

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1234

By: Piatt of the House

and

Gumm of the Senate

AS INTRODUCED

An Act relating to banks; amending 6 O.S. 2001, Sections 104, 201, 202, 204, as amended by Section 1, Chapter 180, O.S.L. 2003, 209, 211, as amended by Section 4, Chapter 356, O.S.L. 2003, 211.1, as amended by Section 5, Chapter 356, O.S.L. 2003, 308, as amended by Section 8, Chapter 67, O.S.L. 2002, 309, as amended by Section 9, Chapter 67, O.S.L. 2002, 310, as amended by Section 10, Chapter 67, O.S.L. 2002, 405, 414, as amended by Section 2, Chapter 180, O.S.L. 2003, 424, as amended by Section 3, Chapter 180, O.S.L. 2003, 1004, as amended by Section 16, Chapter 67, O.S.L. 2002, 1017, 1018, 1405, 1740, 1741, 2108, 2109 and 2113 (6 O.S. Supp. 2004, Sections 204, 211, 211.1, 308, 309, 310, 414, 424 and 1004), which relate to the Oklahoma Banking Code; adding entity qualified under act; providing for termination by causes defined by Board; allowing Commissioner to appoint deputy commissioners; modifying Board member requirements; modifying meeting dates of Board; allowing for payment of civil penalties; updating references to revolving fund; removing definition; increasing hourly rate; modifying what monies are in certain revolving fund; allowing for request of court reporter at hearing; eliminating capital stock minimum; requiring approval by Commissioner for exemption from effort to dispose of real estate; allowing loan proceeds to be delivered to customer; allowing for use of irrevocable letter of credit; updating language to include securities pledged or purchased; requiring mailing of notice of court order of liquidation of trust; removing application of certain provisions to bank or trust under certain conditions; providing for applicability of Oklahoma Banking Code; providing for payment of fee with exemption request; setting certification fee; allowing for revocation of exempt status under certain conditions; deleting exemption status under certain conditions; providing conditions for issuance of irrevocable letter of credit; changing type of value of security; increasing hourly rate; allowing for certain expenses; amending 8 O.S. 2001, Section 166, which relates to cemeteries; updating reference to revolving fund; repealing 6 O.S. 2001, Section 211.2, as amended by Section 6, Chapter 356, O.S.L. 2003 (6 O.S. Supp. 2004, Section 211.2), which relates to the Oklahoma Banking Department; and providing an effective date.

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

SECTION 1. AMENDATORY 6 O.S. 2001, Section 104, is amended to read as follows:

Section 104. A. The certificates, permits and charters of state banks and trust companies heretofore organized under the laws of the state and existing before August 31, 1965, shall continue in full force and effect. All such state banks and trust companies, and, to the extent applicable, all national banks now or hereafter doing business in this state, shall from August 31, 1965, be subject to the provisions and requirements of this Code in every particular as if organized under this act.

B. Any bank, bank holding company, trust company or business association not holding a charter of authority to engage in banking or trust company business in this state shall register with the Commissioner, on a form provided by the Commissioner and pay a registration fee in an amount set by rule of the Board, all bank or trust-related activities conducted in this state by the bank, bank holding company, ~~or~~ trust company, business association, or any subsidiary or affiliate thereof.

C. Bank or trust-related activities include receiving deposits, transaction accounts, making loans, issuing debentures or other evidence of debt, holding funds or other property in trust, acting in a fiduciary capacity, or conducting in any other manner banking, or bank or trust-related activities.

SECTION 2. AMENDATORY 6 O.S. 2001, Section 201, is amended to read as follows:

Section 201. A. There shall be a Banking Department which shall be a separate department of the state government charged with supervision of the activities in this state as provided in the

1 Oklahoma Banking Code of 1997 and in other legislation conferring  
2 jurisdiction upon the Department.

3 B. The head of the Department shall be the Commissioner. The  
4 Commissioner shall be appointed by the Governor with the advice and  
5 consent of the Senate. The Commissioner shall have been a qualified  
6 elector of the state for at least three (3) years prior to the  
7 appointment, shall be at least thirty-five (35) years old and shall  
8 have had ten (10) years' experience as a bank officer or employee,  
9 or five (5) years' experience as a bank president or managing  
10 officer of a bank, or five (5) years' experience as a state or  
11 federal bank examiner. The Commissioner shall be appointed for a  
12 term of four (4) years. The Commissioner shall continue to serve  
13 until a successor is duly appointed, confirmed and qualified. The  
14 Commissioner may be removed by the Governor for cause after notice  
15 and hearing. A successor to a Commissioner who dies, resigns or is  
16 removed shall be appointed in the same manner as provided in this  
17 section.

18 C. 1. The Commissioner shall appoint a Deputy Commissioner who  
19 may also serve as secretary to the Board hereinafter created. The  
20 Deputy Commissioner shall have been a qualified elector of the state  
21 for at least three (3) years prior to the appointment, shall be at  
22 least thirty (30) years old and shall have had five (5) years'  
23 experience as a bank officer or employee, or three (3) years'  
24 experience as a bank president or managing officer of a bank, or  
25 five (5) years' experience as a state or federal bank examiner. If  
26 the office of the Commissioner is vacant or if the Commissioner is  
27 absent or unable to act, the Deputy Commissioner shall be the acting  
28 Commissioner.

29 2. The Commissioner may appoint Administrative Assistants whose  
30 administrative duties shall be prescribed by the Commissioner.

31 3. The Attorney General is hereby authorized to appoint an  
32 Assistant Attorney General, in addition to those now provided by

1 law, to be assigned to the Department. The Assistant Attorney  
2 General shall perform such additional duties as may be assigned by  
3 the Attorney General, and shall otherwise be subject to all  
4 provisions of the statutes relating to Assistant Attorneys General.  
5 The Banking Department is authorized to pay ~~from appropriated funds~~  
6 all or any part of the salary of the Assistant Attorney General.

7 4. The Commissioner may also appoint a Budget Director for the  
8 Department ~~and~~, a Credit Union Administrator and Assistant Deputy  
9 Commissioners. The Budget Director ~~and~~, Credit Union Administrator  
10 and Assistant Deputy Commissioners shall have the duties and  
11 authority as prescribed by the Commissioner.

12 5. The Commissioner shall prepare in writing a manual of all  
13 employee positions for the Department, including job  
14 classifications, personnel qualifications, duties, maximum and  
15 minimum salary schedules and other personnel information for  
16 approval by the Board. The Commissioner may select, appoint and  
17 employ such accountants, attorneys, auditors, examiners, clerks,  
18 secretaries, stenographers and other personnel as the Commissioner  
19 deems necessary for the proper administration of the Department and  
20 any other statutory duties of the Commissioner.

21 D. All officers and employees of the Department shall be in the  
22 exempt unclassified service as provided for in Section 840-5.5 of  
23 Title 74 of the Oklahoma Statutes. All future appointees to such  
24 positions shall be in the exempt unclassified service. Except as  
25 provided in subsection B of this section, officers and employees of  
26 the Department shall not be terminable except ~~on cause shown in an~~  
27 ~~individual proceeding as provided by the Administrative Procedures~~  
28 ~~Act~~ for cause as defined by the Board.

29 E. The Commissioner may delegate to any officer or employee of  
30 the Department any of the powers of the Commissioner and may  
31 designate any officer or employee of the Department to perform any  
32 of the duties of the Commissioner.

1 F. The Commissioner, Deputy Commissioner, Assistants to the  
2 Commissioner, credit union administrator, budget director, Assistant  
3 Deputy Commissioners, examiners, examiner-trainees, and all other  
4 personnel shall, before entering upon the discharge of their duties,  
5 take and subscribe to the oath of office required of state officers  
6 as provided by Section 36.2A of Title 51 of the Oklahoma Statutes.

7 G. 1. The Commissioner shall adopt an appropriate seal as the  
8 Seal of the State Banking Commissioner.

9 2. Every certificate, assignment and conveyance executed by the  
10 Commissioner, in pursuance of the authority conferred upon the  
11 Commissioner by law and sealed with the seal of the Department,  
12 shall be received in evidence and recorded in the proper recording  
13 offices in the same manner as a deed regularly acknowledged, as  
14 required by law.

15 3. Whenever it is necessary for the Commissioner to approve any  
16 instrument ~~and~~ or to affix the official seal thereto, the  
17 Commissioner may charge a fee for affixing the approval of the  
18 Commissioner ~~and~~ or the official seal to such instrument. Copies of  
19 all records and papers in the office of the Department, certified by  
20 the Commissioner and authenticated by the seal, shall be received in  
21 evidence in all cases equally and of like effect as the original.  
22 Whenever it is proper to furnish a copy of any paper filed in the  
23 Department ~~and~~ or to certify such paper, the Commissioner may charge  
24 a fee for furnishing such copy, for affixing the official seal on  
25 such copy and/or for certifying the same.

26 SECTION 3. AMENDATORY 6 O.S. 2001, Section 202, is  
27 amended to read as follows:

28 Section 202. A. The Board shall consist of seven (7) members.  
29 The Commissioner shall be Chairman and vote only in case of a tie on  
30 any question requiring action by the Board.

31 B. Board - Qualifications. Other than the Commissioner, five  
32 members of the Board shall be active officers of state banks or

1 trust companies, one of whom may be an officer or director of a  
2 national bank. One member of the Board shall be a citizen of  
3 Oklahoma, thirty-five (35) years old or older, who shall not have  
4 been in the past or become during the member's service on the Board  
5 an officer or stockholder in any banking institution, nor shall such  
6 person be related in the first degree to any other person who is or  
7 becomes during the term of such member an officer or stockholder in  
8 any state-chartered banking institution under the jurisdiction of  
9 the Department.

10 C. Board - Appointment - Qualifications - Successor - Removal.

11 Members of the Board, including the Commissioner, shall be appointed  
12 by the Governor with the advice and consent of the Senate; provided,  
13 appointments to the Board, and not including the Commissioner nor  
14 the member not affiliated in the past or during the member's term  
15 with any banking institution, shall only be made of individuals  
16 whose names shall be included in a list of twelve names submitted to  
17 the Governor by the Executive Committee of the Oklahoma Association  
18 of State Banks, a division of the Oklahoma Bankers Association. If  
19 a Board member resigns for any reason before his or her term expires  
20 under the provisions of this section, the resigning Board member  
21 shall notify the Governor in writing and shall submit a copy of his  
22 or her letter of resignation to the Commissioner and the Executive  
23 Committee of the Oklahoma Association of State Banks. If the  
24 Oklahoma Association of State Banks shall not submit such list  
25 within thirty (30) days after a vacancy shall occur, then the  
26 Governor may appoint, with the advice and consent of the Senate,  
27 such person as the Governor may select who shall meet the  
28 qualifications set forth in subsection B of this section.

29 The term of office of each Board member other than the  
30 Commissioner shall be six (6) years. The Governor may, after  
31 notice, hearing and proceeding in accordance with the Administrative  
32 Procedures Act, remove a member for cause.

1 D. Travel Expense. Each member shall be entitled to be  
2 reimbursed for necessary travel expenses pursuant to the State  
3 Travel Reimbursement Act.

4 E. Board Meetings - Quorum - Disqualification. The Board shall  
5 meet at least ~~once in each calendar quarter~~ semiannually. The  
6 Commissioner may call additional meetings of the Board upon at least  
7 twenty-four (24) hours' notice and in any event shall call a meeting  
8 upon the written request of two members. Four members of the Board  
9 shall constitute a quorum, and action taken by a majority of those  
10 voting at any meeting at which a quorum is present shall be the  
11 action of the Board. No member shall participate in a proceeding  
12 before the Board to which any corporation or partnership of which  
13 the member is or was at any time in the preceding twelve (12) months  
14 a director, officer, partner, employee, member or stockholder is a  
15 party. A member may be disqualified upon the member's own motion  
16 from participating in a proceeding for any other cause deemed by the  
17 member to be sufficient.

18 F. Lack of Quorum - Appointment of Acting Members. At any  
19 meeting at which a quorum is not present, whether by reason of the  
20 inability of a member to participate or the voluntary  
21 disqualification of the member, or otherwise, the Governor may  
22 designate the Deputy Commissioner, the Attorney General, or the head  
23 of any other department of the state government, in that order, as  
24 acting members of the Board for the purpose of constituting a  
25 quorum, but the Governor shall not designate more acting members  
26 than shall be necessary to constitute a quorum.

27 G. Clerical, Technical and Legal Assistance. Such clerical,  
28 technical and legal assistance as the Board may require shall be  
29 provided by the Department.

30 SECTION 4. AMENDATORY 6 O.S. 2001, Section 204, as  
31 amended by Section 1, Chapter 180, O.S.L. 2003 (6 O.S. Supp. 2004,  
32 Section 204), is amended to read as follows:

1 Section 204. A. In addition to other powers conferred by this  
2 Code, the State Banking Commissioner shall have the power to require  
3 a bank, bank holding company or trust company or shareholder,  
4 officer, director, or bank employee to:

5 1. Maintain its accounting system in accordance with such  
6 regulations as may be prescribed by the Board or as the Commissioner  
7 may prescribe in absence of Board regulations; provided, the  
8 accounting system required shall have due regard to the size of the  
9 banking and trust organization;

10 2. Observe methods and standards which the Commissioner may  
11 prescribe for determining the value of various types of assets;

12 3. Charge off the whole or part of an asset which at the time  
13 of the Commissioner's action could not lawfully be acquired;

14 4. Write down an asset to its market value;

15 5. Record liens and other interest in property;

16 6. Obtain a financial statement from a borrower to the extent  
17 that the bank can do so;

18 7. Obtain insurance against damage to real estate taken as  
19 security;

20 8. Search, or obtain insurance of, the title to real estate  
21 taken as security;

22 9. Maintain adequate insurance against such other risks as the  
23 Commissioner may determine to be necessary and appropriate for the  
24 protection of depositors, trust funds and the public; ~~and~~

25 10. Cease and desist from engaging in any act or transaction,  
26 or doing any act in furtherance thereof, which would constitute a  
27 violation of the provisions of the Oklahoma Banking Code, federal  
28 banking law or the applicable banking law of another state, or a  
29 lawful regulation issued thereunder, or to cease and desist from  
30 engaging in any unsafe or unsound banking or trust practice; and

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1        11. Pay civil money penalties under the same circumstances and  
2 conditions applicable to imposition of civil money penalties by the  
3 primary federal bank regulatory agency of the bank.

4        B. Before issuing an order provided for in subsection A of this  
5 section, the Commissioner shall give reasonable notice of an  
6 opportunity for a hearing. However, if the Commissioner makes  
7 written findings of fact that the protection of depositors will be  
8 harmed by delay in issuing an order provided for in subsection A of  
9 this section, the Commissioner may issue a temporary order pending  
10 the hearing on the order provided for in subsection A of this  
11 section. The temporary order shall remain in effect until three (3)  
12 business days after the hearing on the order provided for in  
13 subsection A of this section and shall become final if the bank or  
14 trust company subject to the order fails within fifteen (15) days  
15 after the receipt of the order to request a hearing to determine  
16 whether the temporary order should be modified, vacated, or become  
17 final. If a hearing on the temporary order is not held upon written  
18 request, the temporary order shall dissolve and the order provided  
19 for in subsection A of this section shall not be issued except upon  
20 reasonable notice and opportunity for hearing.

21        C. Any person, bank or trust company aggrieved by a final order  
22 of the Commissioner as provided for in this section may obtain a  
23 review of the order by the Board, who shall have the power to  
24 affirm, modify, reverse, or stay the enforcement of any order of the  
25 Commissioner.

26        D. The Commissioner may enter into cooperative, coordinating,  
27 and information-sharing agreements with any other bank supervisory  
28 agencies or any organization affiliated with or representing one or  
29 more bank supervisory agencies with respect to the periodic  
30 examination or other supervision of any bank, bank holding company,  
31 or branch in this state of an out-of-state state bank, or any branch  
32 of an Oklahoma state bank in any other state, and the Commissioner

1 may accept such reports of examination and reports of investigation  
2 in lieu of conducting the Commissioner's own examinations or  
3 investigations. If such agreements result in the payment of fees,  
4 however calculated, by any other bank supervisory agency to the  
5 Oklahoma State Banking Department for examination or supervisory  
6 activities conducted by Department personnel, whether such activity  
7 is conducted inside or outside of this state, such fees shall be  
8 deposited in the ~~Bank Examination Revolving Fund established by~~  
9 ~~Section 211.2~~ Oklahoma State Banking Department revolving fund  
10 pursuant to Section 211.1 of this title. If such agreements result  
11 in the payment of fees, however calculated, by the Department to any  
12 other bank supervisory agency for examination or supervisory  
13 activities conducted by such other bank supervisory agency, whether  
14 such activity is conducted inside or outside of this state, such  
15 fees shall be paid by the Department from the ~~Bank Examination~~  
16 ~~Revolving Fund established by Section 211.2~~ Oklahoma State Banking  
17 Department revolving fund pursuant to Section 211.1 of this title.

18 E. The Commissioner may enter into cooperative agreements with  
19 other bank regulatory agencies to facilitate the regulation of banks  
20 and bank holding companies doing business in this state. The  
21 Commissioner may accept reports of examinations and other records  
22 from such other agencies in lieu of conducting its own examinations  
23 of banks controlled by out-of-state bank holding companies. The  
24 Commissioner may take any action jointly with other regulatory  
25 agencies having concurrent jurisdiction over banks and bank holding  
26 companies or may take such actions independently in order to carry  
27 out the responsibilities of the Commissioner.

28 F. 1. The Commissioner may issue interpretive statements  
29 containing matters of general policy for the guidance of state banks  
30 and trust companies and other entities under the jurisdiction of the  
31 Department. The Commissioner may amend or repeal an interpretive  
32 statement by issuing an amended statement or notice of repeal of a

1 statement and shall provide notice thereof and make it available to  
2 all state-chartered banks and trust companies upon request.

3 2. The Commissioner may issue opinions in response to specific  
4 requests from members of the public or the banking and trust  
5 industry directly or through the Deputy Commissioner or the  
6 Department's attorneys. The Commissioner may amend or repeal an  
7 opinion by issuing an amended statement or notice of repeal of an  
8 opinion and shall provide notice thereof and make it available to  
9 all state-chartered banks and trust companies upon request, except  
10 that the requesting party may rely on the original opinion if all  
11 material facts were originally disclosed to the Commissioner,  
12 considerations of safety and soundness of the affected bank are not  
13 implicated with respect to further and prospective reliance on the  
14 original opinion, and the text and interpretation of relevant,  
15 governing provisions of this act have not been changed by  
16 legislative or judicial action.

17 3. An interpretive statement or opinion issued under this  
18 section does not have the force of law and is not a rule.

19 SECTION 5. AMENDATORY 6 O.S. 2001, Section 209, is  
20 amended to read as follows:

21 Section 209. A. 1. The State Banking Commissioner shall, at  
22 least every eighteen (18) months or as often as the Commissioner  
23 deems advisable, examine every bank and trust company, and for the  
24 purpose of making such examinations and special examinations, shall  
25 have full access to all books, papers, securities, records and other  
26 sources of information under the control of banks and trust  
27 companies. Upon the conclusion of the examination, the Commissioner  
28 may make and file in the office of the Commissioner a report in  
29 detail disclosing the results of such examination or may, on  
30 conditions prescribed by the Commissioner, prepare a summary  
31 memorandum regarding the results of such examination, and shall,  
32 upon request by the bank, mail a copy of such report or memorandum

1 to the bank or trust company examined. However, the Commissioner  
2 may accept, in lieu of any three consecutive bank examinations, the  
3 examination that may have been made of the bank or trust company  
4 within a reasonable period by the Federal Deposit Insurance  
5 Corporation, the Board of Governors of the Federal Reserve System,  
6 or the Office of Thrift Supervision provided a copy of the  
7 examination, report, or other document prepared as a result of the  
8 examination is furnished to the Commissioner.

9 2. The Commissioner may also accept any other report relative  
10 to the condition of a bank or trust company, to include joint or  
11 concurrent examinations which may be obtained by the authorities  
12 within a reasonable period, in lieu of such report authorized by the  
13 laws of this state to be required of such bank by the Oklahoma State  
14 Banking Department, provided a copy of such report is furnished to  
15 the Commissioner.

16 3. The Commissioner may enter into cooperative, coordinating,  
17 and information-sharing agreements with the Federal Deposit  
18 Insurance Corporation, the Board of Governors of the Federal Reserve  
19 System, or the Office of Thrift Supervision with respect to the  
20 periodic examination or other supervision of any state bank, trust  
21 company, or state thrift.

22 4. When requested in writing upon authority of the board of  
23 directors or stockholders owning a majority of the capital stock of  
24 any bank or trust company, the Commissioner shall, if in the opinion  
25 of the Commissioner such examination is desirable, make or cause to  
26 be made an examination into the affairs and conditions of such bank  
27 or trust company. For such examination such bank or trust company  
28 shall pay the same fees as provided for in subsection B of Section  
29 211 of this title.

30 B. Every bank shall make four reports each year and more often  
31 if called upon by the Commissioner and according to the form which  
32 may be prescribed by the Commissioner, and every trust company shall

1 make two reports each year and more often if called upon by the  
2 Commissioner and according to the form which may be prescribed by  
3 the Commissioner. They must be verified by the oath or affirmation  
4 of the president, cashier or secretary of such bank or trust  
5 company, attested by the signatures of at least two of the  
6 directors, and shall be retained and made available for inspection  
7 upon request of the Commissioner or designated representatives of  
8 the Commissioner. Each such report shall exhibit, in detail and  
9 under appropriate headings, the assets and liabilities of the  
10 corporation at the close of business on any last day by the  
11 Commissioner specified, and shall be transmitted to the Commissioner  
12 within thirty (30) calendar days after the call date, and may be  
13 published at the expense of the bank or trust company in the same  
14 form in which it is made to the Commissioner. The Commissioner  
15 shall also have the power to call for special reports from any bank  
16 or trust company whenever, in the judgment of the Commissioner, the  
17 same are necessary in order to gain a full and complete knowledge of  
18 its condition. However, the reports authorized and required by this  
19 section, to be called for by the Commissioner, shall relate to a  
20 date prior to the date of such call to be specified therein.  
21 Additionally, the Commissioner may accept, in lieu of the reports  
22 referred to in this section, reports made by banks that are members  
23 of the Federal Reserve System on forms provided by the Federal  
24 Reserve System or reports submitted by banks to the Federal Deposit  
25 Insurance Corporation.

26 C. Every bank or trust company which fails to make and transmit  
27 any report required within the discretion of the Commissioner, under  
28 the Oklahoma Banking Code, shall be subject to a penalty not to  
29 exceed Fifty Dollars (\$50.00) for each day, after the period  
30 respectively therein mentioned, that the bank or trust company  
31 delays to make and transmit its report. Whenever any bank or trust  
32 delays or refuses to pay the penalty herein imposed for a failure to

1 make and transmit a report, the Commissioner is hereby authorized to  
2 maintain an action in the name of the state against the delinquent  
3 bank or trust company for the recovery of such penalty, and all sums  
4 collected by such action shall be paid into the ~~State Treasury to be~~  
5 ~~credited to the General Revenue Fund~~ Oklahoma State Banking  
6 Department revolving fund pursuant to Section 211.1 of this title.

7 D. For the purpose of carrying into effect the provisions of  
8 this Code, the Commissioner shall provide a form ~~for the necessary~~  
9 ~~blanks~~ for such examinations and reports, and all examinations and  
10 reports received by the Commissioner shall be preserved in the  
11 office of the Commissioner for a period of not less than five (5)  
12 years. Such examination and reports and all other records of  
13 operating banks and trust companies in the Department are to be kept  
14 confidential, except as permitted by this Code.

15 SECTION 6. AMENDATORY 6 O.S. 2001, Section 211, as  
16 amended by Section 4, Chapter 356, O.S.L. 2003 (6 O.S. Supp. 2004,  
17 Section 211), is amended to read as follows:

18 Section 211. A. 1. The Banking Board shall charge and collect  
19 from each bank ~~or~~ and trust company under its supervision ~~not more~~  
20 ~~than~~ an annual fee of One Thousand Dollars (\$1,000.00) which shall  
21 be deposited in the Oklahoma State Banking Department revolving fund  
22 pursuant to Section 211.1 of this title.

23 2. The Board shall charge and collect assessments from each  
24 bank or trust company under its supervision on each One Thousand  
25 Dollars (\$1,000.00) of assets, or major fraction thereof, at rates  
26 established by the Board. Assessments shall be deposited in the  
27 Oklahoma State Banking Department revolving fund created by Section  
28 211.1 of this title.

29 3. Effective January 1, 2005, and each year thereafter, twenty  
30 percent (20%) of all assessments collected ~~pursuant to this~~  
31 ~~paragraph~~ from state chartered banks existing as of December 31 of  
32 the previous year shall be deposited to the General Revenue Fund of

1 the State Treasury. The Board may charge and collect assessments on  
2 an annual basis and may, in addition to any annual assessment,  
3 charge and collect a special assessment from each bank or trust  
4 company, at rates established by the Board. The annual assessments  
5 shall be paid to the Oklahoma State Banking Department no later than  
6 the fifth day of February in each year. ~~As used in this paragraph,~~  
7 ~~"assets" shall not include assets held by a trust company in its~~  
8 ~~fiduciary capacity.~~

9 4. The fee for bank trust departments, which shall be in  
10 addition to the assessment collected pursuant to paragraph 2 of this  
11 subsection, shall be One Thousand Dollars (\$1,000.00). The fees due  
12 under this paragraph shall be paid annually to the Banking  
13 Department no later than the fifth day of February in each year and  
14 shall be deposited in the Oklahoma State Banking Department  
15 revolving fund pursuant to Section 211.1 of this title. Failure to  
16 pay within such time any assessment or fee imposed pursuant to this  
17 section by its due date will result in a penalty of Fifty Dollars  
18 (\$50.00) per day for each day it is in violation of this section,  
19 which penalty, together with the amount due under the foregoing  
20 provisions of this section, may be recovered in a civil action in  
21 the name of the state.

22 5. All fees not otherwise directed shall be deposited in the  
23 Department revolving fund pursuant to Section 211.1 of this title.

24 B. Whenever it is deemed advisable by the State Banking  
25 Commissioner, special examinations of banks, trust companies and any  
26 other person under, subject to or proposed to become under or  
27 subject to the supervision of the Commissioner shall be conducted.  
28 The expenses of the Department necessarily incurred in a special  
29 examination, and the expenses of the Department necessarily incurred  
30 in a regular examination of a trust company, shall be chargeable to  
31 the bank, trust company or person examined at the rate not to exceed  
32 ~~Fifty Dollars (\$50.00)~~ Seventy-five Dollars (\$75.00) per hour plus

1 travel expenses as provided by subsection B of Section 201.1 of this  
2 title for each of the examining personnel ~~while engaged at such~~  
3 ~~institution~~. Payments received pursuant to this subsection shall be  
4 deposited in the Department revolving fund pursuant to Section 211.1  
5 of this title.

6 C. Section 211 of Title 62 of the Oklahoma Statutes shall not  
7 apply to the Oklahoma State Banking Department, the Banking Board,  
8 the Credit Union Board nor the Banking Commissioner.

9 SECTION 7. AMENDATORY 6 O.S. 2001, Section 211.1, as  
10 amended by Section 5, Chapter 356, O.S.L. 2003 (6 O.S. Supp. 2004,  
11 Section 211.1), is amended to read as follows:

12 Section 211.1 There is hereby created in the State Treasury a  
13 revolving fund for the Oklahoma State Banking Department. The  
14 revolving fund shall consist of all fees and assessments paid to or  
15 collected by the Department, including all monies received by the  
16 Commissioner under Sections 104, 204, 303, 415, 501.1 and 501.2 of  
17 this title and Section 381.16 of Title 18 of the Oklahoma Statutes  
18 and those payments required to be deposited in the revolving fund  
19 pursuant to Sections 211, 1103, 1206, 2001.2, 2008, 2107 and 2113 of  
20 this title, Section 381.15 of Title 18 of the Oklahoma Statutes, and  
21 Section 166 of Title 8 of the Oklahoma Statutes. The revolving fund  
22 shall be a continuing fund, not subject to fiscal year limitations.  
23 Expenditures from the fund shall be made pursuant to the laws of  
24 this state and the statutes relating to the Department, and without  
25 legislative appropriation. Warrants for expenditures from the fund  
26 shall be drawn by the State Treasurer, based on claims signed by an  
27 authorized employee or employees of the Department and approved for  
28 payment by the Director of State Finance.

29 SECTION 8. AMENDATORY 6 O.S. 2001, Section 308, as  
30 amended by Section 8, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2004,  
31 Section 308), is amended to read as follows:  
32

1 Section 308. A. Notice. When a hearing is permitted before  
2 the Commissioner, the Commissioner shall notify interested persons  
3 of the date, time and place at which an opportunity to be heard  
4 shall be afforded. Interested persons shall include the applicant,  
5 the persons requesting a hearing and other persons who have  
6 submitted written comments and objections to the Commissioner.

7 B. Participation in the hearing. Within ten (10) days after  
8 the date of notice of hearing, each person desiring to be heard  
9 shall notify the Commissioner of such person's intention to  
10 participate in the hearing. At least five (5) days prior to the  
11 hearing, each participant shall submit to the Commissioner and the  
12 applicant a list of witnesses and copies of each exhibit to be  
13 offered as the Commissioner may require. Any participant who fails  
14 to comply with these deadlines shall be prohibited from  
15 participation in the hearing.

16 C. Presiding officer. The presiding officer at the hearing  
17 shall be the Commissioner or the designee of the Commissioner. The  
18 presiding officer shall have the authority to appoint a panel to  
19 assist the presiding officer.

20 D. Order of presentation.

21 1. Opening statements. The applicant and each other  
22 participant shall make an opening statement. The length of such  
23 statements shall be within the discretion of the presiding officer.

24 2. Applicant's presentation. Following the opening statements,  
25 the applicant shall present any data and materials, oral or  
26 documentary of the applicant.

27 3. Other presentations. Following the applicant's  
28 presentation, other interested persons may present their views with  
29 respect to the application under consideration.

30 4. Summary statements. After all the above presentations have  
31 been concluded, the participants may make short and concise summary  
32 statements reviewing their positions.

1 E. Witnesses. The obtaining of witnesses is the responsibility  
2 of the participants. All witnesses will be present of their own  
3 volition, but any person appearing as a witness may be subject to  
4 questioning by any participant, by the presiding officer or by any  
5 member of the panel. The refusal of a witness to answer questions  
6 may be considered by the presiding officer in determining the weight  
7 to be accorded the testimony of that witness. Witnesses shall not  
8 be sworn.

9 F. Evidence. The presiding officer shall have the authority to  
10 exclude witnesses, evidence, data or materials which the presiding  
11 officer deems to be improper, irrelevant, or duplicitous. Formal  
12 rules of evidence shall not be applicable to these hearings.  
13 Documentary material must be of a size consistent with ease of  
14 handling, transportation and filing, and must be provided for each  
15 participant by the party presenting such evidence. While large  
16 exhibits may be used during the hearing, copies of such exhibits  
17 must be provided by the party in reduced size for submission as  
18 evidence. Ten copies of all such documentary evidence shall be  
19 furnished to the Commissioner.

20 G. Procedural questions. The presiding officer or any  
21 designated member of the assisting panel shall determine all  
22 procedural questions. The Commissioner and the presiding officer  
23 shall each have the authority to limit the number of witnesses to be  
24 called by each participant and to impose such time limitations as  
25 they shall deem reasonable.

26 H. Transcript. A If the proceedings of the hearing are  
27 recorded by a court reporter, a transcript of each the hearing shall  
28 be made. The Commissioner's office shall The party requesting the  
29 hearing may arrange for a court reporter to be present to record the  
30 proceedings. All expenses of the reporter, including the furnishing  
31 of two copies of the transcript to the Commissioner, shall be borne  
32 by the person or persons requesting the opportunity to be heard. In

1 the event the Commissioner orders a hearing when no request is  
2 submitted, expenses shall be borne by the applicant.

3 I. The record. The record of these proceedings shall include  
4 the charter application file described in Section 309 of this title,  
5 all documentary evidence presented at the hearing and ~~the~~ any  
6 transcript.

7 SECTION 9. AMENDATORY 6 O.S. 2001, Section 309, as  
8 amended by Section 9, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2004,  
9 Section 309), is amended to read as follows:

10 Section 309. A. Contents. The charter application file shall  
11 consist of the application with supporting data and supplementary  
12 information, with the exception of personal financial records of  
13 individual applicants and other material deemed by the Commissioner  
14 to be confidential. In addition, the charter application file shall  
15 contain all data and information submitted by interested persons in  
16 opposition to such application.

17 B. Availability of charter application file. Except for  
18 personal financial records of individual applicants and other  
19 material deemed by the Commissioner to be confidential, the charter  
20 application file shall be available for inspection in the office of  
21 the Banking Department upon written request from any person. No  
22 documents in the charter application file may be removed from the  
23 office of the Banking Department. Photocopies may be made upon  
24 request. The charge for such copies shall be determined ~~by the~~  
25 ~~Commissioner~~ pursuant to Section 208 of this title.

26 C. Findings and conclusions. The presiding officer of a  
27 hearing permitted under Section 308 of this title shall issue  
28 findings of fact and conclusions of law within thirty (30) days  
29 after the hearing or additional time as prescribed by the presiding  
30 officer based on the material contained in the record and shall mail  
31 a copy of the findings and conclusions to each participant. The  
32 presiding officer, at the discretion of the presiding officer, may

1 give consideration to the following in arriving at the findings,  
2 conclusions and recommendation of the presiding officer:

3 1. The character, financial responsibility and business  
4 experience of the organizers and proposed directors;

5 2. The adequacy of the existing banking facilities in the  
6 proposed market;

7 3. The economic and competitive conditions in the proposed  
8 market;

9 4. The likelihood of successful operation of the proposed  
10 institution;

11 5. The adequacy of initial capital, proposed earnings and  
12 deposit prospects of the proposed institution; and

13 6. Negative impact on banks serving all or part of proposed  
14 market.

15 D. Objections; Board hearing. Written objections to the  
16 presiding officer's findings and conclusions, or procedural  
17 objections, if any, shall be submitted to the Commissioner by  
18 participants within fourteen (14) days after the issuance of the  
19 presiding officer's findings and conclusions. The Commissioner  
20 shall schedule a date for consideration of the presiding officer's  
21 findings of fact and conclusions of law and recommendations ~~by~~ to  
22 the Board and for presentation of oral arguments by participants in  
23 support of or in opposition to the written objections previously  
24 submitted.

25 The Commissioner shall promptly notify all participants of the  
26 date scheduled for hearing before the Board.

27 SECTION 10. AMENDATORY 6 O.S. 2001, Section 310, as  
28 amended by Section 10, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2004,  
29 Section 310), is amended to read as follows:

30 Section 310. A. Board hearing. The Board shall consider all  
31 applications for authority to organize a state bank or trust  
32 company. If the Commissioner has granted an earlier hearing on the

1 application, the Board shall review the transcript of the  
2 proceedings, if any, including the findings of fact and conclusions  
3 of law of the presiding officer. The Board may hear oral argument  
4 in support of and in opposition to the written objections, if any,  
5 and shall adopt, reject or remand the findings, conclusions and  
6 recommendation of the presiding officer. The Board shall adopt the  
7 presiding officer's findings, conclusions and recommendation unless  
8 it finds the presiding officer's findings, conclusions and  
9 recommendation are not supported by the record. Remand may be for  
10 the sole purpose of the presiding officer taking additional evidence  
11 from the participants. Any such remand shall specifically identify  
12 the scope and nature of additional evidence sought by the Board.  
13 Proceedings on remand shall be conducted within the time limits set  
14 by the Board in the manner as prescribed by the presiding officer.

15 The Board may adopt, reject or modify any finding of fact not  
16 supported by the record. The Board may adopt or reject any  
17 conclusion of law. The Board may enter such additional findings of  
18 fact that it deems necessary or appropriate and which is supported  
19 by the record.

20 In the absence of a hearing granted before the Commissioner, the  
21 Board may adopt its own findings of fact and conclusions of law with  
22 respect to the approval or disapproval of the application. If the  
23 applicant or any interested party desires to obtain a transcript of  
24 the proceedings before the Board, such person shall notify the  
25 Commissioner in writing within ten (10) days of the Board's hearing  
26 and must arrange for a court reporter to be present at the hearing.  
27 All expenses of the reporter, including the furnishing of two copies  
28 of the transcript to the Commissioner, shall be borne by the person  
29 or persons arranging for the reporter. In the event the Board  
30 requests a reporter to be present, expenses shall be borne by the  
31 applicant.

32

1 B. Condition. Approval of an application for authority to  
2 organize a state bank shall be contingent upon the proposed bank  
3 making a bona fide application for Federal Deposit Insurance or for  
4 membership in the Federal Reserve System.

5 C. Approval of an application. When approving or disapproving  
6 an application for authority to organize a state bank or trust  
7 company, the Board may accept or reject any findings of fact or  
8 conclusions of law reached in an earlier hearing before the  
9 Commissioner, or may approve or disapprove the application based on  
10 its own findings of fact and conclusions of law. The Board must  
11 provide written findings of fact and conclusions of law only when  
12 required by the provisions of the Oklahoma Administrative Procedures  
13 Act.

14 D. Notice. Within ten (10) days after approval or disapproval  
15 of the application by the Board, the Commissioner shall provide  
16 notice to all interested persons.

17 SECTION 11. AMENDATORY 6 O.S. 2001, Section 405, is  
18 amended to read as follows:

19 Section 405. A. Increase or decrease of capital stock;  
20 procedure. Any bank or trust company authorized to conduct a  
21 banking business under the laws of the State of Oklahoma may at any  
22 time increase or reduce its capital stock, ~~but not below the minimum~~  
23 ~~provided by subsection B of Section 303.1 of this title,~~ after such  
24 change ~~having~~ has been approved by the Commissioner and by a  
25 majority vote of the outstanding voting stock.

26 1. After the increase or decrease of capital stock has been  
27 authorized at a regular shareholders' meeting or a special  
28 shareholders' meeting called for that purpose, the president or  
29 secretary of the bank or trust company shall prepare a certificate  
30 in the form prescribed by the Commissioner containing a copy of the  
31 resolution, as passed by a majority vote of the outstanding voting  
32 stock, authorizing the increase or decrease of capital stock. Such

1 certificate shall be verified by oath of the president or secretary  
2 of the corporation and forthwith transmitted to the Commissioner.

3 2. Upon receipt of such certificate, the Commissioner may, in  
4 the discretion of the Commissioner, authorize the increase or  
5 decrease of the capital stock of the corporation. The Commissioner,  
6 after such increase or decrease has been authorized and approved,  
7 shall thereupon issue a certificate showing the amount to which the  
8 capital stock has been increased or decreased by authority of the  
9 resolution, as certified by the Commissioner.

10 3. No bank or trust company shall issue any certificate of  
11 stock under any increase of capital until the whole amount of such  
12 increase has been fully paid either in cash or by transfer from  
13 undivided profits.

14 B. Reduction of capital stock; surrender of certificate.  
15 Whenever the capital stock of any bank or trust company is reduced,  
16 every shareholder, owner or holder of any stock certificate shall  
17 surrender the same for cancellation and shall be entitled to receive  
18 a new certificate for that portion of the stock remaining in force  
19 after the reduction has been made. Any stock certificate which is  
20 not surrendered for cancellation and reissue, under any decrease of  
21 capital stock, shall be null and void as to the amount represented  
22 by the decrease. No dividends shall be paid to any shareholder  
23 until the old certificate has been surrendered and canceled.

24 SECTION 12. AMENDATORY 6 O.S. 2001, Section 414, as  
25 amended by Section 2, Chapter 180, O.S.L. 2003 (6 O.S. Supp. 2004,  
26 Section 414), is amended to read as follows:

27 Section 414. A. 1. A bank or trust company may purchase and  
28 hold real estate, equipment, furniture and fixtures necessary for  
29 the convenient transaction of its business, the cost of which shall  
30 not exceed its capital. This limitation may be exceeded upon  
31 written approval of the State Banking Commissioner.

32

1       2. With prior approval of the Commissioner, a bank or trust  
2 company may purchase and hold fixtures, facilities and real estate,  
3 including but not limited to storage facilities, facilities for  
4 civic or public use or facilities for the benefit of employees of  
5 the bank, bank customers or the community. No banking business of  
6 any type shall be engaged in or conducted at such facilities.

7       3. A bank or trust company may lease out to such tenants as it  
8 deems appropriate any portion of its banking house or premises not  
9 utilized in the conduct of its banking operations.

10       4. Upon prior written approval of the Commissioner, a bank or  
11 trust company may purchase real estate at a location where the bank  
12 or trust company could lawfully establish an office.

13       5. A state bank may purchase or construct a municipal building,  
14 such as a school building, or other similar public facility and, as  
15 holder of legal title, lease the same to a municipality or other  
16 public authority having resources sufficient to make payment of all  
17 rentals as they become due. The lease agreement shall provide that  
18 upon its expiration the lessee will become owner of the building or  
19 facility.

20       6. Subject to prior approval by the Commissioner and such  
21 conditions and limitations as the Commissioner shall prescribe,  
22 which shall be consistent with any rules the State Banking Board may  
23 prescribe, a state bank may purchase real estate for the purpose of  
24 producing income, sale, or for development and improvement,  
25 including the erection of buildings thereon, for sale or rental  
26 purposes.

27       B. 1. A bank or trust company may purchase and hold real  
28 estate conveyed to it in satisfaction of debts previously contracted  
29 in good faith in the course of business.

30       2. All such real estate shall be accounted for individually at  
31 the lower of the recorded investment in the loan satisfied or its  
32 fair market value on the date of the transfer.

1       3. The recorded investment in the loan satisfied is the unpaid  
2 balance of the loan, increased by accrued and uncollected interest,  
3 unamortized premium, and loan acquisition costs, if any, and  
4 decreased by previous direct write down, finance charges and  
5 unamortized discount, if any.

6       C. Upon notification by the bank to the Commissioner that such  
7 conditions exist that require the expenditure of funds for the  
8 development and improvement of such real estate, and subject to such  
9 conditions and limitations as the Commissioner shall prescribe, the  
10 bank may expend its funds to enable such bank to recover its total  
11 investment.

12       D. A bank or trust company may acquire and hold real estate  
13 such as it shall purchase at sale under judgment, decree or mortgage  
14 foreclosure, under securities held by it.

15       E. 1. Without the written approval of the Commissioner, real  
16 estate acquired in the cases contemplated in subsections B and D of  
17 this section may be held for an initial holding period of no longer  
18 than five (5) years from the date of acquisition. However, a bank  
19 may apply, during the first two (2) years in which the real estate  
20 is acquired by the bank, for approval by the Commissioner to retain  
21 such real estate for the purposes described in paragraph 6 of  
22 subsection A of this section. In the case of approval by the  
23 Commissioner, the rules of this subsection shall not apply to such  
24 property. In the absence of such application, or if the application  
25 is denied by the Commissioner, the rules of this subsection shall  
26 apply to the retention of the real estate by the bank.

27       2. Following the expiration of the initial holding period, one  
28 additional extension period of up to five (5) years may be granted  
29 upon the written approval of the Commissioner.

30       3. A bank or trust company must begin to write down the book  
31 value for each property held as other real estate owned a minimum of  
32 ten percent (10%) each year during the additional extension period.

1 The bank or trust company shall then be required to write off the  
2 remaining balance of the other real-estate-owned property at the end  
3 of the additional extension period.

4 4. Banks or trust companies shall be required to keep current  
5 appraisals on file to substantiate their other real-estate-owned  
6 property book values. A full appraisal or a supplement which  
7 updates a full appraisal, not more than twelve (12) months old,  
8 shall be considered current for purposes of this paragraph.

9 5. ~~Banks or trust companies~~ Unless a bank has applied for  
10 approval by the Commissioner during the first two (2) years after  
11 the real estate is acquired, to retain such real estate for the  
12 purposes described in paragraph 6 of subsection A of this section, a  
13 bank shall also continue efforts to dispose of the real estate at  
14 the earliest possible opportunity.

15 6. At the conclusion of the additional extension period, real  
16 estate ~~may~~ must be disposed of or ~~carried as prescribed by the~~  
17 Commissioner, if approved by the Commissioner, must be transferred  
18 to a subsidiary company of the bank.

19 7. For purposes of this section, ownership interests in oil,  
20 gas and other subsurface mineral rights other than mere leasehold  
21 interests shall be considered real estate. However, notwithstanding  
22 the holding limitation of this section or any other provision  
23 contained herein, any bank or trust company which on October 15,  
24 1982, held, directly or indirectly, any oil, gas and other  
25 subsurface mineral rights, other than mere leasehold interests, that  
26 since December 31, 1979, had not been valued on the books of such  
27 bank or trust company for more than a nominal amount, may continue  
28 to hold such subsurface rights or interest without limitation.

29 F. Any bank or trust company organized under the laws of this  
30 state may invest its funds in the stocks, bonds, debentures or other  
31 such obligations of any corporation holding the premises of such  
32 bank or trust company, and may make loans to or upon the security of

1 any such corporation, but the aggregate of all such investments and  
2 loans together with the investments provided for in subsection A of  
3 this section shall not exceed its capital. This limitation may be  
4 exceeded upon the written approval of the Commissioner.

5 G. Every conveyance of real estate and every lease thereof made  
6 by a bank or trust company shall have the name of such bank or trust  
7 company subscribed thereto, either by an attorney-in-fact,  
8 president, vice-president, chairperson or vice-chairperson of the  
9 board of directors of such corporation.

10 H. Nothing in this section shall preclude or limit in any  
11 manner investments by a bank permitted under any other section of  
12 this Code.

13 SECTION 13. AMENDATORY 6 O.S. 2001, Section 424, as  
14 amended by Section 3, Chapter 180, O.S.L. 2003 (6 O.S. Supp. 2004,  
15 Section 424), is amended to read as follows:

16 Section 424. A. Subject to rules promulgated by the Banking  
17 Board, a bank or out-of-state bank may utilize employees or agents  
18 of the bank or out-of-state bank to originate loans or originate  
19 deposit accounts, or both, at locations other than the main office  
20 or a branch office of such bank or out-of-state bank, provided that  
21 the loan decision is made and the loan is funded at the main office  
22 or a branch office of the bank or out-of-state bank and provided  
23 that no deposits shall be accepted or received at the deposit  
24 origination office. A bank or out-of-state bank may establish an  
25 office location described in this section by making an application  
26 to the State Banking Commissioner on a form prescribed by the  
27 Commissioner. An application fee of Five Hundred Dollars (\$500.00)  
28 shall accompany the application.

29 B. An office shall be considered to be a loan production office  
30 if it is open to the public, and employees or agents of the bank or  
31 out-of-state bank:

32 1. Provide loan applications to customers;

- 1 2. Facilitate the return of the loan application to the bank or  
2 out-of-state bank;
- 3 3. Provide promissory notes and/or disclosures to customers;
- 4 4. Receive executed notes from customers; or
- 5 5. Arrange for the loan proceeds to be delivered to the ~~bank~~  
6 customer.

7 C. An office shall be considered to be a deposit production  
8 office if it is open to the public, and employees or agents of the  
9 bank or out-of-state bank:

- 10 1. Provide deposit applications to customers;
- 11 2. Facilitate the return of the deposit application to the bank  
12 or out-of-state bank;
- 13 3. Provide deposit agreements and/or disclosures to customers;
- 14 4. Receive executed deposit agreements from customers; or
- 15 5. Arrange for the deposited funds to be delivered to the bank.

16 D. The Commissioner or the Board may, upon written request of a  
17 bank or out-of-state bank, designate or approve of specified  
18 activities (including a limited number of those described in  
19 subsections B and C of this section) that a bank or out-of-state  
20 bank may conduct without the facility being considered a loan  
21 production office or deposit production office. For purposes of  
22 this section, the word "agent" shall include independent  
23 contractors, or any other "institution affiliated party" as that  
24 term is defined in 12 U.S.C., Section 1813(u).

25 SECTION 14. AMENDATORY 6 O.S. 2001, Section 1004, as  
26 amended by Section 16, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2004,  
27 Section 1004), is amended to read as follows:

28 Section 1004. A. Deposit requirement - As pledge for faithful  
29 performance.

30 (1) Before any bank or trust company, including national banking  
31 associations, shall transact any fiduciary business within this  
32 state it shall deposit with the Commissioner, as security and as a

1 | pledge for the faithful performance of its duties as a trust  
2 | company, cash or interest-bearing securities, which securities shall  
3 | have a ready market value in an amount regulated by the amount of  
4 | cash and securities held in trust by the bank or trust company.

5 |       (2) Whenever such cash and securities held in trust amount to  
6 | less than One Million Dollars (\$1,000,000.00), the deposit shall be  
7 | Fifty Thousand Dollars (\$50,000.00). Whenever such cash and  
8 | securities held in trust amount to One Million Dollars  
9 | (\$1,000,000.00) but do not exceed Five Million Dollars  
10 | (\$5,000,000.00), the deposit shall be Two Hundred Fifty Thousand  
11 | Dollars (\$250,000.00). Whenever such cash and securities held in  
12 | trust amount to Five Million Dollars (\$5,000,000.00) but do not  
13 | exceed Ten Million Dollars (\$10,000,000.00), the deposit shall be  
14 | Four Hundred Thousand Dollars (\$400,000.00). Whenever such cash and  
15 | securities held in trust exceed Ten Million Dollars  
16 | (\$10,000,000.00), the deposit shall be Five Hundred Thousand Dollars  
17 | (\$500,000.00); provided, no trust company not receiving deposits  
18 | other than funds held by it in trust shall be required to increase  
19 | the deposit to an amount in excess of its capital. The term "cash  
20 | and securities held in trust" as employed herein shall not include  
21 | lands held in trust as collateral security for monies lent or to be  
22 | lent, nor to trust funds registered with the Securities and Exchange  
23 | Commission under the Securities Act of 1933, as amended (48 Stat.  
24 | 74, 15 U.S.C. Section 77 (1933)), and the Securities Exchange Act of  
25 | 1934, as amended (48 stat. 881, 15 U.S.C. Section 78 (1934)).

26 |       B. Securities eligible for deposit. The securities mentioned  
27 | in subsection A of this section (~~Section 1004~~) may be of the  
28 | following classes and not otherwise:

29 |       (1) Interest-bearing bonds, notes or obligations of the United  
30 | States, or those for which the faith of the United States is pledged  
31 | for the payment of the principal and interest.

32 |

1 (2) Bonds or other obligations of the State of Oklahoma or any  
2 county of this state, or of any incorporated city, town or school or  
3 port district of this state having a population of not less than two  
4 thousand (2,000) inhabitants as shown by the last federal census, or  
5 bonds of any other state of the United States, or any county,  
6 incorporated city, town or school district having a population of  
7 not less than twenty-five thousand (25,000) inhabitants, as shown by  
8 the last federal census, provided such bonds were issued in  
9 compliance with the constitution and laws of such state, and there  
10 has been no default in payment of either principal or interest on  
11 any of the general obligations of such state, county, incorporated  
12 town, city or school or port district for a period of five (5) years  
13 next preceding the date of the deposit, and such bonds are a general  
14 obligation of the state, county, school or port district, city or  
15 town issuing the same.

16 (3) Bonds, other than foreign bonds, listed on the New York  
17 Stock Exchange, provided the total obligation of any one debtor  
18 shall not exceed twenty percent (20%) of the aggregate deposit.

19 (4) Notes or bonds secured by first lien upon improved real  
20 estate in the State of Oklahoma. Such loans may be subsequent to  
21 taxes not due and bonded indebtedness for public improvements not  
22 due, but any such obligation, plus taxes not due and bonded  
23 indebtedness for public improvements not due, shall not exceed fifty  
24 percent (50%) of the reasonable market value of such real estate,  
25 except as provided in Section 1008 of this Code. There shall be  
26 filed by the bank or trust company in support of such real estate  
27 obligation such appraisal, evidence of merchantable title and  
28 insurance as may be required by the Commissioner.

29 C. Purchase of bond or irrevocable letter of credit in lieu of  
30 deposit. As an alternative to the deposit and pledge of cash or  
31 securities pursuant to the provisions of this section, a bank or  
32 trust company may purchase a bond or irrevocable letter of credit,

1 ~~payable to~~ for the benefit of the Commissioner and to any person  
2 suffering a loss by reason of the malfeasance of the bank or trust  
3 company (a "Claimant"). The amount of the bond or letter of credit  
4 must be not less than twice the amount of the cash and securities  
5 which would otherwise be required to be pledged under paragraph (2)  
6 of subsection A of this section. The bond or letter of credit must  
7 be submitted to and approved by the Commissioner. The bond or  
8 letter of credit may be canceled only after thirty (30) days' prior  
9 written notice to the Commissioner and only after the bank or trust  
10 company has made a sufficient deposit of cash or securities under  
11 the terms of this section, or the company has been relieved of its  
12 fiduciary positions by transfer pursuant to the terms of Section  
13 1109 of this title and has relinquished its trust powers pursuant to  
14 the provisions of Section 1017 of this title. Any bank or trust  
15 company that does not maintain a bond or letter of credit which  
16 complies with the terms of this subsection must make a deposit or  
17 pledge of securities pursuant to the terms of this section.

18 D. Primary liability for deposit. The deposit, ~~or~~ or  
19 letter of credit required by this section shall be primarily liable  
20 for the malfeasance of a company as guardian, executor,  
21 administrator, assignee, receiver, trustee under inter vivos trust  
22 or trustee under will by an appointment of court, or depository of  
23 money in court, and is not liable for any debt or other obligation  
24 of the company until such malfeasance liability of the company has  
25 been discharged.

26 E. Right of action against deposit, ~~or~~ or letter of  
27 credit. Any person who suffers loss or damage because of the breach  
28 of any trust committed to any bank or trust company shall have a  
29 right of action to recover the amount of such loss or damage from  
30 the provisions of the bond, letter of credit, or out of the moneys  
31 or securities deposited with the Commissioner by the bank or trust  
32 company. However, the Commissioner shall not be required to release

1 to a Claimant any amount deposited with the Commissioner or request  
2 payment of any amount under the terms of the bond or letter of  
3 credit except at the direction of an unappealable order of a court  
4 of competent jurisdiction issued in favor of the Claimant. If the  
5 amount for which the bank or trust company is liable exceeds the  
6 amount of the bond or letter of credit or deposit, all Claimants  
7 will receive a pro rata portion of the total bond or deposit based  
8 on the Claimant's percentage of the company's total liability.

9 F. Charge for handling securities. The Commissioner may make  
10 such charges and assessments for expenses incurred, including  
11 insurance, and services rendered in connection with deposits of  
12 securities as he deems just and reasonable.

13 G. Appraisal of real estate securing deposit. The Commissioner  
14 may appraise, or cause to be appraised, or may in lieu of his own  
15 appraisal accept the appraisal of qualified appraisers, every parcel  
16 of real estate securing any note or bond offered for deposit with  
17 the Commissioner. If the appraisement is made by the Commissioner  
18 he shall collect from the company offering the mortgages for deposit  
19 his actual expenses in making the appraisement. If the appraisement  
20 is made by an appraiser selected by the Commissioner he shall  
21 collect a reasonable fee from the company.

22 H. Certificates of title, title insurance, or title opinion on  
23 real estate securing deposit. The Commissioner may accept a  
24 certificate of title or guaranty of title or title insurance policy  
25 from a title insurance company, or the opinion of the attorney who  
26 examined the title to the property for the trust company offering a  
27 mortgage and note for deposit, or he may require an opinion as to  
28 title from the Attorney General.

29 I. Fire insurance; deposit of documents with notes or bonds.

30 (1) Fire insurance shall be in effect upon all insurable  
31 property for the reasonable value thereof.

32

1 (2) All mortgages or deeds of trust and all insurance policies,  
2 abstracts of title (when required by the Commissioners),  
3 certificates of title, guaranty of title or title insurance policies  
4 and appraisements shall be deposited with the notes or bonds. When  
5 less than the whole of a bond issue is deposited, the Commissioner  
6 shall not require the deposit of the abstract of title, certificate  
7 of title, guaranty of title or title insurance policies and  
8 appraisements, but may require in lieu thereof a certificate from  
9 the trustee of the mortgage or bond issue that such documents have  
10 been deposited with the trustee.

11 J. Substitution of deposit securities; income of securities  
12 deposited.

13 (1) The Commissioner may require the immediate substitution of  
14 other securities when he has reason to believe that the market value  
15 of securities which have heretofore been deposited have depreciated  
16 below their face value. Substitution of securities with the  
17 Commissioner at the request of the depositing bank or trust company  
18 may be permitted when approved by the Commissioner.

19 (2) So long as the depositing bank or trust company continues  
20 solvent it shall be permitted to receive and retain all interest,  
21 income or dividends from all securities deposited with the  
22 Commissioner.

23 K. Return of deposit; liability of state.

24 (1) The State of Oklahoma is liable for the return of any funds  
25 or securities deposited in accordance with this section.

26 (2) The State of Oklahoma is responsible for the safe return of  
27 such securities deposited with the Commissioner under this Code.

28 SECTION 15. AMENDATORY 6 O.S. 2001, Section 1017, is  
29 amended to read as follows:

30 Section 1017. A. 1. Banks. Any bank desiring to surrender  
31 its right to exercise the powers granted pursuant to this article in  
32 order to relieve itself of the necessity of complying with the

1 requirements of this article, or to have cancelled or returned to it  
2 any ~~securities which it deposited with the State Banking~~  
3 ~~Commissioner~~ security pledged or purchased pursuant to Section 1004  
4 of this title, may file with the Commissioner a certified copy of a  
5 resolution of its board of directors signifying such desire.

6 2. Upon receipt of such resolution, the Commissioner, upon  
7 satisfaction that such bank has been relieved in accordance with  
8 state law of all duties as trustee, executor, administrator,  
9 registrar of stocks and bonds, guardian of estates, assignee,  
10 receiver, or other fiduciary, under court, private or other  
11 appointment previously accepted under authority of this article, may  
12 issue to such bank a certificate certifying that such bank is no  
13 longer authorized to exercise the powers granted by this article.

14 3. Upon the issuance of such a certificate by the Commissioner,  
15 such banks:

16 a. shall no longer be subject to the provisions of this  
17 article or the regulations of the Board made pursuant  
18 thereto,

19 b. shall be entitled to cancel or have returned to it any  
20 ~~securities which it deposited with the Commissioner~~  
21 security pledged or purchased pursuant to the  
22 provisions of Section 1004 of this title, and

23 c. shall not exercise thereafter any of the powers  
24 granted by this article without first applying for and  
25 obtaining a new permit to exercise such powers  
26 pursuant to the provisions of this Code.

27 B. Trust companies. Any trust company desiring to retire from  
28 business specified in this article shall furnish to the Commissioner  
29 satisfactory evidence of its release and discharge from all  
30 obligations and trusts provided for in this article. The  
31 Commissioner shall thereupon examine, or cause to be examined, such  
32 trust company, and, if the Commissioner is satisfied after such

1 examination that such trust company has discharged all its  
2 obligations and trusts, the Commissioner shall revoke its  
3 certificate of authority and ~~deliver up all securities on deposit~~  
4 ~~with him~~ authorize the cancellation of, or return, of any security  
5 pledged or purchased pursuant to the provisions of Section 1004 of  
6 this title.

7 SECTION 16. AMENDATORY 6 O.S. 2001, Section 1018, is  
8 amended to read as follows:

9 Section 1018. A. Successor trustee upon liquidation or  
10 receivership; appointment and qualification; petition by  
11 Commissioner. Whenever any bank or national banking association  
12 doing a trust business or trust company goes into voluntary or  
13 involuntary liquidation or receivership, successor trustee or  
14 trustees shall be appointed and shall qualify in the following  
15 manner:

16 (1) After the Commissioner has taken possession of any such  
17 bank or trust company, he shall file in the liquidation proceedings  
18 of the bank or trust company a petition setting forth in general  
19 terms that the bank or trust company is trustee under certain trusts  
20 and that it is desirable and necessary that a successor trustee or  
21 trustees be appointed under such trusts. It is not necessary for  
22 such petition to designate the parties to any such trust or the  
23 nature, purpose or extent of the trusts or the trust properties.

24 (2) Upon the filing of the petition, the court shall make and  
25 enter an order requiring all persons interested in any and all such  
26 trusts either to designate and provide and take all necessary steps  
27 to appoint successor trustee or trustees within a time to be fixed  
28 in the order, or to show cause why a successor trustee or trustees  
29 should not be appointed by the court. Such order may be general in  
30 its terms and need not designate the trusts involved or the nature,  
31 purpose or extent thereof, or give the name of any of the  
32 beneficiaries or others interested therein.

1 (3) In all trusts where all persons interested, or the court  
2 having jurisdiction of court trusts, take the steps to provide for  
3 the appointment and qualification of a successor trustee or trustees  
4 within the time limited in such order, or such further time as the  
5 court may allow, the successor trustee or trustees shall, with  
6 relation to such trusts, succeed to all the rights, powers,  
7 privileges, and obligations of the bank or trust company in  
8 liquidation, except claims or liabilities arising out of the  
9 management of the trust prior to the date of transfer.

10 (4) In any trust where those interested therein fail to cause a  
11 successor trustee or trustees to be appointed prior to the time  
12 fixed in such order, the court shall, by order and decree, appoint a  
13 successor trustee or trustees, and such successor trustee or  
14 trustees shall, with relation to such trusts, succeed to all the  
15 rights, powers, privileges and obligations of the bank or trust  
16 company in liquidation, except claims or liabilities arising out of  
17 the management of the trust prior to the date of transfer.

18 (5) A copy of the order provided for in paragraph (2) of this  
19 subsection shall be published once a week for four (4) successive  
20 weeks in a newspaper of general circulation to be designated by the  
21 court and published in the county in which the liquidation  
22 proceedings of the bank or trust company are carried on. If there  
23 is no newspaper published in such county, publication shall be made  
24 in a newspaper of general circulation in the State of Oklahoma  
25 designated by the court. Proof of publication shall be made in the  
26 same manner as proof of publication of summons is made.

27 (6) The filing of such petition and the making and entering of  
28 such order and the giving of notice of such order as required by  
29 this subsection gives the court full jurisdiction of the trusts and  
30 all parties interested therein. The court having jurisdiction in  
31 such matter shall require the Commissioner to mail, by registered  
32 mail postage prepaid, a copy of such order to each living trustor of

1 all private trusts in which such bank or trust company is trustee or  
2 to the then directly participating beneficiaries of all private  
3 trusts in which there is no living trustor. Such notice shall be  
4 mailed to the last-known address of each such trustor or  
5 participating beneficiary as shown by or as may be ascertained by  
6 reasonably diligent efforts from the records of the bank or trust  
7 company. Proof of mailing shall be in such form as the court shall  
8 require.

9 B. Successor trustee; petition by liquidating agent or  
10 receiver; National banking associations. Whenever a national  
11 banking association doing a trust business goes into voluntary or  
12 involuntary liquidation, the liquidating agent or the receiver  
13 thereof may file a petition in the district court of the county in  
14 which the national banking association has or had its principal  
15 office and place of business, setting forth the same matters as are  
16 required to be set forth in the petition filed by the Commissioner  
17 under subsection A of this section. Thereafter, successor trustee  
18 or trustees for the trusts of such national banking association  
19 shall be appointed in the same manner and the same procedure  
20 followed and the same jurisdiction acquired as set forth in  
21 subsection A of this section.

22 C. Successor trustee; petition by bank or trust company. When  
23 any bank or trust company doing a trust business going into  
24 voluntary liquidation, such bank or trust company may file a  
25 petition in the district court of the county in which it has its  
26 principal office or place of business, setting forth the same  
27 matters as are required to be set forth in the petition filed by the  
28 Commissioner under subsection A of this section. Thereafter  
29 successor trustee or trustees for the trusts of such bank or trust  
30 company shall be appointed in the same manner and the same procedure  
31 followed and the same jurisdiction obtained as set forth in said  
32 subsection A of this section. Provided, however, with respect to

1 those trust accounts for which those interested therein fail to  
2 cause a successor trustee or trustees to be appointed, the  
3 liquidating bank or trust company shall be responsible for mailing,  
4 by registered mail postage prepaid, a copy of the court's order to  
5 each living trustor of all private trusts in which such bank or  
6 trust company is trustee or to the then directly participating  
7 beneficiaries of all private trusts in which there is no living  
8 trustor. Such notice shall be mailed to the last-known address of  
9 each such trustor or participating beneficiary as shown by or as may  
10 be ascertained by reasonably diligent efforts from the records of  
11 the bank or trust company. Proof of mailing shall be in such form  
12 as the court shall require.

13 D. Transfer of trust property to successor trustee. Upon the  
14 appointment of any successor trustee or trustees, in the manner  
15 provided in this section, the Commissioner, the liquidating agent,  
16 the receiver or the bank or trust company in voluntary liquidation,  
17 as the case may be, may execute such deeds, conveyances, transfers  
18 and assignments as are necessary to transfer to and vest in the  
19 successor trustee or trustees all right, title, interest, power and  
20 authority in, over and to the trust property theretofore vested in  
21 the bank or trust company or national banking association so in  
22 liquidation.

23 E. Discontinuance of trust business; determination of claims  
24 against deposit of securities. (1) Whenever a bank, trust company  
25 or national banking association doing a trust business discontinues  
26 such trust business, all claims of whatsoever kind and nature  
27 against the pledged or purchased security deposit of such trust  
28 company, bank or national banking association required by law to be  
29 made with the Commissioner shall be determined, established and  
30 adjudicated in the manner provided in this section. If not so  
31 determined, established and adjudicated, such claims shall forever  
32 be barred and foreclosed.

1 (2) The method of determining, establishing and adjudicating  
2 such claims shall be as follows: The Commissioner shall file in the  
3 district court for the county in which is located the principal  
4 office and the place of business in the State of Oklahoma of such  
5 trust company, bank or national banking association a verified  
6 petition setting forth:

7 (a) that such trust company, bank or national banking  
8 association desires to retire from the trust  
9 business, dissolve or transfer its trust  
10 business, or that it is in process of voluntary  
11 or involuntary liquidation;

12 (b) that it is necessary that claims, if any, against  
13 the ~~deposit~~ pledged or purchased security made by  
14 such trust company, bank or national banking  
15 association with the Commissioner be determined.

16 F. Order to bring suit; publication of order; jurisdiction over  
17 securities; notice to trustor; appearance of minors and incompetents  
18 unnecessary. (1) Upon the filing of the petition mentioned in  
19 subsection E of this section, the court shall make an order  
20 requiring all persons, ~~copartnerships~~ partnerships, associations or  
21 corporations having claims against the ~~securities~~ pledged or  
22 purchased security to commence action or suit thereon in such  
23 district court within six (6) months from the date of the order, or  
24 forever be barred and foreclosed of any claim on such ~~deposit~~  
25 security. It is not necessary that either the petition or the order  
26 give the names of any beneficiary or the nature of the trusts  
27 protected by the ~~deposit~~ security.

28 (2) A copy of the order shall be published in a newspaper  
29 designated by the court, having a general circulation in the county  
30 of the principal office and place of business in the State of  
31 Oklahoma of such trust company, bank or national banking  
32 association, at least once a week for as many consecutive weeks as

1 the court shall determine, not less than four (4) weeks nor more  
2 than twelve (12) weeks. If no newspaper is published in such  
3 county, the copy of the order shall be published in such newspaper  
4 in this state as the court designates. Upon completion of  
5 publication, proof thereof shall be made in the same manner as proof  
6 of publication of summons is made and such proof shall be filed with  
7 the clerk of such court.

8 (3) The filing of the petition, the making and entering of the  
9 order, and the giving of notice of such petition as required by this  
10 subsection, gives the court full jurisdiction of ~~securities~~  
11 ~~deposited~~ the security pledged or purchased under Section 1004 of  
12 this title and of all parties having an interest in or claim upon  
13 such ~~securities~~ security. The court so having jurisdiction in such  
14 matter shall require the Commissioner to mail, by registered mail  
15 postage prepaid, a copy of such order to each living trustor of all  
16 private trusts in which the bank or trust company is trustee and  
17 which have not been closed or to the then directly participating  
18 beneficiaries of all such private trusts in which there is no living  
19 trustor. Such notice shall be mailed to the last-known address of  
20 each such trustor or participating beneficiary as shown by or as may  
21 be ascertained by reasonably diligent efforts from the records of  
22 the bank or trust company. Proof of mailing shall be in such form  
23 as the court requires.

24 G. Termination of right to do trust business. The filing by  
25 the Commissioner of the proceedings provided for in subsection E of  
26 this section shall operate to terminate the right of the bank or  
27 trust company or national bank affected thereby to do a trust  
28 business, except such business as may be necessary to wind up then  
29 existing trusts.

30 H. Actions or suits on claims; limitation of actions; service  
31 of summons; preference on calendars. (1) All persons,  
32 ~~copartnerships~~ partnerships, associations or corporations, including

1 minors, incompetents and all others under any legal disability,  
2 having any claim against the ~~deposit~~ pledged or purchased security  
3 mentioned in subsection E of this section, shall file action or suit  
4 within six (6) months from the date of the court order, and in  
5 default thereof shall be forever barred and foreclosed of any and  
6 all claim and interest in, to or against the ~~deposit~~ security.

7 (2) The district court making the order shall have exclusive  
8 jurisdiction of all actions or suits brought to determine claims to  
9 the ~~deposit~~ pledged or purchased security.

10 (3) In all actions or suits filed pursuant to this action, the  
11 Commissioner shall be a necessary party defendant.

12 (4) No action or suit shall be deemed to have been commenced  
13 within the time required by the order unless, in the case of  
14 defendants within the state, summons is actually served within sixty  
15 (60) days from the time limited in the order.

16 (5) Actions or suits filed pursuant to this section shall have  
17 preference upon the calendar of both the trial court and the Supreme  
18 Court, and shall be tried by such courts without unnecessary delay.

19 I. Release or payment of ~~deposit~~ security pending suit;  
20 distribution of ~~deposits~~ security upon determination of suit. (1)  
21 If any actions or suits on claims against the ~~deposit~~ pledged or  
22 purchased security mentioned in subsection E of this section are  
23 commenced within the time limited by the court order, the  
24 Commissioner shall not release or cancel the ~~deposit~~ security, or  
25 any part thereof, nor shall the court order the release or  
26 cancellation thereof nor the payment of any part thereof until such  
27 time as all such actions or suits are determined by final judgment  
28 or decree.

29 (2) When such actions or suits are finally determined, so much  
30 of the ~~deposit~~ security as is necessary shall be paid over to such  
31 of the claimants as have established their rights thereto in the  
32 sums allowed by the court, or if not sufficient the ~~deposit~~ security

1 shall be distributed pro rata among such claimants as have  
2 established, by final judgment or decree, their claims thereto.

3 (3) The court, in the proceeding to be commenced by the  
4 Commissioner, shall decree that the balance, if any, or the entire  
5 ~~deposit~~ security, in case no claims are established in the manner  
6 provided, be cancelled or paid over and delivered to the trust  
7 company, bank or national banking association ~~making~~ pledging the  
8 ~~deposit~~ security or its successors or assigns, except that, in the  
9 case of any such trust company, bank or national banking association  
10 which is in process of voluntary or involuntary liquidation, the  
11 ~~deposit~~ security or balance thereof, if any, shall be paid over to  
12 the official lawfully in charge of the liquidation.

13 J. Commissioner's charges and assessments as a prior lien on  
14 ~~deposit~~ security. All unpaid charges and assessments owing to the  
15 Commissioner for expenses and services rendered in connection with  
16 the ~~deposit~~ pledged or purchased security mentioned in subsection E  
17 of this section, and all expenditures incurred or made by the  
18 Commissioner, including services rendered by ~~him~~ the Commissioner,  
19 ~~attorney's~~ attorneys fees and necessary court expenses in connection  
20 with the determination of claims against the ~~deposit~~ security, shall  
21 be a first and prior lien on the ~~deposit~~ security, and be first paid  
22 before the ~~deposit~~ security, or any part thereof, is released or  
23 paid over to any claimant or trust company, bank or national banking  
24 association.

25 K. Sale and disposition of ~~securities~~ security to pay expenses,  
26 costs, ~~attorney's~~ attorneys fees and claims. The court having  
27 jurisdiction of the proceedings instituted by the Commissioner may,  
28 upon such terms as the court shall fix, authorize and order the  
29 Commissioner to sell, dispose of and reduce to cash such portion of  
30 the ~~securities deposited~~ security pledged or purchased by such bank  
31 or trust company or national banking association as may be necessary  
32 to pay for the services rendered and expenses incurred by the

1 Commissioner in connection with such ~~deposit~~ security and the  
2 proceedings contemplated by subsections E to L, inclusive, of this  
3 section, including ~~attorney's~~ attorneys fees and court costs, and to  
4 pay claims established against such ~~deposit~~ security.

5 L. Application of subsections E to K, inclusive, of this  
6 section. Subsections E to K, inclusive, of this section apply to  
7 ~~security deposits of~~ pledges of security by banks, trust companies  
8 and national banking associations which retire from the trust  
9 business, transfer such business or go into voluntary or involuntary  
10 liquidation or receivership, or other method of liquidation.  
11 Provided, however, the provisions of subsections E through K of this  
12 section shall not apply to any bank or trust company desiring to  
13 relinquish its trust powers and receive a return or cancellation of  
14 its pledged security and which has not maintained any active trust  
15 accounts or acted in a fiduciary capacity within the most recent six  
16 (6) months prior to its filing with the Commissioner pursuant to  
17 Section 1017 of this title a certified copy of a resolution of its  
18 board of directors signifying such desire to relinquish its trust  
19 powers and evidence of its release and discharge from all  
20 obligations and trusts provided for in this article.

21 SECTION 17. AMENDATORY 6 O.S. 2001, Section 1405, is  
22 amended to read as follows:

23 Section 1405. A. It shall be unlawful for an affiliate of a  
24 bank or trust company or for an officer, director or employee of a  
25 bank or trust company or affiliate of a bank or trust company:

26 1. To solicit, accept or agree to accept, directly or  
27 indirectly, from any person other than the institution any gratuity,  
28 compensation or other personal benefit for any action taken by the  
29 institution or for endeavoring to procure any such action; or

30 2. To have any interest, directly or indirectly, in the  
31 proceeds of a loan or of a purchase or sale made by the bank, unless  
32 such loan is otherwise permissible, and the purchase or sale is

1 expressly authorized by this Code or by rule of the Board and,  
2 unless otherwise directed in writing by the Commissioner, is  
3 specifically approved by vote of a majority of the board of  
4 directors of the bank or trust company. Provided, no interested  
5 director or trustee shall take part in such vote.

6 B. In this section the term "affiliate" shall include:

7 1. Any person who holds a majority of the stock of a bank or  
8 has been determined by the Board to hold a controlling interest  
9 therein, any other corporation in which such person owns a majority  
10 of the stock and any partnership in which the person has an  
11 interest;

12 2. Any corporation in which the institution or an officer,  
13 director or employee thereof holds a majority of the stock and any  
14 partnership in which such person has an interest; or

15 3. Any corporation of which a majority of the directors are  
16 officers, directors or employees of the institution or of which  
17 officers, directors, trustees or employees constitute a majority of  
18 the directors of the institution.

19 SECTION 18. AMENDATORY 6 O.S. 2001, Section 1740, is  
20 amended to read as follows:

21 Section 1740. A. A private trust company engaging in the trust  
22 business in this state shall comply with each and every provision of  
23 this act and Sections 101 through 1417 of the Oklahoma Banking Code  
24 applicable to a trust company unless expressly exempted therefrom in  
25 writing by the Commissioner pursuant to this section, by rule  
26 adopted by the Department or under a predecessor statute.

27 B. A private trust company or proposed private trust company  
28 may request in writing that it be exempted from specified provisions  
29 of ~~subsection B of Section 19 of~~ this act and Sections 101 through  
30 1417 of the Oklahoma Banking Code. The Commissioner may grant the  
31 exemption in whole or in part if the Commissioner finds that the  
32

1 private trust company does not and will not transact business with  
2 the general public. For purposes of this section:

3 1. "Transact business with the general public" means any sales,  
4 solicitations, arrangements, agreements, or transactions to provide  
5 trust or other business services, whether for a fee, commission or  
6 any other type of remuneration, with any client that is not a family  
7 member or a sole proprietorship, partnership, joint venture,  
8 association, trust, estate, business trust or other company that is  
9 not one hundred percent (100%) owned by one or more family members;  
10 and

11 2. "Family member" means any individual who is related within  
12 the fourth degree of affinity or consanguinity to an individual or  
13 individuals who control a private trust company or which is  
14 controlled by one or more trusts or charitable organizations  
15 established by such individual or individuals.

16 C. All individuals who control a private trust company or  
17 establish trusts or charitable organizations controlling such  
18 private trust company must be related within the second degree of  
19 affinity or consanguinity.

20 D. At the expense of the private trust company, the  
21 Commissioner may examine or investigate the private trust company in  
22 connection with an application for exemption. Unless the  
23 application presents novel or unusual questions, the Commissioner  
24 shall approve the application for exemption or set the application  
25 for hearing not later than the sixty-first day after the date the  
26 Commissioner considers the application complete and accepted for  
27 filing. The Commissioner may require the submission of additional  
28 information as considered necessary to an informed decision.

29 E. Any exemption granted under this section may be made subject  
30 to conditions or limitations imposed by the Commissioner consistent  
31 with this act.

32

1 F. The Department may adopt rules defining other circumstances  
2 that do not constitute transaction of business with the public,  
3 specifying the provisions of this act and Sections 101 through 1417  
4 of the Oklahoma Banking Code that are subject to an exemption  
5 request, and establishing procedures and requirements for obtaining,  
6 maintaining or revoking exempt status.

7 SECTION 19. AMENDATORY 6 O.S. 2001, Section 1741, is  
8 amended to read as follows:

9 Section 1741. A. 1. A private trust company requesting an  
10 exemption from the provisions of this act, pursuant to Section ~~36~~  
11 1740 of this ~~act~~ title, shall file an application with the  
12 Commissioner containing the following:

13 a. a nonrefundable application fee as set by the  
14 Department. If the exemption request is made at the  
15 same time as the charter application is filed, no  
16 additional fee shall be required in connection with  
17 the exemption request. If an exemption request is  
18 made after the private trust company charter has been  
19 issued, the fee for an exemption request shall be  
20 equal to that imposed by the Department in connection  
21 with branch bank applications,

22 b. a detailed statement under oath showing the private  
23 trust company's assets and liabilities as of the end  
24 of the month previous to the filing of the  
25 application,

26 c. a statement under oath of the reason for requesting  
27 the exemption,

28 d. a statement under oath that the private trust company  
29 is not currently transacting business with the public  
30 and that the company will not conduct business with  
31 the public without the prior written permission of the  
32 Commissioner,

1 e. the current street mailing address and telephone  
2 number of the physical location in this state at which  
3 the private trust company will maintain its books and  
4 records, together with a statement under oath that the  
5 address given is true and correct and is not a U.S.  
6 Postal Service post office box or a private mail box,  
7 postal box or mail drop, and

8 f. listing of the specific provisions of the act and  
9 Section 101 through 1417 of the Oklahoma Banking Code  
10 for which the request for exemption is made.

11 2. The Commissioner shall not approve a private trust company  
12 exemption unless the application is completed as required in  
13 paragraph 1 of this subsection.

14 B. To maintain status as an exempt private trust company under  
15 this act, the private trust company:

16 1. Shall not transact business with the public;

17 2. Shall file an annual certification that it is maintaining  
18 the conditions and limitations of its exempt status. This annual  
19 certification shall be filed on a form provided by the Commissioner  
20 and be accompanied by a fee ~~determined by the Department~~ equal to  
21 that imposed by the Department for registration statements filed  
22 under Section 104 of this title. The annual certification shall be  
23 filed on or before June 30 of each year. No annual certification  
24 shall be valid unless it bears an acknowledgment stamped by the  
25 Department. The Department shall have thirty (30) days from the  
26 date of receipt to return a copy of the acknowledged annual  
27 certification to the private trust company. The burden shall be on  
28 the exempt private trust company to notify the Department of any  
29 failure to return an acknowledged copy of any annual certification  
30 within the thirty-day period. The Commissioner may examine or  
31 investigate the private trust company periodically as necessary to  
32 verify the certification;

1       3. Shall comply with the principal office provisions of Section  
2 ~~12~~ 1712 of this ~~act~~ title and with the address and telephone  
3 requirements of subparagraph e of paragraph 1 of subsection A of  
4 this section; and

5       4. Shall pay the corporate franchise tax, as certified by the  
6 Oklahoma Tax Commission.

7       C. Control of an exempt private trust company may not be  
8 transferred or sold with exempt status. In any change of control,  
9 the acquiring control person must comply with the provisions of this  
10 act, and the exempt status of the private trust company shall  
11 automatically terminate upon the effective date of the transfer. A  
12 separate application for exempt status shall be filed if the  
13 acquiring person wishes to obtain or continue an exemption pursuant  
14 to this section.

15       D. The Commissioner shall have authority to revoke the exempt  
16 status of a private trust company in the following circumstances:

17       1. The exempt private trust company makes a false statement  
18 under oath on any document required to be filed by the act or by any  
19 rule promulgated by the Department;

20       2. The exempt private trust company fails to submit to an  
21 examination ~~as required by Section 12 of this act~~ of its books and  
22 records by the Commissioner;

23       3. The exempt private trust company withholds requested  
24 information from the Commissioner; or

25       4. The exempt private trust company violates any provision of  
26 this section applicable to exempt private trust companies.

27       E. If the Commissioner determines from examination or other  
28 credible evidence that an exempt private trust company has violated  
29 any of the requirements of this section, the Commissioner may, by  
30 personal delivery or registered or certified mail, return receipt  
31 requested, notify the exempt private trust company in writing that  
32 the private trust company's exempt status has been revoked. The

1 notification shall state grounds for the revocation with reasonable  
2 certainty. The notice shall state its effective date, which may not  
3 be before the fifth day after the date the notification is mailed or  
4 delivered. The revocation takes effect for the private trust  
5 company if the private trust company does not request a hearing in  
6 writing before the effective date. After taking effect, the  
7 revocation is final and nonappealable as to that private trust  
8 company, and the private trust company shall be subject to all of  
9 the requirements and provisions of the act and the Oklahoma Banking  
10 Code applicable to nonexempt state trust companies.

11 F. A private trust company shall have five (5) calendar days  
12 after the revocation is effective to comply with the provisions of  
13 this act from which it was formerly exempt. If, however, the  
14 Commissioner determines, at the time of revocation, that the private  
15 trust company has been engaging in or attempting to engage in acts  
16 intended or designed to deceive or defraud the public, the  
17 Commissioner may shorten or eliminate, in the Commissioner's sole  
18 discretion, the five-calendar-day compliance period.

19 G. If the private trust company does not comply with all of the  
20 provisions of this act, including such capitalization requirements  
21 as have been determined by the Commissioner as necessary to assure  
22 the safety and soundness of the private trust company, within the  
23 prescribed time period, the Commissioner may:

24 1. Institute any action or remedy prescribed by this act and  
25 the Oklahoma Banking Code, or any applicable rule or regulation; or

26 2. Refer the private trust company to the Attorney General for  
27 institution of a quo warranto proceeding to revoke the charter.

28 ~~H. A private trust company that currently has a valid exemption~~  
29 ~~under a predecessor statute shall be considered exempt under this~~  
30 ~~act.~~

31 SECTION 20. AMENDATORY 6 O.S. 2001, Section 2108, is  
32 amended to read as follows:

1 Section 2108. Each approved applicant shall furnish a corporate  
2 surety bond in the principal sum of One Hundred Thousand Dollars  
3 (\$100,000.00) for one (1) to fifteen (15) locations within this  
4 state at which checks of the licensee are issued or sold, Two  
5 Hundred Fifty Thousand Dollars (\$250,000.00) for sixteen (16) to  
6 five hundred (500) locations within this state at which checks of  
7 the licensee are issued or sold, One Million Dollars (\$1,000,000.00)  
8 for five hundred one (501) to eight hundred (800) locations within  
9 this state at which checks of the licensee are issued or sold, or  
10 One Million Five Hundred Thousand Dollars (\$1,500,000.00) for over  
11 eight hundred (800) locations, within this state at which checks of  
12 the licensee are issued or sold, but in no event shall the bond be  
13 required to be in excess of One Million Five Hundred Thousand  
14 Dollars (\$1,500,000.00). A licensee may furnish a bond in the  
15 maximum amount required by this section, or deposit securities equal  
16 to such amount as provided in subsection (b) of Section 2109 of this  
17 title, even though the locations in this state at which checks of  
18 the licensee are issued or sold do not total a number requiring a  
19 bond or a deposit of securities in such maximum amount. Each  
20 application for a license or for the renewal of a license shall be  
21 accompanied by a list of the locations, including agencies, at which  
22 the applicant engages in the business of selling checks in this  
23 state. The bond shall be conditioned that the obligor will  
24 faithfully conform to and abide by the provisions of this act and  
25 will honestly and faithfully apply all funds received and perform  
26 all obligations and undertakings for exchange issued and sold under  
27 this act and will pay to the state and to any person entitled  
28 thereto all money that becomes due and owing to the state or to such  
29 person under the provisions of this act because of any checks or  
30 exchange issued or sold in this state by such licensee. The bond  
31 shall remain in force and effect until canceled by the surety, which  
32 cancellation may be had only upon thirty (30) days' written notice

1 to the Commissioner. Such cancellation shall not affect any  
2 liability incurred or accrued prior to the termination of such  
3 thirty-day period.

4 In lieu of the corporate surety bond required herein, the  
5 Commissioner may in his discretion permit an approved applicant to  
6 furnish an irrevocable letter of credit from a bank ~~with a capital~~  
7 ~~to assets ratio in excess of six percent (6%) according to the~~  
8 ~~bank's most recent Report of Condition~~ approved in writing by the  
9 Commissioner in the same amount as would be required for a corporate  
10 surety bond. A new irrevocable letter of credit from a qualifying  
11 bank would be required within fifteen (15) days if the bank  
12 originally issuing the irrevocable letter of credit ~~falls below the~~  
13 ~~required ratio~~ refuses to continue the letter of credit or is  
14 otherwise notified by the Commissioner that the original bank is no  
15 longer qualified to issue a letter of credit for the purposes  
16 described in this section.

17 SECTION 21. AMENDATORY 6 O.S. 2001, Section 2109, is  
18 amended to read as follows:

19 Section 2109. (a) If the Commissioner shall find at any time  
20 that any bond required under this act is insecure or exhausted, an  
21 additional bond to be approved by the Commissioner shall be filed by  
22 the licensee within ten (10) days after written demand therefor by  
23 the Commissioner.

24 (b) In lieu of any bond required under this act, the licensee  
25 may deposit with the Commissioner securities with a ~~par~~ ready market  
26 value equal to the amount of any such bond. Such securities shall  
27 consist of (1) general obligations of or fully guaranteed by the  
28 United States or of any agency or instrumentality of or corporation  
29 wholly owned by the United States directly or indirectly; or (2)  
30 direct general obligations of the State of Oklahoma, or of any  
31 county, city, town, school district, or other political subdivision  
32 or municipal corporation of the State of Oklahoma. Such securities

1 shall be held by the Commissioner to secure the same obligation as  
2 would any bond, required by this act. The securities so deposited  
3 may be exchanged from time to time for other securities receivable  
4 as aforesaid. All said securities shall be subject to sale, and  
5 transfer and to the disposal of the proceeds by said Commissioner  
6 only on the order of a court of competent jurisdiction. So long as  
7 the licensee so depositing shall continue solvent, such licensee  
8 shall be permitted to receive the interest or dividends on said  
9 deposit. The Commissioner may provide for custody of such  
10 securities by any qualified trust company or bank located in the  
11 State of Oklahoma or by any Federal Reserve Bank. The compensation,  
12 if any, of the custodian for acting as such under this section shall  
13 be paid by the depositing licensee.

14 SECTION 22. AMENDATORY 6 O.S. 2001, Section 2113, is  
15 amended to read as follows:

16 Section 2113. A. The State Banking Commissioner may examine  
17 the books and records of each licensee as often as the Commissioner  
18 deems advisable for the purpose of determining the amount of the  
19 bond to be filed and the amount of the license fee to be paid by  
20 such licensee and to determine whether the licensee is in compliance  
21 with all applicable requirements of law. For that purpose, the  
22 Commissioner shall have free access to the offices and places of  
23 business and to such records of such licensee that relate to the  
24 business for which the licensee is licensed under Section 2101 et  
25 seq. of this title.

26 B. There shall be paid to the Commissioner for an examination  
27 or audit review a fee of ~~Fifty Dollars (\$50.00)~~ Seventy-five Dollars  
28 (\$75.00) per hour for each ~~qualified~~ representative of the  
29 Commissioner required to conduct the examination or audit review  
30 plus travel expenses as provided by subsection B of Section 201.1 of  
31 this title for each of the examining personnel. ~~However, whenever~~  
32 ~~it shall be necessary for the Commissioner to travel out of this~~

1 ~~state to make an examination, the full expense of such examination~~  
2 ~~shall be paid by the licensee.~~

3 C. In lieu of any examination which the Commissioner shall be  
4 authorized to make hereunder, the Commissioner may accept the audit  
5 of a licensed public accountant holding a permit to practice in this  
6 state or a certified public accountant, provided that:

7 1. The costs of such audit shall be borne by the licensee;

8 2. The scope of such audit shall be at least equal to the scope  
9 of the examination required by the Commissioner;

10 3. The Commissioner shall have received prior notice in writing  
11 that the licensee is having the audit prepared in lieu of  
12 examination by the Commissioner; and

13 4. The Commissioner shall have given prior approval of the  
14 licensed public accountant holding a permit to practice in this  
15 state or the certified public accountant making the audit.

16 If the Commissioner accepts an audit in lieu of the examination  
17 of the Commissioner, the Commissioner may review such audit and may  
18 charge to the licensee fees for such review at the rate prescribed  
19 in subsection B of this section.

20 D. The Commissioner may contract with qualified licensed  
21 auditors to conduct any examinations authorized under this section.

22 E. All license, examination, audit review, and investigation  
23 fees herein provided for shall be deposited in the Oklahoma State  
24 Banking Department revolving fund pursuant to Section 211.1 of this  
25 title.

26 SECTION 23. AMENDATORY 8 O.S. 2001, Section 166, is  
27 amended to read as follows:

28 Section 166. A. The owner of a cemetery maintaining a  
29 Perpetual Care Trust Fund shall be required to pay to the State  
30 Banking Commissioner an annual fee of Two Hundred Dollars (\$200.00),  
31 and file a report of each cemetery by March 15 of each year with the  
32

1 State Banking Commissioner, showing, for the preceding calendar  
2 year:

3 1. The gross amount received from sales of grave spaces, lots,  
4 mausoleum crypts and niches;

5 2. The total purchase price of grave spaces, lots, mausoleum  
6 crypts and niches on contracts which received final payment and  
7 required deposits to the Perpetual Care Fund during the calendar  
8 year;

9 3. The operating expenses incurred during the calendar year  
10 which are eligible to be paid from income of the Perpetual Care  
11 Fund;

12 4. The total amount of the principal of the Perpetual Care Fund  
13 as of the beginning of the preceding calendar year; and

14 5. The amount segregated and deposited in the Perpetual Care  
15 Fund as provided by this act which shall be certified by the trustee  
16 of the Perpetual Care Fund as to correctness thereof, and the  
17 trustee shall provide:

18 a. the total amount of the principal of the Perpetual  
19 Care Fund as of the end of the calendar year,

20 b. the securities and other assets in which such  
21 perpetual care funds are invested,

22 c. the cash on hand,

23 d. a verification in writing of all assets in which  
24 monies of the Perpetual Care Fund have been invested;  
25 provided, such verification shall be obtained from the  
26 holder or holders of such assets,

27 e. the income derived from the Perpetual Care Fund  
28 investments during the calendar year, and

29 f. the gross expenditures or transfers from income of the  
30 Perpetual Care Fund during the calendar year.

31 The annual fee collected pursuant to this subsection shall be  
32 deposited in the ~~Oklahoma State Banking Department revolving fund~~

1 ~~created pursuant to Section 211.1 of Title 6 of the Oklahoma~~  
2 ~~Statutes Cemetery Merchandise Trust Act Revolving Fund created~~  
3 ~~pursuant to Section 316 of this title.~~

4 B. The Commissioner shall have authority, at any time, to  
5 inspect the books and records of any such cemetery, and to make an  
6 examination thereof for the purpose of determining if proper sums  
7 have been deposited with the trustee in the Perpetual Care Fund, and  
8 if the Fund is being properly administered by the trustee in  
9 accordance with the provisions of the Perpetual Care Fund Act and  
10 rules of the Commissioner. Each cemetery owner and trustee is  
11 responsible for maintaining satisfactory books and records which  
12 adequately justify all information contained in the annual report  
13 required by this section. The Commissioner shall charge and collect  
14 a fee for such examination, which fee shall be deposited in the  
15 Cemetery Merchandise Trust Act Revolving Fund.

16 SECTION 24. REPEALER 6 O.S. 2001, Section 211.2, as  
17 amended by Section 6, Chapter 356, O.S.L. 2003 (6 O.S. Supp. 2004,  
18 Section 211.2), is hereby repealed.

19 SECTION 25. This act shall become effective November 1, 2005.

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