

SUPERVISED LOAN, 3-508B CHECKLIST

I. Disclosures

- _____ 1. Are the terms “annual percentage rate” and “finance charge” disclosed more conspicuously than other terms, except for the lender’s identity? 14A O.S. 3-302 (2)(i), OAC 160:45-5-1(a)(2), 12 CFR 1026.17 (a) (2).
Contract: APR/Finance Charge will be bolded or colored grey in a TILA box. Required
- _____ 2. Does the lender state the rate of the loan finance charge in terms of an annual percentage rate? 14A O.S. 3-304.
Contract: APR will be in a TILA box. Required
- _____ 3. **Identity of creditor.** Is the identity of the lender disclosed? 14A O.S. 3-306(2)(a), OAC 160:45-5-2(1), 12 CFR 1026.18 (a).
Contract: Lender’s name is a required disclosure
- _____ 4. **Amount financed.** Is the amount financed disclosed with a brief description, such as “the amount of credit provided to you or on your behalf ?” 14A O.S. 3-306(2)(b)(i), OAC 160:45-5-2(2), 12 CFR 1026.18 (b).
Contract: Amount Financed will be in a TILA box. Required
- _____ 5. **Itemization of amount financed.** Is a statement provided concerning the debtor’s right to obtain, upon a written request, a written itemization of the amount financed that includes the following information, as applicable? 14A O.S. 3-306(2)(b)(ii), OAC 160:45-5-2(3), 12 CFR 1026.18 (c).
- (i) The amount of any proceeds distributed directly to the debtor;
 - (ii) The amount credited to the consumer’s account with the debtor;
 - (iii) Any amounts paid to other persons by the lender on the consumer’s behalf. The lender shall identify those persons.
 - (iv) The prepaid finance charge.
- Contract: Itemization of amount financed should be disclosed on the contract (99.999% of time) OR a statement should be disclosed for written request**
- _____ 6. **Finance charge.** Is the finance charge disclosed with a brief description, such as “the dollar amount the credit will cost you.” 14A O.S. 3-306(2)(c), OAC 160:45-5-2(4), 12 CFR 1026.18 (d).
Contract: Finance Charge will be in a TILA box. Required

- _____ 7. **Annual percentage rate.** Is the finance charge disclosed as an annual percentage rate with a brief description, such as “the cost of your credit as a yearly rate.” 14A O.S. 3-306(2)(d), OAC 160:45-5-2(5), 12 CFR 1026.18 (e).
Contract: APR will be in a TILA box. Required
- _____ 8. **Total of payments.** Is the “total of payments,” using that term, disclosed with a brief explanation, such as the “amount you will have paid when you have made all such payments.” 14A O.S. 3-306(2)(e), OAC 160:45-5-2(8), 12 CFR 1026.18 (h).
Contract: Total of payments will be in a TILA box. Required
- _____ 9. **Payment schedule.** Is the payment schedule disclosed with the number, amount and due dates or period of payments scheduled to repay the total of payments? 14A O.S. 3-306(2)(f), OAC 160:45-5-2(7), 12 CFR 1026.18 (g).
Contract: Payment schedule is a required disclosure
- _____ 10. **Security interest.** Is any security interest that is taken disclosed and identified by item or type? 14A O.S. 3-306(2)(h), OAC 160:45-5-2(13), 12 CFR 1026.18 (m).
Contract: Security taken (if any) is a required disclosure
- _____ 11. **Late payment.** Is any dollar charge or percentage amount which may be imposed for a late payment disclosed, other than a deferral or extension charge? 14A O.S. 3-306(2)(i), OAC 160:45-5-2(12), 12 CFR 1026.18(l).
Contract: Late payment is a required disclosure
- _____ 12. **Rebate of finance charge upon refinancing or prepayment.** Is a statement disclosed indicating whether or not the debtor is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge? 14A O.S. 3-306(2)(j).
Contract: Rebate statement is a required disclosure
- _____ 13. **Contract reference.** Is a statement disclosed indicating that the debtor should refer to the appropriate contract document for any information such document provides about non-payment, default, the right to accelerate the maturity of the debt and prepayment rebates and penalties? 14A O.S. 3-306(2)(k), OAC 160:45-5-2(16), 12 CFR 1026.18 (p).
Contract: Reference statement is a required disclosure
- _____ 14. **Copy of disclosures to debtor.** Does the lender deliver a copy of the required disclosures to the debtor? 14A O.S. 3-302(2)(b).
Field observation: Lender should give a copy of disclosures to debtor

_____ 15. **Disclosures to person obligated on the consumer loan.** Does the lender provide the required disclosures to the person who is obligated on the consumer loan? 14A O.S. 3-302(2)(j)

Field observation: Lender should give a copy of disclosures to debtor

_____ 16. **Disclosure upon refinancing or consolidation.** Does the lender provide the required disclosures upon refinancing or consolidation? 14A O.S. 3-307.

Field observation: Lender should give a copy of disclosures to debtor as if it were a new transaction

II. Maximum charges

_____ 1. **Loan finance charges.**

(i) Is the loan finance charge properly calculated for loans made pursuant to 14A O.S. 3-508B(1)(a)?

Contract/Payment History: Calculate disclosure on contract. Review payment history to confirm

(ii) **Acquisition charge.** Is the acquisition charge properly calculated for loans made pursuant to 14A O.S. 3-508B(1)(b)-(f)?

Contract/Payment History: Calculate disclosure on contract. Review payment history to confirm

(iii) **Installment Account Handling Charge.** Is the installment account handling charge properly calculated for loans made pursuant to 14A O.S. 3-508B(1)(b)-(f)?

Contract/Payment History: Calculate disclosure on contract. Review payment history to confirm

_____ 2. **Rebate upon pre-payment.**

(i) **Acquisition charge.** If a loan is prepaid in full, refinanced or consolidated within the first sixty (60) days, does the lender refund pro rata, at the rate of one-sixtieth (1/60) of the acquisition charge for each day from the date of the prepayment, refinancing or consolidation to the sixtieth day of the loan? 14A O.S. 3-508B(6).

Contract/Payment History: Review payment history and contract(s) to confirm

(ii) **Installment account handling charge.** If a loan is prepaid, is the installment account handling charge refunded in accordance with the provisions of 14A O.S. 3-210.

Contract/Payment History: Review payment history and contract(s) to confirm

(iii) **Acceleration of maturity.** If the maturity of the loan is accelerated for any reason and judgment is obtained, did the debtor receive the same rebate as if payment had been made on the date judgment was entered? 14A O.S. 3-210(8).

Contract/Payment History: Review payment history and contract to confirm

_____ **3. Delinquency charges.**

(i) If a delinquency charge is imposed, is the delinquency charge contracted for and disclosed? 14A O.S. 3-203(1).

Contract/Payment History: Review payment history and contract to confirm

(ii) Is a delinquency charge imposed on an installment which is paid in full within ten (10) days after the scheduled installment due date? 14A O.S.3-203(1).

Payment History: Review payment history to confirm

(iii) Is a delinquency charge imposed by a lender in an amount not less than \$5.00 nor more than any of the following amounts, whichever is greater? 14A O.S. 3-203(1).

(a) Five percent (5%) of the unpaid amount of the installment;

(b) The dollar amount provided by rule of the Administrator?

(c) The deferral charge (14A O.S. 3-204) that would be permitted to defer the amount of the installment for the period that is delinquent.

Contract/Payment History: Review payment history and contract to confirm

(iv) Is a delinquency charge imposed more than once on an installment? 14A O.S. 3-203(2).

Payment History: Review payment history to confirm

(v) Has a delinquency charge been collected if the installment has been deferred and a deferral charge (14A O.S. 3-204) has been paid in full? 14A O.S. 3-203(2).

Payment History: Review payment history to confirm

(vi) Has a delinquency charge been collected on an installment which is paid in full within ten (10) days after its scheduled installment due date when an earlier maturing installment or a delinquency charge on an earlier installment has not been paid in full? 14A O.S. 3-203(3).

Payment History: Review payment history to confirm

____ 4. **Deferral charges.**

(i) If a deferral charge is made by a lender, does the charge exceed the rate previously stated to the debtor in the disclosures or loan agreement? 14A O.S. 3-204(3).

Contract/Payment History: Review payment history and contract to confirm

(ii) If a deferral charge is made by a lender, is the charge applied to the amount or amounts deferred for the period of deferral and calculated without regard to a difference in the lengths of months, but proportionately for a part of a month, counting each day as one-thirtieth of a month? 14A O.S. 3-204(3).

Payment History: Review payment history to confirm

(iii) If a deferral charge is made by a lender, is the deferral charge for a period after the date that the lender elects to accelerate the maturity of the agreement? If so, has the lender waived the acceleration and the parties have mutually agreed to the deferral? 14A O.S. 3-204(7).

Contract/Payment History: Review payment history and contract to confirm

- (iv) Has the lender imposed a delinquency charge on an installment if a deferral charge has been made with respect to the period of delinquency? 14A O.S. 3-204(8).

Payment History: Review payment history to confirm

- _____ 5. **Right to prepay.** Does the lender impose a penalty on a debtor that prepays in full the unpaid balance of a consumer loan? 14A O.S. 3-209.

Contract/Payment History: Review payment history and contract to confirm

III. Advertising

- _____ 1. **False or misleading advertising.** Does the lender engage in false or misleading advertising concerning the terms or conditions of credit with respect to a consumer loan? 14A O.S. 3-312. An advertisement (public sign, catalog, magazine, newspaper, radio, television or similar mass media) is misleading if it:

- (i) States the rate of the loan finance charge and the rate is not stated in the form required by the provisions on calculation of rate to be disclosed (14A O.S. 3-304) or

Advertisement: Review advertisement for disclosure of the rate (APR). Prohibited

- (ii) States the dollar amounts of the loan finance charge or installment payments and does not also state the rate of any loan finance charge and the terms of repayment.

Advertisement: Review advertisement for full disclosure of loan terms (AF, FC, APR, PMT, N). Prohibited

- _____ 2. **Actually available terms.** If an advertisement for credit states specific credit terms, does the advertisement state only those terms that actually are or will be arranged or offered by the lender? OAC 160:45-5-8(a), 12 CFR 1026.24 (a).

Advertisement: Compare advertisement to loan product(s) available from lender

- _____ 3. **Advertisement of rate of finance charge.**

- (i) If an advertisement states a rate of finance charge, is the rate stated as an “annual percentage rate” using that term? OAC 160:45-5-8(c), 12 CFR 1026.24 (c).

Advertisement: Review advertisement for disclosure of the rate (APR)

- (ii) If an advertisement is for credit not secured by a dwelling, is any other rate, other than the annual percentage rate stated? OAC 160:45-5-8(c). 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. 12 CFR 1026.24 (c)

Advertisement: Review advertisement for disclosure of the rate

_____ **4. Advertisement terms that require additional disclosures.** If any of the following terms is set forth in an advertisement (amount or percentage of any down payment, the number of payments or period of repayment, the amount of any payments or the amount of any finance charge), the advertisement shall state the following, additional terms as applicable: OAC 160:45-5-8(d), 12 CFR 1026.24 (d).

- (i) The amount or percentage of the down payment;
- (ii) The terms of repayment, which reflect the repayment obligations over the full term of the loan, including any balloon payment;
- (iii) The annual percentage rate, using that term and if the rate may be increased after consummation.

Advertisement: Review advertisement for full disclosure of loan terms (AF, FC, APR, PMT, N).

_____ **5. Catalogs or other multiple-page advertisements; electronic disclosures.** Do catalogs, multiple advertisements, electronic advertisements, television or radio advertisements comply with OAC 160:45-5-8(e) or 160:45-5-8(9), as applicable? 12 CFR 1026.24 (e) (1) (2)

Advertisement: Table/Schedule format review

_____ **6. Clear and conspicuous standard.** Are the required advertising disclosures made clearly and conspicuously by the lender? OAC 160:45-5-8(b), 12 CFR 1026.24 (b).

Advertisement: Self explanatory

IV. Limitations on agreements and practices

_____ **1. Loan terms.**

- (i) For loans with a principal of up to \$450.00, is the maximum term of the loan one (1) month for each \$10.00 of principal up to a maximum term of 18 months? 14A O.S. 3-508B(2).

Contract: Term is found in the payment schedule

- (ii) For loans with a principal of \$450-\$1,470, is the maximum loan term one (1) month for each \$20.00 of principal up to a maximum term of 18 months? 14A O.S. 3-508B(2).
Contract: Term is found in the payment schedule
- (iii) For loans with a principal of \$157.50 and greater, is the minimum loan term not less than 60 days? 14A O.S. 3-508B(3).
Contract: Term is found in the payment schedule
- (iv) Are loans scheduled to be paid in substantially equal installments at not less than 30 day intervals? 14A O.S. 3-508B(3).
Contract: Review contract date and payment schedule date(s)
- (v) Is the first scheduled installment payment due not less than one (1) calendar month after the date such loan is made? 14A O.S. 3-508B(3).
Contract: Review contract date and payment schedule date(s)

_____ 2. **Unauthorized charges.** Does the lender contract for any insurance charges or any other charges not authorized by the provisions of 14A O.S. 3-508B? Permissible charges for loans made pursuant to the provisions of 14A O.S. 3-508B are as follows:

Contract/Payment History: Review payment history and contract to confirm

- (i) Finance charges (acquisition charge and installment account handling charge for loans made pursuant to the provisions of 14A O.S. 3-508B(1)(b-f);
- (ii) Delinquency charges pursuant to the provisions of 14A 3-203;
- (iii) Deferral charges pursuant to the provisions of 14A 3-204.

_____ 3. **Authority to make supervised loans.**

- (i) Has the lender made supervised loans while unlicensed? 14A O.S.3-502(1).
License/Contract: Review date of licensure and compare to origination dates of loans

- (ii) Has the lender taken assignments of and undertaken direct collection of payments from or enforced rights against debtors arising from supervised loans while unlicensed? 14A O.S. 3-502(2).

License/Payment History: Review date of licensure and compare to the servicing of loans

_____ **4. Use of multiple agreements or split loans to obtain a higher rate or loan finance charge.**

- (i) Has the lender, independently or in concert with one or more other lenders, used multiple agreements or split a loan (including any refinancing thereof) into multiple loans with intent to obtain a higher rate or amount of loan finance charge under 14A O.S. 3-508B, than would otherwise be permitted? 14A O.S. 3-509.

Contract: Review loan originated on the same day to the same customer

- (ii) Has the lender, independently or in concert with one or more other lenders, used multiple agreements or split a loan (including any refinancing thereof) into multiple loans with intent to avoid disclosure of an annual percentage rate pursuant to the provisions on disclosure and advertising? 14A O.S. 3-509.

Contract: Review loan originated on the same day to the same customer

_____ **5. No assignment of earnings.** Does the lender take an assignment of earnings of the debtor for payment or as security for payment of a debt arising out of a consumer loan? 14A O.S. 3-403.

Contract/Payment History/Consumer File: Review contract for disclosure of assignment. Review payment history and consumer file for any indication of such assignment

_____ **6. Notice of assignment.** Does the lender provide a notification to the debtor of an assignment of payment rights? 14A O.S. 3-406.

Contract: Review the contract for disclosure of assignment

_____ **7. Authorization to confess judgment prohibited.** Has the debtor authorized any person to confess judgment on a claim arising out of a consumer loan? 14A O.S. 3-407.

Contract: Review the contract for confession of judgment

_____ 8. **Restrictions on interest in land as security.** With respect to a supervised loan in which the principal is \$4,500.00 or less and the loan finance charge exceeds 21% per year on the unpaid balances of the principal, does the lender contract for an interest in land as security? 14A O.S. 3-510.

Contract: Review disclosed security

_____ 9. **Conduct of business other than making loans.** Does the lender engage in the business of making sales of goods at a location where supervised loans are made? 14A O.S. 3-512. The following sales are permissible:

Field observation

- (i) Vending machine sales;
- (ii) Sales of repossessed items;
- (iii) The occasional sale of property;
- (iv) The sale of goods which are paid for by a consumer in cash and not with the proceeds of a loan by the licensee also making the sale.

_____ 10. **Attorneys fees.** Does the loan agreement provide for the payment by the debtor of attorneys fees? 14A O.S. 3-514.

Contract: Review disclosures pertaining to fees

_____ 11. **Restrictions on interest in motor vehicles as security.** Does the lender contract for an interest in a motor vehicle if the principal of the loan is \$300.00 or less?

Contract: Review disclosed security

_____ 12. **No garnishment before judgment.** Prior to entry of judgment in an action against a debtor for debt arising from a consumer loan, does the lender attach unpaid earnings of the debtor by garnishment or like proceedings? 14A O.S. 5-104.

Payment History, Judgment Paperwork, Garnishment Paperwork

V. Books and records

_____ 1. Does the lender keep and make available the books and records relating to loans made pursuant to the Uniform Consumer Credit Code in accordance with the provisions of 14A O.S. 3-506(3) and (4)?

Field observation