

ENGROSSED HOUSE
BILL NO. 1706

BY: KINNAMON of the HOUSE

and

FISHER of the SENATE

AN ACT RELATING TO BANKS AND TRUST COMPANIES;
AMENDING 6 O.S. 1981, SECTIONS 203, AS LAST AMENDED
BY SECTION 1, CHAPTER 168, O.S.L. 1985, 402, AS
LAST AMENDED BY SECTION 4, CHAPTER 166, O.S.L.
1988, 414, AS LAST AMENDED BY SECTION 4, CHAPTER
173, O.S.L. 1990, 802, AS LAST AMENDED BY SECTION
7, CHAPTER 133, O.S.L. 1984, AND 806, AS LAST
AMENDED BY SECTION 8, CHAPTER 166, O.S.L. 1988 (6
O.S. SUPP. 1990, SECTIONS 203, 402, 414, 802 AND
806), WHICH RELATE TO ORGANIZATION AND REGULATION
OF BANKS; MODIFYING POWERS OF OKLAHOMA STATE
BANKING BOARD; PROVIDING CERTAIN POWERS TO STATE-
CHARTERED BANKS; PROVIDING MINERAL INTERESTS WITH
CERTAIN DESIGNATION; PROVIDING BANK'S PURCHASE OF
OWN STOCK; MODIFYING LIMITATIONS ON MAXIMUM
INDEBTEDNESS OF BANKS; MODIFYING AND INCREASING
EXCEPTIONS TO LIMITATIONS ON MAXIMUM INDEBTEDNESS
OF BANKS; MODIFYING LANGUAGE; ADDING ADDITIONAL
INVESTMENT FOR BANKS; AMENDING 6 O.S. 1981,
SECTIONS 901 AND 902, WHICH RELATE TO DEPOSITS AND
COLLECTIONS; PROVIDING FOR PAYMENT TO CERTAIN TRUST
OR DESIGNATED INDIVIDUAL UPON CERTAIN DESIGNATED
PERSON'S DEATH; PROVIDING FOR SECTION APPLICATION
TO ALL ACCOUNTS; PROVIDING FOR PAYMENT OF TRUST TO

MORE THAN ONE INDIVIDUAL; PROVIDING CERTAIN AFFIDAVIT PROCEDURE FOR RELEASE OF DECEDENT'S FUNDS; PROVIDING FOR CERTAIN PROCEDURES AND RESTRICTIONS; AMENDING SECTION 11, CHAPTER 166, O.S.L. 1988 (6 O.S. SUPP. 1990, SECTION 1417), WHICH RELATES TO INDISTINGUISHABLE OR CONFUSINGLY SIMILAR NAMES; PROVIDING CERTAIN DEFINITIONS; MODIFYING AND PROVIDING ADDITIONAL PROHIBITIONS; PROVIDING FOR THE ISSUANCE OF CERTAIN ORDERS; PROVIDING FOR CERTAIN PROCEDURES UPON SUITS; EXTENDING TIME PERIOD BEFORE CERTAIN ADVERTISEMENTS BECOME VIOLATIONS OF LAW; AMENDING 6 O.S. 1981, SECTIONS 2202 AND 2206, WHICH RELATE TO USE OF NAMES AND THE FINANCIAL PRIVACY ACT; ADDING CREDIT UNIONS TO DEFINITIONS; REQUIRING PAYMENT FOR CERTAIN RECORDS PRIOR TO RELEASE; AMENDING 68 O.S. 1981, SECTION 2370, AS LAST AMENDED BY SECTION 100, CHAPTER 2, O.S.L. SUPP. 1989 (68 O.S. SUPP. 1990, SECTION 2370), WHICH RELATES TO STATE PRIVILEGE TAX; INCLUDING INCOME FROM PUBLIC TRUST AUTHORITIES AS BEING DEDUCTIBLE FROM TAXABLE INCOME; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 6 O.S. 1981, Section 203, as last amended by Section 1, Chapter 168, O.S.L. 1985 (6 O.S. Supp. 1990, Section 203), is amended to read as follows:

Section 203. In addition to other powers conferred by the Oklahoma Banking Code, the Board shall have power to:

(1) Regulate its own procedures and practice, except as may be hereafter provided by law.

(2) Define any term not defined in the Oklahoma Banking Code.

(3) Adopt and promulgate reasonable and uniform rules and regulations to govern the conduct, operation and management of all banks or trust companies created, organized or existing under or by virtue of the laws of this state, and to govern the examination, valuation of assets and the statements and reports of such banks or trust companies, and the form on which such banks or trust companies shall report their assets, liabilities and reserves, and charge off bad debts and otherwise keep their records and accounts, and to grant to all banks such powers not otherwise specified, as may now or hereafter be conferred upon national banks by the laws of the United States, and otherwise to govern the administration of the Oklahoma Banking Code.

~~(a) Before any such rule or regulation is adopted the Board shall submit a copy by mail to each bank or trust company, together with notice of the date set by the Board for a public hearing, of any suggestions, amendments or objections which may be made by any person. The date for such hearing shall not be less than thirty (30) days after the proposed rule or regulation is so submitted.~~

~~Suggestions, amendments or objections shall first be filed with the Commissioner in writing, who shall transmit the same to the Banking Board. Failure to file such objection is not deemed a waiver of the right of review herein granted.~~

~~(b) At such hearing the proposed rule or regulation may be amended, revised or approved by the Board and if approved by the Board a copy of each rule and regulation shall be mailed forthwith upon the promulgation thereof to each bank or trust company at its principal place of business. The person mailing such copies shall file an affidavit thereof in the office of the Commissioner.~~

~~(c) Any person deeming any rule or regulation unreasonable or contrary to law may, within five (5) days after the promulgation and issuance of such rule or regulation, file a petition of review with the Oklahoma Supreme Court for the purpose of having the reasonableness or lawfulness of the rule inquired into or determined. Any such rule or regulation is deemed reasonable when it requires compliance with sound banking principles. In each such hearing the burden shall be upon the petitioner to establish the rule or regulation to be unreasonable or unlawful. The pendency of such a petition of review shall not of itself stay the operation of the rule or regulation, but the Supreme Court may in its discretion restrain or suspend the same in whole or in part.~~

~~(d) Any rule or regulation promulgated by the Board shall be effective and conclusive at the expiration of forty-five (45) days from the promulgation and issuance thereof, and shall continue in force and effect until modified or set aside by the Board, except as such rule or regulation may be restrained or suspended by the Supreme Court as provided herein.~~

~~(e)~~ (a) Each bank and trust company and each officer, director, owner, stockholder, agent and employee thereof shall comply with every rule and regulation promulgated so long as the same remain in force.

~~(f)~~ (b) The Board may amend, modify or repeal rules and regulations now in force and effect or hereafter adopted. Copies of such amendments and modifications and notice of repeal shall be mailed to each bank and trust company within ten (10) days after such action is taken.

(4) Restrict the withdrawal of deposits from all, or one or more, banks where the Board finds that extraordinary circumstances

make such restriction necessary for the proper protection of depositors in the affected institution or institutions.

(5) Authorize banks or trust companies under circumstances in which they are not given authority under the Oklahoma Banking Code to participate in any public agency hereafter created under the laws of this state, or of the United States, the purpose of which is to afford advantages or safeguards to banks or trust companies, and to authorize compliance with all requirements and conditions imposed upon such participants; and to authorize banks to engage in any banking activity in which banks subject to the jurisdiction of the federal government may hereafter be authorized by federal legislation to engage.

(6) Order any person to cease violating a provision of the Oklahoma Banking Code, federal banking law, or a lawful regulation issued thereunder, or to cease engaging in any unsound banking or trust practice. A copy of such order shall be mailed to each director of the bank by which such person is employed.

(7) Affirm, modify, reverse or stay the enforcement of any order or ruling of the Commissioner concerning commercial banks or trust companies.

(8) Suspend a director, officer or employee of a bank or trust company who becomes ineligible to hold his position, or who, after receipt of an order to cease, violates the Oklahoma Banking Code, federal banking law, or a lawful regulation or order issued thereunder, or who is dishonest or who is reckless or grossly incompetent in the conduct of banking business or who has engaged or participated in any unsafe or unsound practice in connection with a bank or trust company. It shall be a criminal offense for any such person, after receipt of a suspension order, to perform any duty or exercise any power of any bank or trust company until the Board shall vacate such suspension order. A suspension order shall specify the grounds thereof. A copy of the order shall be sent to

the bank or trust company concerned, and to each member of its board of directors; provided, in absence of circumstances deemed by the Board to require immediate action, no person shall be suspended under the powers herein granted unless he shall have first been afforded a hearing before the Board after not less than ten (10) days' notice thereof shall have been served upon him by registered or certified mail, return receipt requested.

(9) To fix and establish the amount of interest which a bank may pay on savings and time deposits; provided, such rate shall not exceed nor be less than the maximum rate allowed to national banks by the Board of Governors of the Federal Reserve System. No bank operating under the laws of this state or officer thereof shall agree, directly or indirectly, to pay any interest on deposits at a rate in excess of the amount fixed by the Board.

SECTION 2. AMENDATORY 6 O.S. 1981, Section 402, as last amended by Section 4, Chapter 166, O.S.L. 1988 (6 O.S. Supp. 1990, Section 402), is amended to read as follows:

Section 402. ~~A.~~ All banks or trust companies now or hereafter organized under the laws of this state shall, without specific mention thereof in its certificate of incorporation, have all the powers conferred by this Code and the following additional corporate powers:

(1) To continue perpetually as a corporation.

(2) To make contracts.

(3) To sue and be sued, complain and defend, in its corporate name.

(4) To have a corporate seal, which may be altered at pleasure, and to use the same by causing it or a facsimile thereof to be impressed or affixed, or in any manner reproduced.

(5) To make, alter, amend, and repeal bylaws, not inconsistent with its articles of incorporation or with law, for the administration and regulation of the affairs of the corporation.

(6) To elect, appoint or remove officers and agents of the corporation and to define their duties and fix their compensation.

(7) To adopt and operate reasonable bonus, profit-sharing and pension plans for officers and employees.

(8) To make contributions to or for the use or benefit of the following:

(a) The United States, any state, territory, or political subdivision thereof, the District of Columbia or any possession of the United States, for exclusively public purposes;

(b) A corporation, foundation, trust, community chest, or other organization created or organized in the United States, or in any state or territory, or of the District of Columbia, or of any possession of the United States, and organized and operated exclusively for religious, charitable, scientific, veteran rehabilitation service, civic enterprise, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation; or

(c) Other lawful expenditures, contributions and donations; to the extent authorized, approved, or ratified by action of the board of directors of the corporation, except as otherwise specifically provided or limited by its articles of incorporation, its bylaws, or by resolution duly adopted by its stockholders.

(9) A bank now or hereafter organized under the laws of this state, without specific mention in its charter, shall also have the power to act as escrow agent.

(10) A bank shall have the power to exercise by its directors, duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the banking business including, but not limited to, all such powers as may now or hereafter be conferred upon national banks by the laws of the United States and the regulations and policies of the U.S. Comptroller of the Currency, unless otherwise prohibited by the laws of this state, and if authorized by rule adopted by the Banking Board. Provided, however, the provisions of this paragraph shall not be construed to permit a bank to exercise by its directors, duly authorized officers or agents any powers to establish and operate branches except to the extent expressly permitted in Sections 501 through 506 of this title.

(11) To lease, hold, purchase and convey any and all real estate in the manner provided in this Code and not otherwise.

(12) To act as fiscal or transfer agent, executor, administrator, guardian of estates, assignee, receiver, depository and trustee, provided such bank or trust company has complied with the laws of this state relating to the organization and regulation of trust companies.

SECTION 3. AMENDATORY 6 O.S. 1981, Section 414, as last amended by Section 4, Chapter 173, O.S.L. 1990 (6 O.S. Supp. 1990, Section 414), is amended to read as follows:

Section 414. A. REAL ESTATE AND EQUIPMENT NECESSARY TO BANK'S OPERATION. A bank or trust company may purchase and hold real estate, equipment, furniture and fixtures necessary for the convenient transaction of its business, the cost of which shall not exceed its capital, surplus and undivided profits. This limitation may be exceeded upon written approval of the Commissioner. A bank or trust company may lease out to such tenants as it deems appropriate any portion of its banking house or premises not utilized in the conduct of its banking operations.

B. REAL ESTATE ACQUIRED IN SATISFACTION OF DEBT. A bank or trust company may purchase and hold real estate conveyed to it in satisfaction of debts previously contracted in good faith in the course of business. All such real estate shall be accounted for individually at the lower of the recorded investment in the loan satisfied or its fair market value on the date of the transfer. The recorded investment in the loan satisfied is the unpaid balance of the loan, increased by accrued and uncollected interest, unamortized premium, and loan acquisition costs, if any, and decreased by previous direct write down, finance charges and unamortized discount, if any.

C. REAL ESTATE ACQUIRED UNDER JUDGMENT, DECREE OR MORTGAGE FORECLOSURE. A bank or trust company may acquire and hold real estate such as it shall purchase at sale under judgment, decree or mortgage foreclosure, under securities held by it; but neither a bank nor a trust company shall bid at any such sale a larger amount than enough to satisfy its debts and costs.

D. SALE OF REAL ESTATE ACQUIRED UNDER SUBSECTIONS B AND C. No real estate acquired in the cases contemplated in subsections B and C of this section shall be held for a longer time than five (5) years without the written approval of the Commissioner; provided, further, that if the term of the Commissioner expires within any extension period, it shall be necessary for the bank or trust company to secure the written approval of the succeeding Commissioner to continue to hold said real estate for a further period. Once the bank or trust company is no longer permitted to hold the real estate, the Commissioner shall require of the bank or trust company that the said real estate must be sold at a private or public sale within thirty (30) days of being informed of the Commissioner's requirement. ~~Notwithstanding~~ For purposes of this section, ownership interests in oil, gas and other subsurface mineral rights other than mere leasehold interests shall be

considered real estate; provided, however, notwithstanding the holding limitation of this section or any other provision contained herein, any bank or trust company which on October 15, 1982, held, directly or indirectly, any oil, gas and other subsurface mineral rights, other than mere leasehold interests, that since December 31, 1979, had not been valued on the books of such bank or trust company for more than a nominal amount, may continue to hold such subsurface rights or interests without limitation.

E. INVESTMENTS AND LOANS TO CORPORATION HOLDING BANK AND TRUST COMPANY PREMISES. Any bank or trust company organized under the laws of this state may invest its funds in the stocks, bonds, debentures or other such obligations of any corporation holding the premises of such bank or trust company, and may make loans to or upon the security of any such corporation, but the aggregate of all such investments and loans together with the investments provided for in subsection A of this section shall not exceed the capital, surplus and undivided profits. This limitation may be exceeded upon the written approval of the Commissioner.

F. CONVEYANCE OF REAL ESTATE. Every conveyance of real estate and every lease thereof for a term of one (1) year or more, made by a bank or trust company, must have the name of such bank or trust company subscribed thereto, either by an attorney-in-fact, or by the president or a vice-president of such corporation, and such conveyance of real estate, except when executed by an attorney-in-fact, must be attested by the cashier, assistant cashier, secretary or assistant secretary of such corporation, with the seal of such corporation attached.

G. Nothing in this section shall preclude or limit in any manner, investments by a bank permitted under any other section of this Code.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 716 of Title 6, unless there is created a duplication in numbering, reads as follows:

With the approval of the Commissioner and subject to such conditions as he may prescribe, a bank may purchase its own stock as treasury stock.

SECTION 5. AMENDATORY 6 O.S. 1981, Section 802, as last amended by Section 7, Chapter 133, O.S.L. 1984 (6 O.S. Supp. 1990, Section 802), is amended to read as follows:

Section 802. A. (1) The total obligations to any bank or trust company of any person, copartnership, association or corporation shall at no time exceed twenty percent (20%) of the capital, surplus and undivided profits of the bank or trust company.

(2) Separate from and in addition to this limitation, the total obligation to the bank or trust company of any person, copartnership, association or corporation fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of funds outstanding shall not exceed five percent (5%) of the unimpaired capital, unimpaired surplus and undivided profits of such bank or trust company.

(3) The term "obligations" shall mean the direct liability, exclusive of interest, of the maker or acceptor of paper discounted with or sold to such bank and the liability, exclusive of interest, of the endorser, drawer or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such bank or trust company. It shall also include leases of personal property as provided in Section 419 of this title.

B. ~~Such~~ The limitations of twenty percent (20%) and the additional five percent (5%) set forth above in paragraphs (1) and (2) of subsection A of this section shall be subject to the following exceptions:

(1) Obligations in the form of drafts or bills of exchange drawn in good faith against actually existing values shall not be subject under this section to any limitation based upon such capital, surplus and undivided profits;

(2) ~~Obligations~~ Loans or extensions of credit arising ~~out of~~ from the discount of commercial or business paper ~~actually owned by the person, copartnership, association or corporation~~ evidencing an obligation to the person negotiating ~~the same~~ it shall not be subject under this section to any limitation based upon such capital, surplus and undivided profits, except that said bank may not advance more than twenty percent (20%) of such capital, surplus and undivided profits on the commercial paper made by any obligor;

(3) Obligations drawn in good faith against actually existing values and secured by goods or commodities in process of shipment shall not be subject under this section to any limitation based upon such capital, surplus and undivided profits;

(4) Obligations as endorser or guarantor of notes, other than commercial or business paper excepted under paragraph (2) of this subsection, having a maturity of not more than six (6) months, and owned by the person, corporation, association or copartnership endorsing and negotiating the same, shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits;

(5) ~~Obligations in the form~~ The purchase of banker's bankers' acceptances of the kind described in Section 13 of the Federal Reserve Act and issued by other banks shall not be subject under this section to any limitation based upon such capital, surplus and undivided profits;

(6) ~~Obligations of any person, copartnership, association or corporation, in the form of notes or drafts~~ Loans or extensions of credit secured by shipping documents, warehouse receipts or other

such documents transferring or securing title covering readily marketable nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples, shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits when the market value of such staples securing such obligation in excess of the twenty percent (20%) limit is not at any time less than one hundred fifteen percent (115%) of the face amount of such obligations; and to an additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such thirty percent (30%) of such capital, surplus and undivided profits when the market value of staples securing such additional obligations is not at any time less than one hundred twenty percent (120%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such thirty-five percent (35%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred twenty-five percent (125%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such forty percent (40%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred thirty percent (130%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such forty-five percent (45%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred

thirty-five percent (135%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such fifty percent (50%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred forty percent (140%) of the face amount of such additional obligation; but this exception shall not apply to obligations of any one person, copartnership, association or corporation arising from the same transactions and/or secured by the identical staples for more than ten (10) months. Obligations of any person, copartnership, association or corporation in the form of notes or drafts secured by shipping documents, warehouse receipts or other such documents transferring or securing title covering refrigerated or frozen readily marketable staples, when such property is fully covered by insurance, shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits when the market value of such staples securing such obligation is not at any time less than one hundred fifteen percent (115%) of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, copartnership, association or corporation arising from the same transactions and/or secured by the identical staples for more than six (6) months;

(7) ~~Obligations of any person, copartnership, association or corporation in the form of notes or drafts~~ Loans or extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation in excess of the twenty percent (20%) limit is not at any time less than one hundred twenty-five percent (125%) of the face amount of the notes

covered by such documents shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits;

(8) ~~Obligations arising out of~~ Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which ~~bear~~ bears a full recourse endorsement or unconditional guarantee of the seller and which are secured by the cattle being sold, shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits;

(9) ~~Obligations of any person, copartnership, association or corporation~~ Loans or extensions of credit secured by not less than a like amount of bonds or notes of the United States or certificates of indebtedness of the United States, treasury bills of the United States or obligations fully guaranteed both as to principal and interest by the United States, ~~or~~ shall not be subject to any limitation based upon capital, surplus and undivided profits; loans or extensions of credit secured by a certificate of deposit issued by an insured financial institution, shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits;

(10) Obligations representing loans to any national banking association or to any banking institution organized under the laws of the State of Oklahoma or of any contiguous state, or to any receiver, conservator, or superintendent of banks, or to any other agent, in charge of the business and property of any such association or banking institution, when such loans are approved by the Commissioner, shall not be subject under this section to any limitation based upon such capital, surplus and undivided profits;

(11) Obligations shall not be subject under this section to any limitation based upon such capital, surplus and undivided profits to the extent that such obligations are secured or covered by guaranties, or by commitments or agreements to take over or to purchase, made by any Federal Reserve Bank or by the United States or any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; provided, that such guaranties, agreements or commitments are unconditional and must be performed by payment of cash or its equivalent within sixty (60) days after demand; provided, further, that nothing in this section shall be deemed to authorize the inclusion of such obligations as any part of the reserves which any such banking institution is required to maintain;

(12) Obligations of a local public agency or of a public housing agency which have a maturity of not more than ~~eighteen (18) months~~ five (5) years shall not be subject under this section to any limitation, if such obligations are secured by ~~an~~ a binding irrevocable agreement between the obligor agency and the Housing and Home Finance Administrator or the Public Housing Administration in which available monies are committed to the agency ~~agrees to borrow from the Administrator or Administration, and the Administrator or Administration agrees to lend to the agency,~~ prior to the maturity of such obligations, ~~monies in an amount which, together with any other monies irrevocably committed to the payment of interest on such obligations,~~ will suffice to pay the principal of such obligations with interest to maturity, which monies under the terms of said agreement are required to be used for that purpose;

(13) Obligations fully insured by the Secretary of Agriculture ~~pursuant to the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, relating to the conservation of water resources, or Sections 1471 through 1485 of Title 42 of the~~

~~Oklahoma Statutes, as said acts are amended by the Consolidated Farmers Home Administration Act of 1961,~~ shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits;

(14) Obligations as endorser or guarantor of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person, copartnership, association or corporation transferring the same shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits. If the bank's files or the knowledge of its officers of the financial condition of each maker of such obligations is reasonably adequate, and upon certification by an officer of the bank designated for that purpose, by the board of directors of the bank, that the responsibility of each maker of such obligations has been evaluated and the bank is relying primarily upon each such maker for the payment of such obligations, the limitations of this section as to the obligations of each such maker shall be the sole applicable loan limitation. Provided, that such certification shall be in writing and shall be retained as part of the records of such bank;

(15) ~~Obligations representing loans~~ Loans or other extensions of credit to an industrial development authority, or similar public entity created for the purpose of constructing and leasing a plant facility to an occupant, ~~is~~ are not an obligation of the authority for the purpose of this section if: (1) the bank relies on the credit of the occupant in making the loan; (2) the authority's liability with respect to the loan is limited solely to whatever interest it has in the particular facility; (3) the authority's interest is assigned to the bank as security for the loan; and (4)

the occupant's lease rentals are assigned and paid directly to the bank; ~~and~~

(16) Obligations secured by a segregated deposit account in the lending bank; and

(17) Obligations as may be approved by the Commissioner upon written request by the bank.

C. The Board may promulgate rules to administer and implement this section, including rules to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of obligations.

SECTION 6. AMENDATORY 6 O.S. 1981, Section 806, as last amended by Section 8, Chapter 166, O.S.L. 1988 (6 O.S. Supp. 1990, Section 806), is amended to read as follows:

Section 806. A. Definitions. (1) The term "political subdivision" includes a county, city, town or other municipal corporation, a public authority, and generally any publicly owned entity which is an instrumentality of the state or a municipal corporation.

(2) The phrase "general obligation" means obligations of the State of Oklahoma or a political subdivision thereof and of any other state or political subdivision thereof supported by the full faith and credit of the obligor. It includes all obligations payable from a special fund when the full faith and credit of a state or any political subdivision thereof is obligated for payment into the fund of amounts which will be sufficient to provide for all required payments in connection with the obligation. It implies an obligor possessing resources sufficient to justify faith and credit.

(3) The term "investment securities" means marketable obligations in the form of bonds, notes or debentures which are commonly regarded as investment securities. It does not include investments which are predominantly speculative in nature.

B. Investments. In addition to investments denominated as permissible by statute and to other investments authorized by the Oklahoma Banking Code, a bank may purchase for its own account:

(1) Obligations of the United States and obligations fully guaranteed by any instrumentality or agency of the United States; and obligations issued under the authority of the Federal Farm Loan Acts, as amended, and the Farm Credit Act of 1933 (Public, No. 75), as amended;

(2) General obligations of the State of Oklahoma or any political subdivision thereof;

(3) General obligations of any other state;

(4) General obligations of political subdivisions of any other state;

(5) Investment securities as defined in this section and as may be further defined by the regulations and rulings of the Commissioner.

With approval of the Commissioner, a bank may:

(a) Subscribe to, buy and own such stock of the Federal National Mortgage Association as required by the federal act known as the National Housing Act as amended by Section 201 of Public Law No. 560, known as the Housing Act of 1954, or amendments thereto;

(b) Subscribe to, buy and own stock in any agricultural credit corporation or livestock loan company organized pursuant to the provisions of the laws of the United States providing for the formation and operation of agricultural credit corporations and livestock loan companies, in an amount not exceeding either the undivided profits or twenty percent (20%) of the capital stock and surplus and undivided profits from such bank, whichever is greater.

- (c) Purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks, except to the extent the law requires directors qualifying shares, and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time, ten percent (10%) of its capital stock and paid-in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than five percent (5%) of any class of voting securities of such bank.
- (d) Purchase for its own account shares of stock in small business investment companies in an aggregate amount not exceeding five percent (5%) of the capital and surplus of the bank and receive and retain the benefits of such stock ownership including stock dividends.
- (e) Subscribe to, buy and own mortgages, obligations or other securities of the Federal Home Loan Mortgage Corporation which are or have been sold by the corporation pursuant to the Federal Home Loan Mortgage Act.
- (f) Subscribe to, buy and own stock of the Federal Agricultural Mortgage Corporation issued pursuant to the Agricultural Credit Act of 1987 (Public Law 100-233) or amendments thereto, in an amount not exceeding either the undivided profits or twenty percent (20%) of the capital stock and surplus and

undivided profits from such bank, whichever is greater.

(g) Purchase for its own account obligations of the Resolution Funding Corporation.

C. Limitations. (1) In no event shall the total amount of securities of any one obligor or maker held by the bank for its own account exceed at any time twenty percent (20%) of its capital stock actually paid in and unimpaired and twenty percent (20%) of its unimpaired surplus fund. This limitation shall not apply to securities described and set forth in paragraphs (1), (2) and (3) of subsection B of this section.

(2) A bank may not purchase for its own account, in any amount, paving, sewer or other special improvement obligations that are payable from the proceeds of special assessments.

D. Underwriting. Except as to the securities described and set forth in paragraphs (1) and (2) of subsection B of this section, the business of dealing in securities and stocks by a bank shall be limited to purchasing and selling such securities and stocks, without recourse, solely upon the order and for the account of customers, and the bank shall not underwrite any issues of securities or stocks except to the extent permitted and subject to the limitations of the Federal Deposit Insurance Corporation.

SECTION 7. AMENDATORY 6 O.S. 1981, Section 901, is amended to read as follows:

Section 901. 1. When a deposit has been made or shall hereafter be made in any bank in the names of two or more persons, payable to any of them or payable to any of them or the survivor, such deposit, or any part thereof, or any interest thereon, may be paid to either of said persons, whether one of such persons shall be a minor or not, and whether the other be living or not; and the receipt or acquittance of the person so paid shall be valid and sufficient release and discharge to the bank for any payment so made

or when a deposit is hereafter made in any bank using the terms "Payable on Death" or "P.O.D.", such deposits shall be payable on the designated person's death to ~~the~~ a trust designated in the deposit account agreement as the "P.O.D." beneficiary, or to an individual named beneficiary if living and if not, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84. Such deposit shall constitute a contract between the depositor and the bank that upon the death of the named owner of the account the bank will hold the funds for or pay them to the named beneficiary or the estate of the named beneficiary.

No change in the designation of a named beneficiary shall be valid unless executed by the owner of the fund and be in the form and manner prescribed by the bank.

2. The receipt or acquittance of the named beneficiary so paid or the legal representative of such named beneficiary's estate, if deceased, shall be valid and sufficient release and discharge to the bank for any payment so made, unless, prior to such payment, the bank receives notice in the form and manner required in Section 905 of this title.

3. The provisions of this section shall apply to all forms of deposit accounts, including, but not limited to, transaction accounts, savings accounts, certificates of deposits, N.O.W. accounts, and M.M.D.A. accounts.

SECTION 8. AMENDATORY 6 O.S. 1981, Section 902, is amended to read as follows:

Section 902. Whenever any deposit shall be made in a bank by any person which is in form in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to the bank, in the event of the death of the trustee, the same, or any part thereof, together with

the interest thereon, may be paid to the person or persons for whom said deposit was made.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 906 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. When a deposit has been made in a bank in the name of a sole individual without designation of a payable on-death beneficiary, upon the death of the sole owner of the account if the amount of the aggregate deposits held in single ownership accounts in the name of the deceased individual is Two Thousand Dollars (\$2,000) or less, the bank may transfer the funds to the known heirs of the deceased upon receipt of an affidavit sworn to by the known heirs of the deceased which establishes jurisdiction and relationship and states that the owner of the account left no will. Said affidavit shall be sworn to and signed by the known heirs of the deceased and the same shall swear that the facts set forth in the affidavit establishing jurisdiction, heirship and intestacy are true and correct.

B. Receipt by the bank of the affidavit described in subsection A shall be a valid and sufficient release and discharge to the bank for any transfer of deposits made pursuant thereto and shall set to discharge the bank from liability as to any other party, including any heir, legatee, devisee, creditor or other person having rights or claims to funds or property of the decedent, and include a discharge of the bank from liability for any estate, inheritance or other taxes which may be due the state from the estate or as a result of the transfer.

C. Any person who knowingly submits and signs a false affidavit as provided in this section shall be fined not more than Three Thousand Dollars (\$3,000.00) or imprisoned for not more than six (6) months, or both. Restitution of the amount fraudulently attained shall be made to the rightful beneficiary by the guilty person.

SECTION 10. AMENDATORY Section 11, Chapter 166, O.S.L.

1988 (6 O.S. Supp. 1990, Section 1417), is amended to read as follows:

Section 1417. A. Definitions. As used in this section:

1. "Bank" means any person having a state, national or foreign bank charter.

2. "Confusingly similar name" means:

a. as applied to the name of any bank, a name which is identical to that of any other bank located within the State of Oklahoma, or a name which:

(1) contains one or more of the following words with or without the words "State," "National," or "Trust": American, Central, Citizens, City, Commerce, Commercial, Community, Exchange, Farmers & Merchants, First, Guaranty, Oklahoma Peoples, Security or United;

(2) does not contain a geographical name (other than "Oklahoma") descriptive of the bank's immediate location (street, town, city, county or other local geographical name);

(3) does not contain other unique or clearly distinguishing words or marks; and

(4) is not a federally registered trade name, trademark or service mark owned by or licensed to the particular bank; or

b. as applied to the name of any person not a bank, a name which is confusingly similar in spelling or wording or sound to the name of any bank located anywhere within the State of Oklahoma, if such name would tend to suggest falsely to the public that the person is the bank or is affiliated with the bank, directly or indirectly; provided, however, nothing

contained in this subsection shall prohibit the use of a similar name by a corporation which is in a relationship to the bank of parent, subsidiary, brother-sister corporation or other commonly controlled company.

3. "Local media" means:

- a. any newspaper, radio station or television station with its main office located in the same city or town in which a particular bank's main office is located; and
- b. other means or media of advertising, including without limitation any outdoor signage on the bank's premises, billboards, bulk mailings, and other solicitations to persons who are not customers of the bank, but only to the extent that any such advertising is strictly limited in geographical location or distribution to the same city or town (including the immediate surrounding unincorporated rural area) where the particular bank's main office is located.

B. It is unlawful for any ~~person~~ bank having a confusingly similar name to use ~~or~~ advertise in a community any name which is indistinguishable or confusingly similar to the name of a state or national bank located in the State of Oklahoma which is doing business in the community its name in Oklahoma (including without limitation by means of outdoor signage, newspaper, radio, television, billboards, bulk mailings, and other solicitations to persons who are not customers of the bank) unless said advertising also conspicuously identifies the city or town where that bank has its main office; provided, however, this subsection shall not apply to a bank's advertising through local media.

C. It is unlawful for any bank having a full legal name which is not a confusingly similar name to use a shortened name for

purposes of advertising within Oklahoma (including without limitation on outdoor signage, newspaper, radio, television, billboards, bulk mailings, and other solicitations to persons who are not customers of the bank) if that shortened name would be a confusingly similar name and if such advertising does not also conspicuously identify the city or town where that bank has its main office; provided however, this subsection shall not apply to a bank's advertising through local media.

D. It shall be unlawful for any bank which acquires another bank or other financial institution for one or more of its office or branches, by merger, purchase and assumption or otherwise, to continue to use the former name of the acquired institution or office, or similar name, for more than six (6) months after the date of acquisition, either on outdoor signage or in other advertising, unless such name is the legal name of the resulting bank; provided, however, nothing contained herein shall prohibit an acquiring bank from using a variation of the former name (not containing the word "bank") as a branch title if such variation is at all times used only in combination with the name of the acquiring bank (including the town or city where that bank has its main office) on any outdoor signage or in other advertising.

E. It shall be unlawful for any person which is not a bank to use or advertise a confusingly similar name within the State of Oklahoma.

F. The Commissioner may issue an order in accordance with Section 204 of this title to any Oklahoma chartered bank or bank registered pursuant to Section 104 of this title, ordering such bank to cease violating the provisions of this section. This remedy shall be in addition to and not exclusive of the remedy provided in subsection G of this section. ~~Any state or national bank, bank holding company or other financial institution which changes its location or name or establishes or acquires a branch or subsidiary~~

~~or begins to use or advertise a name in a community shall notify the State Banking Commissioner in writing of the name or names which it intends to use or advertise and the Commissioner shall determine whether such use or advertisement would be in violation of this section; the use or advertisement shall be deemed approved if not disapproved by the Commissioner within five (5) days of receipt by the Commissioner of such notification; written approval may be issued by the Commissioner prior to the expiration of such five-day period. The Commissioner shall approve such name or names unless he finds that the use or advertisement of such name or names would be in violation of this section. The Commissioner's decision may be appealed within ten (10) days to the State Banking Board.~~

G. Whenever any bank or other person shall use or advertise a name in violation of this section, the district court ~~in~~ from which lawful service is obtained shall, upon suit by the Commissioner or any injured person, issue an injunction restraining such use or advertisement. Provided, that the Commissioner shall be deemed to be a necessary party to any suit brought pursuant to this section and any suit brought by the Commissioner pursuant to this section shall be properly brought as to both jurisdiction and venue, when brought in a county where the office of the Commissioner is located.

H. Advertisements which were in conformance with this section prior to the effective date of this act but are not now in conformance with subsections B and C of this section will not be considered to be in violation of the law for a one-year period following the effective date of this act. This subsection shall not be interpreted to allow any bank to begin the advertisement of a confusingly similar name which it had not previously used or advertised prior to the effective date of this act, but shall only serve to protect the advertisement of such names as are in lawful use as of the effective date of this act.

SECTION 11. AMENDATORY 6 O.S. 1981, Section 2202, is amended to read as follows:

Section 2202. (a) "Financial institution" means any office or branch of a bank, savings bank, savings association, building and loan association, ~~and~~ savings and loan association and credit union located in the State of Oklahoma.

(b) "Financial record" means any original of, or any copy of, any record held by a financial institution, or any information derived therefrom, pertaining to a customer's relationship with the financial institution.

(c) "Government authority" means any agency, board, commission or department of the State of Oklahoma, or any officer, employee, representative, or agent thereof.

(d) "Customer" means any person, corporation, partnership or other legal entity, or authorized representative thereof, who utilized or is utilizing a service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the customer's name.

(e) "Supervisory agency" means, with respect to any particular financial institution, any state agency, board, commission or department which has statutory authority to examine the financial condition or business operations of that institution.

SECTION 12. AMENDATORY 6 O.S. 1981, Section 2206, is amended to read as follows:

Section 2206. A government authority shall pay to the financial institution assembling, reproducing or providing any financial record of a customer a reasonable fee for such costs, including copying costs and labor costs. Said costs are to be paid ~~at~~ prior to the time the record is released.

SECTION 13. AMENDATORY 68 O.S. 1981, Section 2370, as last amended by Section 100, Chapter 2, O.S.L. Supp. 1989 (68 O.S. Supp. 1990, Section 2370), is amended to read as follows:

Section 2370. A. For taxable years beginning after December 31, 1989, for the privilege of doing business within this state, every state banking association, national banking association and credit union organized under the laws of this state, located or doing business within the limits of the State of Oklahoma shall annually pay to this state a privilege tax at the rate of six percent (6%) of the amount of the taxable income as provided in this section.

B. 1. The privilege tax levied by this section shall be in addition to the franchise tax levied in Article 12 of this title and in lieu of the tax levied by Section 2355 of this title and in lieu of all taxes levied by the State of Oklahoma, or any subdivision thereof, upon the shares of stock or personal property of any banking association or credit union subject to taxation under this section.

2. Nothing in this section shall be construed to exempt the real property of any banking associations or credit unions from taxation to the same extent, according to its value, as other real property is taxed. Nothing herein shall be construed to exempt an association from payment of any fee or tax authorized or levied pursuant to the banking laws.

3. Personal property which is subject to a lease agreement between a bank or credit union, as lessor, and a nonbanking business entity or individual, as lessee, is not exempt from personal property ad valorem taxation. Provided, further, that it shall be the duty of the lessee of such personal property to return sworn lists or schedules of their taxable property within each county to the county assessor of such county as provided in Sections 2433 and 2434 of this title.

C. Any tax levied under this section shall accrue on the last day of the taxable year and be payable as provided in Section 2375 of this title. The accrual of such tax for the first taxable year to which this act applies, shall apply notwithstanding the prior accrual of a tax in the same taxable year based upon the net income of the next preceding taxable year; provided, however, any additional deduction enuring to the benefit of the taxpayer shall be deducted in accordance with the optional transitional deduction procedures in Section 2354 of this title.

D. The basis of the tax shall be United States taxable income as defined in paragraph 10 of Section 2353 of this title and any adjustments thereto under the provisions of Section 2358 of this title with the following adjustments:

1. There shall be deducted all interest income on obligations of the United States government and agencies thereof not otherwise exempted and all interest income on obligations of the State of Oklahoma or political subdivisions thereof, including public trust authorities, not otherwise exempted under the laws of this state; and

2. Expense deductions claimed in arriving at taxable income under paragraph 10 of Section 2353 of this title shall be reduced by an amount equal to fifty percent (50%) of excluded interest income on obligations of the United States government or agencies thereof and obligations of the State of Oklahoma or political subdivisions thereof.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 13th day of March, 1991.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate