

## Oklahoma Enacts Small Lenders Act

April 22, 2019 |

On April 18, Oklahoma Governor Stitt signed SB 720, which creates the Oklahoma Small Lenders Act. The SLA creates a new credit plan product in Oklahoma under which the licensee contemplates credit transactions from time to time that:

- must be unsecured;
- must not have a term longer than 12 months or less than 60 days;
- must be fully amortized and payable in substantially equal periodic payments; and
- are subject to prepayment in whole or in part at any time without penalty.

Any person licensed pursuant to the Oklahoma Deferred Deposit Lending Act and any other person may apply for a license under the SLA on January 1, 2020. However, no person is authorized to make a small loan until August 1, 2020.

### Effect on Existing DDL Licenses

All DDL licenses will be terminated and deemed to have expired on August 1, 2020. On that date, no new deferred deposit loans may be entered into or transacted by a DDL licensee. However, a DDL licensee may continue to service and collect all outstanding deferred deposit loans made before August 1, 2020 until those loans are paid in full.

### Application Requirements

A license application under the SLA must include fees in the amount of \$1,900 for each location; an audited financial statement, including a balance sheet, statement of income or loss, and statement of changes in financial position for the prior year; a surety bond in the amount of \$25,000 for each location, but not more than \$200,000 for all locations of a single licensee; and a criminal history records check for the applicant's directors, officers, and 10% or more shareholders and any individual who owns or controls the applicant.

### Interest Rate, Aggregate Principal Limits, and Database

Once licensed, the lender may charge a periodic interest rate not to exceed 17% per month. The maximum aggregated principal loan amount of all small loans outstanding across all licensees per borrower is \$1,500 (subject to annual adjustment, based on changes in the Consumer Price Index). A

licensee must verify outstanding amounts by using a private database approved by the Department of Consumer Credit.

#### Ability-to-Repay Requirements

A lender is prohibited from making a small loan if the total scheduled payments coming due in a month exceed 20% of the borrower's gross monthly income. A lender is required to obtain and maintain documentation of the borrower's proof of income or third-party verification of all income it considers in making the borrower's gross monthly income determination.

#### Disclosure Requirements

A licensee must provide each customer with a written explanation, in clear, understandable language, of the fees and charges to be charged in connection with a small loan. The style, content, and method of executing the required written explanation must comply with Oklahoma Regulation Z and must contain a statement that the customer may prepay the unpaid balance in whole or in part at any time without penalty. The Department of Consumer Credit may promulgate administrative rules establishing additional requirements in order to assure complete and accurate disclosure of the fees and charges to be charged by a licensee.

Along with other state or federal law requirements, a small loan must include:

- A right of rescission. A lender is not required to extend a right of rescission past the close of business on the day after loan proceeds are disbursed unless the lender is not open on the day after disbursement, in which case the right of rescission will be extended to the next day the lender is open; and
- A notice informing the customer that complaints may be made to the Department of Consumer Credit Administrator and including the Administrator's telephone number and address.

Borrowers who default may undergo consumer credit counseling from a list of organizations approved by the Department of Consumer Credit and made available, upon request, by the lender.

#### Other Provisions

The SLA also contains sections on application requirements, promulgation of administrative rules in furtherance of the Act, change-in-control provisions, attorneys' fees and NSF restrictions, recordkeeping requirements, UDAP restrictions, compliance with other laws like the federal Equal Credit Opportunity Act and Fair Debt Collection Practices Act, examination requirements and procedures, civil penalties for violations, consumer complaints, reporting requirements, licensing through a multistate automated licensing system, preemption of municipal laws, and restrictions on garnishment by employers, among others.

#### Senate Bill 720

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