

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2192

By: Sims

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5  
6 AS INTRODUCED

7 An Act relating to consumer protection; creating the  
8 Late Payment Act of 2019; defining terms; requiring  
9 certain time period to lapse before late payment fee  
10 can be assessed; requiring late-fee assessors to have  
11 met certain requirements with reasonable certainty;  
12 allowing parties to agree to deadline for late  
13 payment; specifying certain time payments can be made  
14 on due date; allowing parties to agree on billing  
15 periods; providing that certain agreements on billing  
16 period frequency are unreasonable; specifying  
17 damages; providing factors to be considered by court  
18 in certain cases; prohibiting waiver or variance;  
19 providing for transition period; providing for  
20 codification; and providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 772 of Title 15, unless there is  
24 created a duplication in numbering, reads as follows:

A. This section shall be known and may be cited as the "Late  
Payment Act of 2019".

B. As used in the Late Payment Act of 2019:

1 1. "Late payment" means nonpayment or a payment received after  
2 the overdue date for a payment on a debt or on a recurring bill for  
3 goods or services;

4 2. "Late payment fee" means a fee, charge, penalty, adverse  
5 change of terms or other expense imposed on a consumer for, or  
6 triggered by, a late payment;

7 3. "Obligated consumer" means a consumer who owes or is  
8 otherwise accountable for payment or performance of an obligation in  
9 whole or in part;

10 4. "Overdue date" means a date specified in a statement of an  
11 obligated consumer's account, after which a late payment fee may be  
12 assessed;

13 5. "Statement" for the purposes of this section refers to a  
14 statement of an obligated consumer's account; and

15 6. "Statement receipt date" means the date on which a statement  
16 is delivered by standard mail or otherwise to a consumer.

17 C. A late payment fee shall not be charged unless at least  
18 fourteen (14) days have elapsed between a statement receipt date and  
19 a delinquency date specified in a statement.

20 D. Any party assessing a late payment fee shall establish with  
21 reasonable certainty:

22 1. That an anticipated communication has conspicuously notified  
23 the obligated consumer that the communication contains a statement;

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1           2. That the statement conspicuously stated the overdue date;  
2 and

3           3. That a transfer of funds satisfying a debt obligation:

4           a. occurred subsequent to the overdue date pertaining to  
5           the transfer, or

6           b. did not occur prior to the delinquency date pertaining  
7           to the transfer.

8           E. 1. The parties may determine by agreement a standard,  
9 reasonable and common time of day by which to measure the delivery  
10 of a statement and the overdue date. However, any payment received  
11 by 4 p.m. on the due date shall be considered to be received on  
12 time.

13           2. To the extent possible under applicable laws, the parties  
14 may determine by agreement standard and reasonable billing periods  
15 and the frequency and method by which a statement is delivered.  
16 However, any agreement establishing billing periods on a basis more  
17 frequently than monthly or on overdue date less than two (2) weeks  
18 after statement receipt shall be considered unreasonable.

19           F. Any party assessing a late payment fee who fails to comply  
20 with any provision of the Late Payment Act of 2019 with respect to  
21 any person is liable to such person in an amount equal to the sum  
22 of:

23           1. Any actual damages sustained by such person as a result of  
24 such failure; and

1           2. In the case of any action by an individual, damages of One  
2 Thousand Dollars (\$1,000.00) for noneconomic loss;

3           3. In the case of a class action, the greater of:

4           a. such amount for each named plaintiff as could be  
5           recovered under paragraphs 1 and 2 of this subsection,  
6           or

7           b. such amount as the court may allow for all other class  
8           members, without regard to a minimum individual  
9           recovery; and

10          4. In the case of any successful action to enforce the  
11 liability provided for in this section, the costs of the action,  
12 together with a reasonable attorney fee as determined by the court.

13          G. In determining the amount of liability in any class action  
14 under paragraph 3 of subsection F of this section, the court shall  
15 consider, among other relevant factors:

16          1. The frequency and persistence of noncompliance with this  
17 section;

18          2. The number of persons adversely affected; and

19          3. The extent to which noncompliance was intentional.

20          H. An obligated consumer shall not waive or vary the  
21 requirements of this section.

22          I. This section shall have full legal force and effect on  
23 November 1, 2021. Compliance with the provisions of this section  
24 prior to that date is not required.

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SECTION 2. This act shall become effective November 1, 2021.

57-1-7132 JBH 01/17/19