

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2676

By: Weaver of the House

and

Fisher of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to banks and trust companies; amending 6 O.S. 1991, Section 101, as amended by Section 1, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 101), which relates to short title; modifying short title; amending 6 O.S. 1991, Section 102, as last amended by Section 2, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 102), which relates to definitions; modifying and deleting definitions; amending 6 O.S. 1991, Section 204, as last amended by Section 8, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 204), which relates to powers of the State Banking Commissioner; authorizing certain fees to be deposited or paid out of certain revolving fund; including trust companies in certain interpretive statements and opinions; amending 6 O.S. 1991, Section 207, as last amended by Section 3, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 207), which relates to judicial review of orders from the Banking Board or the State Banking Commissioner; modifying the setting of certain bond; obligating certain person to request bond amount; prohibiting request from postponing or extending certain time period; permitting prevailing party to make certain application; amending 6 O.S. 1991, Section 208, as last amended by Section 10, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 208), which relates to records of the Oklahoma State Banking Department; permitting Oklahoma State Banking Department to retain and preserve records electronically in lieu of retaining original records or copies; stating that electronically stored documents shall have same force and effect as originals; requiring supervisory agencies to make available certain data; setting forth certain limitations; providing for the sharing of certain information between agencies; requiring information to be confidential and providing for requests for inspection of such information; stating that supervisory agency is not required to share original documents; requiring reimbursement of certain costs; stating that certain act shall not prohibit sharing of information; defining terms; amending 6 O.S. 1991, Section 209, as last amended by Section 4, Chapter 27, O.S.L. 1999 (6 O.S. Supp.

1999, Section 209), which relates to examinations and reports; modifying time period certain examinations and reports to be preserved; amending 6 O.S. 1991, Section 211, as last amended by Section 12, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 211), which relates to fees and assessments; updating statutory references; modifying basis of certain assessment; defining term; changing fee to assessment and clarifying that assessment is in addition to other assessment; amending Section 13, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 211.1), as amended by Section 5 of Enrolled Senate Bill No. 1344 of the 2nd Session of the 47th Oklahoma Legislature, which relates to the Oklahoma State Banking Department Revolving Fund; adding statutory reference for funds to be deposited into revolving fund; amending Section 14, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 211.2), which relates to the Bank Examination Revolving Fund; referencing certain provision allowing for expenditure of funds; permitting revolving fund to include certain amounts received by the Oklahoma State Banking Department; amending 6 O.S. 1991, Section 303, as amended by Section 20, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 303), which relates to incorporators of banks or trust companies; modifying persons eligible to organize a bank or trust company; amending 6 O.S. 1991, Section 303.1, as amended by Section 21, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 303.1), which relates to capital structure of a bank; increasing amount of capital necessary to obtain a state charter; amending 6 O.S. 1991, Section 402, as last amended by Section 6, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 402), which relates to powers and duties of banks and trust companies; granting certain powers to operating or financial subsidiaries of banks; amending 6 O.S. 1991, Section 407, as amended by Section 42, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 407), which relates to trust powers; increasing amount of capital necessary for consideration of application to exercise trust powers; amending 6 O.S. 1991, Section 414, as last amended by Section 47, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 414), which relates to real estate and equipment of bank or trust company; permitting state bank to purchase real estate for certain purposes after certain approval; providing exception to certain prohibition against holding real estate; requiring current appraisal; amending 6 O.S. 1991, Section 415, as last amended by Section 48, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 415), which relates to drive-in or walk-up facilities; requiring detached facilities to be on certain property; deleting certain restrictions on detached facilities; deleting certain restrictions for obtaining certificate for a detached facility; deleting measurements for distance limitations; deleting requirements and procedures for bank relocations; amending Section 3, Chapter 295, O.S.L. 1992, as last amended by Section 53, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 424), which relates to origination of loans at locations other than main or branch office; permitting bank to

establish certain locations upon application and payment of fee; amending 6 O.S. 1991, Section 501.1, as last amended by Section 7, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 501.1), which relates to branch banking; deleting certain branch banking restrictions and procedures relating to the application and establishment of branch banks; deleting banks locations and mobile facilities on the campus of an institution of higher education; deleting branch banks by acquisition; deleting prohibition and procedures relating thereto for certain banks to acquire other banks; deleting prohibition against banks from being acquired until in existence for a certain time period; deleting requirement that branch bank only be established upon certificate from State Banking Commissioner or Comptroller of Currency and the procedure relating thereto; deleting certain construction of certain provisions; deleting policy of Legislature relating to branch banking; deleting restrictions and procedure for relocating branch banks; deleting permission for Banking Board to establish procedure relating to relocations of branch banks; deleting restriction for out-of-state banks to establish separate branch banks, limited service facilities or de novo branches; permitting out-of-state banks to establish de novo branches upon certain circumstances; prohibiting certain banks from establishing certain branch banks; modifying certain procedures relating to acquisitions; increasing certain deposit limitation; prohibiting a bank from establishing and operating branch bank or relocate branch bank without certain certificate; permitting banks to establish and operate branch banks upon certain approval; setting forth procedure, standards and requirements for certain branch bank application; stating that all existing branch banks become lawful; permitting banks to opt-out certain detached facilities and setting forth procedure therefor; defining terms; authorizing banks and savings associations to operate on the campus of institutions of higher education; setting forth certain restrictions; permitting temporary branches; defining term; permitting Banking Board to establish certain rules relating to branch banks; permitting the assessment of application fee for branch banks; prohibiting certain banks from acquiring other banks; providing exceptions; protecting certain rights to operate and maintain facilities; stating that certain operation is not considered a branch bank; amending 6 O.S. 1991, Section 502, as last amended by Section 2, Chapter 404, O.S.L. 1997 (6 O.S. Supp. 1999, Section 502), which relates to bank holding companies; increasing certain deposit limitations; deleting certain requirements for bank board of directors; deleting certain limitations and prohibitions on acquisitions and de novo charters; amending 6 O.S. 1991, Section 506, as last amended by Section 57, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 506), which relates to out-of-state bank holding companies; deleting certain prohibited transactions and acquisition bid procedures; prohibiting certain ownership; amending 6 O.S. 1991, Section 714, as last

amended by Section 69, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 714), which relates to bank directors; permitting board members to participate in board meetings by electronic means; authorizing board meeting minutes to be transmitted electronically; amending 6 O.S. 1991, Section 1103, as last amended by Section 88, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 1103), which relates to approval of the board of directors; modifying statutory reference to certain revolving fund; amending 6 O.S. 1991, Section 1109, as last amended by Section 39, Chapter 104, O.S.L. 1998 (6 O.S. Supp. 1999, Section 1109), which relates to sale or purchase of assets of bank, trust company, or savings association; clarifying language; amending 6 O.S. 1991, Section 1206, as last amended by Section 96, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 1206), which relates to conservator; modifying statutory reference for certain revolving fund; amending 6 O.S. 1991, Section 2107, as last amended by Section 10, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 2107), which relates to annual license fees, renewals, and license certificates pursuant to the Sale of Checks Act; deleting certain maximum annual fee; modifying statutory reference to certain revolving fund; amending 6 O.S. 1991, Section 2113, as last amended by Section 14, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 2113), which relates to examination of books and records under Sale of Checks Act; requiring fee to be paid for audit or review; permitting State Banking Commissioner to accept certain examination and charge certain fees; modifying statutory reference to certain revolving fund; amending 8 O.S. 1991, Section 166, as last amended by Section 2, Chapter 82, O.S.L. 1995 (8 O.S. Supp. 1999, Section 166), which relates to Perpetual Care Fund annual report and examination of books and records; requiring payment of certain annual fee; requiring annual fee to be deposited into certain revolving fund; permitting Attorney General to initiate certain action to recover certain monies and to seek certain injunction; amending 8 O.S. 1991, Section 305, as amended by Section 7, Chapter 82, O.S.L. 1995 (8 O.S. Supp. 1999, Section 305), which relates to application for permit for cemetery merchandise trust; increasing amount of filing fee; modifying date of permit expiration; increasing amount of permit renewal fee; changing due date of permit renewal; amending 8 O.S. 1991, Section 308, as last amended by Section 10, Chapter 82, O.S.L. 1995 (8 O.S. Supp. 1999, Section 308), which relates to annual report and filing fee for cemetery merchandise trust fund; increasing filing fee for annual report; requiring supervisory agencies to make available certain data; setting forth certain limitations; providing for the sharing of certain information between agencies; requiring information to be confidential and providing for requests for inspection of such information; stating that supervisory agency is not required to share original documents; requiring reimbursement of certain costs; stating that certain act shall not prohibit sharing of information; defining terms; amending Section 62,

Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1999, Section 1424.13), which relates to licensing requirements for insurance entities; modifying exception to certain prohibition to licensure as insurance agency; amending Section 71, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1999, Section 1425.2), which relates to qualification for licensure as a resident or nonresident; modifying requirements for legal entity to hold a license as a nonresident agent; amending 71 O.S. 1991, Section 2, as last amended by Section 1, Chapter 279, O.S.L. 1997 (71 O.S. Supp. 1999, Section 2), which relates to definitions under the Oklahoma Securities Act; modifying definition; requiring supervisory agencies to make available certain data; setting forth certain limitations; providing for the sharing of certain information between agencies; requiring information to be confidential and providing for requests for inspection of such information; stating that supervisory agency is not required to share original documents; requiring reimbursement of certain costs; stating that certain act shall not prohibit sharing of information; defining terms; amending 18 O.S. 1991, Section 381.24a, as last amended by Section 21 of Enrolled House Bill No. 2675 of the 2nd Session of the 47th Oklahoma Legislature, which relates to office locations and change of name; setting forth certain effective date; repealing 6 O.S. 1991, Section 217, which relates to bank service charges; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 6 O.S. 1991, Section 101, as amended by Section 1, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 101), is amended to read as follows:

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

SECTION 2. AMENDATORY 6 O.S. 1991, Section 102, as last amended by Section 2, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, 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;

4. "Banking company" means any bank;

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;

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;

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;

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;

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;

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

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;

15. "Consumer banking electronic facility" means any 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;

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;

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

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

20. "Department" means the Oklahoma State Banking 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.~~ 23. "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.~~ 24. "Federal Reserve Act" means the Act of Congress approved December 23, 1913, (38 Stat. 251), as amended;

~~26.~~ 25. "Federal Reserve Bank" means the Federal Reserve Banks created and organized under authority of the Federal Reserve Act;

~~27.~~ 26. "Federal Reserve Board" means the Board of Governors of the Federal Reserve System created and described in the Federal Reserve Act, as amended;

~~28.~~ 27. "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.~~ 28. "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.~~ 29. "Good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized;

~~31.~~ 30. "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;

~~32.~~ 31. "Insured depository institution" means any bank or savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

~~33.~~ 32. "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.~~ 33. "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.~~ 34. "Item" means any instrument for the payment of money even though not negotiable, but does not include money;

~~36.~~ 35. "Legal newspaper" means a newspaper qualified to publish legal notices under the provisions of Section 106 of Title 25 of the Oklahoma Statutes;

~~37.~~ 36. "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;

~~38.~~ 37. "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;

~~39.~~ 38. "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;

~~40.~~ 39. "Main office" means either the main bank or the main office location of a savings association;

~~41.~~ 40. "Managing officer" means the chief executive officer of the bank;

~~42.~~ 41. "Member bank" means any national bank, state bank or banking and trust company which becomes a member of the Federal Reserve System;

~~43.~~ 42. "Merger" includes consolidation;

~~44.~~ 43. "Military banking facility" means a facility maintained by a bank upon a military installation, provided the facility must be within the confines of a military reservation and located upon property owned or leased by the United States government;

~~45.~~ 44. "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~~ the ability 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;~~

~~46.~~ 45. "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.~~ 46. "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.~~ 47. "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.~~ 48. "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.~~ 49. "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;

~~51.~~ 50. "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;

~~52.~~ 51. "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;

~~53.~~ 52. "Person" means an individual, group of individuals, board, committee, partnership, firm, association, corporation or other entity;

~~54.~~ 53. "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;

~~55.~~ 54. "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.~~ 55. "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;

~~57.~~ 56. "Resulting bank" means the combined banks and trust companies carrying on business upon completion of a merger;

~~58.~~ 57. "Retailer" means a person, corporation or partnership, primarily engaged in the sale of goods at retail to the general public;

~~59.~~ 58. "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;

~~60.~~ 59. "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;

~~61.~~ 60. "Subsidiary" with respect to a specified bank holding company or 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

~~62.~~ 61. "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 204, as last amended by Section 8, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 204), is amended to read as follows:

Section 204. A. ~~Powers.~~ In addition to other powers conferred by this Code, the State Banking 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 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 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 or the applicable banking law of another state, 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 the 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. If such agreements result in the payment of fees, however calculated, by any other bank supervisory agency to the Oklahoma State Banking Department for examination activities conducted by Department personnel, whether such examination activity is conducted inside or outside of this state, such fees shall be deposited in the Bank Examination Revolving Fund established by Section 211.2 of this title. If such agreements result in the payment of fees, however calculated, by the Department to any other bank supervisory agency for examination activities conducted by such other bank supervisory agency, whether such examination activity is conducted inside or outside of this state, such fees shall be paid by the Department from the Bank Examination Revolving Fund established by Section 211.2 of this title.

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 of the Commissioner.

F. 1. ~~Interpretive statements and opinions.~~ The Commissioner may issue interpretive statements containing matters of general policy for the guidance of state banks and trust companies. 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 and trust companies upon request.

2. The Commissioner may issue opinions in response to specific requests from members of the public or the banking and trust 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 and trust companies 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 4. AMENDATORY 6 O.S. 1991, Section 207, as last amended by Section 3, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 207), is amended to read as follows:

Section 207. A. Final orders of the 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. 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~~ a reasonable amount ~~set by the Board~~ not to exceed the amount of reasonably projected gross 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. When the order being appealed is that of the Banking Board, the Board, in its sole discretion, shall set the amount of the bond. When the order being appealed is that of the Commissioner, the Commissioner, in the sole discretion of the Commissioner, shall set the amount of the bond. It is the obligation of the appellant to request that a bond amount be set and such request shall not postpone or extend the time period in which an appeal must be filed with the Oklahoma Supreme Court.

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. The prevailing party shall make such application to the Board if the original order was issued by the Board or shall make such application to the Commissioner if the original order was issued by the Commissioner.

D. 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 5. AMENDATORY 6 O.S. 1991, Section 208, as last amended by Section 10, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 208), is amended to read as follows:

Section 208. A. The following records in the Oklahoma State 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 State Banking 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 Department shall be confidential and not subject to public inspection. However, the Banking Board, 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.

C. All documents which the Department is required, by any provision of the Oklahoma Banking Code or by any other statute or regulation of this state, to retain or preserve in its possession may be retained and preserved, in lieu of retention of the original records or copies, in an electronic format and stored by electronic imaging or otherwise so that the documents may be later reproduced as necessary. Any such electronically stored or imaged document or reproduction shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 208.1 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. A supervisory agency shall make available to a requesting agency any data obtained or generated by, and in the possession of, the supervisory agency and that the requesting agency deems necessary for review in connection with the supervision of any person over which the requesting agency has direct supervisory authority. However, the requested data must relate to the person, or an affiliate of the person, over which the requesting agency has direct supervisory authority. An agency has direct supervisory

authority over a person if such authority is specifically provided by statute, or the agency granted the charter, license, or registration of the person, or otherwise granted permission for the person to conduct its business in this state.

B. When a requesting agency and a federal regulatory agency or self-regulatory association have concurrent jurisdiction over a person, a requesting agency may share with such agency or association data received from a supervisory agency. However, the federal regulatory agency or self-regulatory association shall return such shared data to the requesting agency unless the federal regulatory agency or self-regulatory association has obtained approval from the supervisory agency to retain the data. The term "federal regulatory agency" shall not include law enforcement agencies.

C. 1. Notwithstanding any other statute, rule, or policy governing or relating to records of the requesting agency, all data received by a requesting agency from a supervisory agency shall be and remain confidential and not open to public inspection, subpoena, or any other form of disclosure while in the possession of the requesting agency. Any request for inspection, subpoena, or other form of disclosure shall be directed at the supervisory agency from which the data originated and disclosure thereof shall be subject to the laws, rules, and policies governing or relating to records of the supervisory agency.

2. The provision of data by a supervisory agency to a requesting agency under this section shall not constitute a waiver of, or otherwise affect, any privilege or claim of confidentiality that a supervisory agency may claim with respect to such data under any federal laws or laws of this state.

D. A supervisory agency shall not be required to share original documents with a requesting agency. A requesting agency shall

reimburse the supervisory agency for costs associated with providing copies of data to the requesting agency.

E. Nothing in the Oklahoma Financial Privacy Act, Sections 2201 through 2206 of Title 6 of the Oklahoma Statutes, shall prohibit the sharing of data as described in this section. Additionally, neither a supervisory agency nor requesting agency shall be required to follow any procedure described in the Oklahoma Financial Privacy Act when sharing data as described in this section.

F. As used in this section:

1. "Affiliate" means any person that controls, is controlled by, or is under common control with another person. A person shall be deemed to have "control" over any person if the person:

- a. directly or indirectly or acting through one or more other persons owns, controls, or has power to vote ten percent (10%) or more of any class of voting securities of the other person, or
- b. the person controls in any manner the election, appointment, or designation of a majority of the directors, trustees, or other managing officers of the person;

2. "Data" means copies of any documents, reports, examination reports, letters, correspondence, orders, stipulations, memorandums of understanding, agreements, or any other records not open for public inspection generated by a supervisory agency or obtained by a supervisory agency from the person it supervises, whether in paper or electronic format. However, "data" shall not include records that a requesting agency receives from a supervisory agency pursuant to this section;

3. "Requesting agency" means, as applicable, the Oklahoma State Banking Department, the Oklahoma Insurance Department, or the Oklahoma Department of Securities, that requests from a supervisory

agency data relating to a person over which the requesting agency does not have direct supervisory authority;

4. "Supervision" means any examination, assessment, order, stipulation, agreement, report, memorandum of understanding, or other regulatory matter or process that a requesting agency is authorized to perform in relation to a person; and

5. "Supervisory agency" means, as applicable, the Oklahoma State Banking Department, the Oklahoma Insurance Department, or the Oklahoma Department of Securities, that maintains data relating to a person over which the agency has direct supervisory authority.

SECTION 7. AMENDATORY 6 O.S. 1991, Section 209, as last amended by Section 4, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 209), is amended to read as follows:

Section 209. A. 1. The State Banking Commissioner shall, at least every eighteen (18) months or as often as the Commissioner deems advisable, examine 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~~. Upon the conclusion of the examination, the Commissioner may make and file in the office of the Commissioner a report in detail disclosing the results of such examination; or may, on conditions prescribed by the Commissioner, prepare a summary memorandum regarding the results of such examination, and shall, upon request by the bank, mail a copy of such report or memorandum to the bank or trust company examined. However, the Commissioner may accept, in lieu of any three consecutive bank examinations, the examination that may have been made of the bank or trust company within a reasonable period by the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, or the Office of Thrift Supervision provided a copy of the

examination, report, or other document prepared as a result of the examination is furnished to the Commissioner.

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 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 Oklahoma State 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, the Board of Governors of the Federal Reserve System, or the Office of Thrift Supervision with respect to the periodic examination or other supervision of any state bank, trust company, or state thrift.

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. 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, and shall be retained and made available for inspection

upon request of the Commissioner or designated representatives of the Commissioner. Each such report shall exhibit, in detail and under appropriate ~~heads~~ headings, the ~~resources~~ assets 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 the power to call for special reports from any bank or trust company whenever, in the ~~Commissioner's~~ judgment of the Commissioner, 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. Every bank or trust company which fails to make and transmit any report required within the discretion of the Commissioner, under the Oklahoma Banking Code ~~of 1997~~, 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 maintain an 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. 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~~+~~1, 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)~~ five (5) 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 8. AMENDATORY 6 O.S. 1991, Section 211, as last amended by Section 12, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, 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 Five Hundred Dollars (\$500.00) which shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section ~~13~~ 211.1 of this ~~act~~ title.

2. The 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~~ assets, or major fraction thereof, ~~in an amount as~~ at a rate established by the Board. As used in this paragraph, "assets" shall not include assets held by a trust company in its fiduciary capacity.

3. The ~~minimum fee~~ assessment for bank trust departments, which shall be in addition to the assessment collected pursuant to paragraph 2 of this subsection, shall be Five Hundred Dollars (\$500.00). The assessment shall be paid annually to the Banking Department no later than the ~~25th~~ 5th day of ~~January~~ February in each year. 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 fees shall be deposited in the Department revolving fund pursuant to Section ~~13~~ 211.1 of this ~~act~~ title.

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. The expenses of the Department necessarily incurred in ~~the~~ a special examination, and the expenses of the Department necessarily incurred in a regular examination of a trust company, 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~~ B 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 Department revolving fund pursuant to Section ~~13~~ 211.1 of this ~~act~~ title.

SECTION 9. AMENDATORY Section 13, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 211.1), as amended by Section 5 of Enrolled Senate Bill No. 1344 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 211.1 There is hereby created in the State Treasury a revolving fund for the Oklahoma State 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, 2008, 2107 and 2113 of this title ~~and,~~ Section 381.15 of Title 18 of the Oklahoma Statutes, and Section 166 of Title 8 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 Department and approved for payment by the Director of State Finance.

SECTION 10. AMENDATORY Section 14, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 211.2), is amended to read as follows:

Section 211.2 A. There is hereby created in the State Treasury the "Bank Examination Revolving Fund" for the Oklahoma State 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 and as required by subsection D of Section 204 of this title. 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~~ assets provided for in Section 211 of ~~Title 6 of the Oklahoma Statutes~~ this title. 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. Additionally, the Bank Examination Revolving Fund shall include amounts received by the Department pursuant to agreements authorized under subsection D of Section 204 of this title.

SECTION 11. AMENDATORY 6 O.S. 1991, Section 303, as amended by Section 20, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 303), is amended to read as follows:

Section 303. A. One or more ~~individuals desiring to organize persons eligible by the Oklahoma Banking Code or by federal law to own and control~~ a bank or trust company shall file with the State Banking 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.

B. 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 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 bank and multibank holding company which meets the requirements of subsection 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 an amount prescribed by Board rule shall accompany the application. The fee is payable from the organizational expense fund and is nonrefundable.

SECTION 12. AMENDATORY 6 O.S. 1991, Section 303.1, as amended by Section 21, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 303.1), is amended to read as follows:

Section 303.1 A. ~~The~~ Except as provided in subsection B of this section, the State Banking 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 the greater of Two Million Dollars (\$2,000,000.00) or such amount as may be required by the Federal Deposit Insurance Corporation.

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 totaling Two Million Dollars (\$2,000,000.00).

D. The issuance of preferred stock by a newly organized bank or trust company may be authorized by the Commissioner. 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 13. AMENDATORY 6 O.S. 1991, Section 402, as last amended by Section 6, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 402), is amended to read as follows:

Section 402. ~~All banks or trust companies~~ Any bank or trust company 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 the Oklahoma Banking Code ~~of 1997~~ and the following additional corporate powers:

1. To continue perpetually as a corporation;
2. To make contracts;
3. To sue and be sued, complain and defend, in its corporate name;
4. To 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;
6. To make, alter, amend, and repeal bylaws, not inconsistent with its certificate of incorporation or with law, for the administration and regulation of the affairs of the corporation;
7. To elect, appoint or remove officers and agents of the corporation and to define their duties and fix their compensation;
8. To adopt and operate reasonable bonus, profit-sharing and pension plans for officers and employees;
9. To make contributions to or for the use or benefit of the following:
 - a. the United States, any state, territory, or political subdivision thereof, the District of Columbia or any possession of the United States, for exclusively public purposes,

- b. a corporation, foundation, trust, community chest, or other organization created or organized in the United States, or in any state or territory, or of the District of Columbia, or of any possession of the United States, and organized and operated exclusively for religious, charitable, scientific, veteran rehabilitation service, civic enterprise, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, or
- c. other lawful expenditures, contributions and donations; to the extent authorized, approved, or ratified by action of the board of directors of the corporation, except as otherwise specifically provided or limited by its certificate of incorporation, its bylaws, or by resolution duly adopted by its stockholders;

10. ~~A bank shall have the power to~~ To exercise by its
~~directors, duly authorized officers or agents, all~~ such incidental
powers as ~~shall~~ may be necessary or desirable 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.~~
United States Comptroller of the Currency, unless otherwise
prohibited or limited by the State Banking Commissioner or the State
Banking Board. Upon approval of the Commissioner, and subject to
all applicable federal and state laws, the operating subsidiaries or
financial subsidiaries of a bank may exercise any power and engage
in any activity that is permitted for an operating subsidiary or

financial subsidiary of a national bank pursuant to laws of the United States and the regulations and policies of the United States Comptroller of the Currency, or the Board of Governors of the Federal Reserve System unless otherwise prohibited or limited by the Commissioner or the Board;

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

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

13. ~~A bank may~~ To 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;

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

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~~ to underwrite issues of securities or stock through a subsidiary.

SECTION 14. AMENDATORY 6 O.S. 1991, Section 407, as amended by Section 42, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, 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 State Banking Commissioner requesting such authority.

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

- a. whether the bank has sufficient capital to exercise the fiduciary powers applied for, which capital shall be no less than ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00),
- b. the proposed market for fiduciary services and the probable volume of such fiduciary business available to the bank,
- c. the general condition of the bank, including the adequacy of its capital 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. the general character and ability of the management of
the bank,
- 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. whether the bank has available legal counsel to advise
and pass upon fiduciary matters whenever necessary.

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

4. An application for authority to exercise trust powers shall be accompanied by a fee as set by rule of the Banking Board.

SECTION 15. AMENDATORY 6 O.S. 1991, Section 414, as last amended by Section 47, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 414), is amended to read as follows:

Section 414. A. ~~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. 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.

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

~~B. 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.~~ 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.

E. ~~Sale of real estate acquired under subsections B and D.~~

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

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.

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

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

5. Banks or trust companies shall also continue efforts to dispose of the real estate at the earliest possible opportunity.

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.~~ 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.

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 its capital. This limitation may be exceeded upon the written approval of the Commissioner.

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

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 16. AMENDATORY 6 O.S. 1991, Section 415, as last amended by Section 48, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, 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, ~~three~~ detached facilities on real property owned or leased by the bank having one or more tellers' windows for drive-in or walk-up service or both. ~~Of the three 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, one may be on property owned or leased by the bank located less than three (3) miles from the main bank building, and one may be on property owned or leased by the bank located anywhere within the municipal limits of where the main bank building is located.~~

2. Any branch may maintain and operate ~~one~~ outside attached ~~facility~~ facilities 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. No bank shall be permitted to maintain and operate such additional outside facilities except upon certificate issued by the Board.

2. The application for a certificate to maintain and operate a detached facility shall comply with the regulations of the Board. 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.

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

4. 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.~~ Notwithstanding paragraph 1 of subsection A of this section and 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.

SECTION 17. AMENDATORY Section 3, Chapter 295, O.S.L. 1992, as last amended by Section 53, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 424), is amended to read as follows:

Section 424. Subject to rules promulgated by the Banking Board, a 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. A bank may establish an office location described in this section by making an application to the State Banking Commissioner on a form prescribed by the Commissioner. An application fee of Five Hundred Dollars (\$500.00) shall accompany the application.

SECTION 18. AMENDATORY 6 O.S. 1991, Section 501.1, as last amended by Section 7, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 501.1), is amended to read as follows:

Section 501.1 A. ~~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 the city or town; provided however, if an application for a bank charter has been filed, the Board shall give priority to the charter application.~~

~~2. Neither the 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. 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. 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. 1. It shall be unlawful for any bank or out-of-state bank which has direct or indirect control of more than fifteen percent (15%) 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. 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. 1. No bank shall be permitted to establish or operate a branch bank except upon certificate issued by the Commissioner 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. 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. 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 the city or town.~~

~~However, if an application for a bank charter has been filed, the 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 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. No out-of-state bank shall be permitted to establish a de novo branch in this state.~~

~~K. Beginning May 31, 1997 Upon application to and approval granted by the State Banking Commissioner or Comptroller of the Currency, an out-of-state bank which engages or has engaged in an interstate merger transaction with a bank or savings association that, prior to the merger, had its main office located in this state shall be permitted to establish de novo branches in this state. An out-of-state bank which is not engaging, and has not previously engaged, in an interstate merger transaction with a bank or savings association that, prior to the merger, had its main office located in this state, shall not be permitted to establish a de novo branch in this state, nor to acquire a branch bank or savings association branch in this state, unless, on a reciprocal basis, the state where the main office of the out-of-state bank is located would permit a bank with a main office located in this state to establish a de novo branch in that other state without having engaged in an interstate merger transaction with a bank having its main office in that other state.~~

~~B. Subject to the limitations set forth in subsection A of this section, 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 or interstate branch acquisition transaction with any out-of-state bank in accordance with applicable laws and rules of the Oklahoma State Banking 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 or interstate branch acquisition transaction application is filed with the appropriate regulatory authority, and if the law of the state where the main office of the out-of-state bank is located does not permit reciprocal interstate de novo branching by a bank with a main office located in this state as more particularly provided for in subsection A of this section, then the out-of-state bank must acquire the bank or the savings association, and may not acquire just a branch or branches thereof. An interstate merger or interstate branch acquisition transaction will not be permitted if it will result in a violation of the ~~fifteen percent (15%)~~ twenty percent (20%) deposit limitation contained in subsection ~~D~~ I of ~~this section~~ Section 19 of this act. If the result of an interstate merger transaction is that the bank or savings association which is acquired is converted to a one or more branch ~~bank~~ banks of an out-of-state bank, ~~it~~ the resulting branch bank shall have all the powers and be subject to the same limitations as any other branch bank located in this state. All in-state branch banks of an out-of-state bank shall be regulated by the State Banking 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 in-state 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.

~~L.~~ C. 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 Banking 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.

~~M.~~ D. The provisions of this section shall not be construed as permitting branches established pursuant to this 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.~~ E. 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 operation at any location.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 501.2 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. No bank shall be permitted to establish and operate a branch, or relocate a branch, except upon a certificate issued by the State Banking Commissioner or the Comptroller of the Currency.

B. Upon approval of the Commissioner or Comptroller of the Currency, any bank is authorized to establish and operate in Oklahoma, on real property owned or leased by the bank, an unlimited number of branches by acquisition, de novo, or otherwise, whether fixed or mobile, at or from which any permissible function, business, power, or activity of any kind whatsoever of the bank may be performed or engaged in.

C. The procedures, standards and requirements for making application for permission to establish and operate a branch shall be set by rule of the Banking Board. However, no emphasis upon competition or competitive factors shall be imposed, and in no event shall such rules impose standards, criteria, or requirements upon state-chartered banks which are more onerous than those existing for national banks.

D. All existing branches and detached facilities of a bank shall, upon the expiration of sixty (60) days after the effective date of this act, by operation of law and without further action by the bank or Commissioner, or the Comptroller of the Currency, become and be deemed lawful branches, fully authorized and validly existing pursuant to this section. Provided, a bank may elect to opt-out of the effects of this subsection as to one or more of its existing detached facilities, by providing to its chartering authority, prior to the expiration of sixty (60) days after the effective date of this act, a written notice that the bank has opted-out of the effects of this subsection with the result that one or more of its detached facilities will continue to be classified as detached

facilities rather than as branches. The written notice must clearly identify each particular detached facility to which it applies.

"Existing branches and detached facilities", for purposes of this subsection, means branches or detached facilities which have been approved and are open and operating, or are approved but unopened, or for which application was made prior to the effective date of this act and for which approval is given after the effective date of this act.

E. Any bank or savings association with its main office or a branch office located in a county where an institution of higher education is located, may open accounts and accept deposits on the campus of the institution of higher education if written permission is granted by the institution, for no more than three (3) days per year. The authorization of this subsection shall be self-executing and no application to the regulators of the bank or savings association shall be required by this section for a bank or savings association to comply with this subsection.

F. A temporary branch may be established and operated upon approval of the Commissioner or Comptroller of the Currency. As used in this subsection, "temporary branch" means a branch located at a fixed site that:

1. Is within one thousand (1,000) feet of the location of the approved site of the same bank for a permanent branch, and such temporary branch is scheduled to, and will, permanently close not later than a certain date, no longer than one (1) year after the temporary branch is first opened, as specified in the permanent branch application and the public notice; or

2. Is approved for a limited period of time, without requirement of notice or hearing, as a temporary replacement for a previously existing branch that is inoperable due to an "emergency" as defined in Section 102 of this title.

G. The Board may, by rule, establish a procedure whereby the Commissioner may grant approval and issue the certificate to establish or acquire and operate or relocate a branch or other banking office permitted by this section 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.

H. Notwithstanding subsection C of this section, an application fee for branch, branch relocation or other banking office applications may be assessed in amounts set by rule of the Board.

I. 1. It shall be unlawful for any bank or out-of-state bank which has direct or indirect control of more than twenty percent (20%) 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,
- 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.

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 with six (6) months to meet such limitations. Further, in the circumstances set forth in subparagraph c of this paragraph, the Commissioner and 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.

J. The provisions of this section shall not be construed in derogation or denial of the rights to operate and maintain facilities as provided for in Sections 421 and 422 of this title.

K. 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 20. AMENDATORY 6 O.S. 1991, Section 502, as last amended by Section 2, Chapter 404, O.S.L. 1997 (6 O.S. Supp. 1999, 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~~ this state 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. ~~Multibank holding companies authorized.~~ A company may be a 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.~~ However, except as specifically permitted in this Code, all forms of direct or indirect ownership or control of banks, bank holding companies, and 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 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 ~~fifteen percent (15%)~~ twenty percent (20%) of the total amount of deposits of insured depository institutions located in this state as determined by the State Banking 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 multibank holding company or an out-of-state bank or bank holding company has reached or exceeded the ~~fifteen percent (15%)~~ twenty percent (20%) threshold as provided in this subsection. Acquisitions of other 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 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 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 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 in 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 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 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 Board of this state, the Comptroller of the Currency or a foreign country.~~

~~H. Interim charters.~~ E. A bank holding company or a 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.~~ F. A national bank in this state, bank holding company, or 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.~~ G. 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.~~

H. 1. Each bank holding company, 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.

SECTION 21. AMENDATORY 6 O.S. 1991, Section 506, as last amended by Section 57, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, 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 multibank holding companies. Any acquisition made pursuant to the provisions of this section may include assets and liabilities of the bank, bank holding company or 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 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 multibank holding company, or to establish additional branches or facilities, except as otherwise provided for by the Oklahoma Banking Code; or~~

~~2. Permit any out-of-state bank holding company to acquire any bank, bank holding company or 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, 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~~ No out-of-state bank holding company shall be permitted to acquire direct or indirect ownership or control of any bank, bank holding company, or multibank holding company, except in compliance with this section.

~~D. Approval of acquisition.~~ C. 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 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 multibank holding company to be acquired,

~~e.~~ b. 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 State Banking Department, and

~~d.~~ c. the bank and, if acquired indirectly, its bank holding company or 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 multibank holding company.

~~E.—Limitations and restrictions.~~ D. All limitations and restrictions of the Oklahoma Banking Code applicable to banks, bank holding companies and multibank holding companies shall apply to a bank, bank holding company or 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 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 multibank holding company under this section from additional acquisitions under this section, if such acquisitions would otherwise be permitted.~~

~~F. Applicable law.~~ E. Any out-of-state bank holding company which controls a bank, a bank holding company or 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 multibank holding companies.

~~G. Divestiture.~~ F. The 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.

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

SECTION 22. AMENDATORY 6 O.S. 1991, Section 714, as last amended by Section 69, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, 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. Board members of the bank may participate in such meetings by teleconference, video conference, or other means by which any board member not physically present at a meeting location may vote and otherwise participate in the meeting and be

aware of all communication and business being transacted at the meeting at the same time as it occurs. 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 forty (40) days after the board meeting. ~~This~~ A copy shall be signed by the chairman of the board or the secretary to the board and retained at the bank. The minutes may be transmitted to the Commissioner electronically.

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 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 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 23. AMENDATORY 6 O.S. 1991, Section 1103, as last amended by Section 88, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, 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 Banking Board which shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section ~~222~~ 211.1 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 State Banking 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 24. AMENDATORY 6 O.S. 1991, Section 1109, as last amended by Section 39, Chapter 104, O.S.L. 1998 (6 O.S. Supp. 1999, 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, bank, or savings association may sell to any other trust company, bank, or savings association all, or

substantially all, of the assets and trust business ~~or~~ of such trust company, bank, or savings association, or all, or substantially all, of the assets and business of any department or branch of the selling trust company, bank, 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, bank, or savings association 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, bank, or savings association, or all, or substantially all, of the assets and business of any department or branch of another trust company, bank, or savings association. 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 savings associations. 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 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 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 approval of the State Banking Commissioner, together with a fee for review of the transaction as required by rule of the Banking Board, and shall be accompanied by evidence of such stockholders' approval thereof in like manner as agreements of merger are filed.

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, 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 Oklahoma State Banking 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, 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, or savings association; and

3. The selling bank, trust company, 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~~ the preexisting accounts of the depositor at the purchasing institution, together with ~~that depositor's~~ the accounts of such depositor which are assumed from the selling institution, would exceed the ~~purchasing institution's~~ FDIC insurance limits of the purchasing institution; or

2. ~~A depositor's or other creditor's~~ The claims of a depositor or other creditor 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 the depositor or creditor to the selling institution, to withdraw the deposit of the depositor or creditor in full from the selling institution on demand, or
- b. to exercise the ~~depositor's or creditor's~~ right of set-off of such depositor or creditor.

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 of all fiduciary positions held by the selling institution. The purchasing institution 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 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.

2. The selling and purchasing institutions shall jointly file a petition with the district court of the county in which the main office of the selling institution is situated requesting that the purchasing institution be substituted, except as may be expressly excluded in such petition, in every fiduciary position of the selling institution. 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 or 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 selling institution to mail, by registered mail postage prepaid, a copy of such order to each living trustor of all private trusts in which such institution 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. 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 in every fiduciary position to and for which the selling institution 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 is duly authorized to exercise trust and fiduciary powers in Oklahoma,

- c. the selling and purchasing institutions are not directly or indirectly owned or controlled by the same holding company or multibank holding company, or, if the selling and purchasing institutions are directly or indirectly owned or controlled by the same holding company or multibank holding company, then the purchasing institution shall assume all trust liabilities of the selling institution, and
- d. such sale or transfer was not made in order to avoid any liability incurred by the selling institution.

7. Upon entry of such order, the purchasing institution 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 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 on account of any deposit, obligation, trust or asset transferred to or liability assumed by the purchasing institution.

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 25. AMENDATORY 6 O.S. 1991, Section 1206, as last amended by Section 96, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 1206), is amended to read as follows:

Section 1206. A. Whenever the State Banking 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 Oklahoma 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 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 Oklahoma State Banking Department revolving fund pursuant to Section ~~222~~ 211.1 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 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, the Commissioner may, in 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 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 26. AMENDATORY 6 O.S. 1991, Section 2107, as last amended by Section 10, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 2107), is amended to read as follows:

Section 2107. A. Before any license is issued or renewed, the applicant or licensee shall pay an annual license fee in the amount of Two Hundred Dollars (\$200.00), plus Ten Dollars (\$10.00) for each location within this state at which checks of the licensee are issued or sold. ~~However, such annual fee shall not exceed Two Thousand Dollars (\$2,000.00) per licensee.~~ With respect to license renewals, every licensee, on or before each June 1, shall pay the annual license fee for the succeeding fiscal year commencing July 1.

B. The State Banking Commissioner shall issue a license certificate to a licensee satisfying the requirement therefor. The

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

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

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

E. Fees collected pursuant to this section shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section ~~222~~ 211.1 of this title.

SECTION 27. AMENDATORY 6 O.S. 1991, Section 2113, as last amended by Section 14, Chapter 27, O.S.L. 1999 (6 O.S. Supp. 1999, Section 2113), is amended to read as follows:

Section 2113. A. The State Banking Commissioner may examine the books and records of each licensee as often as the Commissioner deems advisable for the purpose of determining the amount of the

bond to be filed and the amount of the license fee to be paid by such licensee and to determine whether the licensee is in compliance with all applicable requirements of law. For that purpose, the Commissioner shall have free access to the offices and places of business and to such records of such licensee that relate to the business for which the licensee is licensed under Section 2101 et seq. of this title.

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

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

1. The costs of such audit shall be borne by the licensee;
2. The scope of such audit shall be at least equal to the scope of the examination required by the Commissioner;
3. The Commissioner shall have received prior notice in writing that the licensee is having the audit prepared in lieu of examination by the Commissioner; and
4. The Commissioner shall have given prior approval of the licensed public accountant holding a permit to practice in this state or the certified public accountant making the audit.

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

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

E. All license, examination, audit review, and investigation fees herein provided for shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section ~~222~~ 211.1 of this title.

SECTION 28. AMENDATORY 8 O.S. 1991, Section 166, as last amended by Section 2, Chapter 82, O.S.L. 1995 (8 O.S. Supp. 1999, Section 166), is amended to read as follows:

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

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

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

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

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

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

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

- b. the securities and other assets in which such perpetual care funds are invested,
- c. the cash on hand,
- d. a verification in writing of all assets in which monies of the Perpetual Care Fund have been invested; provided, such verification shall be obtained from the holder or holders of such assets,
- e. the income derived from the Perpetual Care Fund investments during the calendar year, and
- f. the gross expenditures or transfers from income of the Perpetual Care Fund during the calendar year.

The annual fee collected pursuant to this subsection shall be deposited in the Oklahoma State Banking Department revolving fund created pursuant to Section 211.1 of Title 6 of the Oklahoma Statutes.

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

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 170 of Title 8, unless there is created a duplication in numbering, reads as follows:

The Attorney General of this state, at the request of the State Banking Commissioner, may initiate an action to recover payments

required to be deposited to the Oklahoma State Banking Department revolving fund pursuant to the Perpetual Care Fund Act or to recover other monies received or disbursed in violation of the Perpetual Care Fund Act. In addition, the Attorney General may seek to enjoin any violation of the Perpetual Care Fund Act.

SECTION 30. AMENDATORY 8 O.S. 1991, Section 305, as amended by Section 7, Chapter 82, O.S.L. 1995 (8 O.S. Supp. 1999, Section 305), is amended to read as follows:

Section 305. A. Each organization desiring to accept money or anything of value for prepaid cemetery merchandise shall file an application for a permit with the State Banking Commissioner, and shall at the time of filing such application pay one initial filing fee of ~~Fifty Dollars (\$50.00)~~ Two Hundred Dollars (\$200.00). The Commissioner shall issue a permit upon the receipt of the application and payment of the filing fee, and upon making a finding that the applicant has complied with the rules as may be established pursuant to the Cemetery Merchandise Trust Act by the Commissioner. All such applications shall be signed by the organization requesting the permit, and shall contain a statement that the applicant will comply with all the requirements as established pursuant to the Cemetery Merchandise Trust Act. All permits shall expire on the ~~31st~~ 15th day of ~~December~~ March of the year ~~said~~ following the year the permit is first issued, unless renewed; permits. Permits shall be renewed for a period not to exceed the succeeding ~~December 31~~ March 15 upon the payment of a renewal fee of ~~Fifty Dollars (\$50.00)~~ Two Hundred Dollars (\$200.00). Late application for renewal of a permit shall require a fee of double the renewal fee. No application for renewal of a permit shall be accepted after ~~January 31~~ May 1 of each year. Applicants shall be required to reapply as if they were a new applicant.

B. The Commissioner may cancel a permit or refuse to issue a permit or refuse to issue a renewal of such permit for failure to

comply with any provisions of the Cemetery Merchandise Trust Act or any rules promulgated thereto by the Commissioner, after reasonable notice to the permittee and after a hearing before the Commissioner if the permittee requests a hearing in accordance with Article II of the Administrative Procedures Act.

C. No organization shall be entitled to a new permit after cancellation, or refusal by the Commissioner to renew a permit, but shall thereafter be issued a new permit upon satisfactory proof of compliance with the Cemetery Merchandise Trust Act.

D. Any person or organization aggrieved by the actions of the Commissioner may appeal therefrom to the State Banking Board as provided by the Administrative Procedures Act.

SECTION 31. AMENDATORY 8 O.S. 1991, Section 308, as last amended by Section 10, Chapter 82, O.S.L. 1995 (8 O.S. Supp. 1999, Section 308), is amended to read as follows:

Section 308. Each organization shall file an annual report with the State Banking Commissioner on or before March 15 of each year in such form as the Commissioner may require, showing the name of the financial institution holding the cemetery merchandise trust fund and the amount of the trust fund under each contract on the preceding December 31, and also showing the method of determination of the wholesale costs made pursuant to Section 306 of this title. The total required deposits to the cemetery merchandise trust fund during the year shall also be reported. Each cemetery is responsible for maintaining satisfactory books and records, which will adequately justify all information contained in the annual report required by this section. Any organization which has discontinued the sale of prepaid cemetery merchandise, but which still has funds deposited in a cemetery merchandise trust fund or surety, shall not be required to obtain a renewal of its permit, but it shall continue to make annual reports to the Commissioner until all such funds have been disbursed pursuant to the Cemetery

Merchandise Trust Act. A filing fee of ~~Fifty Dollars (\$50.00)~~ Two Hundred Dollars (\$200.00) shall accompany each report. If any officer of any organization fails or refuses to file an annual report, or fails or refuses to cause it to be filed within thirty (30) days after the organization has been notified by the Commissioner that the report is due and has not been received, such officer shall be guilty of a misdemeanor and shall be punished as prescribed in Section 315 of this title.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 306.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A supervisory agency shall make available to a requesting agency any data obtained or generated by, and in the possession of, the supervisory agency and that the requesting agency deems necessary for review in connection with the supervision of any person over which the requesting agency has direct supervisory authority. However, the requested data must relate to the person, or an affiliate of the person, over which the requesting agency has direct supervisory authority. An agency has direct supervisory authority over a person if such authority is specifically provided by statute, or the agency granted the person's charter, license, or registration, or otherwise granted permission for the person to conduct its business in this state.

B. When a requesting agency and a federal regulatory agency or self-regulatory association have concurrent jurisdiction over a person, a requesting agency may share with such agency or association data received from a supervisory agency. However, the federal regulatory agency or self-regulatory association must return such shared data to the requesting agency unless the federal regulatory agency or self-regulatory association has obtained approval from the supervisory agency to retain the data. The term

"federal regulatory agency" shall not include law enforcement agencies.

C. 1. Notwithstanding any other statute, rule, or policy governing or relating to records of the requesting agency, all data received by a requesting agency from a supervisory agency shall be and remain confidential and not open to public inspection, subpoena, or any other form of disclosure while in the possession of the requesting agency. Any request for inspection, subpoena, or other form of disclosure must be directed at the supervisory agency from which the data originated and disclosure thereof shall be subject to the laws, rules, and policies governing or relating to records of the supervisory agency.

2. The provisions of data by a supervisory agency to a requesting agency under this section shall not constitute a waiver of, or otherwise affect, any privilege or claim of confidentiality that a supervisory agency may claim with respect to such data under any federal laws or laws of this state.

D. A supervisory agency is not required to share original documents with a requesting agency. A requesting agency shall reimburse the supervisory agency for costs associated with providing copies of data to the requesting agency.

E. Nothing in the Oklahoma Financial Privacy Act, Sections 2201 through 2206 of Title 6 of the Oklahoma Statutes, shall prohibit the sharing of data as described in this section. Additionally, neither a supervisory agency nor requesting agency shall be required to follow any procedure described in the Oklahoma Financial Privacy Act when sharing data as described in this section.

F. As used in this section:

1. "Affiliate" shall mean any person that controls, is controlled by, or is under common control with another person. A person shall be deemed to have "control" over any person if the person:

- a. directly or indirectly or acting through one or more other persons owns, controls, or has power to vote ten percent (10%) or more of any class of voting securities of the other person, or
- b. the person controls in any manner the election, appointment, or designation of a majority of the directors, trustees, or other managing officers of the person;

2. "Data" shall mean copies of any documents, reports, examination reports, letters, correspondence, orders, stipulations, memorandums of understanding, agreements, or any other records not open for public inspection generated by a supervisory agency or obtained by a supervisory agency from the person it supervises, whether in paper or electronic format. However, "data" shall not include records that a requesting agency receives from a supervisory agency pursuant to this section;

3. "Requesting agency" shall mean, as applicable, the Oklahoma State Banking Department, the Oklahoma Insurance Department, or the Oklahoma Department of Securities, that requests from a supervisory agency data relating to a person over which the requesting agency does not have direct supervisory authority;

4. "Supervision" shall mean any examination, assessment, order, stipulation, agreement, report, memorandum of understanding, or other regulatory matter or process that a requesting agency is authorized to perform in relation to a person; and

5. "Supervisory agency" shall mean, as applicable, the Oklahoma State Banking Department, the Oklahoma Insurance Department, or the Oklahoma Department of Securities, that maintains data relating to a person over which the agency has direct supervisory authority.

SECTION 33. AMENDATORY Section 62, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1999, Section 1424.13), is amended to read as follows:

Section 1424.13 A. Any person or legal entity authorized to do business in ~~Oklahoma~~ this state may be licensed as an insurance agent, surplus lines insurance broker, or limited insurance representative or insurance consultant.

B. In the case of a partnership which has been licensed, each general partner and each other individual acting for the partnership, and in the case of any entity which has been licensed each individual acting for the entity as an agent, surplus lines insurance broker, limited insurance representative or consultant, shall be named in the license and shall qualify therefor as though an individual licensee. The State Insurance Commissioner shall charge a full additional license fee and a separate license shall be issued for each individual so named in such license. The agency shall notify the Commissioner within fifteen (15) days if any individual licensed on its behalf has been terminated, is no longer associated with the agency, or has left its employ.

C. A nonresident of this state shall only be named in a license for a resident insurance agency as a nonresident agent.

D. A domestic insurance agency must be organized pursuant to the provisions of the laws of this state and must maintain its principal place of business in this state.

E. A license shall not be issued in a trade name except upon proof satisfactory to the Commissioner that the trade name has been lawfully registered.

F. No entity shall be licensed as an agency unless the insurance business to be transacted pursuant to the license is the primary purpose of the entity as described in its organizing documents or the entity is a ~~bank~~ national banking association that qualifies for an insurance ~~agent~~ agency license pursuant to federal law or the regulations and policies of the United States Comptroller of the Currency or the Board of Governors of the Federal Reserve System issued pursuant thereto, or a bank that qualifies for an

~~insurance agency license pursuant to Section 92 of Title 12 of the United States Code or subsection (10) paragraph 10 of Section 402 of Title 6 of the Oklahoma Statutes. Any entity that owns an interest in or is a partner in a licensed agency shall also qualify for and obtain an agency license pursuant to this section, unless the owning entity is a bank that qualifies for an insurance agent license pursuant to Section 92 of Title 12 of the United States Code or subsection (10) of Section 402 of Title 6 of the Oklahoma Statutes,~~
a national banking association, or a "financial holding company" as defined in Section 2 of the Bank Holding Company Act of 1956, 12 U.S.C., Section 1841, or the owning entity lawfully owned its interest in the licensed agency prior to ~~the effective date of this act~~ November 1, 1997. The provisions of this ~~paragraph~~ subsection shall not apply to any person licensed as a title insurance agent.

G. The licensee shall notify the Commissioner of all changes among its members, directors, and officers, and all other individuals designated in the license within fifteen (15) days after ~~said~~ the change.

H. No person whose license as an insurance agent has been revoked by order of the Commissioner, nor any entity in which such person has a majority ownership interest, whether direct or indirect, shall own any interest in any entity licensed pursuant to the provisions of this section.

SECTION 34. AMENDATORY Section 71, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1999, Section 1425.2), is amended to read as follows:

Section 1425.2 A. The Insurance Commissioner shall issue an insurance agent's license, managing general agent's license, insurance consultant's license, a limited insurance representative's or a customer service representative's license to any duly qualified resident or nonresident of this state, whether an individual or legal entity, in accordance with this section.

1. An applicant may qualify as a resident if the applicant resides in this state. Any license issued pursuant to any such application claiming residency in this state for licensing in this state shall constitute an election of residency in this state and shall be void if the licensee, while holding a resident license in this state, also holds or makes application for a license in or thereafter claims to be a resident of any other state or other jurisdiction or ceases to be a resident of this state. However, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify as a resident in such other state and may hold a resident license from each state, so long as both states are party to a reciprocal dual licensing agreement.

2. An applicant may qualify for a license pursuant to the provisions of the Insurance Agents Licensing Act as a nonresident only if the applicant holds a resident agent's license in any state of the United States, a province of Canada, or any other foreign country, in which he or she claims residency and which provides for the issuance of nonresident licenses to residents of this state, by law or by a reciprocal licensing agreement with the Commissioner.

3. The applicant shall provide to the Commissioner an original certification of licensure status from the resident state of the applicant.

4. A license issued to a nonresident of this state shall grant the same rights and privileges afforded a resident licensee, except as otherwise provided for by law.

B. A legal entity otherwise qualified to hold a license as a nonresident agent shall be licensed pursuant to the provisions of this section:

1. If the ~~principal~~ primary purpose of the entity is the transacting of insurance business, or the entity is a national banking association that qualifies for an insurance agency license

pursuant to federal law or the regulations and policies of the United States Comptroller of the Currency or the Board of Governors of the Federal Reserve System issued pursuant thereto or the entity is a state banking association that qualifies for an agency license pursuant to federal law or the law of the state in which it is chartered. Any entity that owns an interest in or is a partner in a licensed nonresident agency shall also qualify for and obtain an agency license pursuant to this section, unless:

- a. a waiver of this requirement is requested in writing and approved by the Commissioner,
- b. the owning entity is a bank organized under the laws of this state,
- c. the owning entity is a national banking association,
- d. the owning entity is a "financial holding company" as defined in Section 2 of the Bank Holding Company Act of 1956, 12 U.S.C., Section 1841,
- e. the parent corporation is also qualified as a nonprofit corporation under the provisions of Section 501(c)(6) of the Internal Revenue Code on or before January 1, 1985, and the subsidiary corporation of the nonprofit parent corporation writes only group insurance for members of the parent corporation, or
- f. the owning entity lawfully owned its interest in the licensed agency prior to November 1, 1997.

The provisions of this subsection shall not apply to any person licensed as a title insurance agent; and

~~2. If the entity is not a subsidiary or affiliate of an entity not so qualified unless the entity is a subsidiary of a parent corporation that qualified as a nonprofit corporation under the provisions of Section 501(c)(6) of the Internal Revenue Code on or before January 1, 1985, and the subsidiary corporation of the~~

~~nonprofit parent corporation writes only group insurance for members of the parent corporation; and~~

~~3. If~~ Except as otherwise provided in paragraph 1 of this subsection, if such entity does not own an interest in or is not a partner in an entity licensed as a resident agency in this state pursuant to this title.

C. The Commissioner shall not issue a license to any nonresident applicant until the applicant files with the Commissioner his or her designation of the Commissioner as the person upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the insurance business of the applicant in this state. This designation shall constitute an agreement that said service of process is of the same legal force and validity as personal service of process in this state upon the nonresident licensee. Service of process upon any such licensee in any such action or proceeding in any court of competent jurisdiction of this state may be made by serving the Commissioner with three copies thereof and by paying to the Commissioner a fee of Twenty Dollars (\$20.00). The Commissioner shall forward a copy of the process by mail with return receipt requested to the licensee at his or her last-known address of record or principal place of business, and the Commissioner shall keep a record of all process so served upon the licensee.

D. Service of process upon any such licensee in any action or proceeding instituted by the Commissioner pursuant to the provisions of this Code shall be made by the Commissioner by mailing the process by mail with return receipt requested to the licensee at his or her last-known address of record or principal place of business. Service of process, other than a subpoena, upon any nonresident licensee is sufficient, provided notice of the service and a copy of the process are sent within ten (10) days thereafter to the licensee

at his or her last-known address of record or principal place of business by mail with return receipt requested.

E. If the Commissioner revokes or suspends any nonresident's license through a formal proceeding pursuant to the provisions of this Code, the Commissioner shall promptly notify the appropriate Commissioner of the licensee's state of residence of the action and of the particulars thereof.

SECTION 35. AMENDATORY 71 O.S. 1991, Section 2, as last amended by Section 1, Chapter 279, O.S.L. 1997 (71 O.S. Supp. 1999, Section 2), is amended to read as follows:

Section 2. As used in this act, unless the context otherwise requires:

- (a) "Commission" means the Oklahoma Securities Commission.
- (b) "Department" means the Department of Securities.
- (c) "Administrator" means the Securities Administrator appointed by the Oklahoma Securities Commission.
- (d) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

A partner, officer, member or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if the person otherwise comes within this definition.

(e) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his or her own account. "Broker-dealer" does not include:

- (1) an agent;
- (2) an issuer; or
- (3) ~~a depository institution; or~~
- ~~(4)~~ any other person the Administrator, by rule or order, designates.

A depository institution shall not be considered to be a broker-dealer because the depository institution engages in any one or more of the activities specified in Section 3(a)(4)(B)(i)-(vi) and Section 3(a)(4)(B)(viii)-(x) or Section 3(a)(5)(C) of the Securities Exchange Act of 1934 under the conditions described in connection with such laws.

(f) "Commodity" means, except as otherwise specified by the Administrator by rule, regulation or order, any agricultural, grain or livestock product or by-product, any metal or mineral, any gem or gemstone (whether characterized as precious, semi-precious or otherwise), any fuel (whether liquid, gaseous or otherwise), any foreign currency, and all other goods, articles, products or items of any kind; provided that the term commodity shall not include:

(1) a numismatic coin whose fair market value is at least fifteen percent (15%) higher than the value of the metal it contains;

(2) real property or any timber, agricultural or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property; or

(3) any work of art offered or sold by art dealers, at public auction or offered or sold through a private sale by the owner thereof.

(g) "Depository institution" means:

(1) a person that is organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to receive deposits, including a savings, share, certificate, or deposit account, and which is supervised and examined for the protection of depositors by an official or agency of a state or the United States; or

(2) a trust company or other institution that is authorized by federal or state law to exercise fiduciary powers of the type a national bank is permitted to exercise under the authority of the

Comptroller of the Currency and is supervised and examined by an official or agency of a state or the United States.

The term does not include an insurance company or other organization primarily engaged in the insurance business or a Morris Plan bank, industrial loan company, or a similar bank or company unless its deposits are insured by a federal agency.

(h) "Federal covered security" means any security described as a covered security in Section 18(b) of the Securities Act of 1933.

(i) "Financial or institutional investor" means any of the following, whether acting for itself or others in a fiduciary capacity:

(1) a depository institution;

(2) an insurance company;

(3) a separate account of an insurance company;

(4) an investment company as defined in the Investment Company Act of 1940;

(5) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of Five Million Dollars (\$5,000,000.00) or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is either a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, a depository institution, or an insurance company;

(6) a qualified institutional buyer as defined in Rule 144A adopted by the United States Securities and Exchange Commission (17 C.F.R. 230.144A); or

(7) any other institutional buyer.

(j) "Fraud", "deceit", and "defraud" are not limited to common-law deceit.

(k) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(1) a depository institution;

(2) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of their profession or;

(3) any person who:

(A) does not exercise investment discretion with respect to the assets of clients or maintain custody of the assets of clients for the purpose of investing those assets, except when the person is acting as a bona fide fiduciary in a capacity such as an executor, trustee, personal representative, estate or trust agent, guardian, conservator, or person serving in a similar fiduciary capacity;

(B) does not accept or receive, directly or indirectly, any commission, fee, or other remuneration contingent upon the purchase or sale of any specific security by a client of such person; and

(C) does not advise on the purchase or sale of specific securities;

(4) a professional geologist, professional engineer or professional geophysicist and professional petroleum landman who is engaged in the business of exploring for and/or producing oil and gas or other valuable minerals as an ongoing business when giving advice, analyses, interpretations or reports that relate to securities covered by Section 2(v)(17) of this title;

(5) a broker-dealer whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for them;

(6) a publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service of general, regular, and paid circulation, whether communicated in hard copy form or by electronic means;

(7) an investment adviser representative; or

(8) such other persons not within the intent of this paragraph as the Administrator may by rule or order designate.

(m) "Investment adviser representative" means any partner, officer, director of, or a person occupying a similar status or performing similar functions for, an investment adviser, or other person employed by, supervised by, representing, or associated with an investment adviser, except clerical or ministerial personnel, who:

(1) makes any recommendation or otherwise renders advice regarding securities;

(2) manages accounts or portfolios of clients;

(3) determines or has final authority as to which recommendations or advice regarding securities should be given; or

(4) supervises employees who perform any of the acts described in this subsection.

(n) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager

pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(o) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(p) "Person" means an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(q) "Principal" means any person associated with an applicant for registration as a broker-dealer who is actively engaged in the management of the applicant's securities business, including supervision, solicitation, conduct of business or training of persons associated with an applicant for any of these functions. Such persons shall include, but are not limited to the following:

- (1) sole proprietors;
- (2) officers;
- (3) partners;
- (4) managers of offices of supervisory jurisdiction;
- (5) directors of corporations; or

(6) any person occupying a similar status, position, or performing similar functions, or any person directly or indirectly controlling the registrant.

(r) "Promoter" includes:

(1) a person who, acting alone or in concert with one or more persons, takes the entrepreneurial initiative in founding or organizing the business or enterprise of an issuer;

(2) an officer or director owning securities of an issuer or a person who owns, beneficially or of record, ten percent (10%) or more of a class of securities of the issuer if the officer, director, or person acquires any of those securities in a transaction within three (3) years before the filing by the issuer

of a registration statement under this act and the transaction is not an arms-length transaction; or

(3) a member of the immediate family of a person within paragraph (1) or (2) of this subsection if the family member receives securities of the issuer from that person in a transaction within three (3) years before the filing by the issuer of a registration statement under this act and the transaction is not an arms-length transaction.

For purposes of this subsection, "immediate family" means a spouse of a person within paragraph (1) or (2) of this subsection, an emancipated child residing in such person's household, or an individual claimed as a dependent by such person for tax purposes.

(s) "Registration statements" means the documentation provided to the United States Securities and Exchange Commission or the Department in connection with the registration of securities under the Securities Act of 1933 or this title and includes any amendment thereto and any report, document, exhibit or memorandum filed as part of such statement or incorporated therein by reference.

(t) (1) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

(2) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(4) A purported gift of assessable stock is considered to involve an offer and sale.

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well

as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(6) The terms defined in this subsection do not include:

(A) any bona fide pledge or loan;

(B) any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; or

(C) any act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

(u) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", "Investment Company Act of 1940" and "Investment Advisers Act of 1940" mean the federal statutes of those names as amended heretofore or hereafter.

(v) "Security" means any:

(1) note;

(2) stock;

(3) treasury stock;

(4) bond;

(5) debenture;

(6) evidence of indebtedness;

(7) certificate of interest or participation in any profit-sharing agreement;

(8) collateral-trust certificate;

(9) preorganization certificate or subscription;

(10) transferable share;

(11) investment contract;

(12) voting-trust certificate;

(13) certificate of deposit for a security;

(14) contract or option on a contract for the future delivery of any commodity offered or sold to the public and not regulated by the Commodity Futures Trading Commission, provided that such contract or option shall not be subject to the provisions of Section 301 of this title, if sold or purchased on the floor of a bona fide exchange or board of trade and offered and sold to the public by a broker-dealer or agent registered pursuant to this title;

(15) investment of money or money's worth including goods furnished and/or services performed in the risk capital of a venture with the expectation of some benefit to the investor where the investor has no direct control over the investment or policy decision of the venture;

(16) in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or

(17) interest in oil, gas, or mineral leases, except that transactions involving leases or interest therein, between parties, each of whom is engaged in the business of exploring for or producing oil and gas or other valuable minerals as an ongoing business, and the execution of oil and gas leases by land, mineral, and royalty owners in favor of a party or parties engaged in the business of exploring for or producing oil and gas or other valuable minerals shall be deemed not to involve a security.

(w) "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises

to pay money either in a lump sum or periodically for life or some other specified period.

(x) "State" means any state, territory, or possession of the United States, the District of Columbia and Puerto Rico.

(y) "Underwriter" means any person who has purchased from an issuer or from any other person with a view to, or offers or sells for an issuer or for any other person in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking. "Underwriter" does not include a person whose interest is limited to a commission from an underwriter or broker-dealer not in excess of the usual and customary distributor's or seller's commission.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 411.1 of Title 71, unless there is created a duplication in numbering, reads as follows:

A. A supervisory agency shall make available to a requesting agency any data obtained or generated by, and in the possession of, the supervisory agency and that the requesting agency deems necessary for review in connection with the supervision of any person over which the requesting agency has direct supervisory authority. However, the requested data must relate to the person, or an affiliate of the person, over which the requesting agency has direct supervisory authority. An agency has direct supervisory authority over a person if such authority is specifically provided by statute, or the agency granted the person's charter, license, or registration, or otherwise granted permission for the person to conduct its business in this state.

B. When a requesting agency and a federal regulatory agency or self-regulatory association have concurrent jurisdiction over a person, a requesting agency may share with such agency or

association data received from a supervisory agency. However, the federal regulatory agency or self-regulatory association must return such shared data to the requesting agency unless the federal regulatory agency or self-regulatory association has obtained approval from the supervisory agency to retain the data. The term "federal regulatory agency" shall not include law enforcement agencies.

C. 1. Notwithstanding any other statute, rule, or policy governing or relating to records of the requesting agency, all data received by a requesting agency from a supervisory agency shall be and remain confidential and not open to public inspection, subpoena, or any other form of disclosure while in the possession of the requesting agency. Any request for inspection, subpoena, or other form of disclosure shall be directed at the supervisory agency from which the data originated and disclosure thereof shall be subject to the laws, rules, and policies governing or relating to records of the supervisory agency.

2. The provisions of data by a supervisory agency to a requesting agency under this section shall not constitute a waiver of, or otherwise affect, any privilege or claim of confidentiality that a supervisory agency may claim with respect to such data under any federal laws or laws of this state.

D. A supervisory agency is not required to share original documents with a requesting agency. A requesting agency shall reimburse the supervisory agency for costs associated with providing copies of data to the requesting agency.

E. Nothing in the Oklahoma Financial Privacy Act, Sections 2201 through 2206 of Title 6 of the Oklahoma Statutes, shall prohibit the sharing of data as described in this section. Additionally, neither a supervisory agency nor requesting agency shall be required to follow any procedure described in the Oklahoma Financial Privacy Act when sharing data as described in this section.

F. As used in this section:

1. "Affiliate" shall mean any person that controls, is controlled by, or is under common control with another person. A person shall be deemed to have "control" over any person if the person:

- a. directly or indirectly or acting through one or more other persons owns, controls, or has power to vote ten percent (10%) or more of any class of voting securities of the other person, or
- b. the person controls in any manner the election, appointment, or designation of a majority of the directors, trustees, or other managing officers of the person;

2. "Data" shall mean copies of any documents, reports, examination reports, letters, correspondence, orders, stipulations, memorandums of understanding, agreements, or any other records not open for public inspection generated by a supervisory agency or obtained by a supervisory agency from the person it supervises, whether in paper or electronic format. However "data" shall not include records that a requesting agency receives from a supervisory agency pursuant to this section;

3. "Requesting agency" means, as applicable, the Oklahoma State Banking Department, the Oklahoma Insurance Department, or the Oklahoma Department of Securities, that requests from a supervisory agency data relating to a person over which the requesting agency does not have direct supervisory authority;

4. "Supervision" shall mean any examination, assessment, order, stipulation, agreement, report, memorandum of understanding, or other regulatory matter or process that a requesting agency is authorized to perform in relation to a person; and

5. "Supervisory agency" shall mean, as applicable, the Oklahoma State Banking Department, the Oklahoma Insurance Department, or the

Oklahoma Department of Securities, that maintains data relating to a person over which the agency has direct supervisory authority.

SECTION 37. AMENDATORY 18 O.S. 1991, Section 381.24a, as last amended by Section 21 of Enrolled House Bill No. 2675 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 381.24a A. Upon Beginning on the effective date of this act, upon approval of the State Banking Commissioner, any association shall be authorized to establish and operate in this state, on real property owned or leased by the association, an unlimited number of branches by acquisition, de novo, or otherwise. Such branches may be fixed or mobile, and any permissible function, business, power, or activity of any kind of the association may be performed or engaged in at such location. However, branches established by acquisition shall be subject to the limitations as set forth in subsection B of this section.

B. 1. It shall be unlawful for any association to acquire any other association, federal association or bank in this state or any portion of its assets if such acquisition would result in the association having direct or indirect ownership or control of more than fifteen percent (15%) of the aggregate deposits of all financial institutions located in this state which have deposits insured by the Federal Deposit Insurance Corporation as determined by the Commissioner on the basis of the most recent reports of such institutions to their supervisory authorities which are available at the time of the proposed acquisition.

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

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

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

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

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

D. The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities

as provided for in Sections 381.24b, 381.24c and 381.24d of this title.

E. 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.

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

SECTION 38. REPEALER 6 O.S. 1991, Section 217, is hereby repealed.

SECTION 39. Section 35 of this act shall become effective May 12, 2001.

SECTION 40. 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.

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