

ENROLLED SENATE
BILL NO. 1598

By: Coffee of the Senate

and

Morgan (Fred) of the House

An Act relating to property; allowing affiliate of certain entities to provide specified services; authorizing compensation for certain services; amending 60 O.S. 2001, Section 180.1, as amended by Section 6, Chapter 459, O.S.L. 2005 (60 O.S. Supp. 2005, Section 180.1), which relates to trusts; deleting population-based threshold for certain audit requirements; including level of assets as qualification for certain audit requirement; providing for codification; and providing an effective date.

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 175.11a of Title 60, unless there is created a duplication in numbering, reads as follows:

A national banking association, a credit union, a state-chartered corporation, including a state-chartered bank or trust company, or a state or federal savings and loan association that has the right to exercise trust powers and that is serving as trustee, may:

1. Employ an affiliate or division within a financial institution to provide brokerage, investment, administrative, custodial, or other account services for the trust and charge the trust for the services; and

2. Receive compensation, directly or indirectly, for the services performed by the affiliate or division within the financial institution, whether in the form of shared commissions, fees, or otherwise, provided that any amount charged by the affiliate or division for the services is disclosed and does not exceed the customary or prevailing amount that is charged by the affiliate or division, or a comparable entity, for comparable services rendered to a person other than the trust.

SECTION 2. AMENDATORY 60 O.S. 2001, Section 180.1, as amended by Section 6, Chapter 459, O.S.L. 2005 (60 O.S. Supp. 2005, Section 180.1), is amended to read as follows:

Section 180.1 A. The trustees of every trust created for the benefit and furtherance of any public function with the State of Oklahoma or any county or municipality ~~with a population of two thousand five hundred (2,500) or more as of the most recent Federal Decennial Census~~ as the beneficiary or beneficiaries thereof must cause an audit to be made of the financial statements of the trust, such audit to be ordered within thirty (30) days of the close of each fiscal year of the trust. The audit shall be filed in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

B. The trustees of a trust ~~whose beneficiary or beneficiaries are municipalities with a population as of the most recent Federal Decennial Census of less than two thousand five hundred (2,500) and~~ which has more than Fifty Thousand Dollars (\$50,000.00) in revenues or assets, and for whom an annual financial statement audit is not required by another law, regulation, or contract, shall cause to be conducted, by an independent licensed public accountant or a certified public accountant, an annual audit of the trust's financial statements in accordance with auditing standards generally accepted in the United States and Government Auditing Standards as issued by the Comptroller General of the United States or an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants, and the fieldwork and reporting standards in Government Auditing Standards. The specific procedures to be performed are:

1. Prepare a schedule of revenues, expenditures/expenses and changes in fund balances/net assets for each fund and determine compliance with any applicable trust or other prohibitions for creating fund balance deficits;
2. Agree material bank account balances to bank statements, and trace significant reconciling items to subsequent clearance;
3. Compare uninsured deposits to fair value of pledged collateral;
4. Compare use of material-restricted revenues and resources to their restrictions;
5. Determine compliance with requirements for separate funds; and
6. Determine compliance with reserve account and debt service coverage requirements of bond indentures.

Such engagement shall be ordered within thirty (30) days of the close of each fiscal year of the trust. Copies of the annual audit or agreed-upon-procedures report shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year and with the trustees and governing body of the beneficiaries.

C. Public trusts ~~whose beneficiary or beneficiaries are municipalities with a population as of the most recent Federal Decennial Census of less than two thousand five hundred (2,500)~~ which have less than Fifty Thousand Dollars (\$50,000.00) in revenue and less than Fifty Thousand Dollars (\$50,000.00) in assets, and for whom an annual financial statement audit is not required by another law, regulation, or contract may apply to the State Auditor and Inspector for a waiver of the requirements of subsections A and B of this section.

SECTION 3. This act shall become effective November 1, 2006.

Passed the Senate the 24th day of May, 2006.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2006.

Presiding Officer of the House
of Representatives