administrator's attention through examinations and investigations and the disposition of them under existing law, and a general statement of the activities of the Administrator's office and of others to promote the purposes of this title. The report shall not identify the creditors against whom action is taken by the Administrator.

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

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

subsections (2) and (3) of Section 3-204 of this title. The Administrator shall:

- (a) in promulgating, amending or repealing rules pursuant to this section, take into consideration whether limits on the additional charges permitted under subsections (1) and (2) of Section 3-202 of this title and Section 3-203.2 of this title, or limits on deferral charges that sellers and lenders may impose under subsections (2) and (3) of Section 2-204 of this title and subsections (2) and (3) of Section 3-204 of this title, would:
  - (i) place lenders located in this state at a competitive disadvantage, with respect to the additional charges, as compared to out-of-state credit card lenders or place sellers and lenders in this state at a competitive disadvantage with respect to the deferral charges, as compared to out-of-state sellers and lenders,
  - (ii) require sellers or lenders located in this state to impose higher finance charges, or
  - (iii) impede the growth of consumer credit sales or the consumer lending industry in this state, and
- (b) adopt rules limiting the dollar amounts of the additional charges permitted under subsections (1) and (2) of Section 3-202 of this title and Section 3-203.2 of this title, or the deferral charges permitted under subsections (2) and (3) of Section 2-204 of this title and subsections (2) and (3) of Section 3-204 of this title, in the event that the Administrator determines that such limits are necessary to protect debtors in this state from being subjected to charges which are unreasonable or excessive as compared to the prevailing charges being imposed by out-of-state lenders and sellers.

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

A. Upon the conclusion of any examination conducted by the Department of Consumer Credit pursuant to this or any other act administered by the Administrator of Consumer Credit, the Administrator may make and file in the Office of the Administrator a report in detail disclosing the results of such examination or may, on conditions prescribed by the Administrator, prepare a summary memorandum regarding the results of such examination, and shall, upon request by the examined party, mail a copy of such report or memorandum to the examined party.

B. All examinations and reports received by the Administrator shall be preserved in the Office of the Administrator for a period of not less than five (5) years. Such examinations and reports and all other records of licensed entities are to be kept confidential, except as otherwise permitted by law. Copies of such examinations and reports in the possession of an institution under the Department's supervision are the property of the Department and are not subject to disclosure to third parties, including disclosure or production pursuant to subpoena or other request. However, an institution in possession of a copy of such examinations and reports may disclose the examinations and reports to its accountants, advisors, consultants and legal counsel. An institution in possession of a copy of examinations and reports may also disclose such examinations and reports to other persons or entities with the prior written approval of the Administrator or Deputy Administrator. All requests for review of such examinations and reports, other than an institution's accountants, advisors, consultants, legal counsel or a third party that has obtained the written approval of the Administrator or Deputy Administrator, shall be directed to the Department and are subject to the requirements of Section 3 of this act.

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

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

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

2. All records introduced at administrative hearings; and

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

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

1. Specify the record or records to which access is requested; and
2. Give the reasons for the request.

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

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

D. With respect to records of the Department which are considered public records, and which are subject to the Oklahoma Open Records Act, the Department may charge a document copying fee of twenty-five cents (\$0.25) per page. With respect to records of the Department which are not considered public records, the

Department may charge a document copying fee of One Dollar (\$1.00) per page, and if the Administrator, pursuant to the provisions of subsection B of this section, permits the inspection or copying of an examination report prepared by the Department, a minimum fee of One Hundred Dollars (\$100.00) shall be charged.

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

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

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

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

2. The providing of data by a supervisory agency to a requesting agency under this section shall not constitute a waiver

of or otherwise affect any privilege or claim of confidentiality that a supervisory agency may claim with respect to such data under any federal laws or laws of this state.

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

E. As used in this section:

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

- a. directly or indirectly or acting through one or more other persons owns, controls or has power to vote ten percent (10%) or more of any class of voting securities of the other person, or
- b. controls in any manner the election, appointment or designation of a majority of the directors, trustees or other managing officers of the person;

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

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

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



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

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

Passed the House of Representatives the 11th day of March, 2019.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 16th day of April, 2019.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_