

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 647

By: Mickle

AS INTRODUCED

An Act relating to the State Treasurer; amending 36 O.S. 1991, Sections 613, 1701, 1704, 2112, 2119, 2503, 2512, 2604, 2654, 2674, 2691.4, 2907, 2913, 6146 and Section 6, Chapter 108, O.S.L. 1993 (36 O.S. Supp. 1998, Section 6606), which relate to insurance; modifying entity to which certain assets entrusted and deposited; requiring Insurance Commissioner to place certain securities in custody of State Treasurer; providing for deposit and documentation of such securities; modifying types of instruments in which certain funds may be invested; requiring State Treasurer to designate trust company or financial institution for certain responsibility; providing that certain deposits be held at expense of service warranty association; amending 62 O.S. 1991, Sections 7.5a, as amended by Section 2, Chapter 164, O.S.L. 1997, 71, as last amended by Section 7, Chapter 85, O.S.L. 1998, 72.3, 88.2, 88.5, as last amended by Section 10, Chapter 85, O.S.L. 1998 and 89.2, as last amended by Section 1, Chapter 65, O.S.L. 1995 (62 O.S. Supp. 1998, Sections 7.5a, 71, 88.5 and 89.2), which relate to public finance; allowing State Treasurer to waive certain counter signature requirement under certain circumstances; allowing state agency to pay financial institution directly for certain services performed; granting State Treasurer authority to permit local governmental entity treasurers to make certain placement of public funds; modifying reference; modifying types of deposits subject to certain restrictions; providing limitations on certain linked deposit loans; modifying investment authority of State Treasurer; amending 70 O.S. 1991, Section 10-104, which relates to schools; modifying entities with which State Board of Education required to file certain report; repealing 62 O.S. 1991, Sections 521, 522, 523, 524, as amended by Section 1, Chapter 400, O.S.L. 1998, 525, 526, 527 and 528 (62 O.S. Supp. 1998, Section 524), which relate to designation of fiscal agencies; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 613, is amended to read as follows:

Section 613. A. Any insurance company which incorporates or is authorized initially to transact the business of insurance in Oklahoma after ~~the effective date of this act~~ October 1, 1980, shall not be issued a certificate of authority by the Insurance Commissioner unless it has deposited in trust with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner's office cash or securities eligible for the investment of capital funds of domestic insurers under ~~this~~ the Oklahoma Insurance Code in an amount not less than Three Hundred Thousand Dollars (\$300,000.00).

B. The Insurance Commissioner shall not issue a certificate of authority to any insurer which incorporated or was initially authorized to transact the business of insurance in Oklahoma prior to ~~the effective date of this act~~ October 1, 1980, unless it has deposited in trust with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner's office cash or securities eligible for the investment of capital funds of domestic insurers under ~~this~~ the Oklahoma Insurance Code in an amount not less than the surplus in regard to policyholders, or net admitted assets (if a Lloyd's association) required pursuant to ~~this~~ the Oklahoma Insurance Code to be maintained for authority to transact the kinds of insurance to be transacted, except that in the case of life and/or accident and health insurers the deposit shall be in the amount of One Hundred Thousand Dollars (\$100,000.00), and except that:

1. As to domestic title insurers, the deposit shall be as required by ~~Article 50~~ Section 5001 et seq. of this title (Title Insurers) ~~;~~;

2. As to foreign insurers, in lieu of such deposit or part thereof in this state, the Insurance Commissioner may accept the current certificate in proper form of the public official having supervision over insurers in any other state to the effect that a

like deposit or part thereof by such insurer is being maintained in public custody in such state in trust for the purpose, among other reasonable purposes, of protection of all the insurer's policyholders or of all its policyholders and creditors-; and

3. As to alien insurers, other than title insurers, in lieu of such deposit or part thereof in this state, the Insurance Commissioner may accept the certificate of the official having supervision over insurance of another state in the United States, given under ~~his~~ such official's hand and seal, that the insurer maintains within the United States by way of deposits with public depositaries, or in trust institutions within the United States approved by such official, assets available for discharge of its United States insurance obligations, which assets shall be in amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States, together with the largest deposit required by ~~this~~ the Oklahoma Insurance Code to be made in this state by any type of domestic insurer transacting like kinds of insurance.

C. Any securities deposited by insurers shall be issued to the Insurance Commissioner and the insurer and shall not be released by any company holding such security without the signatures of the Insurance Commissioner and the authorized insurance company personnel. Failure of any company holding such security to comply with this subsection may result, after hearing by the proper licensing authority, in a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) per occurrence.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1701, is amended to read as follows:

Section 1701. The State ~~Treasurer~~ of Oklahoma shall accept and hold in trust, when made through the Insurance Commissioner, deposits of securities or funds by insurers as follows:

1. Deposits required for authority to transact insurance in Oklahoma-;

2. Deposits of domestic, foreign, or alien insurers when made pursuant to the laws of other states, provinces, and countries as prerequisite for authority to transact insurance in such state, province, or country-; and

3. Deposits in such additional amounts as are permitted to be made by Section 1706 of this ~~article~~ title.

The Insurance Commissioner shall place any negotiable security, or security issued in bearer form, deposited with the State of Oklahoma pursuant to the provisions of this title in the custody of the State Treasurer. Any cash or funds received by the Insurance Commissioner as deposits shall be deposited into a special account of the Insurance Commissioner which shall be held in trust until necessary to pay obligations as provided in this title. Receipts or other documents evidencing the existence of a security shall be retained by the State Insurance Department.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 1704, is amended to read as follows:

Section 1704. A. Upon request of the insurer, the State Treasurer may designate any solvent trust company or other solvent financial institution having trust powers domiciled in this state as the ~~treasurer's~~ state's depository to receive and hold any such deposit. Any such deposit so held shall be at the expense of the insurer.

B. The State of Oklahoma shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to ~~this~~ the Oklahoma Insurance Code ~~with the State Treasurer or~~ in any depository so designated by ~~him~~ the State Treasurer.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 2112, is amended to read as follows:

Section 2112. A domestic mutual insurer after being authorized to transact one kind of insurance shall be authorized by the Insurance Commissioner to transact such additional kinds of insurance as are authorized under Section 609 of ~~Article 6~~ this title and upon otherwise qualifying therefor and depositing and thereafter maintaining on deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner unimpaired surplus funds in amount not less than the amount of capital required of a domestic stock insurer transacting like kinds of insurance, and subject further to the additional surplus requirements of Section 611 of ~~Article 6~~ this title if applicable (expendable additional surplus in amount of one-half (1/2) of required surplus if it qualifies to transact more than one kind of insurance within first five (5) years).

SECTION 5. AMENDATORY 36 O.S. 1991, Section 2119, is amended to read as follows:

Section 2119. A. While it maintains on deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner surplus funds in amount not less than the paid-in capital required of a domestic stock insurer transacting like kinds of insurance, a domestic mutual insurer may extinguish the contingent liability of its members as to all policies in force, and may omit provisions imposing contingent liability in all its policies currently issued.

B. When such surplus funds have been so deposited and the Commissioner has so ascertained, ~~he~~ the Commissioner shall issue to the insurer at its request ~~his~~ a certificate authorizing such extinguishment and omission of contingent liability.

C. A foreign or alien mutual insurer may issue nonassessable policies to its members in this state in accordance with its charter and the laws of its domicile, provided the standards and requirements of the laws of the state of such domicile with respect

to the issuance of nonassessable policies are substantially equivalent to or higher than the legal requirements in Oklahoma.

SECTION 6. AMENDATORY 36 O.S. 1991, Section 2503, is amended to read as follows:

Section 2503. No ~~such~~ corporation, company or association as designated in Section 2502 of this title shall commence the business of insurance until the Insurance Commissioner shall have certified that it has complied with the provisions of Section 2501 et seq. of this ~~article~~ title, and is authorized to transact the business of insurance; provided, however, that every corporation incorporating or reincorporating under the provisions of Section 2501 et seq. of this ~~article~~ title shall deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner securities in which insurance companies are allowed by law to invest, subject to the approval of the Insurance Commissioner, a sum not less than Twenty Thousand Dollars (\$20,000.00), before it shall commence business. ~~Said~~ This sum shall be a part of the insurance fund and an asset of the corporation. The securities deposited with the State ~~Treasurer~~ of Oklahoma pursuant to this section shall be held in trust as an emergency fund for the benefit and protection of and as security for the policyholders of such corporation, their legal representatives and beneficiaries.

SECTION 7. AMENDATORY 36 O.S. 1991, Section 2512, is amended to read as follows:

Section 2512. Any domestic life or accident and health insurance corporation, company or association existing or doing business in this state under the stipulated premium plan law on April 9, 1923, may, by majority vote of its board of directors or trustees, accept the provisions of Section 2501 et seq. of this ~~article~~ title, the same as if it had originally been incorporated thereunder, and shall submit a record of the proceedings of its board of directors or trustees, together with the amended articles,

to the Insurance Commissioner, for ~~his~~ examination and approval of the legal form thereof, and shall file such amended articles in the office of the Secretary of State and a certified copy of same in the office of the Insurance Commissioner, and deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner such securities as may be required of corporations originally incorporated under Section 2501 et seq. of this article title. Insurance corporations, companies and associations complying with the provisions of this section shall thereafter enjoy and exercise all of the rights and privileges accorded by law to companies originally incorporated under Section 2501 et seq. of this article title. Compliance with this section shall ~~in nowise~~ not annul, modify or change any of the existing contracts or obligations of the corporation, and any and all such contracts and liabilities shall continue in force and effect the same as if such corporation had not reincorporated under the provisions of this section. Compliance with the provisions of this section shall in no way prejudice, impede or impair any pending action, proceeding or rights previously acquired.

SECTION 8. AMENDATORY 36 O.S. 1991, Section 2604, is amended to read as follows:

Section 2604. A. Corporations governed by Section 2601 et seq. of this article title shall at all times have on deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner sums as follows:

1. If newly formed under Section 2501 et seq. of this article title, the sum of Fifteen Thousand Dollars (\$15,000.00) ~~;~~ and
2. If formed under prior law, such sum as was so required under such prior law.

Every such corporation shall deposit with the ~~State Treasurer~~ Insurance Commissioner, not later than ~~the first day of each~~ February 1 of each year, an amount equal to two percent (2%) of the

gross subscriptions collected during the preceding calendar year, until the deposit of such corporation reaches a total of Twenty-five Thousand Dollars (\$25,000.00). All such deposits shall be held by the State ~~Treasurer~~ of Oklahoma in trust for the benefit and protection of the subscribers of the corporation making the deposit.

B. The deposit prescribed by this section shall be subject to withdrawal in whole or in part on the order of and as directed by the Insurance Commissioner, but may, with the approval of the Commissioner, be invested in ~~bonds of the United States or of the State of Oklahoma, or any political subdivision thereof, or state warrants~~ instruments which are permitted investments of the State Treasurer, which shall be assigned to the State ~~Treasurer~~ of Oklahoma and held ~~by him~~ as provided for original deposits. The securities may, with the approval of the Commissioner, be exchanged for similar securities or cash of equal amount. Interest on securities so deposited shall be payable to the corporation depositing the same.

C. An unsettled final judgment, arising upon a certificate of participation against such a corporation, shall be a lien on the deposit prescribed by this section, subject to execution after thirty (30) days from the entry of final judgment. If the deposit is reduced thereby, it shall be replenished within ninety (90) days.

D. Upon the liquidation or dissolution of such corporation and the satisfaction of all its liabilities, any balance remaining in the deposit ~~in the hands~~ of the State ~~Treasurer~~ of Oklahoma and any other assets of the insurer shall be distributed to the holders of certificates of participation in good standing at the time proceedings for the liquidation or dissolution of the corporation were commenced, prorated according to the gross amount of subscriptions which have been paid on such certificates up to the time such proceedings were commenced.

SECTION 9. AMENDATORY 36 O.S. 1991, Section 2654, is amended to read as follows:

Section 2654. A. Corporations governed by Section 2601 et seq. of this article title shall at all times have on deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner the sum of Five Thousand Dollars (\$5,000.00).

Every such corporation shall deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner, not later than ~~the 1st day of each~~ February 1 of each year, an amount equal to two percent (2%) of the gross subscriptions collected during the preceding calendar year, until the deposit of such corporation reaches a total of Ten Thousand Dollars (\$10,000.00). All such deposits shall be held by the State ~~Treasurer~~ of Oklahoma in trust for the benefit and protection of the subscribers of the corporation making the deposit.

B. The deposit prescribed by this section shall be subject to withdrawal in whole or in part on the order of and as directed by the Insurance Commissioner, but may, with the approval of the Commissioner, be invested in ~~bonds of the United States or of the State of Oklahoma, or any political subdivision thereof, or state warrants~~ instruments which are permitted investments of the State Treasurer, which shall be assigned to the State ~~Treasurer~~ of Oklahoma and held ~~by him~~ as provided for original deposits. The securities may, with the approval of the Commissioner, be exchanged for similar securities or cash of equal amount. Interest on securities so deposited shall be payable to the corporation depositing the same.

C. An unsettled final judgment, arising upon a certificate of participation against such a corporation, shall be a lien on the deposit prescribed by this section, subject to execution after thirty (30) days from the entry of final judgment. If the deposit is reduced thereby, it shall be replenished within ninety (90) days.

D. Upon the liquidation or dissolution of such corporation and the satisfaction of all its liabilities, any balance remaining in the deposit ~~in the hands~~ of the State ~~Treasurer~~ of Oklahoma and any other assets of the insurer shall be distributed to the holders of certificates of participation in good standing at the time proceedings for the liquidation or dissolution of the corporation were commenced, prorated according to the gross amount of subscriptions which have been paid on such certificates up to the time such proceedings were commenced.

SECTION 10. AMENDATORY 36 O.S. 1991, Section 2674, is amended to read as follows:

Section 2674. A. Each corporation governed by Section 2671 et seq. of this Article title shall at all times have on deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner the sum of Fifteen Thousand Dollars (\$15,000.00). In addition every such corporation shall deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner, not later than ~~the first day of~~ each February 1 of each year, an amount equal to two percent (2%) of the gross subscriptions collected during the preceding calendar year, until the deposit of such corporation reaches a total of Twenty-five Thousand Dollars (\$25,000.00). All such deposits shall be held by the State ~~Treasurer~~ of Oklahoma in trust for the benefit and protection of the subscribers of the corporation making the deposit.

B. The deposit prescribed by this section shall be subject to withdrawal in whole or in part on the order of and as directed by the Insurance Commissioner and may be invested in ~~bonds of the United States or of the State of Oklahoma, or any political subdivision thereof, or state warrants~~ instruments which are permitted investments of the State Treasurer, which shall be assigned to the State ~~Treasurer~~ of Oklahoma and held ~~by him~~ as provided for original deposits. The securities may, with the

approval of the Commissioner, be exchanged for similar securities or cash of equal amount. Interest on securities so deposited shall be payable to the corporation depositing the same.

C. An unsettled final judgment, arising upon a certificate of participation against such a corporation, shall be a lien on the deposit prescribed by this section, subject to execution after thirty (30) days from the entry of final judgment. If the deposit is reduced thereby, it shall be replenished within ninety (90) days.

D. Upon the liquidation or dissolution of such corporation and the satisfaction of all its liabilities, any balance remaining in the deposit ~~in the hands~~ of the State ~~Treasurer~~ of Oklahoma and any other assets of the insurer shall be distributed in the manner directed by the directors of the dental service corporation.

SECTION 11. AMENDATORY 36 O.S. 1991, Section 2691.4, is amended to read as follows:

Section 2691.4 A. Each corporation governed by Section 2691.1 et seq. of this article title shall at all times have on deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner the sum of Fifteen Thousand Dollars (\$15,000.00). In addition every such corporation shall deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner, not later than ~~the first day of each~~ February 1 of each year, an amount equal to two percent (2%) of the gross subscriptions collected during the preceding calendar year, until the deposit of such corporation reaches a total of Twenty-five Thousand Dollars (\$25,000.00). All such deposits shall be held by the State ~~Treasurer~~ of Oklahoma in trust for the benefit and protection of the subscribers of the corporation making the deposit.

B. The deposit prescribed by this section shall be subject to withdrawal in whole or in part on the order of and as directed by the Insurance Commissioner and may be invested in ~~bonds of the United States or of the State of Oklahoma, or any political~~

~~subdivision thereof, or state warrants~~ instruments which are permitted investments of the State Treasurer, which shall be assigned to the State ~~Treasurer~~ of Oklahoma and held ~~by him~~ as provided for original deposits. The securities may, with the approval of the Commissioner, be exchanged for similar securities or cash of equal amount. Interest on securities so deposited shall be payable to the corporation depositing the same.

C. An unsettled final judgment, arising upon a certificate of participation against such a corporation, shall be a lien on the deposit prescribed by this section, subject to execution after thirty (30) days from the entry of final judgment. If the deposit is reduced thereby, it shall be replenished within ninety (90) days.

D. Upon the liquidation or dissolution of such corporation and the satisfaction of all its liabilities, any balance remaining in the deposit ~~in the hands~~ of the State ~~Treasurer~~ of Oklahoma and any other assets of the insurer shall be distributed in the manner directed by the directors of the chiropractic service corporation.

SECTION 12. AMENDATORY 36 O.S. 1991, Section 2907, is amended to read as follows:

Section 2907. A. A domestic reciprocal insurer hereunder formed, if it has otherwise complied with the provisions of ~~this~~ the Oklahoma Insurance Code, may be authorized to transact insurance if it deposits and maintains on deposit with the State ~~Treasurer~~, of Oklahoma through the office of the Insurance Commissioner, surplus funds as follows:

1. To transact property insurance, surplus funds of not less than One Hundred Thousand Dollars (\$100,000.00) ~~-, and~~

2. To transact vehicle insurance, surplus funds of not less than One Hundred Fifty Thousand Dollars (\$150,000.00).

B. A domestic reciprocal insurer may be authorized to transact additional kinds of insurance if it has otherwise complied with the provisions of ~~this~~ the Oklahoma Insurance Code therefor and

possesses and so maintains on deposit surplus funds in amount equal to the minimum capital required of a stock insurer for authority to transact a like combination of kinds of insurance.

SECTION 13. AMENDATORY 36 O.S. 1991, Section 2913, is amended to read as follows:

Section 2913. In lieu of such bond, the attorney of a domestic reciprocal insurer may maintain on deposit with the State ~~Treasurer~~ of Oklahoma through the office of the Insurance Commissioner a like amount in cash or in value of securities qualified under ~~this~~ the Oklahoma Insurance Code as insurers' investments, and subject to the same conditions as the bond.

SECTION 14. AMENDATORY 36 O.S. 1991, Section 6146, is amended to read as follows:

Section 6146. A. A prepaid dental plan organization shall keep on deposit with the State ~~Treasurer~~ of Oklahoma through the Insurance Commissioner cash certificates of deposit issued by solvent insured banks and trust companies in Oklahoma, or a combination of cash certificates or securities eligible for investment of capital funds, which have been approved by the Commissioner in the following amounts:

Number of members	Deposit
5,000 or less	\$25,000.00
5,001 - 7,500	\$30,000.00
7,501 - 10,000	\$50,000.00
10,001 - 15,000	\$75,000.00
15,001 - 20,000	\$100,000.00
20,001 - 25,000	\$125,000.00
25,001 - 30,000	\$150,000.00
30,001 - 40,000	\$175,000.00
40,001 and above	\$200,000.00

B. The deposit required by the provisions of subsection A of this section shall be held by the State ~~Treasurer~~ of Oklahoma in

trust for the benefit and protection of persons covered by a prepaid dental plan and shall not be subject to attachment by any creditors of the prepaid dental organization or plan.

C. Any securities required by the provisions of subsection A of this section, with the approval of the Commissioner, may be exchanged for similar securities or cash of equal amount. Interest on securities deposited shall be payable to the prepaid dental plan organization depositing such securities.

D. An unpaid final judgment arising upon a membership coverage shall be a lien on the deposit held by the State ~~Treasurer~~ of Oklahoma, subject to execution after thirty (30) days from the entry of final judgment, unless the judgment is satisfied. If the deposit held by the State ~~Treasurer~~ of Oklahoma is reduced, ~~said~~ the deposit shall be replenished within ninety (90) days by the prepaid dental plan organization.

E. The deposit prescribed by the provisions of subsection A of this section shall not apply to a prepaid dental plan organization which is funded by the state, a political subdivision of the state, or the United States.

F. Upon liquidation or dissolution of a prepaid dental plan organization and the satisfaction of all debts and liabilities of the organization, any balance remaining of the cash or securities deposit as prescribed in subsection A of this section together with any other assets of the prepaid dental plan organization shall be returned by the Commissioner to the prepaid dental plan organization.

SECTION 15. AMENDATORY Section 6, Chapter 108, O.S.L. 1993 (36 O.S. Supp. 1998, Section 6606), is amended to read as follows:

Section 6606. A. To ensure the faithful performance of its obligations to its members or subscribers in the event of insolvency, each service warranty association shall, before being

issued a license by the Insurance Commissioner and during such time as the association has premiums in force in this state, deposit and maintain securities of the type eligible for deposit by an insurer pursuant to Section 613 of ~~Title 36 of the Oklahoma Statutes~~ this title. Whenever the market value of the securities deposited with the Commissioner is less than ninety-five percent (95%) of the amount required, the association shall deposit additional securities or otherwise increase the deposit to the amount required. In lieu of the amounts required in Section 613 of ~~Title 36 of the Oklahoma Statutes~~ this title, such securities shall have at all times a market value as follows:

1. A new warrantor, before the issuance of its license and before receiving any premiums, shall place and maintain in trust with the Insurance Commissioner the amount of Twenty Thousand Dollars (\$20,000.00);
2. A warrantor which has Three Hundred Thousand Dollars (\$300,000.00) or less of gross written premiums in this state shall place and maintain in trust with the Commissioner an amount not less than Fifty Thousand Dollars (\$50,000.00);
3. A warrantor which has more than Three Hundred Thousand Dollars (\$300,000.00) but less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) or more of gross written premiums in this state shall place and maintain in trust with the Commissioner an amount equal to One Hundred Thousand Dollars (\$100,000.00);
4. A warrantor which has Seven Hundred Fifty Thousand Dollars (\$750,000.00) or more of gross written premiums in this state shall place and maintain in trust with the Commissioner an amount equal to One Hundred Thousand Dollars (\$100,000.00);
5. A warranty seller shall, before the issuance of its license, place in trust with the Commissioner an amount not less than One Hundred Thousand Dollars (\$100,000.00); and

6. All warrantors and warranty sellers upon receipt of written notice from the Commissioner, shall have thirty (30) calendar days in which to make additional deposits as the Commissioner deems necessary, up to the maximum amounts provided in this subsection.

B. 1. In lieu of any deposit of securities required under subsection A of this section and subject to the approval of the Commissioner, the service warranty association may file with the Commissioner a surety bond issued by an authorized surety insurer. The bond shall be for the same purpose as the deposit in lieu of which it is filed. The Commissioner may not approve any bond under the terms of which the protection afforded against insolvency is not equivalent to the protection afforded by those securities provided for in subsection A of this section.

2. When a bond is deposited in lieu of the required securities, no warranties shall be written which provide coverage for a time period beyond the duration of such bond. The bond shall guarantee that the service warranty association will faithfully and truly perform all the conditions of any service warranty contract.

3. No such bond shall be canceled or subject to cancellation unless at least sixty (60) days' advance notice thereof, in writing, is filed with the Commissioner. In the event that notice of termination of the bond is filed with the Commissioner the service warranty association insured thereunder shall, within thirty (30) days of the filing of notice of termination, provide the Commissioner with a replacement bond meeting the requirements of this subsection or deposit additional securities as required under subsection A of this section. The cancellation of a bond shall not relieve the obligation of the issuer of the bond for claims arising out of contracts issued before cancellation of the bond unless a replacement bond or securities are filed. In no event shall the liability of the issuer under the bond exceed the face amount of the bond. If within thirty (30) days of filing the notice of

termination no replacement bond or additional security is provided, the Commissioner shall suspend the license of the association until the deposit requirements are satisfied.

C. Securities and bonds posted by an association pursuant to this section are for the benefit of, and subject to action thereon in the event of insolvency or impairment of any association or insurer by, any person or persons sustaining an actionable injury due to the failure of the association to faithfully perform its obligation to its warranty holders.

D. The State Treasurer shall designate any solvent trust company or other solvent financial institution having trust powers domiciled in this state as the state's depository to be responsible for the safekeeping of all securities deposited with the Commissioner pursuant to the provisions of the Service Warranty Insurance Act. Any such deposit so held shall be at the expense of the service warranty association. Such securities shall not be subject to taxation, but shall be held exclusively and solely to guarantee the faithful performance by the association of its obligations to its members or subscribers.

E. The depositing association, during its solvency, shall have the right to exchange or substitute other securities of like quality and value for securities on deposit, to receive the interest and other income accruing to such securities, and to inspect the deposit at all reasonable times.

F. Such deposit or bond shall be maintained unimpaired as long as the association continues in business in this state. Whenever the association ceases to do business in this state and furnishes the Commissioner proof satisfactory to the Commissioner that it has discharged or otherwise adequately provided for all its obligations to its members or subscribers in this state, the Commissioner shall release the deposited securities to the parties entitled thereto, on presentation of the receipts of the Commissioner for such

securities, or shall release any bond filed with it in lieu of such deposit.

G. No judgment creditor or other claimant of a service warranty association, other than a judgment creditor whose judgment is based on a service warranty contract, shall have the right to levy upon any of the assets or securities held in this state as a deposit pursuant to this section.

SECTION 16. AMENDATORY 62 O.S. 1991, Section 7.5a, as amended by Section 2, Chapter 164, O.S.L. 1997 (62 O.S. Supp. 1998, Section 7.5a), is amended to read as follows:

Section 7.5a The State Treasurer shall prescribe the forms and manner of issuance of vouchers against agency clearing accounts and agency special accounts in the State Treasury. All vouchers drawn against agency clearing accounts and agency special accounts shall be signed by an authorized person designated by the administrative authority of the agency and countersigned by the principal fiscal officer of the agency or another person specifically designated by the administrative authority. ~~No~~ Provided, the State Treasurer may waive the counter signature requirement if an agency certifies that controls are in place and will be followed to prevent the unauthorized issuance of its vouchers and if the vouchers are generated and signed by automated processes. Unless such waiver is granted, no voucher shall be paid by the State Treasurer without such signature and countersignature, if required.

SECTION 17. AMENDATORY 62 O.S. 1991, Section 71, as last amended by Section 7, Chapter 85, O.S.L. 1998 (62 O.S. Supp. 1998, Section 71), is amended to read as follows:

Section 71. A. The State Treasurer is authorized and directed to select a number of banks, savings banks or savings and loan associations and credit unions within the State of Oklahoma as depositories for all monies and funds coming into the hands of the State Treasurer as the official depository. Such banks, savings

banks or savings and loan associations and credit unions shall be in good standing and conducting a regular banking business and shall collect such drafts, bills of exchange, and checks as may be deposited by the state in the regular course of business, and shall pay all checks and drafts legally authorized and duly drawn on the funds deposited in such banks, savings banks or savings and loan associations and credit unions.

B. At the request of state agencies or state institutions conducting operations or transacting state business outside the State of Oklahoma, the State Treasurer is hereby authorized to name and designate financial institutions located without the State of Oklahoma as official depositories of state monies and funds where it is shown to the satisfaction of the State Treasurer that the need for such out-of-state depository is required for the orderly and expeditious deposit of monies and funds coming into the possession of the requesting state agency or state institution. For purposes of this section, the State Treasurer shall not designate any financial institution outside the United States for the deposit of public funds, monies, securities, or any other financial assets subject to the control of the State Treasurer. Any out-of-state financial institution designated as an official depository of the State Treasurer shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. Before designating any financial institution outside the State of Oklahoma as an official depository, the State Treasurer shall, if the State Treasurer deems it necessary, require a bond to be given by such financial institution to the State of Oklahoma in double the amount of monies which ~~said~~ the requesting state agency or institution anticipates will be the maximum amount of money or funds on deposit at any one time with ~~said~~ the financial institution. Such bond will be approved by the State Treasurer and filed with the

Secretary of State. Any out-of-state financial institution designated as an official depository shall in all respects conform to and comply with the provisions of this section, the Security for Public Deposits Act, and any and all laws pertaining to financial institutions receiving deposits of public monies or funds.

C. The State Treasurer shall establish procedures which provide minimum standards for establishing and maintaining relationships between state entities and financial institutions. As used in this subsection, "financial institutions" means those institutions described in subsection E of this section, credit card processing companies and other companies which handle or process financial transactions. If the State Treasurer has an agreement with a financial institution to provide services to the State Treasurer, a state agency may pay the institution directly for services performed for the agency under the same terms, if the services are services not previously provided to the agency through the State Treasurer. State agencies may enter into agreements with the State Treasurer to participate in any credit card processing agreements entered into by the State Treasurer. Any state agency participating in such an agreement may pay the credit card vendor directly for any fees owed on transactions associated with that agency. The State Treasurer is authorized to prescribe formats and issue all state vouchers, warrants and checks drawn on state treasury funds. The State Treasurer may compensate financial institutions for services rendered to the state by direct fee charges or through compensating balances. Any financial institution receiving payment for services from the state through compensating balances shall file a report quarterly with the State Treasurer detailing the services rendered to the state and the charges for such services. ~~Said~~ Such charges shall not exceed those made for similar services to other customers of the financial institution. If the quarterly value of ~~said~~ the compensating balance arrangement is above or below the quarterly

charges for the services rendered to the state had service charges been separately billed, the difference in amount of the quarterly charges for the services rendered and the amount of the compensating balance shall be applied to the subsequent quarter. Any compensation arrangements made with financial institutions pursuant to this subsection shall not be subject to the provisions of the Oklahoma Central Purchasing Act.

D. Of the public funds in the hands of the State Treasurer, there shall not be deposited in any one of such banks, savings banks or savings and loan associations and credit unions an amount to exceed the combined amount of insured deposits plus approved legal securities pledged by such banks, savings banks or savings and loan associations and credit unions therefor. Such banks, savings banks or savings and loan associations and credit unions shall make quarterly reports of the amount deposited, checked out, or withdrawn and the balances on hand for the fiscal year.

E. All provisions of this title relating to depositories for public funds shall include, in addition to banks, all financial institutions of this state. As used in this subsection, the term "financial institutions" means banks, savings banks, savings and loan associations and credit unions in this state whose deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration or any successor institutions.

F. The State Treasurer may permit treasurers of local governmental entities to place public funds under their control into investments used by the State Treasurer for state funds, if the local treasurer has appropriate investment authority.

SECTION 18. AMENDATORY 62 O.S. 1991, Section 72.3, is amended to read as follows:

Section 72.3 All public deposits made by the State Treasurer in financial institutions shall be secured as provided for in the Security for Public Deposits Act. As used in this section, "public

deposits" shall not include those types of investments specified in paragraphs 1, 3, 4, 5, 6 ~~and~~, 7 and 8 of subsection A of Section 89.2 of ~~Title 62 of the Oklahoma Statutes~~ this title.

SECTION 19. AMENDATORY 62 O.S. 1991, Section 88.2, is amended to read as follows:

Section 88.2 As used in the Oklahoma Small Business Linked Deposit Act:

1. "Eligible participant" means:

- a. any small business organized for profit, including any business related to tourism, doing business in and from the State of Oklahoma, which employs not more than two hundred (200) employees or has gross annual receipts of not more than Four Million Dollars (\$4,000,000.00),
- b. any industrial park that has been certified by the Oklahoma Department of Commerce as meeting minimum guidelines necessary for an industrial park. An industrial park loan may only be made to the entity which owns the industrial park, and such entity must own the facilities to be financed for the duration of the linked loan, and
- c. any public trust authorized in accordance with Section 176 of Title 60 of the Oklahoma Statutes engaged in industrial development as determined by the Department of Commerce. Such public trusts are limited to fifteen percent (15%) of the total available funds and a nonrenewable term not to exceed six (6) months unless their purpose is to make package passthrough loans to other private nontrust recipients for industrial development purposes in which case the other conditions contained in ~~this act~~ the Oklahoma Small Business Linked Deposit Act shall apply.

Subsequent loans made by an eligible trust cannot exceed the interest rate established by ~~this act.~~ the Oklahoma Small Business Linked Deposit Act;

2. "Eligible lending institution" means a financial institution that:

a. is eligible to make commercial loans,

~~b.~~ is a public depository of state funds, and

~~c.~~ agrees to participate in the linked deposit program,

or

~~d.~~ b. is an institution of the farm credit system organized under the federal "Farm Credit Act of 1971", 12 U.S.C. 2001, as amended;

3. "Enterprise zone" means those areas designated as enterprise zones or districts in accordance with the Oklahoma Enterprise Zone Act, ~~Sections 690.1 through 690.19 of this title.;~~

4. "Priority ~~Enterprise Zones~~ enterprise zone" means an enterprise zone selected by the Department of Commerce which has demonstrated unusual commitment as provided by ~~this act.~~ the Oklahoma Small Business Linked Deposit Act;

5. "Small business linked deposit" means a certificate of deposit placed by the State Treasurer with an eligible lending institution; and

6. "Board" means the Oklahoma Linked Deposit Review Board.

SECTION 20. AMENDATORY 62 O.S. 1991, Section 88.5, as last amended by Section 10, Chapter 85, O.S.L. 1998 (62 O.S. Supp. 1998, Section 88.5), is amended to read as follows:

Section 88.5 A. The State Treasurer and the Department of Commerce are hereby authorized to disseminate information and to provide small business linked deposit loan packages to the lending institutions eligible for participation under ~~this act~~ the Oklahoma Small Business Linked Deposit Act.

B. The small business linked deposit loan package shall be completed by the borrower before being forwarded to the lending institution for consideration. Any technical assistance in completing such loan package shall be provided by the State Treasurer.

C. An eligible lending institution that desires to receive a small business linked deposit shall accept and review applications for loans from eligible participants. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible participant. Loans ~~under this act~~ made pursuant to the provisions of the Oklahoma Small Business Linked Deposit Act shall conform to the following conditions:

1. Maximum loan amounts under the Oklahoma Small Business Linked Deposit Act shall:

- a. not exceed One Million Dollars (\$1,000,000.00) for an eligible small business,
- b. not exceed Six Million Dollars (\$6,000,000.00) for an eligible industrial park or any public trust authorized in accordance with Section 176 of Title 60 of the Oklahoma Statutes engaged in industrial development as determined by the Oklahoma Linked Deposit Review Board. Such public trusts are limited to fifteen percent (15%) of the total available funds and a nonrenewable term not to exceed six (6) months unless their purpose is to make package passthrough loans to other private recipients for industrial development purposes. Loans made by an eligible trust cannot exceed the interest rate established by ~~this act~~ the Oklahoma Small Business Linked Deposit Act. Any recipient of a loan through an eligible trust must meet the criteria of ~~this act~~ the Oklahoma Small Business Linked Deposit Act to receive a small

business linked deposit loan. An industrial park loan may only be made to the entity which owns the industrial park, and such entity must own the facilities to be financed for the duration of the linked loan;

2. An eligible participant shall certify on the loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in accordance with the purpose of this section;

3. Only one linked deposit loan shall be made and be outstanding at any time to any eligible participant; provided that the linked deposit loan may be refinanced;

4. No linked deposit loan shall be approved for any otherwise eligible participant when fifty percent (50%) or more of the interest in or control of such otherwise eligible participant is owned directly or indirectly by a person who owns directly or indirectly fifty percent (50%) or more of or controls another participating eligible participant;

5. No loan shall be made to any officer or director of the lending institution making the loan or to any entity in which any such officer or director maintains a controlling interest;

6. No loan shall be made to any employee of the State Treasurer's office or members of the Board or to any entity in which any such officer or director maintains a controlling interest;

7. The criteria for the amount of loans used for refinance shall be established by the Oklahoma Linked Deposit Review Board to reflect legislative intent to tighten previous criteria on refinancing;

8. The criteria for the amount of loans per job ratio shall be established by the Oklahoma Linked Deposit Review Board to reflect legislative intent to maximize the program in terms of the jobs created or saved;

9. Whoever knowingly makes a false statement concerning a linked deposit loan application shall be prohibited from entering into the linked deposit loan program; and

10. Linked deposits may be made for any maturity considered appropriate by the State Treasurer not to exceed two (2) years and may be renewed for up to an additional three renewals not to exceed two (2) years each at the discretion of the State Treasurer with the approval of the lending institution. No renewals will be allowed unless the amount of principal has been reduced by a minimum of five percent (5%) and all interest paid to date from the time of the prior loan or renewal. However, at renewal the Oklahoma Linked Deposit Review Board may approve an increase in the amount of principal, if the business is expanding and additional jobs will be created. An approval of such an increase in principal will not extend the maximum years of participation in the program. In addition, loans made to eligible participants where the loan is to be used within an enterprise zone may be made for the maturity date of three (3) years with two additional renewals. The first renewal may be for up to three (3) years and the last renewal may be for up to two (2) years. Loans made to be used within Priority Enterprise Zones may be made with a maturity date of five (5) years and have another three (3) years of renewal. Interest shall be paid at the times determined by the State Treasurer. The State Treasurer may place a small business linked deposit with an eligible lending institution or decline to do so based on the cash flow needs of the state, the security of state funds, investment needs of the state and the ratio of state funds deposited to jobs which would be sustained or created.

D. In considering which eligible participants to include in the small business linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area in which the business is located and other factors

it considers appropriate to determine the relative financial need of the business including those criteria set forth in the Community Reinvestment Act of the United States. Location in an enterprise zone shall be evidence of the economic needs of the area.

E. The eligible lending institution shall forward to the State Treasurer a small business linked deposit loan package in the form and manner prescribed and approved by the State Treasurer. The package shall include information regarding the amount of the loan requested by each eligible participant, the number of jobs to be created or sustained, an estimate of the number of zone residents to be employed in such jobs where the loan is to be used in an enterprise zone and such other information regarding each business the State Treasurer and the Board requires. The institution shall certify that each applicant is an eligible participant, and shall, for each business, certify the present borrowing rate applicable to each specific eligible small business.

F. Upon receipt of a completed small business linked deposit loan package, the State Treasurer shall forward the loan package to the Board, Oklahoma Tax Commission and Oklahoma Employment Security Commission. The Board shall review the small business linked deposit loan package to determine if ~~said~~ the package is qualified under ~~this act~~ the Oklahoma Small Business Linked Deposit Act. Within ten (10) days of receipt of the loan package, the Oklahoma Tax Commission and the Oklahoma Employment Security Commission shall determine and certify with the Board whether or not the applicant is in good standing. The Board shall make a recommendation concerning the package at the next regularly scheduled Board meeting or at a special Board meeting, after receipt of the responses from the Oklahoma Tax Commission and the Oklahoma Employment Security Commission. No applicant will be approved without certification of good standing with the Oklahoma Tax Commission and Oklahoma Employment Security Commission. The Board shall return the package

to the State Treasurer with a written recommendation of approval or rejection. If the Board recommends rejection, the written recommendation shall include reasons for ~~said~~ rejection. The Board shall forward a copy of its rejection notice to the lending institution and the borrower. The State Treasurer shall keep a chronological list of applications forwarded by the Board for approval or rejection.

SECTION 21. AMENDATORY 62 O.S. 1991, Section 89.2, as last amended by Section 1, Chapter 65, O.S.L. 1995 (62 O.S. Supp. 1998, Section 89.2), is amended to read as follows:

Section 89.2 A. The State Treasurer is directed to invest the maximum amount of funds under his or her control consistent with good business practices; provided that the Treasurer shall keep eighty percent (80%) or more of the money under his or her control invested during each fiscal year based on the average daily balances during ~~said~~ the fiscal year. Except as otherwise provided for by law, such investments shall earn not less than the rate for comparable maturities on United States Treasury obligations. Except as otherwise provided for by law, the State Treasurer may purchase and invest only in:

1. Obligations of the United States Government, its agencies and instrumentalities;
2. Collateralized or insured certificates of deposit and other evidences of deposit at banks, savings banks, savings and loan associations and credit unions located in this state;
3. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings bank, a savings and loan association or a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not more than one-half (1/2) of the ten

percent (10%) limit shall be invested in any one financial institution specified in this paragraph;

4. Prime banker's acceptances which are eligible for purchase by the Federal Reserve System and which do not exceed two hundred seventy (270) days' maturity. Purchases of prime banker's acceptances shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not more than three-fourths (3/4) of the ten percent (10%) limit shall be invested in any one commercial bank pursuant to this paragraph;

5. Prime commercial paper which shall not have a maturity that exceeds one hundred eighty (180) days nor represent more than ten percent (10%) of the outstanding paper of an issuing corporation. Purchases of prime commercial paper shall not exceed seven and one-half percent (7 1/2%) of the cash available for investment which may be invested pursuant to this section;

6. Investment grade obligations of state and local governments, including obligations of Oklahoma state public trusts which possess the highest rating from at least one nationally recognized rating agency acceptable to the State Treasurer. Purchases of investment grade obligations of state and local governments shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section;

7. Repurchase agreements provided that such agreements are included within the written investment policy required by subsection D of this section that have underlying collateral consisting of those items and those restrictions specified in paragraphs 1 through 6 of this subsection; and

8. Money market funds regulated by the Securities and Exchange Commission and which investments consist of those items and those restrictions specified in paragraphs 1 through 7 of this subsection.

B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion

and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

C. The State Treasurer shall appoint an investment officer who shall perform duties related to the investment of state funds in the Office of the State Treasurer. The investment officer shall not perform duties unrelated to the investment of state funds. The investment officer shall not perform or supervise any accounting functions, data processing functions or duties related to the documentation or settlement of investment transactions.

D. Investments of public funds by the State Treasurer shall be made in accordance with written policies developed by the State Treasurer. The written investment policies shall address:

1. Liquidity;
2. Diversification;
3. Safety of principal;
4. Yield;
5. Maturity and quality; and
6. Capability of investment management.

The State Treasurer shall place primary emphasis on safety and liquidity in the investment of public funds. To the extent practicable taking into account the need to use sound investment judgment, the written investment policies shall include provision for utilization of a system of competitive bidding in the investment of state funds. Such system shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested.

E. The State Treasurer shall select one custodial bank to settle transactions involving the investment of state funds under the control of the State Treasurer. The State Treasurer shall review the performance of the custodial bank at least once every

year. The State Treasurer shall require a written competitive bid every three (3) years. The custodial bank shall have a minimum of Five Hundred Million Dollars (\$500,000,000.00) in assets to be eligible for selection. Any out-of-state custodial bank shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. In order to be eligible for selection, the custodial bank shall allow electronic access to all transaction and portfolio reports maintained by the custodial bank involving the investment of state funds under control of the State Treasurer. Such access shall be given to both the State Treasurer and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the State Treasurer and the custodial bank. Neither the State Treasurer nor the custodial bank shall permit any of the funds under the control of the State Treasurer or any of the documents, instruments, securities or other evidence of a right to be paid money to be located in any place other than within a jurisdiction or territory under the control or regulatory power of the United States Government.

F. The investment policy shall specify the general philosophy, policies and procedures to be followed in the investment of state monies by the State Treasurer. The investment policy shall include, but not be limited to, the following:

1. Policy objectives;
2. Performance measure objectives;
3. Authority for investment program;
4. Possible use of an investment advisory committee;
5. Reporting and documentation of investments;
6. Authorized investment instruments;
7. Diversification of investment risk;
8. Maturity limitations;

9. Selections of financial institutions;
10. Interest controls;
11. Safekeeping of investments;
12. Investment ethics; and
13. Formal adoption of policy.

G. The State Treasurer shall provide weekly reports of all investments made by the State Treasurer for that week to the Executive Review Committee of the Cash Management and Investment Oversight Commission, and list any commissions, fees or payments made for services regarding such investments. The reports required by this subsection shall be delivered to the Committee within three (3) business days of the end of the applicable week, and the Committee shall communicate any facts or information it deems appropriate to the Cash Management and Investment Oversight Commission and shall also prepare all reports necessary for the quarterly meeting of the Commission.

H. Not later than July 1 of each year, the State Treasurer shall forward a copy of the written investment policy to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Attorney General, the Bank Commissioner, and the Director of State Finance. In addition, the State Treasurer shall maintain one copy of the investment policy in the office of the State Treasurer for public inspection during regular business hours. Copies of any modifications to the investment policy shall be forwarded to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, and each member of the Cash Management and Investment Oversight Commission.

SECTION 22. AMENDATORY 70 O.S. 1991, Section 10-104, is amended to read as follows:

Section 10-104. The State Board of Education shall file with the ~~State Treasurer and~~ Secretary of the School Land ~~Department~~

Commission a report, duly certified, showing the school population for the preceding school year of each school district. School population shall be determined as provided for in Section ~~56~~ 10-103.1 of this ~~act~~ title. The report so filed shall be the basis for making the apportionments of state school land earnings during the following fiscal year.

SECTION 23. REPEALER 62 O.S. 1991, Sections 521, 522, 523, 524, as amended by Section 1, Chapter 400, O.S.L. 1998, 525, 526, 527 and 528 (62 O.S. Supp. 1998, Section 524), are hereby repealed.

SECTION 24. This act shall become effective July 1, 1999.

SECTION 25. 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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