

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3687

By: Kannady

AS INTRODUCED

An Act relating to professions and occupations;  
amending 59 O.S. 2021, Sections 3150.1 and 3150.10,  
which relate to the Oklahoma Small Lenders Act;  
defining term; providing exception; providing  
disclosure; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2021, Section  
3150.1, is amended to read as follows:

Section 3150.1 As used in this act, unless the context  
requires otherwise:

1. "Administrator" means the Administrator of the Department of  
Consumer Credit or the Administrator's designee;

2. "Affiliate" means a person or organization directly or  
indirectly controlling, controlled by or under common control with  
the licensee;

3. "Control" means possession, directly or indirectly, of the  
power to direct or cause the direction of management and policies of  
a person, whether through ownership of voting securities, by

1 contract or otherwise. No individual shall be deemed to control a  
2 person solely on account of being a director, officer or employee of  
3 the person. For purposes of this paragraph, a person who directly  
4 or indirectly owns, controls, holds the power to vote or holds  
5 proxies representing twenty-five percent (25%) or more of the  
6 current outstanding voting securities issued by another person is  
7 presumed to control the other person, and the Administrator may  
8 determine whether a person, in fact, controls another person;

9 4. "Controlling person" means any person in control of a  
10 licensee;

11 5. "Department" means the Department of Consumer Credit;

12 6. "Small loan" means a loan made pursuant to a written  
13 agreement subject to this act between a licensee and customer  
14 establishing a credit plan under which the licensee contemplates  
15 credit transactions from time to time that:

- 16 a. shall be unsecured,
- 17 b. shall not have a term longer than twelve (12) months  
18 or less than sixty (60) days,
- 19 c. shall be fully amortized and payable in substantially  
20 equal periodic payments, and
- 21 d. are subject to prepayment in whole or in part at any  
22 time without penalty;

23 7. "Licensee" means a person licensed to offer small loans  
24 pursuant to this act;

1 8. "Person" means an individual, group of individuals,  
2 partnership, association, corporation or any other business, unit or  
3 legal entity; ~~and~~

4 9. "Default" means:

- 5 a. the failure of a customer to make a required payment  
6 within a certain number of days of the due date as  
7 agreed upon by the licensee and the customer per the  
8 small loan agreement; provided, that such agreed-upon  
9 number of days not exceed sixty-one (61) days after a  
10 failure to make a required payment on the due date, or  
11 b. the customer's failure to otherwise perform the  
12 obligations under the small loan agreement; and

13 10. "Written authorization" means:

- 14 a. written authorization signed by the consumer that  
15 includes a physical signature by the consumer,  
16 b. verbal authorization agreed to by the consumer with a  
17 telephone call retained for at least two (2) years in  
18 accordance with NACHA ACH authorization guidelines,  
19 and  
20 c. electronic consent obtained in accordance with the  
21 federal E-Sign Act.

22 SECTION 2. AMENDATORY 59 O.S. 2021, Section 3150.10, is  
23 amended to read as follows:  
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1 Section 3150.10 A. A licensee authorized to make small loans  
2 under this act may charge and collect fees in a manner consistent  
3 with this section.

4 B. A licensee may only charge and collect a periodic interest  
5 rate not to exceed seventeen percent (17%) per month unless  
6 otherwise provided by this title.

7 C. The maximum aggregated principal loan amount of all small  
8 loans outstanding across all licensees per customer shall be One  
9 Thousand Five Hundred Dollars (\$1,500.00) and adjusted every other  
10 year by the Administrator of the Department of Consumer Credit to  
11 reflect the percentage changes in the Consumer Price Index published  
12 by the Bureau of Labor Statistics of the Department of Labor. To  
13 ensure that the maximum aggregated principal amount is not exceeded,  
14 the licensee shall verify outstanding amounts by using a private  
15 database approved by the Administrator. To comply with the  
16 verification required under this act, a lender may be charged a fee  
17 by the database provider not to exceed Two Dollars and twenty cents  
18 (\$2.20) for each full or partial 30-day period that a balance is  
19 scheduled to be outstanding.

20 D. 1. Notwithstanding the maximum aggregate loan amount  
21 established in subsection C of this section, a lender is prohibited  
22 from making a small loan if the total scheduled payments coming due  
23 in a month exceeds twenty percent (20%) of the borrower's gross  
24 monthly income.  
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1           2. For the purposes of determining a borrower's gross monthly  
2 income under this subsection, a lender shall obtain and maintain  
3 documentation of the borrower's proof of income or third-party  
4 verification of all income considered in making the borrower's gross  
5 monthly income determination.

6           3. For the purposes of this subsection, "month" means a period  
7 extending from a given date in one (1) calendar month to the same  
8 date in the succeeding calendar month; or if there is no same date  
9 in the succeeding calendar month, the last day of the succeeding  
10 calendar month.

11           E. Any small loan under this act shall require payment in the  
12 form of cash, money order, debit card, prepaid credit card,  
13 automated clearinghouse debit (ACH payment), remotely created check  
14 debit (RCC payment) or any other instrument for payment of money on  
15 or after the due date of each billing cycle. If the borrower  
16 chooses to authorize the electronic payment of money, the lender:

17           1. Must get written authorization from the borrower to  
18 establish the debit;

19           2. Must give written notice to the borrower before the initial  
20 funds are transferred;

21           3. Must get additional written approval from the borrower after  
22 a second failed consecutive attempt to make a loan payment due to  
23 insufficient funds; ~~and~~.

1        This paragraph shall not apply if the licensee obtains, at the  
2 point of origination, a voluntary authorization that should a second  
3 failed consecutive attempt return due to insufficient funds, the  
4 licensee shall provide the form in at least 12-point font and  
5 include the following disclosure:

6        "You are not required to sign this form. This form only permits  
7 a licensee to continue to process your regularly scheduled  
8 electronic payments after two (2) consecutive attempts failed due to  
9 insufficient funds. You may revoke or cease this authorization at  
10 any time by providing verbal or written notice to the licensee.

11 Please file any customer complaints or concerns with [Department  
12 Information here]."; and

13        4. Is permitted to provide electronic written notices to the  
14 borrower as long as the borrower consents to electronic  
15 communications.

16        F. If a customer defaults under the terms of a small loan and  
17 the licensee refers the customer's account to an attorney for  
18 collection, the licensee may, if the small loan so provides, charge  
19 and collect from the customer a reasonable attorney fee not to  
20 exceed fifteen percent (15%) of the outstanding amount.

21        ~~G. If a check, ACH payment or RCC payment is returned to a~~  
22 ~~licensee from a payor financial institution due to insufficient~~  
23 ~~funds, a licensee shall have the authority to assess a twenty-five-~~  
24 ~~dollar fee against the maker or drawer of the returned check.~~  
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1 SECTION 3. This act shall become effective November 1, 2024.

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