

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 118

By: Monson

AS INTRODUCED

An Act relating to banks and trust companies; amending 6 O.S. 1991, Sections 214, as last amended by Section 17, Chapter 111, O.S.L. 1997, 416, as amended by Section 49, Chapter 111, O.S.L. 1997, 901, as last amended by Section 76, Chapter 111, O.S.L. 1997 and 2206, as amended by Section 4, Chapter 346, O.S.L. 1996 (6 O.S. Supp. 2000, Sections 214, 416, 901 and 2206), which relate to records, bank service corporations and deposits; modifying requirements for duplication of records of bank or trust company; modifying definition; specifying certain requirements relating to certificates of deposit payable on death; modifying amount of reimbursement for certain costs; and providing an effective date.

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

SECTION 1. AMENDATORY 6 O.S. 1991, Section 214, as last amended by Section 17, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 2000, Section 214), is amended to read as follows:

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

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

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

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 Such ~~regulations~~ rules may be amended or repealed.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

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

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

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

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

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

F. Permission to reproduce records - Admissibility. In lieu of retention of the original records, any bank or trust company may cause any, or all, of its records, and records at any time in its custody, including those held by it as a fiduciary, to be

photographed, stored by electronic imaging or otherwise reproduced in permanent form as provided in the Uniform Electronic Transactions Act. Any such photograph, imaged document or reproduction shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

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

SECTION 2. AMENDATORY 6 O.S. 1991, Section 416, as amended by Section 49, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 2000, Section 416), is amended to read as follows:

Section 416. A. Definitions.

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

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

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

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

B. Amount of bank investment in service corporations.

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

2. If stock in a bank service corporation has been held by two or more banks, or institutions, and one of such banks, or institutions, ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves the other as the sole stockholding bank, or institution, the corporation may nevertheless continue to function as such and the other bank or institution may continue to hold stock in it.

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

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

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

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

E. Regulation and examination of services - Banks and trust companies. No bank or trust company subject to examination by the State Banking Commissioner may cause to be performed, by contract or otherwise, any bank or trust company services for itself, whether on

or off its premises, unless assurances satisfactory to the Commissioner are furnished to the Commissioner by both the bank or trust company and the party performing such services that the performance thereof will be subject to regulation and examination by the Commissioner to the same extent as if such services were being performed by the bank or trust company itself on its own premises.

SECTION 3. AMENDATORY 6 O.S. 1991, Section 901, as last amended by Section 76, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 2000, Section 901), is amended to read as follows:

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

B. 1. ~~When~~ Except as provided in paragraph 7 of this subsection, when a deposit has been made or shall hereafter be made in any bank using the terms "Payable on Death" or "P.O.D.", ~~such deposits~~ the deposit shall be payable on the designated person's death to a trust designated in the deposit account agreement as the "P.O.D." beneficiary, or to an individual or individuals named beneficiary if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. Such deposit shall constitute a contract between the depositor and the bank that upon the death of the named owner of the account the bank will hold the funds for or pay them to the named beneficiary or the estate of the named beneficiary.

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

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

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

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

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

6. The receipt or acquittance of the named beneficiary so paid or the legal representative of such named beneficiary's estate, if deceased, shall be valid and sufficient release and discharge to the bank for any payment so made, unless, prior to such payment, the bank receives notice in the form and manner required in Section 905 of this title.

7. If a certificate of deposit has been designated "Payable on Death" or "P.O.D." and is pledged for repayment of any loan, such repayment shall be made prior to distribution of any remaining amount as provided in this subsection.

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

SECTION 4. AMENDATORY 6 O.S. 1991, Section 2206, as amended by Section 4, Chapter 346, O.S.L. 1996 (6 O.S. Supp. 2000, Section 2206), is amended to read as follows:

Section 2206. A. A government authority shall pay to the financial institution assembling, reproducing or providing any financial record of a customer a reasonable fee for such costs, including copying costs and labor costs. ~~Said costs are,~~ to be paid prior to the time the record is released.

B. For purposes of this section, the following fees shall be deemed reasonable:

1. Search and processing costs. Reimbursement for search and processing costs shall be the total amount of direct personnel time incurred in locating and retrieving, reproducing, packaging and preparing financial records for shipment or delivery. The rate for search and processing costs shall be Ten Dollars (\$10.00) per hour per person, computed on the basis of Two Dollars and fifty cents (\$2.50) per quarter hour or fraction thereof, and shall be limited to the total amount of personnel time spent in locating and retrieving documents or information or reproducing or packaging and preparing documents for shipment where required or requested by a government authority. If itemized separately, search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on

computer time and necessary supplies. Personnel time for computer search may be paid for only at the rate specified in this paragraph;

2. Reproduction costs. Reimbursement for reproduction costs shall be for costs incurred in making copies of documents required or requested. The rate for reproduction costs for making copies of required or requested documents shall be fifteen cents (\$0.15) for each page, including copies produced by reader/printer reproduction processes. Photographs, films and other materials shall be reimbursed at actual cost;

3. Transportation costs. Reimbursement for transportation costs shall be for necessary costs, directly incurred, to transport personnel to locate and retrieve the information required or requested, and necessary costs, directly incurred solely by the need to convey the required or requested material to the place of examination; and

4. Directly incurred costs. A financial institution also may receive reimbursement for costs incurred solely and necessarily as a consequence of searching for, reproducing or transporting books, papers, records, or other data, in order to comply with legal process. If a financial institution has records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs shall be considered to be directly incurred by the financial institution.

Notwithstanding the provisions of this section, a financial institution may receive reimbursement for costs as specified herein incurred in connection with responding to a subpoena for documents issued by a state court or state agency in the same amount as allowed by federal law for costs incurred in connection with responding to a subpoena for documents issued by a federal court or federal agency.

SECTION 5. This act shall become effective November 1, 2001.

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