ENGROSSED HOUSE
BILL NO. 2173

By: Weaver of the House

and

Fisher of the Senate

(banks and trust companies - amending various sections in Title 6 - Oklahoma Banking Code - Banking Commissioner - repealing 19 sections in Title 6 - codification - effective date - emergency)

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

SECTION 1. AMENDATORY 6 O.S. 1991, Section 101, is amended to read as follows:

Section 101. This act may be cited as the "Oklahoma Banking Code of ~~1965~~ 1997".

SECTION 2. AMENDATORY 6 O.S. 1991, Section 102, as amended by Section 1, Chapter 92, O.S.L. 1996 (6 O.S. Supp. 1996, Section 102), is amended to read as follows:

Section 102. As used in the Banking Code unless the context otherwise requires:

1. "Acquisition" or "acquire" means any act or action with respect to the ownership or control of a bank or the purchase of its assets and the assumption of its liabilities which would require the approval of the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956,

as amended, or the Office of Thrift Supervision under the Savings and Loan Holding Company Act, as amended;

2. "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, third-party claims, cross claims, setoff, suit in equity, arbitration and any other proceedings in which rights are determined;

3. "Bank" means any bank authorized and chartered by the laws of this state to engage in the banking business, or any bank chartered by the office of the Comptroller of the Currency with its main office in this state;

~~3.~~ 4. "Banking company" means any bank;

~~4.~~ 5. "Bank holding company" means any Oklahoma corporation which directly or indirectly owns or controls at least one bank or out-of-state bank as defined in this section;

6. "Board" when used with an initial capital letter means the Banking Board of this state;

~~5.~~ 7. "Branch bank" means any place of business separated from the main office of a bank at which deposits are received, or checks paid or money lent;

~~6.~~ 8. "Capital" shall include the paid-in common capital stock account, preferred stock account, surplus account, undivided profits account, capital reserves (other than contingency reserves), allowance for possible loan losses and mandatory convertible instruments that are convertible into common stock. "Capital" shall also include all other approved subordinated notes and debentures, having an original weighted average maturity of at least seven (7) years, to the extent their maturity date exceeds five (5) years. As such notes and debentures approach maturity of less than five (5) years, they shall be considered "capital" in proportion to their years to maturity as it bears to five (5) years;

9. "Commissioner" means the State Banking Commissioner appointed and serving pursuant to this act, who shall be the

Commissioner of Banking and who shall administer and enforce the applicable provisions of this act;

10. "Community" means a city, town or incorporated village of this state, or a trade area in this state in unincorporated territory;

~~7.~~ 11. "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;

~~8.~~ 12. "Compliance review committee" means:

a. an audit, loan review or compliance committee appointed by the Board of Directors of an insured depository institution, or

b. any other person to the extent the person acts in an investigatory capacity at the direction of a compliance review committee;

~~9.~~ 13. "Compliance review documents" means documents prepared for or created by a compliance review committee;

~~10.~~ 14. "Confusingly similar name" means:

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

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

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

(3) does not contain other unique or clearly distinguished words or marks, and

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

b. as applied to the name of any person not a bank, a name which is confusingly similar in spelling or wording or sound to the name of any bank located anywhere within this state, if such name would tend to suggest falsely to the public that the person is a bank or is affiliated with the bank, directly or indirectly. However, nothing contained in this subsection shall prohibit the use of a similar name by a corporation which is in a relationship to the bank of parent, subsidiary, brother-sister corporation or other commonly controlled company.

The Board shall promulgate rules which govern the use of "confusingly similar names" as defined in this paragraph;

~~11.~~ 15. "Consumer banking electronic facility" means any ~~manned or unmanned electronic device or machine when located separate and apart from a main office or detached facility or branch of a bank and which performs only those services which may legally be performed by banks for their customers pursuant to contractual agreements between the bank and its customers entered into at the bank's main office or branch. As to manned devices or machines, the term "manned" shall not be interpreted to allow persons employed, either directly or indirectly, by any bank or out-of-state bank or any savings association to assist or perform any services with customers using the manned devices or machines~~ electronic device owned, operated, leased by or on the behalf of a bank, savings association, or credit union other than a telephone or modem operated by a customer of a depository institution, to which a

person may initiate an electronic fund transfer. The term includes without limitations, a point-of-sale terminal, automatic teller machines, automated loan machines, video banking centers, or any other similar electronic devices;

16. "Continuing bank" means a merging bank the charter of which becomes the charter of the resulting bank;

~~12.~~ 17. "Control" means control as such term is defined under the Federal Bank Holding Company Act of 1956, as amended, 12 U.S.C., Section 1841;

~~13. "Continuing bank" means a merging bank the charter of which becomes the charter of the resulting bank;~~

~~14.~~ 18. "Converting bank" means a bank converting from a state to a national bank, or the reverse;

~~15.~~ 19. "Court" means a court of competent jurisdiction;

20. "Department" means the Department of Banking of this state created by this Code;

21. "Deposits" means all demand, time and savings deposits of individuals, partnerships, corporations, the United States and states and political subdivisions of the United States, deposits of banks, foreign governments, institutions, deposits held by foreign banking offices or corporations organized pursuant to 12 U.S.C., Sections 601 through 604a, or Sections 611 through 631, as amended. Determinations of deposits shall be made by the Commissioner by reference to regulatory reports of condition or similar reports filed by banks or savings associations with state or federal regulatory agencies;

22. "Determining population" means the population shown and determined by the last preceding federal census, or any subsequent census compiled and certified under any law of this state, and is deemed to be the population of any city or town in which any such bank has its main office. If the main office of any bank or trust company is located outside the boundary or corporate limits of any

city or town, then the population within a radius of three (3) miles of its main office, which is not included within the boundaries of any municipality, as such population is shown and determined by such federal or subsequent official census, shall be the basis for classification under this act;

23. "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at one or more or all of the offices of a bank or an out-of-state bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the foregoing, an emergency may arise as a result of any one or more of the following: fires; floods; earthquakes; hurricanes; wind, rain or snow storms; labor disputes and strikes; power failures; transportation failures; interruptions of communication facilities; shortages of fuel, housing, food, transportation or labor; robberies or attempted robberies; actual or threatened enemy attack; epidemics or other catastrophes; riots, civil commotions and other acts of lawlessness or violence, actual or threatened;

24. "Executive officer", when referring to a bank, out-of-state bank, or trust company, means any person designated as such in the bylaws and includes, whether or not so designated, the chairman of the board of directors, chairman of the executive committee, the president, any vice-president, the trust officer, the treasurer, the cashier, the comptroller and the secretary, or any person who performs the duties appropriate to those offices;

25. "Federal Reserve Act" means the Act of Congress approved December 23, 1913, (38 Stat. 251), as amended;

26. "Federal Reserve Bank" means the Federal Reserve Banks created and organized under authority of the Federal Reserve Act;

27. "Federal Reserve Board" means the Board of Governors of the Federal Reserve System created and described in the Federal Reserve Act, as amended;

28. "Fiduciary" means original or successor trustee of an expressed or implied trust, including, but not limited to, a resulting or constructive trust, special administrator, executor, administrator, administrator common trust agreement, guardian, guardian-trustee or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust acting alone or with others;

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

30. "Good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized;

31. "Insolvent" means that the actual cash market value of a bank's assets is insufficient to pay its liabilities other than its capital stock, surplus and undivided profits, or that the bank is unable to meet the demands of its creditors in the usual course of business;

~~16.~~ 32. "Insured depository institution" means any bank or savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

~~17.~~ 33. "Interstate merger transaction" means a merger between two banks, two savings associations or a bank and a savings association, one of which is chartered by or has its main office located in this state, and the other of which is an out-of-state bank as defined in this section;

34. "Investment securities" means marketable obligations in the form of bonds, notes or debentures which are commonly regarded as investment securities. It does not include investments which are predominantly speculative in nature;

35. "Item" means any instrument for the payment of money even though not negotiable, but does not include money;

~~18.~~ 36. "Legal newspaper" means a newspaper qualified to publish legal notices under the provisions of Section 106 of Title 25 of the Oklahoma Statutes;

~~19.~~ 37. "Loan review committee" means a person or group of persons who, on behalf of an insured depository institution, reviews loans held by such institution for the purpose of assessing the credit quality of the loans, compliance with the loan policies of such institution, and compliance with the applicable state and federal laws, regulations and rules;

~~20.~~ 38. "Local media" means:

a. any newspaper, radio station or television station with its main office located in the same city or town in which a particular main office of a bank is located, and

b. other means or media of advertising, including without limitation any outdoor signage on the premises of the bank, billboards, bulk mailings and other solicitations to persons who are not customers of the bank, but only to the extent that any such advertising is strictly limited in geographical location or distribution to the same city or town ~~(~~, including the

immediate surrounding unincorporated rural area~~)~~, where the particular main office of the bank is located;

~~21.~~ 39. "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;

~~22.~~ 40. "Main office" means either the main bank or the main office location of a savings association;

41. "Managing officer" means the chief executive officer of the bank;

42. "Member bank" means any national bank, state bank or banking and trust company which becomes a member of the Federal Reserve System;

43. "Merger" includes consolidation;

~~23.~~ 44. "Military banking facility" means a ~~detached~~ facility maintained by a bank upon a military ~~institution within this state~~ installation, provided the ~~military banking~~ facility must be within the confines of a military reservation and located upon property owned or leased by the United States government;

~~24. "Merger" includes consolidation;~~

~~25.~~ 45. "Mobile facility" means any place of business separated from the main office or a branch office of a bank at which deposits are received, checks paid, or money lent and which is designed to be moved, picked up, rolled, pulled or driven. A mobile facility is prohibited from operation except for use at an institution of higher education as set forth in subsection B of Section 501.1 of this title;

~~26.~~ 46. "~~Multi-bank~~ Multibank holding company" means an Oklahoma corporation which directly or indirectly owns or controls two or more banks, two or more bank holding companies, or one or more of each as defined in this section;

47. "National Bank Examiner" or "Federal Bank Examiner" means any person employed as a bank examiner by the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Reserve Board or Bank;

48. "Office" means any place at which a bank or an out-of-state bank transacts its business or conducts operations related to its business;

49. "Officer", when referring to a bank, out-of-state bank or trust company, means any person designated as such in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, the chairman of the executive committee, and any trust officer, assistant trust officer, assistant vice-president, assistant treasurer, assistant cashier, assistant comptroller, assistant secretary, auditor or any person who performs the duties appropriate to those offices;

50. "Order" means all, or any part, of the final disposition, whether affirmative, negative, injunctive or declaratory in form, by the Commissioner or the Banking Board, of any matter other than the making of regulations of general application;

~~27.~~ 51. "Out-of-state bank" means a national bank or a state or federal savings association which has its main office located in a state other than Oklahoma, or a bank chartered by a state other than Oklahoma;

~~28.~~ 52. "Out-of-state bank holding company" means a bank holding company which is not incorporated in this state and which directly or indirectly owns or controls one or more banks or out-of-state banks as defined in this section;

~~29.~~ 53. "Person" means an individual, group of individuals, board, committee, partnership, firm, association, corporation or other entity;

54. "Political subdivision" includes a county, city, town or other municipal corporation, a public authority, and generally any

publicly owned entity which is an instrumentality of the state or a municipal corporation;

~~30.~~ 55. "Principal place of business of a bank or a bank holding company" means the state in which the total deposits of the bank or the bank subsidiaries of the bank holding company are the largest;

56. "Reason to know" means that upon the information available a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is such a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence;

~~31.~~ 57. "Resulting bank" means the combined banks and trust companies carrying on business upon completion of a merger;

~~32.~~ 58. "Retailer" means a person, corporation or partnership, primarily engaged in the sale of goods at retail to the general public;

~~33.~~ 59. "Savings association" means any savings and loan association or savings bank chartered under the laws of this state or the laws of the United States authorized to engage in the savings and loan business with its main office located in this state;

~~34.~~ 60. "Savings association branch" means any place of business separated from the main office of a savings association at which deposits are received, checks paid or money lent;

~~35.~~ 61. "Subsidiary" with respect to a specified bank holding company or ~~multi-bank~~ multibank holding company means a subsidiary as the term is defined in the Federal Reserve Bank Holding Company Act of 1956, as amended, 12 U.S.C., Section 1841; and

~~36.~~ 62. "Trust company" means:

a. any person doing a trust company business as set forth in this Code except an incorporated or unincorporated

organization which is organized under Section 501(c)(3) of the Internal Revenue Code as being organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes when exercising powers pursuant to the Oklahoma Charitable Fiduciary Act and the Oklahoma General Corporation Act, and

b. the trust departments of banks authorized to engage in the trust company business.

SECTION 3. AMENDATORY 6 O.S. 1991, Section 104, is amended to read as follows:

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

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

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

SECTION 4. AMENDATORY 6 O.S. 1991, Section 201, as last amended by Section 1, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, 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. The Commissioner shall be appointed by the Governor with the advice and consent of the Senate. The Commissioner shall have been a qualified elector of the state for at least three (3) years prior to the appointment, shall be at least thirty-five (35) years old 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 shall continue to serve until a successor is duly appointed, confirmed and qualified. 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 in this section.

C. 1. The Commissioner shall appoint a Deputy Commissioner who shall also serve as secretary to the Board hereinafter created. The Deputy Commissioner shall have been a qualified elector of the state for at least three (3) years prior to the appointment, shall be at least thirty (30) years old 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 may appoint Administrative Assistants whose administrative duties shall be prescribed by the Commissioner. ~~The Deputy Commissioner and Administrative 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~~ The Assistant Attorney General shall perform such additional duties as may be assigned 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~~ the 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~~.

5. The Commissioner shall prepare in writing a manual of all 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 the Commissioner deems necessary for the proper administration of the Department and any other statutory duties of the Commissioner.

D. All officers and employees of the Department shall be in the exempt unclassified service as provided for in Section 840-5.5 of

Title 74 of the Oklahoma Statutes. ~~Provided that, 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 the termination.~~

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

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. Adoption of seal. The ~~Board~~ Commissioner shall adopt an appropriate seal as the Seal of the State Banking ~~Department~~ Commissioner.

2. Affixing seal - Effect. Every certificate, assignment and conveyance executed by the Commissioner, in pursuance of the authority conferred upon the Commissioner 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. 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 the approval of the Commissioner 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 5. AMENDATORY 6 O.S. 1991, Section 201.1, as last amended by Section 1, Chapter 270, O.S.L. 1994 (6 O.S. Supp. 1996, 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 shall be the sum of Seventy-one Thousand Nine Hundred Fifty-four Dollars ($71,954.00).

B. The annual compensation, payable monthly, of the ~~State Banking~~ Commissioner who is appointed after July 1, 1992, <u>as provided by subsection B of Section 201 of this title,</u> shall be increased by the percentage or amount provided for salary increases for employees of the ~~State Banking~~ Department authorized by the Legislature for each fiscal year beginning with Fiscal Year 1993.

C. 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 6. AMENDATORY 6 O.S. 1991, Section 202, as last amended by Section 2, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 202), is amended to read as follows:

A. The ~~Banking~~ Board shall consist of seven (7) members. The ~~State Banking~~ Commissioner shall be Chairman and vote only in case of a tie on any question requiring action by the Board.

B. Board - Qualifications. Other than the Commissioner, five members of the Board shall be active officers of state banks or trust companies, one of whom may be an officer or director of a national bank. One member of the Board shall be a citizen of Oklahoma, thirty-five (35) years old or older, who shall not have been in the past or become during the member's service on the Board an officer or stockholder in any banking institution, nor shall such person be related in the first degree to any other person who is or becomes during the term of such member an officer or stockholder in any banking institution.

C. Board - Appointment - Qualifications - Successor - Removal. Members of the Board, including the Commissioner, shall be appointed by the Governor with the advice and consent of the Senate; provided, appointments to the Board, and not including the ~~Bank~~ Commissioner nor the member not affiliated in the past or during the member's term with any banking institution, shall only be made of individuals whose names shall be included in a list of twelve names submitted to the Governor by the Executive Committee of the Oklahoma Association of State Banks, a division of the Oklahoma Bankers Association. If the Oklahoma Association of State Banks shall not submit such list within thirty (30) days after a vacancy shall occur, then the Governor may appoint, with the advice and consent of the Senate, such person as the Governor may select who shall meet the qualifications set forth in subsection B of this section.

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

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

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

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

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

SECTION 7. AMENDATORY 6 O.S. 1991, Section 203, as amended by Section 2, Chapter 157, O.S.L. 1994 (6 O.S. Supp. 1996, Section 203), is amended to read as follows:

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

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

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

~~(3)~~ 3. Adopt and promulgate reasonable and uniform rules and regulations to govern the conduct, operation and management of all banks or trust companies created, organized or existing under or by virtue of the laws of this state, and to govern the examination, valuation of assets and the statements and reports of such banks or trust companies, and the form on which such banks or trust companies shall report their assets, liabilities and reserves, and charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of the Oklahoma Banking Code.

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

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

~~(4)~~ 4. Restrict the withdrawal of deposits from all, or one or more, banks where the Board finds that extraordinary circumstances make such restriction necessary for the proper protection of depositors in the affected institution or institutions~~.~~;

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

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

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

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

Board to require immediate action, no person shall be suspended under the powers herein granted unless ~~he~~ the person shall have first been afforded a hearing before the Board after not less than ten (10) days' notice thereof shall have been served upon ~~him~~ the person by registered or certified mail, return receipt requested.

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

SECTION 8. AMENDATORY 6 O.S. 1991, Section 204, as amended by Section 3, Chapter 92, O.S.L. 1996 (6 O.S. Supp. 1996, Section 204), is amended to read as follows:

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

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

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

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

4. Write down an asset to its market value;

5. Record liens and other interest in property;

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

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

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

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

10. 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 the Oklahoma Banking Code, federal banking law <u>or the applicable banking law of another state</u>, or a lawful regulation issued thereunder, or to cease and desist from engaging in any unsafe or unsound banking or trust practice.

B. Before issuing an order provided for in subsection A of this section, the Commissioner shall give reasonable notice of an opportunity for a hearing. However, if the Commissioner makes written findings of fact that the protection of depositors will be harmed by delay in issuing an order provided for in subsection A of this section, the Commissioner may issue a temporary order pending the hearing on the order provided for in subsection A of this section. The temporary order shall remain in effect until three (3) business days after the hearing on the order provided for in subsection A of this section and shall become final if the bank or trust company subject to the order fails within fifteen (15) days after the receipt of ~~said~~ <u>the</u> order to request a hearing to determine whether the temporary order should be modified, vacated, or become final. If a hearing on the temporary order is not held upon written request, the temporary order shall dissolve and the order provided for in subsection A of this section shall not be issued except upon reasonable notice and opportunity for hearing.

C. Any bank or trust company aggrieved by a final order of the Commissioner as provided for in this section may obtain a review of

the order by the Board, who shall have the power to affirm, modify, reverse, or stay the enforcement of any order of the Commissioner.

D. The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of any bank, bank holding company, or branch in this state of an out-of-state state bank, or any branch of an Oklahoma state bank in any other state, and the Commissioner may accept such reports of examination and reports of investigation in lieu of conducting the Commissioner's own examinations or investigations.

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

F. 1. Interpretive statements and opinions. The Commissioner may issue interpretive statements containing matters of general policy for the guidance of state banks. The Commissioner may amend or repeal an interpretive statement by issuing an amended statement or notice of repeal of a statement and shall provide notice thereof and make it available to all state-chartered banks upon request.

2. The Commissioner may issue opinions in response to specific requests from members of the public or the banking industry directly or through the Deputy Commissioner or the Department's attorneys.

The Commissioner may amend or repeal an opinion by issuing an amended statement or notice of repeal of an opinion and shall provide notice thereof and make it available to all state-chartered banks upon request, except that the requesting party may rely on the original opinion if all material facts were originally disclosed to the Commissioner, considerations of safety and soundness of the affected bank are not implicated with respect to further and prospective reliance on the original opinion, and the text and interpretation of relevant, governing provisions of this act have not been changed by legislative or judicial action.

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

SECTION 9. AMENDATORY 6 O.S. 1991, Section 207, as amended by Section 3, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 207), is amended to read as follows:

Section 207. A. Appeals to the Supreme Court. Final orders of the ~~Banking~~ Board or the ~~State Banking~~ Commissioner may be appealed to the Supreme Court of Oklahoma by any party directly affected and showing aggrievement by the order. A mere increase in competition resulting from the order shall not constitute aggrievement.

B. Commencement of appeal. An appeal shall be commenced by filing with the clerk of the Supreme Court, within thirty (30) days from the date of the order or decision, a petition in error with a copy of the order or decision appealed from. The time limit prescribed herein for filing the petition in error may not be extended. The manner of perfection of the record of the proceedings to be reviewed and the time for its completion shall be in accordance with rules prescribed by the Supreme Court.

C. 1. A necessary jurisdictional prerequisite to the acceptance of the appeal by the Supreme Court shall include an affirmative showing of aggrievement from the record, by reference in

the petition in error, which cannot be a mere increase in competition.

2. The appeal must be perfected by the posting of a bond by the appellant in an amount set by the Board not to exceed the amount of projected income for four (4) years in the case of a branch, relocation, merger or acquisition, or an amount equal to the capital, surplus and undivided profits required to be paid in the case of a new charter.

3. In the event the appellant is not the prevailing party in the appeal, the prevailing party may apply to the Board for an order assessing the bond in the amount demonstrated by such party to have been lost by reason of the delay caused by the appeal. The amount shall be based on the income projections in the original proceeding found by the Board to have been reasonable.

D. Standard of review. The Court shall give great weight to findings made and inferences drawn by the Board or Commissioner on questions of fact. The Court may affirm the decision or remand the case for further proceedings. Additionally, the Court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings, inferences or conclusions are not supported by substantial evidence in the record.

SECTION 10. AMENDATORY 6 O.S. 1991, Section 208, as last amended by Section 4, Chapter 92, O.S.L. 1996 (6 O.S. Supp. 1996, Section 208), is amended to read as follows:

Section 208. A. The following records in the ~~Banking~~ Department are designated as public records:

1. All applications for state bank charters and supporting information with the exception of personal financial records of individual applicants;

2. All records introduced at public hearings on bank charter applications;

3. Information disclosing the failure of a state bank, an out-of-state bank and branches of out-of-state banks located in this state and the reasons therefor;

4. Reports of completed investigations which uncover a shortage of funds in a bank, an out-of-state bank and branches of out-of-state banks located in this state, after the reporting of the shortage to proper authorities by the Commissioner;

5. Names of all stockholders and officers of banks, out-of-state banks, out-of-state bank holding companies, and branches of out-of-state banks located in this state filed in the office of the Secretary of State; and

6. Regular financial call reports issued at the time of the state bank calls.

B. All other records in the ~~Banking~~ Department shall be confidential and not subject to public inspection~~; provided, however, that~~. However, the ~~State Banking~~ Board, ~~State Bank~~ Commissioner, or Deputy Commissioner may divulge such confidential information with the written approval of the Commissioner after receipt of a written request which shall:

1. Specify the record or records to which access is requested; and

2. Give the reasons for the request. Such records may also be produced pursuant to a valid judicial subpoena or other legal process requiring production, if the Commissioner determines that the records are relevant to the hearing or proceeding and that production is in the best interests of justice. The records may be disclosed only after a determination that good cause exists for the disclosure. Either prior to or at the time of any disclosure, the Commissioner shall impose such terms and conditions as the Commissioner deems necessary to protect the confidential nature of the record, the financial integrity of any institution to which the

record relates, and the legitimate privacy interests of any individual named in such records.

SECTION 11. AMENDATORY 6 O.S. 1991, Section 209, as last amended by Section 5, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 209), is amended to read as follows:

Section 209. A. 1. Number of examinations - Acceptance of F.D.I.C. or Federal Reserve System examination in lieu of one examination. The ~~State Banking~~ Commissioner shall, at least every eighteen (18) months or as often as the Commissioner deems advisable, ~~carefully~~ examine ~~the books, records, papers, assets and liabilities of every kind and character owned by, or relating to, every state bank and shall carefully examine the books, records, papers, assets and liabilities of every kind and character owned by, or relating to, every trust company and shall keep fully informed as to its financial condition and business methods~~ every bank and trust company, and for the purpose of making such examinations and special examinations, shall have full access to all books, papers, securities, records and other sources of information under the control of banks and trust companies; shall make and file in the office of the Commissioner a ~~correct~~ report in detail disclosing the results of such examination; and shall mail a copy of such report to the bank or trust company examined. However, the Commissioner ~~is authorized to~~ may accept ~~in the discretion of the Commissioner~~, in lieu of any three consecutive bank examinations, the examination that may have been made of ~~said~~ the bank or trust company within a reasonable period by the Federal Deposit Insurance Corporation or by the Board of Governors of the Federal Reserve System, provided a copy of ~~said~~ the examination is furnished to the Commissioner. ~~In the discretion of the Commissioner, the~~

2. The Commissioner may also accept any other report relative to the condition of a bank or trust company, to include joint or concurrent examinations which may be obtained by ~~said~~ the

authorities within a reasonable period, in lieu of such report authorized by the laws of this state to be required of such bank by the Banking Department, provided a copy of such report is furnished to the Commissioner.

3. The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System with respect to the periodic examination or other supervision of any state bank or trust company.

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

B. Reports - Number - Dates - Verification. Every bank shall make four reports each year and more often if called upon by the Commissioner and according to the form which may be prescribed by the Commissioner, and every trust company shall make two reports each year and more often if called upon by the Commissioner and according to the form which may be prescribed by the Commissioner. They must be verified by the oath or affirmation of the president, cashier or secretary of such bank or trust company, and attested by the signatures of at least two of the directors. Each such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the corporation at the close of business on any last day by the Commissioner specified, and shall be transmitted to the Commissioner within thirty (30) calendar days after the call date, and may be published at the expense of the bank or trust company in the same form in which it is made to the Commissioner.

The Commissioner shall also have power to call for special reports from any bank or trust company whenever, in the Commissioner's judgment, the same are necessary in order to gain a full and complete knowledge of its condition. However, the reports authorized and required by this section, to be called for by the Commissioner, shall relate to a date prior to the date of such call to be specified therein. Additionally, the Commissioner may accept, in lieu of the reports referred to in this section, reports made by banks that are members of the Federal Reserve System on forms provided by the Federal Reserve System.

C. Penalty for failure to make reports - Action to recover penalty - Payment into General Revenue Fund. Every bank or trust company which fails to make and transmit any report required within the discretion of the Commissioner, under this Code, shall be subject to a penalty not to exceed Fifty Dollars ($50.00) for each day, after the period respectively therein mentioned, that the bank or trust company delays to make and transmit its report. Whenever any bank or trust delays or refuses to pay the penalty herein imposed for a failure to make and transmit a report, the Commissioner is hereby authorized to maintainan action in the name of the state against the delinquent bank or trust company for the recovery of such penalty, and all sums collected by such action shall be paid into the State Treasury to be credited to the General Revenue Fund.

D. Forms for examination and reports - Preservation for ten years - Confidential nature. For the purpose of carrying into effect the provisions of this Code, the Commissioner shall provide a form

for the necessary blanks for such examinations and reports; and all examinations and reports received by the Commissioner shall be preserved in the office of the Commissioner for a period of not less than ten (10) years. Such examination and reports and all other records of operating banks and trust companies in the Banking Department are to be kept confidential, except as permitted by this Code.

SECTION 12. AMENDATORY 6 O.S. 1991, Section 211, as last amended by Section 6, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 211), is amended to read as follows:

Section 211. A. 1. The ~~Banking~~ Board shall charge and collect from each bank or trust company under its supervision not more than an annual fee of ~~Three Hundred Dollars ($300.00)~~ Five Hundred Dollars ($500.00) which shall be deposited in the ~~State Banking~~ Department revolving fund pursuant to Section ~~222~~ 13 of this ~~title~~ act.

2. The ~~Banking~~ Board shall charge and collect an assessment from each bank or trust company under its supervision 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 the~~ in an amount as established by the Board.

3. The minimum fee for bank trust departments shall be ~~One Hundred Dollars ($100.00)~~ Five Hundred Dollars ($500.00). The ~~fees~~ assessment shall be paid annually to the Banking Department ~~within ten (10) days following the first day in~~ no later than the 25th day of 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~~ Failure to pay within such time

will result in 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.

4. Except as otherwise provided by law, all assessments ~~shall be paid into the State Treasury and accrue to the General Revenue Fund of the state. All~~ and all fees and private donations shall be deposited in the ~~State Banking~~ Department revolving fund pursuant to Section ~~222~~ 13 of this ~~title~~ act.

B. Whenever it is deemed advisable by the ~~State Banking~~ Commissioner, special examinations of banks, trust companies and any other person under, subject to or proposed to become under or subject to the supervision of the Commissioner shall be conducted. ~~Upon approval of the Board, the~~ The expenses of the Department necessarily incurred in the special examination shall be chargeable to the bank, trust company or person examined at the rate not to exceed Fifty Dollars ($50.00) per hour plus travel expenses as provided by subsection C of Section 201.1 of this title 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~~ 13 of this ~~title~~ act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 211.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Banking Department. The revolving fund shall consist of all monies received by the Commissioner under Sections 104, 303, 415 and 501.1 of this title and 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 the 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 the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the the Department and approved for payment by the Director of State Finance.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 211.2 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury the "Bank Examination Revolving Fund" for the Banking Department. The Bank Examination Revolving Fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of the fund pursuant to this section are hereby appropriated and may be budgeted and expended by the Banking Department for the general operating expenses of the Banking Department. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The Bank Examination Revolving Fund shall consist of monies received from the assessment on each One Thousand Dollars ($1,000.00) of resources provided for in Section 211 of Title 6 of the Oklahoma Statutes. When the amount collected from the assessment and deposited in the General Revenue Fund exceeds the amount as certified by the State Board of Equalization pursuant to Section 23 of Article X of the Constitution of the State of Oklahoma, the excess monies collected from the assessment shall be directly deposited by the Department into the Bank Examination Revolving Fund.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 211.3 of Title 6, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Banking Department to be designated the "Bank Development Program Fund". The fund will be a continuing fund, not subject to fiscal year limitations and will be subject to the administrative direction by the Commissioner of the Department. The fund will consist of all monies authorized by law for deposit in such fund including, but not limited to, fee revenues and private donations to provide funding for the purposes authorized for the use of the fund. Monies deposited to the credit of the fund may be expended for the purposes of promoting the duties, obligations, and banking regulations of the Department and its relationship to the banking industry.

SECTION 16. AMENDATORY 6 O.S. 1991, Section 212, is amended to read as follows:

Section 212. A. ~~COMMISSIONER'S REPORT - CONTENTS~~ Commissioner's Report - Contents. The Commissioner shall report to the Governor annually. ~~His~~ The report shall be a public document~~, of which there shall be printed not to exceed one thousand (1,000) copies. It~~ and shall include~~:~~

~~(1) The text of all rules and regulations of general application of the Board and Commissioner, adopted, altered or repealed since his last previous report.~~

~~(2) Recommendations for legislation.~~

~~(3) A statement of the status and remaining assets and liabilities of each state bank and trust company in the possession of the Commissioner.~~

~~(4) A summary of all changes occurring since his last previous report by reason of opening or closing state banks or trust~~

~~companies, mergers and conversions, increases and decreases in capital and the like.~~

~~(5) Statement of Department income and expenses.~~

~~(6) A report on~~ such ~~other~~ matters as the Commissioner deems advisable.

B. ~~COPIES FURNISHED TO LEGISLATURE AND OKLAHOMA PUBLISHING CLEARING HOUSE~~ Copies furnished to Legislature and Oklahoma Publishing Clearing House. Copies of the annual reports not previously so submitted shall be submitted to the Legislature at the opening of each regular session and twenty-five (25) copies shall be furnished to the Oklahoma Publishing Clearing House.

SECTION 17. AMENDATORY 6 O.S. 1991, Section 213, is amended to read as follows:

Section 213. No officer or employee of the ~~State Banking~~ Department shall be an officer, director, attorney, owner or shareholder in any bank or trust company or, except as hereinafter provided, receive, directly or indirectly, any payment or gratuity from any such bank or trust company or be indebted to any bank or trust company or other institution over which the Department has supervisory control. Willful violation of this section is declared to be a criminal offense. This provision shall not prohibit employees of the Department from being members of credit unions or from being indebted to credit unions and finance companies, nor shall it prohibit their being depositors in a bank or lessees of safe deposit boxes therein on the same terms as are available to the public generally, or being indebted to a bank upon a mortgage loan upon the mortgagor's own home, or upon an installment debt transferred to a bank in the regular course of business by a seller of consumer goods, including automobiles purchased by the officer or employee. Further, this section shall not prohibit the ~~four~~ five banker members of the ~~State Banking~~ Board from being executive

officers in banks and from receiving bona fide compensation as such officers.

SECTION 18. AMENDATORY 6 O.S. 1991, Section 214, as amended by Section 7, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 214), is amended to read as follows:

Section 214. A. Preservation of records. Every bank and trust company shall retain its business records for such periods as are or may be prescribed by or in accordance with the terms of this section.

B. Permanent records. Each bank and trust company shall retain permanently the minute books of meetings of its stockholders and directors, its capital stock ledger and capital stock certificate ledger or stubs, its general ledger (or the record kept by the bank in lieu thereof), its daily statements of condition, and all records which the ~~Banking~~ Board shall, in accordance with the terms of this section, require to be retained permanently.

C. Disposal of other records. All other bank and trust company records shall be retained for such periods as the Board shall, in accordance with the terms of this section, prescribe.

D. Records - Regulations of Board. The Board shall from time to time issue regulations classifying all records kept by banks and trust companies and prescribing the period for which records of each class shall be retained. Such periods may be permanent or for a term of years. Such regulations may be amended or repealed. Prior to issuing any such regulation the Board shall consider:

1. Actions and administrative proceedings in which the production of bank or trust company records might be necessary or desirable;

2. State and federal statutes of limitation applicable to such actions or proceedings;

3. The availability of information contained in bank and trust company records from other sources; and

4. Such other matters as the Board shall deem pertinent in order that its regulations will require banks and trust companies to retain their records for such periods as are commensurate with the interests of their customers and shareholders and of the people of this state in having such records available.

E. Disposal - No duty to thereafter produce. Any bank or trust company may dispose of any record which has been retained for the period prescribed, in accordance with the terms of this section for retention of records of its class, and shall, after it has disposed of a record, thereafter be under no duty to produce such record in any action or proceeding.

F. Permission to reproduce records - Admissibility. In lieu of retention of the original records, any bank or trust company may cause any, or all, of its records, and records at any time in its custody, including those held by it as a fiduciary, to be photographed, stored by electronic imaging or otherwise reproduced in permanent form. Any such photograph, imaged document or reproduction shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

G. Section applicable to all banks and trust companies. To the extent that they are not in contravention of any statute of the United States or regulations promulgated thereunder, the provisions of this section shall apply to all banks and trust companies doing business in this state.

SECTION 19. AMENDATORY 6 O.S. 1991, Section 218, as amended by Section 8, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 218), is amended to read as follows:

Section 218. A. Commissioner's approval required where transfer of stock jeopardizes interest of depositors - Banks and trust companies. Whenever, in the opinion of the ~~State Banking~~ Commissioner, the condition of any bank or trust company is such that any transfer of the capital stock of such bank or trust company

would jeopardize the interest of its customers, the Commissioner shall promptly so notify in writing the board of directors and officers of such bank or trust company of the determination of the Commissioner and the same shall be forwarded by certified or registered mail, return receipt requested, and the Commissioner shall therein require that, when any shares of the capital stock of the bank or trust company are to be transferred on the books or records of the bank or trust company, the officer or officers proposing to make the transfer shall report in writing to the Commissioner such proposed transfer of stock. After such notice, no transfer thereof shall be made without first obtaining the written consent thereto of the Commissioner.

B. Transfer of controlling interest - Banks.

1. Whenever a change occurs or is about to occur in the outstanding voting stock of any bank or bank holding company which will result in a change in the control of the bank or the bank holding company, the president or other chief executive officer of such bank or bank holding company, immediately upon obtaining such knowledge of such change in the control of the bank or bank holding company or such contemplated or consummated sale or transfer of such stock, shall report such facts to the Commissioner.

2. As used in this section, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of ~~the~~ a bank or bank holding company. If there is any doubt as to whether a change in the ownership of the outstanding voting stock in any insured bank or bank holding company is sufficient to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the Commissioner.

3. Notwithstanding paragraph 1 of subsection B of this section, a change in ownership of ten percent (10%) of the voting stock of a

bank or bank holding company shall be reported as a change of control to the Commissioner.

C. Reporting transfers required. No officer of any bank or trust company shall fail to report any transfer of stock to the Commissioner at the time the same is made, as required by this section.

SECTION 20. AMENDATORY 6 O.S. 1991, Section 301, is amended to read as follows:

Section 301. ~~A.~~ From and after the passage of the Oklahoma Banking Code no certificate of authority to engage in the banking or trust company business in this state shall be issued, and no bank or trust company or person shall be permitted to engage in such business within Oklahoma except on certificate issued by the Commissioner upon approval of the Board. The issuance of such certificate shall be within the sole discretion of the Board.

~~B. This article contains procedures by which the Commissioner and the Board may reach informed decisions with respect to applications for authority to organize state banks and trust companies. These procedures may be used in such other situations as the Commissioner shall deem appropriate.~~

SECTION 21. AMENDATORY 6 O.S. 1991, Section 303, is amended to read as follows:

Section 303. A. ~~Five~~ One or more individuals desiring to organize a bank or trust company shall file with the Commissioner, in a method as required by the Commissioner, an application for authority to organize setting forth the information required by Section 305 of this title. ~~A majority of the organizers shall be residents of the state and citizens of the United States.~~

B. ~~Prior to the filing of said application, each~~ Each organizer shall subscribe and pay in full in cash for stock having a total subscription price of not less than one percent (1%) of the minimum capital ~~and paid-in surplus~~ required by Section 303.1 of this title.

C. In lieu of the application method set forth in subsections A and B of this section, a ~~multi-bank~~ bank and multibank holding company which meets the requirements of subsection ~~H~~ G of Section 502 of this title may file with the Commissioner, in a method as required by the Commissioner, an application for authority to organize a bank setting forth the information required by Section 305 of this title.

D. An application fee in ~~the~~ an amount prescribed by ~~Banking~~ Board rule shall accompany the application. The fee is payable from the organizational expense fund and is nonrefundable.

SECTION 22. AMENDATORY 6 O.S. 1991, Section 303.1, is amended to read as follows:

Section 303.1 A. ~~A bank or trust company hereafter organized shall have such capital structure as the State Banking Commissioner shall deem adequate but not less than the amounts provided for in subsection B of this section. Provided, however, a bank which is hereafter organized for the purpose of purchasing assets and assuming liabilities of a bank which has been closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital shall have a capital structure that would be required by the Commissioner for a bank of a similar size.~~

~~B. Capital of common stock shall consist of a minimum amount according to community population wherein the bank is located, as follows:~~

~~LOCATED IN A COMMUNITY HAVING A POPULATION OF~~	~~MINIMUM CAPITAL~~
~~Less than 6,000~~	~~$650,000~~
~~6,000 or more but less than 50,000~~	~~$750,000~~
~~50,000 or more~~	~~$900,000~~

~~(1) Paid-in surplus shall amount to not less than fifty percent (50%) of its capital stock.~~

~~(2) Paid-in undivided profits shall amount to not less than twenty-five percent (25%) of its capital stock.~~

The Commissioner may not issue a charter to a state bank having required capital of less than One Million Dollars ($1,000,000.00) except as provided in subsection B of this section.

B. The Commissioner may require additional capital for a proposed bank or, on application in the exercise of discretion consistent with protecting safety and soundness, reduce the amount of minimum capital required for a proposed bank, if the Commissioner finds the proposed scope or type of operations of a proposed bank requires additional, or permits reduced, capital, consistent with the safety and soundness of the bank. To the extent determined by the Commissioner to be relevant, the safety and soundness factors to be considered by the Commissioner in the exercise of discretion include but are not limited to:

1. The nature and type of business conducted;

2. The nature and degree of liquidity in assets held in a corporate capacity;

3. The size of population of the proposed market;

4. The existence and type of concentrations of lending or investing, if any, likely for the bank;

5. The geographic size of the proposed market;

6. The competence and experience of management;

7. The extent and adequacy of internal controls;

8. The presence or absence of annual unqualified audits by an independent certified public accountant;

9. The reasonableness of business plans for retaining or acquiring additional capital; and

10. Federal Deposit Insurance Corporation capital requirements.

C. Any trust company hereafter organized shall have paid-in capital ~~stock and surplus~~ totaling ~~One Million Five Hundred Thousand Dollars ($1,500,000.00)~~ Two Million Dollars ($2,000,000.00).

~~C.~~ D. The issuance of preferred stock by a newly organized bank or trust company ~~shall~~ may be authorized by the Commissioner ~~only when it appears that necessary capital cannot be obtained by the issuance of common stock~~. Preferred stock shall have such preferences, powers and rights as the Commissioner may approve. It shall not be retired without the approval of the Commissioner and the requirement of such approval shall be stated in the stock certificates, but the Commissioner may give advance approval to sinking funds payable exclusively out of earnings available for dividends.

SECTION 23. AMENDATORY 6 O.S. 1991, Section 304, is amended to read as follows:

Section 304. A. ~~In addition to the paid-in capital and surplus requirements as set forth in Section 303, each~~ Each subscriber at the time ~~he~~ the subscriber subscribes to the stock of a proposed state bank or trust company shall pay in cash a sum at least equal to five percent (5%) of the par value of such stock into a fund to be used to ~~defray~~ pay the expenses of organization. No organizational expense shall be paid out of any other funds of the bank.

B. Upon the grant of a certificate of authority any unexpended balance shall be transferred to undivided profits. If the application has been finally denied, any unexpended balance shall be distributed among the contributors in proportion to their respective contributions. The Commissioner may require an accounting of disbursements from the fund and may order the organizers to restore any sum which has been expended for other than proper organizational expenses.

C. No payment shall be made from the organizational expense fund for obtaining subscriptions to stock.

D. Any financial arrangement or transaction involving the proposed bank or trust company and its organizers, directors, officers or principal shareholders shall be ~~avoided~~ disclosed.

SECTION 24. AMENDATORY 6 O.S. 1991, Section 305, is amended to read as follows:

Section 305. An ~~application for~~ individual seeking authority to organize a state bank or trust company shall ~~be submitted in quintuplicate and shall include the information set forth in subsection A hereof. Five~~ submit the original and ten copies of an application for authority to organize a state bank or trust company. Two copies of the proposed ~~articles~~ certificate of incorporation and proposed bylaws shall be filed with the application. The application and ~~articles~~ certificate of incorporation shall be ~~executed and acknowledged~~ signed under oath by each of the organizers.

A. ~~CONTENTS OF APPLICATION~~ Contents of application. The application shall include the following information:

~~(1)~~ 1. The proposed location;

~~(2)~~ 2. The amount of the capital stock and the class or classes of capital stock proposed to be issued;

~~(3)~~ 3. The corporate name, which shall not be the same name used by any corporation previously organized in the community in which the proposed bank is to be located, or any imitation of such name. The name shall not be confusingly similar to that of any existing institution;

~~(4)~~ 4. The names of the subscribers to the capital stock and the amount of stock to which each subscribed;

~~(5)~~ 5. The names of the persons, partnerships, associations, or corporations which propose to own or control more than one-half (1/2) of the capital stock;

~~(6)~~ 6. The names of the proposed directors;

~~(7)~~ 7. Evidence of the character, financial responsibility and ability of the organizers and proposed directors;

~~(8)~~ 8. Evidence of the need and advisability of granting such authority;

~~(9)~~ 9. The past and present connection with any bank or trust company, other than as a customer on terms generally available to the public, of each proposed director and each subscriber to more than five percent (5%) of the capital stock; and

~~(10)~~ 10. Any other information which the Commissioner may require.

B. ~~CAPITAL STOCK FULLY SUBSCRIBED~~ Statement to be signed under oath. The application shall contain a statement that ~~the capital stock has been fully subscribed and that~~ the requirements of Sections 303 and 304 of this title have been met. The statement shall be signed by the organizers and verified under oath.

C. ~~PROPOSED ARTICLES OF INCORPORATION~~ Proposed Certificate of Incorporation. The proposed ~~articles~~ certificate of incorporation shall contain the following:

~~(1)~~ 1. The name of the bank or trust company;

~~(2)~~ 2. If the bank is to exercise trust powers, a statement to that effect;

~~(3)~~ 3. The ~~community~~ business street address, including city or town, and county in which it is to be located;

~~(4)~~ 4. The amount of capital, the number of shares of each class, the relative preferences, powers and rights of each class, the par value of the shares of each class and the amount of the paid-in surplus;

~~(5)~~ 5. A statement whether voting for directors shall or shall not be cumulative and the extent of the preemptive rights of stockholders;

~~(6)~~ 6. The names and places of residence of the organizers and the number of shares subscribed by each;

~~(7)~~ 7. The term of its existence, which shall be perpetual;

~~(8)~~ 8. The board of directors of the proposed bank or trust company ~~composed of not less than three of the organizers~~ who shall serve until the next annual meeting of the stockholders, or until their successors are regularly elected and qualified; and

~~(9)~~ 9. Such other proper provisions to govern the business and affairs of the bank or trust company as may be desired by the organizers.

SECTION 25. AMENDATORY 6 O.S. 1991, Section 306.1, as amended by Section 6, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, 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.~~ Once the Commissioner is satisfied that the organizers have substantially complied with the requirements of Sections 304 and 305 of this title, the Commissioner shall accept the application for filing and shall notify the organizers of the acceptance. 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.

B. Notice of acceptance for filing.

~~1.~~ By publication. Within ~~twenty (20)~~ ten (10) days after the Commissioner has ~~accepted~~ received an application for filing, the applicant shall publish notice of ~~such acceptance~~ the filing in a legal newspaper of general circulation in the ~~community~~ city, town, or county 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~~ submitted, 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~~ received 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.~~

SECTION 26. AMENDATORY Section 7, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, Section 306.2), is amended to read as follows:

Section 306.2 ~~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, and shall not be bound by the provisions,

restrictions and requirements contained in Sections 301 through 306.1 of this title and Sections 307.1 through 313 of this title. 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 27. AMENDATORY 6 O.S. 1991, Section 307.1, is amended to read as follows:

Section 307.1 A. Objectives. The primary objectives of the Commissioner and the ~~Banking~~ Board shall be to maintain a sound banking system, to encourage a competitive banking environment and to provide convenience to the public.

B. ~~Investigation. Upon acceptance of an application for authority to organize a state bank or trust company, the Commissioner shall make or cause to be made an investigation of the facts surrounding the application. The investigation shall include interviews with each organizer and proposed director, with a representative sampling of businessmen in the community which applicant bank or trust company proposes to serve and with a representative sampling of the members of the public in the community. The investigation shall seek to determine the probable support for the new bank or trust company, the community standing or reputation of the organizers and proposed directors, and the adequacy of existing facilities and services in the community.~~

~~The investigation shall address the proposed institution's earnings and deposit prospects, the ability of proposed management, the adequacy of initial capital, the safety and soundness of intended operations and economic and competitive conditions in the market to be served. Economic analysis shall include a review of the growth potential of the proposed market, and the growth rate and size of financial institutions in the market area.~~

~~C.~~ Comments or objections. Within twenty-one (21) days after first notice by publication as described in Section ~~7~~ 306.1 of this ~~act~~ title, any interested person may submit to the Commissioner written comments or objections to organization of the proposed bank, or a request for an opportunity to be heard. Any request for opportunity to be heard shall set forth reasons justifying the time and expense entailed by such hearing. In the absence of a request, the Commissioner may order a hearing to be held if the Commissioner determines that it is in the public interest.

SECTION 28. AMENDATORY 6 O.S. 1991, Section 308, is amended to read as follows:

Section 308. A. Notice. When a hearing is ordered by the Commissioner, ~~he~~ the Commissioner shall notify interested persons of the date, time and place at which an opportunity to be heard shall be afforded. Interested persons shall include the applicant, the persons requesting a hearing and other persons who have submitted written comments and objections to the Commissioner.

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

C. Presiding officer. The presiding officer at the hearing shall be the Commissioner or ~~his~~ the designee of the Commissioner. The presiding officer shall have the authority to appoint a panel to assist ~~him~~ the presiding officer.

D. Order of presentation.

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

2. Applicant's presentation. Following the opening statements, the applicant shall present ~~his~~ any data and materials, oral or documentary~~;~~ of the applicant.

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

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

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

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

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

H. Transcript. A transcript of each hearing shall be made. The Commissioner's office shall arrange for a court reporter to be present to record the proceedings. All expenses of the reporter, including the furnishing of two copies of the transcript to the Commissioner, shall be borne by the person or persons requesting the opportunity to be heard. In the event the Commissioner orders a hearing when no request is submitted, expenses shall be borne by the applicant.

I. The record. The record of these proceedings shall include the ~~public~~ charter application file described in Section ~~10~~ 309 of this ~~act~~ title, all documentary evidence presented at the hearing~~,~~ and the transcript ~~and the investigation report~~.

SECTION 29. AMENDATORY 6 O.S. 1991, Section 309, is amended to read as follows:

Section 309. A. Contents. The ~~public~~ charter application file shall consist of the application with supporting data and supplementary information, with the exception of material deemed by the Commissioner to be confidential. In addition, the ~~public~~ charter application file shall contain all data and information submitted by interested persons in ~~favor of the~~ opposition to such application.

B. Availability ~~to interested persons~~ of charter application file. The ~~public~~ charter application file shall be available for inspection in the office of the Banking Department upon written request from any person ~~deemed to have direct interest therein during such periods of time as the Commissioner shall prescribe~~. No

documents in the ~~public~~ charter application file may be removed from the office of the Banking Department. Photocopies may be made upon request ~~of interested persons~~. The charge for such copies shall be ~~made in accordance with rules promulgated by the Banking Board~~ determined by the Commissioner.

C. ~~Closing. If requested by any participant, the public file shall remain open for fifteen (15) days following receipt of the transcript by the Commissioner during which time the applicant and other participants may submit additional written statements. A copy of any statement so submitted during this period of time shall also be sent simultaneously to the other persons represented at the hearing.~~

~~D.~~ Findings and conclusions. ~~Within thirty (30) days after the public file is closed, the~~ The presiding officer shall issue findings of fact and conclusions of law within thirty (30) days after the hearing or additional time as prescribed by the presiding officer based on the material contained in the record and shall mail a copy of the findings and conclusions to each participant. The presiding officer, at ~~his~~ the discretion of the presiding officer, may give consideration to the following in arriving at ~~his~~ the findings, conclusions and recommendation of the presiding officer:

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

2. The adequacy of the existing banking facilities in the ~~community~~ proposed market;

3. The economic and competitive conditions in the ~~community~~ proposed market;

4. The likelihood of successful operation of the proposed institution; ~~and~~

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

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

~~E.~~ D. Objections; Board hearing. Written objections to the ~~Commissioner's~~ presiding officer's findings and conclusions, or procedural objections, ~~may~~ if any, shall be submitted to the Commissioner by participants within ~~twenty (20)~~ fourteen (14) days after the issuance of the ~~Commissioner's~~ presiding officer's findings and conclusions. ~~At the conclusion of the twenty-day objection period, the~~ The Commissioner shall schedule a date for consideration of ~~the application~~ the presiding officer's findings of fact and conclusions of law and recommendations by the ~~Banking~~ Board and for presentation of oral arguments by participants in support of or in opposition to the written objections previously submitted.

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

SECTION 30. AMENDATORY 6 O.S. 1991, Section 310, is amended to read as follows:

Section 310. A. ~~Banking~~ Board hearing. In its consideration of the ~~application~~ presiding officer's findings of fact and conclusions of law and recommendations, the Board shall review the record of the proceedings. The Board ~~shall~~ may hear oral argument in support of and in opposition to the written objections, if any, and shall adopt, reject or remand ~~for further investigation~~ the findings, conclusions and recommendation of the presiding officer. The Board shall adopt the presiding officer's findings, conclusions and recommendation unless it finds the presiding officer's findings, conclusions and recommendation are not supported by ~~substantial evidence in~~ the record. Remand may be for the sole purpose of the presiding officer taking additional evidence from the participants. Any such remand shall specifically identify the scope and nature of additional evidence sought by the Board. Proceedings on remand

shall be conducted within the time limits set by the Board in the manner as prescribed by the presiding officer.

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

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

C. Approval of an application. Approval of an application shall occur upon the Board adopting the presiding officer's recommendation for approval of the application or upon the Board rejecting the presiding officer's recommendation for disapproval of the application. Disapproval of an application shall occur upon the Board adopting the presiding officer's recommendation for disapproval of the application or upon the Board rejecting the presiding officer's recommendation for approval of the application.

D. Notice. ~~Notice of~~ Within ten (10) days after approval or disapproval of the application by the Board, the Commissioner shall ~~be mailed to the applicant within one hundred seventy (170) days of the Commissioner's acceptance of the application for filing. Other interested persons submitting a written request for notice shall also be notified~~ provide notice to all interested persons.

SECTION 31. AMENDATORY 6 O.S. 1991, Section 311, is amended to read as follows:

Section 311. The decision of the ~~Banking~~ Board may be appealed to the Oklahoma Supreme Court by any party directly affected and showing aggrievement resulting from the Board's decision. An appeal shall be commenced and conducted in accordance with the provisions of Section 207 of this title.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 311.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

In the case of an existing certificate of incorporation for which no certificate of authority is currently outstanding, a holder of such certificate of authority shall follow the procedure and obtain the approvals as set forth in Sections 312 and 313 of Title 6 of the Oklahoma Statutes.

SECTION 33. AMENDATORY 6 O.S. 1991, Section 312, is amended to read as follows:

Section 312. Within ninety (90) days after approval of an application or any additional period allowed by the ~~Board~~ Commissioner:

1. ~~The capital, surplus and undivided profits subscribed must be fully paid in cash. No share shall be issued until the par value and pro rata portion of the paid-in surplus and undivided profits specified in the application have been paid in full in cash;~~

~~2. Articles~~ Certificate of incorporation submitted to the Commissioner with the application for authority to organize shall be ~~subscribed~~ signed under oath by each of the organizers~~, acknowledged~~ and submitted in ~~quintuplicate~~ duplicate to the ~~Bank~~ Commissioner. A copy thereof, duly approved by the Commissioner, shall be filed with the Secretary of State by the applicant. The Secretary of State shall issue a certificate in the form provided by law for other corporations and the existence of such bank or trust company shall date from the issuance of the certificate of the Secretary of State; provided, it shall be a criminal offense against this Code for a state bank or trust company to perform any act other than to perfect its organization, obtain and equip a place of business and otherwise prepare to do business before receiving a certificate of authority to operate issued to it by the Commissioner;

~~3.~~ 2. After the ~~capital, surplus and undivided profits subscribed have been fully paid and a~~ certificate of incorporation is received from the Secretary of State, a meeting of the shareholders shall be ~~called by the organizers on ten (10) days' notice~~ held to elect directors and adopt the bylaws ~~submitted to the Board and direct the call on five (5) days' notice of the first meeting of directors for the election of officers~~. The bylaws adopted may be amended by majority vote of the outstanding voting shares ~~voted at a meeting of the shareholders,~~ and the bylaws may provide for amendment by the board of directors of any provision other than those relating to the duties, term of office, remuneration, reimbursement or indemnification of a director, and no share shall be issued until the bank's capital has been paid in full; and

~~4.~~ 3. After the first meeting of the shareholders and the board of directors, the president, secretary or cashier shall file with the Commissioner a verified application for certificate of authority.

The application shall contain:

a. a statement ~~that the capital, surplus and undivided profits set forth in the application have been paid in~~ as to the manner in which the capital shall be paid in,

b. the name, address and business and professional affiliations of each director and executive officer,

c. evidence of the character, financial responsibility and ability of the managing officer,

d. the name and address of each shareholder and the number of shares held by each,

e. the address at which the bank or trust company will operate,

f. a statement that all of the bylaws adopted were attached as an exhibit to the application for authority to organize,

g. if a bank, a statement that an application for Federal Deposit Insurance or for membership in the Federal Reserve System has been approved, and

h. such other information as the Commissioner may require to enable ~~him~~ the Commissioner to determine whether a certificate of authority should be issued.

SECTION 34. AMENDATORY 6 O.S. 1991, Section 313, as amended by Section 9, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 313), is amended to read as follows:

Section 313. A. If the application for a certificate of authority or any accompanying documents do not comply with the requirements of this Code, the ~~State Banking~~ Commissioner shall, within twenty (20) days after the receipt thereof, return them to the applicant, calling attention to the defect or defects therein. If the application and accompanying documents are not so returned within such twenty-day period they shall be deemed to have been accepted for filing by the Commissioner.

B. The ~~Banking Board~~ Commissioner shall approve or deny the application for a certificate of authority within sixty (60) days after such application has been accepted. The ~~Board~~ Commissioner shall approve the application if:

1. The Board shall have approved the managing officer;

2. The capital~~, surplus and undivided profits~~ in the amounts set forth in the application ~~have~~ has been fully paid ~~in cash~~;

3. Bylaws attached to the application have been adopted;

4. Any conditions imposed by the Board or the Commissioner in approving the application for authority to organize have been fulfilled; and

5. The requirements of this Code have been satisfied; provided, the Commissioner with the consent of the Board may deny the application for a certificate of authority if the bank's application for Federal Deposit Insurance or for membership in the Federal Reserve System has not been approved.

C. If the ~~Board~~ Commissioner approves such application, the Commissioner shall within twenty (20) days of such action issue a certificate of authority and ~~mail~~ shall provide the same to the corporation. If the ~~Board~~ Commissioner denies the application the Commissioner shall, within twenty (20) days of such action, mail a notice of the denial to the corporation, stating therein the reason or reasons for the denial.

D. If the requirements of Section 312 of this title have not been met within the time therein provided, or if the application for certificate of authority has been denied by the ~~Board~~ Commissioner, or if no certificate of authority exists for a period of six (6) months for any bank or trust company, or if the bank or trust company shall fail to commence business within six (6) months after the issuance of the certificate of authority, or any additional period allowed by the ~~Board~~ Commissioner, the ~~Board~~ Commissioner shall cancel the certificate of authority, revoke all banking and trust powers and recommend to the Secretary of State cancellation of the certificate of incorporation. Upon receipt of such recommendation, the Secretary of State shall cancel ~~said~~ the certificate of incorporation and the bank or trust company shall be liquidated in accordance with the order of the ~~Board~~ Commissioner. If an improper expenditure has been made, the ~~Board~~ Commissioner may order the persons who were organizers or directors at the time to restore the same by equal contributions.

~~E. The Board may by rule establish a procedure whereby the Commissioner may grant approval and issue a certificate of authority without a hearing before the Board. The procedure shall include~~

~~criteria set by the Board to be applied by the Commissioner in the consideration of the application.~~

SECTION 35. AMENDATORY 6 O.S. 1991, Section 401, is amended to read as follows:

Section 401. A bank or trust company may be organized to exercise the powers provided in ~~this~~ the Banking Code and such general corporate powers as are appropriate to its purpose.

SECTION 36. AMENDATORY 6 O.S. 1991, Section 402, as amended by Section 5, Chapter 157, O.S.L. 1994 (6 O.S. Supp. 1996, Section 402), is amended to read as follows:

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

~~(1)~~ 1. To continue perpetually as a corporation~~.~~;

~~(2)~~ 2. To make contracts~~.~~;

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

~~(4)~~ 4. To sell any asset in the ordinary course of business;

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

~~(5)~~ 6. To make, alter, amend, and repeal bylaws, not inconsistent with its ~~articles~~ certificate of incorporation or with law, for the administration and regulation of the affairs of the corporation~~.~~;

~~(6)~~ 7. To elect, appoint or remove officers and agents of the corporation and to define their duties and fix their compensation~~.~~;

~~(7)~~ 8. To adopt and operate reasonable bonus, profit-sharing and pension plans for officers and employees~~.~~;

~~(8)~~ 9. To make contributions to or for the use or benefit of the following:

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

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

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

~~(9)~~ 10. A bank now or hereafter organized under the laws of this state, without specific mention in its charter, shall also have the power to act as escrow agent~~.~~;

~~(10)~~ 11. A bank shall have the power to exercise by its directors, duly authorized officers or agents, subject to law, all such ~~incidental~~ powers as shall be necessary to carry on the banking business;

12. A bank shall have the power to exercise by its directors, duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the banking business including, but not limited to, all such powers as may now or hereafter be conferred upon national banks by the laws of the United States and the regulations and policies of the U.S. Comptroller of the Currency, unless otherwise prohibited or limited by the ~~banking laws of this state, or by rule adopted by the Banking Board~~ Commissioner or the Board. ~~Provided, however, the~~ The provisions of this paragraph shall not be construed to permit a bank to exercise by its directors, duly authorized officers or agents any powers to establish and operate branches except to the extent expressly permitted in Sections ~~501~~ 501.1 through 506 of this title~~.~~;

13. A bank may purchase for its own account investment securities under such limitations and restrictions as the Commissioner may prescribe by policy statement pursuant to subsection F of Section 204 of this title;

~~(11)~~ 14. To lease, hold, purchase and convey any and all real estate in the manner provided in this Code and not otherwise~~.~~;

~~(12)~~ 15. To act as fiscal or transfer agent, executor, administrator, guardian of estates, assignee, receiver, depository and trustee, provided such bank or trust company has complied with the laws of this state relating to the organization and regulation of trust companies~~.~~;

16. To issue and sell securities as the Commissioner may prescribe by policy statement pursuant to subsection F of Section 204 of this title;

17. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net-lease basis, subject to rule or order of the Commissioner limiting the amount the bank may invest in such property;

18. To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families, such as by providing housing, services, or jobs. A state bank may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. A state bank shall not make any such investment if the investment would expose the bank to unlimited liability. The aggregate investment of a state bank under this subsection shall not exceed ten percent (10%) of the capital of the bank; and

19. Upon approval by the Commissioner, a bank may underwrite issues of securities or stock through a subsidiary.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 402.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

A banker's bank may be chartered pursuant to Sections 301 through 313 of Title 6 of the Oklahoma Statutes and shall have the powers set forth in Section 402 of Title 6 of the Oklahoma Statutes, subject to the following limitations and restrictions:

1. The stock of the bank shall be owned exclusively by other banks, or if the stock of such bank is owned by a holding company, then the stock of the holding company is owned exclusively by other banks;

2. The bank or the bank holding company owning such bank, including all subsidiaries, shall engage primarily in providing service to or for other depository institutions or their holding companies, and the directors, officers, or employees of such institutions;

3. The bank shall have federal deposit insurance by the Federal Deposit Insurance Corporation; and

4. The bank shall provide correspondent banking services at the request of other depository institutions, their subsidiaries or their holding companies and subsidiaries of such holding companies.

SECTION 38. AMENDATORY 6 O.S. 1991, Section 403, is amended to read as follows:

Section 403. A. ~~Definitions. As used in this section:~~

~~(1) "Federal Reserve Act" means the Act of Congress approved December 23, 1913 (38 Stat. 251), as amended.~~

~~(2) "Federal Reserve Board" means the Board of Governors of the Federal Reserve System created and described in the Federal Reserve Act, as amended.~~

~~(3) "Federal Reserve Bank" means the Federal Reserve Banks created and organized under authority of the Federal Reserve Act.~~

~~(4) "Member bank" means any national bank, state bank or banking and trust company which becomes a member of the Federal Reserve System.~~

~~B.~~ Any bank may become member. Any bank incorporated under the laws of this state may subscribe to the capital stock and become a member of the Federal Reserve System.

~~C.~~ B. Powers of member banks - Revocation or amendment. Any bank incorporated under the laws of this state which becomes a member of the Federal Reserve System is by this Code vested with all powers conferred upon member banks of the Federal Reserve System by the terms of the Federal Reserve Act as fully and completely as if such powers were specifically enumerated and described in this Code. All such powers shall be exercised subject to all restrictions and limitations imposed by the Federal Reserve Act, or by regulations of the Federal Reserve Board made pursuant thereto.

~~D.~~ C. Cash balances - Reserves of member banks. A compliance on the part of any such bank with the reserve requirements of the

Federal Reserve Act is a full compliance with those provisions of the laws of this state which require banks to maintain cash balances in their vaults or with other banks, and no such bank shall be required to carry or maintain reserve other than such as is required under the terms of the Federal Reserve Act.

~~E.~~ D. Examinations - Exchange of reports. Any such bank shall continue to be subject to the supervision and examination required by the laws of this state, except that the Board of Governors of the Federal Reserve System has the right, if it deems necessary, to make examinations. The authorities of this state having supervision over such bank may disclose to the Board of Governors of the Federal Reserve System, or to examiners duly appointed by it, all information in reference to the affairs of any bank which has become or desires to become a member of the Federal Reserve System.

SECTION 39. AMENDATORY 6 O.S. 1991, Section 405, is amended to read as follows:

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

~~(1)~~ 1. After the increase or decrease of capital stock has been authorized at a regular shareholders' meeting or a special shareholders' meeting called for that purpose, the president or secretary of the bank or trust company shall prepare a certificate in the form prescribed by the Commissioner containing a copy of the resolution, as passed by ~~the shareholders at such meeting~~ a majority vote of the outstanding voting stock, authorizing the increase or decrease of capital stock. Such certificate shall be verified by

oath of the president or secretary of the corporation and forthwith transmitted to the Commissioner~~;~~.

~~(2)~~ 2. Upon receipt of such certificate, the Commissioner may, in ~~his~~ the discretion of the Commissioner, authorize the increase or decrease of the capital stock of the corporation. The Commissioner, after such increase or decrease has been authorized and approved, shall thereupon issue ~~his~~ a certificate showing the amount to which the capital stock has been increased or decreased by authority of the resolution, as certified by the Commissioner~~; and~~.

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

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

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 405.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

Any bank or trust company, with the written approval of the Commissioner and by majority vote of the outstanding voting stock, may by proper amendment to its certificate of incorporation authorize an increase in the common stock of the bank in the category of authorized but unissued stock. Such authorized but unissued stock may be issued from time to time to employees of the

bank pursuant to a stock option or stock purchase plan adopted in accordance with the provisions of Section 41 of this act or in exchange for convertible preferred stock or convertible capital debentures in accordance with the terms and provisions of such securities. Authorized but unissued stock may also be issued from time to time for such other purposes and considerations as may be approved by the board of directors of the bank and by the written approval of the Commissioner.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 405.2 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. Scope and application. Any bank or trust company may grant options to purchase, sell or enter into agreements to sell shares of its capital stock to its employees, for a consideration of not less than one hundred percent (100%) of the fair market value of the shares on the date the option is granted, or, if pursuant to a stock purchase plan, one hundred percent (100%) of the fair market value on the date the purchase price is fixed, pursuant to the terms of an employee stock option plan or employee stock purchase plan which has been adopted by the board of directors of the bank and approved by the holders of at least a majority of the outstanding shares of the bank entitled to vote and by the Commissioner. Stock options issued hereunder shall not extend beyond a period of ten (10) years from date of issuance and shall otherwise qualify as stock options under the provisions of the Internal Revenue Code of 1954, as it may be amended from time to time.

B. Source of shares. Shares issued to employees pursuant to this section may be authorized but unissued stock which has been authorized by stockholders in accordance with the procedures outlined in Section 40 of this act.

SECTION 42. AMENDATORY 6 O.S. 1991, Section 406, as last amended by Section 6, Chapter 157, O.S.L. 1994 (6 O.S. Supp. 1996, Section 406), is amended to read as follows:

Section 406. A. ~~CHANGE OF NAME~~ Change of name. A bank or trust company, by majority vote of the outstanding voting stock, may upon written notice to and may after obtaining approval by the Commissioner change its corporate name by appropriate amendment of its certificate of incorporation.

B. ~~CHANGE IN LOCATION~~ Change in location. ~~(1)~~ 1. An application to change a bank or trust company's main office ~~or branch office~~ location must be authorized by majority vote of the outstanding voting stock. The application shall be submitted upon a form provided by the Commissioner, and shall contain a copy of the resolution adopted by the stockholders at the stockholders' meeting authorizing the proposed change in location, and shall be verified by the president or secretary of the corporation. An application fee ~~to cover the expenses of investigation and hearing~~ in an amount provided by ~~Banking~~ Board rule shall accompany the application~~;~~.

~~(2)~~ 2. If the applicant bank's deposits are insured by the Federal Deposit Insurance Corporation, the Commissioner may condition ~~his~~ the approval upon the approval of the Federal Deposit Insurance Corporation~~;~~.

~~(3) Notice of such application shall be mailed to such persons and organizations as the Commissioner may require; and~~

~~(4)~~ 3. The Commissioner may, in ~~his~~ the discretion of the Commissioner, approve the application and authorize amendment of the certificate of incorporation ~~and shall be guided by the standards prescribed for the approval of an application to organize, insofar as they are reasonably applicable~~.

C. ~~CHANGE IN NUMBER AND PAR VALUE OF SHARES~~ Change in number and par value of shares. Upon application of a bank or trust company authorized by a majority vote of the outstanding voting

stock to amend its ~~articles~~ certificate of incorporation by changing the number ~~and~~ or par value of shares ~~without altering the capital structure~~, the Commissioner shall approve the application and authorize amendment unless the change will inequitably affect the interest of any stockholders and the bank or trust company does not have sufficient surplus and undivided profits to pay dissenting stockholders the fair value of their shares and have remaining ~~the required paid-in surplus~~ adequate capital as determined by the Commissioner.

D. ~~BANK'S ABANDONMENT OF TRUST POWERS~~ Bank's abandonment of trust powers. Upon application approved by majority vote of the outstanding voting stock authorizing the abandonment of its trust powers, the Commissioner may, in ~~his~~ the discretion of the Commissioner, approve the application and permit amendment of the applicant's certificate of incorporation deleting trust powers.

E. ~~OTHER AMENDMENTS~~ Other amendments. The Commissioner may, in ~~his~~ the discretion of the Commissioner, permit amendments to the applicant's certificate of incorporation in addition to those specifically set forth in this section and in Section 405 ~~and Section 406~~ of this title, if ~~he~~ the Commissioner finds and determines the public and interested parties would be served by the approval of such amendments.

F. ~~RIGHT OF DISSENT~~ Right of dissent. Shareholders of banking corporations shall have the right of dissent to corporate action, in the same manner as provided by Section 1104 of this title with respect to the adoption of the following type of amendments to the applicant's certificate of incorporation:

~~(1)~~ 1. With respect to holders of a class of stock, a decrease in the par value per share of the outstanding shares of such class of stock, or a reverse stock split that decreases the aggregate par value of a shareholder's total shares of the affected class of stock;

~~(2)~~ 2. A change of the main office location to a different town or city;

~~(3)~~ 3. With respect to preferred shareholders, a conversion of preferred stock into common stock, other than in accordance with conversion features, if any, which were contained in the terms of the preferred stock when it was originally issued; and

~~(4)~~ 4. With respect to preferred shareholders, any other amendment which would modify preferred stock to reduce the dividend rate, to make cumulative dividends noncumulative, to reduce the redemption or liquidation price, to eliminate or adversely affect any conversion rights or to eliminate or diminish any voting rights related thereto.

The provisions of this subsection shall not apply to transactions which are subject to dissenters' rights as provided by Sections 1104 and 1109 of this title. Shareholders of banking corporations shall also be entitled to appraisal rights granted with respect to any type of transaction pursuant to the provisions of the Oklahoma General Corporation Act, except for transactions subject to dissenters' rights as provided by the provisions of this section and Sections 1104 and 1109 of this title.

SECTION 43. AMENDATORY 6 O.S. 1991, Section 407, is amended to read as follows:

Section 407. Any bank heretofore organized not authorized by its certificate of incorporation to exercise trust powers may file an application with the Commissioner requesting such authority.

~~(1)~~ 1. The application must be approved by majority vote of the outstanding voting stock and the resolution so adopted must be duly verified by the president or cashier of the bank.

~~(2)~~ 2. In passing upon the application, the Commissioner will give consideration to the following matters and to any other facts and circumstances ~~he~~ the Commissioner deems proper:

~~(a)~~ a. whether the bank has sufficient capital ~~and surplus~~ to exercise the fiduciary powers applied for, which capital ~~and surplus in no case~~ shall be no less than ~~Nine Hundred Thousand Dollars ($900,000.00);~~ One Million Dollars ($1,000,000.00),

~~(b)~~ b. ~~the needs of the community~~ the proposed market for fiduciary services and the probable volume of such fiduciary business available to the bank~~;~~,

~~(c)~~ c. the general condition of the bank, including the adequacy of its capital ~~and surplus~~ in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the exercise of fiduciary powers~~;~~,

~~(d)~~ d. the general character and ability of the management of the bank~~;~~,

~~(e)~~ e. the nature of the supervision to be given to the fiduciary activities, including the qualifications, experience and character of the proposed officer or officers of the trust department~~;~~, and

~~(f)~~ f. whether the bank has available legal counsel to advise and pass upon fiduciary matters whenever necessary.

~~(3)~~ 3. The qualifying bank may, by appropriate amendment to its ~~articles~~ certificate of incorporation, change its name by adding thereto, "& Trust Company" or "and Trust Company".

~~(4)~~ 4. An application for authority to exercise trust powers shall be accompanied ~~with~~ by a fee ~~of Five Hundred Dollars ($500.00) payable to the Department~~ as set by rule of the Board.

SECTION 44. AMENDATORY 6 O.S. 1991, Section 408, is amended to read as follows:

Section 408. ~~Any~~ Each bank or trust company ~~now existing, whose certificate~~ having articles of incorporation ~~or charter limits its existence to a term of years, may by appropriate action amend its articles~~ on file with the Secretary of State shall amend the articles with a certificate of incorporation ~~providing a perpetual term of incorporation and the Secretary of State shall issue a new certificate of incorporation to such bank or trust company reflecting its term of incorporation is perpetual~~ as identified by Section 1005 of Title 18 of the Oklahoma Statutes using a form as prescribed by the Commissioner no later than November 1, 1997.

SECTION 45. AMENDATORY 6 O.S. 1991, Section 409, is amended to read as follows:

Section 409. A. Withdrawal of capital - Dividends - Bad debts - Banks and trust companies. ~~No~~ Without the prior written approval of the Commissioner, no bank shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital or surplus. If losses have at any time been sustained by any such bank, equal to or exceeding its undivided profits then on hand, no dividend shall be made, and no dividend shall ever be made by any bank, while it continues its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any bank, on which interest is past due and unpaid for a period of six (6) months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section.

No trust company shall declare or pay any dividend to an amount greater than its net undivided profits then on hand, deducting therefrom:

~~(1) all~~ 1. All losses;

~~(2) all~~ 2. All debts, unless the same are well secured, on which interest for a period of one (1) year is past due and unpaid and debts upon which final judgment has been recovered but has been for more than one (1) year unsatisfied and on which interest for a period of one (1) year is unpaid, unless the same are well secured;

~~(3) all~~ 3. All assets or depreciation which the commissioner or a duly appointed examiner may have required to be charged off; and

~~(4) all~~ 4. All expenses, interest and taxes accrued or due from the trust company.

After providing for the deductions set forth, the board of directors of a trust company may, at any regular meeting, declare a dividend out of so much of the net undivided profits of the trust company as they judge expedient. Interest unpaid, although due or accrued, shall not be included in the calculation of net undivided profits.

B. Dividends - When payable - Restrictions.

~~(1)~~ 1. The directors of any bank or trust company may, quarterly, semiannually or annually, declare a dividend of so much of the net profits of the corporation as they shall judge expedient, except that, until the surplus fund of a bank shall equal its common capital, no cash dividends shall be declared unless there has been carried to the surplus fund not less than one-tenth (1/10) part of the bank's net profits of the preceding half year in the case of quarterly or semiannual dividends, or not less than one-tenth (1/10) part of its net profits of the preceding two consecutive half-year periods in the case of annual dividends: Provided that, for the purposes of this section, any amounts paid into a fund for retirement of any preferred stock of any such bank out of its net earnings for such period or periods shall be deemed to be additions to its surplus fund if, upon the retirement of such preferred stock,

the amounts so paid into such retirement fund may then properly be carried to surplus. In any such case the bank shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired.

~~(2)~~ 2. The approval of the Commissioner shall be required if the total of all dividends declared by a bank in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two (2) years, less any required transfers to surplus or a fund for the retirement of any preferred stock.

~~(3)~~ 3. For the purpose of ~~this~~ paragraph ~~(2)~~ 2 of this subsection, the term "net profits" shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all federal and state taxes.

~~C. Assets shall not be carried above costs. No bank or trust company shall, except with the previous written consent of the Commissioner, enter or at any time carry on its books any of its assets at a valuation exceeding the actual cost to the bank or trust company.~~

SECTION 46. AMENDATORY 6 O.S. 1991, Section 410, is amended to read as follows:

Section 410. A. Borrowing - Capital debentures. A bank may borrow money and issue evidence of indebtedness and may issue convertible or nonconvertible capital notes or debentures subject to such terms, conditions or limitations as may be prescribed by the Board by order, rule or regulation. Capital notes or debentures which are by their terms expressly subordinated to the prior payment in full of all deposit liabilities of the bank shall be considered as part of the unimpaired capital funds of the bank for the purpose of the computation of the bank's loan and investment limit.

B. Rediscounting notes to Federal Reserve. Any bank may rediscount with and sell to a Federal Reserve Bank any notes, drafts, bills of exchange, acceptances and other securities, with no restrictions, and as fully and to the same extent as this privilege is given to national bank members under the terms of the Federal Reserve Act, or by regulations of the Federal Reserve Board made pursuant thereto.

~~C. Temporary borrowing powers of trust companies. Any trust company may rediscount or sell any of its assets for temporary purposes, with or without guaranty or endorsement.~~

SECTION 47. AMENDATORY 6 O.S. 1991, Section 411, as last amended by Section 1, Chapter 38, O.S.L. 1993 (6 O.S. Supp. 1996, Section 411), is amended to read as follows:

Section 411. A. A bank may pledge its assets to:

~~(1) enable~~ 1. Enable it to act as agent for the sale of obligations of the United States;

~~(2) secure~~ 2. Secure borrowed funds;

~~(3) secure~~ 3. Secure deposits when the depositor is required to obtain such security by the laws of the United States, by the terms of any interstate compact, by the laws of any state or by order of a court of competent jurisdiction;

~~(4) secure~~ 4. Secure the uninsured portion of deposits made by a governmental agency of the State of Oklahoma, any public trust having the State of Oklahoma as a beneficiary, rural water district or nonprofit rural water corporation, so long as ~~said~~ the pledge is made with the same type of collateral and in the same manner and form as pledges made to secure deposits by the State Treasurer; ~~or~~

~~(5) otherwise~~ 5. Anyone as permitted by national banks; or

6. Otherwise comply with the provisions of this Code.

B. In the event the bank pledges assets pursuant to subsection A of this section, the bank shall maintain in its files

documentation showing the legal authority or basis for such pledging.

C. With respect to the pledge of assets for deposits identified in subsections A and B of this section, any such pledge shall only apply to the portion not insured by the Federal Deposit Insurance Corporation.

SECTION 48. AMENDATORY 6 O.S. 1991, Section 414, as last amended by Section 10, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 414), is amended to read as follows:

Section 414. A. ~~REAL ESTATE AND EQUIPMENT NECESSARY TO BANK'S OPERATION~~ Real estate and equipment necessary to bank's operation.

1. A bank or trust company may purchase and hold real estate, equipment, furniture and fixtures necessary for the convenient transaction of its business, the cost of which shall not exceed its capital~~, surplus and undivided profits~~. This limitation may be exceeded upon written approval of the ~~State Banking~~ Commissioner.

2. A bank or trust company may purchase and hold fixtures, facilities and real estate as may be approved by the Commissioner, including but not limited to storage facilities, facilities for civic or public use or facilities for the benefit of employees of the bank, bank customers or the community. No banking business of any type shall be engaged in or conducted at such facilities.

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

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

5. A state bank may purchase or construct a municipal building, such as a school building, or other similar public facility and, as holder of legal title, lease the same to a municipality or other public authority having resources sufficient to make payment of all

rentals as they become due. The lease agreement shall provide that upon its expiration the lessee will become owner of the building or facility.

B. ~~REAL ESTATE ACQUIRED IN SATISFACTION OF DEBT~~ Real estate acquired in satisfaction of debt.

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

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

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

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

D. ~~REAL ESTATE ACQUIRED UNDER JUDGMENT, DECREE OR MORTGAGE FORECLOSURE~~ Real estate acquired under judgment, decree or mortgage foreclosure. A bank or trust company may acquire and hold real estate such as it shall purchase at sale under judgment, decree or mortgage foreclosure, under securities held by it.

~~D. SALE OF REAL ESTATE ACQUIRED UNDER SUBSECTIONS B AND C~~ E. Sale of real estate acquired under subsections B and D. ~~No~~

1. Without the written approval of the Commissioner, real estate acquired in the cases contemplated in subsections B and ~~C~~ D of this section ~~shall~~ may be held for ~~a~~ an initial holding period of

no longer ~~time~~ than five (5) years ~~without the written approval of the Commissioner~~ from the date of acquisition.

2. Following the expiration of the initial holding period, one additional extension period of up to five (5) years may be granted upon the written approval of the Commissioner ~~for a maximum holding period of ten (10) years~~.

3. A bank or trust company must begin to write down the ~~carrying~~ book value for each property held as other real estate owned a minimum of ten percent (10%) each year during the additional extension period ~~of five (5) years~~. The bank or trust company shall then be required to write off the remaining balance of the other real-estate-owned property at the end of the ~~five-year~~ additional extension period~~, or the tenth year~~.

4. Banks or trust companies shall be required to keep current appraisals on file to substantiate their other real-estate-owned property ~~carrying~~ book values.

5. Banks or trust companies shall also continue efforts to dispose of the real estate at the earliest possible opportunity. ~~Once the bank or trust company is no longer permitted to hold the real estate, the Commissioner may require of the bank or trust company that the real estate be sold at a private or public sale within thirty (30) days of being informed of the Commissioner's requirement.~~

6. At the conclusion of the additional extension period, real estate may be disposed of or carried as prescribed by the Commissioner.

7. For purposes of this section, ownership interests in oil, gas and other subsurface mineral rights other than mere leasehold interests shall be considered real estate; provided, however, notwithstanding the holding limitation of this section or any other provision contained herein, any bank or trust company which on October 15, 1982, held, directly or indirectly, any oil, gas and

other subsurface mineral rights, other than mere leasehold interests, that since December 31, 1979, had not been valued on the books of such bank or trust company for more than a nominal amount, may continue to hold such subsurface rights or interest without limitation.

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

~~F. CONVEYANCE OF REAL ESTATE~~ G. Conveyance of real estate. Every conveyance of real estate and every lease thereof ~~for a term of one (1) year or more,~~ made by a bank or trust company~~,~~ must have the name of such bank or trust company subscribed thereto, either by an attorney-in-fact, president, vice-president, chairman or vice-chairman of the board of directors of such corporation.

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

SECTION 49. AMENDATORY 6 O.S. 1991, Section 415, as amended by Section 11, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 415), is amended to read as follows:

Section 415. A. Drive-in or walk-up service authorized.

1. Any bank chartered pursuant to the laws of this state may maintain and operate outside attached facilities, and, subject to

the approval of the ~~Banking~~ Board 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, one may be on property owned or leased by the bank and located less than one thousand (1,000) feet from the bank's main building and one may be on property owned or leased by the bank located less than three (3) miles from ~~said~~ the main bank building.

2. Any branch may maintain and operate~~, subject to the approval of the Board or the Comptroller of the Currency 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 bank.

3. The Board or the Comptroller of the Currency shall not grant a certificate for a detached facility unless it is more than three hundred thirty (330) feet from any other existing main bank building or branch building or unless the facility is established with the irrevocable consent of such other bank.

4. For the purposes of this section the date of approval of a bank charter or the date of approval of a branch by the appropriate state or federal authority shall be the date of existence of such bank, branch, or facility.

5. 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 bank building or branch building and the nearest exterior wall of the facility.

B. Certificate to maintain additional outside facilities - Notice and hearing - Injunction of prohibited activities.

1. ~~From and after May 26, 1965, no~~ No bank shall be permitted to maintain and operate such additional outside facilities except upon certificate issued by the Board. ~~The issuance of the~~

~~certificates shall rest solely as to the location in the discretion of the Board.~~

2. The application for a certificate to maintain and operate a detached facility shall comply with the regulations of the Board. ~~Within thirty (30) days after receipt of the application, the State Banking Commissioner shall report the results of the investigation of the Commissioner to the Board. Notice of hearing on the application shall be given in compliance with the provisions of Section 306.1 of this title~~ An application fee in an amount prescribed by Board rule shall accompany the application. Within twenty (20) days after the conclusion of the hearing the Board, in its sole discretion, shall approve or deny the application and shall notify the applicant of its decision. ~~An application fee payable to the Department in an amount set by rule of the Board, not to exceed the fee amount set by the Comptroller of the Currency for national banks' additional facilities applications.~~

3. Any banking function may be performed at ~~the facilities~~ a detached facility except that of making loans. Upon the recommendation of the Commissioner, the Attorney General shall bring an appropriate action to enjoin a bank from conducting the making of loans at such facilities.

4. ~~Any bank now validly operating a detached facility under and in accordance with the applicable statutes of this state prior to May 26, 1965, shall be granted a certificate to continue its operation at such facility.~~ Any facility authorized pursuant to the laws of this state prior to October 1, 1983, shall not be rendered unlawful by any provision of this section.

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 421 and 422 of this title.

C. Relocations. It is the policy of the Legislature that detached facilities, whether for main offices or former main offices

converted to a branch by acquisition or otherwise, or main offices of banks state or national, not be permitted to be relocated in such a manner which would result in one or more detached facilities in locations which could not have been lawfully established there to begin with, except as specifically permitted herein. A detached facility may be relocated by relocation of a main office.

1. Detached facilities of a main office or former main office converted to a branch may not remain or be established in locations or numbers which are not within the requirements of subsection A of this section by reason of relocation of the main office or former main office converted to a branch or otherwise.

2. Relocation of a main office or former main office converted to a branch which would result in one or more detached facilities no longer being within the requirements of subsection A of this section, will require with regard to any such detached facility:

a. relocation of any such detached facilities to a location within the requirements of subsection A of this section for the newly relocated main office or former main office converted to a branch,

b. divestiture of any such detached facility, or

c. closing of any such detached facility.

The preceding requirements shall be accomplished before the date the relocated main office or former main office converted to a branch opens for business.

D. ~~The~~ Notwithstanding paragraphs 1 and 2 of subsection B of this section, the Board may by rule establish a procedure whereby the Commissioner may grant approval and issue the certificate to establish and operate or relocate a detached facility without a hearing before the Board. The procedure shall include criteria set by the Board to be applied by the Commissioner in the consideration of the application.

~~E. Violation of Section 415 - Penalty therefor. 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 50. AMENDATORY 6 O.S. 1991, Section 416, is amended to read as follows:

Section 416. A. Definitions. ~~(1)~~

1. The term "bank services" means those services authorized under subsections C and D of this section;

~~(2)~~ 2. The term "bank service corporation" means a corporation organized to perform services, all of the capital stock of which is owned by one or more depository institutions, and at least one of which is subject to examination by the Commissioner;

~~(3)~~ 3. The term "depository institution" means a bank or another financial institution subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board; and

~~(4)~~ 4. The term "invest" includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment.

B. Amount of bank investment in service corporations. ~~(1)~~

1. No limitation or prohibition otherwise imposed by any provision of this Code exclusively relating to banks shall prevent any bank from investing not more than ten percent (10%) of ~~the paid-in and unimpaired~~ its capital ~~and unimpaired surplus~~ in a bank service corporation; and

~~(2)~~ 2. If stock in a bank service corporation has been held by two or more banks, or institutions, and one of such banks, or institutions, ceases to utilize the services of the corporation and

ceases to hold stock in it, and leaves the other as the sole stockholding bank, or institution, the corporation may nevertheless continue to function as such and the other bank or institution may continue to hold stock in it.

C. Services to depository institutions. A bank service corporation may perform the following services for depository institutions and for such other persons as the Board shall permit by regulation: Check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items or any other clerical, computer, information systems, electronic communications, bookkeeping, accounting, statistical or similar functions performed for a depository institution.

D. Services to other persons. A bank service corporation may provide to any person any of the following services and any other services as the Board shall permit ~~by regulation~~:

~~(1)~~ 1. Any service which a bank shareholder is authorized to perform; and

~~(2)~~ 2. Any services which the Federal Reserve Board has determined by regulation to be permissible for a bank holding company under Section 4(c)(8) of the Bank Holding Company Act.

E. Regulation and examination of services - Banks and trust companies. No bank or trust company subject to examination by the Commissioner may cause to be performed, by contract or otherwise, any bank or trust company services for itself, whether on or off its premises, unless assurances satisfactory to the Commissioner are furnished to ~~him~~ the Commissioner by both the bank or trust company and the party performing such services that the performance thereof will be subject to regulation and examination by the Commissioner to the same extent as if such services were being performed by the bank or trust company itself on its own premises.

SECTION 51. AMENDATORY 6 O.S. 1991, Section 421, as amended by Section 5, Chapter 92, O.S.L. 1996 (6 O.S. Supp. 1996, Section 421), is amended to read as follows:

Section 421. A. Military banking facilities authorized. ~~Any~~

1. Notwithstanding the distance limitations in paragraph 1 of subsection A of Section 415 of this title, any bank located in the State of Oklahoma may, subject to the approval of the Board as evidenced by its ~~certificates~~ certificate, 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.

2. Any state bank may maintain and operate a branch on any United States military installation within this state or elsewhere.

B. Certificate to maintain military banking facilities - Notice and hearing - Injunction of prohibited activities.

1. ~~From and after the passage of this Code, no~~ No bank shall be permitted to maintain and operate such military banking facility, except on certificate issued by the Board. ~~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 banking facility shall comply with the regulations of the Board. ~~Within thirty (30) days after receipt of the application, the Commissioner shall report the results of the investigation to the Board. Notice of Hearing on the application shall be given in compliance with applicable law.~~ Within twenty (20) days after the conclusions of the hearing the Board shall, in its sole discretion, approve or deny the application and shall notify the applicant of its decision.

3. No banking 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 bank subject to the prior written approval of the Commissioner. Upon the recommendation of the Commissioner, the Attorney General shall bring an appropriate action to enjoin a bank from conducting banking functions at such facility other than those herein granted.

~~4. Any bank now validly operating a detached military banking facility prior to this Code shall be granted a certificate to continue its operation at such facility, but limited to the functions set out in paragraph 3 of this subsection.~~

~~C. Violation of Section 421 - Penalty therefor. 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 52. AMENDATORY 6 O.S. 1991, Section 422, as amended by Section 8, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, 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 ~~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 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, 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, 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 53. AMENDATORY 6 O.S. 1991, Section 423, is amended to read as follows:

Section 423. Upon written notice to the ~~State Bank~~ Commissioner, any ~~state or national~~ bank may establish one ~~(1)~~ <u>or more</u> operations ~~center~~ <u>centers</u> on property owned or leased by the bank. For purposes of this section, "operations center" means a bank facility separated from the main office of the bank at which only the following bank operations are conducted: <u>computer processing, information systems, electronic communications, loan payment processing,</u> bookkeeping, item processing, currency and coin processing and storage, data processing, and all support functions related thereto.

SECTION 54. AMENDATORY Section 3, Chapter 295, O.S.L. 1992, as amended by Section 1, Chapter 310, O.S.L. 1996 (6 O.S. Supp. 1996, Section 424), is amended to read as follows:

Section 424. Subject to rules promulgated by the Board, a ~~state~~ bank may utilize employees of the bank to originate loans or

originate deposit accounts, or both, at locations other than the main office or a branch office of such bank, provided that the loan decision is made and the loan is funded at the main office or a branch office of the bank and provided that no deposits shall be accepted or received at the deposit origination office. ~~No other business shall be carried on at or from a loan production or deposit origination office.~~

SECTION 55. AMENDATORY 6 O.S. 1991, Section 501.1, as last amended by Section 2, Chapter 310, O.S.L. 1996 (6 O.S. Supp. 1996, Section 501.1), is amended to read as follows:

Section 501.1 A. Authorization to establish branches.

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

a. located within the corporate city limits where the main bank is located, or

b. located within twenty-five (25) miles of the main bank if located in a city or town which has no state or national bank located in ~~said~~ the city or town; provided however, if an application for a bank charter has been filed, the ~~State Banking~~ Board shall give priority to the charter application.

2. Neither the ~~Banking~~ Board nor the Comptroller of the Currency shall grant a certificate for any branch bank unless it is more than three hundred thirty (330) feet from any main bank or branch bank in counties with a population of five hundred thousand (500,000) or more according to the 1980 Federal Decennial Census unless the branch bank is established with the irrevocable consent of such other bank. This distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main bank building or branch bank building and the nearest exterior wall of the branch bank or facility.

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

B. Authorization to accept deposits at institutions of higher education. Any main bank, branch bank or savings association located in a county where an institution of higher education is located may open accounts and accept deposits for not to exceed three (3) days per year on the campus of the institution of higher education at an institution-sponsored event if permission is granted by the institution. A bank or savings association may use a mobile facility for the purpose of opening accounts and accepting deposits as described in this subsection. Except as provided in this subsection, a mobile facility shall not be used for any other purpose.

C. Authorization to branch by acquisition.

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

2. If a bank or savings association acquired pursuant to this subsection had not established any or all of the outside-attached facilities or detached facilities permitted under Section 415 of

this title or Section 381.24b of Title 18 of the Oklahoma Statutes at the time of acquisition, the acquiring bank may establish such facilities after the acquisition.

D. Deposit limitation.

1. It shall be unlawful for any bank or out-of-state bank which has direct or indirect control of more than twelve and twenty-five one-hundredths percent (12.25%) of the total amount of deposits of insured depository institutions located in Oklahoma as determined by the Commissioner on the basis of the most recent reports of such institutions to their supervisory authorities to acquire any other bank or savings association in this state.

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

a. in a good faith fiduciary capacity, except when such shares are held for the benefit of the acquiring bank's shareholders, or

b. by a bank 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 or savings 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 savings 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 bank whose total deposits do not exceed the deposit limitation.

E. Authorized acquisitions. Subject to the limitations in subsection D of this section, a bank or savings association shall not be acquired by a bank and operated as a branch bank until the bank or savings association to be acquired has been in existence and continuous operation for a period of five (5) years. Subject to the limitations in subsection D of this section, after January 1, 1997, a branch bank or savings association branch shall not be acquired by a bank and operated as a branch bank until the branch bank or savings association branch to be acquired has been in existence and continuous operation for a period of five (5) years. The provisions of this subsection shall not prevent a bank from acquiring a bank to be operated as a branch bank whose charter was granted for the purpose of:

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. Acquiring or merging with an existing bank with an interim bank charter in accordance with the laws of this state or of the United States.

F. Certificate to establish and operate a branch bank.

1. No bank shall be permitted to establish or operate a branch bank except upon certificate issued by the Board or Comptroller of the Currency.

2. The application for a certificate to establish or operate a branch bank of a state bank shall comply with the regulations of the Board. Within thirty (30) days after receipt of the application,

the Commissioner shall report the results of the investigation of the Commissioner to the Board. Notice of hearing on the application shall be given as required by any rule by the Board. Within twenty (20) days after the conclusion of the hearing, the Board, in its sole discretion, shall approve or deny the application and shall notify the applicant of its decision. An application fee may be assessed in an amount set by rule of the Board.

G. 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 421 and 422 of this title.

H. Branch relocations. It is the policy of the Legislature of Oklahoma that branches, whether de novo or by acquisition, or main offices of banks state or national, not be permitted to be relocated in such a manner which would result in one or more branches in locations which could not have been lawfully established there to begin with, except as specifically permitted herein. A branch may be relocated:

1. De novo. For a branch which was established as a de novo branch and not a branch by acquisition, on property owned or leased by the bank:

a. within the corporate city limits where the main bank is located, or

b. within twenty-five (25) miles of the main bank if the branch will be located in a city or town which has no state or national bank located in ~~said~~ the city or town. However, if an application for a bank charter has been filed, the ~~State Banking~~ Board or the Office of the Comptroller of the Currency shall give priority to the charter application if filed prior to the filing of the branch application;

2. By acquisition. A branch which resulted from the acquisition of a branch from another bank or savings and loan or of a main office or branch thereof, which was converted to a branch, hereinafter referred to as the "acquired branch". Application may be made to relocate the acquired branch to a location on property owned or leased by the bank:

a. within the corporate city limits where the acquired branch is located, or

b. to a location within twenty-five (25) miles of the acquired branch if the relocation is to be in a city or town in which no state or national bank is located. However, if an application for a bank charter has been filed, the ~~State Banking~~ Board or the Office of the Comptroller of the Currency shall give priority to the charter application if filed prior to the branch application; or

3. By relocation of a main office.

a. De novo branches of a main office may not remain or be established in locations or numbers which are not within the requirements of subsection A of this section by reason of relocation of the main office.

b. Relocation of a main office which would result in one or more de novo branches no longer being within the requirements of subsection A of this section, will require with regard to any such branch:

(1) relocation of any such branch to a location within the requirements of subsection A of this section for the newly relocated main office,

(2) divestiture of any such branch, or

(3) closing of any such branch.

The preceding requirements must be accomplished before the date the relocated main office opens for business.

I. The Board may by rule establish a procedure whereby the Commissioner may grant approval and issue the certificate to establish and operate or relocate a branch without a hearing before the Board. The procedure shall include criteria set by the Board to be applied by the Commissioner in the consideration of the application. An application fee may be charged in an amount provided by rule of the Board.

J. ~~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.~~

~~K.~~ No out-of-state bank shall be permitted to establish a de novo branch in this state.

~~L.~~ K. Beginning May 31, 1997, a bank, branch bank, savings association or savings association branch which has been in existence for five (5) years or more may be acquired by and engage in an interstate merger transaction with any out-of-state bank in accordance with applicable laws and rules of the Department and the state in which the main office of the out-of-state bank is located. If the out-of-state bank does not have a branch bank or savings association branch in this state at the time the interstate merger application is filed with the appropriate regulatory authority, then the out-of-state bank must acquire the bank or the savings association, and may not acquire just a branch thereof. An interstate merger transaction will not be permitted if it will result in a violation of the twelve and twenty-five one-hundredths percent (12.25%) deposit limitation contained in subsection D of this section. If the result of an interstate merger transaction is that the bank or savings association which is acquired is converted to a branch bank of an out-of-state bank, it shall have all the powers and be subject to the same limitations as any other branch bank located in this state. All branch banks of an out-of-state

bank shall be regulated by the Commissioner as if the branch banks comprised an Oklahoma bank and the branch banks shall comply with applicable Oklahoma laws and rules in the conduct of their business in this state to the maximum extent authorized under federal law. No branch bank of an out-of-state bank shall be permitted to establish separate branch banks or limited service facilities, or to engage in any activity not permissible for a bank in this state.

~~M.~~ L. Beginning May 31, 1997, a bank may establish a branch bank in any other state, or may acquire branch banks of an out-of-state bank which are located in any other state in accordance with the laws of the other state. The bank shall be required to follow all procedures and to obtain all approvals necessary to establish or acquire a branch bank under applicable Oklahoma law and any applicable rules as may be established by the Board. The bank shall file with the Department a copy of each application or notice filed with federal or other state regulatory authorities relating to the transaction at the same time the application or notice is filed with the federal or other state regulatory authorities. Upon consummation of the transaction, the bank shall have all of the powers under the applicable laws and regulations of the state in which each branch bank is located, subject to the duties and restrictions thereof. In addition to any regulation by bank and regulatory authorities in the state where a branch bank is located, each branch bank located outside of this state shall be subject to regulation by the Department as if the branch bank were located in this state and shall comply with the law of this state in the conduct of its banking business in such other state.

~~N.~~ M. The provisions of this ~~act~~ section shall not be construed as permitting branches established pursuant to this ~~act~~ section through an interstate merger transaction to be taxed at a rate which is different from or discriminates in any way against a bank, savings association, or branch of either, which is chartered in this

state. The Oklahoma Tax Commission is hereby authorized to adopt policies and procedures consistent with the provisions of this subsection.

N. An operating subsidiary of a bank which engages in the business of owner-occupied home mortgage lending shall not be considered a branch under this section in order to conduct such lending operations at any location.

SECTION 56. AMENDATORY 6 O.S. 1991, Section 502, as last amended by Section 3, Chapter 310, O.S.L. 1996 (6 O.S. Supp. 1996, 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. ~~Multi-bank~~ Multibank holding companies authorized. A company may be a ~~multi-bank~~ multibank 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 C 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~~ multibank holding companies by any out-of-state bank or out-of-state bank holding company shall be prohibited.

C. Limitation. It shall be unlawful for a ~~multi-bank~~ multibank holding company or an out-of-state bank or bank holding company to

acquire direct or indirect ownership or control of any insured depository institution located in this state if the acquisition results in any such holding company or bank having direct or indirect ownership or control of insured depository institutions located in this state, the total deposits of which at the time of the acquisition exceed twelve and twenty-five one-hundredths percent (12.25%) of the total amount of deposits of insured depository institutions located in this state 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 or to acquire direct or indirect control of any insured depository institution in this state after such ~~multi-bank~~ multibank holding company or an out-of-state bank or bank holding company has reached or exceeded the twelve and twenty-five one hundredths percent (12.25%) threshold as provided in this subsection. Acquisitions of other ~~multi-bank~~ multibank holding companies shall not be exempt from this limitation.

D. Board of Directors requirements. The Board of Directors of each bank acquired by a ~~multi-bank~~ multibank 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.

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

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. 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.

F. Limitation on acquisitions. A bank, branch bank, savings association or savings association branch shall not be acquired by a bank holding company or a ~~multi-bank~~ multibank holding company for a period of five (5) years after the bank, branch bank, savings association or savings association branch was granted its charter by the appropriate authorizing agency. However, the provisions of this subsection shall not prevent a bank holding company or a ~~multi-bank~~ multibank holding company from directly or indirectly acquiring a bank whose charter was granted for the purpose of:

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. Acquiring or merging an existing bank with an interim bank charter in accordance with the laws of this state or of the United States.

Nothing is this subsection shall be construed to preclude the acquisition of a bank that has been chartered for less than five (5) years by a newly formed bank holding company which does not own or control, directly or indirectly, another bank.

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

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

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 de novo chartered bank shall be the survivor of any such merger, and

c. the de novo chartered bank shall be the main banking office of the merged banks, and

d. the deposit limitations provided for in subsection C of this section and paragraph 1 of subsection D of Section 501.1 of this title shall be applicable to any such merger, and

e. the de novo chartered bank shall have branching authority under subsections A 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.

H. Interim charters. A bank holding company or a ~~multi-bank~~ multibank 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.

I. Acquisition approval - Reports. A national bank in this state, bank holding company, or ~~multi-bank~~ multibank 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.

J. 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.

K. Reports and examinations.

1. Each bank holding company, ~~multi-bank~~ multibank holding company and out-of-state 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 holding company which is submitted to the Federal Reserve Bank for each fiscal year to the Commissioner.

2. The books and records of each bank holding company of state-chartered banks are subject to inspection and examination by the Commissioner.

~~L. 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 57. AMENDATORY 6 O.S. 1991, Section 502.1, as amended by Section 10, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, 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 provisions of Section 303 of this title governing the number of organizers shall not apply to applications to organize an interim state bank.

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 ~~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 ~~State Banking~~ Commissioner.

C. Acceptance of application to organize.

1. The ~~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. Approval of the application by the ~~Banking~~ Board shall be specifically conditioned on approval of the subsequent merger or consolidation. The 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 Board. If the merger or consolidation application is not filed within six (6) months of 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 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 Board, the interim state bank becomes a body corporate, and may then legally enter into the merger or consolidation agreement.

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 58. AMENDATORY 6 O.S. 1991, Section 506, as amended by Section 9, Chapter 92, O.S.L. 1996 (6 O.S. Supp. 1996, Section 506), is amended to read as follows:

Section 506. A. Authorization for acquisition. An out-of-state bank holding company, upon approval by the Federal Reserve Board, may acquire an unlimited number of banks, bank holding companies and ~~multi-bank~~ <u>multibank</u> holding companies. Any acquisition made pursuant to the provisions of this section may

include assets and liabilities of the bank, bank holding company or ~~multi-bank~~ multibank holding company and all branches and facilities thereof.

B. Prohibited transactions. The provisions of this section shall not be construed to:

1. Permit any bank, bank holding company or ~~multi-bank~~ multibank holding company which becomes a subsidiary of, or is otherwise deemed to be controlled by, an out-of-state bank holding company to convert to a branch or to acquire direct or indirect ownership or control of any additional bank, bank holding company or ~~multi-bank~~ multibank holding company, or to establish additional branches or facilities, except as otherwise provided for by the Oklahoma Banking Code ~~of 1965~~; or

2. Permit any out-of-state bank holding company to acquire any bank, bank holding company or ~~multi-bank~~ multibank holding company, except as otherwise permitted by this section.

C. Bid procedures. The bid procedure for the acquisition of a bank that has been closed due to insolvency or impairment of capital shall be as follows:

The Federal Deposit Insurance Corporation shall set minimum bid requirements for assets and liabilities of the bank subject to acquisition. The Federal Deposit Insurance Corporation's calculations and estimates of the minimum bid requirements shall be determinative. Bids for such assets and liabilities shall be solicited exclusively from banks, bank holding companies, ~~multi-bank~~ multibank holding companies, individuals and groups of individuals. The Federal Deposit Insurance Corporation may solicit such bids as are practicable from prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring assets and liabilities of the bank. If the minimum bid requirements are met by any of such entities, the bank shall be acquired by the bidder whose bid was determined by the Federal

Deposit Insurance Corporation, in its sole discretion, to be the least costly and most acceptable bid from among those submitted. If the minimum bid requirements are not met by any of such entities, the Federal Deposit Insurance Corporation shall extend the solicitation for bids to include out-of-state bank holding companies determined by the Federal Deposit Insurance Corporation to be qualified bidders.

D. Approval of acquisition. No acquisition provided for in this section shall be permitted unless the approval of the Federal Reserve Board required pursuant to subsection A of this section:

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

a. the bank sought to be acquired or all of the bank subsidiaries of the bank holding company or ~~multi-bank~~ multibank holding company sought to be acquired have either been in existence and continuous operation for more than five (5) years or were chartered before May 7, 1986,

b. notice of intent to acquire has been published in a newspaper of general paid circulation in the county or counties where the bank or banks to be acquired are 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 bank, bank holding company or ~~multi-bank~~ multibank holding company to be acquired,

c. the reports required by the Federal Reserve Board in order to assess the out-of-state bank holding company's record of meeting the credit needs of its entire community as required under the provisions of Section 2903 of Title 12 of the United States Code have been placed on file as a matter of public record with the Oklahoma Banking Department, and

d. the bank and, if acquired indirectly, its bank holding company or ~~multi-bank~~ multibank holding company immediately after the acquisition meets the capital adequacy guidelines of the appropriate federal financial supervisory agency; and

2. Includes, for any acquisition of a majority of the voting shares, a finding that the acquisition has been approved by the board of directors and a majority of the voting shares of the bank or of its parent bank holding company or ~~multi-bank~~ multibank holding company.

E. Limitations and restrictions. All limitations and restrictions of the Oklahoma Banking Code ~~of 1965~~ applicable to banks, bank holding companies and ~~multi-bank~~ multibank holding companies shall apply to a bank, bank holding company or ~~multi-bank~~ multibank holding company which becomes a subsidiary of an out-of-state bank holding company and to such out-of-state bank holding company. In addition, any bank which becomes a subsidiary of an out-of-state bank holding company shall maintain current reports showing the bank's record of meeting the credit needs of its entire community as required by the bank's federal financial supervisory agency under Section 2903 of Title 12 of the United States Code on file as a matter of public record with the Oklahoma Banking Department. The provisions of this subsection shall not be construed to prohibit the acquisition by an out-of-state bank holding company of all or substantially all of the shares of a bank organized solely for the purpose of facilitating the acquisition of a bank or all of the bank subsidiaries of a bank holding company or ~~multi-bank~~ multibank holding company which have either been in existence and continuous operation for at least five (5) years, 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 bank holding company which

acquires a bank, bank holding company or ~~multi-bank~~ multibank holding company under this section from additional acquisitions under this section, if such acquisitions would otherwise be permitted.

F. Applicable law. Any out-of-state bank holding company which controls a bank, a bank holding company or ~~multi-bank~~ multibank holding company shall be subject to laws of this state and rules of its agencies relating to the acquisition, ownership, and operation of banks, bank holding companies and ~~multi-bank~~ multibank holding companies.

G. ~~Regulatory supervision. The Banking Board may enter into cooperative agreements with other bank regulatory agencies to facilitate the regulation of banks and bank holding companies doing business in this state. The Bank Commissioner may accept reports of examinations and other records from such other agencies in lieu of conducting its own examinations of banks controlled by out-of-state bank holding companies. The Board may take any action jointly with other regulatory agencies having concurrent jurisdiction over banks and bank holding companies or may take such actions independently in order to carry out its responsibilities.~~

~~H.~~ Divestiture. The ~~Banking~~ Board 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 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.~~

~~J.~~ H. Judicial review. Any final order of the ~~Banking~~ Board shall be appealable pursuant to the provisions of Section 207 of this title.

SECTION 59. AMENDATORY 6 O.S. 1991, Section 601, as last amended by Section 13, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, 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~~ A. 1. The days and hours within which a state bank or national bank, credit union, savings association or trust company may be open for business may be set by its board of directors.

2. Any plan so adopted by any such organization may be changed by it from time to time in its discretion.

B. 1. 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. If the organization chooses to close on a weekday which is not a legal holiday, the bank shall still have responsibility for paying or returning checks by its midnight deadline. For purposes of this section, legal holidays and Saturday and Sunday shall not be considered "business days".

2. In no case shall such bank, credit union, or savings association be closed for more than three (3) consecutive days, except as permitted under Section 603 of this title. Notice of a change in hours or days of operation should be furnished to customers to the extent practicable.

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 602.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

If a bank, credit union, or savings association has one or more detached facilities or branch offices or deposit production offices or loan production offices, those facilities, branches, or loan production offices may be open at times and on days which are different from the hours and days the main office is open, as specified in the organization's plan. Notice of a change in hours or days of operation should be furnished to customers to the extent practicable.

SECTION 61. AMENDATORY 6 O.S. 1991, Section 705, is amended to read as follows:

Section 705. ~~Any owner of any of the shares of the capital stock of any bank or trust company may make disposition of such shares by written assignment endorsed upon~~ Except as otherwise provided for in the Oklahoma General Corporation Act, the transfer of stock and the certificates of stock ~~and by delivery of the same, but no such assignment shall be effectual to transfer title to such shares of stock until the same are transferred upon the stock books of the corporation~~ which represent the stock or uncertificated stock shall be governed by the Uniform Commercial Code - Investment Securities. To the extent that any provision of the Oklahoma General Corporation Act is inconsistent with any provision of the Uniform Commercial Code - Investment Securities, the provisions of the Uniform Commercial Code - Investment Securities shall be controlling.

SECTION 62. AMENDATORY 6 O.S. 1991, Section 706, is amended to read as follows:

Section 706. A. Transfer of shares. The shares of stock of a bank or trust company shall be deemed personal property and shall be transferred on the books of the bank or trust company, in such manner as the bylaws may prescribe but no stock shall be transferred on the books of any bank or trust company where the registered holder thereof is indebted to ~~said~~ the bank or trust company for any matured and unpaid obligations. The shares of stock of a stockholder indebted to ~~said~~ the bank or trust company, as provided herein, may be transferred or any claims of the bank or trust company, as herein defined, may be waived at any time by written consent of the bank or trust company, executed by an officer other than the borrowing stockholder.

B. Lending on stock prohibited. It shall be unlawful for any bank or trust company to loan its funds to any stockholder, on its stock or its holding company stock as collateral security; provided, that any bank or trust company may hold its stock to secure the indebtedness previously in good faith contracted.

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

SECTION 63. AMENDATORY 6 O.S. 1991, Section 707, is amended to read as follows:

Section 707. A. Issuance of preferred stock - Classes - Procedure. Subject to the provisions of subsection C of Section 303.1 of this title relating to newly organized banks, any bank or trust company now or hereafter organized may, with the approval of the Commissioner, and by majority vote of the outstanding voting stock at a meeting held after thirty (30) days' notice, given by restricted delivery, pursuant to action taken by its board of directors, issue, from time to time, preferred stock of one or more

classes, in such amounts and with such par values as shall be approved by the Commissioner, and may amend its ~~articles~~ certificate of incorporation accordingly. A copy of the minutes of such directors' and shareholders' meetings, certified to by the proper officers and under the corporate seal of the bank or trust company and accompanied by the written approval of the Commissioner and amended ~~articles~~ certificate of incorporation, may be immediately filed in the office of the Secretary of State, and when so filed shall be deemed and treated as an amendment to the ~~articles~~ certificate of incorporation of such bank or trust company.

B. Reduction of common stock and issuance of preferred stock - One meeting. Should the shareholders of any bank or trust company, with the approval of the Commissioner, determine to authorize the issuance of preferred stock, reduce its common stock and amend its ~~articles~~ certificate of incorporation to accomplish such issuance and reduction as authorized by this Code, the shareholders may at one meeting, called by one action of its board of directors, by one notice being given, and by one vote, authorize the issuance of such preferred stock and the reduction of its common stock and amend its ~~articles~~ certificate of incorporation.

C. Preferred stock as capital. For the purposes of this Code, the term "capital" or "capital stock" shall include the amount of outstanding preferred stock issued and unimpaired by a bank or trust company.

SECTION 64. AMENDATORY 6 O.S. 1991, Section 708, is amended to read as follows:

Section 708. The ~~articles~~ certificate of incorporation, or as the same may be amended, of any such bank or trust company may provide that upon retirement of any preferred stock of such bank or trust company issued pursuant to the provisions of this Code, the board of directors may, without further action of its stockholders, and without further action of the Commissioner, declare and pay a

common stock dividend by the issuance of shares or fractional shares of common stock equal in aggregate par value to the aggregate par value of the preferred stock so retired.

SECTION 65. AMENDATORY 6 O.S. 1991, Section 709, is amended to read as follows:

Section 709. A. Dividends. Notwithstanding any other provision of law, whether related to restrictions upon payment of dividends upon capital stock or otherwise, the holders of preferred stock shall be entitled to receive cumulative dividends.

B. Dividends on common stock may not be paid until dividends on preferred stock have been paid - Retirement. No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full. If the bank or trust company is placed in voluntary or involuntary liquidation, no dividends shall be paid to the holders of common stock until the holders of preferred stock shall have been paid in full the par value or the retirement price (whichever is greater) of such stock plus all accumulated dividends.

C. Voting rights - Conversion - Retirement. Preferred stock shall have such voting and conversion rights and such control of management, and shall be subject to retirement at such price and in such manner and upon such conditions, as may be provided in the ~~articles~~ certificate of incorporation or any amendment thereto, with the approval of the Board.

SECTION 66. AMENDATORY 6 O.S. 1991, Section 710, is amended to read as follows:

Section 710. A. Stockholders' meetings. ~~(1) The annual meeting of stockholders of banks and trust companies shall be held at three o'clock in the afternoon of the second Tuesday in January of each year, unless another time be designated by a provision of the bylaws, by a resolution of the board of directors pursuant to authority granted by a provision in the bylaws, or by written~~

~~consent of the shareholders entitled to vote at such meeting holding at least a majority of such shares, in any of which events such meeting may be held at such other time during the year as thus designated.~~

1. An annual meeting of shareholders shall be held for the election of directors on a date and at a time designated by or in the manner provided for in the bylaws. Any other proper business may be transacted at the annual meeting.

Additional meetings shall be held as may be provided in the bylaws.

~~(2)~~ 2. Notice shall be mailed at least ten (10) days before a meeting to every person who was a stockholder of record twenty (20) days before the date of the meeting or at such longer period as may be provided in the bylaws. Such notice shall be mailed to the stockholder's address on the records of the bank. No business shall be transacted at a special meeting which is not specified in the notice thereof or necessary or proper in connection with, or incidental to, the business specified.

~~(3)~~ 3. If any meeting of the shareholders be adjourned to another time or place, no notice as to such adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken, unless otherwise provided in the bylaws; provided, however, that in the event such meeting be adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

~~(4)~~ 4. Notice of the time, place and purpose of any meeting of shareholders, whether required by this Code, by the ~~articles~~ certificate of incorporation, or by the bylaws, may be waived in writing by any shareholder or by ~~his~~ the attendance of the shareholder at such meeting. Such waiver may be given before or after the meeting, and shall be filed with the secretary or entered upon the records of the meeting.

~~(5)~~ 5. The holders of a majority of the outstanding voting shares, or their authorized representatives, shall constitute a quorum. In the absence of a quorum, a meeting may be adjourned from time to time without notice to the stockholders.

B. Voting - Cumulative voting - Bank or trust company may not vote own shares - Exceptions. Except on the election of directors, when cumulative voting is provided for in the ~~articles~~ certificate of incorporation or as they may be amended, each share of common stock shall have one vote which may be cast by the owner of record on the record date, or ~~his~~ the proxy of the owner, whether or not the owner of record has the beneficial interest therein. The bank or trust company may not vote shares which it holds in any capacity other than as fiduciary.

C. Proxies. ~~A stockholder authorized to vote may by his proxy executed in writing appoint a representative to cast his vote. The Board may promulgate rules governing proxies and the solicitation thereof~~ Each shareholder entitled to vote at a meeting of shareholders or to express consent or dissent to corporation action in writing without a meeting may authorize another person or persons to act for the shareholder by written proxy, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period.

D. Voting trust - Board approval required. No shares deposited under a voting trust agreement shall be voted by the trustee unless the agreement has been approved by the Board. Approval shall be withheld, or, if previously granted, revoked whenever it appears that the existence of the trust would tend to reduce competition among lending institutions or to affect adversely the character or competence of the management or the bank's policies or operating procedures. In the absence of such approval, the record owner may vote ~~his~~ the owner's share. No shares held by a licensed securities broker, or by any person, firm or corporation acting for such broker

or who is an owner, employee, associate shareholder or partner of a licensed securities broker, shall be directly or indirectly voted unless the bank's bylaws expressly authorized the voting of such broker held shares.

E. Preemptive rights of shareholders. All voting shares of capital stock of any bank or trust company shall vest preemptive rights to subscribe for any additional shares or any obligations convertible into shares to be allotted or used by such bank or trust company unless specifically negated by the ~~articles~~ certificate of incorporation or unless the rights have been specifically waived at the time of authorization of new offering. The preemptive rights of stockholders shall not extend to fractional shares.

F. Examination of stockbook. The stockbook and the minutes of stockholders' meeting shall be available for examination by a stockholder of the corporation at the principal place of business during business hours.

SECTION 67. AMENDATORY 6 O.S. 1991, Section 711, as amended by Section 14, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 711), is amended to read as follows:

Section 711. A. The affairs of a bank or trust company shall be managed by a board of directors which shall exercise its powers and be responsible for the discharge of its duties. The number of directors, which shall not be less than five ~~(5) nor more than twenty-five (25)~~, shall be ~~as~~ fixed by the bylaws and the number so fixed shall be the board regardless of vacancies. ~~A majority of the directors shall be citizens of the United States, shall be residents of this state and shall reside within one hundred (100) miles of the place of business of the bank.~~ Directors need not be stockholders of the bank or trust company unless so required by the bylaws of the bank or trust company. A director who is disqualified shall be removed by the board of directors or by the ~~State Banking~~ Commissioner. No action taken by a director prior to resignation or

removal shall be subject to attack on the ground of the disqualification of such director.

B. ~~Directors shall receive such reasonable compensation as the bylaws may prescribe and shall serve until their successors are elected and qualify~~ Unless otherwise restricted by the certificate of incorporation or bylaws, the board of directors shall have the authority to fix a reasonable compensation for the directors.

C. Directors shall be elected by the stockholders at the first meeting and thereafter at the annual meeting or at a special meeting called for ~~the~~ that purpose. If the ~~articles~~ certificate of incorporation or amendments thereto provide for cumulative voting, the votes of each share may be cast for one person or divided among two or more, as the stockholder may choose. The person or persons (to the number of directors to be elected) having the largest number of votes shall be elected.

D. Each director, when appointed or elected, shall take an oath that the director will, so far as the duty devolves on the director, diligently and honestly administer the affairs of such bank or trust company, and will not knowingly violate or willingly permit to be violated any of the provisions of the Oklahoma Banking Code. The oath shall be taken before a notary public, properly authorized and commissioned by the state in which the director resides, or before any other officer having an official seal and authorized by the state to administer oaths, except that the oath shall not be taken before any such notary public or other officer who is an officer of the director's bank. The oath, subscribed by the director making it, and certified by the notary public or other officer before whom it is taken, shall be immediately transmitted to the Commissioner and shall be filed and preserved in the office of the Department for a period of ten (10) years.

E. Honorary or advisory members of the board of directors may be appointed by a state bank to act in advisory capacities without

the power or responsibility of final decision in matters concerning the business of the bank. Any listing of such honorary or advisory directors must distinguish between them and the bank's board of directors or indicate their advisory status.

F. The terms of office of directors shall be one (1) year. Each director shall hold office until a successor is elected and qualified or until an earlier resignation or removal. Vacancies may be filled by vote of the board of directors until the next meeting of the stockholders.

~~E.~~ G. A director may be removed by the stockholders at a meeting. Where cumulative voting for directors is provided in the ~~articles~~ certificate of incorporation or amendment thereto, no director shall be removed unless the votes cast against a motion for the removal are less than the total number of shares outstanding divided by the number of authorized directors, but all of the directors shall be removed if a majority of the outstanding shares approves a motion for the removal of all.

~~F.~~ H. The officers designated by the bylaws shall be elected by the board of directors. The president and managing officer shall be members of the board of directors. The president may also serve as managing officer. ~~No officer shall be elected or a contract executed for the employment of the officer for a period longer than one (1) year~~ The board of directors of a state bank may enter into employment contracts with its officers and employees upon reasonable terms and conditions. An officer may be removed by the board of directors at any time but removal shall not prejudice any rights that the officer may have to damages for breach of contract of employment.

SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 711.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

As a legitimate part of a program for the development and efficient utilization of bank personnel, a state bank may, subject to board approval, purchase the residence of an employee who has been transferred or required by his or her employment with the bank to move to another area. The bank should arrange for early divestment of title to such property.

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 712.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. The bylaws of a bank or trust company, as adopted or amended by the stockholders, may provide that it shall indemnify every officer, director, and employee, heirs, executors and administrators of the officer, director or employee, against judgments resulting from and the expenses reasonably incurred by the officer, director or employee in connection with any action to which the officer, director or employee may be made a party by reason of such person being an officer, director or employee of the bank or trust company, including any action based upon any alleged act or omission on the part of such person as an officer, director or employee of the bank or trust company, except in relation to matters as to which such person shall be finally adjudged in such action to be liable for the negligence or misconduct. In the event of a settlement out of court, indemnification shall be provided only in connection with such matters covered by the settlement as to which the bank or trust company is advised by its counsel that the person to be indemnified was not liable for such negligence or misconduct. The foregoing rights of indemnification shall not be exclusive of other rights to which such officers, directors and employees may be entitled.

B. The bylaws or a resolution of a bank or bank holding company, as adopted or amended by the stockholders, may include a provision eliminating or limiting the personal liability of a director to the bank or its holding company, or to the stockholders

of either for monetary damages for breach of fiduciary duty as a director but not for:

1. Any breach of the director's duty of loyalty to the bank or its holding company, or to the stockholders of either;

2. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;

3. Payment of any unlawful dividend or for any unlawful stock purchase or redemption; or

4. Any transaction from which the director derived an improper personal benefit.

SECTION 70. AMENDATORY 6 O.S. 1991, Section 714, as last amended by Section 1, Chapter 3, O.S.L. 1996 (6 O.S. Supp. 1996, Section 714), is amended to read as follows:

Section 714. A. Monthly meeting - Special meeting - Minutes. The board of directors of a bank shall meet at least once every month and the board of directors of a trust company shall meet at least once every quarter. The ~~State Banking~~ Commissioner, a director or an executive officer may call a special meeting. A majority of the board of directors shall constitute a quorum. The board shall keep minutes of each meeting, including a record of attendance and a record of all votes of the directors that would be pertinent to the business of the bank, to any officer, or to any stockholder. A copy of the minutes of each meeting of the board of directors shall be furnished to the Commissioner within ~~thirty (30)~~ forty (40) days after the board meeting. This copy shall be signed by the chairman of the board or the secretary to the board.

B. Transactions to be reviewed by bank and trust company board of directors - Minutes to be signed. The board of directors of each bank shall review at least monthly and the board of directors of each trust company shall review at least quarterly written reports prepared by the president or other officer of the corporation setting forth such transactions occurring during the calendar month

or quarter, as appropriate, preceding the meeting as the Commissioner shall require by appropriate regulations.

C. Annual examination - Banks and trust companies. The board of directors of every bank and trust company shall examine, at least once in each calendar year at intervals of not more than fifteen (15) months, all the affairs of the corporation including the character and value of investments and loans, the efficiency of operating procedures and such other matters as the Commissioner prescribes. A report of the examination shall be submitted promptly to the Commissioner and shall embody such information as the Commissioner requires. The board of directors may provide that such examination shall be conducted by a committee of not less than three ~~(3)~~ directors, by certified public accountants, or by independent auditors responsible only to the board of directors. Such examination shall be made when practicable without the assistance of the executive officers of the bank or trust company. Such report of examination shall be reviewed by the directors at the next meeting of the board of directors.

D. Board of directors - Bank having trust powers. A bank authorized to exercise trust powers shall not accept or voluntarily relinquish a fiduciary account without approval or ratification of the board of directors or of a committee of officers or directors designated by the board to perform this function, but the board of directors or the committee may prescribe general rules governing acceptance or relinquishment of fiduciary accounts, and action taken by an officer in accordance with these rules is sufficient approval. Any committee so designated shall keep minutes of its meetings and report at each monthly meeting of the board of directors all action taken since the previous meeting of the board. The board of directors shall designate one or more committees of not less than three qualified officers or directors to supervise the investment of fiduciary funds. No investment shall be made, retained or disposed

of without the approval of a committee to which the bank has delegated investment or review responsibility. The committee, in making investment decisions, shall be subject to the provisions of the Oklahoma Uniform Prudent Investor Act. The committee shall keep minutes of its meetings and shall report at each monthly meeting of the board of directors its conclusions on all questions.

E. Official communications from banking department~~;~~ - Submission to directors. Every official communication directed by the Commissioner or any examiner to any bank or trust company or to any officer thereof, relating to an investigation or examination conducted by the ~~State Banking~~ Department or containing suggestions or recommendations as to the conduct of the business of the bank or trust company, shall be submitted by the officer receiving it to the board of directors at the next meeting of the board and duly noted in the minutes of the meeting of the board in such form and in such manner as may be prescribed and directed by the Commissioner. No officer of any bank or trust company shall fail to comply with this subsection.

SECTION 71. AMENDATORY 6 O.S. 1991, Section 801, is amended to read as follows:

Section 801. A. Member banks of Federal Reserve System. Every state bank that is a member of the Federal Reserve System shall maintain such reserves against deposits as may be required by the Federal Reserve Act ~~(Public, No. 43)~~, as amended, or by the Board of Governors of the Federal Reserve System.

B. Banks not members of Federal Reserve System. Every bank which is not a member of the Federal Reserve System shall maintain such reserves against deposits as may be required by the Depository Institutions Deregulation and Monetary Control Act of 1980 ~~(Public Law 96-221)~~, as amended and as prescribed by the Board of Governors of the Federal Reserve System.

C. Power of Board to change reserve requirement - State nonmember banks. Whenever the Board shall determine that the maintenance of sound banking practices or the prevention of injurious credit expansion or contraction makes such action advisable, the Board may change from time to time the requirements as to reserves against demand or time deposits, or both, of banks which are not members of the Federal Reserve System. Such change shall not be operative or effective until reasonable notice thereof has been given to all state banks which are not members of the Federal Reserve System. Provided, that in no event shall the reserve requirement be less than that required of a national bank.

SECTION 72. AMENDATORY 6 O.S. 1991, Section 802, as amended by Section 17, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 802), is amended to read as follows:

Section 802. A. 1. The total obligations to any bank or trust company of any person, copartnership, association or corporation shall at no time exceed ~~twenty percent (20%)~~ thirty percent (30%) of the capital~~, surplus and undivided profits~~, less intangible assets, of the bank or trust company. For purposes of this section, the calculation of capital~~, surplus and undivided profits~~ shall be made as of the date the bank or trust company enters into a binding commitment using data from the most recent quarterly report of condition of the bank or trust company.

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

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

b. Loans or other extensions of credit to an industrial development authority, or similar public entity created for the purpose of constructing and leasing a plant facility to an occupant, are not an obligation of the authority for the purpose of this section if:

(1) the bank relies on the credit of the occupant in making the loan,

(2) the authority's liability with respect to the loan is limited solely to whatever interest it has in the particular facility,

(3) the authority's interest is assigned to the bank as security for the loan, and

(4) the occupant's lease rentals are assigned and paid directly to the bank.

B. The ~~limitations~~ limitation set forth ~~above~~ in ~~paragraphs~~ paragraph 1 ~~and 2~~ of subsection A of this section shall be subject to the following exceptions:

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

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

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

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

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

~~6. Loans or extensions of credit secured by shipping documents, warehouse receipts or other such documents transferring or securing title covering readily marketable nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples, shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits when the market value of such staples securing such obligation in excess of the twenty percent (20%) limit is not~~

~~at any time less than one hundred fifteen percent (115%) of the face amount of such obligations; and to an additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such thirty percent (30%) of such capital, surplus and undivided profits when the market value of staples securing such additional obligations is not at any time less than one hundred twenty percent (120%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such thirty-five percent (35%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred twenty-five percent (125%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such forty percent (40%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred thirty percent (130%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such forty-five (45%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred thirty-five percent (135%) of the face amount of such additional obligation; and to a further additional increase of limitation of five percent (5%) of such capital, surplus and undivided profits in addition to such fifty percent (50%) of such capital, surplus and undivided profits when the market value of such staples securing such additional obligation is not at any time less than one hundred forty percent (140%) of the face amount of such additional obligation; but this exception shall not apply to~~

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

~~7. Loans or extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation in excess of the twenty percent (20%) limit is not at any time less than one hundred twenty-five percent (125%) of the face amount of the notes covered by such documents shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits;~~

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

~~addition to such twenty percent (20%) of such capital, surplus and undivided profits;~~

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

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

~~11.~~ 2. Obligations shall not be subject under this section to any limitation based upon such capital~~, surplus and undivided profits~~ to the extent that such obligations are secured or covered by guaranties, or by commitments or agreements to take over or to purchase, made by any Federal Reserve Bank or by the United States or any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; ~~provided, that such guaranties, agreements or commitments are unconditional and must be performed by payment of cash or its equivalent within sixty (60) days after demand; provided, further, that nothing in this section shall be~~

~~deemed to authorize the inclusion of such obligations as any part of the reserves which any such banking institution is required to maintain;~~

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

~~13. Obligations fully insured by the Secretary of Agriculture shall be subject under this section to a limitation of ten percent (10%) of such capital, surplus and undivided profits in addition to such twenty percent (20%) of such capital, surplus and undivided profits;~~

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

~~section as to the obligations of each such maker shall be the sole applicable loan limitation. Provided, that such certification shall be in writing and shall be retained as part of the records of such bank;~~

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

~~16.~~ 3. Obligations secured by a segregated deposit account in the lending bank; and

~~17.~~ 4. Obligations as may be approved by the ~~State Banking~~ Commissioner upon written request by the bank.

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

SECTION 73. AMENDATORY 6 O.S. 1991, Section 805, is amended to read as follows:

Section 805. A. ~~Banks~~ Bank prohibited from employing its funds in trade or commerce - Exception.

1. Except as permitted in other sections of this Code, ~~no~~ a state bank shall ~~employ its moneys, directly or indirectly,~~ not invest its funds in trade or commerce~~,~~ by buying ~~or~~, selling, or otherwise dealing in goods, ~~chattels, wares or merchandise,~~ except as necessary to avoid or minimize a loss on a loan or investment

previously made in good faith and shall not invest any of its funds in the stock of any other bank, nor make any loans or discounts on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such securities or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith.

2. Except as permitted in other sections of this Code, a trust company shall not invest any of its funds in the stock of any other trust company.

3. Unless written approval for a longer period is granted by the ~~State Bank~~ Commissioner, stock~~, chattels~~ or other personal property so purchased or acquired shall within one (1) year from the time of its purchase or acquisition be sold or disposed of at public or private sale, and after the expiration of one (1) year any such stock~~, chattels~~ or other personal property shall not be considered as part of the assets of any bank.

B. Sale of personal property acquired under subsection A. A bank may sell any personal property which may come into its possession as collateral security for any debt or obligation due it, in the manner prescribed by the Uniform Commercial Code, Section 1-101 et seq. of Title 12A of the Oklahoma Statutes, and other pertinent statutes.

C. Leasing of personal property - Limitation on term and amount.

1. A bank may become the owner and lessor of personal property upon the specific request of and for the use of a customer. Except upon the written approval of the Commissioner, the term of the lease shall in no event exceed ten (10) years and all such leases shall provide for the payment of regularly scheduled periodic payments, the total of which shall at least equal the cost to the bank of the personal property so leased.

2. The total investment by a bank for benefit of any person, copartnership, association or corporation, combined with all other obligations of such person to the bank, shall at no time exceed thirty percent (30%) of the bank's capital.

D. Acquisition of leased personal property. When a bank has completed a leasing arrangement in conformity with ~~Section 419~~ subsection C of this ~~Code~~ section, the bank may then purchase the personal property to be leased.

SECTION 74. AMENDATORY 6 O.S. 1991, Section 806, as last amended by Section 18, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 806), is amended to read as follows:

Section 806. A. ~~Definitions.~~

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

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

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

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

~~1. Obligations of the United States and obligations fully guaranteed by any instrumentality or agency of the United States; and obligations issued under the authority of the Federal Farm Loan Acts, as amended, and the Farm Credit Act of 1933, as amended;~~

~~2. General obligations of the State of Oklahoma or any political subdivision thereof;~~

~~3. General obligations of any other state;~~

~~4. General obligations of political subdivisions of any other state;~~

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

~~With approval of the State Banking Commissioner, a bank may:~~

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

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

~~(c) purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks, except to the extent the law requires directors qualifying shares, and if such bank or bank~~

~~holding company and all its subsidiaries are engaged in providing service to or for other depository institutions, their holding companies, and the directors, officers or employees of such institutions and companies and in providing correspondent banking services at the request of other depository institutions, their subsidiaries or their holding companies and subsidiaries of the holding companies, but in no event shall the total amount of such stock held by the association exceed at any time, ten percent (10%) of its capital stock and paid-in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than five percent (5%) of any class of voting securities of such bank,~~

~~(d) purchase for its own account shares of stock in small business investment companies in an aggregate amount not exceeding five percent (5%) of the capital and surplus of the bank and receive and retain the benefits of such stock ownership including stock dividends,~~

~~(e) subscribe to, buy and own mortgages, obligations or other securities of the Federal Home Loan Mortgage Corporation which are or have been sold by the corporation pursuant to the Federal Home Loan Mortgage Act,~~

~~(f) subscribe to, buy and own stock of the Federal Agricultural Mortgage Corporation issued pursuant to the Agricultural Credit Act of 1987 (Public Law 100-233) or amendments thereto, in an amount not exceeding either the undivided profits or twenty percent (20%)~~

~~of the capital stock and surplus and undivided profits from such bank, whichever is greater,~~

~~(g) purchase for its own account obligations of the Resolution Funding Corporation,~~

~~(h) establish and capitalize an operating subsidiary, subject to any rules and regulations as may be prescribed by the Banking Board and implemented by the Commissioner. An operating subsidiary of a bank which engages in the business of owner-occupied home mortgage lending shall not be considered a branch under Section 501.1 of this title in order to conduct such lending operations at any location.~~

~~C.~~ A bank may purchase and sell equity and investment securities without recourse, solely on the order and for the account of a customer, and may not underwrite an issue of securities except as otherwise provided by the Banking Code or rules adopted thereunder.

B. Except as otherwise provided by the Banking Code or rules adopted thereunder, a bank may not invest its funds in equity securities except as necessary to avoid or minimize a loss on a loan or investment previously made in good faith.

C. A bank may purchase investment securities for its own account under limitations and restrictions prescribed by rules adopted under the Banking Code. Except as otherwise provided by this section, the total amount of the investment securities of any one obligor or maker, held by the bank for its own account, may not exceed an amount equal to thirty percent (30%) of the bank's capital using data from the most recent quarterly report of condition of the bank or trust company.

D. With the approval of the Commissioner, a bank may establish and capitalize one or more operating subsidiaries, subject to rules promulgated by the Board.

E. Notwithstanding subsection A, B or C of this section, a bank may, with prudent banking judgment, deal in, underwrite, or purchase for its own account:

1. Bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States, or an agency or instrumentality of the United States;

2. An investment security that this state, an agency or political subdivision of this state, the United States, or an agency or instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee;

3. Securities that are offered and sold under 15 U.S.C., Section 77d(5);

4. Mortgage-related securities, as defined by 15 U.S.C., Section 78c(a), except that notwithstanding Section 347 of the Riegle Community Development and Regulatory Improvement Act of 1994, a note or obligation that is secured by a first lien on one or more parcels of real estate on which is located one or more commercial structures shall be subject to the limitations of subsection C of this section;

5. Investment securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Agriculture Mortgage Association, or the Federal Farm Credit Banks Funding Corporation;

6. Purchase and hold for its own account shares of stock of a banker's bank set forth in Section 37 of this act; and

7. Stock of a Federal Home Loan Bank.

F. Mutual Funds.

1. A bank may invest for its own account in equity securities of an investment company registered under the Investment Company Act of 1940 and the Securities Act of 1933 if the portfolio of the

investment company consists wholly of investments in which the bank could invest directly for its own account.

2. If the portfolio of an investment company described by paragraph 1 of this subsection consists wholly of investments in which the bank could invest directly without limitation under subsection E of this section, the bank may invest in the investment company without limitation.

3. If the portfolio of an investment company described by subsection C of this section contains an investment or obligation that is subject to the limits of Section 802 of this title, the bank may invest in the investment company not more than an amount equal to thirty percent (30%) of the bank's capital.

4. A bank that invests in an investment company as provided by this section shall periodically determine that its pro rata share of any security in the portfolio of the investment company is not in excess of applicable investment and lending limits by reason of being combined with the bank's pro rata share of that security held by all other investment companies in which the bank has invested and with the bank's own direct investment and loan holdings.

G. Limitations.

1. In no event shall the total amount of securities of any one obligor or maker held by the bank for its own account exceed at any time ~~twenty percent (20%)~~ thirty percent (30%) of the capital~~, surplus and undivided profits~~ of the bank or trust company. This limitation shall not apply to securities described and set forth in paragraphs 1, 2 and 3 of subsection ~~B~~ E of this section.

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

~~D. Underwriting. Except as to the securities described and set forth in paragraphs 1 and 2 of subsection B of this section, the business of dealing in securities and stocks by a bank shall be~~

~~limited to purchasing and selling such securities and stocks, without recourse, solely upon the order and for the account of customers, and the bank shall not underwrite any issues of securities or stocks except to the extent permitted and subject to the limitations of the Federal Deposit Insurance Corporation.~~

H. Assets shall not be carried above cost. With the exception of securities held by the bank for sale, no bank or trust company shall, except with the previous written consent of the Commissioner, enter or at any time carry on its books any of its assets at a valuation exceeding the actual cost to the bank or trust company.

SECTION 75. AMENDATORY 6 O.S. 1991, Section 807, is amended to read as follows:

Section 807. Subject to its legal loan limits, a bank may sell or purchase obligations which satisfy ~~this~~ the Banking Code for loans and may sell and acquire such loans in full or in part.

SECTION 76. AMENDATORY 6 O.S. 1991, Section 809, as amended by Section 12, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, Section 809), is amended to read as follows:

Section 809. A. Except as provided in Section 411 of this ~~Code~~ title, no bank, banker or bank official shall give preference to any depositor, borrower, 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 or the time in which to file an appeal has elapsed 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~~ 102 of this title, to cease and desist violating any of the provisions of this section.

SECTION 77. AMENDATORY 6 O.S. 1991, Section 901, as amended by Section 1, Chapter 313, O.S.L. 1994 (6 O.S. Supp. 1996, Section 901), is amended to read as follows:

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

B. 1. When a deposit has been made or shall hereafter be made in any bank using the terms "Payable on Death" or "P.O.D.", such deposits shall be payable on the designated person's death to a trust designated in the deposit account agreement as the "P.O.D." beneficiary, or to an individual or individuals named beneficiary if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. Such deposit shall constitute a contract between the depositor and the bank that

upon the death of the named owner of the account the bank will hold the funds for or pay them to the named beneficiary or the estate of the named beneficiary.

2. In order to designate multiple payable-on-death beneficiaries for a deposit account, the account should be styled as follows:

"(Name of Account Owner), payable on death (or P.O.D.) to (Name of Beneficiary), (Name of Beneficiary), and (Name of Beneficiary, in equal shares.)"

3. Adjustments may be made in the styling, depending upon the number of beneficiaries. It is to be understood that each beneficiary is entitled to a proportionate share of the account proceeds upon the owner's death. In the event of the death of a beneficiary prior to the death of the owner, the beneficiary's share shall go to the beneficiary's estate. It is not permissible for an account to designate unequal shares for different payable-on-death beneficiaries.

4. A bank may require the owner of an account to provide an address for any payable-on-death beneficiary. If the P.O.D. account is an interest-bearing account and the funds are not claimed by the payable-on-death beneficiary or beneficiaries within sixty (60) days after the death of the account holder, or after the bank has notice of the account holder's death, whichever is later, the bank has the right to convert the account to a non-interest-bearing account.

5. No change in the designation of a named beneficiary shall be valid unless executed by the owner of the fund and in the form and manner prescribed by the bank; however, this section shall be subject to the provisions of Section 178 of Title 15 of the Oklahoma Statutes.

~~3.~~ 6. The receipt or acquittance of the named beneficiary so paid or the legal representative of such named beneficiary's estate, if deceased, shall be valid and sufficient release and discharge to

the bank for any payment so made, unless, prior to such payment, the bank receives notice in the form and manner required in Section 905 of this title.

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

SECTION 78. AMENDATORY 6 O.S. 1991, Section 902, as amended by Section 13, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, Section 902), is amended to read as follows:

Section 902. A. 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~~ the 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.

B. 1. If a deposit account is opened with a bank by one or more persons expressly as a trustee for one or more other named persons and further notice of the existence and terms of a legal and valid trust is not given in writing to the bank, the bank may accept and administer the account as set forth in subsection A of this section.

2. If a deposit account is opened with a bank by one or more persons expressly as a trustee for one or more other named persons pursuant to or purporting to be pursuant to a written trust agreement, the trustee may provide the bank with a certificate of trust to evidence the trust relationship. The certificate shall be

an affidavit of the trustee and must include the effective date of the trust, the name of the trustee, the name or method for choosing successor trustees, the name and address of each beneficiary, the authority granted to the trustee, the disposition of the account on the death of the trustee or the survivor of two or more trustees, other information required by the bank, and an indemnification of the bank. The bank may accept and administer the account, subject to the provisions of Title 58 of the Oklahoma Statutes, in accordance with the certificate of trust without requiring a copy of the trust agreement. The bank is not liable for administering the account as provided by the certificate of trust, even if the certificate of trust is contrary to the terms of the trust agreement, unless the bank has actual knowledge of the terms of the trust agreement.

3. On the death of the trustee or the survivor of two or more trustees, the bank may pay all or part of the withdrawal value of the account with interest as provided by the certificate of trust. If the trustee did not deliver a certificate of trust, the bank's right to treat the account as owned by a trustee ceases on the death of the trustee. On the death of the trustee or the survivor of two or more trustees, the bank shall, unless the certificate of trust provides otherwise, pay the withdrawal value of the account, with interest, in equal shares to the persons who survived the trustee, are named as beneficiaries in the certificate of trust, and can be located by the bank from its own records. If there is not a certificate of trust, payment of the withdrawal value and interest shall be made as provided by Title 58 of the Oklahoma Statutes. Any payment made under this section for all or part of the withdrawal value and interest discharges any liability of the bank to the extent of the payment. The bank may pay all or part of the withdrawal value and interest in the manner provided by this section, regardless of whether it has knowledge of a competing

claim, unless the bank receives actual knowledge that payment has been restrained by order of a court of competent jurisdiction.

4. This section does not obligate a bank to accept a deposit account from a trustee who does not furnish a copy of the trust agreement named beneficiary.

5. This section does not affect a contractual provision to the contrary that otherwise complies with the laws of this state.

SECTION 79. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 903.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, a bank lawfully doing business in this state may enter into a deposit account with a minor as the sole and absolute owner of the account and may pay checks and withdrawals and otherwise act with respect to the account on the order of the minor. A payment or delivery of rights to a minor who holds a deposit account evidenced by a receipt or acquittance signed by the minor discharges the bank to the extent of the payment made or rights delivered.

B. If the minor is the sole and absolute owner of the deposit account, the disabilities of minority are removed for the limited purposes of enabling:

1. The minor to enter into a depository contract with the bank; and

2. The bank to enforce the contract against the minor, including collection of overdrafts and account fees and submission of account history to account reporting agencies and credit reporting bureaus.

C. A parent or legal guardian of a minor may deny the minor's authority to control, transfer, draft on, or make withdrawals from the minor's deposit account by notifying the bank in writing. On receipt of the notice by the bank, the minor may not control, transfer, draft on, or make withdrawals from the account during

minority except with the joinder of a parent or legal guardian of the minor.

D. If a minor with a deposit account dies, the receipt or acquittance of the minor's parent or legal guardian discharges the liability of the bank to the extent of the receipt of acquittance, except that the aggregate discharges under this subsection may not exceed Three Thousand Dollars ($3,000.00).

E. Subsection A of this section does not authorize a loan to the minor by the bank, whether on pledge of the minor's savings account or otherwise, or bind the minor to repay a loan made except as provided by subsection B of this section or other law or unless the depository institution has obtained the express consent and joinder of a parent or legal guardian of the minor. This subsection does not apply to an inadvertent extension of credit because of an overdraft from insufficient funds, returned checks or deposits, or other shortages in a depository account resulting from normal banking operations.

SECTION 80. AMENDATORY 6 O.S. 1991, Section 904, is amended to read as follows:

Section 904. It shall be lawful for any notary public who is a stockholder, director, officer or employee of a bank to take the acknowledgment of any party to any written instrument executed to or by such bank, or to administer an oath to any other stockholder, director, officer, employee or agent of such bank, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such bank~~; provided, it~~. It shall be unlawful for any notary public to take the acknowledgment of an instrument executed by or to a bank of which ~~he~~ the notary public is a stockholder, director, officer or employee, where such notary is a party to such instrument, either individually or as a representative of such bank, or to protest any negotiable instrument owned or held for collection

by such bank where such notary is individually a party to such instrument. Nothing contained in this section shall be construed to prohibit or limit the charging of a notary fee by the notary public who is a stockholder, director, officer, or employee of a bank.

SECTION 81. AMENDATORY 6 O.S. 1991, Section 906, is amended to read as follows:

Section 906. A. When a deposit has been made in a bank in the name of a sole individual without designation of a payable-on-death beneficiary, upon the death of the sole owner of the account if the amount of the aggregate deposits held in single ownership accounts in the name of the deceased individual is ~~Two Thousand Dollars ($2,000)~~ Five Thousand Dollars ($5,000.00) or less, the bank may transfer the funds to the known heirs of the deceased upon receipt of an affidavit sworn to by the known heirs of the deceased which establishes jurisdiction and relationship and states that the owner of the account left no will. ~~Said~~ The affidavit shall be sworn to and signed by the known heirs of the deceased and the same shall swear that the facts set forth in the affidavit establishing jurisdiction, heirship and intestacy are true and correct.

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

C. Any person who knowingly submits and signs a false affidavit as provided in this section shall be fined not more than Three Thousand Dollars ($3,000.00) or imprisoned for not more than six (6)

months, or both. Restitution of the amount fraudulently attained shall be made to the rightful beneficiary by the guilty person.

SECTION 82. AMENDATORY 6 O.S. 1991, Section 1001, is amended to read as follows:

Section 1001. ~~A.~~ All corporate trust companies now existing or hereafter created shall have the following powers:

~~(1)~~ 1. To receive deposits of trust moneys; to receive upon deposit for safekeeping personal property of every description; to guarantee special deposits; and to own or control safety vaults and rent the boxes therein~~.~~;

~~(2)~~ 2. To accept and execute all such trusts and perform such duties of every description as may be committed to them by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to them by order, judgment or decree of any of the courts of record of this state or of any state or of the United States~~.~~;

~~(3)~~ 3. To take, accept and hold by the order, judgment or decree of any court of this state, or of any state or territory of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all such legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by such order, judgment, decree, gift, grant, assignment, transfer, devise or bequest, and to execute as principal or surety, and to guarantee against loss any principal or surety upon any bond or bonds required by law to be given in any proceeding in law or equity in any of the courts of this state or of any state or of the United States~~.~~;

~~(4)~~ 4. To act as agent or attorney-in-fact for any person or corporation in the management and control of real or personal property and the sale or conveyance of the same, and for the investment of money, and to act for and represent corporations or persons under power and letters of attorney, and as agents for persons and corporations for the purpose of issuing, registering, transferring or countersigning the certificates of stock, bonds or other evidences of debt of any corporation, association, municipality, state or public authority, on such terms as may be agreed upon~~.~~;

~~(5)~~ 5. To accept from and execute trusts for any married persons in respect to their separate property, whether real or personal, and act as agent for them in the management of such property, and generally to have and exercise such powers as are usually had and exercised by trust companies~~.~~;

~~(6)~~ 6. To act as executor under last will or at the instance of any person entitled to any administration or guardianship of any estate, as administrator of the estate of any deceased person, or as guardian or curator of any infant, insane person, idiot or habitual drunkard, or trustee for any convict in the penitentiary under the appointment of any court of record having jurisdiction of the person or estate of such deceased person, infant, insane person, idiot, habitual drunkard or convict~~.~~;

~~(7)~~ 7. To guarantee the fidelity and diligent performance of their duty of persons or corporations holding places of public or private trust, to guarantee or become surety on any bond given by any person or corporation and to reinsure or guarantee any person or corporation against loss or damage by reason of any risk assumed by insuring the fidelity or diligent performance of duty of any such person or corporation, or by guaranteeing or becoming surety on any bond; and to guarantee the principal or interest, or both, of any securities of any kind~~.~~;

~~(8)~~ 8. To loan money upon real estate and collateral security, and execute and issue its notes payable ~~to~~ at a future date, and to pledge its mortgages on real estate and other securities as security therefor, which notes may be issued to an amount not exceeding, in the aggregate, ten times the amount paid up on the capital stock of the company issuing the same, and shall in no case exceed the amount of the first mortgages pledged to secure their payment~~.~~;

~~(9)~~ 9. To buy and sell the bonds and warrants of this state, and all other kinds of government, state or municipal bonds; and to buy and sell all kinds of negotiable and nonnegotiable paper, stocks and other investment securities~~.~~;

~~(10)~~ 10. To act as fiscal agent of the United States, or any state, municipality, body politic or corporation, and in such capacity to receive and disburse money, credits, securities and effects~~.~~;

~~(11)~~ 11. To act as trustee under trusts created by will or by declaration of trust~~.~~;

~~(12)~~ 12. To act as guardian for any number of persons~~.~~;

~~(13)~~ 13. To transfer, register and countersign certificates of stock, bonds, or other evidence of indebtedness, and to act as agent of any corporation, foreign or domestic, for any purpose now or hereafter required by statute or otherwise~~.~~;

~~(14)~~ 14. To act as trustee under any mortgage or bond issued by any municipality, body politic or corporation, and to accept and execute any other municipal or corporate trust not inconsistent with the laws of this state~~.~~;

~~(15)~~ 15. To take, accept and execute any and all such legal trusts, duties and powers in regard to the holding, management and disposition of any estate, real or personal, and the rents and profits thereof, or the sale thereof, as may be granted or confided to it by any court of record, or by any person, corporation, municipal or other authority, and it shall be accountable to all

parties in interest for the faithful discharge of every such trust, duty or power which it may so accept~~.~~;

~~(16)~~ 16. To be appointed and accept the appointment of assignee or trustee under any assignment for the benefit of creditors of any debtor made pursuant to any statute or otherwise~~.~~;

~~(17)~~ 17. To collect coupons on or interest upon all manner of securities when authorized so to do by the parties depositing the same~~.~~;

~~(18)~~ 18. To receive and manage any sinking fund of any corporation upon such terms as may be agreed upon between ~~said~~ the corporations and those dealing with it~~.~~;

~~(19)~~ 19. Generally to execute trusts of every description and escrow agreements and to act and serve in any and all fiduciary capacities not inconsistent with the laws of this state or of the United States~~.~~;

~~(20)~~ 20. To prepare, make and certify abstracts of title to real and personal property and to procure and furnish information in relation thereto, where not otherwise inconsistent with the laws of this state; to guarantee or insure the title to real and personal property to persons interested in such property or in mortgages thereon, against loss, by reason of defective title or other encumbrances of or upon such property, and to make determination of title in connection with the issuance of such guaranties or insurance~~.~~;

~~(21)~~ 21. To discount and negotiate promissory notes, drafts, bills of exchange and other evidence of debt, buy and sell coin and bullion, to accept for payment at a future date drafts drawn upon it by its customers, and to issue letters of credit, authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one (1) year; provided, that no trust company shall incur liabilities under this ~~subdivision~~ paragraph to an amount equal at any time in the aggregate to more than its paid-

up and unimpaired capital stock and surplus fund, except with the approval of the ~~Bank~~ Commissioner under such general regulations as to amount of acceptances as the Commissioner may prescribe~~.~~; and

~~(22)~~ 22. To issue debentures, notes, or other evidences of debt in the manner in which business corporations are authorized to do so and for any legal application of proceeds, but only to the extent of an amount equal to ten times its capital and surplus.

SECTION 83. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

Any trust company may rediscount or sell any of its assets for temporary purposes, with or without guaranty or endorsement.

SECTION 84. AMENDATORY 6 O.S. 1991, Section 1002, is amended to read as follows:

Section 1002. All corporations except: ~~(a)~~ (1) state banks in Oklahoma having trust powers, national banking associations located in this state and having trust powers and trust companies incorporated under the laws of this state and having trust powers; ~~and (b)~~ (2) corporations which are recognized under Section 501(c)(3) of the Internal Revenue Code as being organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes when exercising powers pursuant to the Oklahoma Charitable Fiduciary Act and the Oklahoma General Corporation Act; and (3) national banks having trust powers, and state banks and trust companies having trust powers located in states which reciprocally allow similar Oklahoma institutions to exercise trust and fiduciary powers therein under no greater restrictions than those imposed under this Code on such fiduciary institutions, are prohibited from acting in any of the following fiduciary capacities within this state:

~~(1)~~ 1. As executor or administrator of the estate of any decedent, whether such decedent was a resident of this state or not,

and whether the administration of the estate of such decedent be original or ancillary; provided, that if the executor or administrator of the estate of a nonresident decedent be a corporation duly authorized, qualified and acting as such executor or administrator in the jurisdiction of the domicile of the decedent, it may, as a foreign executor or administrator, perform such duties and exercise such powers and privileges as are required, authorized and permitted by Section 1001 of this title~~.~~;

~~(2)~~ 2. As guardian of any infant, insane person or person physically or mentally incompetent whether domiciled in this state or not~~.~~;

~~(3)~~ 3. As trustee under any inter vivos trust, will or other testamentary instrument, provided that any corporation which is authorized to act as such trustee under the laws of the place where it has its principal place of business may receive bequests to it as trustee of money or intangible personal property~~.~~;

~~(4)~~ 4. As trustee of any real estate in this state or any interest therein under any agreement whereby the beneficial interest in such property is vested in others~~.~~;

~~(5)~~ 5. As receiver or trustee under appointment of any court in this state~~.~~;

~~(6)~~ 6. As assignee, receiver or trustee of any insolvent person or corporation or under any assignment for the benefit of creditors~~.~~; or

~~(7)~~ 7. As fiscal agent, transfer agent or registrar of any municipal or private corporation; provided, however, that nothing herein shall prevent any Oklahoma corporation not a bank or trust company and not having trust powers from being its own fiscal agent, transfer agent or registrar concerning its own affairs, stock or securities~~;~~.

~~and, provided, further, that nothing herein~~ Nothing in this section shall be construed as authorizing or permitting any foreign bank or trust company to maintain an office within this state.

SECTION 85. AMENDATORY 6 O.S. 1991, Section 1008, as amended by Section 15, Chapter 351, O.S.L. 1995 (6 O.S. Supp. 1996, Section 1008), is amended to read as follows:

Section 1008. A. Securities authorized by Oklahoma Trust Act and Oklahoma Uniform Prudent Investor Act. Banks having trust powers and trust companies shall have the power of investing the moneys placed in their charge through various trust accounts in such loans and securities as are authorized by the Oklahoma Trust Act and the Oklahoma Uniform Prudent Investor Act.

B. Investments in notes, bonds, or debentures secured, insured or guaranteed by United States - Acceptance by public officials. It shall be lawful for banks having trust powers and trust companies subject to the laws of this state, under limitations prescribed by rule by the ~~Bank~~ Commissioner, to invest their funds and trust funds in their custody and possession, eligible for investment, in notes or bonds secured by mortgages or in debentures the payment of which is insured or guaranteed by the United States of America or by any of its departments or agencies, and without regard to the limitation on the appraised value of the real estate securing the notes or obligations and without regard to limitation on the aggregate amount of such notes, bonds or obligations that may be owned or held by any such bank or trust company.

C. Any notes, bonds, mortgages or debentures insured or guaranteed pursuant to subsection B of this section shall be eligible for deposit with any public official of this state whenever deposits of assets of such banks or trust companies shall be required under any law of this state.

SECTION 86. AMENDATORY 6 O.S. 1991, Section 1013, is amended to read as follows:

Section 1013. Every bank exercising trust powers and every trust company shall, except as otherwise provided in this section ~~(§1013)~~, keep inviolate all communications and writings made to or by such trustee touching the existence, condition, management and administration of any private trust confided to it. No creditor or stockholder is entitled to disclosure or knowledge of any such communication or writing. However, the president, vice-president, manager, trust officer, secretary or regularly employed attorney of such trust company or bank is entitled to knowledge of any such communication or writing. In any suit or proceeding touching the existence, condition, management or administration of any such trust, the court wherein the same is pending may require disclosure of any communication or writing.

SECTION 87. AMENDATORY 6 O.S. 1991, Section 1021, is amended to read as follows:

Section 1021. A. A trust company may be liquidated, dissolved and reorganized, for the reasons, in the manner and with the procedures as set forth in Article XII of this act, as such article would be applicable to trust companies, as if trust company were included in the ~~said~~ article, with the same force and effect as if named where the word "bank" appears.

~~A.~~ B. Voluntary liquidation and dissolution. A trust company may be voluntarily liquidated, as a state bank may be voluntarily liquidated, as provided in Section 1201 of ~~the Banking Code of 1965, as amended by this act~~ this title.

~~B.~~ C. Involuntary liquidation by Commissioner - Reorganization. Except as otherwise provided in this Code, only the Commissioner may take possession of a trust company and proceed in involuntary liquidation or reorganization, in the same manner, for the same reasons, and with the same procedures as provided in Section 1202 of ~~the Code, as amended by this act~~ this title, in addition to the

other provisions contained in this article ~~X~~ affecting the regulation of trust companies.

~~C.~~ D. Reorganization. The reorganization of a trust company shall follow the standard manner and procedures contained in Section 1203 of this ~~Code~~ title, which applies to banks, where the same is applicable to trust companies.

~~D.~~ E. Liquidation by Commissioner - Procedure. In liquidating a trust company, the form, manner and procedures shall follow, where applicable, the same form, manner and procedure as for banks contained in Section 1204 of this ~~Code, as amended by this act~~ title.

SECTION 88. AMENDATORY 6 O.S. 1991, Section 1024, is amended to read as follows:

Section 1024. A. For purposes of this section:

1. "Control" means the power, directly or indirectly, to direct the management or policies of a trust company or to vote twenty-five percent (25%) or more of any class of voting securities of a trust company;

2. "Person" means an individual, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated association, or any other entity not specifically listed; and

3. "Trust company" shall not include any trust department of banks authorized to engage in the trust company business.

B. No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any trust company through a purchase, assignment, transfer, pledge, or other disposition of voting stock of such trust company unless the ~~State Bank~~ Commissioner has been given sixty (60) days' prior written notice of such proposed acquisition and within that time period the Commissioner has not issued a notice disapproving the proposed acquisition or extending for up to another thirty (30) days

the period during which such disapproval may be issued. The period for disapproval may be further extended if the Commissioner determines that any acquiring party has not furnished all the information required under subsection F of this section or that in the judgment of the Commissioner any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the Commissioner issues written notice of ~~his~~ the intent of the Commissioner not to disapprove the action.

C. Upon receiving any notice under this section, the Commissioner shall forward a copy thereof to interested persons unless the Commissioner determines that ~~he~~ the Commissioner must act immediately upon ~~said~~ the notice in order to prevent the probable failure of the trust company involved in the proposed acquisition.

D. Within ten (10) days after ~~his~~ the decision of the Commissioner to disapprove any proposed acquisition, the Commissioner shall notify the acquiring party in writing of the disapproval.

E. Within ten (10) days of receipt of such notice of disapproval, the acquiring party may request a hearing before the ~~State Banking~~ Board on the proposed acquisition. At the conclusion thereof, the Board shall by order approve or disapprove the proposed acquisition on the basis of the record made at the hearing.

F. Any person whose proposed acquisition is disapproved after agency hearings under this section may obtain review by the Supreme Court by filing a notice of appeal in such court within ten (10) days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the ~~State Banking~~ Board. The Board shall certify and file in the court the record upon which the disapproval was based. The findings of the Board shall be set aside if found to be arbitrary or capricious.

G. Except as otherwise provided by regulation of the ~~State Banking~~ Board, a notice filed pursuant to this section shall contain the following information:

1. The name, address, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including ~~his~~ the material business activities and affiliations of such person during the past five (5) years, and a description of any material pending legal or administrative proceedings in which ~~he~~ such person is a party and any criminal indictment or conviction of such person by a state or federal court;

2. A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five (5) fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety (90) days prior to the date of the filing of the notice;

3. The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

4. The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons;

5. Any plans or proposals which any acquiring party making the acquisition may have to liquidate the trust company, to sell its

assets or merge it with any company or to make any other major change in its business or corporate structure or management;

6. The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on ~~his~~ behalf of the person, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation;

7. Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition; and

8. Any additional relevant information in such form as the Board may require by regulation or by specific request in connection with any particular notice.

H. The Commissioner may disapprove any proposed acquisition upon finding that:

1. The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize in any part of the United States;

2. The effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

3. The financial condition of any acquiring person is such as might jeopardize the financial stability of the trust company or prejudice the interests of any depositors of the trust company;

4. The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the trust company, or in the interest of the public to permit such person to control the trust company; or

5. Any acquiring person neglects, fails, or refuses to furnish the Commissioner all the information required by the Commissioner.

I. Any person who willfully violates any provision of this section, or any regulation or order of the ~~State Bank~~ Commissioner or ~~State Banking~~ Board pursuant thereto, shall forfeit and pay a civil penalty of not more than Ten Thousand Dollars ($10,000.00) per day for each day during which such violation continues. The Board shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The ~~State Bank~~ Commissioner may collect such civil penalty by agreement with the person or by bringing an action in the appropriate district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to trial de novo.

SECTION 89. AMENDATORY 6 O.S. 1991, Section 1103, as last amended by Section 19, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, 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 ~~Banking~~ 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 examiner 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 resulting state bank meets all the requirements of state law as to the formation of a new state bank;

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;

3. The agreement is fair; and

4. The merger is not contrary to the public interest.

If the Board disapproves 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. The Board may by rule establish a procedure whereby the Commissioner may grant approval of the merger or merger agreement without a hearing before the Board. The procedure shall include criteria set by the Board to be applied by the Commissioner in the consideration of the application.

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 title.

SECTION 90. AMENDATORY 6 O.S. 1991, Section 1104, is amended to read as follows:

Section 1104. A. Stockholder approval. To be effective, a merger must be approved by the stockholders of each constituent state bank or savings association 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 charter and bylaws of the resulting state bank, including the amendments set forth in the merger agreement.

B. Notice requirements. The notice of the meeting of stockholders shall state that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against the approval of the plan. Such notice of the meeting of the stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each merging bank or savings association 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 merging bank or savings association at ~~his~~ the address of the stockholder on the books of ~~his~~ the bank or savings association of the stockholder, 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.

C. Rights of dissenters and value of shares. The owner of shares which were voted against the approval of the merger shall be entitled to receive their value in cash, if and when the merger

becomes effective, upon written demand, made to the resulting state bank at any time within thirty (30) days after the effective date of the merger, accompanied by the surrender of the stock certificates. The value of such shares shall be determined as of the date of the shareholders' meeting approving the merger, by three appraisers, one to be selected by the owners of a majority of the dissenting shares involved, one by the board of directors of the resulting state bank, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern or, if no agreed value is achieved by at least two of the appraisers, the median valuation shall govern. If the appraisal is not completed within ninety (90) days after the merger becomes effective, the Commissioner shall cause an appraisal to be made, which shall be final and binding on all parties.

D. Appraisal expense. ~~The~~ If the valuation of the dissenting shares by the appraisal is the same or less than the amount offered the dissenting stockholder, the expenses of appraisal shall be paid by the dissenting stockholder(s) in the proportion of their share to the total dissenting shares. If the valuation of the dissenting shares by the appraisal is greater than the amount offered the dissenting stockholder, the expenses of appraisal shall be paid by the resulting state bank.

E. Valuation and payment of dissenting shares. The resulting state bank may fix an amount which it considers to be not more than the fair market value of the shares of a constituent bank or savings association at the time of the stockholders' meeting approving the merger, which it will pay dissenting shareholders of that constituent bank or savings association entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the resulting state bank.

SECTION 91. AMENDATORY 6 O.S. 1991, Section 1109, as last amended by Section 20, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 1109), is amended to read as follows:

Section 1109. A. 1. Any bank or savings association may sell to any other bank or savings association all, or substantially all, of the selling institution's assets and business; or all, or substantially all, of the assets and business of any department or branch of the selling institution.

2. Any trust company ~~or~~, bank ~~or national banking association~~, or savings association ~~doing a trust business in this state~~ may sell to any other trust company ~~or~~, bank ~~or national banking association~~, or savings association ~~doing a trust business in this state~~ all, or substantially all, of the assets and trust business or such trust company ~~or~~, bank ~~or national banking association~~, or savings association, or all, or substantially all, of the assets and business of any department or branch of the selling trust company ~~or~~, bank ~~or national banking association~~, or savings association.

B. 1. Any bank or savings association may, upon assuming the liabilities relating thereto, purchase all, or substantially all, of the assets and business of another bank or savings association, or all, or substantially all, of the assets and business of any department or branch of another bank or savings association.

2. Any trust company ~~or~~, bank ~~or national banking association~~, or savings association ~~doing a trust business in this state~~ may, subject to the requirements of subsection E of this section, purchase all, or substantially all, of the assets and business of another trust company ~~or~~, bank ~~or national banking association~~, or savings association ~~doing business in this state~~, or all, or substantially all, of the assets and business of any department or branch of another trust company ~~or~~, bank ~~or national banking association~~, or savings association ~~doing a trust business in this state~~. If the purchasing or selling institution is an out-of-state

institution, the agreement of purchase and sale shall be authorized and approved by the board of directors of the institution in accordance with such laws as shall be applicable.

C. The agreement of purchase and sale shall be authorized and approved by the boards of directors of the purchasing and selling banks, trust companies, ~~or national banking associations~~ or savings associations~~, and authorized and approved by the vote of a majority of the stockholders of the purchasing and selling banks, trust companies, national banking associations and savings associations at meetings called for the purpose in like manner as meetings to approve mergers are called pursuant to Section 1104 of this title~~. If the agreement of purchase and sale includes the transfer of a majority of the assets or the transfer of a majority of the deposits of a selling institution, the ~~selling institution's~~ agreement of purchase and sale shall be authorized and approved by the vote of a majority of the outstanding shares of the selling institution at a meeting called for the purpose in like manner as meetings to approve mergers are called pursuant to Section 1104 of this title and the stockholders shall be entitled to dissent in the same manner as provided in Section 1104 of this title. If the agreement of purchase and sale includes the purchase of assets which are greater than fifty percent (50%) of the purchasing institution's assets prior to the purchase, or includes the assumption of deposits which are greater than fifty percent (50%) of the purchasing institution's deposits prior to the purchase, the ~~purchasing institution's~~ agreement of purchase and sale shall be authorized and approved by the vote of a majority of the outstanding shares of the purchasing institution at a meeting called for the purpose in like manner as meetings to approve mergers are called pursuant to Section 1104 of this title and the stockholders shall be entitled to dissent in the same manner as provided in Section 1104 of this title. If the stockholders of an institution are hereby entitled to dissent, they

shall receive notice of their right to dissent along with notice of the stockholders' meeting which is to consider the agreement of purchase and sale, in the same manner as provided in Section 1104 of this title with respect to mergers. Copies of the agreement of purchase and sale shall be filed with and subject to the ~~State Banking~~ approval of the Commissioner, together with a fee for review of the transaction as required by rule of the Board, and shall be accompanied by evidence of such stockholders' approval thereof in like manner as agreements of merger are filed. ~~In any event if the Commissioner determines that the selling or purchasing institution's stockholders should be entitled to dissent, then they may dissent in such manner as provided in Section 1104 of this title.~~

D. After the approval required by subsection C of this section is given by the stockholders, a notice of such purchase and sale shall be published once a week for two (2) successive weeks in a newspaper of general circulation in the county in which the assets of the selling bank, trust company, ~~national banking association,~~ or savings association are located if the entity is an Oklahoma institution, and if not, shall be published as required by the law of the state where the selling institution is located. Proof of such publication shall be filed with the Department. The Commissioner may permit the requirement for publication of notice to be satisfied after the purchase and sale becomes effective if the Commissioner determines that:

1. The selling bank, trust company, ~~national banking association,~~ or savings association is solvent, but either is close to insolvency or is experiencing a run on deposits;

2. The terms of the agreement of purchase and sale are essentially fair to the selling bank, trust company, ~~national banking association,~~ or savings association; and

3. The selling bank, trust company, ~~national banking association,~~ or savings association will remain solvent after the purchase and sale.

E. Any deposit account or certificate of deposit which is unconditionally assumed by the purchasing institution pursuant to an agreement approved by the Commissioner, and which, after a depositor's preexisting accounts at the purchasing institution are added to the accounts assumed from the selling institution, is fully covered by the FDIC insurance limits at the purchasing institution, shall cease to be an obligation of the selling institution after the purchase and sale becomes effective. Notwithstanding any term of the purchase and sale agreement or of the contract of deposit, a deposit account, certificate of deposit or other creditor's account shall be deemed to be only conditionally assumed by the purchasing institution if:

1. The amount of a depositor's preexisting accounts at the purchasing institution, together with that depositor's accounts which are assumed from the selling institution, would exceed the purchasing institution's FDIC insurance limits; or

2. A depositor's or other creditor's claims against a selling institution and the loans of the depositor or other creditor from the selling institution are not simultaneously assumed by the purchasing institution so as to preserve a right of set-off. Any depositor or creditor of the selling institution whose business is conditionally sold has the right, after such sale:

a. upon payment of any indebtedness owing by ~~him~~ the depositor or creditor to the selling institution, to withdraw ~~his~~ the deposit of the depositor or creditor in full from the selling institution on demand, or

b. to exercise ~~his~~ the depositor's or creditor's right of set-off.

3. Notwithstanding the preceding language of paragraphs 1 and 2 of this subsection, after a person deals with the purchasing institution with knowledge of the purchase, such person's deposit or account shall no longer be deemed to be only conditionally assumed.

F. 1. The agreement of sale may provide for the transfer to the purchasing institution~~, trust company, or national banking association~~ of all fiduciary positions held by the selling institution~~, trust company, or national banking association~~. The purchasing institution~~, trust company, or national banking association~~ shall enjoy all such positions and all rights, property, franchises, and interests, including any and all fiduciary positions to and for which the selling institution~~, trust company, or national banking association~~ may have been appointed, nominated, or designated by any will, agreement, conveyance, or otherwise, whether or not such position is in effect at the time of the substitution, in the same manner and to the same extent as all such positions were held and enjoyed by the selling institution~~, trust company, or national banking association~~.

2. The selling and purchasing institutions~~, trust companies, or national banking associations~~ shall jointly file a petition with the district court of the county in which the main office of the selling institution~~, trust company, or national banking association~~ is situated requesting that the purchasing institution~~, trust company, or national banking association~~ be substituted, except as may be expressly excluded in such petition, in every fiduciary position of the selling institution~~, trust company, or national banking association~~. Such petition need not designate the fiduciary positions in which the requested substitution is to be made.

3. Upon the filing of such petition, the court shall enter an order setting the petition for hearing and shall direct that notice of the hearing be given in the manner provided in this subsection <u>or</u>

in the manner required by the law of the state where the selling institution is located if it is an out-of-state institution.

4. A copy of the order provided for in paragraph 3 of this subsection shall be published once a week for two (2) successive weeks in a newspaper of general circulation to be designated by the court and published in the county in which the petition was filed. If there is no newspaper published in such county, publication shall be made in a newspaper of general circulation in the State of Oklahoma designated by the court. Proof of publication shall be made in the same manner as proof of publication of summons is made.

5. The filing of such petition and the making and entering of such order and the giving of notice of such order as required by this subsection gives the court full jurisdiction of the trusts and all parties interested therein. The court having jurisdiction in such matter shall require the Commissioner to mail, by registered mail postage prepaid, a copy of such order to each living trustor of all private trusts in which such institution ~~or trust company~~ is trustee or to the then directly participating beneficiaries of all private trusts in which there is no living trustor. Such notice shall be mailed to the last-known address of each such trustor or participating beneficiary as shown by or as may be ascertained by reasonably diligent efforts from the records of such institution ~~or trust company~~. Proof of mailing shall be in such form as the court shall require.

6. The district court shall enter a single order substituting the purchasing institution~~, trust company, or national banking association~~ in every fiduciary position to and for which the selling institution~~, trust company, or national banking association~~ may have been appointed, nominated, or designated by any will, agreement, conveyance, or otherwise, whether or not such position is in effect at the time of the substitution, except as may be otherwise specified in such order, upon its finding as follows:

a. notice of hearing the petition has been given as required by this subsection,

b. the purchasing institution~~, trust company, or national banking association~~ is duly authorized to exercise trust and fiduciary powers in Oklahoma,

c. the selling and purchasing institutions~~, trust companies, or national banking associations~~ are not directly or indirectly owned or controlled by the same holding company or ~~multi-bank~~ multibank holding company, or, if the selling and purchasing institutions~~, trust companies, or national banking associations~~ are directly or indirectly owned or controlled by the same holding company or ~~multi-bank~~ multibank holding company, then the purchasing institution~~, trust company, or national banking association~~ shall assume all trust liabilities of the selling institution~~, trust company, or national banking association~~, and

d. such sale or transfer was not made in order to avoid any liability incurred by the selling institution~~, trust company, or national banking association~~.

7. Upon entry of such order, the purchasing institution~~, trust company, or national banking association~~ shall, without further act, be substituted in every such fiduciary position, and such substitution may be evidenced by filing a certified copy of the order with the clerk of any district court in this state.

8. Notwithstanding the foregoing provisions of this subsection, the provisions of the instrument creating each fiduciary position subject to the agreement of sale shall control such succession, if such instrument so provides.

G. Except as provided for in subsection E of this section, no right against or obligation of the selling institution~~, trust~~

~~company, or national banking association~~ in respect of the assets or business sold shall be released or impaired by the sale until one (1) year from the last date of publication of the notice pursuant to subsection D or F of this section, but after the expiration of such year no action can be brought against the selling institution~~, trust company, or national banking association~~ on account of any deposit, obligation, trust or asset transferred to or liability assumed by the purchasing institution~~, trust company, or national banking association~~.

H. This section shall be applicable to any bank, trust company, or savings association, regardless of whether its main office or charter is located within this state or elsewhere.

SECTION 92. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1109.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

In any circumstance other than in the ordinary course of business, a bank may sell any asset with the prior approval of the Commissioner. The sale of all, or substantially all, of the assets of a bank or of a department thereof shall be governed by Section 1109 of Title 6 of the Oklahoma Statutes.

SECTION 93. AMENDATORY Section 19, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, Section 1111), is amended to read as follows:

Section 1111. A. Upon approval by the ~~State Banking Board~~ Commissioner, 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~~ this title;

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~~ this title 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~~ this title. 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 94. AMENDATORY 6 O.S. 1991, Section 1201, is amended to read as follows:

Section 1201. A. Voluntary liquidation - Approval of stockholders and Banking Board. With the approval of the Board, a state bank may liquidate and dissolve. The ~~board~~ Board shall grant such approval if it appears that the proposal to liquidate and dissolve has been approved by a majority vote ~~of two-thirds (2/3)~~ of the outstanding voting stock at a meeting called for that purpose, or if all shareholders entitled to vote thereon shall consent in writing, and that after giving effect to any proposed purchase of the assets of the bank and assumption of its liabilities as provided for in Section 1109 of this title the state bank will be solvent and will have sufficient liquid assets to pay off any remaining depositors and creditors immediately.

B. Cessation of business - Notice of liquidation - Safe deposit boxes - Distribution.

~~(1)~~ 1. Upon approval by the Board, the bank shall forthwith cease to do business, shall have only the powers necessary to effect an orderly liquidation and shall proceed to pay its remaining depositors and creditors and to wind up its affairs.

~~(2)~~ 2. Within thirty (30) days of the approval, the state bank 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 bailor of property at the address of such person as shown on the books of the bank; 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 state bank have been purchased or assumed as

provided for in Section 1109 of this title, a notice of purchase and assumption shall be sent by the purchasing and assuming bank in lieu of a notice of liquidation by the liquidating state bank. The notice prepared by the state bank shall also be posted conspicuously on the premises of the bank and shall be given such publication as the Commissioner may require. The purchasing and assuming bank or the liquidating bank, 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 bank 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 bank shall also demand that property held by the bank as bailee or in a safe deposit box not taken over by a purchasing and assuming bank be withdrawn by the person entitled thereto.

~~(3)~~ 3. As soon after approval as may be practicable the state bank 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 this Code.

~~(4)~~ 4. Any safe deposit boxes which have not been taken over by a purchasing and assuming bank, 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 bank as bailee and certified inventories thereof, shall be transferred to the Commissioner, who shall administer them in accordance with the provisions of the Uniform Unclaimed Property Act (1981).

~~(5)~~ 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 bank to be paid in full by the liquidating bank, and all lawful claims of remaining creditors and depositors of the liquidating bank shall promptly be paid. The unearned portion of the rental of a safe deposit box not taken over by a purchasing and assuming bank shall be returned to the lessee.

~~(6)~~ 6. Any assets remaining after the discharge of or adequate provision for all obligations shall be distributed to the stockholders in accordance with their respective interests. No such distribution shall be made before all claims of depositors and creditors have been:

~~(a)~~ a. assumed as provided for in Section 1109 of this title~~;~~,

~~(b)~~ b. provided for by the establishment of a reserve fund in an amount approved by the Commissioner~~;~~,

~~(c)~~ c. paid by the liquidating bank~~;~~, or

~~(d)~~ 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. Unclaimed funds. Any unclaimed distribution to a stockholder or depositor shall be held until ninety (90) days after the final distribution and then transmitted to the Commissioner who shall administer them in accordance with the provisions of the Uniform Unclaimed Property Act (1981).

D. Possession and liquidation by Commissioner. 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~~ the Commissioner may take possession and

complete the liquidation in the manner provided in this Code for involuntary liquidations.

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

SECTION 95. AMENDATORY 6 O.S. 1991, Section 1202, as amended by Section 20, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, 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. That it is insolvent;

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;

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

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

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

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

1. The Commissioner shall take possession by posting upon the premises a notice reciting that ~~he~~ the Commissioner is assuming possession pursuant to this Code and the time, not earlier than the posting of the notice, when ~~his~~ the Commissioner's 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. When the Commissioner has taken possession of a state bank ~~he~~, the Commissioner 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~~ the Commissioner's 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. When the Commissioner is in possession and while ~~his~~ the Commissioner's 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. 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. 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. 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. 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. If in the opinion of the Commissioner an emergency exists which may result in serious losses to the depositors, ~~he~~ the Commissioner 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. If the Commissioner shall determine to liquidate the bank, ~~he~~ the Commissioner shall give such notice of ~~his~~ the Commissioner's 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~~ the duties of the Commissioner, in connection with such liquidation and the accounting for all monies coming into ~~his~~ the hands of the Commissioner. 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. 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~~ the Commissioner is authorized to issue written permission for reopening of ~~said~~ the bank in the same manner as permission to do business is granted after the incorporation thereof, and thereupon ~~said~~ the bank may be reopened to do a general banking business.

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~~ the claim of the depositor or creditor 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. Notwithstanding any other provision of this chapter, the Commissioner, upon taking possession of a state bank, may immediately proceed to liquidate ~~said~~ the 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. the actions of the Commissioner have the approval of the Board, and

b. the immediate liquidation of the bank is necessary to protect the interests of its depositors and is otherwise in the public interest.

In the 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~~ the Commissioner may sell some or all of the assets of the closed bank to the Federal Deposit Insurance Corporation.

6. When the Commissioner has taken possession of a state bank for the purpose of liquidation, neither the ten-day periods provided by paragraphs 1 and 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~~ the bank.

The Commissioner shall make available to the Federal Deposit Insurance Corporation such facilities in or of the ~~said~~ the bank and such books, records and other relevant data of the ~~said~~ the 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~~ the agents and employees of the Commissioner, shall be free from any liability to the ~~said~~ the 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. 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 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

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. 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 96. AMENDATORY 6 O.S. 1991, Section 1205, is amended to read as follows:

Section 1205. A. Liquidation by F.D.I.C. The Federal Deposit Insurance Corporation is hereby authorized and empowered to be and act without bond as liquidating agent of any banking institution closed by the ~~State Banking~~ Commissioner, the deposits in which are to any extent insured by ~~said~~ the Corporation.

B. Commissioner may tender to F.D.I.C. as liquidator. The Commissioner may in the event of such closing upon order of the Board tender to ~~said~~ the Corporation the appointment as liquidator of such banking institution.

C. Appointment of F.D.I.C. as liquidator - Acceptance. Upon being notified in writing of the acceptance of such an appointment, the Commissioner shall forthwith file in the office of the clerk and recorder in the county in which the bank is situated a certificate evidencing the appointment of the Federal Deposit Insurance Corporation. Upon the filing of such certificate the possession of all the assets, business and property of such bank of every kind and nature wheresoever situated shall be deemed transferred from such bank and the Commissioner to the Federal Deposit Insurance Corporation including any securities pledged by the bank to the Commissioner pursuant to Section 1004 of this title. 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 Federal Deposit Insurance Corporation and the Commissioner shall be forever thereafter relieved from any and all responsibility and liability in respect to the liquidation of such bank.

D. Powers of F.D.I.C. as liquidator. If the Corporation accepts ~~said~~ the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to the liquidation of a bank and with respect to its depositors and other creditors and shall proceed in liquidation under this title as if it were the Commissioner and shall act in the Commissioner's stead and be substituted therefor in all actions brought pursuant to Section 1018 of this title.

E. Priority of Claims for F.D.I.C. If the Corporation serves as the liquidating agent of any national bank the principal office of which is located in Oklahoma, it shall be bound by the priority of claims established in subsection K of Section 1204 of this title.

F. Individual liability of directors. Among its other powers, the Federal Deposit Insurance Corporation, in the performance of its powers and duties as such liquidator, 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 banking institution.

SECTION 97. AMENDATORY 6 O.S. 1991, Section 1206, as amended by Section 22, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, 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~~ the Commissioner 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~~ the Commissioner 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~~ the Commissioner may, in ~~his~~ the discretion of the Commissioner, 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~~ the Commissioner 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 98. AMENDATORY Section 21, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 1207), is amended to read as follows:

Section 1207. The ~~State Banking~~ Commissioner shall have authority to transfer or convey title to any mineral interests or mineral leases the ~~State Banking~~ Department or the Commissioner acquired prior to the effective date of this act, from a state-chartered bank or trust company not insured by the Federal Deposit Insurance Corporation for which the Department or Commissioner served as receiver or liquidator. The Commissioner shall only transfer or convey title to the mineral interests or mineral leases to the Department of Central Services by quitclaim deed in accordance with applicable state law.

SECTION 99. AMENDATORY 6 O.S. 1991, Section 1301, is amended to read as follows:

Section 1301. As used in this article:

~~(1)~~ 1. "Depositor" means a person delivering property or documents to a state bank, national banking association, savings and loan association, credit union or trust company for safekeeping~~.~~;

~~(2)~~ 2. "Deputy" means a person designated by the lessee to act as lessee's agent in connection with the safe deposit box;

3. "Lessee" means a person contracting with a lessor for the use of a safe deposit box~~.~~;

~~(3)~~ 4. "Lessor" means any state bank, national banking association, savings and loan association, credit union or trust

company engaged in the business of renting safe deposit facilities~~.~~; and

~~(4)~~ 5. "Safe deposit box" means a safe deposit box, vault, or other safe deposit receptacle maintained by a lessor.

SECTION 100. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

A lessee on a safe deposit box may appoint a deputy, with or without the consent of or notice to any other joint lessees on the box. A deputy shall have the power to enter the box, remove contents therefrom or add contents, and the appointment of the deputy shall not be affected by the subsequent incapacity or incompetency of the lessee, nor the lapse of time. Revocation of the appointment of a deputy must be made in writing to the lessor. The authority of the deputy shall cease upon the appointing lessee's death. However, if the lessor, without knowledge of the death of the lessee, deals with the deputy of the lessee, the transaction binds the lessee's estate and the lessee.

SECTION 101. AMENDATORY 6 O.S. 1991, Section 1303, is amended to read as follows:

Section 1303. A. Where access to a safe deposit box is requested by one or more persons acting as fiduciaries, the lessor may, except as otherwise expressly provided in the lease or the writings pursuant to which such fiduciaries are acting, allow access thereto and removal of the contents of the safe deposit box upon obtaining proper receipt from:

~~(1)~~ 1. Any one or more of the persons acting as executors or administrators;

~~(2)~~ 2. Any one or more of the persons otherwise acting as fiduciaries when authorized in writing signed by all other persons so acting; or

~~(3)~~ 3. Any agent authorized in writing signed by all of the persons acting as fiduciaries.

B. No lessor shall be liable for damages for allowing or refusing access or removal of the contents of the safety deposit box under the provisions of subsection A of this section.

C. For purposes of this article, the term "fiduciaries" shall be deemed to include, in addition to those entities and individuals set forth in Section 102 of this title, a duly appointed and authorized attorney in fact under a power of attorney.

SECTION 102. AMENDATORY 6 O.S. 1991, Section 1306, is amended to read as follows:

Section 1306. A. If the lessee is a corporation and the president, treasurer or secretary certifies that certain designated persons are authorized to enter the box, the lessor may permit such designated persons to enter without liability therefor.

B. If the lessee is a general partnership or a limited partnership and a general partner confirms in writing that certain designated persons are authorized to enter the box, the lessor may permit such designated persons to enter without liability therefor.

C. 1. If the lessee is a limited liability company and is managed by its members, and if a majority of the members confirms in writing that certain designated persons are authorized to enter the box, the lessor may permit such designated persons to enter without liability therefor.

2. If the lessee is a limited liability company and is managed by a manager, and if the manager confirms in writing that certain designated persons are authorized to enter the box, the lessor may permit such designated persons to enter without liability therefor.

SECTION 103. AMENDATORY 6 O.S. 1991, Section 1308, as last amended by Section 1, Chapter 298, O.S.L. 1996 (6 O.S. Supp. 1996, Section 1308), is amended to read as follows:

Section 1308. A. 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 the person, 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~~. In addition, the lessor, if so requested by such person, ~~must~~ shall deliver:

1. Any writing purported to be a will of the decedent to the court having jurisdiction of the decedent's estate according to his or her 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;

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;

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, so long as the bank retains a copy.

~~Except as provided in subsection B of this section, no~~ B. No other contents shall be removed pursuant to this ~~section~~ subsection until an executor or administrator qualifies and makes claim to the contents~~.~~

~~B. Any part of the contents may be removed by a surviving spouse where:~~

~~1. The~~, except where the safe deposit box was held by the decedent and his or her surviving spouse or any other person as joint tenants, in which case any part of the contents thereof may be removed by such surviving spouse or other surviving joint tenant~~; or~~

~~2. The safe deposit box was held by a grantor trust and the surviving spouse is a successor trustee or co-trustee of the grantor trust upon the death of the grantor~~.

C. All contents of a safe deposit box shall be presumed to belong to the lessee(s) of the safe deposit box, and the lessor may rely on that assumption unless and until it receives a court order to the contrary.

D. Notice to the Oklahoma Tax Commissioner shall be provided as required pursuant to Section 812 of Title 68 of the Oklahoma Statutes. However, the lessor shall be under no duty to conduct an inventory of the contents of the safe deposit box. It shall be sufficient for the lessor, upon the death of the lessee, to simply report that the lessee had rented a safe deposit box.

SECTION 104. AMENDATORY 6 O.S. 1991, Section 1310, as amended by Section 24, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1996, 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)~~ sixty (60) days, the lessor may give the lessee thirty (30) days' notice by 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~~ the notice it may open ~~said~~ the box, remove the contents thereof and hold the same for the account of the lessee. The opening of ~~said~~ the 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~~ the 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~~ the contents within

~~two (2) years~~ one (1) year after the same have been removed from the box, the lessor may advertise and sell the same, ~~said~~ the 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 the lessor is situated, ~~said~~ the publication to be not less than ten (10) days prior to the date fixed for ~~said~~ the sale. A copy of the notice shall be mailed to the lessee at ~~his~~ the last-known address of the lessee by 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~~ the 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~~ the sale, for such surplus, then the surplus shall be presumed abandoned and administered in accordance with the Uniform Unclaimed Property Act, Section 651 et seq. of Title 60 of the Oklahoma Statutes. The lessor may, at its option, turn the property over to the Oklahoma Tax Commission prior to the expiration of the five-year abandonment period.

SECTION 105. AMENDATORY 6 O.S. 1991, Section 1311, is amended to read as follows:

Section 1311. Any lessor renting safe deposit boxes may by contract limit its liability and may make ~~reasonable regulations~~ requirements or policies for the conduct of the business. Such ~~regulations~~ requirements or policies shall be reduced to writing and delivered to the lessee. Any limitations as to liability shall be in printing or writing of the same size and type as the other provisions of the contract.

SECTION 106. AMENDATORY 6 O.S. 1991, Section 1312, as amended by Section 22, Chapter 36, O.S.L. 1995 (6 O.S. Supp. 1996, Section 1312), is amended to read as follows:

Section 1312. In any action wherein garnishment summons is served on the lessor or a party to an action seeks to subject a box or contents thereof to ~~process~~ the garnishment or order of court, the lessor, upon being served with such ~~process~~ garnishment or court order, shall seal the box and deny access thereto to all persons except as ordered by the court. A court of record may, in a proceeding wherein the lessee is a party, in aid of execution or for the purpose of enforcing its orders, direct the sheriff or marshal to enter a box, remove the contents therefrom and hold, deliver or sell such contents as permitted by law. Damages suffered by the lessor by reason of forcible entry as provided herein shall be assessed as costs and paid to the lessor by the garnishment creditor. If no court order directing entry into the box is served upon the lessor within thirty (30) days after a garnishment summons is received by the lessor, the box shall be unsealed and the lessor shall no longer be required to deny access to parties entitled thereto.

SECTION 107. AMENDATORY 6 O.S. 1991, Section 1401, is amended to read as follows:

Section 1401. A. It shall be unlawful for any person, firm, association or corporation to receive money upon deposit or transact a banking business except as authorized by the laws of this state or

of the United States, or to use or advertise, in connection with any business other than the banking business, conducted under the banking laws of this state or the savings and loan business conducted under the savings and loan laws of this state, the words: Banc, Bank, Banker, Bankers, Banque, Investment Banker, or any derivative thereof, however spelled, or any other word or term ~~calculated~~ which in the discretion of the Commissioner is determined to deceive the public into belief that such person, firm, association or corporation is engaged in the banking business or savings and loan business. Any person, firm, association or corporation violating any of the provisions of this section, either individually or as an interested party, in any firm, association or corporation, shall be subject to the jurisdiction of the Commissioner, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than Six Hundred Dollars ($600.00), nor more than Two Thousand Dollars ($2,000.00) per violation, or by imprisonment in the county jail not less than thirty (30) days or more than one (1) year, or by both such fine and imprisonment, and it is hereby made the duty of the Attorney General to enforce the provisions of this section.

B. Unlawful use of trust or trust company. It shall be unlawful for any person, firm, association or corporation except state banks having trust powers, national banking associations located in this state and having trust powers and trust companies incorporated under the laws of this state and having trust powers to use or advertise the word "Trust" or "Trust Company" or any derivative thereof, however spelled, in the conduct of their business in a manner which in the discretion of the Commissioner is determined to deceive the public into belief that such person, firm, association or corporation has been authorized to transact business as a regulated financial institution and no firm, association or corporation hereafter organized under any other act shall use the

word "Trust" or "Trust Company" as a part of its name. Nothing in this subsection shall prohibit the continued use of such words by any banking corporation which is using such words as of the effective date of this act. Any person, firm, association or corporation violating any of the provisions of this section, either individually or as an interested party, in any firm, association or corporation, shall be subject to the jurisdiction of the Commissioner.

C. Injunction - Appointment of receiver. In order to further prevent the violation of this section, any court of competent jurisdiction in this state is hereby authorized and empowered to grant an injunction and, if requested by the Commissioner, to appoint a receiver to take charge of the business and assets of any person, firm, association or corporation reasonably believed by the Commissioner to be violating the provisions of this section, and to make all necessary and proper orders to wind up such business and prevent a violation of Section 1401 of this title.

D. Secretary of State - Filing requirements. The Secretary of State is prohibited from accepting any document for filing which includes the words Banc, Bank, Banker, Bankers, Banque, Investment Banker, Trust, Trust Company, or any derivative thereof, however spelled, unless the Commissioner has given written consent thereto.

SECTION 108. AMENDATORY 6 O.S. 1991, Section 1403, is amended to read as follows:

Section 1403. ~~A.~~ It is unlawful for any person to use the words "safe deposit", "safety deposit" or other words deceptively similar thereto, in connection with the rental of storage space, or in the title or name under which business was done, unless ~~he~~ the person is:

~~(1)~~ 1. A person subject to the jurisdiction of the Banking Department of this state;

~~(2)~~ 2. A manufacturer or dealer in safe deposit facilities or equipment; or

~~(3)~~ 3. An association, the membership of which is composed of officers or institutions subject to the jurisdiction of the Banking Department of this or other states.

SECTION 109. AMENDATORY 6 O.S. 1991, Section 1405, is amended to read as follows:

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

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

~~(2)~~ 2. To have any interest, directly or indirectly, in the proceeds of a loan or of a purchase or sale made by the bank, unless such loan~~,~~ is otherwise permissible, and the purchase or sale is expressly authorized by this Code or by rule of the Board and is specifically approved by vote of a majority of the ~~Board~~ board of directors of the bank or trust company. Provided, no interested director or trustee shall take part in such vote.

~~(3) To have any interest, directly or indirectly, in the purchase at less than its face value of any evidence of indebtedness issued by the institution.~~

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

~~(1)~~ 1. Any person who holds a majority of the stock of a bank or has been determined by the Board to hold a controlling interest therein, any other corporation in which such person owns a majority of the stock and any partnership in which ~~he~~ the person has an interest~~.~~;

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

~~(3)~~ 3. Any corporation of which a majority of the directors are officers, directors or employees of the institution or of which officers, directors, trustees or employees constitute a majority of the directors of the institution.

SECTION 110. AMENDATORY 6 O.S. 1991, Section 1408, is amended to read as follows:

Section 1408. It shall be a criminal offense for any person to serve as Commissioner, Deputy Commissioner, Administrative Assistant or Assistant ~~Bank~~ Commissioner, of the ~~State Banking~~ Department who has been convicted of an offense constituting, in the jurisdiction in which the conviction was had, a violation of the banking laws, a felony involving dishonesty or a breach of trust.

SECTION 111. AMENDATORY 6 O.S. 1991, Section 1411, is amended to read as follows:

Section 1411. It shall be unlawful for a bank or trust company to pay a fine or penalty imposed by law upon any other person or any judgment against such person or to reimburse directly or indirectly any person by whom such fine, penalty or judgment has been paid, except in settlement of its own liability or in connection with the acquisition of property against which such judgment is a lien, or as provided in Section ~~420~~ 69 of this act.

SECTION 112. AMENDATORY 6 O.S. 1991, Section 1412, is amended to read as follows:

Section 1412. It shall be a criminal offense for any officer, director, shareholder or employee of any bank or trust company to directly or indirectly embezzle, abstract, or misapply, or cause to be embezzled, abstracted or misapplied, any of the funds or securities or other property of or under the control of the bank or

trust company with intent to deceive, injure, cheat, wrong, or defraud any bank, trust company or person.

SECTION 113. AMENDATORY 6 O.S. 1991, Section 1417, as last amended by Section 11, Chapter 92, O.S.L. 1996 (6 O.S. Supp. 1996, Section 1417), is amended to read as follows:

Section 1417. A. It is unlawful for any bank or out-of-state bank having a confusingly similar name to advertise its name in Oklahoma ~~(~~, including without limitation by means of outdoor signage, newspaper, radio, television, billboards, bulk mailings, and other solicitations to persons who are not customers of the bank~~)~~, unless ~~said~~ the advertising also conspicuously identifies the city or town where that bank has its main office~~; provided, however, this~~. This subsection shall not apply to a bank's advertising through local media.

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

C. It shall be unlawful for any bank which acquires another bank or other financial institution for one or more of its offices or branches, by merger, purchase and assumption or otherwise, to continue to use the former name of the acquired institution or office, or similar name, for more than six (6) months after the date of acquisition, either on outdoor signage or in other advertising, unless such name is the legal name of the resulting bank~~; provided, however, nothing~~. Nothing contained ~~herein~~ in this subsection shall

prohibit an acquiring bank from using a variation of the former name as a branch title if such variation is at all times used only in combination with the name of the acquiring bank ~~(~~, including the town or city where that bank has its main office~~)~~, and the word "branch" on any outdoor signage or in other advertising.

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

E. The Commissioner may issue an order in accordance with Section 204 of this title to any Oklahoma chartered bank or bank registered pursuant to Section 104 of this title, ordering such bank to cease violating the provisions of this section. This remedy shall be in addition to and not exclusive of the remedy provided in subsection F of this section.

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

G. Advertisements which were in conformance with this section prior to April 29, 1991, but are not now in conformance with subsections A and B of this section will not be considered to be in violation of the law ~~for a six-year period beginning April 29, 1991~~. This subsection shall not be interpreted to allow any bank to begin the advertisement of a confusingly similar name which it had not previously used or advertised prior to April 29, 1991, but shall only serve to protect the advertisement of such names as are in lawful use as of April 29, 1991.

SECTION 114. REPEALER 6 O.S. 1991, Sections 103, as amended by Section 2, Chapter 92, O.S.L. 1996, Section 1, Chapter 183, O.S.L. 1993, Section 3, Chapter 270, O.S.L. 1993, 221, 222, as amended by Section 5, Chapter 183, O.S.L. 1993, 403, 413, 417, 418, 419, as amended by Section 7, Chapter 157, O.S.L. 1994, 420, 505, as amended by Section 8, Chapter 92, O.S.L. 1996, 602, Section 16, Chapter 36, O.S.L. 1995, 804, 903, 1401.1, 1402 and 1404 (6 O.S. Supp. 1996, Sections 103, 107, 211A, 222, 419, 505 and 716.1), are hereby repealed.

SECTION 115. This act shall become effective July 1, 1997.

SECTION 116. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 20th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate