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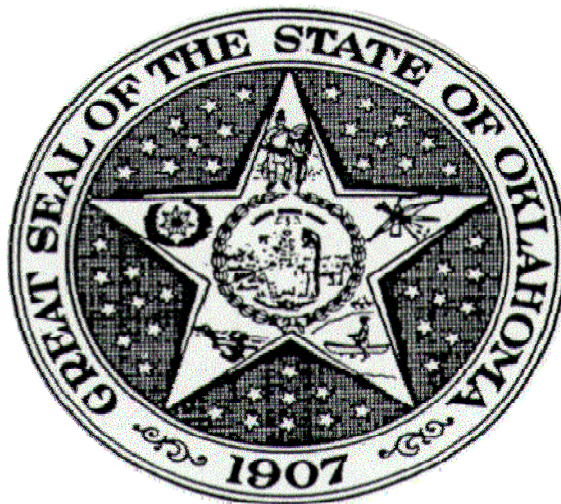
# **Oklahoma Department of Consumer Credit**

## **Oklahoma Administrative Code**

### **Title 160**

### **Chapters 1-3-5-15**

## **Pawnbroker Administrative Rules 2007**



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**Title 160**  
**Pawnbroker Administrative Rules**  
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## **TITLE 160. DEPARTMENT OF CONSUMER CREDIT**

### **CHAPTER 1. ORGANIZATION**

#### **160:1-1-1. Purpose**

The rules in this chapter provide the organizational framework for the Department of Consumer Credit.

#### **160:1-1-1.1. Department of Consumer Credit**

- (a) The Department is composed of the Administrator, the Deputy Administrator and such employees as are required and provided for by law [14A:6-506, 6-507 and 6-510].
- (b) The policy-making and governing authority of the Department is the Commission on Consumer Credit [14A:6-501]. The Commission schedules regular meetings monthly in Oklahoma City [14A:6-504]. The meetings are open to the public [25:303].

#### **160:1-1-1.2. Duties of Administrator**

- (a) The Administrator, as the head of the Department, is charged with the duty of administering and enforcing all provisions of:
- (1) the Uniform Consumer Credit Code beginning at §1-101 of Title 14A of the Oklahoma Statutes;
  - (2) the Oklahoma Rental-Purchase Act beginning at §1950 of Title 59 of the Oklahoma Statutes;
  - (3) the Oklahoma Pawnshop Act beginning at §1501 of Title 59 of the Oklahoma Statutes;
  - (4) the Precious Metal and Gem Dealer Licensing Act beginning at §1521 of Title 59 of the Oklahoma Statutes;
  - (5) the Credit Services Organization Act beginning at §131 of Title 24 of the Oklahoma Statutes;
  - (6) the Oklahoma Health Spa Act beginning at §2000 of Title 59 of the Oklahoma Statutes; ~~and~~;
  - (7) the Mortgage Broker Licensure Act beginning at §2081 of Title 59 of the Oklahoma Statutes; and,
  - (8) the Deferred Deposit Lending Act beginning at §3101 of Title 59 of the Oklahoma Statutes.
- (b) When the Administrator is absent or unable to act for any reason, then the Deputy Administrator shall perform the duties of Administrator [14A:6-507].

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## CHAPTER 3. PROCEDURE

### 160:3-1-1. Purpose

The rules in this chapter provide the procedural framework for the Department of Consumer Credit and provide the necessary channels through which the public can gain information about the Department and its functions.

#### 160:3-1-1.1. Requests for information

(a) Requests for information may be made electronically, by telephone, by facsimile, by mail, or by personal appearance.

(1) The Department's web page address is [www.okdocc.state.ok.us](http://www.okdocc.state.ok.us).

(2) The Department's telephone numbers are (405) 521-3653 and (800) 448-4904.

(3) The Department's facsimile number is (405) 521-6740.

(4) The Department's address is 4545 N. Lincoln Boulevard, Suite 104, Oklahoma City, OK 73105.

(5) The Department's regular business hours are 8:00 a.m. to 4:30 p.m.

(b) The Oklahoma Open Records Act beginning at §24A.1 of Title 51 of the Oklahoma Statutes sets forth the records that shall be open to any person for inspection, copying or mechanical reproduction.

(c) Where the request is for materials of which copies are not available and photocopying or reproduction by other means is required, such service shall be provided upon payment of the appropriate fee.

#### 160:3-1-1.2. Official actions

(a) **Official acts in writing and open to the public.** All official acts of the Administrator shall be evidenced by written record. All final orders, decisions, opinions, rules and other written statements of policy or interpretations formulated, adopted or used in the discharge of the functions of the Administrator shall be available for public inspection. Official action of the Administrator shall not be bound or prejudiced by any informal statement or opinion made by the Administrator or employees of the Administrator.

(b) **Official action to be taken only in real cases, controversies or issues.** Official actions shall only be taken on matters formally pending before the Administrator for determination, and then only if such matter be an actual case, controversy or issue.

(c) **Declaratory rulings.**

(1) An interested person may file a petition for a declaratory ruling as to the applicability of any rule or order. The petition shall:

(A) be in writing;

(B) refer to the rule or order involved;

(C) state the nature and purpose of the declaratory ruling sought;

(D) state the fact situation with respect to which the declaratory ruling is sought; and,

(E) list the name and address of the person requesting the ruling.

(2) The Administrator may require any petitioner to provide additional information. A petition is not considered final until all requested information has been submitted. The failure to provide additional information shall be deemed to be a withdrawal of the petition.

(3) Official rulings may be made by and at the discretion of the Administrator as to the applicability of any rule or order. Generally, an official ruling will only be given if it is shown that an actual case, controversy or issue is in contemplation on the hypotheses presented and that unreasonable hardship, loss or delay would result if the matter were not determined in advance.

(4) The declaratory ruling requested or refusal to issue such ruling shall be issued within thirty (30) workdays from receipt of the final petition, and shall be subject to review in accordance with the Administrative Procedures Act beginning at §250 of Title 75 of the Oklahoma Statutes [75:307].

(d) **Rights not limited.** This section shall not be interpreted as limiting the right of the Administrator to cause matters to become formally pending and to perform any function or duty prescribed by law or rule.

#### 160:3-1-1.3. Petitions for rulemaking

(a) An interested person may file a petition requesting the promulgation, amendment or repeal of a rule [75:305]. The petition shall:

(1) be in writing;

(2) refer to the statutory section that authorizes the rulemaking action requested;

(3) refer to the statutory section and the rule involved;

(4) state the exact language requested;

(5) state the purpose of the rule sought;

(6) state a fact situation to which the rule sought will apply; and,

(7) list the name and address of the person requesting the rule.

(b) The Administrator may require any petitioner to provide additional information. A petition is not considered final until all requested information has been submitted. The failure to provide additional information shall be deemed to be a withdrawal of the petition.

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(c) The petition shall be deemed to have been denied if rulemaking proceedings have not been initiated within thirty (30) calendar days from receipt of a final petition [75:305].

**160:3-1-1.4. Complaint form**

The complaint form is used by the Department to gather information regarding grievances. This information is used to contact licensees to seek resolutions. The information obtained in the course of any complaint shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state.

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## CHAPTER 5. FEES

### 160:5-1-1. Purpose

The rules in this chapter set forth the fees charged by the Department of Consumer Credit relating to the various entities that are regulated by the Department and to open records.

### 160:5-1-2. Fees

Fees charged by the Department are as follows:

#### (1) Supervised Lenders

- (A) \$150.00 application fee for license, except that for any license granted after June 30, the fee shall be \$75.00 [14A:3-503(1)]
- (B) \$225.00 investigation fee for license [14A:3-503(1)]
- (C) \$150.00 annual renewal fee [14A:3-504(5)] and a \$50.00 late fee for a late application for renewal of a license received after December 1 [14A:3-504(5)]
- (D) For any examination under one-half hour, no fee. For any examination over one-half hour up to eight (8) hours, \$300.00. For any examination in excess of eight (8) hours, \$300.00 plus \$50.00 per examiner per hour for each full hour, or pro rata for each partial hour, over eight (8) hours. A \$50.00 late fee shall be imposed when the examination fee is not received within thirty (30) days of the invoice date. No licensee shall be assessed a total fee in excess of Six Hundred Fifty Dollars (\$650.00) for each licensed office in any calendar year. [14A:3-506(1)]
- (E) \$25.00 fee for a duplicate or amended license [14A:3-504(5)]
- (F) \$25.00 fee for a returned check [14A:3-506(10)]
- (G) \$25.00 late fee for any annual report received after May 1 [14A:3-506(5)]
- (H) All fees are non-refundable unless the Code or these rules require otherwise.

#### (2) Notifications

- (A) \$20.00 annual filing fee [14A:6-203(1)]
- (B) sellers, lessors, lenders and assignees shall pay the \$20.00 annual filing fee plus \$10.00 per \$100,000.00 of business conducted in Oklahoma [14A:6-203(2) and (3)]
- (C) All fees are non-refundable unless the Code or these rules require otherwise.

#### (3) Pawnbrokers

- (A) \$100.00 application fee for license, except that for any application filed after June 30, the fee shall be \$50.00 [59:1505(A)]
- (B) \$125.00 investigation fee for license [59:1505(A)]
- (C) \$100.00 annual renewal fee [59:1506(C)]
- (D) \$200.00 annual examination fee [59:1508(A)]
- (E) All fees are non-refundable unless the Act or these rules require otherwise.

#### (4) Rent-to-Own Businesses

- (A) \$100.00 application fee for license, except that for any application filed after June 30, the fee shall be \$50.00 [59:1953]
- (B) \$100.00 annual renewal fee [59:1953]
- (C) \$200.00 annual examination fee [59:1955(B)]
- (D) All fees are non-refundable unless the Act or these rules require otherwise.

#### (5) Health Spas

- (A) \$200.00 initial registration fee [59:2002(A)(4)]; this fee shall be applied without regard to the date of filing.
- (B) \$200.00 annual renewal fee [59:2002(A)(4)]
- (C) All fees are non-refundable unless the Act or these rules require otherwise.

#### (6) Credit Services Organizations

- (A) \$100.00 application fee for license [24:143(A)]; this fee shall be applied without regard to the date of filing.
- (B) \$100.00 investigation fee for license [24:143(A)]
- (C) \$100.00 annual renewal fee [24:143(A)]
- (D) \$200.00 annual examination fee [24:146(A)]
- (E) All fees are non-refundable unless the Act or these rules require otherwise.

#### (7) Precious Metals and Gem Dealers

- (A) \$50.00 application fee for license for dealers, \$25.00 application fee for license for each employee [59:1525(A) and (B)]; these fees shall be applied without regard to the date of filing.
- (B) \$50.00 investigation fee for license [59:1525(A)]
- (C) \$50.00 annual renewal fee for dealers, \$25.00 annual renewal fee for each employee [59:1526(A) and (B)]
- (D) All fees are non-refundable unless the Act or these rules require otherwise.

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(8) Mortgage Brokers

- (A) \$750.00 application fee for a mortgage broker license; this fee shall be applied without regard to the date of filing [59:2085(A)(2)]
- (B) \$100.00 initial license fee for a mortgage broker license [59:2085(I)(1)]; this fee shall be applied without regard to the date of filing.
- (C) \$100.00 annual renewal fee for a mortgage broker license [59:2085(I)(1)]
- (D) \$25.00 late fee per day for a late application for renewal of a mortgage broker license received after December 31 and on or before January 31 [59:2085(D)]
- (E) \$50.00 annual license fee for a branch office license [59:2085(I)(2)]; this fee shall be applied without regard to the number of licenses sought or the date of filing.
- (F) \$50.00 inactive status fee for a mortgage broker license [59:2085(I)(3)]; this fee shall be paid for each year of inactive status [59:2085(E)]
- (G) Reactivation fees for a mortgage broker license [59:2085(F)]
  - (i) If a mortgage broker license has been inactive for a licensing year, then the reactivation fee is \$100.00.
  - (ii) If a mortgage broker license reactivation application is filed on or before June 30 of an inactive license year, then the reactivation fee is \$100.00.
  - (iii) If a mortgage broker license reactivation application is filed after June 30 of an inactive license year, then the reactivation fee is \$50.00.
- (H) \$10.00 change of address fee [59:2085(H) and (I)(4)]
- (I) \$50.00 initial license fee for a mortgage loan originator license [59:2085(I)(5)]; this fee shall be applied without regard to the date of filing.
- (J) \$50.00 annual renewal fee for a mortgage loan originator license [59:2085(I)(5)]
- (K) \$10.00 change of sponsor fee [59:2085(I)(6)]
- (L) \$150.00 license test fee; this fee is required for each test taken without regard to test results or the number of times that a person takes the test [59:2092(C)]
- (M) Test handbook fee equal to the actual cost of producing and distributing the handbook [59:2092(E)]
- (N) All fees are non-refundable unless the Act or these rules require otherwise.

(9) Deferred Deposit Lenders

- (A) \$250.00 application fee for license; this fee is required of each applicant without regard to the number of licenses sought or the date of filing [59:3113(D)]
- (B) \$500.00 investigation fee for license; this fee is required of each applicant without regard to the number of licenses sought or the date of filing [59:3113(D)]
- (C) \$250.00 annual renewal fee; this fee is required of each applicant without regard to the number of licenses sought [59:3113(E)]
- (D) For any examination under one-half hour, no fee. For any examination over one-half hour up to eight (8) hours, \$300.00. For any examination in excess of eight (8) hours, \$300.00 plus \$50.00 per examiner per hour for each full hour, or pro rata for each partial hour, over eight (8) hours. A \$50.00 late fee shall be imposed when the examination fee is not received within thirty (30) days of the invoice date. [59:3114(A)]
- (E) \$25.00 late fee for any annual report received after May 1 [59:3114(F)]
- (F) All fees are non-refundable and non-abatable unless the Act or these rules require otherwise. [59:3113(D)]

(10) Other

- (A) \$0.25 fee per page for copies [51:24A.5(3)]
- (B) \$1.00 fee per copied page for a certified copy [51:24A.5(3)]
- (C) Reasonable search fee of the hourly rate of lowest paid employee capable of performing search when records are requested solely for commercial purpose or the request would clearly cause excessive disruption of the Department's essential functions [51:24A.5(3)]

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## CHAPTER 15. PAWN TRANSACTIONS

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 160:15-1-1. Purpose

The rules in this chapter provide regulations relating to the licensure of pawnbrokers, and provide regulations to promote the informed use of credit by requiring disclosures about its terms and cost. The rules in this chapter do not govern charges for pawn transactions.

#### 160:15-1-1.1. Severability

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

#### 160:15-1-3. Definitions

Except as otherwise specifically defined in this section, the definitions set forth in the Act are incorporated herein and made a part hereof. The following words or terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Pawnshop Act beginning at §1501 of Title 59 of the Oklahoma Statutes.

"**Advertisement**" means a commercial message in any medium that promotes, directly or indirectly, a credit transaction.

"**APA**" means the Administrative Procedures Act beginning at §250 of Title 75 of the Oklahoma Statutes.

"**Business Day**" means a day on which a creditor's offices are open to the public for carrying on substantially all of its business functions.

"**Consumer**" means a person to whom credit is offered or extended.

"**Consummation**" means the time at which a consumer becomes contractually obligated on a credit transaction. A pawn transaction is considered consummated at the time a contractual relationship is created between the creditor and the consumer, irrespective of the time of the performance of either party.

"**Credit**" means the right to defer payment of debt or to incur and defer its payment.

"**Creditor**" means a person who engages in the business of making pawn transactions as defined in the Act.

"**Days**" mean calendar days. In computing any period of time for communications between a licensee and the Department or a court, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a day that the pawnshop, the Department or the office of the court clerk is closed.

"**Department**" means the Oklahoma State Department of Consumer Credit.

"**Licensee**" means a pawnbroker that has been given authority by the Administrator to engage in pawn transactions within Oklahoma.

"**Obligation**" means a pawn transaction as defined in the Act.

"**Transaction**" means a pawn transaction as defined in the Act.

### SUBCHAPTER 2. DISCLOSURES

#### 160:15-2-1. General disclosure requirements

##### (a) Form of disclosures.

(1) The creditor shall make the disclosures required by this subchapter clearly and conspicuously in writing and in a form that the consumer may keep. The disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related to the disclosures required under 160:15-2-2. The disclosures may include an acknowledgment of receipt, the date of the transaction, and the consumer's name, address, and account number. The creditor's identity and address under 160:15-2-2(1) may be disclosed together or separately from other required disclosures.

(2) The following disclosures required by 160:15-2-2 must be separate from the other disclosures under that section:

(A) The itemization of the amount financed under 160:15-2-2(3).

(B) The customer's description or the distinctive number from customer's driver's license or military identification under 160:15-2-2(11).

(C) A statement to the effect that the customer is not obligated to redeem the pledged goods and that the pledged goods may be forfeited to the pawnbroker thirty (30) days after the specified maturity date, provided that the pledged goods may be redeemed by the customer within thirty (30) days following the maturity date of the pawn transaction by payment of the

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originally agreed redemption price and the payment of an additional pawn finance charge equal to one-thirtieth (1/30) of the original monthly pawn finance charge for each day following the original maturity date, including the day on which the pledged goods are finally redeemed under 160:15-2-2(14).

(b) **Time of disclosures.** The creditor shall make disclosures before consummation of the transaction.

(c) **Basis of disclosures and use of estimates.**

(1) The disclosures shall reflect the terms of the legal obligation between the parties.

(2) If any information necessary for an accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available and shall clearly state that the disclosure is an estimate.

(3) The creditor may disregard the effects of the following in making calculations for disclosure and disclosures:

(A) That payments must be collected in whole cents.

(B) That dates of scheduled payments and advances may be changed because the scheduled date is not a business day.

(C) That months have different numbers of days.

(D) The occurrence of leap year.

(d) **Multiple creditors; multiple consumers.** If a transaction involves more than one creditor, only one set of disclosures shall be given, and the creditors shall agree among themselves which creditor must comply with the requirements that this rule imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation.

(e) **Effect of subsequent events.** If a disclosure becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of this rule although new disclosures may be required under (f) of this Section of 160:15-2-3.

(f) **Early disclosures.** If disclosures are given before the date of consummation of a transaction and a subsequent event makes them inaccurate, the creditor shall disclose the changed terms before consummation, if the annual percentage rate in the consummated transaction varies from the annual percentage rate disclosed under 160:15-2-2(5) by more than 1/8 of 1 percentage point.

#### **160:15-2-2. Content of Disclosures**

For each transaction, the creditor shall disclose the following information as applicable:

(1) **Creditor.** The address and identity of the creditor required to make the disclosures.

(2) **Amount Financed.** The "amount financed," using that term, and a brief description, such as "the amount of credit provided to you or on your behalf." The amount financed is the principal loan amount.

(3) **Itemization of amount financed.**

(A) A separate written itemization of the amount financed, including:

(i) The amount of any proceeds distributed directly to the consumer.

(ii) The amount credited to the consumer's account with the creditor.

(B) The creditor need not comply with (3)(A) if the creditor provides a statement that the consumer has the right to receive a written itemization of the amount financed, together with a space for the consumer to indicate whether it is desired, and the consumer does not request it.

(4) **Finance charge.** The "finance charge," using that term, and a brief description, such as "the dollar amount the credit will cost you."

(5) **Annual percentage rate.** The "annual percentage rate," using that term and a brief description, such as "the cost of your credit as a yearly rate."

(6) **Payment schedule.** The number, amounts, and timing of payments scheduled to repay the obligation.

(7) **Total of Payments.** The "total of payments," using that term, and a descriptive explanation, such as "the amount you will have paid when you have made all scheduled payments."

(8) **Prepayment.**

(A) When an obligation includes a finance charge computed from time to time by application of a rate to the unpaid principal balance, a statement indicating whether or not a penalty may be imposed if the obligation is prepaid in full.

(B) When an obligation includes a finance charge other than the finance charge described in (8)(A) of this section, a statement indicating whether or not the consumer is entitled to a rebate of any finance charge if the obligation is prepaid in full.

(9) **Security Interest.** The fact that the creditor has or will acquire a security interest in the property pledged, identified by item or type including serial numbers if reasonably available.

(10) **Contract reference.** A statement that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties. At the creditor's option, the statement may also include a reference to the contract for further information about security interests.

(11) **Customer.** The name and address of the customer and the customer's description or the distinctive number from customer's driver's license or military identification.

(12) **Date.** The date of the transaction.

(13) **Maturity Date.** The maturity date of the pawn transaction.

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(14) **Customer Obligation.** A statement to the effect that the customer is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker thirty (30) days after the specified maturity date, provided that the pledged goods may be redeemed by the customer within (30) days following the maturity date of the pawn transaction by payment of the originally agreed redemption price and the payment of an additional pawn finance charge equal to one-thirtieth (1/30) of the original monthly pawn finance charge for each day following the original maturity date including the day on which the pledged goods are finally redeemed.

#### **160:15-2-3. Subsequent disclosure requirements**

(a) **Refinancing.** A refinancing occurs when an existing obligation that was subject to this Chapter is satisfied and replaced by a new obligation undertaken by the same consumer. The new finance charge shall include any unearned portion of the old finance charge that is not credited to the existing obligation.

(b) **Changes in the Maturity Date.** An agreement between the customer and the pawnbroker to change the maturity date of a pawn transaction to a subsequent date shall be treated as a refinancing and,

(1) Shall be evidenced by a new writing signed by the consumer, and

(2) Shall contain a redisclosure of all information required by 160:15-2-2 in the form required by 160:15-2-1.

(c) **Consolidations.** If two or more existing pawn transactions are consolidated or an existing pawn transaction is increased, such transaction shall be considered a new transaction and disclosures shall be made according to 160:15-2-1 and 160:15-2-2. The amount with respect to the previous transaction to be consolidated shall be separately stated and shall be added to the net amount paid to, receivable by, or paid or payable for the account of the customer in connection with the subsequent transaction.

#### **160:15-2-4. Determination of annual percentage rate**

(a) **Accuracy of annual percentage rate.**

(1) The annual percentage rate for the purpose herein regulating disclosure, but not necessarily for the purpose of rate regulation, is a measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method. Explanations, equations and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in 160:15-2-4(b)(1).

(2) As a general rule, the annual percentage rate shall be considered accurate if it varies in either direction by not more than 1/8 of 1 percentage point from the actual annual percentage rate determined in accordance with (a)(1) of this section.

(b) **Computation tools.**

(1) The Federal Regulation Z Annual Percentage Rate Tables produced by the Board of Governors of the Federal Reserve System may be used to determine the annual percentage rate, and any rate determined from those tables in accordance with the accompanying instructions complies with the requirements of this section.

(2) Creditors may use any other computation tool in determining the annual percentage rate if the rate so determined equals the rate determined in accordance with 160:15-2-4(b)(1), within the degree of accuracy set forth in (a) of this section.

#### **160:15-2-5. Advertising**

(a) **Actually available terms.** Without limitation to the scope of section 1509(f) of the Act, if an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the pawnbroker.

(b) **Advertisement of rate of finance charge.** If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(c) **Advertisement of terms that require additional disclosures.**

(1) If any of the following terms are set forth in an advertisement, the advertisement shall meet the requirements of (c)(2) of this Section:

(A) The amount or percentage of any downpayment.

(B) The number of payments or period of repayment.

(C) The amount of any payment.

(D) The amount of any finance charge.

(2) An advertisement stating any of the terms in (c)(1) of this Section shall state the following terms as applicable:

(A) The amount or percentage of the downpayment.

(B) The terms of repayment.

(C) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact. An example of one or more typical extensions of credit with a statement of all the terms applicable to each may be used.

(d) **Catalogs and multiple-page advertisements.**

(1) If a catalog or multiple-page advertisement gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by (c)(2) of this section, it shall be considered a single advertisement if -

(A) The table or schedule is clearly set forth; and

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- (B) Any statement of the credit terms in (c)(1) of this Section appearing anywhere else in the catalog or advertisement clearly refers to the page on which the table or schedule begins.
- (2) A catalog or multiple-page advertisement complies with (c)(2) of this Section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher priced property or services offered.

#### **160:15-2-6. Use of annual percentage rate in oral disclosures**

In a oral response to a consumer's inquiry about the cost of closed-end credit, only the annual percentage rate shall be stated, except that a simple annual rate or periodic rate also may be stated if it is applied to an unpaid balance. If the annual percentage rate cannot be determined in advance, the annual percentage rate for a sample transaction shall be stated, and other cost information for the consumer's specific transaction may be given.

### **SUBCHAPTER 3. RECORDS**

#### **160:15-3-1. Records and changes**

- (a) Each licensee shall preserve and make available such books and records related to pawn transactions for four (4) years from the date of the initial transaction between the pawnshop and each consumer, or for two (2) years from the date of the final entry into such records is made thereon, whichever is later [59:1508(F)]. The records shall be maintained for such time periods whether the pawnshop is currently licensed or previously licensed. Upon licensing, the licensee shall designate a location or locations in Oklahoma where records shall be maintained, and the records shall not be moved therefrom unless the Administrator has given written approval for another location.
- (b) Each licensee's records shall be maintained in compliance with the Act and these rules. Each licensee shall keep current the information required for licensing by reporting any changes or additions to the information previously submitted to the Department within thirty (30) days of such change or addition unless the Act or these rules require otherwise.

#### **160:15-3-1.1. Examinations**

- (a) **Initiation.** The Administrator, or duly appointed representatives, shall conduct an examination of each licensee at least annually, and at such other times as deemed necessary [59:1508(A)].
- (b) **Procedure.** Each licensee shall ensure that all records are promptly and reasonably available to be examined and copied [59:1508(A)].
- (c) **Confidentiality.** The information obtained in the course of any examination shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state [59:1508(A)].
- (d) **Noncompliance.** In case of failure to comply with the Administrator's examination processes, the Administrator may initiate any authorized action, including acts for enforcement by the Administrator [59:1508(A)].
- (e) **Violations.** If the examination finds any violations of the Act or these rules, the Administrator may initiate any authorized action.
- (f) **Informal disposition.** In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Administrator to afford parties who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, consent orders or defaults when it appears to the Administrator that such procedure fully safeguards the public interest. The Administrator reserves the right in all matters to withhold the privilege of an informal disposition. All stipulations, agreed settlements, consent orders or defaults shall be public records.

### **SUBCHAPTER 5. LICENSING**

#### **160:15-5-1. Licensure forms**

- (a) **Application.**
- (1) The pawnbroker license application shall be completed by the entity seeking a pawnbroker's license and shall include all fees, forms and exhibits requested.
  - (2) The Administrator may require any applicant to provide additional information. An application is not considered final until all requested information has been submitted.
  - (3) The Administrator shall grant or deny a license application within sixty (60) days from the filing of a final application unless the period is extended by written agreement between the applicant and the Administrator [59:1505(C)].
  - (4) If an applicant fails to comply with the application process, the application fee for license shall be returned to the applicant, but the Administrator shall retain the investigation fee for license. An application that is not reviewed for any failure on the part of the applicant shall be deemed to be a withdrawal of the application and not a denial.
- (b) **License.** The license, executed under the hand of the Administrator and delivered, is evidence of a pawnbroker's authority to transact business within Oklahoma.

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(c) **Annual report.** Annual reports shall be filed by all pawnbrokers and postmarked on or before the first day of May of each year, reporting pawn transactions and pledged goods not redeemed as of December 31st of the preceding year. The annual reports shall be confidential, but the Administrator may compile a statistical report using the information therein. [59:1508(G)] As a courtesy, the Department may mail a notice of annual report to each licensee, but the failure to do so shall not relieve any licensee of the duty to file timely or impair the authority of the Administrator against any licensee.

(d) **Renewal application.** The pawnbroker license renewal application shall be completed by entities previously issued a license and shall be submitted with all fees and postmarked on or before the first day of December of each year [59:1506(C)]. As a courtesy, the Department may mail a notice of renewal to each licensee, but the failure to do so shall not relieve any licensee of the duty to renew timely or impair the authority of the Administrator against any licensee.

(e) **Delinquency notice.** If the license is not renewed, a delinquency notice shall be mailed to the licensee. The license shall expire on December 31 of the year in which the annual fee has been paid or fifteen (15) days after the notice, whichever is later. [59:1506(C)]

#### **160:15-5-2. Investigations for licensure**

A thorough investigation shall be conducted of each applicant, and applicants shall provide such additional information as may be requested from the applicant for that purpose. In addition, the Administrator may consult outside sources, including law enforcement agencies, and may require the applicant's consent to release such other relevant information as the Administrator may deem necessary to determine financial responsibility, experience, character and general fitness of the applicant [59:1505(A)]. It shall be within the discretion of the Administrator to determine the fitness of an applicant, provided that such discretion is not arbitrary or capricious and is, or will be, applied uniformly to all similarly situated applicants.

#### **160:15-5-3. License denials**

(a) **Denial notice.** The Administrator shall notify the applicant of the denial of a license application in writing stating the reasons for the denial, and the application fee for license shall be returned to the applicant, but the Administrator shall retain the investigation fee for license [59:1505(B)]. The notice shall be sent by certified mail with return receipt requested or be delivered in person.

(b) **Hearing request.** The applicant may make a written request for a hearing on the application within thirty (30) days of receipt of the denial notice [59:1505(B)].

(c) **Hearing notice.**

(1) If the applicant makes a timely request for a hearing, a hearing shall be held within sixty (60) days of receipt of the request [59:1505(C)]. However, the applicant shall be given twenty (20) days notice of the hearing in writing.

(2) The notice shall:

- (A) state the time, place and nature of the hearing;
- (B) state the legal authority and jurisdiction for the hearing;
- (C) refer to the statutory sections and rules involved; and
- (D) state the matters asserted briefly and plainly [75:309(B)(1) - (4)].

(d) **Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

(e) **Order.**

(1) The Administrator shall issue an order granting or denying the license application within sixty (60) days from the last day of the hearing unless the period is extended by written agreement between the applicant and the Administrator [59:1505(C)].

(2) The order shall:

- (A) be in writing;
- (B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;
- (C) state conclusions of law; and
- (D) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

#### **160:15-5-4. Change of ownership**

(a) Thirty (30) days before any change of ownership of any pawnshop, the licensed owner shall notify the Administrator of the intent to change ownership, and the proposed new owner shall apply for a license. The Administrator shall notify the licensed owner and the proposed new owner when the new owner's license application has been granted. After the licensed owner surrenders its license and transfers the ownership interest, a license shall be issued to the new owner.

(b) If the change of ownership results in the closing of the existing location, then the licensed owner shall post an announcement on the front door listing the name, business telephone number and mailing and business addresses of the new owner. The announcement shall be posted before the ownership interest is transferred and shall remain posted until the existing location closes. The licensed owner shall certify to the Administrator the date the announcement was posted and shall attach a copy of the announcement.

(c) For purposes of this section, "change of ownership" means a change of an individual owner; a change of partners; a change of the service agent or a change of the principal parties in interest in a corporation.

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#### **160:15-5-5. Ownership of more than one pawnshop**

Each person who owns two (2) or more pawnshops must separately license each such pawnshop [59:1506(B)].

#### **160:15-5-6. Moving or closing a location**

(a) At least thirty (30) days before the address of a pawnshop is changed, the owner shall notify the Administrator [59:1505(B)] in writing. The owner shall post an announcement on the front door listing the address of the new location. The announcement shall remain on the front door until the location changes. In the change notice, the owner shall certify to the Administrator the date the announcement was posted and shall attach a copy of the announcement and any license that needs to be amended.

(b) At least thirty (30) days before a pawnshop is to be closed, the owner shall notify the Administrator in writing. The owner shall post an announcement on the front door listing the business telephone number and mailing and business address of another location, if any. The announcement shall remain posted until the existing pawnshop closes. In the closing notice, the owner shall certify to the Administrator the date the announcement was posted and shall attach a copy of the announcement along with the license for the closing pawnshop.

### **SUBCHAPTER 7. BOND REQUIREMENTS**

#### **160:15-7-1. Bond requirements**

The Administrator shall prescribe and approve forms for the maintenance of bonds required under the Act [59:1504(B)]. No bond shall be effective until received and accepted by the Administrator. Any person who seeks the termination or cancellation of any bond filed or maintained under the Act shall make written application to the Administrator thirty (30) days before the effective date of the termination or cancellation. The statement shall specify the justification for the termination or cancellation of the bond. If the Administrator approves the termination or cancellation of the existing bond, a new bond shall be filed and accepted by the Administrator before the existing bond is terminated or cancelled for the licensee to continue to operate.

### **SUBCHAPTER 9. ENFORCEMENT**

#### **160:15-9-1. Investigative proceedings**

(a) **Initiation.** Investigations and inquiries are originated upon request or complaint of the public or by the Administrator upon the Administrator's motion. Any person may apply to the Administrator to institute a proceeding in respect to any violation of law over which the Administrator has jurisdiction. The request or complaint shall be in writing, signed by the initiator and shall contain a statement setting forth the alleged violations of law and the name and address of the party or parties at issue in the complaint. No forms or formal procedures are required in making requests or complaints. The initiator is not regarded as a party since the Administrator acts only in the public interest. The Administrator shall not take action when the alleged violation of law is merely a matter of private controversy and does not tend to adversely affect the public.

(b) **Procedure.** The Administrator encourages voluntary cooperation in investigations. The Administrator may invoke any or all of the compulsory processes authorized by law, including subpoenas and depositions. The Administrator may issue a notice to grant access to, for examination and copying, records of any party being investigated, and may require a party to file a report or to submit answers in writing to specific questions relating to any matter under investigation. Inquiries and investigations are conducted by representatives designated and duly authorized to exercise and perform the duties of their office in accordance with the laws of Oklahoma and the regulations of the Administrator, including the administration of oaths and affirmations, in any matter under investigation by the Administrator. Any party under investigation, compelled to furnish information or documentary evidence, shall be advised of the purpose and scope of the investigation.

(c) **Confidentiality.** The information obtained in the course of any investigation shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state.

(d) **Noncompliance.** In case of failure to comply with the Administrator's investigative processes, the Administrator may initiate any authorized action, including acts for enforcement by the Administrator.

(e) **Violations.** If the investigation finds any violations of the Act or these rules, the Administrator may initiate any authorized action.

(f) **Informal disposition.** In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Administrator to afford parties who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, consent orders or defaults when it appears to the Administrator that such procedure fully safeguards the public interest. The Administrator reserves the right in all matters to withhold the privilege of an informal disposition. All stipulations, agreed settlements, consent orders or defaults shall be public records.

#### **160:15-9-2. Individual proceedings**

(a) **Allegations notice.** The Administrator shall notify the licensee of facts or conduct that warrant the intended action, and give the licensee an opportunity to show compliance with all lawful requirements for the retention of the license [75:314(C)(1)].

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(b) **Violations.** Where the facts indicate that the licensee has not complied with all lawful requirements for the retention of the license, the Administrator may initiate any authorized action.

(c) **Informal disposition.** In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Administrator to afford licensees who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, consent orders or defaults when it appears to the Administrator that such procedure fully safeguards the public interest. The Administrator reserves the right in all matters to withhold the privilege of an informal disposition. All stipulations, agreed settlements, consent orders or defaults shall be public records.

(d) **Hearing notice.**

(1) If the matter is to be set for hearing, the licensee shall be given twenty (20) days notice in writing [59:1507(B)].

(2) The notice shall:

(A) state the time, place and nature of the hearing;

(B) state the legal authority and jurisdiction for the hearing;

(C) refer to the statutory sections and rules involved; and

(D) state the matters asserted briefly and plainly [75:309(B)(1) - (4) and 59:1507(B)].

(e) **Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

(f) **Standard of proof.** The standard of proof is clear-and-convincing evidence. Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established.

(g) **Order.**

(1) The Administrator shall issue an order within sixty (60) days from the last day of the hearing unless the period is extended by written agreement between the licensee and the Administrator.

(2) The order shall:

(A) be in writing;

(B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;

(C) state conclusions of law;

(D) state the effective date; and

(E) be delivered in person or by certified mail with return receipt requested [75:309(H), 312 and 59:1507(B)].

(h) **Impair.** A suspension or revocation shall not impair or affect the obligation of any preexisting lawful contract between the licensee and any customer [59:1507(D)].

### **160:15-9-3. Hearing procedure - emergency actions**

(a) **Hearing notice.**

(1) If the public health, safety, or welfare imperatively requires emergency action, such action, including the suspension of a license instant or a cease and desist instant, may be ordered pending the final outcome of proceedings instituted by the Administrator [75:314(C)(2) and 314.1]. In such cases, the Administrator shall notify the party of such action by certified mail with return receipt requested or personal delivery, and shall include in such notice an order of hearing. The hearing shall be held within ten (10) days of the notice unless postponed by written agreement between the party and the Administrator.

(2) The notice shall:

(A) state the time, place and nature of the hearing;

(B) state the legal authority and jurisdiction for the hearing;

(C) refer to the statutory sections and rules involved; and

(D) state the matters asserted briefly and plainly [75:309(B)(1) - (4) and 59:1507(B)].

(b) **Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

(c) **Standard of proof.** The standard of proof is clear-and-convincing evidence. Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established.

(d) **Order.**

(1) The Administrator shall issue an order within thirty (30) days from the last day of the hearing unless the period is extended by written agreement between the party and the Administrator.

(2) The order shall:

(A) be in writing;

(B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;

(C) state conclusions of law;

(D) state the effective date; and

(E) be delivered in person or by certified mail with return receipt requested [75:309(H), 312 and 59:1507(B)].

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#### **160:15-9-4. Circumvention prohibited**

Whenever a licensee has an administrative action taken against a license, the Administrator may deny the licensee's request to inactivate such license, to sell or transfer the accounts under such license or to take any other action to circumvent or negate the administrative action during the time of the action or during the pendency of the action if on appeal.

#### **160:15-9-5. Review of an order**

##### **(a) Rehearing, reopening or reconsideration.**

###### **(1) Application.**

(A) Any party aggrieved by a final order may apply for a rehearing, reopening or reconsideration within ten (10) days from the date of the order [75:317(A)].

(B) The application shall be in writing and assert a statutory ground for a rehearing, reopening or reconsideration.

(C) The statutory grounds are:

(i) newly discovered or newly available evidence, relevant to the issues;

(ii) need for additional evidence adequately to develop the facts essential to proper decision;

(iii) probable error committed by the Department in the proceeding or in the decision such as would be ground for reversal on judicial review of the order;

(iv) need for further consideration of the issues and the evidence in the public interest; or

(v) a showing that issues not previously considered ought to be examined in order properly to dispose of the matter [75:317(A)(1) - (5)].

###### **(2) Application order.**

(A) The Administrator shall issue an order granting or denying the rehearing, reopening or reconsideration within thirty (30) days from receipt of the application unless the period is extended by written agreement between the party and the Administrator.

(B) If the application is granted, the order shall set forth the grounds that justify it [75:317(B)].

###### **(3) Hearing.**

(A) If the rehearing, reopening or reconsideration is granted, the hearing shall be limited to the ground or grounds upon which it was ordered [75:317(D)].

(B) All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

###### **(4) Rehearing order.**

(A) The Administrator shall issue an order from the rehearing, reopening or reconsideration within sixty (60) days from the last day of the hearing unless the period is extended by written agreement between the party and the Administrator.

(B) The order shall:

(i) be in writing;

(ii) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;

(iii) state conclusions of law;

(iv) state the effective date; and

(v) be delivered in person or by certified mail with return receipt requested [75:309(H), 312 and 59:1507(B)].

(5) **Tolling.** The period for judicial review shall run from the day the party is notified of the final disposition of the application if the application was filed timely [75:317(E)].

(6) **Prerequisite.** An application shall not be a prerequisite to secure judicial review [75:318(A)(3)].

##### **(b) District Court.**

###### **(1) Petition.**

(A) Any party aggrieved by a final order may file a petition in the district court of the party's resident county or the situs county of the property interest within thirty (30) days from the day the party is notified of the order [75:318(B)(2)].

(B) The petition shall be served upon the Department and all other parties of record, and proof of service shall be filed in the court within ten (10) days after the petition is filed [75:318(C)].

(2) **Stay.** The filing of a proceeding for review shall not automatically stay the final order, but the Department may stay the order or the court may or shall impose a stay in accordance with the APA [75:319(1)].

(3) **Record.** The Department shall transmit the record of its proceeding to the court within thirty (30) days after the service of the petition unless the court has granted an extension [75:320].

(4) **Review scope.** The review shall be confined to the record and done by the court without a jury [75:321].

(5) **Court order.** The court may affirm, set aside, modify, reverse or remand the agency order in accordance with the APA [75:322].

(c) **Supreme Court.** Any party aggrieved by a final judgment of a district court may appeal to the Supreme Court in the manner and time provided in civil actions [75:323].

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**160:15-9-6. Civil and criminal actions**

This chapter shall not be interpreted as limiting the right of the Administrator to seek civil remedies or make criminal referrals for any violation of the provisions o of the Act or these rules.