

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1522

By: Easley

COMMITTEE SUBSTITUTE

An Act relating to banking; amending 6 O.S. 2001, Sections 204, 211, 211.1, 211.2, 414, 424, 713 and 1111, which relate to the Oklahoma Banking Code; providing for certain supervisory activities; modifying where assessments are deposited; requiring bank or trust company to obtain prior approval of Commissioner for certain activities; including out-of-state banks to perform certain functions; defining loan production office; defining deposit production office; allowing Commissioner to approve certain activities of banks or out-of-state banks; requiring approval of Banking Board for certain activities; amending 6 O.S. 2001, Sections 1713, 1714, 1718, 1722 and 2001.2, which relate to trust institutions; designating amount of fees that must be paid by certain entities; modifying where assessments are deposited; amending 18 O.S. 2001, Section 381.15, which relates to the Oklahoma Savings and Loan Code; modifying where assessments are deposited; amending 18 O.S. 2001, Section 2002, which relates to the Oklahoma Limited Liability Company Act; removing restriction for limited liability company to conduct business as a bank; and providing an effective date.

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

SECTION 1. AMENDATORY 6 O.S. 2001, Section 204, is amended to read as follows:

Section 204. A. In addition to other powers conferred by this Code, the State Banking Commissioner shall have the power to require a bank, bank holding company or trust company or shareholder, officer, director, or bank employee to:

1. Maintain its accounting system in accordance with such regulations as may be prescribed by the Board or as the Commissioner may prescribe in absence of Board regulations; provided, the

accounting system required shall have due regard to the size of the banking and trust organization;

2. Observe methods and standards which the Commissioner may prescribe for determining the value of various types of assets;

3. Charge off the whole or part of an asset which at the time of the Commissioner's action could not lawfully be acquired;

4. Write down an asset to its market value;

5. Record liens and other interest in property;

6. Obtain a financial statement from a borrower to the extent that the bank can do so;

7. Obtain insurance against damage to real estate taken as security;

8. Search, or obtain insurance of, the title to real estate taken as security;

9. Maintain adequate insurance against such other risks as the Commissioner may determine to be necessary and appropriate for the protection of depositors, trust funds and the public; and

10. Cease and desist from engaging in any act or transaction, or doing any act in furtherance thereof, which would constitute a violation of the provisions of the Oklahoma Banking Code, federal banking law or the applicable banking law of another state, or a lawful regulation issued thereunder, or to cease and desist from engaging in any unsafe or unsound banking or trust practice.

B. Before issuing an order provided for in subsection A of this section, the Commissioner shall give reasonable notice of an opportunity for a hearing. However, if the Commissioner makes written findings of fact that the protection of depositors will be harmed by delay in issuing an order provided for in subsection A of this section, the Commissioner may issue a temporary order pending the hearing on the order provided for in subsection A of this section. The temporary order shall remain in effect until three (3) business days after the hearing on the order provided for in

subsection A of this section and shall become final if the bank or trust company subject to the order fails within fifteen (15) days after the receipt of the order to request a hearing to determine whether the temporary order should be modified, vacated, or become final. If a hearing on the temporary order is not held upon written request, the temporary order shall dissolve and the order provided for in subsection A of this section shall not be issued except upon reasonable notice and opportunity for hearing.

C. Any bank or trust company aggrieved by a final order of the Commissioner as provided for in this section may obtain a review of the order by the Board, who shall have the power to affirm, modify, reverse, or stay the enforcement of any order of the Commissioner.

D. The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of any bank, bank holding company, or branch in this state of an out-of-state state bank, or any branch of an Oklahoma state bank in any other state, and the Commissioner may accept such reports of examination and reports of investigation in lieu of conducting the Commissioner's own examinations or investigations. If such agreements result in the payment of fees, however calculated, by any other bank supervisory agency to the Oklahoma State Banking Department for examination or supervisory activities conducted by Department personnel, whether such ~~examination~~ activity is conducted inside or outside of this state, such fees shall be deposited in the Bank Examination Revolving Fund established by Section 211.2 of this title. If such agreements result in the payment of fees, however calculated, by the Department to any other bank supervisory agency for examination or supervisory activities conducted by such other bank supervisory agency, whether such ~~examination~~ activity is conducted inside or outside of this

state, such fees shall be paid by the Department from the Bank Examination Revolving Fund established by Section 211.2 of this title.

E. The Commissioner may enter into cooperative agreements with other bank regulatory agencies to facilitate the regulation of banks and bank holding companies doing business in this state. The Commissioner may accept reports of examinations and other records from such other agencies in lieu of conducting its own examinations of banks controlled by out-of-state bank holding companies. The Commissioner may take any action jointly with other regulatory agencies having concurrent jurisdiction over banks and bank holding companies or may take such actions independently in order to carry out the responsibilities of the Commissioner.

F. 1. The Commissioner may issue interpretive statements containing matters of general policy for the guidance of state banks and trust companies. The Commissioner may amend or repeal an interpretive statement by issuing an amended statement or notice of repeal of a statement and shall provide notice thereof and make it available to all state-chartered banks and trust companies upon request.

2. The Commissioner may issue opinions in response to specific requests from members of the public or the banking and trust industry directly or through the Deputy Commissioner or the Department's attorneys. The Commissioner may amend or repeal an opinion by issuing an amended statement or notice of repeal of an opinion and shall provide notice thereof and make it available to all state-chartered banks and trust companies upon request, except that the requesting party may rely on the original opinion if all material facts were originally disclosed to the Commissioner, considerations of safety and soundness of the affected bank are not implicated with respect to further and prospective reliance on the original opinion, and the text and interpretation of relevant,

governing provisions of this act have not been changed by legislative or judicial action.

3. An interpretive statement or opinion issued under this section does not have the force of law and is not a rule.

SECTION 2. 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) 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 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. As used in this paragraph, "assets" shall not include assets held by a trust company in its fiduciary capacity.

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

4. ~~Except as otherwise provided by law, all~~ All assessments ~~shall be paid into the State Treasury and accrue to the General Revenue Fund of the state. All~~ and fees 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.

SECTION 3. 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~~ 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 4. 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~~ Department's revolving fund exceeds the amount as certified by the State Board of Equalization pursuant to Section 23 of Article X of the Constitution of the State of Oklahoma, the excess monies collected from the assessment shall be directly deposited by the Department into the Bank Examination Revolving Fund. Additionally, the Bank Examination Revolving Fund shall include amounts received by the Department pursuant to agreements authorized under subsection D of Section 204 of this title.

SECTION 5. AMENDATORY 6 O.S. 2001, Section 414, is amended to read as follows:

Section 414. A. 1. A bank or trust company may purchase and hold real estate, equipment, furniture and fixtures necessary for the convenient transaction of its business, the cost of which shall not exceed its capital. This limitation may be exceeded upon written approval of the State Banking Commissioner.

2. ~~A~~ With prior approval of the Commissioner, a bank or trust company may purchase and hold fixtures, facilities and real estate ~~as may be approved by the Commissioner,~~ including but not limited to storage facilities, facilities for civic or public use or facilities for the benefit of employees of the bank, bank customers or the community. No banking business of any type shall be engaged in or conducted at such facilities.

3. A bank or trust company may lease out to such tenants as it deems appropriate any portion of its banking house or premises not utilized in the conduct of its banking operations.

4. Upon prior written approval of the Commissioner, a bank or trust company may purchase real estate at a location where the bank or trust company could lawfully establish an office.

5. A state bank may purchase or construct a municipal building, such as a school building, or other similar public facility and, as holder of legal title, lease the same to a municipality or other public authority having resources sufficient to make payment of all rentals as they become due. The lease agreement shall provide that upon its expiration the lessee will become owner of the building or facility.

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

B. 1. A bank or trust company may purchase and hold real estate conveyed to it in satisfaction of debts previously contracted in good faith in the course of business.

2. All such real estate shall be accounted for individually at the lower of the recorded investment in the loan satisfied or its fair market value on the date of the transfer.

3. The recorded investment in the loan satisfied is the unpaid balance of the loan, increased by accrued and uncollected interest, unamortized premium, and loan acquisition costs, if any, and decreased by previous direct write down, finance charges and unamortized discount, if any.

C. Upon notification by the bank to the Commissioner that such conditions exist that require the expenditure of funds for the development and improvement of such real estate, and subject to such conditions and limitations as the Commissioner shall prescribe, the bank may expend its funds to enable such bank to recover its total investment.

D. A bank or trust company may acquire and hold real estate such as it shall purchase at sale under judgment, decree or mortgage foreclosure, under securities held by it.

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

2. Following the expiration of the initial holding period, one additional extension period of up to five (5) years may be granted upon the written approval of the Commissioner.

3. A bank or trust company must begin to write down the book value for each property held as other real estate owned a minimum of ten percent (10%) each year during the additional extension period. The bank or trust company shall then be required to write off the remaining balance of the other real-estate-owned property at the end of the additional extension period.

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

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

6. At the conclusion of the additional extension period, real estate may be disposed of or carried as prescribed by the Commissioner.

7. For purposes of this section, ownership interests in oil, gas and other subsurface mineral rights other than mere leasehold interests shall be considered real estate. However, notwithstanding the holding limitation of this section or any other provision contained herein, any bank or trust company which on October 15, 1982, held, directly or indirectly, any oil, gas and other subsurface mineral rights, other than mere leasehold interests, that since December 31, 1979, had not been valued on the books of such bank or trust company for more than a nominal amount, may continue to hold such subsurface rights or interest without limitation.

F. Any bank or trust company organized under the laws of this state may invest its funds in the stocks, bonds, debentures or other such obligations of any corporation holding the premises of such bank or trust company, and may make loans to or upon the security of any such corporation, but the aggregate of all such investments and loans together with the investments provided for in subsection A of

this section shall not exceed its capital. This limitation may be exceeded upon the written approval of the Commissioner.

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

H. Nothing in this section shall preclude or limit in any manner investments by a bank permitted under any other section of this Code.

SECTION 6. AMENDATORY 6 O.S. 2001, Section 424, is amended to read as follows:

Section 424. A. Subject to rules promulgated by the Banking Board, a bank or out-of-state bank may utilize employees or agents of the bank or out-of-state bank to originate loans or originate deposit accounts, or both, at locations other than the main office or a branch office of such bank or out-of-state bank, provided that the loan decision is made and the loan is funded at the main office or a branch office of the bank or out-of-state bank and provided that no deposits shall be accepted or received at the deposit origination office. A bank or out-of-state bank may establish an office location described in this section by making an application to the State Banking Commissioner on a form prescribed by the Commissioner. An application fee of Five Hundred Dollars (\$500.00) shall accompany the application.

B. An office shall be considered to be a loan production office if it is open to the public, and employees or agents of the bank or out-of-state bank:

1. Provide loan applications to customers;
2. Facilitate the return of the loan application to the bank or out-of-state bank;
3. Provide promissory notes and/or disclosures to customers;

4. Receive executed notes from customers; or

5. Arrange for the loan proceeds to be delivered to the bank.

C. An office shall be considered to be a deposit production office if it is open to the public, and employees or agents of the bank or out-of-state bank:

1. Provide deposit applications to customers;

2. Facilitate the return of the deposit application to the bank or out-of-state bank;

3. Provide deposit agreements and/or disclosures to customers;

4. Receive executed deposit agreements from customers; or

5. Arrange for the deposited funds to be delivered to the bank.

D. The Commissioner or the Board may, upon written request of a bank or out-of-state bank, designate or approve of specified activities (including a limited number of those described in subsections B and C of this section) that a bank or out-of-state bank may conduct without the facility being considered a loan production office or deposit production office. For purposes of this section, the word "agent" shall include independent contractors, or any other "institution affiliated party" as that term is defined in 12 U.S.C., Section 1813(u).

SECTION 7. AMENDATORY 6 O.S. 2001, Section 713, is amended to read as follows:

Section 713. A. Directors must require fidelity bonds. The directors of a bank or trust company shall require good and sufficient fidelity bonds on all active officers and employees, whether or not they draw salary or compensation, which bonds shall provide for indemnity to such bank or trust company on account of any losses sustained by it as the result of any dishonest, fraudulent or criminal conduct by them acting independently or in collusion or combination with any person or persons. Such bonds may be in individual, schedule or blanket form, and the premiums therefor shall be paid by the corporation.

B. Other insurance. The said directors shall also require suitable insurance protection to the bank or trust company against burglary, robbery, theft and other insurable hazard to which the bank or trust company may be exposed in the operations of its business on the premises or elsewhere.

C. Annual review of bonds and insurance by board of directors - Insurance - Bonds and insurance subject to approval of Commissioner and to regulations of board. The directors of every bank and trust company shall be responsible for prescribing at least once in each calendar year the amount or penal sum of the bonds and policies specified in this section and the sureties or underwriters thereon, after giving due and careful consideration to all known elements and factors constituting such risk or hazard. Such action shall be recorded in the minutes of the board of directors and thereafter be reported to the Commissioner and be subject to his approval. ~~Any~~ Evidence of any and all such bonds shall be filed with the Commissioner as soon as procured.

SECTION 8. AMENDATORY 6 O.S. 2001, Section 1111, is amended to read as follows:

Section 1111. A. Upon approval by the ~~Commissioner~~ Banking Board, and subject to satisfying each of the criteria contained in subsection B of this section and complying with the procedures required by subsection C of this section, a state bank may merge with:

1. Its parent bank holding company;
2. One or more nonbank subsidiaries of its parent bank holding company; or
3. One or more subsidiaries of the state bank.

B. The form and effect of any merger pursuant to this section must be consistent with the following criteria:

1. The state bank must be the resulting entity which is the survivor of the merger;

2. The merger shall not result in any additional branch office of the state bank, unless such additional branch is approved pursuant to the bank's de novo branching authority under Section 501.1 of this title;

3. Any activity carried on by any nonbank company which is a party to the merger shall be terminated at the effective time of the merger unless that activity is permissible for the resulting state bank;

4. Any asset or investment which is held by a constituent nonbank company and which is not permitted to be held by a resulting state bank shall be divested at or before the effective time of the merger, unless the state bank obtains prior approval for a longer divestiture period from the Commissioner in the manner provided in Section 1108 of this title and from appropriate federal banking agencies in accordance with any applicable federal banking laws or regulations;

5. The merger shall not create an unsafe weakening of the resulting state bank's condition. However, the Board shall have discretion to approve a merger which will have the effect of materially strengthening a weakened bank, even if the resulting state bank's condition or capital will remain less than satisfactory; and

6. The applicant bank shall present an acceptable plan for minimizing or eliminating the potential adverse impact of any significant debt or other direct or contingent liabilities of any nonbank company that will be merged into the resulting state bank.

C. A merger pursuant to this section shall be governed by all of the provisions and procedures of Sections 1102 through 1106 of this title. For this purpose such sections shall be interpreted so far as reasonably applicable as if any nonbank company which is a party to the merger were instead a constituent state bank being merged into the resulting state bank.

SECTION 9. AMENDATORY 6 O.S. 2001, Section 1713, is amended to read as follows:

Section 1713. A. A state trust institution may establish or acquire and maintain trust offices or representative trust offices anywhere in this state. A state trust institution desiring to establish or acquire and maintain such an office shall file a written notice with the Commissioner setting forth the name of the state trust institution, the location of the proposed additional office and whether the additional office will be a trust office or a representative trust office. The state trust institution shall also furnish a copy of the resolution adopted by the board authorizing the additional office and pay ~~the filing a fee, if any, prescribed by the Commissioner~~ equal to that for bank branch offices if the office is to be a trust office or the fee equal to that for bank loan production offices if the office is to be a representative trust office.

B. The notificant may commence business at the additional office on the thirty-first day after the date the Commissioner receives the notice, unless the Commissioner specifies an earlier or later date.

C. The thirty-day period of review may be extended by the Commissioner on a determination that the written notice raises issues that require additional information or additional time for an analysis. If the period of review is extended, the state trust institution may establish the additional office only upon prior written approval by the Commissioner.

D. The Commissioner may deny approval of the additional office if the Commissioner finds that the notificant lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office would be contrary to the public interest.

SECTION 10. AMENDATORY 6 O.S. 2001, Section 1714, is amended to read as follows:

Section 1714. A. A state bank, a state trust company, or a savings association chartered under the laws of this state may establish and maintain a new trust office or a representative trust office or acquire and maintain an office in a state other than this state. Such a trust institution desiring to establish or acquire and maintain an office in another state under this section shall file a notice on a form prescribed by the Commissioner. The notice shall set forth the name of the trust institution, the location of the proposed office, whether the office will be a trust office or a representative trust office, and whether the laws of the jurisdiction where the office will be located permit the office to be maintained by the trust institution. The trust institution shall also furnish a copy of the resolution adopted by the board authorizing the out-of-state office, and pay ~~the filing a fee, if any, prescribed by the Commissioner~~ equal to that for bank branch offices if the office is to be a trust office or the fee equal to that for bank loan production offices if the office is to be a representative trust office.

B. The notificant may commence business at the additional office on the thirty-first day after the date the Commissioner receives the notice, unless the Commissioner specifies an earlier or later date.

C. The thirty-day period of review may be extended by the Commissioner on a determination that the written notice raises issues that require additional information or additional time for an analysis. If the period of review is extended, the trust institution may establish the additional office only on prior written approval by the Commissioner.

D. The Commissioner may deny approval of the additional office if the Commissioner finds that the notificant lacks sufficient

financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office would be contrary to the public interest. In acting on the notice, the Commissioner shall consider the views of the appropriate bank supervisory agencies.

SECTION 11. AMENDATORY 6 O.S. 2001, Section 1718, is amended to read as follows:

Section 1718. An out-of-state trust institution desiring to establish and maintain a new trust office or acquire and maintain a trust office in this state pursuant to Sections ~~15~~ 1715 through ~~20~~ 1720 of this ~~act~~ title shall provide, or cause its home state regulator to provide, written notice of the proposed transaction to the Commissioner on or after the date on which the out-of-state trust institution applies to the home state regulator for approval to establish and maintain or acquire the trust office. The filing of such notice shall be preceded or accompanied by a copy of the resolution adopted by the board authorizing the additional office and ~~the filing a fee, if any, prescribed by the Commissioner equal~~ to that for bank branch offices.

SECTION 12. AMENDATORY 6 O.S. 2001, Section 1722, is amended to read as follows:

Section 1722. A. An out-of-state trust institution may establish or acquire and maintain a representative trust office in this state. An out-of-state trust institution ~~not maintaining a trust office in this state and~~ desiring to establish or acquire and maintain a representative trust office shall file a notice on a form prescribed by the Commissioner which shall set forth the name of the out-of-state trust institution, the location of the proposed office, and satisfactory evidence that the notificant is a trust institution. The out-of-state trust institution shall also furnish a copy of the resolution adopted by the board authorizing the representative trust office, and pay ~~the filing a fee, if any,~~

~~prescribed by the Commissioner~~ equal to that for bank loan production offices.

B. The notificant may commence business at the representative office on the thirty-first day after the date the Commissioner receives the notice, unless the Commissioner specifies an earlier or later date.

C. The thirty-day period of review may be extended by the Commissioner on a determination that the written notice raises issues that require additional information or additional time for an analysis. If the period of review is extended, the out-of-state trust institution may establish the representative trust office only on prior written approval by the Commissioner.

D. The Commissioner may deny approval of the representative office if the Commissioner finds that the notificant lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office would be contrary to the public interests. In acting on the notice, the Commissioner shall consider the views of the appropriate bank supervisory agencies.

SECTION 13. 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 from each credit union under its supervision on each One Thousand Dollars (\$1,000.00) of assets, or major fraction thereof, at a rate established by the Board. The assessment 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.

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 14. 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 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.

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~~ 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 and all fees received pursuant to subsections C, ~~and~~ D, and E 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 15. AMENDATORY 18 O.S. 2001, Section 2002, is amended to read as follows:

Section 2002. A limited liability company may be organized under the Oklahoma General Corporation Act for the purpose of carrying on any lawful business, purpose or activity, whether or not for profit, except that a limited liability company may not conduct business as a ~~bank or~~ domestic insurer.

SECTION 16. This act shall become effective November 1, 2003.

49-1-6322 DLW 02/12/03