

3 ENGROSSED

4 House Bill No. 2483

5 As Amended

6 ENGROSSED HOUSE BILL NO. 2483 - By: NANCE, PIATT, DENNEY, PETERSON
7 (Pam), SULLIVAN, BRANNON and SMITHSON of the House and GUMM of the
8 Senate.

9 [banking - creating the Oklahoma Financial Transaction
10 Reporting Act - codification -
11 emergency]

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

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

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

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

21 As used in this act:

22 1. "Board" means the Oklahoma Banking Board;

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

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

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

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

20 6. "Money transmitter" means any person who engages in the
21 business of accepting currency or funds denominated in currency, and
22 transmits the currency or funds or the value of the currency or
23 funds, by any means through a financial agency or institution, a

1 Federal Reserve Bank or other facility of one or more Federal
2 Reserve Banks, the Board of Governors of the Federal Reserve System
3 or both, or an electronic funds transfer network;

4 7. "Money transmitter equipment" means any type of terminal,
5 machine, computer software, access to any network, or any other type
6 of tangible or intangible apparatus or system, or any combination
7 thereof, that may be used by a money transmitter to initiate a
8 transmittal of currency;

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

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

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

21 A. No person shall engage in the money services business in
22 this state without first filing a registration application on a form

1 prescribed by the Commissioner and securing a license to do so from
2 the Commissioner.

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

14 C. Unless a different fee is otherwise promulgated by the
15 Board, each registration application filed under this section must
16 be accompanied by a fee in an amount equal to that required under
17 subsection B of Section 104 of Title 6 of the Oklahoma Statutes.
18 Any person conducting a money services business at more than one
19 location shall secure a separate license for each location.

20 D. Any person who violates the provisions of this section
21 shall, upon conviction, be guilty of a misdemeanor punishable by a
22 fine of not less than One Thousand Dollars (\$1,000.00), or by
23 imprisonment in the county jail for not more than one (1) year, or

1 by both such fine and imprisonment. Each day that any violation of
2 this section occurs or continues shall constitute a separate offense
3 and shall be punishable as a separate violation.

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

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

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

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

21 A. The Board may promulgate rules to further implement the
22 provisions of this act including, but not limited to, rules relating
23 to the application of and exemption from the provisions of this act,

1 additional and different types of persons that must register and be
2 licensed, fees that must be paid, and investigative and examination
3 authority over licensees by the Department or designee of the
4 Department, which may include state law enforcement agencies.

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

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

13 Section 211. A. 1. The Banking Board shall charge and collect
14 from each bank and trust company under its supervision an annual fee
15 of One Thousand Dollars (\$1,000.00) which shall be deposited in the
16 Oklahoma State Banking Department revolving fund pursuant to Section
17 211.1 of this title.

18 2. The Board shall charge and collect assessments from each
19 bank or trust company under its supervision on each One Thousand
20 Dollars (\$1,000.00) of assets, or major fraction thereof, at rates
21 established by the Board. Assessments shall be deposited in the
22 Oklahoma State Banking Department revolving fund created by Section
23 211.1 of this title.

1 3. Effective January 1, ~~2005~~ 2007, and each year thereafter,
2 ~~twenty~~ ten percent ~~(20%)~~ (10%) of all assessments collected from
3 state-chartered banks existing as of December 31 of the previous
4 year shall be deposited to the General Revenue Fund of the State
5 Treasury. The Board may charge and collect assessments on an annual
6 basis and may, in addition to any annual assessment, charge and
7 collect a special assessment from each bank or trust company, at
8 rates established by the Board. The annual assessments shall be
9 paid to the Oklahoma State Banking Department no later than the
10 fifth day of February in each year.

11 4. The fee for bank trust departments, which shall be in
12 addition to the assessment collected pursuant to paragraph 2 of this
13 subsection, shall be One Thousand Dollars (\$1,000.00). The fees due
14 under this paragraph shall be paid annually to the Banking
15 Department no later than the fifth day of February in each year and
16 shall be deposited in the Oklahoma State Banking Department
17 revolving fund pursuant to Section 211.1 of this title. Failure to
18 pay any assessment or fee imposed pursuant to this section by its
19 due date will result in a penalty of Fifty Dollars (\$50.00) per day
20 for each day it is in violation of this section, which penalty,
21 together with the amount due under the foregoing provisions of this
22 section, may be recovered in a civil action in the name of the
23 state.

1 5. All fees not otherwise directed shall be deposited in the
2 Department revolving fund pursuant to Section 211.1 of this title.

3 B. Whenever it is deemed advisable by the State Banking
4 Commissioner, special examinations of banks, trust companies and any
5 other person under, subject to or proposed to become under or
6 subject to the supervision of the Commissioner shall be conducted.
7 The expenses of the Department necessarily incurred in a special
8 examination, and the expenses of the Department necessarily incurred
9 in a regular examination of a trust company, shall be chargeable to
10 the bank, trust company or person examined at the rate not to exceed
11 Seventy-five Dollars (\$75.00) per hour plus travel expenses as
12 provided by subsection B of Section 201.1 of this title for each of
13 the examining personnel. Payments received pursuant to this
14 subsection shall be deposited in the Department revolving fund
15 pursuant to Section 211.1 of this title.

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

19 SECTION 7. AMENDATORY 6 O.S. 2001, Section 2001.2, as
20 amended by Section 7, Chapter 356, O.S.L. 2003 (6 O.S. Supp. 2005,
21 Section 2001.2), is amended to read as follows:

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

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

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

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

7 a. govern the conduct, operation and management of credit
8 unions,

9 b. govern the examination, evaluation of assets and the
10 statements and reports of credit unions, and the form
11 on which credit unions shall report their assets,
12 liabilities and reserves, charge off their bad debts
13 and otherwise keep their records and accounts, and

14 c. govern the administration of the laws of this state
15 relating to credit unions.

16 Such rules or regulations shall serve to foster and maintain an
17 effective level of credit union services and the security of member
18 accounts. The provisions of the Administrative Procedures Act of
19 this state, as now or hereafter amended, are hereby expressly
20 adopted and incorporated herein as though a part of this provision,
21 and shall apply to all rules or regulations, procedures and orders
22 of the Board. Final orders of the Board may be appealed to the

1 Supreme Court of Oklahoma by any party directly affected and showing
2 aggrievement by the order;

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

7 5. Issue cease and desist orders after having determined from
8 competent and substantial evidence that a credit union is engaged or
9 has engaged, or when the Board has reasonable cause to believe the
10 credit union is about to engage, in an unsafe or unsound practice,
11 or is violating or has violated or the Board has reasonable cause to
12 believe is about to violate, a material provision of any law, rule,
13 regulation or any condition imposed in writing by the Board or any
14 written agreement made with the Board;

15 6. Suspend from office and prohibit from further participation
16 in any manner in the conduct of the affairs of a credit union any
17 director, officer or committee member who has committed any
18 violation of a law, rule or regulation or of a cease and desist
19 order or who has engaged or participated in any unsafe or unsound
20 practice in connection with the credit union or who has committed or
21 engaged in any act, omission or practice which constitutes a breach
22 of that person's fiduciary duty as such director, officer or
23 committee member, when the Board has determined that such action or

1 actions have resulted or will result in substantial financial loss
2 or other damage that seriously prejudices the interests of the
3 members;

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

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

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

- 18 a. an application for a merger or acquisition,
- 19 b. an application to amend a credit union's bylaws,
- 20 c. an application to be heard by the Board to add a
21 special employee group, or
- 22 d. an application to add a special employee group by
23 using any simplified expansion process.

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

6 10. Charge and collect assessments from each credit union under
7 its supervision on each One Thousand Dollars (\$1,000.00) of assets,
8 or major fraction thereof, at rates established by the Board. The
9 assessments shall be paid annually to the State Banking Department
10 no later than the fifth day of February in each year. All
11 assessments and all fees shall be deposited in the revolving fund
12 for the State Banking Department pursuant to the provisions of
13 Section 211.1 of this title. Effective January 1, ~~2005~~ 2007, and
14 each year thereafter, ~~twenty~~ ten percent ~~(20%)~~ (10%) of all
15 assessments collected pursuant to this paragraph shall be deposited
16 to the General Revenue Fund of the State Treasury. The State Credit
17 Union Board may charge and collect assessments on an annual basis
18 and may, in addition to any annual assessment, charge and collect a
19 special assessment from each credit union, at rates established by
20 the Board; and

21 11. Charge and collect from each credit union under its
22 supervision an annual fee of One Thousand Dollars (\$1,000.00) which

1 shall be deposited in the Oklahoma State Banking Department
2 revolving fund created pursuant to Section 211.1 of this title.

3 B. The Commissioner may appoint an Administrator who, in
4 addition to such duties and authority as are conferred by Section
5 2001 et seq. of this title, shall have such duties and authority as
6 the Commissioner may assign the Administrator. The bond of the
7 Administrator shall be the same as that set for the State Deputy
8 Banking Commissioner. In addition to other powers conferred by
9 Section 2001 et seq. of this title, the Commissioner shall have the
10 power to:

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

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

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

22 4. Suspend any officer, director or employee or committee
23 member who is found, after hearing, to be dishonest, reckless, unfit

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

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

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

5 SECTION 8. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-28-06 - DO PASS,
10 As Amended and Coauthored.