

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1202

By: Mitchell and Bonny of the
House

and

Morgan and Robinson of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma State Banking Department; amending 6 O.S. 2001, Sections 201.1, 211, 211.1 and 211.2, which relate to banks; directing deposit of assessments collected by State Banking Commissioner; providing for promulgation of emergency rules by State Banking Board; requiring Legislature to set limits on annual compensation; modifying assessment amount; directing percentage of assessment be deposited into General Revenue Fund; providing for collection of special assessment by State Banking Board; directing deposit of certain assessments; requiring certain funds be deposited in the Oklahoma State Banking Department revolving fund; modifying applicability of statute to certain boards; clarifying which funds are deposited into Bank Examination Revolving Fund; amending 6 O.S. 2001, Section 2001.2, which relates to credit unions; directing percentage of assessment be deposited into General Revenue Fund; providing for collection of special assessments by State Credit Union Board; amending 18 O.S. 2001, Section 381.15, which relates to corporations; directing percentage of assessment be deposited into General Revenue Fund; providing for collection of special assessment by the State Banking Commissioner; providing for noncodification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

No later than March 1, 2004, the State Banking Commissioner shall deposit into the General Revenue Fund of the State Treasury One Million Fifty Thousand Dollars (\$1,050,000.00) from assessments collected by the State Banking Commissioner based on assets of state banks, credit union and savings associations as of December 31, 2003.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

For the fiscal year ending June 30, 2004, the State Banking Board is hereby authorized to promulgate emergency rules for the purpose of establishing fees and assessments pursuant to this act.

SECTION 3. AMENDATORY 6 O.S. 2001, Section 201.1, is amended to read as follows:

Section 201.1 A. The annual compensation, payable monthly, of the Commissioner, shall be fixed by the Banking Board ~~from~~ appropriations made within limits established by the Legislature.

B. The Commissioner and, with the Commissioner's authority, other members of the Department shall be entitled to reimbursement for actual and necessary travel expenses incurred in the performance of their duties, as provided by the State Travel Reimbursement Act.

SECTION 4. AMENDATORY 6 O.S. 2001, Section 211, is amended to read as follows:

Section 211. A. 1. The Banking Board shall charge and collect from each bank or trust company under its supervision not more than an annual fee of ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) which shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section 211.1 of this title.

2. The Board shall charge and collect ~~an assessment~~ assessments from each bank or trust company under its supervision on each One Thousand Dollars (\$1,000.00) of assets, or major fraction thereof, at ~~a rate~~ rates established by the Board. Assessments shall be

deposited in the Oklahoma State Banking Department revolving fund created by Section 211.1 of this title.

3. Effective January 1, 2005, and each year thereafter, twenty percent (20%) of all assessments collected pursuant to this paragraph shall be deposited to the General Revenue Fund of the State Treasury. The Board may charge and collect assessments on an annual basis and may, in addition to any annual assessment, charge and collect a special assessment from each bank or trust company, at rates established by the Board. The annual assessments shall be paid to the Oklahoma State Banking Department no later than the fifth day of February in each year. As used in this paragraph, "assets" shall not include assets held by a trust company in its fiduciary capacity.

~~3.~~ 4. The assessment fee for bank trust departments, which shall be in addition to the assessment collected pursuant to paragraph 2 of this subsection, shall be ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00). The assessment fees due under this paragraph shall be paid annually to the Banking Department no later than the ~~5th~~ fifth day of February in each year and shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section 211.1 of this title. Failure to pay within such time will result in a penalty of ~~not more than~~ Fifty Dollars (\$50.00) per day for each day it is in violation of this section, which penalty, together with the amount due under the foregoing provisions of this section, may be recovered in a civil action in the name of the state.

~~4. Except as otherwise provided by law, all assessments shall be paid into the State Treasury and accrue to the General Revenue Fund of the state.~~ 5. All fees not otherwise directed shall be deposited in the Department revolving fund pursuant to Section 211.1 of this title.

B. Whenever it is deemed advisable by the State Banking Commissioner, special examinations of banks, trust companies and any other person under, subject to or proposed to become under or subject to the supervision of the Commissioner shall be conducted. The expenses of the Department necessarily incurred in a special examination, and the expenses of the Department necessarily incurred in a regular examination of a trust company, shall be chargeable to the bank, trust company or person examined at the rate not to exceed Fifty Dollars (\$50.00) per hour plus travel expenses as provided by subsection B of Section 201.1 of this title for each of the examining personnel while engaged at such institution. Payments received pursuant to this subsection shall be deposited in the Department revolving fund pursuant to Section 211.1 of this title.

C. Section 211 of Title 62 of the Oklahoma Statutes shall not apply to the Oklahoma State Banking Department, the Banking Board, the Credit Union Board nor the Banking Commissioner.

SECTION 5. AMENDATORY 6 O.S. 2001, Section 211.1, is amended to read as follows:

Section 211.1 There is hereby created in the State Treasury a revolving fund for the Oklahoma State Banking Department. The revolving fund shall consist of all monies received by the Commissioner under Sections 104, 303, 415, ~~and~~ 501.1 and 501.2 of this title and Section 381.16 of Title 18 of the Oklahoma Statutes and those payments required to be deposited in the revolving fund pursuant to Sections 211, 1103, 1206, 2001.2, 2008, 2107 and 2113 of this title, Section 381.15 of Title 18 of the Oklahoma Statutes, and Section 166 of Title 8 of the Oklahoma Statutes. The revolving fund shall be a continuing fund, not subject to fiscal year limitations. Expenditures from the fund shall be made pursuant to the laws of this state and the statutes relating to the Department, and without legislative appropriation. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an

authorized employee or employees of the Department and approved for payment by the Director of State Finance.

SECTION 6. AMENDATORY 6 O.S. 2001, Section 211.2, is amended to read as follows:

Section 211.2 A. There is hereby created in the State Treasury the "Bank Examination Revolving Fund" for the Oklahoma State Banking Department. The Bank Examination Revolving Fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of the fund pursuant to this section are hereby appropriated and may be budgeted and expended by the Department for the general operating expenses of the Department and as required by subsection D of Section 204 of this title.

Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The Bank Examination Revolving Fund shall consist of monies ~~received from the assessment on each One Thousand Dollars (\$1,000.00) of assets provided for in Section 211 of this title. When the amount collected from the assessment and deposited in the General Revenue Fund exceeds the amount as certified by the State Board of Equalization pursuant to Section 23 of Article X of the Constitution of the State of Oklahoma, the excess monies collected from the assessment shall be directly deposited by the Department into the Bank Examination Revolving Fund. Additionally, the Bank Examination Revolving Fund shall include amounts received by the Department pursuant to agreements authorized under subsection D of Section 204 of this title as directed by law.~~

SECTION 7. AMENDATORY 6 O.S. 2001, Section 2001.2, is amended to read as follows:

Section 2001.2 A. In addition to any other powers conferred by law, the State Credit Union Board shall have the power to:

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

2. Define any term not defined in Oklahoma Laws relating to credit unions;

3. Adopt and promulgate reasonable and uniform rules and regulations to:

- a. govern the conduct, operation and management of credit unions,
- b. govern the examination, evaluation of assets and the statements and reports of credit unions, and the form on which credit unions shall report their assets, liabilities and reserves, charge off their bad debts and otherwise keep their records and accounts, and
- c. govern the administration of the laws of this state relating to credit unions.

Such rules or regulations shall serve to foster and maintain an effective level of credit union services and the security of member accounts. The provisions of the Administrative Procedures Act of this state, as now or hereafter amended, are hereby expressly adopted and incorporated herein as though a part of this provision, and shall apply to all rules or regulations, procedures and orders of the Board. Final orders of the Board may be appealed to the Supreme Court of Oklahoma by any party directly affected and showing aggrievement by the order;

4. Restrict the withdrawal of share or deposit accounts or both from any credit union after having determined that circumstances make such restriction necessary for the proper protection of shareholders or depositors;

5. Issue cease and desist orders after having determined from competent and substantial evidence that a credit union is engaged or has engaged, or when the Board has reasonable cause to believe the credit union is about to engage, in an unsafe or unsound practice,

or is violating or has violated or the Board has reasonable cause to believe is about to violate, a material provision of any law, rule, regulation or any condition imposed in writing by the Board or any written agreement made with the Board;

6. Suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer or committee member who has committed any violation of a law, rule or regulation or of a cease and desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in any act, omission or practice which constitutes a breach of that person's fiduciary duty as such director, officer or committee member, when the Board has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members;

7. Affirm, modify, reverse, and stay the enforcement of any order or ruling of the State Banking Commissioner or Administrator appointed pursuant to the provisions of subsection B of this section relating to credit unions, their directors, officers, committee members or employees;

8. Subpoena witnesses, compel their attendance, require the production of evidence, administer oaths and examine any person under oath in connection with any subject relating to a duty imposed upon or a power vested in the Board;

9. Charge application fees for processing submissions by a credit union to the Board, Commissioner or Administrator. The Board may charge a fee for the items enumerated herein; provided, the Board's fee schedule shall not be limited solely to the following submissions:

- a. an application for a merger or acquisition,
- b. an application to amend a credit union's bylaws,

- c. an application to be heard by the Board to add a special employee group, or
- d. an application to add a special employee group by using any simplified expansion process.

The Board may adopt and promulgate, from time to time, a fee schedule for the processing of submissions by credit unions. Any payments received pursuant to the provisions of this paragraph shall be deposited to the revolving fund for the State Banking Department created in Section 211.1 of this title; ~~and~~

10. Charge and collect ~~an assessment~~ assessments from each credit union under its supervision on each One Thousand Dollars (\$1,000.00) of assets, or major fraction thereof, at ~~a rate~~ rates established by the Board. The ~~assessment~~ assessments shall be paid annually to the State Banking Department no later than the fifth day of February in each year. All assessments ~~shall be deposited in the General Revenue Fund of this state~~ and all fees shall be deposited in the revolving fund for the State Banking Department pursuant to the provisions of Section 211.1 of this title. Effective January 1, 2005, and each year thereafter, twenty percent (20%) of all assessments collected pursuant to this paragraph shall be deposited to the General Revenue Fund of the State Treasury. The State Credit Union Board may charge and collect assessments on an annual basis and may, in addition to any annual assessment, charge and collect a special assessment from each credit union, at rates established by the Board; and

11. Charge and collect from each credit union under its supervision an annual fee of One Thousand Dollars (\$1,000.00) which shall be deposited in the Oklahoma State Banking Department revolving fund created pursuant to Section 211.1 of this title.

B. The Commissioner may appoint an Administrator who, in addition to such duties and authority as are conferred by Section 2001 et seq. of this title, shall have such duties and authority as

the Commissioner may assign the Administrator. The bond of the Administrator shall be the same as that set for the State Deputy Banking Commissioner. In addition to other powers conferred by Section 2001 et seq. of this title, the Commissioner shall have the power to:

1. Delegate the duties of the Office of the State Banking Commissioner under Section 2001 et seq. of this title to the Administrator;

2. Exercise general supervision of credit unions organized under the laws of this state;

3. Require credit unions to cease and desist from engaging in any act or transaction, or doing any act in furtherance thereof, which would constitute a violation of the provisions of Section 2001 et seq. of this title, or a lawful regulation issued thereunder, or to cease and desist in engaging in any unsafe or unsound credit union practice;

4. Suspend any officer, director or employee or committee member who is found, after hearing, to be dishonest, reckless, unfit to participate in the conduct of the affairs of the credit union, or to have engaged or participated in any unsafe or unsound practice in connection with the credit union, or to be practicing a continuing disregard or violation of laws, rules, regulations or orders which are likely to cause substantial loss to the credit union or likely to seriously weaken the condition of the credit union. However, any individual so suspended may within ten (10) days file a notice of protest for the suspension with the Administrator and as soon as possible thereafter, but in no event more than thirty (30) days, the Board will review the order of the Commissioner and make such findings as it deems proper, and pending that, the officer, employee, director or committee member shall not perform any of the duties of such office; and

5. Charge a fee not to exceed Fifty Dollars (\$50.00) per hour and actual expenses for each examiner for actual time consumed by the State Banking Department in making special examinations of a credit union. A "special examination" shall be any examination conducted in connection with a charter conversion, or a limited scope examination conducted at a frequency more often than once each eighteen (18) months, when deemed necessary by the Administrator and the Commissioner. Payments received pursuant to this paragraph shall be deposited in the revolving fund for the State Banking Department pursuant to Section 211.1 of this title.

C. Upon failure of a credit union to comply with the Commissioner's order or requirements, the Commissioner shall report such failure to the Board for action with respect to suspension of such credit union's certificate of authority to transact business.

SECTION 8. AMENDATORY 18 O.S. 2001, Section 381.15, is amended to read as follows:

Section 381.15 A. In the case of any insured association which is examined periodically by the Director of the Office of Thrift Supervision, and whose financial records are audited periodically in accordance with regulations of the Director of the Office of Thrift Supervision, the State Banking Commissioner may accept such examination and audit reports, and rely upon accuracy thereof, in lieu of examinations by the savings and loan administrator. It shall be the responsibility of each insured association to provide such reports to the Commissioner within ten (10) days of such time as such reports are received from the agency, person or firm preparing them. The Commissioner may require a special examination of any association to be made at any time when in the judgment of the Commissioner an examination may be necessary.

B. The Commissioner shall charge and collect ~~an assessment~~ assessments from each association chartered pursuant to this act on each One Thousand Dollars (\$1,000.00) of assets, or major fraction

thereof, at a rate established by the Commissioner. The Commissioner may charge and collect assessments on an annual basis and may, in addition to any annual assessment, charge and collect a special assessment from each association, at rates established by the Commissioner. Assessments shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section 211.1 of Title 6 of the Oklahoma Statutes. Effective January 1, 2005, and each year thereafter, twenty percent (20%) of all assessments collected pursuant to this subsection shall be deposited to the General Revenue Fund of the State Treasury. The annual assessments shall be paid to the Oklahoma State Banking Department no later than the fifth day of February in each year.

C. The Commissioner shall charge and collect from each association under the supervision of the Commissioner an annual fee, in addition to the assessment set forth in subsection B of this section, of not more than Five Hundred Dollars (\$500.00), which shall be deposited in the Oklahoma State Banking Department revolving fund as set forth in Section 211.1 of Title 6 of the Oklahoma Statutes.

D. Whenever it is deemed advisable by the Commissioner, a special examination of an association may be conducted. The expense of the Department necessarily incurred in the special examination shall be chargeable to the association at a rate not in excess of Fifty Dollars (\$50.00) per examiner per hour plus travel expenses as provided by Section 201.1 of Title 6 of the Oklahoma Statutes for each examining person while engaged at such association.

E. Each foreign association doing business in this state under a certificate of authority shall furnish to the Commissioner, with each annual examination report, a statement showing the total amount of Oklahoma real estate loans and other loans made to Oklahoma residents. The annual supervisory fee of every such foreign association shall be computed and paid on the aggregate amount of

such loans at the rate of twelve cents (\$0.12) per One Thousand Dollars (\$1,000.00) of such loans.

F. Except as otherwise provided by law, all ~~assessments received pursuant to subsection B of this section shall be paid into the State Treasury and accrue to the General Revenue Fund of this state. All fees received pursuant to subsections C and D of this section, Section 381.16 of this title,~~ and fees set by the Commissioner or otherwise provided for in rules promulgated by the Commissioner, shall be deposited in the Department revolving fund pursuant to Section 211.1 of Title 6 of the Oklahoma Statutes.

SECTION 9. 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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