

ENROLLED SENATE
BILL NO. 369

By: Henry of the Senate

and

Toure and Weaver of the
House

An Act relating to finance; amending 6 O.S. 1991, Sections 1023 and 2006, as last amended by Section 3, Chapter 151, O.S.L. 1995 (6 O.S. Supp. 1998, Section 2006), which relate to deposit of securities in clearing corporation or Federal Reserve Bank and powers of credit unions; updating statutory references; clarifying language; increasing authorized maturity for certain loans; amending 18 O.S. 1991, Section 1037, which relates to partly paid shares of corporate stock; amending 36 O.S. 1991, Section 1628, which relates to insurance company investments; updating statutory references; amending Section 10, Chapter 208, O.S.L. 1994 (71 O.S. Supp. 1998, Section 910), which relates to transfers on death; defining term; providing for liability for certain claims; providing for certain proceedings; establishing priorities; providing for time limitations to commence such proceedings; and providing an effective date.

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

SECTION 1. AMENDATORY 6 O.S. 1991, Section 1023, is amended to read as follows:

Section 1023. A. Notwithstanding any other provisions of law, any bank, trust company, or national banking association holding securities in its fiduciary capacity, any bank, trust company, or national banking association holding securities as custodian or managing agent, and any bank, trust company, or national banking association holding securities as custodian for a fiduciary ~~pursuant to 12A O.S. 1971, Section 8-102(5)~~, is authorized to deposit or arrange for the deposit of ~~such~~ securities in a clearing corporation, ~~(as defined in Article 8 of the Uniform Commercial Code)~~ paragraph (5) of subsection (a) of Section 8-102 of Title 12A of the Oklahoma Statutes, or where the securities are those of the United States of America, to deposit or arrange for the deposit of ~~such~~ the securities at the Federal Reserve Bank under ~~such~~ regulations ~~as are~~ prescribed from time to time by the Comptroller of the Currency. When ~~such~~ securities are so deposited, certificates representing securities of the same class of the same

issuer may be merged and held in bulk in the name of the nominee of ~~such the~~ clearing corporation with any other securities deposited in ~~such the~~ clearing corporation by any person regardless of the ownership of ~~such the~~ securities, and certificates of small denominations may be merged into one or more certificates of larger denomination. The records of ~~such the~~ fiduciary and the records of ~~such the~~ bank, trust company, or national banking association acting as custodian, managing agent, or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities ~~are so~~ have been deposited. Ownership of, and other interest in, ~~such the~~ securities may be transferred by bookkeeping entry on the books of ~~such the~~ clearing corporation without physical delivery of certificates representing ~~such the~~ securities. A bank, trust company, or national banking association ~~so depositing which deposits~~ securities pursuant to this section shall be subject to such rules and regulations as, in the case of a state chartered ~~institutions~~ institution, the Commissioner and, in the case of a national banking association, the Comptroller of the Currency, may from time to time issue. A bank, trust company, or national banking association acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities ~~so~~ deposited by ~~such the~~ bank, trust company, or national banking association in ~~such the~~ clearing corporation for the account of ~~such the~~ fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of ~~such the~~ fiduciary's account or on demand by the attorney for ~~such the~~ party, certify in writing to ~~such the~~ party the securities deposited by ~~such the~~ fiduciary in ~~such the~~ clearing corporation for its account as ~~such the~~ fiduciary.

B. This section shall apply to any fiduciary holding securities in its fiduciary capacity, and any bank, trust company, or national banking association holding securities as a custodian, managing agent, or custodian for a fiduciary, acting on the effective date of this section or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not ~~such the~~ fiduciary, custodian, managing agent, or custodian for a fiduciary, owns capital stock of ~~such the~~ clearing corporation.

SECTION 2. AMENDATORY 6 O.S. 1991, Section 2006, as last amended by Section 3, Chapter 151, O.S.L. 1995 (6 O.S. Supp. 1998, Section 2006), is amended to read as follows:

Section 2006. A credit union shall have succession in its corporate name during its existence and shall have power:

1. To make contracts;
2. To sue and be sued;
3. To adopt and use a common seal and alter the same at pleasure;
4. To purchase, lease, own, hold, and dispose of any real estate, buildings, fixtures, equipment, furniture and furnishings necessary, incidental and convenient to the operation of the credit

union, the aggregate book value of which shall not exceed five percent (5%) of the total assets of the credit union, unless otherwise specifically approved by the State Credit Union Board. A credit union may lease to any tenants as the credit union deems appropriate any portion of the facilities or premises of the credit union which are not utilized in the conduct of the business of the credit union;

5. To make loans to its members for provident or productive purposes, the maturities of which shall not exceed ~~twelve (12)~~ fifteen (15) years, except as otherwise provided herein and except as otherwise approved by the State Credit Union Board, and extend lines of credit to its members, to other credit unions and to credit union organizations and to participate with other credit unions, credit union organizations or financial organizations in making loans to credit union members, other credit unions and credit union organizations in accordance with the following:

- a. loans to credit union members shall be made in conformity with criteria established by the board of directors of the lending credit union; provided that:
 - (1) a real estate loan secured by a first mortgage lien may have a maturity not exceeding thirty (30) years or any longer term which may be authorized by the State Credit Union Board,
 - (2) a loan to finance a manufactured home, which shall be secured by a first lien on such manufactured home, or a second mortgage loan secured by a dwelling, shall have a maturity not exceeding fifteen (15) years or any longer term which may be allowed by the State Credit Union Board,
 - (3) a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, a state or federal governmental agency may be made for the maturity and under the terms and conditions specified in the state or federal law under which such insurance, guarantee or commitment is provided,
 - (4) a loan or aggregate of loans to a director or to a member of the supervisory committee or the credit committee of the lending credit union which exceeds Twenty-five Thousand Dollars (\$25,000.00) plus the amount of any pledged shares shall be approved by the board of directors of the lending credit union, and
 - (5) loans to credit union members for which any director of the lending credit union or any member of the supervisory committee or credit committee of the lending credit union acts as a guarantor or endorser shall be approved by the board of directors of the lending credit union

when such loan, either standing alone or when added to any outstanding loan or loans of the guarantor or endorser, exceeds Twenty-five Thousand Dollars (\$25,000.00) plus the amount of any pledged shares,

- b. loans to credit union members and other eligible borrowers shall be made in accordance with and shall be paid or amortized in accordance with any rules or regulations as may be prescribed and adopted from time to time by the State Credit Union Board, after taking into account the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit unions and such other factors as the State Credit Union Board may deem relevant,
- c. unless approval by the board of directors of the lending credit union is otherwise expressly required herein, loans to credit union members and other eligible borrowers shall be approved by the credit committee or by a loan officer of the lending credit union in accordance with criteria established by the board of directors,
- d. no loan or line of credit may be made to or established for a credit union member if the amount of such loan or line of credit, when aggregated with all other outstanding loans and lines of credit made to or established for such credit union member, will cause the credit union member to be indebted to the lending credit union in an amount exceeding six percent (6%) of the paid-in and unimpaired capital and surplus of the lending credit union or six percent (6%) of the total assets of the lending credit union, whichever is greater,
- e. a self-replenishing line of credit may be established by a credit union for any eligible borrower to a stated maximum amount on terms and conditions which may differ from the terms and conditions established for other eligible borrowers,
- f. loans to other credit unions shall be approved by the board of directors of the lending credit union and shall not exceed twenty-five percent (25%) of the paid-in and unimpaired capital and surplus of the lending credit union,
- g. loans to credit union organizations shall be approved by the board of directors of the lending credit union and shall not exceed one percent (1%) of the paid-in and unimpaired capital and surplus of the lending credit union, except as otherwise approved by the State Credit Union Board. A "credit union organization" means any organization which is established primarily to serve the needs of credit

unions and whose business relates to the daily operations of the credit unions served by such credit union organization,

- h. participation loans with other credit unions, credit union organizations or other financial organizations shall be in accordance with written policies adopted by the board of directors of the lending credit union and shall be approved by the board of directors of the lending credit union. However, a credit union which originates a loan for which participation arrangements are made in accordance with this subsection shall retain an interest of at least ten percent (10%) of the face amount of such loan,
- i. a credit union may participate in any guaranteed loan program of the federal government or of this state under the terms and conditions specified in the laws under which such program is provided,
- j. a credit union may finance for any person, whether or not such person is a member of the credit union, the purchase from the credit union of any real or personal property owned and held by the credit union, including any property obtained by the credit union as a result of defaults in obligations owed to the credit union, and
- k. a credit union may make loans to its officers and directors and to members of its supervisory and credit committees. However, such loans shall not be made on terms more favorable than those extended to other members of the credit union. A credit union may permit officers, directors and members of its supervisory and credit committees to act as co-makers, guarantors or endorsers of loans to other credit union members;

6. To receive from its members, and other credit unions, state and federal, doing business in this state, payments on shares and deposits, and to require such notice for withdrawal of shares and deposits as the bylaws may provide;

7. To amend its bylaws in the manner provided by the bylaws, but all amendments to the bylaws must be submitted to and approved by the State Credit Union Board before they become operative;

8. To invest its funds in accordance with the following:

- a. investments shall be made in conformity with criteria established by the board of directors of the credit union and in accordance with any rules or regulations as may be prescribed and adopted from time to time by the State Credit Union Board, and
- b. the following investments shall be authorized for credit unions:

- (1) loans to credit union members and other loans authorized for credit unions under the laws of this state,
- (2) obligations of the United States of America and obligations fully guaranteed as to principal and interest by any instrumentality or agency of the United States of America,
- (3) general obligations and revenue obligations of any state or any political subdivision thereof; provided the aggregate of such investments shall not exceed ten percent (10%) of the paid-in and unimpaired capital and surplus of the credit union; and provided that such investments shall be limited to obligations rated among the three highest rating categories established by one or more national rating services for governmental obligations,
- (4) obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board or any corporation designated by federal law as a wholly owned government corporation, or obligations, participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or in mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to the Federal Home Loan Mortgage Corporation Act, or in other obligations or other instruments or securities of the Student Loan Marketing Association, or obligations, participations, securities or other instruments of or issued by or fully guaranteed as to principal and interest by any other agency of the United States of America,
- (5) shares of, deposits with or loans to other federally insured credit unions in a total amount, in either case, not exceeding twenty-five percent (25%) of the paid-in and unimpaired capital and surplus of the investing credit union,
- (6) shares of, or accounts or deposits with any state or federal banks, mutual savings banks and savings and loan associations, the accounts of which are insured by an agency of the federal government,

- (7) shares of, deposits with or loans to any Federal Reserve Bank or any central liquidity facility established under state or federal law,
- (8) shares of, deposits with or loans to any central credit union or corporate credit union organized under state or federal law,
- (9) shares of, deposits with or loans to any organization, corporation or association providing services associated with the general purposes of the investing credit union or engaging in activities incidental to the operations of any credit union; provided that such investments in the aggregate may not exceed one percent (1%) of the unimpaired capital and surplus of the investing credit union,
- (10) any obligations or securities authorized for investment by federal credit unions under the laws of the United States of America. However, such investments shall be in compliance with any restrictions or limitations pertaining thereto under the laws of the United States of America or under the regulations of the National Credit Union Administration,
- (11) money market funds rated among the three highest rating categories established by one or more national rating services for corporate or governmental securities,
- (12) shares of mutual funds if the investments and investment transactions of the fund are authorized for credit unions under the laws of this state, or
- (13) such other investments or types of investments as may be authorized from time to time by the State Credit Union Board; provided that the State Credit Union Board shall not be permitted under this specific grant of authority to authorize a credit union to purchase or own real estate solely for investment purposes;

9. To make deposits in national banks and in state banks, trust companies, savings and loan associations, and credit unions organized under the laws of this state, any other state, or the United States, operating in accordance with the laws of the State of Oklahoma, or of the laws of the United States and approved by State Credit Union Board as depositories;

10. To borrow, from any source, in an aggregate amount not exceeding fifty percent (50%) of its shares, deposits and undivided earnings; such borrowed money may be borrowed either by means of bills payable or through rediscounts of its negotiable instruments,

and credit unions may pledge their assets as collateral securities therefor;

11. To fine members, in accordance with the bylaws, for failure to meet their obligations promptly to their credit union;

12. To impress and enforce a lien upon the shares, deposits, dividends, and interest of any member to the extent of any loan made to him or endorsed by him and any interest or fines payable by him;

13. To charge an entrance fee as provided in the bylaws;

14. To hire clerical help; and

15. To exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

SECTION 3. AMENDATORY 18 O.S. 1991, Section 1037, is amended to read as follows:

Section 1037.

PARTLY PAID SHARES

Any corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any ~~such~~ partly paid shares, or upon the books and records of the corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated and the corporation shall comply with applicable provisions of Section ~~8-103~~ 8-209 of Title 12A of the Oklahoma Statutes. Upon the declaration of any dividend on fully paid shares, the corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 1628, is amended to read as follows:

Section 1628. A. As used in this section:

1. "Agent" shall mean a national bank, state bank, or trust company which maintains an account in its name in a clearing corporation or which is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation or the Federal Reserve book-entry system, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "agent" may, with the prior approval of the Commissioner, include a corporation which is organized or existing under the laws of any foreign country and which is legally qualified under such law to accept custody of securities;

2. "Clearing corporation" shall mean a corporation as defined in paragraph (5) of subsection ~~(4)~~ (a) of Section 8-102 of Title 12A of the Oklahoma Statutes which is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "clearing corporation" may include a corporation which is organized or existing under the laws of any foreign country and which is legally qualified under such laws to effect transactions in securities by computerized book-entry. Such corporations shall have been approved for use by the Commissioner;

3. "Commissioner" shall mean the Insurance Commissioner of the State of Oklahoma or ~~his~~ an authorized representative;

4. "Custodian" shall mean a national bank, state bank, or trust company which has at all times aggregate capital, surplus, and undivided profits of not less than Five Hundred Thousand Dollars (\$500,000.00) and which is regulated by either state banking laws or is a member of the Federal Reserve System and which is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country, or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "custodian" may include a bank, trust company, or similar institution which has at all times aggregate capital, surplus, and undivided profits of not less than the equivalent of Five Hundred Thousand Dollars (\$500,000.00) and which is legally qualified to accept custody of securities;

5. "Federal Reserve book-entry system" shall mean the computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and ~~such~~ the agencies and instrumentalities, respectively, in Federal Reserve Banks through banks which are members of the Federal Reserve System or which otherwise have access to ~~such~~ the computerized systems; and

6. "Securities" shall mean certificated securities and uncertificated securities as defined in paragraphs ~~(a)~~ (4) and ~~(b)~~ (18) of subsection ~~(1)~~ (a) of Section 8-102 of Title 12A of the Oklahoma Statutes.

B. 1. a. Notwithstanding any other provision of law, a domestic insurance company may deposit or arrange for the deposit of securities held in or purchased for its general account and its separate accounts in a clearing corporation or the Federal Reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of ~~such~~ the

clearing corporation with any other securities deposited with ~~such~~ the clearing corporation by any person, regardless of the ownership of ~~such~~ the securities, and certificates representing securities of small denominations may be merged into one or more certificates of larger denominations. The records of any agent through which an insurance company holds securities in the Federal Reserve book-entry system, and the records of any custodian banks through which an insurance company holds securities in a clearing corporation, shall at all times show that ~~such~~ the securities are held for ~~such~~ the insurance company and for which accounts thereof.

- b. Ownership of, and other interests in, ~~such~~ the securities may be transferred by bookkeeping entry on the books of ~~such~~ the clearing corporation or in the Federal Reserve book-entry system without, in either case, physical delivery of certificates representing such securities; and

2. Notwithstanding any other provision of law, securities eligible for deposit under the Oklahoma Insurance Code ~~of this state~~ relating to deposit of securities by an insurance company as a condition of commencing or continuing to do an insurance business in this state may be deposited with a clearing corporation or held in the Federal Reserve book-entry system and used to meet the deposit requirements under the Oklahoma Insurance Code ~~of this state~~ and shall be under the control of the Commissioner and shall not be withdrawn by the insurance company without the approval of the Commissioner. Any insurance company holding ~~such~~ securities in ~~such~~ this manner shall provide to the Commissioner evidence issued by its custodian or an agent through which ~~such~~ the insurance company has deposited securities with a clearing corporation or held in the Federal Reserve book-entry system, respectively, in order to establish that the securities are actually recorded in an account in the name of the custodian or agent and evidence that the records of the custodian or agent reflect that ~~such~~ the securities are held subject to the order of the Commissioner.

C. 1. An insurance company may, by written agreement with a custodian, provide for the custody of its securities with a custodian, which securities may be held by the custodian or its agent or in a clearing corporation or in the Federal Reserve book-entry system. Securities so held, whether held by the custodian or its agent or in a clearing corporation or in the Federal Reserve book-entry system, are referred to herein as "custodied securities";

2. Any such agreement shall be in writing and shall be authorized by a resolution of the board of directors of the insurance company or of an authorized committee thereof. The terms of the agreement shall comply with the following:

- a. certified securities held by the custodian shall be held either separate from the securities of the custodian and of all of its other customers or in a

fungible bulk of securities as part of a Filing of Securities by Issue (FOSBI) arrangement,

- b. securities held in a fungible bulk by the custodian and securities in a clearing corporation or in the Federal Reserve book-entry system shall be separately identified on the custodian's official records as being owned by the insurance company. ~~Said~~ The records shall identify which custodied securities are held by the custodian or by its agent and which securities are in a clearing corporation or in the Federal Reserve book-entry system. If the securities are in a clearing corporation or in the Federal Reserve book-entry system, ~~said~~ the records shall also identify where the securities are and if in a clearing corporation, the name of the clearing corporation and if through an agent, the name of the agent,
- c. all custodied securities that are registered shall be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee,
- d. custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit requirements set forth in the Insurance Code shall, to the extent required by the Code, be under the control of the Commissioner and shall not be withdrawn by the insurance company without the approval of the Commissioner,
- e. the custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish the insurance company with reports of holdings of custodied securities at such times and containing such information as may be reasonably requested by the insurance company,
- f. during the course of the custodian's regular business hours, any officer or employee of the insurance company, any independent accountant selected by the insurance company, and any representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company,

- g. the custodian and its agents shall be required to send to the insurance company
 - (1) all reports which they receive from a clearing corporation or the Federal Reserve book-entry system on their respective systems of internal accounting control, and
 - (2) any reports prepared by outside auditors on the custodian's or its agents' internal accounting control of custodied securities that the insurance company may reasonably request,
- h. the custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in any audit of the financial statements of the insurance company,
- i. the custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate affidavits, substantially in the form provided in subsections F, G and H of this section, with respect to custodied securities,
- j. the custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers and employees, or burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction,
- k. in the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company as provided in subparagraph j of this paragraph, the custodian shall promptly replace the securities or the value thereof and the value of any loss of rights or privileges resulting from said loss of securities,
- l. the agreement may provide that the custodian will not be liable for any failure to take any action required to be taken under the agreement in the event and to the extent that the taking of such action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control, and
- m. in the event that the custodian gains entry in a clearing corporation or in the Federal Reserve book-entry system through an agent, there shall be an

agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian, provided, however, that, if the agent shall be subject to regulation under the laws of a jurisdiction which is different from the jurisdiction the laws of which regulate the custodian, the Commissioner may accept a standard of liability applicable to the agent which is different from the standard of liability applicable to the custodian.

D. A company may loan stocks or obligations held by it pursuant to the provisions of this act to a broker-dealer registered under the Securities and Exchange Act of 1934 or a member bank. The loan must be evidenced by a written agreement which provides that:

1. The loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and the collateral will be adjusted each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral;

2. The loan may be terminated by the company at any time, and the borrower will return the loaned stocks or obligations or their equivalent within five (5) business days after termination; and

3. The company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement and the borrower remains liable for any losses and expenses incurred by the company due to default that are not covered by the collateral.

E. An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment shall be issued in the name of the company or the name of the custodian bank or the nominee of either and the certificate or confirmation must, if held by a custodian bank, be kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the company making the investment.

F. The following shall be substantially the form of custodian affidavit for use by a custodian bank where securities entrusted to its care have not been redeposited elsewhere:

FORM A
CUSTODIAN AFFIDAVIT

(For use by a custodian bank where securities entrusted to its care have not been redeposited elsewhere.)

STATE OF _____)

) ss

COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a banking corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "bank"):

That his or her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ having a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the bank and the insurance company;

That the schedule attached hereto is a true and complete statement of securities (other than those caused to be deposited with The Depository Trust Company or like entity or a Federal Reserve Bank under the Federal Reserve book-entry procedure) which were in the custody of the bank for the account of the insurance company as of the close of business on _____; that, unless otherwise indicated on the schedule, the next maturing and all subsequent coupons were then either attached to coupon bonds or in the process of collection; and that, unless otherwise shown on the schedule, all such securities were in bearer form or in registered form in the name of the insurance company or its nominee or of the bank or its nominee, or were in the process of being registered in such form;

That the bank as custodian has the responsibility for the safekeeping of ~~such~~ the securities as that responsibility is specifically set forth in the agreement between the bank as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, ~~said~~ the securities were the property of ~~said~~ the insurance company and were free of all liens, claims, or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____ 19__

(L.S.)
Vice President (or other
authorized officer)

G. The following shall be substantially the form of custodian affidavit for use in instances where a custodian bank maintains securities on deposit with The Depository Trust Company or like entity:

FORM B
CUSTODIAN AFFIDAVIT

(For use in instances where a custodian bank maintains securities on deposit with The Depository Trust Company or like entity.)

STATE OF _____)

) ss

COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a banking corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "bank"):

That his or her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ with a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the bank and the insurance company;

That the bank has caused certain of such securities to be deposited with _____ and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the bank was custodian as of the close of business on _____, and which were so deposited on such date;

That the bank as custodian has the responsibility for the safekeeping of ~~such~~ the securities both in the possession of the bank or deposited with _____ as is specifically set forth in the agreement between the bank as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, ~~said~~ the securities were the property of ~~said~~ the insurance company and were free of all liens, claims, or encumbrances whatsoever.

Subscribed and sworn to before me this _____ day of _____ 19__

_____(L.S.)
Vice President (or other authorized officer)

H. The following shall be substantially the form of custodian affidavit for use where ownership is evidenced by book-entry at a Federal Reserve Bank:

FORM C
CUSTODIAN AFFIDAVIT

(For use where ownership is evidenced by book-entry at a Federal Reserve Bank.)

STATE OF _____)

) ss

COUNTY OF _____)

_____, being duly sworn deposes and says that he is _____ of the _____, a banking corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "bank"):

That his or her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ with a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the bank and the insurance company;

That it has caused certain securities to be credited to its book-entry account with the Federal Reserve Bank of _____ under the Federal Reserve book-entry procedure; and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the bank was custodian as of the close of business on _____ which were in a "General" book-entry account maintained in the name of the bank on the books and records of the Federal Reserve Bank of _____ at ~~such~~ that date;

That the bank has the responsibility for the safekeeping of ~~such~~ the securities both in the possession of the bank or in ~~said~~ the "General" book-entry account as is specifically set forth in the agreement between the bank as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, ~~said~~ the securities were the property of ~~said~~ the insurance company and were free of all liens, claims, or encumbrances whatsoever.

Subscribed and sworn to before me this ____ day of _____ 19__

(L.S.)
Vice President (or other authorized officer)

SECTION 5. AMENDATORY Section 10, Chapter 208, O.S.L. 1994 (71 O.S. Supp. 1998, Section 910), is amended to read as follows:

Section 910. A. In this section, "nonprobate transfer" means a transfer described in subsection B of this section by an owner whose last domicile was in this state.

B. A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding

the registration between the owner and the registering entity and this act and is not testamentary.

~~B. This act does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this state.~~

~~C. A registration in beneficiary form may be canceled by specific reference to the security or the securities account in the will of the sole owner or the last to die of multiple owners, but the terms of the revocation are not binding on the registering entity unless it has received written notice from any claimant to an interest in the security objecting to implementation of a registration in beneficiary form prior to the registering entity reregistering the security. If the beneficiary designation is canceled, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.~~

C. A transferee of a nonprobate transfer is subject to liability to any probate estate of the decedent for allowed claims against that estate and statutory allowances to the decedent's spouse and children to the extent the estate is insufficient to satisfy those claims and allowances. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received by that transferee.

D. Nonprobate transferees are liable for the insufficiency described in subsection C in the following order of priority:

1. A transferee designated in the decedent's will or any other governing instrument, as provided in the instrument;

2. The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received;

3. Other nonprobate transferees, in proportion to the values received.

E. A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.

F. Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in proceedings in this state, whether or not the transferee is located in this state.

G. A proceeding under this section may not be commenced unless the personal representative of the decedent's estate has received a written demand for the proceeding from the surviving spouse or a child, to the extent that statutory allowances are affected, or a creditor. If the personal representative declines or fails to commence a proceeding after demand, a person making demand may

commence the proceeding in the name of the decedent's estate, at the expense of the person making the demand and not of the estate. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

H. A proceeding under this section must be commenced within one (1) year after the decedent's death, but a proceeding on behalf of a creditor whose claim was allowed after proceedings challenging disallowance of the claim may be commenced within sixty (60) days after final allowance of the claim.

I. Unless a written notice asserting that a decedent's estate is insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, a trustee receiving a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to that assets received by the beneficiary.

SECTION 6. This act shall become effective November 1, 1999.

Passed the Senate the 27th day of April, 1999.

President of the Senate

Passed the House of Representatives the 13th day of April, 1999.

Speaker of the House of
Representatives