

CS for SB 1664

THE STATE SENATE
Monday, February 20, 2006

Committee Substitute for
Senate Bill No. 1664

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1664 - By: GUMM, CAPPS and
COFFEE of the Senate and PIATT of the House.

[banks and trust companies - regulation of money services
business and assessments - 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 1501 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." The purpose
of this act is to identify, register and license persons involved in
money services businesses and to help prevent such persons from
engaging in, or assisting in, money laundering, structuring or
related financial crimes, drug trafficking, or terrorist funding.

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1502 of Title 6, unless there is
created a duplication in numbering, reads as follows:

As used in this act:

- 1. "Board" means the Banking Board;
- 2. "Commissioner" means the State Banking 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 by rule.
15 "Money services business" shall not include a "bank" as that term is
16 defined in Title 31 Code of Federal Regulations Part 103, as
17 amended, nor shall it include a person registered with, and
18 regulated or examined by, the Securities and Exchange Commission or
19 the Commodity Futures Trading Commission;

20 6. "Money transmitter" means any person who engages in the
21 business of accepting currency, or funds denominated in currency,
22 and 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, a corporation, a
10 partnership, a limited partnership, a limited liability company, a
11 trust or estate, a joint stock company, an association, a syndicate,
12 joint venture, or other unincorporated organization or group, an
13 Indian Tribe, and all entities cognizable as legal personalities;
14 and

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

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1503 of Title 6, unless there is
21 created a duplication in numbering, reads as follows:

22 A. No person shall engage in the money service business in this
23 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. Within thirty (30) days of the effective date of this act,
4 every supplier must provide to the Commissioner a list of each
5 person to whom money transmitter equipment has been provided, on a
6 form prescribed by the Commissioner. Such list shall be updated
7 each calendar quarter within thirty (30) days after the close of the
8 calendar quarter to reflect any additional persons to whom money
9 transmitter equipment has been provided since the last reporting
10 period. The list shall only identify those persons for whom the
11 supplier has an address in this state or who the supplier reasonably
12 believes to be operating in this state.

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

19 D. Any person who violates this act shall be subject to a fine
20 of not less than One Thousand Dollars (\$1,000.00) or imprisonment in
21 a county jail for not more than one (1) year, or both. Each day
22 such violation continues shall constitute a separate offense.

1 E. All fees and fines collected under this act shall be
2 deposited in the Oklahoma State Banking Department Revolving Fund
3 created pursuant to Section 211.1 of Title 6 of the Oklahoma
4 Statutes.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1504 of Title 6, unless there is
7 created a duplication in numbering, reads as follows:

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

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1505 of Title 6, unless there is
18 created a duplication in numbering, reads as follows:

19 A. The Board may promulgate rules to implement the provisions
20 of this act, including but not limited to rules relating to the
21 application of and exemption from the act, requirements for
22 registration and licensing, applicable fees, and investigative and

1 examination authority over licensees by the Department, its
2 designee, or other state law enforcement agencies.

3 B. The Commissioner may issue interpretive statements and
4 opinions regarding the provisions of this act on the Commissioner's
5 own motion or upon the written request of others. An interpretive
6 statement or opinion issued under this section shall not have the
7 force of law nor be considered a rule.

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

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

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

22 3. Effective ~~January 1, 2005,~~ January 1, 2007, and each year
23 thereafter, ~~twenty percent (20%)~~ ten percent (10%) of all

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

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

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

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

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

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

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

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

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

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

5 a. govern the conduct, operation and management of credit
6 unions,

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

12 c. govern the administration of the laws of this state
13 relating to credit unions.

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

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

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

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

1 or other damage that seriously prejudices the interests of the
2 members;

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

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

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

- 17 a. an application for a merger or acquisition,
- 18 b. an application to amend a credit union's bylaws,
- 19 c. an application to be heard by the Board to add a
20 special employee group, or
- 21 d. an application to add a special employee group by
22 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~~ January 1,
14 2007, and each year thereafter, ~~twenty percent (20%)~~ ten percent
15 (10%) of all assessments collected pursuant to this paragraph shall
16 be deposited to the General Revenue Fund of the State Treasury. The
17 State Credit Union Board may charge and collect assessments on an
18 annual basis and may, in addition to any annual assessment, charge
19 and collect a special assessment from each credit union, at rates
20 established by 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. This act shall become effective November 1, 2006.

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-14-06 - DO PASS,
7 As Amended and Coauthored.