

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 793

By: Coleman

AS INTRODUCED

An Act relating to the Uniform Consumer Credit Code; amending 14A O.S. 2021, Section 1-106, as amended by Section 1, Chapter 207, O.S.L. 2022 (14A O.S. Supp. 2022, Section 1-106), which relates to change in dollar amounts; reverting to a previous year's Consumer Price Index; removing provision for percentage change in the Index under certain conditions; relinquishing certain rulemaking control of the Administrator; amending 14A O.S. 2021, Section 1-301, which relates to definitions; modifying definition; amending 14A O.S. 2021, Section 6-501, which relates to administration; removing the Consumer Credit Advisory Committee; and declaring an emergency.

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

SECTION 1. AMENDATORY 14A O.S. 2021, Section 1-106, as amended by Section 1, Chapter 207, O.S.L. 2022 (14A O.S. Supp. 2022, Section 1-106), is amended to read as follows:

Section 1-106. (1) From time to time the dollar amounts in paragraphs (a), (b) and (c) of subsection (2) of Section 2-201, paragraph (a) of subsection (1) of Section 2-203, subsection (1) of Section 2-407, Section 2-413, paragraph (b) of subsection (1) of Section 3-203, Section 3-203.1, subsection (4) of Section 3-508A,

1 subsection (1) of Section 3-510, paragraphs (a) and (b) of Section
2 3-511, Section 3-514, and subsections (2) and (3) of Section 5-103
3 of the Uniform Consumer Credit Code, are hereby designated as
4 subject to change and shall change, as provided in this section and
5 the rules of the Administrator, according to and to the extent of
6 changes in the Consumer Price Index for Urban Wage Earners and
7 Clerical Workers: U.S. City Average, All Items, 1967=100, compiled
8 by the Bureau of Labor Statistics, United States Department of
9 Labor, and hereafter referred to as the Index. The Index for
10 December of the year 1973 shall be deemed the Reference Base Index.
11 The dollar amounts established by rule of the Administrator in
12 paragraph (e) of subsection (1) of Section 2-104, paragraph (b) of
13 subsection (1) of Section 2-106 and paragraph (d) of Section 3-104
14 of the Uniform Consumer Credit Code in effect on January 1, 1982,
15 shall remain in full force and effect.

16 (2) From time to time, the dollar amounts in subsection (1) of
17 Section 3-508B of the Uniform Consumer Credit Code are hereby
18 designated as subject to change and shall change, as provided in
19 this section and the rules of the Administrator, according to and to
20 the extent of changes in the Consumer Price Index for Urban Wage
21 Earners and Clerical Workers: U.S. City Average, All Items, 1982-
22 84=100, compiled by the Bureau of Labor Statistics, United States
23 Department of Labor, and hereafter referred to as the Index. The
24

1 Index for December ~~2021~~ 2020 shall be deemed the Reference Base
2 Index.

3 (3) The designated dollar amounts referenced in subsection (1)
4 of this section shall change on July 1 of each year if the
5 percentage of change, calculated to the nearest whole percentage
6 point, between the Index at the end of the preceding year and the
7 Reference Base Index is ten percent (10%) or more, but:

8 (a) the portion of the percentage change in the Index in
9 excess of a multiple of ten percent (10%) shall be
10 disregarded and the dollar amounts shall change only
11 in multiples of ten percent (10%) of the amounts
12 appearing in the Uniform Consumer Credit Code; and

13 (b) the dollar amounts shall not change if the amounts
14 required by this section are those currently in effect
15 pursuant to the Uniform Consumer Credit Code as a
16 result of earlier application of this section.

17 (4) The designated dollar amounts referenced in subsection (2)
18 of this section shall change on July 1 of each year if the
19 percentage of change, calculated to the nearest whole percentage
20 point, between the Index at the end of the preceding year and the
21 Reference Base Index is one percent (1%) or more, but:

22 (a) the portion of the percentage change ~~in the Index in~~
23 ~~excess of three percent (3%) shall be disregarded and~~

1 shall change only in multiples of one percent (1%), ~~to~~
2 ~~a maximum of three percent (3%); and~~

3 (b) the dollar amounts shall not change if the amounts
4 required by this section are those currently in effect
5 pursuant to the Uniform Consumer Credit Code as a
6 result of earlier application of this section.

7 (5) If the Index is revised, the percentage of change pursuant
8 to this section shall be calculated on the basis of the revised
9 Index. If a revision of the Index changes the Reference Base Index,
10 a revised Reference Base Index shall be determined by multiplying
11 the Reference Base Index then applicable by the rebasing factor
12 furnished by the United States Bureau of Labor Statistics. If the
13 Index is superseded, the Index referred to in this section shall be
14 the one represented by the United States Bureau of Labor Statistics
15 as reflecting most accurately changes in the purchasing power of the
16 dollar for consumers.

17 (6) The rules of the Administrator shall ~~+~~

18 ~~(a) include the method for calculating the changes in~~
19 ~~dollar amounts required by subsection (2) of this~~
20 ~~section;~~

21 ~~(b) be amended in accordance with the Administrative~~
22 ~~Procedures Act to include changes in the Index~~
23 ~~required by subsection (3) of this section including,~~
24 ~~if applicable, the numerical equivalent of the~~

1 ~~Reference Base Index under a revised Reference Base~~
2 ~~Index and the designation or title of any index~~
3 ~~superseding the Index; and~~

4 (e) provide for appropriate notice to licensees and other
5 interested persons of any changes in the dollar
6 amounts which result from changes required by
7 ~~subsection (2)~~ of this section no later than April 30
8 of each year. Each dollar amount subject to change as
9 provided in this section shall be listed in an
10 appendix to the rules of the Administrator and shall
11 be published in the Oklahoma Administrative Code.
12 Changes to the appendix shall be submitted to the
13 Secretary of State prior to the annual deadline for
14 submitting material for publication in the Code.
15 Changes in the appendix shall not be construed as
16 rulemaking.

17 (7) A person does not violate the Uniform Consumer Credit Code
18 with respect to a transaction otherwise complying with the Uniform
19 Consumer Credit Code if he or she relies on dollar amounts either
20 determined according to ~~subsection (2)~~ of this section or appearing
21 in the last rule of the Administrator announcing the then current
22 dollar amounts.

23 SECTION 2. AMENDATORY 14A O.S. 2021, Section 1-301, is
24 amended to read as follows:

1 Section 1-301. In addition to definitions appearing in
2 subsequent articles, in this title:

3 (1) "Actuarial Method" means the method, defined by rules
4 adopted by the Administrator, of allocating payments made on a debt
5 between principal or amount financed and loan finance charge or
6 credit service charge pursuant to which a payment is applied first
7 to the accumulated loan finance charge or credit service charge and
8 the balance is applied to the unpaid principal or unpaid amount
9 financed.

10 (2) "Administrator" means the Administrator designated in the
11 article (Article 6) on administration under Section 6-103 of this
12 title.

13 (3) "Agreement" means the bargain of the parties in fact as
14 found in their language or by implication from other circumstances
15 including course of dealing or usage of trade or course of
16 performance.

17 (4) "Agricultural purpose" means a purpose related to the
18 production, harvest, exhibition, marketing, transportation,
19 processing, or manufacture of agricultural products by a natural
20 person who cultivates, plants, propagates, or nurtures the
21 agricultural products. "Agricultural products" includes
22 agricultural, horticultural, viticultural, and dairy products,
23 livestock, wildlife, poultry, bees, forest products, fish and
24 shellfish, and any products thereof, including processed and

1 manufactured products, and any and all products raised or produced
2 on farms and any processed or manufactured products thereof.

3 (5) "Closing costs" with respect to a debt secured by an
4 interest in land includes:

- 5 (a) fees or premiums for title examination, title
6 insurance or similar purposes including surveys;
- 7 (b) fees for preparation of a deed, settlement statement
8 or other documents;
- 9 (c) escrows for future payments of taxes and insurance;
- 10 (d) fees for notarizing deeds and other documents;
- 11 (e) appraisal fees; and
- 12 (f) credit reports.

13 (6) "Conspicuous": A term or clause is "conspicuous" when it
14 is so written that a reasonable person against whom it is to operate
15 ought to have noticed it. Whether a term or clause is conspicuous
16 or not is for decision by the court.

17 (7) "Credit" means the right granted by a creditor to a debtor
18 to defer payment of debt or to incur debt and defer its payment.

19 (8) "Earnings" means compensation paid or payable to an
20 individual or for the individual's account for personal services
21 rendered or to be rendered by the individual, whether denominated as
22 wages, salary, commission, bonus, or otherwise, and includes
23 periodic payments pursuant to a pension, retirement, or disability
24 program.

1 (9) "Lender credit card or similar arrangement" means an
2 arrangement or loan agreement, other than a seller credit card,
3 pursuant to which a lender gives a debtor the privilege of using a
4 credit card, letter of credit, or other credit confirmation or
5 identification in transactions out of which debt arises:

6 (a) by a lender's honoring a draft or similar order for
7 the payment of money drawn or accepted by the debtor;

8 (b) by the lender's payment or agreement to pay the
9 debtor's obligations; or

10 (c) by the lender's purchase from the obligee of the
11 debtor's obligations.

12 (10) (a) "Subsection 10 mortgage" means a consumer credit
13 transaction that is secured by the consumer's
14 principal dwelling, other than a residential mortgage
15 transaction, a reverse mortgage transaction, or a
16 transaction under an open-end credit plan, if:

17 (i) the annual percentage rate at consummation of the
18 transaction will exceed by more than eight (8)
19 percentage points for first-lien loans, or by
20 more than ten (10) percentage points for
21 subordinate-lien loans, the yield on treasury
22 securities having comparable periods of maturity
23 on the fifteenth day of the month immediately
24 preceding the month in which the application for

1 the extension of credit is received by the
2 creditor; or

3 (ii) the total points and fees payable by the consumer
4 at or before closing will exceed the greater of:

5 (aa) eight percent (8%) of the total loan amount;

6 or

7 (bb) Four Hundred Dollars (\$400.00).

8 (b) After the two-year period beginning on the effective
9 date of the regulations promulgated under Section 155
10 of the Riegle Community Development and Regulatory
11 Improvement Act of 1994, and no more frequently than
12 biennially after the first increase or decrease under
13 this subsection, the Administrator may by rule
14 increase or decrease the number of percentage points
15 specified in subparagraph (i) of paragraph (a) of this
16 subsection, if the Administrator determines that the
17 increase or decrease is consistent with the consumer
18 protections against abusive lending provided by the
19 amendments made by subtitle B of Title I of the Riegle
20 Community Development and Regulatory Improvement Act
21 of 1994 and is warranted by the need for credit.
22 Such an increase or decrease may not result in the
23 number of percentage points referred to in this

1 subsection being less than eight (8) percentage points
2 or greater than twelve (12) percentage points.

3 In determining whether to increase or decrease the
4 number of percentage points, the Administrator shall
5 consult with representatives of consumers, including
6 low-income consumers, and lenders.

7 (c) The amount specified in division (bb) of subparagraph
8 (ii) of paragraph (a) of this subsection shall be
9 adjusted annually on January 1 by the annual
10 percentage change in the Consumer Price Index, as
11 reported on June 1 of the year preceding such
12 adjustment.

13 (d) For purposes of subparagraph (ii) of paragraph (a) of
14 this subsection, points and fees shall include:

15 (i) all items included in the finance charge, except
16 interest or the time-price differential;

17 (ii) all compensation paid to mortgage brokers;

18 (iii) each of the charges listed in 15 U.S.C., Section
19 1605(e), except an escrow for future payment of
20 taxes, unless:

21 (aa) the charge is reasonable;

22 (bb) the creditor receives no direct or indirect
23 compensation; and

1 (cc) the charge is paid to a third party
2 unaffiliated with the creditor;

3 (iv) premiums or other charges for credit life,
4 accident, health, or loss-of-income insurance, or
5 debt-cancellation coverage, whether or not the
6 debt-cancellation coverage is insurance under
7 applicable law, that provides for cancellation of
8 all or part of the consumer's liability in the
9 event of the loss of life, health, or income or
10 in the case of accident, written in connection
11 with the credit transaction; and

12 (v) such other charges as the Administrator
13 determines to be appropriate.

14 (e) The provisions of this subsection shall not be
15 construed to limit the rate of interest or the finance
16 charge that a person may charge a consumer for any
17 extension of credit.

18 (11) "Official fees" means:

19 (a) fees and charges prescribed by law which actually are
20 or will be paid to public officials for determining
21 the existence of or for perfecting, releasing, or
22 satisfying a security interest related to a consumer
23 credit sale, consumer lease, or consumer loan; or
24

1 (b) premiums payable for insurance in lieu of perfecting a
2 security interest otherwise required by the creditor
3 in connection with the sale, lease, or loan if the
4 premium does not exceed the fees and charges described
5 in paragraph (a) which would otherwise be payable.

6 (12) "Organization" means a corporation, government or
7 governmental subdivision or agency, trust, estate, partnership,
8 cooperative or association.

9 (13) "Payable in installments" means that payment is required
10 or permitted by agreement to be made in:

11 (a) two or more periodic payments, excluding a down
12 payment, with respect to a debt arising from a
13 consumer credit sale pursuant to which a credit
14 service charge is made;

15 (b) four or more periodic payments, excluding a down
16 payment, with respect to a debt arising from a
17 consumer credit sale pursuant to which no credit
18 service charge is made; or

19 (c) two or more periodic payments with respect to a debt
20 arising from a consumer loan.

21 If any periodic payment other than the down payment under an
22 agreement requiring or permitting two or more periodic payments is
23 more than twice the amount of any other periodic payment, excluding
24

1 the down payment, the consumer credit sale, consumer lease, or
2 consumer loan is "payable in installments."

3 (14) "Person" includes a natural person or an individual, and
4 an organization, joint venture or any legal entity however
5 organized.

6 (15) (a) "Person related to" with respect to an individual
7 means:

8 (i) the spouse of the individual;

9 (ii) a brother, brother-in-law, sister, sister-
10 in-law of the individual;

11 (iii) an ancestor or lineal descendant of the
12 individual or the individual's spouse; and

13 (iv) any other relative, by blood or marriage, of
14 the individual or the individual's spouse
15 who shares the same home with the
16 individual.

17 (b) "Person related to" with respect to an organization
18 means:

19 (1) a person directly or indirectly controlling,
20 controlled by or under common control with
21 the organization;

22 (2) an officer or director of the organization
23 or a person performing similar functions
24

1 with respect to the organization or to a
2 person related to the organization;

3 (3) the spouse of a person related to the
4 organization; and

5 (4) a relative by blood or marriage of a person
6 related to the organization who shares the
7 same home with such person.

8 (16) "Presumed" or "presumption" means that the trier of fact
9 must find the existence of the fact presumed unless and until
10 evidence is introduced which would support a finding of its
11 nonexistence.

12 (17) "Residential mortgage transaction" means a transaction in
13 which a mortgage, deed of trust, purchase money security interest
14 arising under an installment sales contract, or equivalent
15 consensual security interest is created or retained against the
16 consumer's dwelling to finance the acquisition or initial
17 construction of such dwelling.

18 (18) "Reverse mortgage transaction" means a nonrecourse
19 transaction in which a mortgage, deed of trust, or equivalent
20 consensual security interest is created against the consumer's
21 principal dwelling:

22 (a) securing one or more advances; and

23 (b) with respect to which the payment of any principal,
24 interest, and shared appreciation or equity is due and

1 payable (other than in the case of default) only
2 after:

- 3 (i) the transfer of the dwelling;
- 4 (ii) the consumer ceases to occupy the dwelling as a
5 principal dwelling; or
- 6 (iii) the death of the consumer.

7 (19) "Seller credit card" means an arrangement pursuant to
8 which a person gives to a buyer or lessee the privilege of using a
9 credit card, letter of credit or other credit confirmation or
10 identification primarily for the purpose of purchasing or leasing
11 goods or services from that person, or:

- 12 (a) from a person related to that person;
- 13 (b) from others licensed or franchised to do business
14 under the person's business or trade name or
15 designation; or
- 16 (c) from any other persons with the consent of that
17 person.

18 (20) "Supervised financial organization" means a person, other
19 than an insurance company or other organization primarily engaged in
20 an insurance business:

- 21 (a) organized, chartered, or holding an authorization
22 certificate under the laws of ~~this~~ a state or of the
23 United States which authorizes the person to make
24

1 loans and to receive deposits, including a savings,
2 share, certificate or deposit account; and

3 (b) subject to supervision by an official or agency of
4 this state or the United States other than the
5 Oklahoma Securities Commission.

6 SECTION 3. AMENDATORY 14A O.S. 2021, Section 6-501, is
7 amended to read as follows:

8 Section 6-501. There is hereby created:

9 (a) the Department of Consumer Credit,

10 (b) the Commission on Consumer Credit. The Commission
11 shall be the policy-making and governing authority of
12 the Department and shall appoint the Administrator and
13 be responsible for the enforcement of the Uniform
14 Consumer Credit Code, and

15 (c) the Office of Administrator of Consumer Credit, ~~and~~

16 ~~(d) the Consumer Credit Advisory Committee.~~

17 ~~(i) The Consumer Credit Advisory Committee shall be~~
18 ~~appointed by the Commission on Consumer Credit~~
19 ~~and shall consist of the following members: two~~
20 ~~licensed supervised lenders, one of whom shall be~~
21 ~~recommended for appointment by the Oklahoma~~
22 ~~Consumer Finance Association and one of whom~~
23 ~~shall be recommended for appointment by the~~
24 ~~Independent Finance Institute; one licensed~~

~~pawnbroker recommended for appointment by the Oklahoma Pawnbrokers Association; one licensed mortgage broker and mortgage loan originator recommended for appointment by the Oklahoma Association of Mortgage Professionals; one licensed rental dealer recommended for appointment by the Oklahoma Rental Dealers Association; one licensed precious metal and gem dealer; one licensed health spa; one licensed credit services organization; one entity or individual that has filed notification pursuant to Section 6-202 of this title; one entity licensed as a deferred deposit lender recommended for appointment by the Community Financial Services Association of America; and the Administrator of Consumer Credit. The Administrator of Consumer Credit shall serve as the Chair of the Advisory Committee. If a licensee is an entity, the Commission may appoint an employee of the licensed entity to serve on the Consumer Credit Advisory Committee. The Commission shall have authority to prescribe rules to govern appointments to the Consumer Credit Advisory Committee.~~

1 ~~(ii) The appointments shall be a public record of the~~
2 ~~Department of Consumer Credit. The term of~~
3 ~~office for each appointed member shall begin~~
4 ~~January 1, 2011, and shall continue for a period~~
5 ~~of four (4) years expiring on January 1. For~~
6 ~~initial appointments, the Commission shall~~
7 ~~appoint two members to serve for a term of one~~
8 ~~(1) year, two members to serve for a term of two~~
9 ~~(2) years, three members to serve for a term of~~
10 ~~three (3) years, and three members to serve for a~~
11 ~~term of four (4) years from their respective~~
12 ~~dates of appointment and qualification. Each~~
13 ~~appointed member shall be eligible for~~
14 ~~reappointment.~~

15 ~~(iii) The Consumer Credit Advisory Committee may advise~~
16 ~~the Commission of Consumer Credit regarding~~
17 ~~matters pertaining to the Department of Consumer~~
18 ~~Credit and provide recommendations. The Consumer~~
19 ~~Credit Advisory Committee shall also have the~~
20 ~~authority to adopt rules for conducting its~~
21 ~~proceedings.~~

22 ~~(iv) The Consumer Credit Advisory Committee shall meet~~
23 ~~on an annual basis and at such other times as~~
24 ~~necessary.~~

1 ~~(v) Meetings of the Consumer Credit Advisory~~
2 ~~Committee shall be held in accordance with the~~
3 ~~Oklahoma Open Meeting Act.~~

4 ~~(vi) Members of the Consumer Credit Advisory Committee~~
5 ~~may be reimbursed for travel costs in accordance~~
6 ~~with the State Travel Reimbursement Act.~~

7 SECTION 4. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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12 59-1-719

MR

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