

An Act

ENROLLED HOUSE
BILL NO. 1543

By: Moore of the House

and

Coleman of the Senate

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.

SUBJECT: Uniform Consumer Credit Code

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, subsection (1) of Section 3-510, paragraphs (a) and (b) of Section 3-511, Section 3-514, and subsections (2) and (3) of Section 5-103 of the Uniform Consumer Credit Code, are hereby designated as subject to change and shall change, as provided in this section and the rules of the Administrator, according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and

Clerical Workers: U.S. City Average, All Items, 1967=100, compiled by the Bureau of Labor Statistics, United States Department of Labor, and hereafter referred to as the Index. The Index for December of the year 1973 shall be deemed the Reference Base Index. The dollar amounts established by rule of the Administrator in paragraph (e) of subsection (1) of Section 2-104, paragraph (b) of subsection (1) of Section 2-106 and paragraph (d) of Section 3-104 of the Uniform Consumer Credit Code in effect on January 1, 1982, shall remain in full force and effect.

(2) From time to time, the dollar amounts in subsection (1) of Section 3-508B of the Uniform Consumer Credit Code are hereby designated as subject to change and shall change, as provided in this section and the rules of the Administrator, according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1982-84=100, compiled by the Bureau of Labor Statistics, United States Department of Labor, and hereafter referred to as the Index. The Index for December ~~2021~~ 2020 shall be deemed the Reference Base Index.

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

- (a) the portion of the percentage change in the Index in excess of a multiple of ten percent (10%) shall be disregarded and the dollar amounts shall change only in multiples of ten percent (10%) of the amounts appearing in the Uniform Consumer Credit Code; and
- (b) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to the Uniform Consumer Credit Code as a result of earlier application of this section.

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

- (a) ~~the portion of the percentage change in the Index in excess of three percent (3%) shall be disregarded and shall change only in multiples of one percent (1%), to a maximum of three percent (3%); and~~
- (b) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to the Uniform Consumer Credit Code as a result of earlier application of this section.

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

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

- ~~(a) include the method for calculating the changes in dollar amounts required by subsection (2) of this section;~~
- ~~(b) be amended in accordance with the Administrative Procedures Act to include changes in the Index required by subsection (3) of this section including, if applicable, the numerical equivalent of the Reference Base Index under a revised Reference Base Index and the designation or title of any index superseding the Index; and~~
- ~~(c) provide for appropriate notice to licensees and other interested persons of any changes in the dollar amounts which result from changes required by subsection (2) of this section no later than April 30 of each year. Each dollar amount subject to change as provided in this section shall be listed in an appendix to the rules of the Administrator and shall be published in the Oklahoma Administrative Code. Changes to the appendix shall be submitted to the Secretary of State prior to the annual deadline for~~

submitting material for publication in the Code. Changes in the appendix shall not be construed as rulemaking.

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

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

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

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

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

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

(4) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

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

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

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

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

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

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

- (a) by a lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;
- (b) by the lender's payment or agreement to pay the debtor's obligations; or

- (c) by the lender's purchase from the obligee of the debtor's obligations.
- (10) (a) "Subsection 10 mortgage" means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open-end credit plan, if:
- (i) the annual percentage rate at consummation of the transaction will exceed by more than eight (8) percentage points for first-lien loans, or by more than ten (10) percentage points for subordinate-lien loans, the yield on treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or
 - (ii) the total points and fees payable by the consumer at or before closing will exceed the greater of:
 - (aa) eight percent (8%) of the total loan amount; or
 - (bb) Four Hundred Dollars (\$400.00).
- (b) After the two-year period beginning on the effective date of the regulations promulgated under Section 155 of the Riegle Community Development and Regulatory Improvement Act of 1994, and no more frequently than biennially after the first increase or decrease under this subsection, the Administrator may by rule increase or decrease the number of percentage points specified in subparagraph (i) of paragraph (a) of this subsection, if the Administrator determines that the increase or decrease is consistent with the consumer protections against abusive lending provided by the amendments made by subtitle B of Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 and is warranted by the need for credit.

Such an increase or decrease may not result in the number of percentage points referred to in this

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

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

- (c) The amount specified in division (bb) of subparagraph (ii) of paragraph (a) of this subsection shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.
- (d) For purposes of subparagraph (ii) of paragraph (a) of this subsection, points and fees shall include:
 - (i) all items included in the finance charge, except interest or the time-price differential;
 - (ii) all compensation paid to mortgage brokers;
 - (iii) each of the charges listed in 15 U.S.C., Section 1605(e), except an escrow for future payment of taxes, unless:
 - (aa) the charge is reasonable;
 - (bb) the creditor receives no direct or indirect compensation; and
 - (cc) the charge is paid to a third party unaffiliated with the creditor;
 - (iv) premiums or other charges for credit life, accident, health, or loss-of-income insurance, or debt-cancellation coverage, whether or not the debt-cancellation coverage is insurance under applicable law, that provides for cancellation of all or part of the consumer's liability in the event of the loss of life, health, or income or in the case of accident, written in connection with the credit transaction; and

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

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

(11) "Official fees" means:

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

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

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

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

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

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

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

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

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

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

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

- (i) the spouse of the individual;
- (ii) a brother, brother-in-law, sister, sister-in-law of the individual;
- (iii) an ancestor or lineal descendant of the individual or the individual's spouse; and
- (iv) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

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

- (1) a person directly or indirectly controlling, controlled by or under common control with the organization;
- (2) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;
- (3) the spouse of a person related to the organization; and
- (4) a relative by blood or marriage of a person related to the organization who shares the same home with such person.

(16) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until

evidence is introduced which would support a finding of its nonexistence.

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

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

- (a) securing one or more advances; and
- (b) with respect to which the payment of any principal, interest, and shared appreciation or equity is due and payable (other than in the case of default) only after:
 - (i) the transfer of the dwelling;
 - (ii) the consumer ceases to occupy the dwelling as a principal dwelling; or
 - (iii) the death of the consumer.

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

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

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

- (a) organized, chartered, or holding an authorization certificate under the laws of ~~this~~ a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate or deposit account; and
- (b) subject to supervision by an official or agency of this state or the United States other than the Oklahoma Securities Commission.

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

Section 6-501. There is hereby created:

- (a) the Department of Consumer Credit,
- (b) the Commission on Consumer Credit. The Commission shall be the policy-making and governing authority of the Department and shall appoint the Administrator and be responsible for the enforcement of the Uniform Consumer Credit Code, and
- (c) the Office of Administrator of Consumer Credit, ~~and~~
- ~~(d) the Consumer Credit Advisory Committee.~~
 - ~~(i) The Consumer Credit Advisory Committee shall be appointed by the Commission on Consumer Credit and shall consist of the following members: two licensed supervised lenders, one of whom shall be recommended for appointment by the Oklahoma Consumer Finance Association and one of whom shall be recommended for appointment by the 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.~~

- ~~(ii) The appointments shall be a public record of the Department of Consumer Credit. The term of office for each appointed member shall begin January 1, 2011, and shall continue for a period of four (4) years expiring on January 1. For initial appointments, the Commission shall appoint two members to serve for a term of one (1) year, two members to serve for a term of two (2) years, three members to serve for a term of three (3) years, and three members to serve for a term of four (4) years from their respective dates of appointment and qualification. Each appointed member shall be eligible for reappointment.~~
- ~~(iii) The Consumer Credit Advisory Committee may advise the Commission of Consumer Credit regarding matters pertaining to the Department of Consumer Credit and provide recommendations. The Consumer Credit Advisory Committee shall also have the authority to adopt rules for conducting its proceedings.~~
- ~~(iv) The Consumer Credit Advisory Committee shall meet on an annual basis and at such other times as necessary.~~

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

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

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

Passed the House of Representatives the 7th day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2023.

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: _____