

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2483

By: Nance

COMMITTEE SUBSTITUTE

An Act relating to banking; creating the Oklahoma Financial Transaction Reporting Act; defining terms; providing filing and licensure requirements for certain persons; requiring certain list be provided by suppliers; requiring submission of updated list with certain information; providing for a registration fee; requiring separate licensure; providing penalties; requiring deposit of fees and fines in certain revolving fund; authorizing use of information-sharing agreements; prohibiting public inspection of certain records; authorizing the promulgation of certain rules; authorizing issuance of certain statements and opinions; amending 6 O.S. 2001, Section 211, as last amended by Section 6, Chapter 48, O.S.L. 2005 (6 O.S. Supp. 2005, Section 211), which relates to fees and assessments; modifying certain effective date; decreasing certain percentage rate; amending 6 O.S. 2001, Section 2001.2, as amended by Section 7, Chapter 356, O.S.L. 2003 (6 O.S. Supp. 2005, Section 2001.2), which relates to powers of Board; modifying certain effective date; decreasing certain percentage rate; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1511 of Title 6, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Financial Transaction Reporting Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1512 of Title 6, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Board" means the Oklahoma Banking Board;

2. "Commissioner" means the Oklahoma State Banking Commissioner;

3. "Currency" or "funds" means the coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes U.S. silver certificates, U.S. notes, and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country;

4. "Department" means the Oklahoma State Banking Department;

5. "Money services business" includes each agent, agency, branch, or office within the State of Oklahoma of any person doing business, whether or not on a regular basis or as an organized business concern, as a money transmitter or in one or more of the capacities otherwise identified and defined by the Board. The term "money services business" shall not include a "bank" as that term is defined in Title 31, Code of Federal Regulations, Part 103, nor shall it include a person registered with and regulated or examined by the Securities and Exchange Commission or the Commodity Futures Trading Commission;

6. "Money transmitter" means any person who engages in the business of accepting currency or funds denominated in currency, and transmits the currency or funds or the value of the currency or funds, by any means through a financial agency or institution, a Federal Reserve Bank or other facility of one or more Federal Reserve Banks, the Board of Governors of the Federal Reserve System or both, or an electronic funds transfer network;

7. "Money transmitter equipment" means any type of terminal, machine, computer software, access to any network, or any other type of tangible or intangible apparatus or system, or any combination

thereof, that may be used by a money transmitter to initiate a transmittal of currency;

8. "Person" includes an individual, corporation, partnership, limited partnership, limited liability company, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, Indian tribe, and all entities cognizable as legal personalities; and

9. "Supplier" means any person that utilizes, designates or otherwise authorizes another person, whether or not designated as an agent, to perform services of a money transmitter, or who provides money transmitter equipment to a person in connection therewith.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1513 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. No person shall engage in the money services business in this state without first filing a registration application on a form prescribed by the Commissioner and securing a license to do so from the Commissioner.

B. Upon the effective date of this act, a supplier shall provide to the Commissioner, on a form prescribed by the Commissioner, a list of each person to whom money transmitter equipment has been provided. The list shall be updated each calendar quarter and shall be provided to the Commissioner within thirty (30) days after the close of the calendar quarter. The updated list shall reflect any additional persons to whom money transmitter equipment has been provided since the last reporting period. The list need only identify those persons for whom the supplier has an address in this state or who the supplier reasonably believes to be operating in this state.

C. Unless a different fee is otherwise promulgated by the Board, each registration application filed under this section must be accompanied by a fee in an amount equal to that required under

subsection B of Section 104 of Title 6 of the Oklahoma Statutes. Any person conducting a money services business at more than one location shall secure a separate license for each location.

D. Any person who violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment. Each day that any violation of this section occurs or continues shall constitute a separate offense and shall be punishable as a separate violation.

E. All fees and fines collected under this section shall be deposited in the Department revolving fund pursuant to Section 211.1 of Title 6 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1514 of Title 6, unless there is created a duplication in numbering, reads as follows:

The Commissioner may cooperate, coordinate, and enter into information-sharing agreements with any other local, state, federal, or foreign governmental agency regarding any or all information provided by suppliers and by persons submitting registration applications, whether or not a license is issued. In the absence of an information-sharing agreement, all Department records resulting from the provisions of this act shall be confidential and shall not be subject to public inspection.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1515 of Title 6, unless there is created a duplication in numbering, reads as follows:

A. The Board may promulgate rules to further implement the provisions of this act including, but not limited to, rules relating to the application of and exemption from the provisions of this act, additional and different types of persons that must register and be licensed, fees that must be paid, and investigative and examination

authority over licensees by the Department or designee of the Department, which may include state law enforcement agencies.

B. The Commissioner may issue interpretive statements and opinions regarding the provisions of this act upon a motion by the Commissioner or upon the written request of others. An interpretive statement or opinion issued under this section shall not have the force of law and shall not be deemed a rule.

SECTION 6. AMENDATORY 6 O.S. 2001, Section 211, as last amended by Section 6, Chapter 48, O.S.L. 2005 (6 O.S. Supp. 2005, Section 211), is amended to read as follows:

Section 211. A. 1. The Banking Board shall charge and collect from each bank and trust company 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 pursuant to Section 211.1 of this title.

2. The Board shall charge and collect 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 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~~ 2007, and each year thereafter, ~~twenty ten~~ ten percent (~~20%~~) (10%) of all assessments collected from state-chartered banks existing as of December 31 of the previous year 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.

4. The fee for bank trust departments, which shall be in addition to the assessment collected pursuant to paragraph 2 of this subsection, shall be One Thousand Dollars (\$1,000.00). The fees due under this paragraph shall be paid annually to the Banking Department no later than the 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 any assessment or fee imposed pursuant to this section by its due date will result in a penalty of 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.

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 Seventy-five Dollars (\$75.00) per hour plus travel expenses as provided by subsection B of Section 201.1 of this title for each of the examining personnel. 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 7. AMENDATORY 6 O.S. 2001, Section 2001.2, as amended by Section 7, Chapter 356, O.S.L. 2003 (6 O.S. Supp. 2005, 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;

10. Charge and collect assessments from each credit union under its supervision on each One Thousand Dollars (\$1,000.00) of assets, or major fraction thereof, at rates established by the Board. The assessments shall be paid annually to the State Banking Department no later than the fifth day of February in each year. All assessments 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~~ 2007, and each year thereafter, ~~twenty~~ ten percent (~~20%~~) (10%) 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. 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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