

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 31

By: Brown and Gustafson of
the Senate

and

Isaac, Kinnamon and
Sullivan of the House

COMMITTEE SUBSTITUTE

An Act relating to financial institutions; amending 6 O.S. 1991, Sections 201 and 201.1, as amended by Sections 13 and 14, Chapter 367, O.S.L. 1992, 211, 222, 306.1, 422, 502, 502.1, 601, 809, 902, 1006, 1102, 1103, 1107, 1202, 1204, as amended by Section 6, Chapter 295, O.S.L. 1992, 1206, 1308, 1310, 2001.1 and 2001.2, as amended by Sections 1 and 2, Chapter 90, O.S.L. 1992, 2107 and 2113 (6 O.S. Supp. 1992, Sections 201, 201.1, 1204, 2001.1 and 2001.2), which relate to banks, trust companies and credit unions; amending 18 O.S. 1991, Sections 381.2, 381.5, 381.9, 381.10, 381.11, 381.14, 381.15, 381.16, 381.17, 381.19, 381.20, 381.22, 381.24, 381.24a, as amended by Section 29, Chapter 295, O.S.L. 1992, 381.24b, 381.24c, 381.24d, 381.26, 381.36, 381.37, 381.38, 381.47, 381.50, 381.53, 381.53a, 381.55, 381.56, 381.60, 381.61, 381.62, 381.64, 381.65, 381.66a, 381.66b, 381.66c, 381.71, 381.73, 381.74, 381.75, 381.77 and 381.78 (18 O.S. Supp. 1992, Section 381.24a), which relate to savings and loan associations; amending 74 O.S. 1991, Section 840.8, as last amended by Section 14 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature, which relates to the exempt unclassified service of the Oklahoma Personnel Act; clarifying meaning of certain terms; making certain appointments discretionary; deleting certain experience requirements; requiring certain manual include all employee positions; including officers and employees of the State Banking Department in exempt unclassified service and providing for retention of classified statutes; deleting statutory salary of State Banking Commission and requirement that certain salary amounts be authorized or approved by Legislature; modifying annual fee paid by banks and trust companies and requiring deposit of certain portion of fee in State Banking Department revolving fund; providing for deposit of certain fees in revolving fund; adding persons to whom special examinations may apply; increasing rate paid for special examination and requiring deposit of payments in Department revolving fund; requiring additional monies be deposited in Department revolving fund; deleting provision for emergency certificate of authority; providing for issuance of certificate of authority or certificate to maintain branch for failing bank or savings association without notice or hearing;

granting certain power to State Banking Commissioner; authorizing additional financial institutions to establish consumer banking electronic facilities; conforming language; making de novo charter prohibition and certain exceptions applicable to bank holding company; clarifying where company is deemed to be a bank holding company; clarifying jurisdiction of district court; modifying application of certain provisions to an interim state bank; modifying provisions for approval of application for authority to organize interim state bank and merger provisions; clarifying definition of business day; prohibiting attachment, injunction, execution or other liens against banks in certain courts prior to final judgment and defining term; deeming certain deposit as Totten Trust and providing for revocation; clarifying treatment of certain deposits; providing for short term deposit of certain funds; modifying contents of merger agreement; clarifying that merger of certain institutions is subject to approval of Banking Board or Commissioner; providing for fee for review of merger and for deposit of fee; requiring national bank converting to state bank meet certain standards and requirements of Banking Board; stating conditions and criteria for merger of state bank with certain entities; making exception for filing certain notice if FDIC is appointed as liquidator; providing for determination of priority of claims for certain federal funds; clarifying jurisdiction of Commissioner over certain conservatorship and providing for appointment of an interim conservator; clarifying expenses to be paid and requiring deposit of payments in Department revolving fund; granting interim conservator with same rights, powers, privileges, obligations and responsibilities as conservator; adding document which may be removed from safe deposit box under certain conditions and giving bank certain discretion; providing for certain notice by certified mail; increasing number of names to be included on list for appointment to State Credit Union Board; deleting obsolete language; making appointment of certain administrator discretionary; expanding power of Commissioner and State Credit Union Board to assess certain fees and providing for deposit of fees; requiring certain license and investigation fees be deposited in Department revolving fund; abolishing Oklahoma Savings and Loan Board and providing for transfer of powers, duties, responsibilities, funds, property, records, personnel and obligations to State Banking Commissioner; creating Savings and Loan Advisory Council; clarifying certain references; providing for continued effectiveness of certain rules until certain actions are taken; conforming language; modifying appeal provisions; increasing examination fee and requiring deposit in Department revolving fund; including Department officers and employees in list of positions comprising exempt unclassified service; repealing 18 O.S. 1991, Sections 381.6, 381.8 and 381.12, which relate to functions of the Oklahoma Savings and Loan Board; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 107 of Title 6, unless there is created a duplication in numbering, reads as follows:

Wherever the terms "Federal Savings and Loan Insurance Corporation" or "FSLIC" appear in the Oklahoma Statutes, such terms shall be deemed to refer to the Federal Deposit Insurance Corporation (FDIC), the successor agency to the Federal Savings and Loan Insurance Corporation established pursuant to federal law.

SECTION 2. AMENDATORY 6 O.S. 1991, Section 201, as amended by Section 13, Chapter 367, O.S.L. 1992 (6 O.S. Supp. 1992, 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 this Code and in other legislation conferring jurisdiction upon the Department.

B. The head of the Department shall be the Commissioner. He shall be appointed by the Governor with the advice and consent of the Senate; provided, the Commissioner shall have been a qualified elector of the state for at least three (3) years prior to his appointment, shall have attained his thirty-fifth birthday and shall have had ten (10) years' experience as a bank officer or employee, or five (5) years' experience as a bank president or managing officer of a bank, or five (5) years' experience as a state or federal bank examiner. The State Banking Commissioner shall be appointed for a term of four (4) years. The Commissioner may be removed by the Governor for cause after notice and hearing. A successor to a Commissioner who dies, resigns or is removed shall be appointed in the same manner as herein provided.

C. 1. The Commissioner shall appoint a Deputy Commissioner who shall also serve as secretary to the Board hereinafter created; provided, the Deputy Commissioner shall have been a

qualified elector of the state for at least three (3) years prior to his appointment and shall have attained his thirtieth birthday and shall have had five (5) years' experience as a bank officer or employee, or three (3) years' experience as a bank president or managing officer of a bank, or five (5) years' experience as a state or federal bank examiner. If the office of the Commissioner is vacant or if the Commissioner is absent or unable to act, the Deputy Commissioner shall be the acting Commissioner.

2. The Commissioner ~~shall~~ may appoint ~~an~~ Administrative ~~Assistant~~ Assistants whose administrative duties shall be prescribed by the Commissioner. The Deputy Commissioner and Administrative ~~Assistant~~ Assistants shall serve at the will of the Commissioner.

3. The Attorney General is hereby authorized to appoint an Assistant Attorney General, in addition to those now provided by law, to be assigned to the State Banking Department. Such Assistant Attorney General shall perform such additional duties as may be assigned to him by the Attorney General, and shall otherwise be subject to all provisions of the statutes relating to Assistant Attorneys General. The Banking Department is authorized to pay from appropriated funds all or any part of the salary of said Assistant Attorney General.

4. The Commissioner may also appoint a Budget Director for the Department, a Savings and Loan Administrator and a Credit Union Administrator. The Budget Director, Savings and Loan Administrator and Credit Union Administrator shall have the duties and authority as prescribed by the Commissioner and serve at the will of the Commissioner.

~~The Commissioner shall also appoint an adequate number of Assistants to the Commissioner, who shall have had at least three (3) years' experience in actual banking or two (2) years' experience as a state or federal bank examiner. He may also appoint an adequate number of examiner trainees who shall have such requirements as may be determined and established by the Oklahoma Banking Commission, and who may be appointed as~~

~~Assistants to the Commissioner following twelve (12) months' training with the Banking Department.~~

5. The Commissioner shall prepare in writing a manual of all ~~other necessary~~ employee positions for the Department, including job classifications, personnel qualifications, duties, maximum and minimum salary schedules and other personnel information for approval by the Board. The Commissioner may, with the approval of the Board, select, appoint and employ such accountants, attorneys, auditors, examiners, clerks, stenographers and other personnel as he deems necessary for the proper administration of this Code.

D. All officers and employees of the Department ~~other than the Commissioner, the Deputy Commissioner, Budget Director, Savings and Loan Administrator, and Credit Union Administrator, examiners of banks, trust companies, savings and loan associations, and credit unions, and the Administrative Assistant~~ shall be in the ~~competitive class of the Merit System of Personnel Administration, Sections 801 et seq.~~ exempt unclassified service as provided for in Section 840.8 of Title 74 of the Oklahoma Statutes. Provided that, ~~examiners of banks, trust companies, savings and loan associations, and credit unions not in the Merit System of Personnel Administration~~ any officer or employee who is serving in a classified position prior to the effective date of this act shall retain their classified status. All future appointees to such positions shall be in the exempt unclassified service. Except as provided in subsection B of this section, officers and employees of the Department shall not be terminable except on cause shown in an individual proceeding as provided by the Administrative Procedures Act. The Banking Commissioner shall have the authority to determine if cause exists in the event such officer or employee gives written notice of appeal of the termination within ten (10) days after the day of his termination.

E. The Commissioner may delegate to any officer or employee of the Department any of his powers and may designate any officer or employee of the Department to perform any of his duties.

F. The Commissioner, Deputy Commissioner, Assistants to the Commissioner and examiner-trainees shall, before entering upon the

discharge of their duties, take and subscribe to the oath of office required of state officers as provided by Section 36.2A of Title 51 of the Oklahoma Statutes.

G. ~~(1)~~ 1. Adoption of seal. The Board shall adopt an appropriate seal as the Seal of the State Banking Department.

~~(2)~~ 2. Affixing seal - Effect. Every certificate, assignment and conveyance executed by the Commissioner, in pursuance of the authority conferred upon him by law and sealed with the seal of the Department, shall be received in evidence and recorded in the proper recording offices in the same manner as a deed regularly acknowledged, as required by law.

~~(3)~~ 3. Fees. Whenever it is necessary for the Commissioner to approve any instrument and to affix the official seal thereto, the Commissioner shall charge a fee as provided by Banking Board rule for affixing his approval and the official seal to such instrument. Copies of all records and papers in the office of the State Banking Department, certified by the Commissioner and authenticated by the seal, shall be received in evidence in all cases equally and of like effect as the original. Whenever it is proper to furnish a copy of any paper filed in the State Banking Department and to certify such paper, the Commissioner may charge a fee as provided by Banking Board rule for furnishing such copy, for affixing the official seal on such copy and for certifying the same.

SECTION 3. AMENDATORY 6 O.S. 1991, Section 201.1, as amended by Section 14, Chapter 367, O.S.L. 1992 (6 O.S. Supp. 1992, Section 201.1), is amended to read as follows:

Section 201.1 A. ~~Except as provided in subsection B of this section the annual compensation, payable monthly, of the State Banking Commissioner whose term commenced in 1990 shall be the sum of Sixty-four Thousand Forty-five Dollars (\$64,045.00).~~

~~B.~~ The annual compensation, payable monthly, of the State Banking Commissioner who is appointed after July 1, 1992, shall be increased by the percentage or amount provided for salary increases for employees of the State Banking Department for each

fiscal year beginning with Fiscal Year 1993, ~~if such employee salary increases are authorized by the Legislature.~~

~~C. B. The salaries of the Deputy Commissioner, Budget Director, Administrative Assistant, and examiners of banks and trust companies shall be an amount recommended by the Commissioner and approved by the House of Representatives and the Senate of the Oklahoma Legislature. The salaries of the Savings and Loan Administrator and examiners of savings and loan associations shall be an amount recommended by the Commissioner and approved by the House of Representatives and the Senate of the Oklahoma Legislature. The salaries of the Credit Union Administrator and examiners of credit unions shall be an amount recommended by the Commissioner and approved by the House of Representatives and the Senate of the Oklahoma Legislature.~~ The Commissioner and, with the Commissioner's authority, other members of the Department shall be entitled to reimbursement for actual and necessary travel expenses incurred in the performance of their duties, as provided by the State Travel Reimbursement Act.

SECTION 4. AMENDATORY 6 O.S. 1991, Section 211, is amended to read as follows:

Section 211. A. 1. The State Banking Commissioner shall charge and collect from each bank or trust company under his supervision not more than an annual fee of ~~\$260.00~~:

- a. for each bank or trust company with total resources of less than Seven Hundred Million Dollars (\$700,000,000.00), Three Hundred Dollars (\$300.00) which shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title; and on each One Thousand Dollars (\$1,000.00) of resources, or major fraction thereof, not less than nineteen cents (\$0.19) and not to exceed twenty-two and one-half cents (\$0.22 1/2),
and
- b. for each bank or trust company with total resources of Seven Hundred Million Dollars (\$700,000,000.00) or more, an amount determined pursuant to a fee

scale established by the State Banking Commissioner.
Such amount shall not exceed the amount charged by
the Office of the Comptroller of Currency;

provided that the fee charged by the State Banking Commissioner to be paid in January of 1992 shall be at least one cent (\$0.01) above the fee charged in January of 1991.

2. The minimum fee for bank trust departments shall be One Hundred Dollars (\$100.00). The fees shall be paid annually to the Banking Department within ten (10) days following the first day in January in each year. Any bank or trust company which fails to make such payment within the time specified shall be notified of the terms of this section and be billed appropriately for such fees and given a reasonable period of time not to exceed fifteen (15) days within which to pay them, and, if it fails to pay them within such time, then it shall be subject to a penalty of not more than Fifty Dollars (\$50.00) per day for each day it is in violation of this section, which penalty, together with the amount due under the foregoing provisions of this section, may be recovered in a civil action in the name of the state.

3. Except as otherwise provided by law, all fees shall be paid into the State Treasury and accrue to the General Revenue Fund of the state.

B. Whenever it is deemed advisable by the Commissioner, special examinations of banks, ~~or~~ trust companies and any other person under, subject to or proposed to become under or subject to his supervision shall be conducted. Upon approval of the Board, the expenses of the Department necessarily incurred in ~~the examination of banks or trust companies requiring~~ the special examination shall be chargeable to ~~such banks or trust companies~~ the bank, trust company or person examined at the rate not to exceed ~~Twenty Dollars (\$20.00)~~ Fifty Dollars (\$50.00) per hour for each of the examining personnel while engaged at such institution. Payments received pursuant to this subsection shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title.

~~All fees shall be paid into the State Treasury and accrue to the General Revenue Fund of the state.~~

SECTION 5. AMENDATORY 6 O.S. 1991, Section 222, is amended to read as follows:

Section 222. There is hereby created in the State Treasury a revolving fund for the State Banking Department. Said revolving fund shall consist of all monies received by the Commissioner under ~~6 O.S. 1971,~~ Sections 303, 415 and ~~501~~ 501.1 of this title and ~~18 O.S. 1971,~~ Section 381.16 of Title 18 of the Oklahoma Statutes and those payments required to be deposited in the revolving fund pursuant to Sections 211, 1103, 1206, 2001.2, 2107 and 2113 of this title and Section 381.15 of Title 18 of the Oklahoma Statutes. The revolving fund shall be a continuing fund, not subject to fiscal year limitations. Expenditures from said fund shall be made pursuant to the laws of this state and the statutes relating to the Department, and without legislative appropriation. Warrants for expenditures from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the said Department and approved for payment by the Director of State Finance.

SECTION 6. AMENDATORY 6 O.S. 1991, Section 306.1, is amended to read as follows:

Section 306.1 A. Acceptance for filing. After the Commissioner determines that all requirements of Sections 304 and 305 of this title have been satisfied, he shall accept the application for filing and shall promptly notify the organizers of such acceptance.

B. Notice of acceptance for filing.

1. By publication. Within twenty (20) days after the Commissioner has accepted an application for filing, the applicant shall publish notice of such acceptance in a legal newspaper of general circulation in the community in which the proposed bank or trust company is to be located. The notice shall be published on the same day of two (2) consecutive weeks and shall contain a statement that an application has been filed, the names of the organizers, the name and location of the proposed bank or trust

company and the date on which the application was accepted for filing.

The applicant shall promptly furnish the Commissioner an affidavit evidencing such publication; and

2. By mail. The applicant shall mail a notice as described in paragraph 1 of this subsection to each bank or trust company, including national banks, having home offices in the county in which the proposed bank or trust company is to be located, and to any additional banks or trust companies having their home office located within a twenty-mile radius of the proposed facility. No notice need be mailed, however, to any bank or trust company domiciled outside the State of Oklahoma. Notice shall also be given to such other persons as the Commissioner may designate.

The applicant shall promptly furnish the Commissioner an affidavit evidencing such notice.

~~C. Emergency certificate of authority or certificate to maintain a branch. When the deposit liability of any bank is to be assumed by a state bank being organized or establishing a branch for that purpose, the Commissioner, upon approval of the Board at a meeting closed to the public, is empowered to grant authority to organize a state bank and issue a certificate of authority, or to grant authority to establish a branch and issue a certificate to maintain and operate a branch, without notice or hearing.~~

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 306.2 of Title 6, unless there is created a duplication in numbering, reads as follows:

Certificate of authority or certificate to maintain a branch for failing bank or savings association. In the event the Commissioner determines that a bank or savings association is in imminent danger of failing and the deposit liability of such bank or savings association is to be assumed by a state bank or state savings association being organized or establishing a branch for that purpose, the Commissioner, or in the case of a state bank upon approval of the Banking Board at a meeting closed to the public, is empowered to grant authority to organize a state bank

and issue a certificate of authority, or to grant authority to establish a branch and issue a certificate to maintain and operate a branch, without notice or hearing. The Commissioner is further empowered in such event to grant authority to organize a state savings association and issue a certificate of authority, or to grant authority to establish a branch and issue a certificate to maintain and operate a branch, without notice or hearing and without action of the Banking Board.

SECTION 8. AMENDATORY 6 O.S. 1991, Section 422, is amended to read as follows:

Section 422. A. Any bank, savings and loan association or credit union located within the State of Oklahoma may install, operate or utilize consumer banking electronic facilities, provided written notice is given to the ~~Bank~~ State Banking Commissioner prior to the commencement of operations of each facility. Such notice shall contain any reasonable descriptive information pertaining to the facility as shall be required by the rules or regulations of the Banking Board.

B. A consumer banking electronic facility, when located other than at a bank's principal office or detached facility, may be operated exclusively by ~~bank~~ customers or transactions may be performed through the assistance of any person provided that person is not employed, either directly or indirectly, by any bank, bank holding company or subsidiary ~~thereof~~, savings and loan association or credit union. Such assistance shall not be deemed to be engaging in the business of banking. Persons assisting bank customers at the site of a consumer banking electronic facility may be trained by bank employees and nothing in this section shall be construed to prohibit periodic servicing of a consumer banking electronic facility by a bank, savings and loan association or credit union employee. Under no circumstances may an employee of a bank, bank holding company, affiliate or subsidiary thereof, savings and loan association or credit union perform transactions for others at the consumer banking electronic facility. However, a consumer banking electronic facility located on the business

premises of a person engaged in the sale of goods or services may be used to perform internal nonbanking functions for such persons.

C. Consumer banking electronic facility transactions shall be considered as the conduct of banking transactions at the headquarters' location of the bank, savings and loan association or credit union for which the data is transmitted.

D. 1. A bank or combination of banks or business entity, association or organization offering such services to a bank, savings and loan association or credit union which establishes or maintains a manned or unmanned consumer banking electronic facility or facilities shall make the use thereof available to banks, savings and loan associations or credit unions located in Oklahoma on a fair and equitable basis of nondiscriminatory access and rates. Provided, that if a retailer does accept any credit or debit card or other system, nothing herein shall be construed to deprive such retailer of the right to accept or reject any other credit or debit card or other system offered by any other bank or business entity.

2. A bank ~~or~~ combination of banks, savings and loan association or credit union which establishes and maintains a manned consumer banking electronic facility or facilities may make the use thereof available on a reciprocal basis to other banks, savings and loan associations and credit unions located in Oklahoma on a fair and equitable basis of nondiscriminatory access and rates.

3. In the event of a dispute, the Banking Board shall have the jurisdiction to determine, after a hearing conducted upon notice and pursuant to regulations adopted by the Board, what constitutes a fair and equitable basis of nondiscriminatory access and rates, based upon cost of installation and proportionate usage of the facility. A principal factor in any equitable formula of shared costs of installation and/or operation shall give weight to the number of transactions of each participating bank, savings and loan association or credit union.

4. Proceedings of the Board under this section shall be subject to the Administrative Procedures Act of Oklahoma.

SECTION 9. AMENDATORY 6 O.S. 1991, Section 502, is amended to read as follows:

Section 502. A. Citation - Purpose. This section may be cited as the "Bank Holding Company Section" and shall have for its purpose the maintenance of competitive services between banks by limiting the expansion of bank holding companies and similar organizations. It is deemed to be in the public interest that competition prevail in the banking system in the State of Oklahoma and to that end that the independence of unit banks be preserved. Further, it shall be the policy of the State of Oklahoma to oppose any attempt by any bank holding company to acquire control of any bank located in this state if such acquisition would result in a monopoly or in an attempt to monopolize the business of banking in this state.

B. Definitions. As used in this section the following terms shall have the following meanings:

~~(1)~~ 1. "Bank" means any national banking association or any state bank or banking association, whether organized under the laws of Oklahoma, the laws of another state, or the laws of the United States, authorized to engage in the banking business and located in the State of Oklahoma~~;~~;

~~(2)~~ 2. "Company" means any corporation, association, partnership, business trust or similar organization, but shall not include any corporation, the majority of the shares of which are owned by the United States or by any state~~;~~;

~~(3)~~ 3. "Banking company" means any bank~~;~~;

~~(4)~~ 4. "Bank holding company" means any company which directly or indirectly owns or controls at least one bank~~;~~;

~~(5)~~ 5. "Multi-bank holding company" means a company which directly or indirectly owns or controls two or more banks, two or more bank holding companies, or one or more of each~~;~~;

~~(6)~~ 6. "Subsidiary" with respect to a specified bank holding company or multi-bank holding company means:

~~(a)~~ a. any bank or company, twenty-five percent (25%) or more of whose voting shares is owned or

controlled by such bank holding company or multi-bank holding company, or

~~(b)~~ b. any bank or company, the election of a majority of whose directors is controlled in any manner by such bank holding company or multi-bank holding company, or

~~(c)~~ c. any bank or company, twenty-five percent (25%) or more of whose voting shares is held by trustees for the benefit of the shareholders or members of such bank holding company or multi-bank holding company, or

~~(d)~~ d. any nonbanking company which a bank holding company or multi-bank holding company is allowed to acquire control or ownership of pursuant to the provisions of Sections 1841 et seq. of Title 12 of the United States Code Annotated~~;~~i

~~(7)~~ 7. For purposes of this section, a company has "direct or indirect ownership or control" of a bank or of another company if the company directly or indirectly, or acting through one or more persons, owns, controls, or has power to vote twenty-five percent (25%) or more of any class of voting securities of the bank or other company. For this purpose:

~~(a)~~ a. voting shares owned or controlled by any subsidiary of a company shall be deemed to be indirectly owned or controlled by said company, and

~~(b)~~ b. voting shares held or controlled directly or indirectly by trustees for the benefit of a company, the shareholders or members of a company, or employees of a company shall be deemed to be controlled by said company~~;~~i

~~(8)~~ 8. If the company controls in any manner the election of a majority of the directors or trustees of the bank or another company, such bank or other company shall be deemed to be directly or indirectly owned or controlled by said company~~;~~i and

~~(9)~~ 9. For purposes of this section, the company has control if the company has control under the provisions of the federal "Bank Holding Company Act of 1956" (Public Law 84-511) as amended or in accordance with the provisions of the regulations promulgated thereto by the Board of Governors of the Federal Reserve System; the procedures for determining the rebuttable presumption of control, under the terms of either said Act or the regulations promulgated thereto, shall be the same as provided in said Act or regulations.

C. Multi-bank holding companies authorized. From and after October 1, 1983, a company may be a multi-bank holding company and have direct or indirect ownership or control of two or more banks or bank holding companies, subject to the deposit limitation provided for in subsection D of this section; provided that except as specifically permitted in this Code, all forms of direct or indirect ownership or control of banks, bank holding companies, and multi-bank holding companies by any foreign bank or foreign bank holding company shall be prohibited.

D. Limitation. From and after October 1, 1983, it shall be unlawful for a multi-bank holding company to acquire direct or indirect ownership or control of any financial institution insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), and National Credit Union Administration (NCUA) and located in this state if such acquisition results in the multi-bank holding company having direct or indirect ownership or control of banks located in this state, the total deposits of which at the time of such acquisition exceed eleven percent (11%) of the aggregate deposits of all financial institutions insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), and National Credit Union Administration (NCUA) as determined by the Commissioner on the basis of the most recent reports of such institutions in Oklahoma to their supervisory authorities which are available at the time of the proposed acquisition. Multi-bank holding company acquisitions of other

multi-bank holding companies shall not be exempt from this limitation.

E. Board of Directors requirements. The Board of Directors of each bank acquired by a multi-bank holding company shall have no less than a majority of the total membership of the Board of Directors of the bank from the local area in which the bank is located.

F. Exceptions to deposit limitation. The deposit limitation provided for in subsection D of this section shall not apply in the following circumstances:

~~(1)~~ 1. Control of a bank by reason of ownership or control of shares acquired by a bank or by a bank holding company in good faith in a fiduciary capacity, except where such shares are held for the benefit of the shareholders of such bank or such bank holding company; or

~~(2)~~ 2. Control of a bank by reason of ownership or control of shares acquired by a bank or by a bank holding company in the regular course of securing or collecting a debt previously contracted in good faith. The deposits of the acquired bank shall not be included in computing the appropriate deposit limitation set forth in subsection D of this section for a period of five (5) years from the date of acquisition; or

~~(3)~~ 3. The acquisition of direct or indirect ownership or control of a bank or bank holding company at the request of or in connection with the exercise of regulatory authority by the Commissioner, the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System for the purpose of preventing imminent failure of the bank or to protect the depositors thereof as determined by such authority in its sole discretion. The deposits of the acquired bank shall not be included in computing the appropriate deposit limitation as set forth in subsection D of this section for a period of five (5) years from the date of acquisition. The regulatory authority shall give acquisition priority to qualified purchasers or bidders whose total deposit

control at the time of acquisition does not exceed the appropriate deposit limitation as set forth in subsection D of this section.

G. Limitation on acquisitions. A bank for which the application for charter was filed, received, or granted by the appropriate authorizing agency after July 1, 1983, shall not be acquired by a multi-bank holding company for a period of five (5) years. Provided however, the provisions of this subsection shall not prevent a multi-bank holding company from directly or indirectly acquiring a bank whose charter was granted for the purpose of purchasing the assets and assuming the liabilities of a bank closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital.

H. De novo charter prohibition. A bank holding company or a multi-bank holding company shall not apply for or obtain a de novo charter except for the ~~purpose of~~ following purposes:

~~(1) purchasing~~ 1. Purchasing the assets and assuming the liabilities of a bank closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital; or

~~(2) merging~~ 2. In the case of a bank holding company, merging with an existing bank subsidiary or subsidiaries of said ~~multi-bank~~ bank holding company in accordance with the laws of this state or of the United States and subject to the following provisions:

- ~~(a) A multi-bank~~ a. a bank holding company may apply for and obtain only one de novo charter for the purpose of merging with an existing bank subsidiary or subsidiaries pursuant to this subsection~~†~~ and
- ~~(b) The~~ b. the de novo chartered bank shall be the survivor of any such merger~~†~~ and
- ~~(c) The~~ c. the de novo chartered bank shall be the main banking office of the merged banks~~†~~ and
- ~~(d) The~~ d. the deposit limitations provided for in subsections D of this section and Section 501.1 of this title shall be applicable to any such merger~~†~~ and

~~(e)~~ The e. the de novo chartered bank shall have
branching authority under subsections B and C of
Section 501.1 of this title.

A company shall not be deemed to be a bank holding company for
purposes of this section until it owns or controls a bank which
has received a charter from the Banking Board of this state, the
Comptroller of the Currency or a foreign country.

I. Interim charters. A bank holding company or a multi-bank holding company may apply for and obtain an interim charter to organize an interim state bank for the purpose of facilitating the creation of a bank holding company, or acquiring or merging with an existing bank in accordance with the provisions of Section 502.1 of this title or the laws of the United States.

J. Acquisition approval - Reports. A national bank in this state, bank holding company, or multi-bank holding company seeking to acquire a state bank or national bank in this state, or a nonbanking company that submits an application for approval of such acquisition to the Board of Governors of the Federal Reserve System pursuant to the provisions of Sections 1841 et seq. of Title 12 of the United States Code Annotated shall also submit a copy of such application to the Board.

K. Jurisdiction - Appeals. The district court shall have jurisdiction to determine all questions of compliance with the provisions of this section, except such jurisdiction shall not apply to actions of the Board or proceedings before the Board conducted pursuant to the Banking Code. The decision of the district court shall be appealable to the Supreme Court in the same manner as in other civil cases.

L. Reports and examinations. Each bank holding company and multi-bank holding company which directly or indirectly owns, controls, or has power to vote twenty-five percent (25%) or more of the voting shares of one or more banks shall furnish a copy of the annual report of the operations of the bank holding company or multi-bank holding company which is submitted to the Federal Reserve Bank for each fiscal year to the Commissioner.

M. Penalties. Any company which intentionally and willfully violates any provision of this section, upon conviction, shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) for each day during which the violation continues. Any individual who intentionally and willfully participates in a violation of any provision of this section, upon conviction, shall be fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned not more than one (1) year, or both such fine and imprisonment.

SECTION 10. AMENDATORY 6 O.S. 1991, Section 502.1, is amended to read as follows:

Section 502.1 A. Rules of General Applicability.

1. The interim state bank, prior to commencing business, shall be a party to a merger or consolidation with an existing bank. The application to organize an interim state bank and the subsequent merger or consolidation application shall be melded into a single process requiring, after the filing of the subsequent merger or consolidation application, one opportunity for public comment after notice is published by the applicant and one substantive review by the State Banking Department pursuant to Section 1103 of this title. 2. ~~The following provisions shall not apply to applications to organize an interim state bank:~~

- ~~a. the provisions of Section 303 of this title governing the number of organizers; shall not apply to applications to organize an interim state bank.~~
- ~~b. the publication notice provisions of Section 306.1 of this title;~~
- ~~c. the comment and objection provisions of Section 307.1 of this title; and~~
- ~~d. the provisions of Sections 308 and 310 of this title.~~

B. Prefiling meeting concerning application to organize an interim state bank. The proposed organizers of an interim state bank should schedule a meeting with the ~~Bank~~ State Banking Commissioner to discuss the proposal and the State Banking Department rules, policies and procedures, including means to

combine many procedural and processing requirements, applicable to the organization of an interim state bank. The State Banking Department shall provide the organizers with forms and documents which should be filed with the application for authority to organize an interim state bank. The prefiling meeting provided for in this subsection may be waived by the ~~Bank~~ State Banking Commissioner.

C. Acceptance of application to organize.

1. The ~~Bank~~ State Banking Commissioner shall accept an application for authority to organize an interim state bank for processing if the applicant has completed all of the information requested in the application. Applicants shall have one opportunity to correct deficiencies. Deficiencies that are not corrected adequately when the application is resubmitted may cause the application to be considered withdrawn or disapproved.

2. ~~Acceptance of the application for processing shall constitute preliminary approval of the application for authority to organize an interim state bank. Preliminary approval~~ Approval of the application by the Banking Board shall be specifically conditioned on approval of the subsequent merger or consolidation. The ~~preliminary~~ approval shall be rescinded automatically if the merger or consolidation is disapproved or if subsequent approval for establishment of a holding company or for acquisition of the interim bank by the holding company is not received within twelve (12) months from the filing of the application for authority to organize an interim state bank, unless an extension has been requested by the applicant and granted by the ~~Bank Commissioner~~ Board. If the merger or consolidation application is not filed within six (6) months of ~~preliminary~~ approval of the interim state bank, the preliminary approval shall be withdrawn unless an extension has been requested by the applicant and granted by the ~~Bank Commissioner~~ Board.

D. Subsequent merger or consolidation.

1. When the interim state bank's duly executed certificate of incorporation is filed with and accepted by the ~~Bank Commissioner~~ Board, the interim state bank becomes a body corporate, and may

then legally enter into the merger or consolidation agreement.
~~Only after such steps are completed can the application to merge or consolidate the interim state bank and existing banks be filed with and processed by the State Banking Department.~~

2. All steps necessary to perfect the organization of a state bank must be completed before consummation of the merger or consolidation.

E. Rules and Regulations. The State Banking Board shall adopt and promulgate rules and regulations necessary to effectuate the provisions of this section.

SECTION 11. AMENDATORY 6 O.S. 1991, Section 601, is amended to read as follows:

Section 601. Any bank, including state banks, national banks, federal reserve banks, federal home loan banks, federal and state savings and loan associations, federal credit unions, trust companies, and state credit unions, may fully dispense with, or restrict to such extent as it may determine, the hours within which it will be open for business on any one business day of each week, in addition to any other legal holiday in that particular week and Columbus Day on the second Monday in October. Any plan so adopted by any such organization may be changed by it from time to time in its discretion. Any act authorized, required or permitted to be performed at or by any such bank, association or credit union on a business day when such bank, association or credit union is so closed may be performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from such delay. For purposes of this section, Saturday shall not be considered a "business day".

SECTION 12. AMENDATORY 6 O.S. 1991, Section 809, is amended to read as follows:

Section 809. A. Except as provided in Section 411 of this Code, no bank, banker or bank official shall give preference to any depositor or creditor by pledging the assets of the bank as collateral security. No bank, banker or bank official shall sell or transfer any of the assets of any insolvent bank in consideration of any deposit in such bank. Any officer, director

or employee of any bank who violates any provision of this section shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00), nor more than One Thousand Dollars (\$1,000.00), or by imprisonment in the State Penitentiary for not less than one (1) year, nor more than five (5) years, or by both such fine and imprisonment.

B. No attachment, injunction, execution or other recordation which constitutes a lien under the laws of this state upon the property of a bank created, organized or existing under or by virtue of the laws of this state, shall be issued against such a bank or its property before final judgment in any suit, action or proceeding in any federal, state, county or municipal court. As used in this subsection, "final judgment" shall mean a judgment on the merits from which no appeal can be taken and not merely a judgment rendered.

C. The Banking Board shall have the authority, pursuant to Section 203 of this title, to order or seek injunction over any person, as defined in Section 103 of this title, to cease and desist violating any of the provisions of this section.

SECTION 13. AMENDATORY 6 O.S. 1991, 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. A deposit held in this form shall be deemed to constitute a Totten Trust. A revocation of such trust may only be made in writing to the bank and the bank shall not suffer any liability for payment of funds pursuant to the trust unless and until it receives written notice of revocation.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 907 of Title 6,

unless there is created a duplication in numbering, reads as follows:

A deposit made in any bank by a husband and wife which is primarily for a business purpose may be treated, at the option of the depositors, as a sole proprietorship account, rather than a partnership account unless a formal partnership has been formed.

SECTION 15. AMENDATORY 6 O.S. 1991, Section 1006, is amended to read as follows:

Section 1006. A. Separation of books and accounts. Every bank having trust powers and every trust company shall establish and maintain in its office a trust department, in which shall be kept separate and apart from its other business separate books and accounts, and shall keep all moneys, funds, investments and property of the department at all times segregated from and unmingled with other funds, moneys, investments and property.

B. Labeling of securities. All bonds, warrants, notes, mortgages, deeds and other securities of every nature shall be so marked, stamped, labeled or otherwise identified and segregated as to indicate the department of which such securities are a part.

C. Prohibited operations of banks and trust companies having trust powers. No bank shall receive in its trust department and no trust company shall receive deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange or other items for collection or exchange purposes. Funds deposited or held in trust by the bank or trust company awaiting investment shall be carried in a separate account and shall not be used by the bank or trust company in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Commissioner. Funds awaiting investment may only be so deposited for a short time, not to exceed one (1) year.

SECTION 16. AMENDATORY 6 O.S. 1991, Section 1102, is amended to read as follows:

Section 1102. Where there is to be a resulting state bank, the board of directors of each constituent bank or savings

association shall, by a majority of the entire board, approve a merger agreement which shall contain:

~~(1) the~~ 1. The name of each constituent bank or savings association and the location of each office~~;~~;

~~(2) with~~ 2. With respect to the resulting bank the name and the location of each proposed office; the name and residence of each director to serve until the next annual meeting of the stockholders; the name and residence of each officer; the amount of capital, the number of shares and the par value of each share; whether preferred stock is to be issued and the amount, terms and preferences; the amendments to the charter and bylaws~~;~~;

~~(3) the~~ 3. The terms for the exchange of shares of the constituent banks or savings associations for those of the resulting bank~~;~~;

~~(4) a~~ 4. A statement that the merger and the merger agreement ~~is~~ are subject to approval by the Board and by the stockholders of each constituent bank or savings association~~;~~;

~~(5) provisions~~ 5. Provisions governing the manner of disposing of the shares of the resulting state bank not taken by dissenting shareholders of constituent banks or savings associations~~;~~; and

~~(6) such~~ 6. Such other provisions as the Board requires to enable it to discharge its duties with respect to the merger.

SECTION 17. AMENDATORY 6 O.S. 1991, Section 1103, is amended to read as follows:

Section 1103. A. Instruments to submit. After approval by the board of directors of each constituent bank or savings association, the merger agreement shall be submitted to the Board for approval, together with a fee for review of the merger as required by rule of the Board which shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title, certified copies of the authorizing resolutions of the several boards of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any constituent national bank or federal savings association.

B. Value of assets. Without approval by the Board, no asset shall be carried on the books of the resulting bank at a valuation higher than that on the books of the constituent bank or savings association at the time of the last examination by a state or national bank or savings association examiner before the effective date of the merger.

C. Time and requirements for approval. Within thirty (30) days after receipt by the Board of the fee and papers specified in subsection A of this section, the Board shall approve or disapprove the merger and the merger agreement. The Board shall approve the merger and the merger agreement if it appears that:

~~(1) the~~ 1. The resulting state bank meets all the requirements of state law as to the formation of a new state bank;i

~~(2) the~~ 2. The agreement provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting state bank and its other activities which are to continue or are to be undertaken;i

~~(3) the~~ 3. The agreement is fair;i and

~~(4) the~~ 4. The merger is not contrary to the public interest.

If the Board disapproves ~~an~~ a merger or a merger agreement, it shall state its objections and give an opportunity to the constituent banks or savings associations to amend the merger agreement to obviate such objection.

D. Succession to fiduciary positions. Where the resulting state bank is not to exercise trust powers, the Board shall not approve a merger until satisfied that adequate provision has been made for successors to fiduciary positions held by constituent banks or savings associations, and the manner of succession of trust powers and successor trustees shall follow the same procedure as set out in Section 1018 of this Code.

SECTION 18. AMENDATORY 6 O.S. 1991, Section 1107, is amended to read as follows:

Section 1107. A. State bank conversion to national bank. Nothing in the law of this state shall restrict the right of a state bank to convert into a national bank upon compliance with Req. No. 6859Page 25

the laws of the United States, and upon completion of such conversion it shall surrender its charter as a state bank.

B. National bank conversion to state bank. A national bank located in this state, which follows the procedure prescribed by federal law to convert into a state bank, shall be granted a state charter if it meets the requirements for the incorporation of a state bank and the standards and requirements set forth by rules and regulations of the Board. Any requirements that shares must be paid in cash may be satisfied by the exchange of shares of the converted state bank for those of the converting national bank, which may be valued at no more than their fair cash market value. The procedure for incorporation of a state bank may be modified to the extent made necessary by the difference between an ordinary incorporation and a conversion.

C. Preservation of identity and use of prior name. The converted bank shall be considered the same business and corporate entity as the converting bank with all of the rights, powers and duties of the converting bank except as limited by the charter and bylaws of the resulting bank. It may use the name of the converting bank whenever it can do any act under such name more conveniently.

D. Succession to fiduciary positions. Where a resulting state bank is not to exercise trust powers, the Board shall not approve a merger or conversion until satisfied that adequate provision has been made for successors to fiduciary positions held by the merging banks or the converting bank, and the manner of succession of trust powers and successor trustees shall follow the same procedure as set out in Section 1018 of this Code.

E. Continuation of corporate entity. Any reference to the converting bank in any writing, whether executed or taking effect before or after the conversion, shall be deemed a reference to the converted bank if not inconsistent with the other provisions of such writing.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1111 of Title 6,

unless there is created a duplication in numbering, reads as follows:

A. Upon approval by the State Banking Board, and subject to satisfying each of the criteria contained in subsection B of this section and complying with the procedures required by subsection C of this section, a state bank may merge with:

1. Its parent bank holding company;
2. One or more nonbank subsidiaries of its parent bank holding company; or
3. One or more subsidiaries of the state bank.

B. The form and effect of any merger pursuant to this section must be consistent with the following criteria:

1. The state bank must be the resulting entity which is the survivor of the merger;
2. The merger shall not result in any additional branch office of the state bank, unless such additional branch is approved pursuant to the bank's de novo branching authority under subsection B of Section 501.1 of Title 6 of the Oklahoma Statutes;
3. Any activity carried on by any nonbank company which is a party to the merger shall be terminated at the effective time of the merger unless that activity is permissible for the resulting state bank;
4. Any asset or investment which is held by a constituent nonbank company and which is not permitted to be held by a resulting state bank shall be divested at or before the effective time of the merger, unless the state bank obtains prior approval for a longer divestiture period from the State Banking Commissioner in the manner provided in Section 1108 of Title 6 of the Oklahoma Statutes and from appropriate federal banking agencies in accordance with any applicable federal banking laws or regulations;
5. The merger shall not create an unsafe weakening of the resulting state bank's condition. However, the Board shall have discretion to approve a merger which will have the effect of materially strengthening a weakened bank, even if the resulting

state bank's condition or capital will remain less than satisfactory; and

6. The applicant bank shall present an acceptable plan for minimizing or eliminating the potential adverse impact of any significant debt or other direct or contingent liabilities of any nonbank company that will be merged into the resulting state bank.

C. A merger pursuant to this section shall be governed by all of the provisions and procedures of Sections 1102 through 1106 of Title 6 of the Oklahoma Statutes. For this purpose such sections shall be interpreted so far as reasonably applicable as if any nonbank company which is a party to the merger were instead a constituent state bank being merged into the resulting state bank.

SECTION 20. AMENDATORY 6 O.S. 1991, Section 1202, is amended to read as follows:

Section 1202. A. Possession of Commissioner - Hearing. Except as otherwise provided in this Code, only the Commissioner may take possession of a bank, if, after a hearing before the Board, the Board shall find:

~~(1)~~ 1. That it is insolvent; ~~or~~

~~(2)~~ 2. The bank's capital is impaired, and has not been corrected as provided in Section 220 of this title, or is otherwise in an unsound condition; ~~or~~

~~(3)~~ 3. The bank's business is being conducted in an unlawful or unsound manner; ~~or~~

~~(4)~~ 4. The bank is unable to continue normal operations; or

~~(5)~~ 5. That examination of the bank has been obstructed or impeded.

B. Notice of possession - Powers and duties of Commissioner - Tolling of limitations.

~~(1)~~ 1. The Commissioner shall take possession by posting upon the premises a notice reciting that he is assuming possession pursuant to this Code and the time, not earlier than the posting of the notice, when his possession shall be deemed to commence. A copy of the notice shall be filed in the district court in the county in which the institution is located. Provided, if the Federal Deposit Insurance Corporation is appointed as liquidator

pursuant to the provisions of Section 1205 of this title, such notice shall not be filed. The Commissioner shall notify the Federal Reserve Bank of the district of taking possession of any state bank which is a member of the Federal Reserve System, and shall notify the Federal Deposit Insurance Corporation of taking possession of any state bank which is a member of the Federal Deposit Insurance Corporation.

~~(2)~~ 2. When the Commissioner has taken possession of a state bank he shall be vested with the full and exclusive power of management and control, including the power to continue or to discontinue the business, to stop or to limit the payment of its obligations, to employ any necessary assistants, including legal counsel, to execute any instrument in the name of the bank as Commissioner of Banking in charge of liquidation, to commence, defend and conduct in its name any action or proceeding to which it may be a party, to enforce the liabilities of the stockholders, officers and directors, to terminate his possession by restoring the assets of the bank to its board of directors and to reorganize or liquidate the bank in accordance with the Code. As soon as practicable after taking possession the Commissioner shall make an inventory of the assets and file a copy thereof with the court in which the notice of possession was filed.

~~(3)~~ 3. When the Commissioner is in possession and while his possession continues there shall be a postponement until six (6) months after such taking, of the date upon which any period of limitation fixed by statute or agreement would otherwise expire on a claim or right of action of the bank, or upon which a review must be taken or a pleading or other document must be filed by the bank in any pending action or proceeding.

~~(4)~~ 4. The Commissioner shall, within two (2) days after taking possession, call and give five (5) days' notice by mail to stockholders of the bank at their last-known address of a special meeting for the purpose of allowing the stockholders to designate the board of directors as the representative of the stockholders or to allow the election of a new board of directors if the stockholders should so determine. Such board of directors are

authorized to represent the stockholders in the liquidation procedures herein, to observe, assist and protect the interest of the stockholders.

~~(a)~~ a. The board of directors of the bank are authorized to bring all necessary legal actions for and on behalf of the stockholders and to pay attorney's fee in a reasonable amount, if such action benefits the liquidating account of the insolvent bank.

~~(b)~~ b. The board of directors, as authorized by the stockholders, shall represent the stockholders in the district court in which the notice of possession has been filed by the Commissioner, as to all matters affecting the bank.

~~(5)~~ 5. The corporate entity of the bank shall continue to exist and may function for all purposes, except as to the assets of and activities as a banking institution under a charter, and may function to assist the Commissioner or to protect the stockholders' interest in the assets of the liquidating account.

C. Omission of hearing - Application to vacate possession - Liquidation - Notice thereof - Objection - Bond of Commissioner - Reorganization - Immediate liquidation of state banks.

~~(1)~~ 1. If in the opinion of the Commissioner an emergency exists which may result in serious losses to the depositors, he may take possession of a state bank without a prior hearing. Within ten (10) days after the Commissioner has taken possession any interested person may file an application with the Board for an order vacating such possession. The Board shall grant the application if it finds that the action of the Commissioner was unwarranted or without sufficient cause.

~~(2)~~ 2. If the Commissioner shall determine to liquidate the bank, he shall give such notice of his determination to the directors, stockholders, depositors and creditors as the Board may prescribe. Such notice shall be by restricted delivery to the directors and stockholders at their last-known address as shown on the records of the bank and notice to the depositors and creditors

shall be published in a legal newspaper published in the city or town where such bank is located, or if there be no legal newspaper published in such city or town then in a legal newspaper having the greatest paid circulation within such city or town. Any objection to such determination by a person directly affected shall be filed with the Board within ten (10) days after such notice is mailed or published. Unless within ten (10) days thereafter the Board issues an order staying the liquidation or unless the Board directs the Commissioner to tender to the Federal Deposit Insurance Corporation the appointment as liquidator under this section, the Commissioner shall proceed to liquidate the institution, upon first providing a bond executed by some surety company authorized to do business in this state, running to the people of the State of Oklahoma, which meets with the approval of the Board, for the faithful discharge of his duties, in connection with such liquidation and the accounting for all monies coming into his hands. The cost of such bond shall be paid from the assets of the bank. Suit may be maintained on such bond by any person injured by a breach of conditions thereof.

~~(3)~~ 3. After the Commissioner shall have taken possession of any bank which is subject to the provisions of this act, the stockholders thereof may repair its credit, restore or substitute its reserves, and otherwise place it in condition so that it is qualified to do a general banking business as before it was taken possession of by the Commissioner; but such bank shall not be permitted to reopen its business until the Commissioner, after a careful investigation of its affairs, is of the opinion that its stockholders have complied with the laws, that the bank's credit and funds are in all respects repaired, and its reserve restored or sufficiently substituted, and that it should be permitted again to reopen for business; whereupon said Commissioner is authorized to issue written permission for reopening of said bank in the same manner as permission to do business is granted after the incorporation thereof, and thereupon said bank may be reopened to do a general banking business.

~~(4)~~ 4. If the Commissioner determines to reorganize the bank or if the Board, after staying its liquidation, orders such reorganization, the Commissioner, after according a hearing to all interested persons, shall enter an order proposing a reorganization plan. A copy of the plan shall be sent to each depositor and creditor who will not receive payment of his claim in full under the plan, together with notice that, unless within fifteen (15) days the plan is disapproved in writing by persons holding one-third (1/3) or more of the aggregate amount of such claims, the Commissioner will proceed to effect the reorganization. A department, agency, or political subdivision of this state holding a claim which will not be paid in full is authorized to participate as any other creditor.

~~(5)~~ 5. Notwithstanding any other provision of this chapter, the Commissioner, upon taking possession of a state bank, may immediately proceed to liquidate said bank, without giving prior notice to the directors, stockholders, depositors and creditors, if it is determined by order of the court in which notice of possession has been filed that:

- ~~(a)~~ a. the actions of the Commissioner have the approval of the Board, ~~and~~ and
- ~~(b)~~ b. the immediate liquidation of the bank is necessary to protect the interests of its depositors and is otherwise in the public interest.

In proceeding with the immediate liquidation of the bank as aforesaid, the Commissioner, in order to facilitate the assumption of the deposit liabilities of the closed bank by another bank, may borrow moneys from the Federal Deposit Insurance Corporation and pledge some or all of the assets of the closed bank as security for such borrowing or he may sell some or all of the assets of the closed bank to the Federal Deposit Insurance Corporation.

~~(6)~~ 6. When the Commissioner has taken possession of a state bank for the purpose of liquidation, neither the ten-day periods provided by ~~subsection C~~ paragraphs ~~(1)~~ 1 and ~~(2)~~ 2 of subsection C of this section nor the pendency of any proceeding for review of the Commissioner's action shall operate to defer, delay, impede or

prevent the payment by the Federal Deposit Insurance Corporation of the insured deposits in said bank.

The Commissioner shall make available to the Federal Deposit Insurance Corporation such facilities in or of the said bank and such books, records and other relevant data of the said bank as may be necessary or appropriate to enable the Federal Deposit Insurance Corporation to pay the insured deposits as aforesaid, and the Federal Deposit Insurance Corporation, its directors, officers, agents and employees, and the Commissioner, his agents and employees, shall be free from any liability to the said bank, its directors, stockholders and creditors, for any action taken in connection herewith.

D. Execution upon bank assets prohibited - Vacation of liens and transfer of assets.

~~(1)~~ 1. No judgment, lien or attachment shall be executed upon any asset of the bank while it is in the possession of the Commissioner. Upon the election of the Commissioner in connection with a liquidation or reorganization:

~~(a) Any~~ a. any lien or attachment, other than an attorney's or mechanic's lien, obtained upon any asset of the bank during the Commissioner's possession or within four (4) months prior to commencement thereof shall be vacated and voided except liens created by the Commissioner while in possession, ~~and~~ and

~~(b) Any~~ b. any transfer of an asset of the bank made after or in contemplation of its insolvency with intent to effect a preference shall be voided.

~~(2)~~ 2. The provisions of this subsection shall not be construed to authorize the Commissioner to vacate or void any lien or attachment obtained by a Federal Reserve Bank upon any asset of the bank or to void any transfer of an asset of the bank to such Federal Reserve Bank.

E. Power to borrow money and pledge bank's assets. With the approval of the Board, the Commissioner may borrow money in the

name of the bank and may pledge its assets as security for the loan.

F. Commissioner's expenses - Payable out of bank's assets. All necessary and reasonable expenses of the Commissioner's possession of a bank and of its reorganization or liquidation shall be defrayed from the assets thereof, including but not limited to any necessary fees or other expenses incurred through the office of the county clerk. Compensation to liquidating agents and employees must not be in excess of amounts which such individuals would be entitled to in their regular employment or for like services rendered within the area of the insolvent bank, and in no event shall a liquidating agent be paid a monthly salary or wage from the assets of the bank in excess of the amount of the monthly salary of the highest-paid official of the insolvent bank. The attorney's fee allowed to an attorney representing the liquidating agent shall not exceed the amount for like services in regular employment of an attorney in the area of the bank.

SECTION 21. AMENDATORY 6 O.S. 1991, Section 1204, as amended by Section 6, Chapter 295, O.S.L. 1992 (6 O.S. Supp. 1992, Section 1204), is amended to read as follows:

Section 1204. A. Sale of assets - Compromise and payment of claims. In liquidating a state bank the Commissioner may exercise any power thereof but he shall not, without the approval of the court in which notice of possession has been filed:

(1) Sell any asset of the bank having a value in excess of Five Hundred Dollars (\$500.00) or such larger sum as may be determined by the court not exceeding One Hundred Thousand Dollars (\$100,000.00);

(2) Compromise or release any claim if the amount of the claim exceeds Five Hundred Dollars (\$500.00), exclusive of interest or such larger sum as may be determined by the court not exceeding One Hundred Thousand Dollars (\$100,000.00); and

(3) Make any payment on any claim, other than a claim upon an obligation incurred by the Commissioner, before preparing and filing a schedule of his determinations in accordance with this title.

B. Lease of lands for oil and gas - Royalty - Manner of making lease - Dispensing with notice. The Commissioner is hereby authorized and empowered to lease for oil and/or gas purposes any land vested in the Commissioner as assets of insolvent state banks.

In making or executing any such lease the Commissioner shall retain and reserve a royalty of not less than one-eighth of the oil and/or gas produced from said land. Said lease shall be made in the same manner as now provided for the sale of other assets of state banks in the possession of the Commissioner.

C. Termination of bank's executory contracts. Within six (6) months of the commencement of liquidation, the Commissioner may by his election terminate any executory contract, including but not limited to contracts for services or advertising, to which the state bank is a party or any obligation of the bank as a lessee. A lessor who receives at least sixty (60) days' notice of the Commissioner's election to terminate the lease shall have no claim for rent other than rent accrued to the date of termination nor for damages for such termination, except on building or bank premises the lessor may receive damages not to exceed one (1) year's rent as provided in such lease.

D. Termination of banks' fiduciary positions. As soon after the commencement of liquidation as is practicable, the Commissioner shall take the necessary steps to terminate all fiduciary positions held by the state bank and take such action as may be necessary to surrender all property held by the bank as a fiduciary and to settle its fiduciary accounts. Such fiduciary accounts may be transferred to another qualified corporate fiduciary in the same community by the Commissioner without assent of the parties, and notice of such transfer must be given by registered mail to the parties, and the manner of succession of trust powers and successor trustees shall follow the same procedure as set out in Section 1018 of this title.

E. Subrogation of insuring agency of United States. The right of any agency of the United States insuring deposits to be subrogated to the rights of depositors upon payment of their

claims shall not be less extensive than the law of the United States requires as a condition of the authority to issue such insurance or make such payments to depositors of national banks.

F. Notice to depositors, creditors and safe deposit box lessees. Immediately on taking charge and within ten (10) days after taking possession, the Commissioner shall send notice of the liquidation to each known depositor, creditor and lessee of a safe deposit box and bailor of property held by the bank at the address shown on the books of the institution. The notice shall also be published in a newspaper of general circulation in the county in which the institution is located once a week for three (3) successive weeks. The Commissioner shall send with each notice a statement of the amount shown on the books of the institution to be the claim of the depositor or creditor, with all setoffs and any amounts due to the bank. The notice shall demand that property held by the bank as bailee or in a safe deposit box be withdrawn by the person entitled thereto; and the claim of a depositor or creditor, if the amount claimed differs from that stated in the notice to be due, be filed with the Commissioner within sixty (60) days from the date of the first publication of the notice of the taking of possession given by the Commissioner, in accordance with the procedure prescribed in the notice. The failure of any depositor, creditor or claimant to receive a notice, or observe the published notice of the taking of possession by the Commissioner, shall not relieve such claimant of the obligation to file a claim, if the amount thereof differs from the amount found by the Commissioner. If no claim is filed by the claimant in the time specified, then the determination of the Commissioner shall be final and shall constitute the claim of that claimant.

G. Disposition of contents of unclaimed safe deposit boxes. Safe deposit boxes, the contents of which have not been removed before the date specified, shall be opened by the Commissioner. Sealed packages containing the contents of such box, with a certificate of inventory of contents, together with any unclaimed property held by the bank as bailee and certified inventories

thereof, shall be held by the Commissioner and administered in accordance with the provisions of the Uniform Unclaimed Property Act ~~(1981)~~, Section 651 et seq. of Title 60 of the Oklahoma Statutes.

H. Determination of claims - Time therefor - Notification.

The Commissioner shall:

(1) As soon as practical and within one hundred twenty (120) days from date of first publication of the notice of taking possession, determine the amount, if any, owing to each known creditor or depositor and the priority class of his claim under this title, and file such determination in the court in which notice of possession was filed;

(2) As soon as practical and within sixty (60) days from the date of filing, reject any claim if he doubts the validity thereof; and

(3) Notify each person whose claim has not been allowed in full, by mailing to his last-known address, as shown on the records of the bank, a notice of the time when and the place where the schedule of determinations will be available for inspection and the date when the Commissioner will file his schedule in court.

I. Disposition of contested claims. Within twenty (20) days after the filing of the Commissioner's schedule, any creditor, depositor or stockholder may file an objection to any determination made which adversely affects such objector. Any objections so filed shall be heard and determined by the court. The objection shall be, by the clerk of such district court, entered upon the docket of said court under the same number as other proceedings in connection with the liquidation of the insolvent bank. The Commissioner and interested claimants as the court determines shall be notified of such objection upon a ten-day notice and the matter shall be tried de novo. No person having a claim against an insolvent bank shall maintain action thereon except as herein provided.

J. Partial distribution of allowed claims. After filing his schedule the Commissioner shall, after establishing proper

reserves for the payment of costs, expenses of liquidation and disputed claims, pay to any agency of the United States insuring deposits in the insolvent bank such sum as may be then available but not exceeding the amount paid out by such agency as such an insurer of deposits and accounts. The Commissioner may, from time to time, also make partial distribution to the holders of claims which are undisputed or have been allowed by the court, in the order of their priority as herein provided. The court supervising the liquidation shall direct, as soon as practicable after the establishment of an adequate and proper reserve for payment of disputed claims, costs and expenses of liquidation, that the Commissioner make a substantial partial pro rata distribution as will not interfere with orderly liquidation, to the holders of undisputed claims and those allowed by the court in the order of their priority, to the extent that there remains only the determination and settlement of disputed claims and the procedures of the final accounting and final distribution to be made by the Commissioner as herein provided.

K. Priority of claims - Payment - Cancellation - Claims when barred.

(1) The following claims shall have priority in the order herein specified:

- (a) obligations incurred by the Commissioner, fees and assessments due to the Department, and all expenses of liquidation, all of which may be covered by a proper reserve of funds,
- (b) the depositors having an approved claim against the general liquidating account of the bank,
- (c) the general creditors having an approved claim against the general liquidating account of the bank,
- (d) the claims otherwise proper which were not filed within the time prescribed herein, and
- (e) the stockholders of the bank;

For purposes of determining priority of claims, federal funds sold to the failed institution shall be considered deposits of the selling bank in the failed institution.

(2) No claim shall be entitled to interest thereon if it be paid within six (6) months after the first publication of notice of the taking of possession by the Commissioners; if paid after such period, then the unpaid balance of the claim shall be credited with interest at the rate of six percent (6%) per annum from the expiration of the said six (6) months until paid or finally canceled by exhaustion of all assets;

(3) All distributions declared in accordance herewith, which shall not be claimed within one (1) year, shall be canceled upon the order of the district court having jurisdiction of the liquidation of such insolvent bank, and the proceeds thereof returned to the general liquidating account of such insolvent bank. Provided, that notice of the application of the Commissioner to the district court for permission to cancel such unclaimed distributions shall be given by publication for two (2) successive weeks in a newspaper of general circulation in the county where the insolvent bank is located. The notice shall describe the unclaimed distributions sought to be canceled, giving the name and location of the insolvent bank, the name of the payee and the amount and shall recite the Commissioner has filed an application in the designated district court for cancellation of such distributions and shall refer to the application for further particulars; and

(4) Any assets remaining after all partial distributions, after all claims have been paid, or ample provisions for reserves are made for payment thereof by the court, shall be distributed to the stockholders in accordance with their respective interests.

L. Disposition of unclaimed funds other than distributions. Unclaimed funds, other than unclaimed distributions, remaining after completion of the liquidation shall be retained by the Commissioner who shall administer them in accordance with the Uniform Unclaimed Property Act ~~(1981)~~, Section 651 et seq. of Title 60 of the Oklahoma Statutes.

M. Annual reports - Final account - Release of Commissioner - Cancellation of charter.

(1) During the liquidation procedure the Commissioner and his agents and employees shall make a verified annual account, giving in detail a statement of all receipts and disbursements made from the assets in their possession. A copy of the annual report shall be filed with the court of the county and a hearing held thereon. Interested parties and the Board of Directors of the insolvent bank shall be given such notice as the court directs of the hearing and shall make such objections as they shall desire to the account; however, the failure to object at an annual hearing shall not prejudice the right of any claimant or interested party to object to items of expense and proceedings in the liquidation upon the final account;

(2) When the assets have been distributed in accordance with this title, except unclaimed funds and content of safe deposit boxes held by the Commissioner, the Commissioner shall file a final account with the court. Notice of hearing upon the final account shall be given of not less than ten (10) days nor more than thirty (30) days, by registered or certified mail, to all interested persons and to the board of directors of the insolvent bank and the notice shall be published for two (2) successive weeks in some newspaper of general circulation published in the county, showing the nature of the hearing, the date and time of the hearing and that such account is for final settlement of liquidating account of such insolvent bank;

(3) The final account shall reflect all the acts of the Commissioner as supported by annual reports and such necessary items to support the account, including distribution of such remaining cash to the stockholders in accordance with their interests and all other assets to the board of directors of the bank as liquidating agents for the stockholders under the Oklahoma General Corporation Act;

(4) The court shall hear all matters touching upon the final account, allow, reduce or reject any item of expense, and determine all matters before it. Any person aggrieved by the judgment of the court may appeal as in any other civil action; and

(5) Upon approval of the final account as settled by the court, the Commissioner shall be relieved of liability in connection with the liquidation and shall cancel the charter upon the record of the Department.

SECTION 22. AMENDATORY 6 O.S. 1991, Section 1206, is amended to read as follows:

Section 1206. A. Whenever the State Bank Commissioner shall deem it necessary in order to conserve the assets of any bank or trust company for the benefit of the depositors and other creditors thereof, the Commissioner may appoint a conservator for the bank and require such bond and security as the Commissioner deems proper. The conservatorship shall be a proceeding before the Commissioner and not the district court. The Commissioner may designate an employee of the State Banking Department to serve as an interim conservator until either the conservator is secured or further order of the Commissioner directs otherwise. The conservator, under the direction of the Commissioner, shall take possession of the books, records, and assets of every description of the bank or trust company, and take such action as may be necessary to conserve the assets of the bank or trust company pending further disposition of its business as provided by law. The conservator shall have all the rights, powers, and privileges now possessed by or hereafter given the Commissioner when he takes possession of insolvent banks and receivers pursuant to Section 1551 et seq. of Title 12 of the Oklahoma Statutes and shall be subject to the obligations and penalties, not inconsistent with the provisions of this Code, to which receivers are now or may hereafter become subject. During the time that the conservator remains in possession of the bank or trust company, the rights of all parties with respect thereto shall, subject to the other provisions of this Code, be the same as if a receiver had been appointed therefor. All expenses of the conservatorship, including related expenses of the Department and the salary of the interim conservator, if any, shall be paid out of the assets of the bank or trust company and shall be a lien thereon which shall be prior to any other lien. The conservator shall receive as

salary an amount no greater than that paid to employees of this state for similar services. Any such expenses paid by the bank or trust company to the Department shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title.

B. The Commissioner shall cause to be made such examinations of the affairs of the bank or trust company in conservatorship as shall be necessary to inform him as to the financial condition of the bank or trust company, and the examiner shall make a report thereon to the Commissioner at the earliest date possible.

C. If the Commissioner becomes satisfied that it may safely be done and that it would be in the public interest, he may, in his discretion, terminate the conservatorship and permit the bank or trust company to resume the transaction of its business subject to such terms, conditions, restrictions and limitations as he may prescribe.

D. For the purposes of this section, the rights, powers, privileges, obligations and responsibilities of the interim conservator shall be the same as those of the conservator.

SECTION 23. AMENDATORY 6 O.S. 1991, Section 1308, is amended to read as follows:

Section 1308. A lessor shall permit the person named in a court order for the purpose or, if no order has been served upon the lessor, the spouse, a parent, an adult descendant or a person named as an executor in a copy of a purported will produced by him to open and examine the contents of a safe deposit box leased by a decedent, or any documents delivered by a decedent for safekeeping, in the presence of an officer of the lessor; and the lessor, if so requested by such person, must deliver:

~~(1) any~~ 1. Any writing purported to be a will of the decedent to the court having jurisdiction of the decedent's estate according to his residence declared in such writing or may, at the option of the bank, be delivered to the person, so long as the bank retains a copy; and

~~(2) any~~ 2. Any writing purported to be a deed to a burial plot or to give burial instructions to the person making the request for a search; and

~~(3) any~~ 3. Any document purporting to be an insurance policy on the life of the decedent to the beneficiary named therein; and

4. Any document purporting to be a trust agreement or Declaration of Trust wherein the decedent was the grantor;
but no other contents shall be removed pursuant to this section until an executor or administrator qualifies and makes claim to the contents except where the safe deposit box was held by the decedent and his surviving spouse as joint tenants, in which case any part of the contents thereof may be removed by such surviving spouse.

SECTION 24. AMENDATORY 6 O.S. 1991, Section 1310, is amended to read as follows:

Section 1310. The lessor shall have a lien upon the contents of the lessee's box for past due rentals and any expense incurred in opening of the box and replacement of locks thereon where the same is done without fault of the lessor. If the lessee fails to pay the rental due and such default continues for ninety (90) days, the lessor may give the lessee thirty (30) days' notice by ~~registered~~ certified mail addressed to the lessee at the address shown on the lessor's records or the last-known address of the lessee, stating the amount due and that on or after the day designated in said notice it may open said box, remove the contents thereof and hold the same for the account of the lessee. The opening of said box shall be witnessed by not less than two persons, one of which shall be an officer of the lessor, who shall make an inventory under oath of the contents thereof, and thereupon said contents shall be placed in a package and held by the lessor as a bailee for hire. If the lessee makes no demand for said contents within two (2) years after the same have been removed from the box, the lessor may advertise and sell the same, said sale to be made at the time and place designated in the notice which shall be published in one issue of a newspaper having a general circulation in the city or town wherein the business of

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the lessor is situated, said publication to be not less than ten (10) days prior to the date fixed for said sale. A copy of the notice shall be mailed to the lessee at his last-known address by ~~registered~~ certified mail. The notice shall show the name of the lessee but it shall not be necessary to describe the articles to be sold, except those that have an intrinsic value, if there shall be posted, not less than ten (10) days prior to the sale, in or about the lessor, in a conspicuous place, a copy of the notice of sale and a copy of the inventory made upon opening of the box. The contents of any number of boxes may be sold under one notice of sale and the cost thereof apportioned ratably to the several lessees involved. At the time and place designated in said notice the contents taken from each respective box shall be sold separately to the highest bidder for cash and the proceeds of each sale shall be applied to the rentals and expenses due the lessor and the residue from any sale held by the lessor for the account of the lessee. At any such sale the lessor may be the purchaser. If any lessee, his and/or her heirs, administrator or executor, shall not make demand upon the lessor within five (5) years after the date of said sale, for such surplus, then the surplus shall be presumed abandoned and administered in accordance with the Uniform Unclaimed Property Act ~~(1981)~~, Section 651 et seq. of Title 60 of the Oklahoma Statutes.

SECTION 25. AMENDATORY 6 O.S. 1991, Section 2001.1, as amended by Section 1, Chapter 90, O.S.L. 1992 (6 O.S. Supp. 1992, Section 2001.1), is amended to read as follows:

Section 2001.1 ~~(A)~~ A. There is hereby created the Oklahoma State Credit Union Board, which shall consist of five (5) members appointed by the Governor. The State Bank Commissioner shall be one of the members, and he shall preside as Chairman of the State Credit Union Board. One of the other four members shall be a member of a credit union organized under the laws of this state, and each of the other three members shall be the officer in charge of operations or a director of a credit union organized under the laws of this state; provided, however, one of those three may be from a federal credit union. Said four members shall be selected

by the Governor, with advice and consent of the Senate, from a list of not less than ~~three~~ five (5) names for each member to be appointed submitted by the Oklahoma Credit Union League. The members appointed by the Governor shall serve for terms of four (4), three (3), two (2) and one (1) year, respectively. Upon the expiration of the terms of the four members previously appointed by the Governor pursuant to the provisions of this section, their successors shall be appointed for terms of four (4) years. If a member of the Oklahoma State Credit Union Board ceases to hold the qualifications required for the appointment of such member, then the remaining members shall immediately declare the office of such member vacant and such member shall cease to be a member of the Oklahoma State Credit Union Board. Any vacancy in the membership of the State Credit Union Board, caused by other than the expiration of a term, shall be filled only for the balance of the term of the member in whose position the vacancy occurs. Appointment made to fill a vacancy shall be made by the Governor, with advice and consent of the Senate, from a list of not less than ~~three~~ five (5) names submitted by the Oklahoma Credit Union League. Except as otherwise provided in this section, members shall serve until their terms expire or until their successors are appointed and qualified.

~~(B)~~ B. Each member of the State Credit Union Board shall be entitled to be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act.

~~(C)~~ C. The State Banking Department shall provide such clerical, technical and legal assistance as the State Credit Union Board may require.

SECTION 26. AMENDATORY 6 O.S. 1991, Section 2001.2, as amended by Section 2, Chapter 90, O.S.L. 1992 (6 O.S. Supp. 1992, Section 2001.2), is amended to read as follows:

Section 2001.2 ~~(A)~~ A. ~~The State Credit Union Board shall exercise the powers that, prior to the passage of this act, were exercised by the Bank Commissioner, and which are by this act delegated to the State Credit Union Board.~~ In addition to any

other powers conferred by law, the State Credit Union Board shall have the power to:

~~(1)~~ 1. Adopt and promulgate reasonable and uniform rules and regulations to govern the conduct, operation and management of credit unions; and to govern the examination, evaluation of assets and the statements and reports of credit unions, and the form on which credit unions shall report their assets, liabilities and reserves, charge off their bad debts and otherwise keep their records and accounts; and otherwise to govern the administration of the laws of this state relating to credit unions. Such regulations shall serve to foster and maintain an effective level of credit union services and the security of member accounts. The provisions of the Administrative Procedures Act of this state, as now or hereafter amended, are hereby expressly adopted and incorporated herein as though a part of this provision, and shall apply to all regulations, procedures and orders of the State Credit Union Board. Final orders of the State Credit Union Board may be appealed to the Supreme Court of Oklahoma by any party directly affected and showing aggrievement by the order;

~~(2)~~ 2. Restrict the withdrawal of share or deposit accounts or both from any credit union after having determined that circumstances make such restriction necessary for the proper protection of shareholders or depositors;

~~(3)~~ 3. Issue cease and desist orders after having determined from competent and substantial evidence that a credit union is engaged or has engaged, or when the State Credit Union Board has reasonable cause to believe the credit union is about to engage in an unsafe or unsound practice, or is violating or has violated or the State Credit Union Board has reasonable cause to believe is about to violate a material provision of any law, regulation or any condition imposed in writing by the State Credit Union Board or any written agreement made with the State Credit Union Board;

~~(4)~~ 4. Suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer or committee member who has committed any violation of a law, regulation or of a cease and

desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in any act, omission, or practice which constitutes a breach of that person's fiduciary duty as such director, officer or committee member, when the State Credit Union Board has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members;

~~(5)~~ 5. Affirm, modify, reverse, and stay the enforcement of any order or ruling of the Bank Commissioner or Administrator relating to credit unions, their directors, officers, committee members or employees; and

~~(6)~~ 6. Subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject relating to a duty imposed upon or a power vested in the State Credit Union Board.

~~(B)~~ B. The Bank Commissioner ~~shall~~ may appoint an Administrator ~~with the approval of the State Credit Union Board~~ who, in addition to such duties and authority as are conferred by this act, shall have such duties and authority as the Bank Commissioner may assign him. The bond of the Administrator shall be the same as that set for the State Deputy Bank Commissioner. In addition to other powers conferred by this act, the Bank Commissioner shall have the power to:

~~(1)~~ 1. Delegate the duties of his office under this act to the Administrator;

~~(2)~~ 2. Exercise general supervision of credit unions organized under the laws of this state;

~~(3)~~ 3. Require credit unions to cease and desist from engaging in any act or transaction, or doing any act in furtherance thereof, which would constitute a violation of the provisions of this act, or a lawful regulation issued thereunder, or to cease and desist in engaging in any unsafe or unsound credit union practice; ~~and~~

~~(4)~~ 4. Suspend any officer, director or employee or committee member who is found, after hearing, to be dishonest, reckless, unfit to participate in the conduct of the affairs of the credit union, or to have engaged or participated in any unsafe or unsound practice in connection with the credit union, or to be practicing a continuing disregard or violation of laws, rules, regulations or orders which are likely to cause substantial loss to the credit union or likely to seriously weaken the condition of the credit union; provided, however, that any individual so suspended may within ten (10) days file a notice of protest for said suspension with the Administrator and as soon as possible thereafter, but in no event more than thirty (30) days, the State Credit Union Board will review the order of said Bank Commissioner and make such findings as it deems proper, and that, pending said time, the said officer, employee, director or committee member shall not perform any of the duties of his office-i;

5. Assess credit unions on their assets in an amount set by rule of the Commissioner. Said fee shall be paid in January of each year and shall be deposited in the General Revenue Fund of this state; and

6. Charge a fee of Fifty Dollars (\$50.00) per hour and actual expenses for each examiner for actual time consumed by the State Banking Department in making special examinations of a credit union. Payments received pursuant to this paragraph shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title.

~~(C)~~ C. Upon failure of a credit union to comply with the Bank Commissioner's order or requirements, he shall report such failure to the State Credit Union Board for action with respect to suspension of such credit union's certificate of authority to transact business.

SECTION 27. AMENDATORY 6 O.S. 1991, Section 2107, is amended to read as follows:

Section 2107. ~~(a)~~ A. Before any license is issued or renewed, the applicant or licensee shall pay an annual license fee in the amount of Two Hundred Dollars (\$200.00), plus Ten Dollars

(\$10.00) for each location within this state at which checks of the licensee are issued or sold; provided, however, such annual fee shall not exceed Two Thousand Dollars (\$2,000.00) per licensee. With respect to license renewals, every licensee, on or before each June 1, shall pay the annual license fee for the succeeding fiscal year commencing July 1.

~~(b)~~ B. In addition to issuing a license to a licensee satisfying the requirement therefor, a license certificate shall be issued by the Commissioner for each location at which checks of the licensee are to be issued or sold. The license certificate shall be displayed prominently at each sale location and available for inspection upon demand. Any location failing to display a license certificate may be prohibited by the Commissioner from selling checks if the agent at such location fails or refuses to comply with such display requirement after receipt of written notice from the Commissioner; provided, the Commissioner shall provide the licensee with a copy of said written notice and shall also notify the licensee in writing of any additional action proposed or taken by the Commissioner.

~~(c)~~ C. A license issued hereunder shall remain in effect until surrendered by the licensee or revoked, and may be renewed from year to year upon payment of the fee required in subsection ~~(a)~~ A of this section, provided the licensee continues to comply with all provisions of ~~this act~~ Section 2101 et seq. of this title and of all regulations hereunder.

~~(d)~~ D. The requirements of this section shall not apply to those locations where checks of the licensee are issued or sold which are governmental departments or financial institutions fully exempt from the provisions of the Sale of Checks Act pursuant to Section 2104 of this title.

E. Fees collected pursuant to this section shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title.

SECTION 28. AMENDATORY 6 O.S. 1991, Section 2113, is amended to read as follows:

Section 2113. A. The Commissioner may examine the books and records of each licensee at least once a year for the purpose of determining the amount of the bond to be filed and the amount of the license fee to be paid by such licensee and to determine whether the licensee is in compliance with all applicable requirements of law. For that purpose, the Commissioner shall have free access to the offices and places of business and to such records of such licensee that relate to the business for which he is licensed under ~~this act~~ Section 2101 et seq. of this title.

B. There shall be paid to the Commissioner for such examination a fee of Fifty Dollars (\$50.00) ~~for each day or part thereof~~ per hour for each qualified representative of the Commissioner required to conduct the examination; provided that whenever it shall be necessary for the Commissioner to travel out of this state to make such examination, the full expense of such examination shall be paid by the licensee.

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

1. The costs of such audit shall be borne by the licensee, ~~that the;~~

2. The scope of such audit shall be at least equal to the scope of the examination required by the Commissioner, ~~and that the;~~

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

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

D. All license and investigation fees herein provided for shall be ~~retained by the Commissioner during the fiscal year collected to pay for the costs of administering the act. At the end of each fiscal year all remaining fees not used for administration shall revert to the General Revenue Fund of the~~

state deposited in the State Banking Department revolving fund pursuant to Section 222 of this title.

SECTION 29. AMENDATORY 18 O.S. 1991, Section 381.2, is amended to read as follows:

Section 381.2 As used in the Oklahoma Savings and Loan Code:

1. "Association" means a savings and loan association, referred to in prior laws as building and loan association, incorporated and now existing under the laws of this state or hereafter incorporated under this act or which is otherwise authorized to transact savings and loan association business under this act;

~~2. "Board" means the Oklahoma Savings and Loan Board and its successors;~~

~~3. "Capital accounts" means permanent capital stock, undivided profits, surplus or reserves;~~

~~4. 3. "Certificate of Authority" means a certificate issued by the Commissioner on approval of the Board, authorizing an association to transact savings and loan association business;~~

~~5. 4. "Commissioner" means the State ~~Bank~~ Banking Commissioner, and "Deputy Commissioner" means the State Deputy ~~Bank~~ Banking Commissioner;~~

~~6. 5. "Deposit association" means a savings and loan association which is qualified to accept savings deposits or which becomes so qualified pursuant to this act;~~

~~7. 6. "Earnings" means the money payable or to be credited to holders of savings accounts by an association as payment for the use of the funds which constitute such accounts. Earnings on savings accounts in a deposit association may be designated as interest, and earnings on other savings accounts may be designated as dividends;~~

~~8. 7. "Existing mutual association" means a mutual association which was authorized to do business in Oklahoma on the effective date of this act;~~

~~9. 8. "Federal association" means a savings and loan association organized and existing under the laws of the United States;~~

~~10.~~ 9. "Foreign association" means any firm, company, association, partnership or corporation, by whatever name called, actually engaged in the business of a savings and loan association, which is not organized under the laws of this state or of the United States;

~~11.~~ 10. "Insured association" means an association the savings accounts of which are insured by the Federal Deposit Insurance Corporation to the extent provided by federal law;

~~12.~~ 11. "Member" means the holder of a savings account, savings deposit, or other withdrawable account of a mutual association, and also includes the owner of real estate upon which the mutual association holds a mortgage or deed of trust;

~~13.~~ 12. "Mutual association" means a savings and loan association which derives its principal capital from the savings accounts, savings deposits or other withdrawable accounts of its members and whose members have the right to participate in the management of the association. The term includes any association organized or existing under prior laws of this state. A mutual association is not a deposit association unless and until it becomes qualified as such;

~~14.~~ 13. "Net worth" of a stock association shall mean the aggregate of the permanent capital stock account, paid-in surplus, earned surplus, legal and federal insurance reserves and undivided profits;

~~15.~~ 14. "Permanent capital stock" means that part of the capital or liabilities of an association representing ownership of the association and which is not subject to being withdrawn or the value paid to the holder thereof unless and until all other liabilities of the association have been fully liquidated and paid;

~~16.~~ 15. "Population" shall mean the population as shown and determined by the latest Federal Decennial Census of any city or town in which an association has its principal place of business. If the principal place of business of an association is outside the boundaries or corporate limits of any city or town, then the population within a radius of three (3) miles of its principal

place of business and which is not included within the boundaries or corporate limits of any city or town, as such population is shown and determined by such Federal Decennial Census, shall be the basis for classification under this code;

~~17.~~ 16. "Savings account" means that part of the capital of a mutual association or that part of the liabilities of a stock association which is credited to the holder thereof and with respect to which the association issues a certificate, passbook, or other evidence or holding;

~~18.~~ 17. "Savings deposit" means a savings account in an association qualified to accept deposits and on which the association pays interest, whether at a fixed or indeterminate rate;

~~19.~~ 18. "Shares" or "share accounts" means any savings account issued by a mutual association in the form of installment shares, optional installment shares, full paid shares, prepaid shares, savings shares, or other shares by whatever name called, evidenced by passbook, certificate, or other evidence or holding;

~~20.~~ 19. "Stock association" means a savings and loan association which issues permanent capital stock and which limits the right to participate in the management of the association to the holders of such permanent capital stock. Stock associations are also deposit associations;

~~21.~~ 20. "Stockholder" means the holder of permanent capital stock;

~~22.~~ 21. "Withdrawable account" means a savings account, savings deposit or other authorized account or deposit of an association which does not represent permanent capital stock; and

~~23.~~ 22. "Withdrawal value" means the amount paid to an association on a savings account or savings deposit plus earnings credited thereto, less lawful deductions therefrom.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 381.2a of Title 18, unless there is created a duplication in numbering, reads as follows:

Wherever the terms "Federal Savings and Loan Insurance Corporation" or "FSLIC" appear in the Oklahoma Statutes, such terms shall be deemed to refer to the successor agency to the Federal Savings and Loan Insurance Corporation established pursuant to federal law.

SECTION 31. AMENDATORY 18 O.S. 1991, Section 381.5, is amended to read as follows:

Section 381.5 A. ~~The Oklahoma Savings and Loan Board shall have general control over associations doing business in this state, shall have power to promulgate, amend, revoke and enforce rules and regulations governing activities and conduct of the business of associations, and shall have such other powers as are conferred upon it by the provisions of this act. The Administrative Procedures Act and related laws apply to proceedings of said Board, and all rules and regulations of the Board shall be promulgated, and all individual proceedings shall be conducted, as required by said laws~~ is hereby abolished. The power, duties and responsibilities exercised by the Oklahoma Savings and Loan Board shall be transferred to the State Banking Commissioner. All unexpended funds, property, records, personnel and outstanding financial obligations and encumbrances of the Oklahoma Savings and Loan Board are hereby transferred to the State Banking Department.

B. Any reference to the Oklahoma Savings and Loan Board in the Oklahoma Statutes or in rules and regulations promulgated pursuant to the Oklahoma Statutes shall mean the State Banking Commissioner.

C. The rules and regulations promulgated by the Oklahoma Savings and Loan Board prior to the effective date of this act shall continue in effect until such rules and regulations are amended or repealed by rule of the State Banking Commissioner promulgated pursuant to the provisions of Article I of the Administrative Procedures Act, Section 250.3 et seq. of Title 75 of the Oklahoma Statutes.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 381.5a of Title 18, Req. No. 6859Page 54

unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Savings and Loan Advisory Council" which shall advise the State Banking Commissioner on matters relating to the regulation of savings and loan associations in this state. The Council shall consist of five (5) members, appointed by the Commissioner. At least three of the members shall have been actively engaged as officers in the management of a state-chartered savings and loan association. Members shall serve at the pleasure of the Commissioner.

B. The Council shall meet at the call of the Commissioner. Members shall select a chairman at their first meeting and annually thereafter. A majority of the Council shall constitute a quorum for the transaction of business.

SECTION 33. AMENDATORY 18 O.S. 1991, Section 381.9, is amended to read as follows:

Section 381.9 The ~~Board~~ State Banking Commissioner is hereby further vested with authority, by adoption of appropriate rule or regulation, to grant to insured associations such powers, not specified in this act, as may now or hereafter be conferred upon Federal Savings and Loan Associations by or pursuant to the laws of the United States.

SECTION 34. AMENDATORY 18 O.S. 1991, Section 381.10, is amended to read as follows:

Section 381.10 No association or foreign association shall transact business or operate in this state without a certificate of authority issued by the State Banking Commissioner ~~on approval of the Board~~.

SECTION 35. AMENDATORY 18 O.S. 1991, Section 381.11, is amended to read as follows:

Section 381.11 The State Banking Commissioner shall have general supervision of associations, in addition to the authority set forth in other sections of this act. Whenever it is brought to the attention of the Commissioner by an examination report, or otherwise, that an association is violating any provision of this act ~~or regulation of the Board~~, or is failing to maintain adequate

documentary or accounting records, or is engaging in practices deemed by him to be unsafe or unsound, he may order such association to discontinue the violation or unsound practice, or to establish such records as he shall deem necessary. Upon failure of such association to comply with the Commissioner's order or requirements ~~he shall report such failure to the Board for action with respect to suspension of~~ the Commissioner may suspend such association's certificate of authority to transact business, or he may, ~~with consent of the Board,~~ place said association in receivership in the manner provided by this act.

SECTION 36. AMENDATORY 18 O.S. 1991, Section 381.14, is amended to read as follows:

Section 381.14 ~~No member of the Board, the~~ The State Banking Commissioner, or any member of his staff including any member of the Savings and Loan Advisory Council, shall not be liable in any civil action for damages for any act done or omitted in good faith in performing the functions of his office.

SECTION 37. AMENDATORY 18 O.S. 1991, Section 381.15, is amended to read as follows:

Section 381.15 A. In the case of any insured association which is examined periodically by the Director of the Office of Thrift Supervision, and whose financial records are audited periodically in accordance with regulations of the Director of the Office of Thrift Supervision, the Commissioner may accept such examination and audit reports, and rely upon accuracy thereof, in lieu of examinations by the savings and loan administrator. It shall be the responsibility of each insured association to provide such reports to the Commissioner within ten (10) days of such time as such reports are received from the agency, person or firm preparing them. The Commissioner ~~and the Board~~ may require a special examination of any association to be made at any time when in their judgment an examination may be necessary. Every insured association shall pay as fees for supervisory services the sum of four cents (\$0.04) per One Thousand Dollars (\$1,000.00) of the first Ten Million Dollars (\$10,000,000.00) of assets of such association, a sum of three cents (\$0.03) per One Thousand Dollars

(\$1,000.00) of the second Ten Million Dollars (\$10,000,000.00) of assets, a sum of two cents (\$0.02) per One Thousand Dollars (\$1,000.00) of the third Ten Million Dollars (\$10,000,000.00) of assets, and a sum of one cent (\$0.01) per One Thousand Dollars (\$1,000.00) of all over Thirty Million Dollars (\$30,000,000.00) of assets.

B. Each association shall pay Fifty Dollars (\$50.00) per examiner per ~~day~~ hour and actual expenses for each examiner for actual time consumed by the State Banking Department in making examinations of the association. Payments received pursuant to this subsection shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title.

C. Each foreign association doing business in this state under a certificate of authority shall furnish to the Commissioner, with each annual examination report, a statement showing the total amount of Oklahoma real estate loans and other loans made to Oklahoma residents. The annual supervisory fee of every such foreign association shall be computed and paid on the aggregate amount of such loans at the rate of twelve cents (\$0.12) per One Thousand Dollars (\$1,000.00) of such loans.

D. ~~All~~ Except as provided in subsection B of this section, all fees payable under this section shall be collected under the authority of the Commissioner and by him paid into the State Treasury where they shall accrue to the General Revenue Fund of this state.

SECTION 38. AMENDATORY 18 O.S. 1991, Section 381.16, is amended to read as follows:

Section 381.16 At any time hereafter when ten or more individuals, residents of this state, desire to form a mutual association, or one or more individuals, residents of this state, desire to form a stock association under the provisions of this act, such persons, hereinafter referred to as the incorporators, shall file with the Commissioner the following:

1. Four copies of the certificate of incorporation, signed and acknowledged by all of the incorporators and addressed to the Secretary of State.

2. Four copies of an application for a certificate of authority to transact business as a savings and loan association, addressed to ~~the Board and~~ the Commissioner.

3. Four copies of the suggested bylaws for the proposed association.

4. A remittance of Two Hundred Dollars (\$200.00) payable to the Secretary of State of Oklahoma, as the incorporation fee in lieu of the fees prescribed by paragraph 9 of subsection 1142(A)(9) A of Section 1142 of this title, which shall not be applicable to an association.

5. A deposit of Two Thousand Dollars (\$2,000.00) payable to the Commissioner to be used for the purpose of defraying expenses of an investigation and report of the feasibility of the proposed association and other expenses incidental to the consideration of the application.

SECTION 39. AMENDATORY 18 O.S. 1991, Section 381.17, is amended to read as follows:

Section 381.17 The certificate of incorporation shall set forth:

1. The name of the association-i
2. That its term of existence is perpetual-i
3. That the purpose for which it is formed is to engage in the business of a savings and loan association pursuant to the Oklahoma Savings and Loan Code and the rules and regulations of the ~~Oklahoma Savings and Loan Board.~~ State Banking Commissioner;
4. The place where it is to maintain the principal office for the transaction of business-i
5. The names and addresses of the incorporators, and the amounts of the savings accounts or number of shares of stock subscribed by each of them-i and
6. If the association will be a stock association, the number of shares of stock of each class to be authorized and issued and the par value per share.

SECTION 40. AMENDATORY 18 O.S. 1991, Section 381.19, is amended to read as follows:

Section 381.19 The ~~Board~~ State Banking Commissioner shall act upon and issue its order granting or denying each application for a certificate of authority, after a hearing upon the application conducted as an individual proceeding under the Administrative Procedures Act of this state. If the ~~Board~~ Commissioner finds that the application should be granted, ~~it~~ he shall designate the amount of savings accounts required and fix a reasonable time within which the funds subscribed may be placed in escrow in a bank or trust company approved by the Commissioner, to be delivered to the association after incorporation or returned to the subscribers if incorporation is not completed. The ~~Board~~ Commissioner may also require the incorporators to advance funds necessary to pay organizational expenses and other expenses for starting business, such advances to be repaid by the association after its incorporation and the granting of its certificate of authority, in the case of a stock association, or after its income is sufficient to meet reserve requirements, in the case of a mutual association, and further, in the case of a mutual association, to pay reasonable earnings on the association's savings accounts. If and when all requirements ~~of the Board~~ are met, a certificate of authority shall be issued ~~and by the Commissioner shall then endorse the approval of the Board on the certificate of incorporation.~~ and by the Commissioner. The Secretary of State shall file the approved certificate of incorporation upon receipt of the incorporation fee. ~~Board approval~~ Approval shall be contingent upon the proposed association's making a bona fide application for insurance of accounts and deposits by the Federal Deposit Insurance Corporation and upon approval of such application by the corporation.

SECTION 41. AMENDATORY 18 O.S. 1991, Section 381.20, is amended to read as follows:

Section 381.20 A. Before a certificate of authority is issued for a new mutual association, there shall be paid into the escrow fund as subscriptions to savings accounts of the proposed association such aggregate amount as the ~~Board~~ Commissioner shall

deem adequate, but not less than an amount necessary to meet the requirements of the Federal Deposit Insurance Corporation.

B. No permanent capital stock association may be organized hereafter unless, prior to the filing of its certificate of incorporation, such amounts of its permanent capital stock as the ~~Board~~ Commissioner shall deem adequate, but not less than an amount necessary to meet the requirements of the Federal Deposit Insurance Corporation shall have been subscribed for and paid for in lawful money of the United States.

SECTION 42. AMENDATORY 18 O.S. 1991, Section 381.22, is amended to read as follows:

Section 381.22 The name of every association hereafter incorporated pursuant to this act, and of any existing association which hereafter changes its name, shall include the words "Savings and Loan Association", "Savings Association", or "Savings Bank", preceded by appropriate descriptive word or words approved by the ~~Board~~ Commissioner. The name shall not so nearly resemble the name of another association or federal association as to be likely to deceive the public.

SECTION 43. AMENDATORY 18 O.S. 1991, Section 381.24, is amended to read as follows:

Section 381.24 After the effective date of this act, no association shall move its home office designated in the certificate of incorporation from its immediate vicinity, or change its name except with permission granted by order of the ~~Board~~ Commissioner. In the event permission is granted to move the home office to a town or city other than that named in the association's certificate of incorporation or to change the name, an amended certificate of incorporation shall be filed.

SECTION 44. AMENDATORY 18 O.S. 1991, Section 381.24a, as amended by Section 29, Chapter 295, O.S.L. 1992 (18 O.S. Supp. 1992, Section 381.24a), is amended to read as follows:

Section 381.24a A. Definitions. As used in this section:

1. "Bank" means any bank chartered under the laws of this state or any national bank which is authorized to engage in the banking business and is located in this state.

2. "Branch" means any place of business separated from the main office of a savings association at which deposits are received, or checks paid, or money lent.

3. "Main bank" means the office location which has been designated by the State Banking Commissioner or Comptroller of the Currency as the main office of a bank.

4. "Main office" means the main office location of a savings association.

5. "Savings association" means any savings and loan association or savings bank chartered under the laws of this state or any federal savings and loan association or savings bank which is authorized to engage in the savings and loan business and is located in this state.

6. "Bank branch" means any place of business separated from the main office of a bank at which deposits are received, checks paid, or money lent.

B. Authorization to establish branches. From and after ~~the effective date of this section~~ May 3, 1990, and until July 1, 1993, new association branches may be established only under the guidelines set forth in this section. From and after July 1, 1993, new association branches may be established with permission granted by order of the ~~Board~~ State Banking Commissioner without regard to the restrictions otherwise provided in this subsection. Association branches approved prior to ~~the effective date of this section~~ May 3, 1990, shall be grandfathered and shall not be counted towards the two-branch limitation contained in this subsection. Association branches approved prior to ~~the effective date of this section~~ May 3, 1990, may be relocated without regard to geographical restrictions contained in this subsection.

1. Any association may establish and perform any association function at no more than two branches on property owned or leased by the association as follows:

- a. located within the corporate city limits where the main office is located; or
- b. located within twenty-five (25) miles of the main office if located in a city or town which has no

state or federal savings association and no state or national bank located in said city or town; provided however, if an application for a certificate of authority to transact savings and loan business has been filed the ~~Board~~ Commissioner shall give priority to the application for certificate of authority.

2. The ~~Board~~ Commissioner shall not grant a certificate for any branch unless it is more than three hundred thirty (330) feet from any main office or branch or another association or federal association in counties with a population of five hundred thousand (500,000) or more according to the 1980 Federal Decennial Census unless the branch is established with the irrevocable consent of such other association or federal association. This distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main office building or branch building and the nearest exterior wall of the branch office building.

3. If at the time of acquisition of an association or federal association pursuant to subsection C of this section no other association or federal association was located in the same city or town as the acquired association or federal association, the ~~Board~~ Commissioner shall not grant any other association a certificate to establish a branch within such city or town for a period of five (5) years after the acquisition and operation of the branch.

C. Authorization to branch by acquisition. Subject to the limitations in subsection D of this section, any association may acquire and operate as branches at which any association function may be performed an unlimited number of banks or associations or federal associations or bank branches or association branches or federal association branches without restriction on location. Any such acquisition of a bank, association or federal association may include all of the assets and liabilities of the bank, association, or federal association and all branches and facilities thereof which have been established prior to the date of the acquisition as determined by ~~the Board,~~ the Comptroller of
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the Currency, the ~~Banking Board~~ Commissioner, or the Office of Thrift Supervision.

If a bank, association or federal association acquired pursuant to this subsection had no outside-attached facilities or detached facilities permitted under Section 415 of Title 6 of the Oklahoma Statutes or Section 381.24b of this title at the time of acquisition, the acquiring association may establish such facilities after the acquisition.

D. Deposit limitation.

1. It shall be unlawful for any association to acquire any other association, federal association or bank in Oklahoma or any portion of its assets if such acquisition would result in the association having direct or indirect ownership or control of more than eleven percent (11%) of the aggregate deposits of all financial institutions located in Oklahoma which have deposits insured by the Federal Deposit Insurance Corporation and National Credit Union Administration as determined by the Commissioner on the basis of the most recent reports of such institutions to their supervisory authorities which are available at the time of the proposed acquisition.

2. The deposit limitation provided for in this subsection shall not apply to disallow an acquisition of a bank, association or federal association if control results only by reason of ownership or control of shares of such financial institution acquired directly or indirectly:

- a. in a good faith fiduciary capacity, except when such shares are held for the benefit of the acquiring association's shareholders; or
- b. by an association in the regular course of securing or collecting a debt previously contracted in good faith; or
- c. at the request of or in connection with the exercise of regulatory authority for the purpose of preventing imminent failure of the bank, association or federal association or to protect the depositors

thereof as determined by the principal supervisory agency in its sole discretion.

Provided, however, at the end of a period of five (5) years from the date of acquisition, for the circumstances set forth in subparagraphs b and c of this paragraph, the deposits of the acquired bank or association or federal association shall be included in computing the deposit limitation and if deposits are in excess, appropriate reductions and disposition shall be made within six (6) months to meet such limitations. Further, in the circumstances set forth in subparagraph c of this paragraph, the Commissioner and the Federal Deposit Insurance Corporation shall give priority in authorizing any such acquisition to any acquiring association whose total deposits do not exceed the deposit limitation.

E. Certificate to establish and operate a branch.

1. No association shall be permitted to establish or operate a branch except upon certificate issued by the ~~Board~~ Commissioner or Office of Thrift Supervision.

2. The application for a certificate to establish or operate a branch of an association shall comply with the regulations of the ~~Board~~ Commissioner.

F. Right to operate and maintain facilities. The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities as provided for in Sections 381.24b, 381.24c and 381.24d of this title.

G. Sanctions. A violation of any portion of this section, upon conviction, shall be a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500.00). Each day's violation shall constitute a separate offense.

H. Nothing contained in this section shall be construed to limit the authority of federal savings associations to branch in accordance with federal law and regulations.

SECTION 45. AMENDATORY 18 O.S. 1991, Section 381.24b, is amended to read as follows:

Section 381.24b A. 1. Any association may maintain and operate, subject to the approval of the ~~Board~~ State Banking

Commissioner as evidenced by its certificate, outside attached facilities and two detached facilities having one or more tellers' windows for drive-in or walk-up service or both. Of the two detached facilities, permitted by this section, one may be on property owned or leased by the association and located less than one thousand (1,000) feet from the association's main office and one may be on property owned or leased by the association located less than three (3) miles from said main office.

2. Any branch may maintain and operate, subject to the approval of the ~~Board~~ Commissioner as evidenced by its certificate, one outside attached facility having one or more tellers' windows for drive-in or walk-up service or both on property owned or leased by the association.

3. The ~~Board~~ Commissioner shall not grant a certificate for a detached facility unless it is more than three hundred thirty (330) feet from any other existing main office or branch of another association or federal association or unless the facility is established with the irrevocable consent of such other association or federal association.

4. For purposes of this section, the distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main office building or branch building and the nearest exterior wall of the facility.

B. 1. No association shall be permitted to maintain and operate such additional outside facilities except upon certificate issued by the ~~Board~~ Commissioner. The issuance of the certificates shall rest solely as to the location in the discretion of the ~~Board~~ Commissioner.

2. The application for a certificate to maintain and operate a detached facility shall comply with the regulations of the ~~Board~~ Commissioner. An application fee shall be payable to the State Banking Department ~~of Banking~~ in an amount set by rule of the ~~Board~~ Commissioner.

3. Any association function may be performed at the facilities except that of making loans. Upon the recommendation

of the Commissioner, the Attorney General shall bring an appropriate action to enjoin an association from conducting the making of loans at such facilities.

4. Any association validly operating a detached facility prior to ~~the effective date of this section~~ May 3, 1990, shall be granted a certificate to continue its operation at such facility. Any such detached facility shall be grandfathered and shall not count against the number of detached facilities permitted by paragraph 1 of subsection A of this section, nor shall the distance limitations in that subsection be applicable.

5. The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities as provided for in Sections ~~22~~ 381.24c and ~~23~~ 381.24d of this ~~act~~ title.

C. A violation of any portion of this section shall be and constitute a misdemeanor punishable upon conviction by a fine not exceeding Five Hundred Dollars (\$500.00). Each day's violation shall constitute a separate offense.

D. Nothing contained in this section shall be construed to limit the authority of federal savings associations to maintain and operate outside or detached facilities in accordance with federal law and regulations.

SECTION 46. AMENDATORY 18 O.S. 1991, Section 381.24c, is amended to read as follows:

Section 381.24c A. Any association may, subject to the approval of the ~~Board~~ State Banking Commissioner as evidenced by its certificates, and subject to the approval of the military installation commander as evidenced by a letter of approval, maintain and operate a detached facility on any military installation located in the State of Oklahoma.

B. As used in this section, the term "military savings facility" shall mean a detached facility maintained by an association upon a military installation within the State of Oklahoma, provided such military savings facility must be within the confines of a military reservation and located upon property owned or leased by the United States government.

C. 1. No association shall be permitted to maintain and operate such military savings facility, except on certificate issued by the ~~Board~~ Commissioner. The issuance of such certificate shall rest solely in the discretion of the Commissioner ~~and the Board~~.

2. The application for a certificate to maintain and operate a military savings facility shall comply with the regulations of the ~~Board~~ Commissioner. An application fee shall be payable to the State Banking Department ~~of Banking~~ in an amount set by rule of the ~~Board~~ Commissioner.

3. No association function shall be performed at the facility save that of accepting deposits, cashing checks, making change, selling bank paper, such as bank drafts, cashier's checks, money orders, traveler's checks, etc., accepting payment for personal utility bills, redeeming and selling United States Savings Bonds, and such other services as the installation commander may request, in writing, of the association. Upon the recommendation of the Commissioner, the Attorney General shall bring an appropriate action to enjoin an association from conducting association functions at such facility other than those herein granted.

D. A violation of any portion of this section shall be and constitute a misdemeanor punishable upon conviction by a fine not exceeding Five Hundred Dollars (\$500.00). Each day's violation shall constitute a separate offense.

SECTION 47. AMENDATORY 18 O.S. 1991, Section 381.24d, is amended to read as follows:

Section 381.24d A. Any association may install, operate or utilize consumer banking electronic facilities, provided written notice is given to the Commissioner prior to the commencement of operations of each facility. Such notice shall contain any reasonable descriptive information pertaining to the facility as shall be required by the rules or regulations of the ~~Board~~ Commissioner.

B. A consumer banking electronic facility, when located other than at an association's principal office or detached facility, may be operated exclusively by association customers or

transactions may be performed through the assistance of any person provided that person is not employed, either directly or indirectly, by any association, association holding company or subsidiary thereof. Such assistance shall not be deemed to be engaging in association business. Persons assisting association customers at the site of a consumer banking electronic facility may be trained by association employees and nothing in this section shall be construed to prohibit periodic servicing of a consumer banking electronic facility by an association employee. Under no circumstances may an employee of an association, association holding company, affiliate or subsidiary thereof perform transactions for others at the consumer banking electronic facility. However, a consumer banking electronic facility located on the business premises of a person engaged in the sale of goods or services may be used to perform internal nonbanking functions for such persons.

C. Consumer banking electronic facility transactions shall be considered as the conduct of association transactions at the headquarters' location of the association for which the data is transmitted.

D. 1. An association or combination of associations or business entity or organization offering such services to an association which establishes or maintains a manned or unmanned consumer banking electronic facility or facilities shall make the use thereof available to associations located in Oklahoma on a fair and equitable basis of nondiscriminatory access and rates. Provided, that if a retailer does accept any credit or debit card or other system, nothing herein shall be construed to deprive such retailer of the right to accept or reject any other credit or debit card or other system offered by any other association or business entity.

2. An association or combination of associations which establishes and maintains a manned consumer banking electronic facility or facilities may make the use thereof available on a reciprocal basis to banks and credit unions located in Oklahoma on a fair and equitable basis of nondiscriminatory access and rates.

3. In the event of a dispute, the ~~Board~~ State Banking Commissioner shall have the jurisdiction to determine, after a hearing conducted upon notice and pursuant to regulations adopted by the ~~Board~~ Commissioner, what constitutes a fair and equitable basis of nondiscriminatory access and rates, based upon cost of installation and proportionate usage of the facility. A principal factor in any equitable formula of shared costs of installation and/or operation shall give weight to the number of transactions of each participating association.

4. Proceedings ~~of the Board~~ under this section shall be subject to Article II of the Administrative Procedures Act of Oklahoma, Section 309 et seq. of Title 75 of the Oklahoma Statutes.

E. Nothing contained in this section shall be construed to limit the authority of federal savings associations to install, operate or utilize consumer banking electronic facilities in accordance with federal law and regulations.

SECTION 48. AMENDATORY 18 O.S. 1991, Section 381.26, is amended to read as follows:

Section 381.26 A. The bylaws of every association shall prescribe the notice and the time and place of the annual meeting of members or stockholders; the requirements for holding special meetings of members or stockholders; and the manner of determining the number and terms of office of the directors.

B. 1. Provisions with respect to directors' meetings, the selection and duties of officers, making of loans, issuance of various classes of savings accounts or permanent capital stock, distribution of earnings, amendments of the bylaws, rights and obligations of members or stockholders, and any other matters concerning operations of the association not in conflict with this act or rules and regulations of the ~~Board~~ State Banking Commissioner may be included in the bylaws.

2. The bylaws or a resolution of a savings and loan association as adopted or amended by the members or stockholders may include a provision eliminating or limiting the personal liability of a director to the association or its holding company,

or to the shareholders of either for any negligence in the performance of his duties but not for:

- a. any breach of the director's duty of loyalty to the association or its holding company, or to the shareholders of either;
- b. acts or omissions not in good faith or which involve intentional misconduct or a violation of law; or
- c. any transaction from which the director derived an improper personal benefit.

C. All bylaws and amendments hereafter adopted shall be promptly submitted to the Commissioner for approval. Any decision of the Commissioner disapproving proposed amendments may be appealed ~~by the association to the Board~~ pursuant to the provisions of Section 207 of Title 6 of the Oklahoma Statutes.

D. The bylaws of each association shall constitute laws of the association, subordinate to this act, to the rules and regulations of the Board, and to the regulations of the Director of the Office of Thrift Supervision.

SECTION 49. AMENDATORY 18 O.S. 1991, Section 381.36, is amended to read as follows:

Section 381.36 Every association shall set up and maintain reserves for the purpose of absorbing losses and shall maintain such portion of its assets in cash and other liquid assets as shall be required by regulations of the ~~Board~~ State Banking Commissioner and by regulations of the Director of the Office of Thrift Supervision.

SECTION 50. AMENDATORY 18 O.S. 1991, Section 381.37, is amended to read as follows:

Section 381.37 A. A mutual association may raise capital in the form of such savings accounts, shares or other accounts, including savings deposits in the case of a deposit association, for such fixed, minimum or indefinite periods of time as are authorized by its bylaws or by regulations of the ~~Board~~ State Banking Commissioner. Such accounts and deposits, all of which are referred to in this section as savings accounts, shall all have equal priority upon liquidation. A mutual association may

issue such passbooks, certificates, and other evidence of savings accounts as are now or hereafter so authorized. With the exception of forms now in use by existing associations, all such forms evidencing savings accounts shall be promptly submitted to the ~~Board~~ Commissioner, and to the Director of the Office of Thrift Supervision, and the issuance of any such form shall be immediately discontinued in the event of disapproval. Unless otherwise provided by its bylaws, the total amount of savings account liability of a mutual association is unlimited.

B. A stock association may incur liabilities in the form of savings deposits for such fixed, minimum or indefinite periods of time as are authorized by its bylaws or by regulations of the ~~Board~~ Commissioner. Such deposits shall all have equal priority upon liquidation. A stock association may issue such passbooks, certificates and other evidence of savings deposits as are now or may hereafter be authorized for deposit associations. New or proposed forms evidencing savings deposits shall be promptly submitted to the ~~Board~~ Commissioner, and to the Director of the Office of Thrift Supervision, and the issuance of any such form shall be immediately discontinued in the event of disapproval. In stock associations, holders of savings deposits shall participate first in all assets upon liquidation, but only to the extent of their savings deposits. Unless otherwise provided by its bylaws, the total amount of savings deposit liability of a stock association is unlimited.

SECTION 51. AMENDATORY 18 O.S. 1991, Section 381.38, is amended to read as follows:

Section 381.38 Any association may classify its savings accounts or savings deposits according to the character, amount or duration thereof, or regularity of additions thereto, and may pay additional or higher rates of earnings on accounts based on such classifications than is paid on regular savings accounts or savings deposits, provided that any such higher rate, or bonus, to be paid on any class of accounts shall not exceed the limitations prescribed by the ~~Board~~ State Banking Commissioner or by the Director of the Office of Thrift Supervision. A mutual

association may also classify its accounts according to type of account, such as full paid, single payment, installment, optional installment, bonus or other types of accounts designated by the bylaws and permitted by the ~~Board~~ Commissioner.

SECTION 52. AMENDATORY 18 O.S. 1991, Section 381.47, is amended to read as follows:

Section 381.47 With respect to savings accounts or savings deposits, an association may require such minimum advance notice of withdrawal as is specified by federal regulations or such longer advance notice period of not less than thirty (30) days as its bylaws may provide. The payment of withdrawals from savings accounts or savings deposits, in the event an association does not have funds available to pay all withdrawals when due, shall be subject to such rules and procedures as may be prescribed by regulations of the ~~Board~~ State Banking Commissioner, but any association which, except as authorized in writing by the ~~Board~~ Commissioner, fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition to transact business within the meaning of Section 381.63 of this title.

SECTION 53. AMENDATORY 18 O.S. 1991, Section 381.50, is amended to read as follows:

Section 381.50 A. Any mutual association insured by the Federal Deposit Insurance Corporation may become a deposit-type association and any mutual association insured by the Federal Deposit Insurance Corporation may become a stock association by adoption of a resolution by a majority of the votes cast in person or by proxy specially executed for that meeting within ninety (90) days prior to the meeting at an annual meeting or at any special meeting of its members, and by adoption of an appropriate amended certificate of incorporation and bylaw provisions consistent with this act, and in the case of conversions from mutual to stock form, upon approval of said conversion by the Director of the Office of Thrift Supervision. Copies of the resolution to become a deposit association and/or stock association pursuant to this act and of the amended certificate of incorporation and bylaw

amendments, certified by the secretary or president of the association, shall be filed with the State Banking Commissioner. Upon approval by the ~~Board~~ Commissioner, the Commissioner shall file a copy of such approved resolution with the Secretary of State, and the association shall be qualified to accept savings deposits and/or issue permanent capital stock in accordance with this act from and after the effective date stated in said resolution. In no case of conversion of a mutual to a stock association shall any reserves existing at the time of such conversion ever inure to the benefit of the permanent capital stock, but shall be maintained as reserves in accordance with directions of the Commissioner.

B. At the meeting at which conversion to a stock association is voted upon, the members of the mutual association shall also vote upon the directors who shall be the directors of the stock association after conversion takes effect. The directors shall execute and file with the Commissioner an amended certificate of incorporation as provided for in Section 381.17 of this title, together with an application for conversion and a firm commitment for, or evidence of, insurance of deposits and other accounts of a withdrawable type by the Federal Deposit Insurance Corporation. The ~~Board~~ Commissioner may refuse to approve the application and decline to issue a charter and file the amended certificate of incorporation if ~~it has~~ there is reason to believe that the plan of conversion is not fair and equitable to all the members and that sufficient provision is not made to protect the interests of the depositors of the prospective capital stock association. Upon the approval by the ~~Board~~ Commissioner of the amended certificate of incorporation and the issuance of a charter, the association shall cease to be a mutual association. Upon the conversion of a mutual association, the legal existence of the association shall not terminate but the stock association shall be a continuation of the entity of the mutual association and all property of the mutual association, including its rights, titles and interests in and to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest

and asset of every conceivable value or benefit then existing or pertaining to it, or which would inure to it, immediately by act of law and without any conveyance or transfer and without any further act or deed shall remain and vest in the stock association into which the mutual association has converted itself. The stock association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the mutual association. The stock association as of the time and the taking effect of the conversion shall continue to have and succeed to all the rights, obligations and relations of the mutual association. All pending actions and other judicial proceedings to which the mutual association is a party shall not be abated or discontinued by reason of the conversion but may be prosecuted to final judgment, order or decree in the same manner as if the conversion had not been made and the stock association resulting from the conversion may continue the actions in its corporate name. Any judgment, order or decree may be rendered for or against it which might have been rendered for or against the mutual association theretofore involved in the judicial proceedings.

C. ~~Board approval~~ Approval by the Commissioner shall be contingent upon the converting association either having insurance of its accounts and deposits by the Federal Deposit Insurance Corporation, or by the association making a bona fide application for such insurance of accounts and deposits, and upon acceptance and approval of such application by the corporation.

D. The conversion of a state mutual association into a stock association shall be effected in accordance with a plan of conversion adopted by the members as provided in this section and consistent with the other provisions of this title. The plan shall provide that:

1. Each account holder in the mutual association shall receive a withdrawable account in the stock association equal in amount to his withdrawable account in the mutual association;

2. A record date for determining account holders entitled to purchase stock shall be established which is not less than ninety

(90) days prior to the date of adoption of the plan of conversion by the association's board of directors;

3. Officers, directors and employees of the association and their associates shall forego any participation in the initial distribution of permanent capital stock to the extent that any such person increased his account by more than Twenty Thousand Dollars (\$20,000.00) during the six (6) months preceding the record date established pursuant to this section. The term "associate" of a person shall mean parents, spouse, sisters, brothers, children or anyone married to one of the foregoing persons; any corporation of which the person is an officer, director or owner of more than ten percent (10%) of the outstanding voting securities; any trust of which such person is a trustee or substantial beneficiary; and any partnership of which such person is a general or limited partner;

4. The amount of stock to which a member is entitled shall be determined on the basis of the ratio of his savings with the association on the record date to the total savings of the association on the record date, as applied to the initial issuance of permanent capital stock. Each savings account or savings deposit holder as of the record date may receive warrants authorizing the purchase of shares of permanent capital stock at a price determined by the board of directors of the institution and approved by ~~the Board and~~ the Commissioner and by the Director of the Office of Thrift Supervision, and scrip denoting fractional stock interests of less than one share, provided, however, that no savings account or savings deposit holder shall be entitled to scrip representing fractional interests of less than one-fifth share of stock; and

5. In connection with a conversion, savings account and savings deposit holders shall have a preemptive right to purchase such permanent capital stock for a period of not less than fourteen (14) days from the date the offer to sell permanent capital stock is made.

E. The reserves of a stock association resulting from the conversion of a mutual association shall be not less than the

amount necessary to meet the requirements of the Federal Deposit Insurance Corporation.

SECTION 54. AMENDATORY 18 O.S. 1991, Section 381.53, is amended to read as follows:

Section 381.53 Except as may be otherwise authorized by the ~~Board~~ State Banking Commissioner, a deposit association shall not accept savings accounts other than savings deposits but all share type savings accounts existing on the date when it becomes a deposit association shall remain share accounts unless and until they are exchanged for savings deposits. Any right outstanding at the time when the association becomes a deposit association to receive a share account in exchange for a previously issued account shall thereafter be a right to receive, at the option of the holder of such right, either a share type account or a corresponding savings deposit account.

SECTION 55. AMENDATORY 18 O.S. 1991, Section 381.53a, is amended to read as follows:

Section 381.53a A. Permanent capital stock shall consist of common stock, which shall have full voting rights, and may also include preferred stock. Such stock shall have a par value of not less than one cent (\$0.01) per share, and the proceeds thereof, to the extent of such par value, shall be set apart and be nonwithdrawable, and shall be a reserve to absorb losses after all surplus, undivided profits, and other reserves available for losses have been depleted.

B. 1. Common stock shall not be subject to redemption except on dissolution, and shall then be eligible for redemption only after all accounts, deposits and other creditors, including the Federal Deposit Insurance Corporation, have been paid in full, together with accrued interest, and the preferred stock, if any, has been redeemed at a price equal to its liquidation preference plus any cumulative dividends accrued but unpaid thereon.

2. Preferred stock shall not be issued for a limited term, nor shall it be redeemable at the option of the holders. An association shall not bind itself by contract to redeem its preferred stock upon the happening of certain events, other than

dissolution. However, preferred stock shall be subject to redemption at any time at the option of the association, with the prior approval of the ~~Board~~ State Banking Commissioner and only if, subsequent to the redemption, the association would meet its minimum capital requirements as imposed by the Director of the Office of Thrift Supervision.

C. Any paid-in surplus with respect to common stock may be made available for payment of organization and initial operating expenses or may be credited to surplus, or the contingent reserve, or the federal insurance reserve, or be transferred to common or preferred stock as a stock dividend, prorated to the holders of common stock. An association shall not issue permanent capital stock for a consideration other than cash or for a price less than par value thereof, except that, with the approval of the ~~Board~~ Commissioner, stock may be issued for a consideration other than cash in connection with mergers, consolidations or transfers and, when fully paid, the stock shall be kept unimpaired to the extent of its par value.

D. A stock association may declare and distribute cash dividends from net earnings, surplus or undivided profits. With the prior consent of the Commissioner, the stock of an association may be reduced by resolution of the board of directors approved by vote or written consent of the holders of a majority of the outstanding stock of such association to such amount as the Commissioner shall approve, and any such reduction shall be credited to the contingent reserve account and shall not be available for dividends to common stockholders; provided, any reduction in the amount of permanent capital stock is subject to the provisions of this section and Section 381.20 of ~~Title 18 of the Oklahoma Statutes~~ this title, fixing minimum permanent capital stock requirements.

E. No cash dividends shall be declared on common stock unless, subsequent to the dividends, the association would continue to meet its minimum capital requirements as imposed by the Director of the Office of Thrift Supervision. Subject to the provisions of this act, permanent capital stock shall be entitled

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to such rate of dividends, if earned, as declared by the board of directors.

SECTION 56. AMENDATORY 18 O.S. 1991, Section 381.55, is amended to read as follows:

Section 381.55 Every association shall have power to invest in real property as follows:

1. Such real property or interests therein as the directors may deem necessary or convenient for the conduct of the business of the association, which for the purposes of this act shall be deemed to include the ownership of stock of a wholly owned subsidiary corporation having as its exclusive activity the ownership and management of such property or interests, but the amount so invested shall not exceed the sum of the reserves and undivided profits of the association, unless the ~~Board~~ State Banking Commissioner authorizes a greater amount to be so invested.

2. An amount not exceeding the lesser of:

- a. the sum of its reserves and undivided profits, or
- b. ten percent (10%) of its assets, in the purchase of real estate for the purpose of producing income or for inventory or sale or for development and improvement, including the erection of buildings thereon, for sale or rental purposes.

3. Such real property as may be acquired in satisfaction or partial satisfaction of indebtedness owed to the association, by deed, sheriff's deed, trustee's deed or otherwise.

SECTION 57. AMENDATORY 18 O.S. 1991, Section 381.56, is amended to read as follows:

Section 381.56 Associations shall have power to invest in securities as follows:

1. In obligations of, or obligations which are fully guaranteed as to principal and interest by, the United States or this state; in stock or obligations of any Federal Home Loan Bank or Banks; in stock or obligations of the Federal Savings and Loan Insurance Corporation; in stock or obligations of the Federal Deposit Insurance Corporation; in stock or obligations of the

Resolution Trust Corporation; and in stock or obligations of the Federal National Mortgage Association or any successor or successors thereto;

2. In time deposits, certificates, accounts, or other obligations of banks or other financial institutions, the accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration;

3. Not in excess of five percent (5%) of its assets in bonds, notes or other evidences of indebtedness which are a general obligation of, or guaranteed as to principal and interest by, any agency or instrumentality of the United States not specified in paragraph 1 of this section, or of any city, county or school district in this state; and

4. Not in excess of ten percent (10%) of its assets in the capital stock, obligations or other securities of service organizations substantially all of the activities of which consist of originating, purchasing, selling and servicing loans upon real estate and participating interests therein, or clerical, bookkeeping, accounting, statistical or similar functions performed primarily for financial institutions plus such other activities as the ~~Board~~ State Banking Commissioner may approve.

SECTION 58. AMENDATORY 18 O.S. 1991, Section 381.60, is amended to read as follows:

Section 381.60 At an annual meeting or at any special meeting of the members or stockholders called to consider such action, any federal association may convert itself into an association under this act upon a majority vote of the outstanding stock entitled to vote thereon or upon a majority vote of the total number of votes of the members of such federal association eligible to be cast. Copies of the minutes of the proceedings of such meetings of members or stockholders, verified by the affidavit of the secretary or an assistant secretary, and verified copies of the plan of conversion shall be filed for approval with the State Banking Commissioner, ~~for the approval of the Board~~. At the meeting at which conversion is voted upon, the members or stockholders shall also vote upon the directors who shall be the

directors of the state-chartered association after conversion takes effect. Such directors then shall execute and file a certificate of incorporation and proposed bylaws, and the Commissioner shall file a certificate of authority upon approval by the ~~Board~~ Commissioner, all as provided in this act. The Secretary of State shall include in the certificate of incorporation, the following: "This association is incorporated by conversion from a federal association." All of the directors who are chosen for the association shall sign and acknowledge the certificate of incorporation as the subscribers. The ~~Board~~ Commissioner may provide, by regulation, for any additional procedure to be followed by any such federal association converting into an association under this act. All the provisions regarding property and other rights and liabilities contained in Section 381.59 of this title shall apply, in reverse order, to the conversion of a federal association into an association incorporated under this act, so that the state-chartered association shall be a continuation of the corporate entity of the converting federal association.

SECTION 59. AMENDATORY 18 O.S. 1991, Section 381.61, is amended to read as follows:

Section 381.61 Pursuant to a plan agreed upon by at least two-thirds of the members of the board of directors as being equitable to the members or stockholders of the association and as not impairing other associations and federal associations, an association may merge or consolidate with another association or federal association, provided that the plan of such merger or consolidation shall be approved at an annual meeting or at any special meeting of the members or stockholders called to consider such action by a majority vote of the outstanding stock entitled to vote thereon or upon a majority vote of the total number of votes of the members present in person or by proxy. An application to merge or consolidate shall be filed with the State Banking Commissioner and the same shall be the subject of an individual proceeding ~~before the Board~~, pursuant to Article II of the Administrative Procedures Act, Sections 301 through 326

Section 309 et seq. of Title 75 of the Oklahoma Statutes. If the merger or consolidation is approved by the ~~Board~~ Commissioner, a copy of the order of approval shall be filed with the Secretary of State who shall then issue a certificate of merger. In all cases of merger or consolidation, the corporate continuity of the resulting corporation shall have the same incidents, rights and liabilities as that of an association which has converted pursuant to this act.

SECTION 60. AMENDATORY 18 O.S. 1991, Section 381.62, is amended to read as follows:

Section 381.62 A. With the approval of the ~~Board~~ State Banking Commissioner, an association may liquidate and dissolve. The ~~Board~~ Commissioner shall grant such approval if it appears that the proposal to liquidate and dissolve has been approved by a vote of a majority of the outstanding voting stock, in the case of a stock association, or by a majority vote of the total number of votes of the members present in person or by proxy, in the case of a mutual association, at a meeting called for that purpose, and that after giving effect to any proposed purchase of the assets of the association and assumption of its liabilities as provided for in Section ~~32~~ 381.63a of this ~~act~~ title the association will be solvent and will have sufficient liquid assets to pay off any remaining depositors and creditors immediately.

B. 1. Upon approval by the ~~Board~~ Commissioner, the association shall immediately cease to do business, shall have only the powers necessary to effect an orderly liquidation and shall proceed to pay its depositors and creditors and to wind up its affairs.

2. Within thirty (30) days of the approval, the association shall send a notice of liquidation by mail to each depositor, creditor, person interested in funds held as a fiduciary, lessee of a safe deposit box and a bailor of property at the address of such person as shown on the books of the association; provided, however, in the case of all depositors, creditors, loan customers or lessees of safe deposit boxes whose deposits, accounts or other contractual arrangements with the association have been purchased

or assumed as provided for in Section ~~32~~ 381.63a of this ~~act~~ title, a notice of purchase and assumption shall be sent by the purchasing and assuming association in lieu of a notice of liquidation by the liquidating association. The notice prepared by the association shall be posted conspicuously on the premises of the association and shall be given such publication as the Commissioner may require. The purchasing and assuming association or the liquidating association, as applicable, shall send with each notice a statement of the amount shown on the books to be the claim or liability of the depositor, creditor or other customer. Each such notice shall demand that claims of depositors and creditors, or corrected statements of amounts owed by the customer, if the amount claimed or owed differs from that stated in the notice, be filed with the notifying association before a specified date not earlier than sixty (60) days thereafter in accordance with the procedure prescribed in the notice. The notice prepared by the liquidating association shall also demand that property held by the association as bailee or in a safe deposit box not taken over by a purchasing and assuming association be withdrawn by the person entitled thereto.

3. As soon after approval as may be practicable the association shall resign all fiduciary positions and take such action as may be necessary to settle its fiduciary accounts, and the manner of succession of trust powers and successor trustees shall follow the same procedure as set out in Section 1018 of Title 6 of the Oklahoma Statutes.

4. Any safe deposit boxes which have not been taken over by a purchasing and assuming association, and the contents of which have not been removed within thirty (30) days after demand, shall be opened. Sealed packages containing the contents of such box, with a certificate of inventory of contents, together with any other unclaimed property held by the association as bailee and certified inventories thereof, shall be transferred to the Commissioner who shall administer the property in accordance with the provisions of the Uniform Unclaimed Property Act (1981), Section 651 et seq. of Title 60 of the Oklahoma Statutes.

5. The approval of an application for liquidation shall not impair the right of a depositor or creditor whose account has not been unconditionally assumed by a purchasing and assuming association to be paid in full by the liquidating association, and all lawful claims of remaining creditors and depositors of the liquidating association shall promptly be paid. The unearned portion of the rental of a safe deposit box not taken over by a purchasing and assuming association shall be returned to the lessee.

6. Any assets remaining after the discharge of or adequate provision for all obligations shall be distributed to the stockholders or members in accordance with a plan of voluntary liquidation filed with and approved by the ~~Board~~ Commissioner. No such distribution shall be made before all claims of depositors and creditors have been:

- a. assumed as provided for in Section ~~32~~ 381.63a of this ~~act~~ title; or
- b. provided for by the establishment of a reserve fund in an amount approved by the Commissioner; or
- c. paid by the liquidating association; or
- d. in the case of any disputed claim, provided for by transmittal to the Commissioner of a sum adequate to meet any liability that may be judicially determined.

C. Any unclaimed distribution to a stockholder, member or depositor shall be held until ninety (90) days after the final distribution and then transmitted to the Commissioner. Such unclaimed funds shall be held by the Commissioner and administered in accordance with the provisions of the Uniform Unclaimed Property Act (1981).

D. If the Commissioner finds that assets will be insufficient for the full discharge of all obligations or that completion of the liquidation has been unduly delayed, he may take possession and complete the liquidation in the manner provided in this act for involuntary liquidations.

E. The Commissioner may require reports of the progress of liquidation. Whenever he is satisfied that the liquidation has been properly completed he shall enter an order of dissolution and recommend to the Secretary of State that the association's certificate of incorporation be canceled, upon receipt of which the Secretary of State shall cancel such certificate.

SECTION 61. AMENDATORY 18 O.S. 1991, Section 381.64, is amended to read as follows:

Section 381.64 Except as the Oklahoma Savings and Loan Code otherwise provides, no foreign association shall hereafter be granted permission by the ~~Board~~ State Banking Commissioner or the Secretary of State to do business within this state and each foreign association now holding a certificate of authority issued by the Commissioner may continue to do business through its duly appointed agent but only in the county where it is now operating. Each such foreign association shall remain subject to supervision, and to examination as deemed necessary, by the Commissioner and to the rules and regulations of the ~~Board~~ Commissioner and shall make no loans in Oklahoma and accept no savings accounts in Oklahoma other than loans and savings accounts of a class which are authorized for Oklahoma chartered associations. Any foreign association which has been granted permission to operate an agency within this state shall publish annually in the month of January in a newspaper of general circulation in the county in which the agency is operating a statement of its financial condition in the form prescribed or approved by the Commissioner. In the event an authorized foreign association fails to comply with the provisions of this act or with the requirements of ~~the Board and~~ the Commissioner, or to keep on file with the Commissioner and the Secretary of State a written appointment of its resident agent upon whom service of summons and all other legal process may be had, or to pay the supervisory fees provided by this act, the ~~Board~~ Commissioner may revoke the certificate of authority of such association and invoke other remedies as provided by law. In the event of such revocation, the Secretary of State shall revoke and cancel the certificate of domestication of such association.

SECTION 62. AMENDATORY 18 O.S. 1991, Section 381.65,
is amended to read as follows:

Section 381.65 A. A federal association not having its home offices or any branches in this state or any foreign association may apply to the ~~Board~~ State Banking Commissioner for a limited certificate of authority to transact business in this state. The application shall explicitly limit the purposes which the federal association not having its home offices or any branches in this state or foreign association may pursue in this state. Such entity may apply to engage in any activity reasonably necessary or desirable in order to deal with loans originated by it in interstate commerce or acquired by it by assignment from an originating lender qualified or otherwise permitted to do business in this state, or any collateral securing such loans, as well as any property, real or personal, acquired by it by foreclosure or otherwise in satisfaction of debt held by it. Without limitation, a limited certificate of authority shall permit a federal association not having its home offices or any branches in this state or a foreign association to have full access to the courts of this state; shall allow it to refinance, renew, extend or work out loans which it has originated in interstate commerce or which it has acquired by assignment; shall allow it to take all steps reasonably necessary to monitor collateral and the credit quality of its debtors; and shall allow it to manage, rent, sell or finance any property acquired by it by foreclosure or otherwise in satisfaction of debt held by it. The ~~Board~~ Commissioner shall have authority to approve under a limited certificate of authority other specific purposes that such entity applies to engage in, provided that those purposes are incidental to or reasonably necessary in connection with the purposes more specifically permitted by this subsection. A federal association not having its home offices or any branches in this state, or a foreign association, as part of its application for a limited certificate of authority shall commit that it will not originate loans or solicit or accept applications for loans at any place within this state, nor shall it, directly or indirectly, receive applications

for or payments or deposits to savings accounts or investment securities of any kind at any place within this state. Such entity shall commit in its application that when doing business in this state it shall use a specified fictitious name not containing any of the terms forbidden by Section 381.23 of this title and, without limitation, it shall not use such terms on any office, advertising, telephone listing or other medium of holding itself out to the public within this state; provided that, in executing any legal documents or participating in court proceedings the federal association not having its home offices or any branches in this state or foreign association shall use its actual name. The ~~Board~~ Commissioner by rule or regulation shall establish a list of items of information required to be contained in or submitted with an application for a limited certificate of authority, and shall fix a reasonable filing fee to defray the cost of processing such applications. The ~~Board~~ Commissioner shall act upon and issue its order granting or denying each application for a limited certificate of authority, after a hearing upon the application conducted as an individual proceeding under Article II of the Administrative Procedures Act, Section 309 et seq. of Title 75 of the Oklahoma Statutes. If and when all requirements of the ~~Board~~ Commissioner are met, a limited certificate of authority shall be issued and the applying entity shall comply with all steps necessary in order to qualify to do business in this state in accordance with the provisions of Section 1130 of this title. The Secretary of State shall not allow such entity to qualify to do business until it furnishes proof that it holds a limited certificate of authority issued by the ~~Board~~ Commissioner.

B. A federal association not having its home offices or any branches in this state or a foreign association shall not be determined to be transacting or engaging in business in this state, either for the purposes of this act or for the purposes of Sections 1130 and 1131 of this title, solely by reason of the activities of its majority-owned subsidiary which is incorporated or qualified to do business within this state. The provisions of

this subsection shall have no application to the question of whether the majority-owned subsidiary's parent company is:

1. Subject to service of process and suit in this state pursuant to the laws of this state; or

2. Subject to the taxation laws of this state.

C. A foreign association which does not have a certificate of authority or limited certificate of authority from the Commissioner, or a federal association which does not have permission from the Director of the Office of Thrift Supervision to operate its home offices or any branches in this state, shall not be deemed to be transacting or engaging in business in this state, for the purposes of this act, by reason of the purchase or acquisition, holding or sale of loans secured by mortgages on Oklahoma real estate, or participating interests therein, or the foreclosure thereof and acquiring of title to such mortgaged real estate in satisfaction of the mortgage indebtedness.

D. If a certificate of authority or limited certificate of authority to transact business has not been issued by the ~~Board~~ Commissioner to a federal association not having permission from the Director of the Office of Thrift Supervision to operate its home offices or any branches in this state, or to a foreign association, then such unauthorized entity shall not maintain any office in this state and shall not directly or indirectly through brokers, agents or others:

1. Receive applications for or payments or deposits to savings accounts or investment securities of any kind at any place within this state;

2. Assert or imply directly or by means of the mail, radio, television, newspapers, magazines or other media originating from any place within this state that it has agents or representatives in this state with whom its savings accounts and investments may be discussed;

3. Distribute any of its advertising material from any place within this state;

4. Display its name by signs or other wording on windows, doors or placards, or otherwise represent that it does business

within this state or is represented for transaction of business at any location in this state; or

5. Hold assets in this state other than those permitted by subsection C of this section.

E. The Commissioner is hereby authorized and empowered to obtain an injunction or to take any other action necessary to prevent any federal association not having its home offices or any branches in this state or any foreign association from violating any provision of this act, or of the rules and regulations of the ~~Board~~ Commissioner. Any such entity which violates any provision of this act, and any agent or representative who transacts or solicits business for such entity which is acting in violation of this act shall forfeit and pay to the State of Oklahoma, to be recovered in a civil action in the name of the State of Oklahoma, the sum of Five Thousand Dollars (\$5,000.00).

SECTION 63. AMENDATORY 18 O.S. 1991, Section 381.66a, is amended to read as follows:

Section 381.66a A. At an annual meeting or at any special meeting of the members or stockholders called to consider such action, any association may convert itself into a national banking association pursuant to the laws of the United States, as now or hereafter amended, or may convert itself into an Oklahoma-chartered bank pursuant to the Oklahoma Banking Code of 1965, as now or hereafter amended, upon a majority vote of the outstanding stock entitled to vote thereon or upon a majority of the total number of votes of the members present in person or by proxy. There shall be filed with the State Banking Commissioner a copy of the charter issued to such national banking association by the Office of the Comptroller of the Currency or of the certificate of authority issued to such Oklahoma-chartered bank by the Oklahoma Banking Board. Upon the grant to any association of a charter by the Office of the Comptroller of the Currency or of a certificate of authority by the Oklahoma Banking Board, the association receiving such charter or certificate of authority shall cease to be an association incorporated by this state. Upon conversion of any association into a national banking association or Oklahoma-

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chartered bank, such national banking association or Oklahoma-chartered bank shall be deemed to be a continuation of the entity of the association so converted and all property of the converted association, including its rights, titles and interests in and to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing or pertaining to it, or which would inure to it, shall immediately by operation of law and without any conveyance or transfer and without any further act or deed remain and be vested in and continue and be the property of such national banking association or Oklahoma-chartered bank into which the state association has converted itself, and such national banking association or Oklahoma-chartered bank shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the converting association, and such national banking association or Oklahoma-chartered bank as of the time of the taking effect of such conversion shall continue to have and succeed to all the rights, obligations and relations of the converting association. All pending actions and other judicial proceedings to which the converting state association is a party shall not be deemed to have abated or to have discontinued by reason of such conversion, but may be prosecuted to final judgment, order or decree in the same manner as if such conversion into such national banking association or Oklahoma-chartered bank had not been made and such national banking association or Oklahoma-chartered bank resulting from such conversion may continue such action in its corporate name as a national banking association or Oklahoma-chartered bank, and any judgment, order or decree may be rendered for or against it which might have been rendered for or against the converting state association theretofore involved in such judicial proceedings.

B. In the case of a conversion of a mutual association to a national banking association or Oklahoma-chartered bank, the members of the mutual association, at the meeting at which conversion to a national banking association or Oklahoma-chartered

bank is voted upon, shall also vote upon the directors who shall be the directors of the national banking association or Oklahoma-chartered bank after the conversion takes place. The directors shall file with the Commissioner an application for conversion and a firm commitment for, or evidence of, insurance of deposits and other accounts of a withdrawable type by the Federal Deposit Insurance Corporation. The ~~Board~~ Commissioner may refuse to approve the application if it has reason to believe that the plan of conversion is not fair and equitable to all of the members and that sufficient provision is not made to protect the interests of the depositors of the prospective national banking association or Oklahoma-chartered bank. Upon the approval by the ~~Board~~ Commissioner and by the Office of the Comptroller of the Currency or the Oklahoma Banking Board, the association shall cease to be a mutual association.

C. The conversion of a mutual association into a national banking association or Oklahoma-chartered bank shall be effected in accordance with a plan of conversion adopted by the members as provided in this section and consistent with the other provisions of Title 18 of the Oklahoma Statutes. The plan shall provide that:

1. Each account holder in the converting mutual association shall receive a withdrawable account in the converted national banking association or Oklahoma-chartered bank equal in amount to his withdrawable account in the mutual association;

2. A record date for determining account holders entitled to purchase stock shall be established which is not less than ninety (90) days prior to the date of adoption of the plan of conversion by the association's board of directors;

3. Officers, directors and employees of the association and their associates shall forego any participation in the initial distribution of permanent capital stock to the extent that any such person increased his account by more than Twenty Thousand Dollars (\$20,000.00) during the six (6) months preceding the record date established pursuant to this section. For this

purpose the term "associate" shall have the same meaning as in Section 381.50 of ~~Title 18 of the Oklahoma Statutes~~ this title.

4. The amount of stock of the converted national banking association or Oklahoma-chartered bank to which a member is entitled to subscribe shall be determined on the basis of the ratio of his savings with the association on the record date to the total savings of the association on the record date, as applied to the initial issuance of permanent capital stock. Each savings account or savings deposit holder as of the record date may receive warrants authorizing the purchase of shares of permanent capital stock of the converted national banking association or Oklahoma-chartered bank at a price determined by the board of directors of the institution and approved by ~~the Board and~~ the Commissioner and by the Director of the Office of Thrift Supervision, and scrip denoting fractional stock interests of less than one share, provided, however, that no savings account or savings deposit holder shall be entitled to scrip representing fractional interests of less than one-fifth (1/5) share of stock; and

5. In connection with a conversion, savings account and savings deposit holders shall have a preemptive right to purchase such permanent capital stock for a period of not less than fourteen (14) days from the date the offer to sell permanent capital stock is made.

D. In no case of conversion of a mutual association to a national banking association or Oklahoma-chartered bank shall any reserves existing at the time of such conversion ever inure to the benefit of the permanent capital stock, but shall be maintained as reserves in accordance with directions of the Commissioner. The reserves of the converted national banking association or Oklahoma-chartered bank resulting from the conversion of a mutual association shall be not less than the amount necessary to meet the requirements of the Office of the Comptroller of the Currency or of the Federal Deposit Insurance Corporation, respectively.

SECTION 64. AMENDATORY 18 O.S. 1991, Section 381.66b, is amended to read as follows:

Section 381.66b At an annual meeting or at any special meeting of the stockholders called to consider such action, any national banking association or Oklahoma-chartered bank may convert itself into a stock association under the Oklahoma Savings and Loan Code upon a majority vote of the outstanding stock entitled to vote thereon, and in compliance with any laws of the United States, as now or hereafter amended, or provisions of the Oklahoma Banking Code of 1965, as now or hereafter amended, applicable to such a transaction by the converting national banking association or Oklahoma-chartered bank. Copies of the minutes of the proceedings of such meeting of stockholders, verified by the affidavit of the secretary or an assistant secretary, and verified copies of the plan of conversion shall be filed for approval with the State Banking Commissioner, ~~for the approval of the Board~~. At the meeting at which conversion is voted upon, the stockholders shall also vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors then shall execute and file a certificate of incorporation and proposed bylaws, and the Commissioner shall file a certificate of authority upon approval by the ~~Board~~ Commissioner, all as provided in the Oklahoma Savings and Loan Code. The ~~Board~~ Commissioner shall approve the plan of conversion and issue a certificate of authority if it appears that:

1. The resulting stock association meets all of the requirements of the Oklahoma Savings and Loan Code as to the formation of a new stock association; and

2. The resulting stock association will have an adequate capital structure including surplus. The Secretary of State shall include in the certificate of incorporation the following, as applicable: "This association is incorporated by conversion from a national banking association/Oklahoma-chartered bank." All of the directors who are chosen for the association shall sign and acknowledge the certificate of incorporation as the subscribers. The ~~Board~~ Commissioner may provide, by regulation, for any additional procedure to be followed by any such national banking

association or Oklahoma-chartered bank converting into an association under this act, including the amount of the application fee to be paid to the ~~Department of~~ State Banking Department. All the provisions regarding property and other rights and liabilities contained in Section ~~24~~ 381.66a of this ~~act~~ title shall apply, in reverse order, to the conversion of a national banking association or Oklahoma-chartered bank into an association incorporated under this act, so that the state-chartered association shall be a continuation of the corporate entity of the converting national banking association or Oklahoma-chartered bank.

If a converting national banking association or Oklahoma-chartered bank has assets which do not conform to the requirements of state law for the converted state association, or there are business activities which are not permitted for the converted state association, the Commissioner may permit a reasonable time to conform with state law.

SECTION 65. AMENDATORY 18 O.S. 1991, Section 381.66c, is amended to read as follows:

Section 381.66c A. Upon approval of the ~~Board~~ State Banking Commissioner, one or more national banking associations or Oklahoma-chartered banks may be merged with and into a stock association as hereafter prescribed, except that the action by a constituent national banking association shall be taken in the manner prescribed by and shall be subject to any limitation or requirements imposed by any law of the United States which shall govern the rights of its dissenting shareholders.

B. The board of directors of each constituent institution shall, by a majority of the entire board, approve a merger agreement which shall contain:

1. The name of each constituent institution and the location of each office;

2. With respect to the resulting stock association the name and the location of each proposed office, the name and residence of each director to serve until the next annual meeting of the stockholders, the name and residence of each officer, the amount

of capital, the number of shares and the par value of each share, whether preferred stock is to be issued and the amount, terms and preferences and the amendments to the certificate of incorporation and bylaws;

3. The terms for the exchange of shares of the constituent institutions for the shares or other consideration of the resulting stock association;

4. A statement that the merger and the merger agreement is subject to approval by the ~~Board~~ Commissioner and by the stockholders of each constituent institution;

5. Provisions governing the manner of disposing of the shares of the resulting stock association not taken by dissenting stockholders of the constituent institutions; and

6. Such other provisions as the ~~Board~~ Commissioner requires to enable it to discharge its duties with respect to the merger.

C. After approval by the board of directors of each constituent institution, the merger agreement shall be submitted to the ~~Board~~ Commissioner for approval, together with a fee for review of the merger as required by rule of the Commissioner which shall be deposited in the State Banking Department Revolving Fund pursuant to Section 222 of Title 6 of the Oklahoma Statutes, certified copies of the authorizing resolutions of the several boards of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any constituent national banking association.

D. Without approval by the ~~Board~~ Commissioner, no asset shall be carried on the books of the resulting stock association at a valuation higher than that on the books of the constituent bank at the time of the last examination by a state or national bank examiner before the effective date of the merger.

E. Within thirty (30) days after receipt by the ~~Board~~ Commissioner of the papers specified in subsection C of this section, the ~~Board~~ Commissioner at an individual proceeding pursuant to Title II of the Administrative Procedures Act, Section 250 309 et seq. of Title 75 of the Oklahoma Statutes, shall

approve or disapprove the merger agreement. The ~~Board~~
Commissioner shall approve the agreement if it appears that:

1. The resulting stock association meets all of the requirements of the Oklahoma Savings and Loan Code as to the formation of a new stock association;

2. The agreement provides an adequate capital structure including surplus;

3. The agreement is fair; and

4. The merger is not contrary to the public interest. If the ~~Board~~ Commissioner disapproves an agreement, it shall state its objections and give an opportunity to the constituent institutions to amend the merger agreement to obviate such objection.

F. Where the resulting stock association is not to exercise trust powers, the ~~Board~~ Commissioner shall not approve a merger until satisfied that adequate provision has been made for successors to fiduciary positions held by constituent banks, and the manner of succession of trust powers and successor trustees shall follow the same procedure as set out in Section 1018 of Title 6 of the Oklahoma Statutes.

G. To be effective, a merger must be approved by the stockholders of each constituent institution by a majority vote of the outstanding voting stock at a meeting called to consider such action, which vote shall constitute the adoption of the certificate of incorporation and bylaws of the resulting stock association, including the amendments set forth in the merger agreement.

H. The notice of the meeting of stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each constituent institution is located, at least once a week for four (4) successive weeks, and by mail, at least fifteen (15) days before the date of the meeting, to each stockholder of record of each constituent institution at his address on the books of his institution, who has not waived such notice in writing; no notice by publication need be given if written waivers are received from the holders of

a majority of the outstanding shares of each class of voting stock.

I. At the effective time of the merger the charters of the constituent institutions other than the resulting stock association shall be deemed to be surrendered.

J. The resulting stock association shall be considered the same business and corporate entity as each constituent bank with all of the rights, powers, and duties of each constituent bank, except as limited by the certificate of incorporation and bylaws of the resulting stock association.

K. Any reference to any constituent bank in any writing, whether executed or taking effect before or after the merger, shall be deemed a reference to the resulting stock association if not inconsistent with the other provisions of such writing.

L. If a constituent bank has assets which do not conform to the requirements of state law for the resulting stock association, or if there are business activities which are not permitted for the resulting stock association, the Commissioner may permit a reasonable time to conform with state law.

SECTION 66. AMENDATORY 18 O.S. 1991, Section 381.71, is amended to read as follows:

Section 381.71 As used in this section and Sections 381.72 and 381.73 of this title:

1. "Acquire" means:

- a. the merger or consolidation of an out-of-state savings institution with or into an in-state savings institution~~+~~or
- b. the acquisition by an out-of-state savings institution of direct or indirect ownership or control of voting shares or in the case of a mutual savings institution voting rights of an in-state savings institution if, after such acquisition, such out-of-state savings institution directly or indirectly owns or controls twenty-five percent (25%) or more of any class of voting shares or voting rights of such in-state savings institution

(excluding shares or rights owned or held by the United States or by any organization wholly owned by the United States)~~†~~l or

- c. the acquisition by an out-of-state savings institution of the direct or indirect ownership of all or substantially all of the assets, including if agreed the assets of any branches and facilities thereof, of an in-state savings institution~~†~~l or
- d. any other action that would result in the direct or indirect ownership or control by an out-of-state savings institution of an in-state savings institution~~†~~i

2. "Control" means direct or indirect ownership of or holding with the power to vote twenty-five percent (25%) or more of the voting shares or in the case of a mutual savings institution the voting rights (excluding shares or rights owned or held by the United States or by any organization wholly owned by the United States), or the power in any manner to elect a majority of the directors or directly or indirectly to exercise a controlling influence (as determined by the ~~Board~~ State Banking Commissioner after notice and an opportunity for hearing) on the management or policies, of a company~~†~~i

3. "Holding company" means a company which owns or controls one or more savings institutions organized under the laws of any state or the laws of the United States~~†~~i

4. "Home office" means the office of a savings institution designated as its home office in its certificate of incorporation and located within the United States~~†~~i

5. "In-state savings institution" means a savings institution organized under the laws of this state or the laws of the United States whose home office is located in Oklahoma~~†~~i

6. "Oklahoma holding company" means a holding company organized under the laws of this state~~†~~i

~~7. "Oklahoma Savings and Loan Board" means "Board" as such term is defined in Section 381.2 of this title.~~

~~8.~~ 7. "Out-of-state savings institution" means any savings institution organized under the laws of another state or the laws of the United States whose home office is located in another state.;

~~9.~~ 8. "Savings institution" means any insured association or federal association or as the context requires any holding company or subsidiary of such savings institution.;

~~10.~~ 9. "Subsidiary" means a company which is owned or controlled by a savings institution.

SECTION 67. AMENDATORY 18 O.S. 1991, Section 381.73, is amended to read as follows:

Section 381.73 A. Acquisition of control. An out-of-state savings institution, upon approval by the ~~Board~~ State Banking Commissioner, may acquire direct or indirect control of an unlimited number of in-state savings institutions for operation as in-state savings institutions, and may acquire any such institutions' parent Oklahoma holding company. Any acquisition made pursuant to the provisions of this section may include assets and liabilities of the in-state savings institution or its parent Oklahoma holding company and all branches and facilities thereof.

B. Prohibited transactions.

1. No in-state savings institution which becomes a subsidiary of an out-of-state savings institution under any extraordinary acquisition provisions of federal law, or which is otherwise controlled by an out-of-state savings institution, shall be permitted to acquire direct or indirect ownership or control of, or to convert to a branch, any additional in-state savings institution or to establish additional branches or facilities, except as otherwise provided for in this section; and

2. No out-of-state savings institution may directly or indirectly acquire control of an in-state savings institution or its parent Oklahoma holding company except as otherwise permitted by this section.

C. Approval of acquisition. No acquisition provided for in this section shall be permitted unless the approval of the ~~Board~~ Commissioner required pursuant to subsection A of this section:

1. Includes, for all acquisitions, a finding that:

- a. the in-state savings institution sought to be acquired or all of the savings institution subsidiaries of the parent Oklahoma holding company sought to be acquired have either been in existence and continuous operation for more than five (5) years or have been chartered before July 1, 1987, and
- b. notice of intent to acquire has been published in a newspaper of general paid circulation in the county or counties where the in-state savings institution to be acquired is located and that a notice of intent to acquire has been mailed by certified mail with return receipt requested to each person owning stock in the in-state savings institution to be acquired or in its parent Oklahoma holding company or, if the in-state savings institution to be acquired is a mutual association, notice has been given as in the case of a proceeding under Section 381.61 of this title; and

2. Includes, for any acquisition of a majority of the voting shares of a stock association or of its parent Oklahoma holding company, or for any acquisition of a mutual association by merger or purchase and assumption transaction with another in-state savings association, a finding that the acquisition has been approved by the board of directors and a majority of the stockholders or holders of voting rights in the in-state savings institution or of its parent Oklahoma holding company, as applicable; and

3. Subjects the acquisition to any conditions, restrictions, and requirements that would be applicable to such an acquisition by an in-state savings institution of an out-of-state savings institution in the state where the out-of-state savings institution has its home office, if such state has enacted and implemented legislation authorizing the acquisition by an in-state savings institution of out-of-state savings institutions located

in that state, but that would not be applicable to acquisitions in that state by an out-of-state savings institution all of whose savings institution subsidiaries are located in that state; and

4. Except when the additional acquisition is of an in-state savings institution whose stock is held as stock acquired in the course of realizing upon a security interest which secured a debt previously contracted in good faith prior to the original acquisition by the out-of-state savings institution, prohibits additional branching and further acquisitions by an in-state savings institution which is a subsidiary of an out-of-state savings institution unless and until the earlier of:

- a. such time as the ~~Board~~ Commissioner determines that the state in which the out-of-state savings institution has its home office has enacted and implemented legislation authorizing in-state savings institutions to acquire savings institutions in that state on a reciprocal basis, or
- b. the expiration of a four-year period commencing on the date of acquisition by the out-of-state savings institution.

D. Branching, acquisition and conversion by subsidiaries.

Any in-state savings institution or its parent Oklahoma holding company which becomes a subsidiary of an out-of-state financial institution under the extraordinary acquisition provisions of federal law, or which is otherwise deemed to be controlled by an out-of-state financial institution, may acquire direct or indirect ownership or control of any additional in-state financial institution or its parent Oklahoma holding company, establish additional branches or facilities, or convert the existing controlled in-state savings institution to branches of another in-state savings institution:

1. If the ~~Board~~ Commissioner has determined that the principal place of business of the out-of-state savings institution has enacted and implemented reciprocal acquisition legislation within the purview of this section; or

2. Upon the expiration of a four-year period commencing on the date of acquisition by the out-of-state savings institution.

E. Limitations and restrictions. All limitations and restrictions of the Oklahoma Savings and Loan Code applicable to in-state savings institutions shall apply to an in-state savings institution which becomes a direct or indirect subsidiary of an out-of-state savings institution and to the out-of-state savings institution. The provisions of this subsection shall not be construed to prohibit the acquisition by an out-of-state savings institution of all or substantially all of the shares of an in-state savings institution organized solely for the purpose of facilitating the acquisition of a savings institution which has been in existence and continuous operation as a savings institution for more than five (5) years or has been chartered before July 1, 1987, if the acquisition has otherwise been approved pursuant to this subsection. Nor shall the provisions of this subsection be construed to prohibit an out-of-state savings institution which acquires an in-state savings institution under this section from additional acquisitions under this section, if such acquisition would otherwise be permitted.

F. Applicable law. Any out-of-state savings institution which controls an in-state savings institution shall be subject to the laws of this state and the rules of its agencies relating to the acquisition, ownership, and operation of in-state savings institutions. The ~~Board~~ Commissioner shall make such rules and regulations including the imposition of reasonable application and administration fees as it finds necessary to implement the provisions of this act.

G. Regulatory supervision. The ~~Board~~ Commissioner may enter into cooperative agreements with other regulatory agencies to facilitate the regulation of savings institutions doing business in this state. The ~~Board~~ Commissioner may accept reports of examinations and other records from such other agencies in lieu of conducting its own examinations of in-state savings institutions controlled by out-of-state savings institutions. The ~~Board~~ Commissioner may take any action jointly with other regulatory

agencies having concurrent jurisdiction over savings institutions doing business in this state or may take such actions independently in order to carry out its responsibilities.

H. Divestiture. The ~~Board~~ Commissioner shall have the power to enforce the prohibitions provided for in subsection B of this section by requiring divestiture and through the imposition of fines and penalties, the issuance of cease and desist orders, and such other remedies as are provided by law.

I. Penalties. Any organization which intentionally and willfully violates any provision of this section, upon conviction, shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) for each day during which the violation continues. Any individual who intentionally and willfully participates in a violation of any provision of this section, upon conviction, shall be fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned not more than one (1) year, or both such fine and imprisonment.

J. Judicial review. Any final order of the ~~Board~~ Commissioner shall be appealable pursuant to ~~the procedures applicable to proceedings under the Oklahoma Savings and Loan Code Section 207 of Title 6 of the Oklahoma Statutes.~~

SECTION 68. AMENDATORY 18 O.S. 1991, Section 381.74, is amended to read as follows:

Section 381.74 A. Involuntary Liquidation by Commissioner; Possession by Commissioner; Hearing. Except as otherwise provided in the Oklahoma Savings and Loan Code, upon the recommendation of the Federal Deposit Insurance Corporation, only the State Banking Commissioner may take possession of a state-chartered savings and loan association, if, ~~after an executive session before the Board,~~ the ~~Board~~ Commissioner determines that:

1. The association's business is being conducted in an unlawful or unsound manner; or
2. The association does not have funds available to pay all withdrawals of savings deposits when due; or
3. The examination of the association has been obstructed or impeded; or

4. The association is operating in violation of provisions of the Oklahoma Savings and Loan Code despite written notice to discontinue such violation.

B. Notice of Possession; Powers and Duties of Commissioner; Tolling of Limitations.

1. The Commissioner shall take possession of a state-chartered savings and loan association by posting upon the association's premises a notice reciting that possession is being assumed pursuant to the provisions of this section and stating when possession shall be deemed effective. Possession may become effective no earlier than the posting of the notice. A copy of the notice shall be filed in the district court of the county where the association is located. The Commissioner shall notify the appropriate district offices of the Director of the Office of Thrift Supervision and the Federal Deposit Insurance Corporation of taking possession of the association.

2. a. Once possession is effective the Commissioner shall be vested with the full and exclusive power of management and control, including the power to:
- (1) continue or discontinue the business of the association;
 - (2) stop or limit the payment of the association's obligations;
 - (3) employ any necessary assistants, including legal counsel;
 - (4) execute any instrument in the name of the association as Commissioner in charge of liquidation;
 - (5) commence, defend or conduct in the name of the association any action or proceeding to which it may be a party;
 - (6) enforce the liabilities of stockholders, officers and directors of the association;
 - (7) terminate possession by restoring the assets of the association to its board of directors; and

(8) reorganize or liquidate the association in accordance with the Oklahoma Savings and Loan Code.

b. As soon as practicable after taking possession the Commissioner shall make an inventory of the assets of the association and file a copy thereof with the district court where the notice of possession was filed.

3. While the Commissioner is in possession there shall be a postponement of six (6) months after the effective date of possession, of the date upon which any period of limitation fixed by statute or agreement would otherwise expire on a claim or right of action of the association, or upon which a review must be taken or a pleading or other document must be filed by the association in any pending action or proceeding.

4. a. The Commissioner, within two (2) days after taking possession of a stock association, shall call a special meeting of the stockholders to allow the stockholders to retain the incumbent board of directors or to elect a newly constituted board of directors, who may represent the stockholders in the liquidation proceedings and observe, assist and protect the interests of the stockholders.

b. The board of directors of the association is authorized to bring all necessary legal actions for and on behalf of the stockholders and to pay attorney's fees in a reasonable amount, if such action benefits the liquidating account of the failed association.

c. The board of directors, as authorized by the stockholders, shall represent the stockholders in the district court in which the notice of possession was filed by the Commissioner, as to all matters affecting the association.

5. The association shall continue to exist as a body corporate for all purposes, except for the purpose of continuing

the business for which the association was organized, and may function to assist the Commissioner or to protect the stockholders' interests in the assets of the liquidating account.

C. Omission of Hearing; Application to Vacate Possession; Liquidation; Notice; Objection; Bond of Commissioner; Reorganization; Immediate Liquidation of State Associations.

1. If the Commissioner determines that an emergency exists which may result in serious losses to the depositors of an association, he may take possession of the association without a prior hearing. Within ten (10) days after the Commissioner has taken possession any interested person may ~~file an application with the Board for an order vacating such possession~~ appeal such action pursuant to the provisions of Section 207 of Title 6 of the Oklahoma Statutes. ~~The Board shall grant the application if it finds that the action of the Commissioner was unwarranted or without sufficient cause.~~

2. If the Commissioner determines that liquidation of the association is warranted, notice of such determination shall be given to such directors, stockholders, depositors and creditors of the association as the Board may prescribe. The notice shall be by restricted delivery to the directors and stockholders at their last-known address as shown on the records of the association, and notice to the depositors and creditors shall be published in a newspaper of general circulation in the county where the home office of such association is located. Any objection to such determination by a person directly affected thereby shall be ~~filed with the Board within ten (10) days after the notice is published~~ appealed pursuant to the provisions of Section 207 of Title 6 of the Oklahoma Statutes. Unless within ten (10) days after the date of publication ~~the Board issues~~ an order is issued staying the liquidation or unless ~~the Board directs~~ the Commissioner ~~to tender tenders~~ to the Federal Deposit Insurance Corporation the appointment as liquidator pursuant to Section 381.77 of this title, the Commissioner shall liquidate the association after providing a bond executed by a surety company authorized to do business in this state, running to the people of the State of

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Oklahoma, ~~which meets with the approval of the Board,~~ for the faithful discharge of his duties in connection with such liquidation and the accounting for all moneys coming into his hands. The cost of such bond shall be paid from the assets of the association. Suit may be maintained on such bond by any person injured by a breach of the conditions thereof.

3. After the Commissioner takes possession of an association pursuant to the provisions of this section, the stockholders thereof may repair its credit, restore or substitute its reserves, and otherwise improve its condition so that it is qualified to do a general savings and loan business as provided for by law. Such association shall not reopen its business until the Commissioner issues written permission therefor after a careful investigation of the affairs of the association and a determination that the board of directors of the association has complied with the laws, that the association's credit and funds are in all respects repaired, and its reserves restored or sufficiently substituted, and that it again should be permitted to reopen for business. Written permission to reopen to do a general savings and loan business shall be issued in the same manner as is provided by law for granting permission to do business after incorporation.

4. If the Commissioner determines that reorganization of the association is warranted or if the ~~Board~~ Supreme Court, after staying the liquidation of the association, orders such reorganization, the Commissioner, after according a hearing to all interested persons, shall enter an order proposing a reorganization plan. A copy of the plan shall be sent to each depositor and creditor who will not receive full payment of his claim under the plan, together with notice that, unless the plan is disapproved, within fifteen (15) days after the date of the mailing of the plan, in writing by persons holding one-third (1/3) or more of the aggregate amount of such claims, the Commissioner shall proceed to effect the reorganization. A department, agency, or political subdivision of this state holding a claim which will not be paid in full is authorized to participate in the reorganization as any other creditor.

5. a. Notwithstanding any other provision to the contrary, the Commissioner, upon taking possession of an association, may immediately liquidate said association without giving prior notice to the directors, stockholders, depositors and creditors of such association, if it is determined by order of the district court where notice of possession was filed that:

~~(1) the actions of the Commissioner have been approved by the Board; and~~

~~(2) the immediate liquidation of the association is necessary to protect the interests of the depositors of the association and is otherwise in the public interest.~~

b. In proceeding with the immediate liquidation of the association, the Commissioner, in order to facilitate the assumption of the deposit liabilities of the closed association by another association, may borrow moneys from the Federal Deposit Insurance Corporation and pledge some or all of the assets of the closed association as security for such borrowing or may sell some or all of the assets of the closed association to the Federal Deposit Insurance Corporation.

6. Once the Commissioner takes possession of an association for purposes of liquidation, neither the ten-day periods provided by subsection C of this section nor the pendency of any proceeding for review of the Commissioner's action shall operate to defer, delay, impede or prevent the payment by the Federal Deposit Insurance Corporation of the insured deposits in said association.

7. The Commissioner shall make available to the Federal Deposit Insurance Corporation such facilities in or of the said association and such books, records and other relevant data of the said association as may be necessary or appropriate to enable the Federal Deposit Insurance Corporation to pay the insured deposits in said association as provided in this subsection. The Federal

Deposit Insurance Corporation, its directors, officers, agents, and employees, and the Commissioner, his agents, and employees, shall be free from any liability to the association, its directors, stockholders, and creditors, for any action relating to the payment of insured deposits.

D. Execution Upon Association Assets Prohibited; Vacation of Liens and Transfer of Assets. No judgment, lien, or attachment shall be executed upon any asset of the association while it is in the possession of the Commissioner. The Commissioner, in connection with a liquidation or reorganization may:

1. Vacate and void any lien or attachment, other than an attorney's or mechanic's lien, obtained upon any asset of the association during the Commissioner's possession or within four (4) months prior to commencement thereof, except liens created by the Commissioner while in possession; and

2. Void any transfer of an asset of the association made after or in contemplation of its insolvency with intent to effect a preference.

E. Power to Borrow Money and Pledge Association's Assets. With the approval of the Board, the Commissioner may borrow money in the name of the association and may pledge its assets as security for a loan.

F. Commissioner's Expenses; Payable Out of Association's Assets. All necessary and reasonable expenses of the Commissioner relating to the possession of an association and of its reorganization or liquidation shall be defrayed from the assets of the association. Compensation to liquidating agents and employees shall not be in excess of amounts which such individuals would be entitled to in their regular employment or for like services rendered within the area of the insolvent association, and in no event shall a liquidating agent be paid a monthly salary or wage from the assets of the association in excess of the amount of the monthly salary of the highest paid official of the insolvent association. Any attorney's fee allowed to an attorney representing the liquidating agent shall not exceed the reasonable amount charged by other attorneys of similar competence for like

services in regular employment of an attorney in the area of the association.

SECTION 69. AMENDATORY 18 O.S. 1991, Section 381.75, is amended to read as follows:

Section 381.75 A. Reorganization; Standards of Plan of Reorganization. A plan of reorganization shall not be acceptable unless:

1. Such plan is feasible and fair to all classes of depositors, creditors and stockholders;
2. The aggregate face amount of the interest accorded to any class of depositors, creditors or stockholders under the plan does not exceed the value of the assets upon liquidation less the full amount of the claims of all prior classes, subject, however, to any fair adjustment for new capital that any class will pay in under the plan;
3. Such plan provides for the issuance of capital stock and, if necessary, debentures in an amount that will provide an adequate ratio to deposits;
4. Any exchange of new common stock for obligations or stock of the association will be effected in inverse order to the priorities in liquidation of the classes that will retain an interest in the association and upon terms that fairly adjust any change in the relative interests of the respective classes that will be produced by the exchange;
5. The plan assures the removal of any director, officer or employee responsible for any unsound or unlawful practice or the existence of an unsound condition; and
6. Any merger or consolidation provided by the plan conforms to the requirements of the Oklahoma Savings and Loan Code.

B. Modification or Elimination of Plan of Reorganization; Notice to Board. Whenever, in the course of reorganization, supervening conditions render the plan unfair or its execution impractical, the State Banking Commissioner may modify the plan or liquidate the association. Any such action shall be taken by order of the ~~Board~~ Commissioner upon appropriate notice.

SECTION 70. AMENDATORY 18 O.S. 1991, Section 381.77,
is amended to read as follows:

Section 381.77. A. Liquidation by the Federal Deposit Insurance Corporation (FDIC). The FDIC may act without bond as the liquidating agent of any savings and loan association closed by the State Banking Commissioner.

B. Commissioner May Tender to FDIC as Liquidator. The Commissioner, upon closing an association ~~and upon order of the Board~~, may tender to the FDIC the appointment as liquidator of such savings and loan association.

C. Appointment of FDIC as Liquidator; Acceptance. Upon being notified in writing of the acceptance of such an appointment, the Commissioner shall immediately file in the office of the county clerk of the county where the principal office of the association is situated a certificate evidencing the appointment of the FDIC as liquidator. Upon the filing of the certificate the possession of all the assets, business and property of such association of every kind and nature, wheresoever situated, shall be deemed transferred from such association and the Commissioner to the FDIC. Without the execution of any instruments of conveyance, assignment, transfer or endorsement, the title to all such assets and property shall be vested in the FDIC and the Commissioner thereafter shall be forever relieved from any and all responsibility and liability with respect to the liquidation of such association. With respect to a federal association, it shall be sufficient to file a certified copy of the resolution of the Director of the Office of Thrift Supervision appointing a receiver.

D. When the Director of the Office of Thrift Supervision, the Resolution Trust Corporation or FDIC transfers all real property, interests in real property, and liens on real property of a closed association or federal association (collectively referred to for the purpose of this subsection as the "transferred property") to a single existing association, federal association or bank or a newly chartered federal association, the Director of the Office of Thrift Supervision, Resolution Trust Corporation or FDIC shall

file a memorandum of transfer or a memorandum of assignment so stating in the office of the county clerk of the county where real property records must be recorded with respect to the transferred property. The memorandum shall be executed by an authorized special representative of the Director of the Office of Thrift Supervision or of the Resolution Trust Corporation or FDIC and shall have attached to it certified copies of the resolutions of the Director of the Office of Thrift Supervision or of the Resolution Trust Corporation appointing and authorizing the special representative and authorizing the transfer. In that event, regardless of whether the date of closing predates this statute, it shall not be necessary for the memorandum to describe the transferred property with specificity, nor shall it be necessary for any of the transferred property to be separately conveyed to the transferee association, federal association or bank by an additional instrument. Thereafter, when the transferee association, federal association or bank conveys, assigns, or releases any of the transferred property, such conveyances, assignments, and releases shall recite that the transferee association, federal association or bank is successor in title to the closed association as evidenced by the memorandum of transfer or the memorandum of assignment and shall further recite the date and county of filing and the book and page of recording the memorandum.

E. Powers of FDIC as Liquidator; Individual Liability of Directors. If the FDIC accepts the appointment as liquidator, it shall have and possess all the powers and privileges provided by the laws of this state with respect to the liquidation of an association and with respect to the depositors and other creditors of such an association and shall proceed in liquidation as if it were the Commissioner, and shall have the right and power, upon the order of a court of record of competent jurisdiction, to enforce the individual liability of the directors of any such association.

F. Actions by Predecessor Federal Agencies. To the extent that any action is required or permitted to be taken by the FDIC, Req. No. 6859Page 111

the Resolution Trust Corporation or the Director of the Office of Thrift Supervision pursuant to the terms of this section, any similar action taken by the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board as predecessor federal agencies, either prior to or subsequent to the effective date of this section, shall be equally legal and effective as if such action were taken by the FDIC, the Resolution Trust Corporation or the Director of the Office of Thrift Supervision pursuant to the authorization granted herein.

SECTION 71. AMENDATORY 18 O.S. 1991, Section 381.78, is amended to read as follows:

Section 381.78 Removal of Officer, Director or Employee by Commissioner. Any officer, director or employee of a state savings and loan association found by the State Banking Commissioner to be dishonest, reckless, unfit to participate in the conduct of the affairs of the association, or to have engaged or participated in any unsafe or unsound practice in connection with a savings and loan association, or to be practicing a continuing disregard or violation of laws, rules, regulations or orders which are likely to cause substantial loss to the association or likely to seriously weaken the condition of the association shall be removed immediately from office by the board of directors of the association of which he is an officer, director or employee on the written order of the Commissioner. The association or officer, employee or director thereof, within ten (10) days of the date of the written order directing removal, may ~~file a notice of protest of appeal~~ such removal ~~with the Secretary of the Oklahoma Savings and Loan Board~~ pursuant to the provisions of Section 207 of Title 6 of the Oklahoma Statutes. As soon as possible thereafter the ~~Board~~ Supreme Court shall review the order of the Commissioner and make such findings as it deems proper. During the pendency of the review of the protest against removal, the officer, employee or director shall not perform any of the duties of his office.

SECTION 72. AMENDATORY 74 O.S. 1991, Section 840.8, as last amended by Section 14 of Enrolled Senate Bill No. 1 of the Req. No. 6859Page 112

1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 840.8 The following offices, positions, and personnel comprise the exempt unclassified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;
2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;
3. All judges, elected or appointed, and their employees;
4. Federally funded time-limited employees hired for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;
5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and State Department of Vocational and Technical Education;
6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor;
7. Election officials and employees;
8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees shall include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;
9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in (a) an institution of higher learning within The Oklahoma State System of Higher Education (b) an institution of higher learning qualified to become coordinated with said State System of Higher Education (c) for purposes of this act a student shall be considered a regularly enrolled student if he is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, and regularly attending classes during that semester of employment or (d) high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's Full-Time-Equivalent Employee Limit;

14. Employees of State Capitol cafeterias;

15. Employees of either the House of Representatives or the State Senate;

16. Grand River Dam Authority personnel occupying the following offices and positions:

- a. The general manager, assistant general managers, secretaries to the general manager, and assistant general managers,
- b. The chief engineer and the engineers, superintendents, and assistant superintendents,
- c. The general counsel and the attorneys on the general counsel's staff,
- d. The secretary,
- e. The treasurer,
- f. Rate analysts, and
- g. Unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service;

17. Oklahoma Tax Commission personnel occupying the following offices and positions:

- a. All revenue administrators, the budget officer and the comptroller of the Tax Commission,
- b. All administrators and unit managers in the Management Information Services Division,
- c. All Computer Programming Systems Specialist positions,
- d. All Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions,
- e. All Public Affairs Officer and Assistant Public Affairs Officer positions,
- f. Public Information Officer, and
- g. All Tax Economist positions;

18. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative assistant, administrative aides, and executive secretaries to the Commissioners,

- b. Directors of all the divisions, and
- c. General Counsel;

19. State Department of Education personnel occupying the following offices and positions:

- a. Administrative Assistants,
- b. Informational Representatives III,
- c. Driver Educational Electronics Technician,
- d. Media Technical Assistants,
- e. Executive Secretaries,
- f. Accounting Supervisor,
- g. Supervisor of Records,
- h. Supervisor of Printing Services,
- i. Migrant Records Transfer System Representative,
- j. Financial Managers, and
- k. In addition to the State Department of Education offices and positions listed in this paragraph, any and all offices and positions within the State Department of Education for which the annual salary is Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall also be in the unclassified service of this state.

Nothing in this paragraph is intended to change the status, whether classified or unclassified, of any person employed by the Department of Education prior to May 1, 1989. No position shall become unclassified while it is occupied by a classified employee because of any change in salary or grade. Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be in the unclassified service upon being vacated;

20. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

21. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,

- b. Deputy Director for Administration,
- c. Clinical Services Director, and
- d. Executive Secretary to Director;

22. The State Comptroller, Office of the Director of State Finance;

23. Employees of the Oklahoma Development Finance Authority;

24. Those positions so specified in the annual business plan of the Department of Commerce;

25. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

26. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in Section 840.10 of this title;

27. State Insurance Fund personnel occupying the following offices and positions:

- a. Commissioner,
- b. Deputy Commissioner,
- c. Administrative Assistants to the Commissioner,
- d. Executive Secretaries to the Commissioner and Deputy Commissioner,
- e. Law Clerks and Legal Assistants,
- f. Special Counsel,
- g. General Counsel,
- h. Medical Analysts Supervisor,

- i. Medical Analysts,
- j. Field Adjusters,
- k. Investment Officer, and
- l. Collections Attorneys;

28. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

29. Department of Corrections personnel occupying the following offices and positions:

- a. Associate Director,
- b. Executive Secretary,
- c. General Counsel,
- d. Assistant General Counsel,
- e. Deputy Director,
- f. Public Information Officer,
- g. Personnel Manager,
- h. Administrator of Planning and Research,
- i. Administrator of Finance and Accounting,
- j. Executive Assistant,
- k. Administrator of Information Services,
- l. Affirmative Action Officer,
- m. System Development Manager,
- n. Computer Operations Manager,
- o. Training Director,
- p. Assistant Training Director,
- q. Administrator of Construction and Maintenance,
- r. Administrative Assistant,
- s. Secretary,
- t. Administrator of Classification and Programs,
- u. Coordinator of Facility Classification,
- v. Mediation Coordinator,
- w. Inspector General,
- x. Medical Director,
- y. Psychiatrist,
- z. Physician,
- aa. Optometrist,
- ab. Dental Services Supervisor,

- ac. Dentist,
- ad. Psychologist,
- ae. Administrator of Dietary Services,
- af. Warden I,
- ag. Warden II,
- ah. Warden III,
- ai. Deputy Warden I,
- aj. Deputy Warden II,
- ak. Deputy Warden III,
- al. Community Treatment Center Superintendent,
- am. Community Treatment Center Assistant Superintendent,
- an. Probation and Parole District Supervisor,
- ao. Probation and Parole Assistant District Supervisor,
- ap. Administrator of Human Resources,
- aq. Facility Staffing Pattern Analyst,
- ar. Correctional School Superintendent,
- as. Regional Director,
- at. Assistant Regional Director,
- au. Chief of Operations, and
- av. Chief Psychologist;

30. Department of Corrections personnel occupying the following offices and positions as representatives of the Oklahoma State Industries:

- a. Administrator of Industrial Production,
- b. Administrator of Agriculture Production,
- c. OSI Sales Representative,
- d. OSI Sales Manager, and
- e. Marketing Manager.

The positions listed in this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified sales representative of the Oklahoma State Industries of the Department of Corrections who is responsible for obtaining a contract for products manufactured or services provided by prison industries may, at the discretion of the Director of the Department of Corrections, be awarded additional compensation of not more than

five percent (5%) of the total amount of said contracts but not more than Five Thousand Dollars (\$5,000.00) per year. This compensation may be in addition to the salary of the employee and may be paid in one lump sum from any funds available to the Department of Corrections. No such compensation shall be made unless funds are available. Funds for payment of any compensation awards shall be encumbered to the extent of the awards.

Incumbents in positions listed in paragraph 29 of this section and in this paragraph that are classified under the Merit System of Personnel Administration on the effective date of this act shall have the option of remaining in their classified status under the Merit System of Personnel Administration. Incumbents that choose to accept unclassified appointments shall so signify in writing. All future appointees to these positions shall be unclassified. Incumbents that choose to remain in the classified service under the Merit System of Personnel Administration shall be subject to all rules and procedures of the Merit System of Personnel Administration. By the end of the first full work week of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position;

31. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal;

32. The State Bond Advisor and his employees;

33. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director; ~~and~~

34. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant; and

35. The officers and employees of the State Banking Department.

SECTION 73. REPEALER 18 O.S. 1991, Sections 381.6, 381.8 and 381.12, are hereby repealed.

SECTION 74. This act shall become effective July 1, 1993.

SECTION 75. 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.

44-1-6859

JAF