

1 ENGROSSED HOUSE
2 BILL NO. 2725

By: Winchester of the House

and

Jolley of the Senate

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7 An Act relating to banks and trust companies;
8 amending 6 O.S. 2001, Section 201, as amended by
9 Section 2, Chapter 48, O.S.L. 2005 (6 O.S. Supp.
10 2007, Section 201), which relates to Banking
11 Department organization and duties; requiring
12 seniority status be addressed in employee manual;
13 amending 6 O.S. 2001, Section 211, as last amended by
14 Section 6, Chapter 57, O.S.L. 2006 (6 O.S. Supp.
15 2007, Section 211), which relates to fees for banks
16 and trust companies; providing Banking Board
17 authority to refund portion of certain assessments;
18 amending 6 O.S. 2001, Section 304, as amended by
19 Section 4, Chapter 67, O.S.L. 2002 (6 O.S. Supp.
20 2007, Section 304), which relates to incorporation
21 requirements for banks and trust companies; modifying
22 subscriber requirements; prohibiting payments from
23 organizational expense fund for certain purpose;
24 amending 6 O.S. 2001, Section 306.1, as amended by
Section 6, Chapter 67, O.S.L. 2002 (6 O.S. Supp.
2007, Section 306.1), which relates to incorporation
procedure of state banks and trust companies;
requiring organizational expense fund to be fully
funded before the Commissioner accepts applications
for filing; amending 6 O.S. 2001, Section 501.2, as
amended by Section 2, Chapter 80, O.S.L. 2007 (6 O.S.
Supp. 2007, Section 501.2), which relates to branch
banking; excluding temporary branches from certain
rules; modifying definition of temporary branch;
providing for fees for temporary branches; amending 8
O.S. 2001, Sections 162 and 163, as amended by
Section 9, Chapter 80, O.S.L. 2007 (8 O.S. Supp.
2007, Section 163), which relate to the Perpetual
Care Fund Act; modifying definitions; requiring
certain contributions to the Perpetual Care Fund or
establishment of nonrevocable trust account in a

1 financial institution; amending 8 O.S. 2001, Section
2 305, which relates to the Cemetery Merchandise Trust
3 Act; specifying fee payment requirements for expired
4 permits; and providing an effective date.

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

6 SECTION 1. AMENDATORY 6 O.S. 2001, Section 201, as
7 amended by Section 2, Chapter 48, O.S.L. 2005 (6 O.S. Supp. 2007,
8 Section 201), is amended to read as follows:

9 Section 201. A. There shall be a Banking Department which
10 shall be a separate department of the state government charged with
11 supervision of the activities in this state as provided in the
12 Oklahoma Banking Code of 1997 and in other legislation conferring
13 jurisdiction upon the Department.

14 B. The head of the Department shall be the Commissioner. The
15 Commissioner shall be appointed by the Governor with the advice and
16 consent of the Senate. The Commissioner shall have been a qualified
17 elector of the state for at least three (3) years prior to the
18 appointment, shall be at least thirty-five (35) years old and shall
19 have had ten (10) years' experience as a bank officer or employee,
20 or five (5) years' experience as a bank president or managing
21 officer of a bank, or five (5) years' experience as a state or
22 federal bank examiner. The Commissioner shall be appointed for a
23 term of four (4) years. The Commissioner shall continue to serve
24 until a successor is duly appointed, confirmed and qualified. The

1 Commissioner may be removed by the Governor for cause after notice
2 and hearing. A successor to a Commissioner who dies, resigns or is
3 removed shall be appointed in the same manner as provided in this
4 section.

5 C. 1. The Commissioner shall appoint a Deputy Commissioner who
6 may also serve as secretary to the Board hereinafter created. The
7 Deputy Commissioner shall have been a qualified elector of the state
8 for at least three (3) years prior to the appointment, shall be at
9 least thirty (30) years old and shall have had five (5) years'
10 experience as a bank officer or employee, or three (3) years'
11 experience as a bank president or managing officer of a bank, or
12 five (5) years' experience as a state or federal bank examiner. If
13 the office of the Commissioner is vacant or if the Commissioner is
14 absent or unable to act, the Deputy Commissioner shall be the acting
15 Commissioner.

16 2. The Commissioner may appoint Administrative Assistants whose
17 administrative duties shall be prescribed by the Commissioner.

18 3. The Attorney General is hereby authorized to appoint an
19 Assistant Attorney General, in addition to those now provided by
20 law, to be assigned to the Department. The Assistant Attorney
21 General shall perform such additional duties as may be assigned by
22 the Attorney General, and shall otherwise be subject to all
23 provisions of the statutes relating to Assistant Attorneys General.

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1 The Banking Department is authorized to pay all or any part of the
2 salary of the Assistant Attorney General.

3 4. The Commissioner may also appoint a Budget Director for the
4 Department, a Credit Union Administrator and Assistant Deputy
5 Commissioners. The Budget Director, Credit Union Administrator and
6 Assistant Deputy Commissioners shall have the duties and authority
7 as prescribed by the Commissioner.

8 5. The Commissioner shall prepare in writing a manual of all
9 employee positions for the Department, including job
10 classifications, seniority status, personnel qualifications, duties,
11 maximum and minimum salary schedules and other personnel information
12 for approval by the Board. The Commissioner may select, appoint and
13 employ such accountants, attorneys, auditors, examiners, clerks,
14 secretaries, stenographers and other personnel as the Commissioner
15 deems necessary for the proper administration of the Department and
16 any other statutory duties of the Commissioner.

17 D. All officers and employees of the Department shall be in the
18 exempt unclassified service as provided for in Section 840-5.5 of
19 Title 74 of the Oklahoma Statutes. All future appointees to such
20 positions shall be in the exempt unclassified service. Except as
21 provided in subsection B of this section, officers and employees of
22 the Department shall not be terminable except for cause as defined
23 by the Board.

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1 E. The Commissioner may delegate to any officer or employee of
2 the Department any of the powers of the Commissioner and may
3 designate any officer or employee of the Department to perform any
4 of the duties of the Commissioner.

5 F. The Commissioner, Deputy Commissioner, Assistants to the
6 Commissioner, credit union administrator, budget director, Assistant
7 Deputy Commissioners, examiners, examiner-trainees, and all other
8 personnel shall, before entering upon the discharge of their duties,
9 take and subscribe to the oath of office required of state officers
10 as provided by Section 36.2A of Title 51 of the Oklahoma Statutes.

11 G. 1. The Commissioner shall adopt an appropriate seal as the
12 Seal of the State Banking Commissioner.

13 2. Every certificate, assignment and conveyance executed by the
14 Commissioner, in pursuance of the authority conferred upon the
15 Commissioner by law and sealed with the seal of the Department,
16 shall be received in evidence and recorded in the proper recording
17 offices in the same manner as a deed regularly acknowledged, as
18 required by law.

19 3. Whenever it is necessary for the Commissioner to approve any
20 instrument or to affix the official seal thereto, the Commissioner
21 may charge a fee for affixing the approval of the Commissioner or
22 the official seal to such instrument. Copies of all records and
23 papers in the office of the Department, certified by the
24 Commissioner and authenticated by the seal, shall be received in

1 evidence in all cases equally and of like effect as the original.
2 Whenever it is proper to furnish a copy of any paper filed in the
3 Department or to certify such paper, the Commissioner may charge a
4 fee for furnishing such copy, for affixing the official seal on such
5 copy and/or for certifying the same.

6 SECTION 2. AMENDATORY 6 O.S. 2001, Section 211, as last
7 amended by Section 6, Chapter 57, O.S.L. 2006 (6 O.S. Supp. 2007,
8 Section 211), is amended to read as follows:

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

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

20 3. Effective January 1, 2007, and each year thereafter, ten
21 percent (10%) of all assessments collected from state-chartered
22 banks existing as of December 31 of the previous year shall be
23 deposited to the General Revenue Fund of the State Treasury. The
24 Board may charge and collect assessments on an annual basis and may,

1 in addition to any annual assessment, charge and collect a special
2 assessment from each bank or trust company, at rates established by
3 the Board. The annual assessments shall be paid to the Oklahoma
4 State Banking Department no later than the fifth day of February in
5 each year. At the sole discretion of the Board, and under
6 circumstances or conditions as the Board may prescribe, the Board
7 may order refunds of a portion of collected assessments. Refunds
8 shall be paid from the Oklahoma State Banking Department revolving
9 fund created by Section 211.1 of this title.

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

23 5. All fees not otherwise directed shall be deposited in the
24 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 B 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 3. AMENDATORY 6 O.S. 2001, Section 304, as
18 amended by Section 4, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2007,
19 Section 304), is amended to read as follows:

20 Section 304. A. Each subscriber at the time the subscriber
21 subscribes to the stock of a proposed state bank or trust company
22 shall pay in cash a sum ~~at least~~ equal to at least five percent (5%)
23 of the ~~par value~~ sale price of such stock into a fund to be used to
24

1 pay the expenses of organization. No organizational expense shall
2 be paid out of any other funds of the bank.

3 B. Upon the issuance of a certificate of authority by the
4 Commissioner any unexpended balance shall be transferred to
5 undivided profits. If the application has been finally denied, any
6 unexpended balance shall be distributed among the contributors in
7 proportion to their respective contributions. The Commissioner may
8 require an accounting of disbursements from the fund and may order
9 the organizers to restore any sum which has been expended for other
10 than proper organizational expenses.

11 C. No payment shall be made from the organizational expense
12 fund for ~~obtaining~~ soliciting subscriptions to stock.

13 D. Any financial arrangement or transaction involving the
14 proposed bank or trust company and its organizers, directors,
15 officers or principal shareholders shall be disclosed.

16 SECTION 4. AMENDATORY 6 O.S. 2001, Section 306.1, as
17 amended by Section 6, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2007,
18 Section 306.1), is amended to read as follows:

19 Section 306.1 A. Once the Commissioner is satisfied that the
20 organizers have substantially complied with the requirements of
21 Sections 304 and Section 305 of this title and an organizational
22 expense fund in a minimum amount approved by the Commissioner has
23 been fully funded, the Commissioner shall accept the application for
24 filing and shall notify the organizers of the acceptance.

1 ~~Applicants~~ Prior to acceptance by the Commissioner, an applicant
2 shall have one opportunity to correct deficiencies in an
3 application. Deficiencies that are not corrected adequately when
4 the application is resubmitted may cause the application to be
5 considered withdrawn or disapproved.

6 B. Within ten (10) days after the Commissioner has accepted an
7 application for filing, the applicant shall publish notice of the
8 filing in a legal newspaper of general circulation in the city,
9 town, or county in which the proposed bank or trust company is to be
10 located. The notice shall be published on the same day for two (2)
11 consecutive weeks and shall contain a statement that an application
12 has been submitted, the names of the organizers, the name and
13 location of the proposed bank or trust company and the date on which
14 the application was accepted for filing.

15 The applicant shall promptly furnish the Commissioner an
16 affidavit evidencing such publication.

17 SECTION 5. AMENDATORY 6 O.S. 2001, Section 501.2, as
18 amended by Section 2, Chapter 80, O.S.L. 2007 (6 O.S. Supp. 2007,
19 Section 501.2), is amended to read as follows:

20 Section 501.2 A. No bank shall be permitted to establish and
21 operate a branch, or relocate a branch, except upon a certificate
22 issued by the State Banking Commissioner or the Comptroller of the
23 Currency.

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1 B. Upon approval of the Commissioner or Comptroller of the
2 Currency, any bank is authorized to establish and operate in
3 Oklahoma, on real property owned or leased by the bank, an unlimited
4 number of branches by acquisition, de novo, or otherwise, whether
5 fixed or mobile, at or from which any permissible function,
6 business, power, or activity of any kind whatsoever of the bank may
7 be performed or engaged in. Provided, however, no bank, savings
8 bank, savings association, out-of-state bank, out-of-state savings
9 bank, out-of-state savings association, industrial loan company or
10 industrial bank may establish or maintain a branch in this state on
11 the premises or property of an affiliate if the affiliate engages in
12 commercial activities. For purposes of this section, "affiliate"
13 means any company that controls, or is controlled by another
14 company, and "commercial activities" means activities in which a
15 bank may not engage under federal law, either directly or indirectly
16 through an operating subsidiary or financial subsidiary.

17 C. The Except for the procedures relating to establishment of
18 temporary branches, the procedures, standards and requirements for
19 making application for permission to establish and operate a branch
20 shall be set by rule of the Banking Board. However, no emphasis
21 upon competition or competitive factors shall be imposed, and in no
22 event shall such rules impose standards, criteria, or requirements
23 upon state-chartered banks which are more onerous than those
24 existing for national banks.

1 D. All existing branches and detached facilities of a bank
2 shall, upon the expiration of sixty (60) days after the effective
3 date of this act, by operation of law and without further action by
4 the bank or Commissioner, or the Comptroller of the Currency, become
5 and be deemed lawful branches, fully authorized and validly existing
6 pursuant to this section. Provided, a bank may elect to opt-out of
7 the effects of this subsection as to one or more of its existing
8 detached facilities, by providing to its chartering authority, prior
9 to the expiration of sixty (60) days after the effective date of
10 this act, a written notice that the bank has opted-out of the
11 effects of this subsection with the result that one or more of its
12 detached facilities will continue to be classified as detached
13 facilities rather than as branches. The written notice must clearly
14 identify each particular detached facility to which it applies.
15 "Existing branches and detached facilities", for purposes of this
16 subsection, means branches or detached facilities which have been
17 approved and are open and operating, or are approved but unopened,
18 or for which application was made prior to the effective date of
19 this act and for which approval is given after the effective date of
20 this act.

21 E. Any bank or savings association with its main office or a
22 branch office located in a county where an institution of higher
23 education is located, may open accounts and accept deposits on the
24 campus of the institution of higher education if notice is provided

1 to the Department and written permission is granted by the
2 institution, for no more than ~~three (3)~~ seven (7) days per year.
3 The authorization of this subsection shall be self-executing and no
4 application to the regulators of the bank or savings association
5 shall be required by this section for a bank or savings association
6 to comply with this subsection.

7 F. A temporary branch may be established and operated upon
8 approval of the Commissioner or Comptroller of the Currency. As
9 used in this subsection, "temporary branch" means ~~a branch located~~
10 ~~at a fixed site that~~:

11 1. ~~Is~~ A branch that is located at a fixed site that is within
12 one thousand (1,000) feet of the location of the approved site of
13 the same bank for a permanent branch, and such temporary branch is
14 scheduled to, and will, permanently close not later than a certain
15 date, no longer than one (1) year after the temporary branch is
16 first opened, as specified in the permanent branch application and
17 the public notice. No separate fee shall be imposed for a temporary
18 branch approved under this paragraph if the temporary site is
19 originally described in an application seeking to establish a
20 permanent branch; or

21 2. ~~Is~~ A branch that is approved for a limited period of time,
22 without requirement of notice or hearing, as a temporary replacement
23 for a previously existing branch that is inoperable due to an
24 "emergency" as defined in Section 102 of this title or that is

1 established because of an emergency in a community that prevents
2 access to an established branch by customers in a specified
3 community. Approval of a temporary branch established under this
4 paragraph shall expire at the time the emergency that caused the
5 establishment of the temporary branch no longer exists. No separate
6 fee shall be imposed for a temporary branch approved under this
7 paragraph; or

8 3. Branches that are approved for a limited time not to exceed,
9 in the aggregate, fifteen (15) days per year, per institution, that
10 will be operated during special events open to the public or to
11 members of a specific group. The application fee for a temporary
12 branch under this paragraph shall be the same as that charged for a
13 loan and deposit production office. Requests to establish a branch
14 under this paragraph must be made on a form prescribed by the
15 Commissioner.

16 G. The Board may, by rule, establish a procedure whereby the
17 Commissioner may grant approval and issue the certificate to
18 establish or acquire and operate or relocate a branch or other
19 banking office permitted by this section without a hearing before
20 the Board. The procedure shall include criteria set by the Board to
21 be applied by the Commissioner in the consideration of the
22 application.

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1 H. Notwithstanding subsection C of this section, an application
2 fee for branch, branch relocation or other banking office
3 applications may be assessed in amounts set by rule of the Board.

4 I. 1. It shall be unlawful for any bank or out-of-state bank
5 which has direct or indirect control of more than twenty percent
6 (20%) of the total amount of deposits of insured depository
7 institutions located in Oklahoma, as determined by the Commissioner
8 on the basis of the most recent reports of such institutions to
9 their supervisory authorities, to acquire any other bank or savings
10 association in this state.

11 2. The deposit limitation provided for in this subsection shall
12 not apply to disallow an acquisition of a bank or savings
13 association if control results only by reason of ownership or
14 control of shares of a bank or savings association acquired directly
15 or indirectly:

16 a. in a good faith fiduciary capacity, except when such
17 shares are held for the benefit of the acquiring
18 bank's shareholders,

19 b. by a bank in the regular course of securing or
20 collecting a debt previously contracted in good faith,
21 or

22 c. at the request of or in connection with the exercise
23 of regulatory authority for the purpose of preventing
24 imminent failure of the bank or savings association or

1 to protect the depositors thereof as determined by the
2 principal supervisory agency in its sole discretion.
3 However, at the end of a period of five (5) years from the date of
4 acquisition, for the circumstances set forth in subparagraphs b and
5 c of this paragraph, the deposits of the acquired bank or savings
6 association shall be included in computing the deposit limitation
7 and if deposits are in excess, appropriate reductions and
8 disposition shall be made with six (6) months to meet such
9 limitations. Further, in the circumstances set forth in
10 subparagraph c of this paragraph, the Commissioner and Federal
11 Deposit Insurance Corporation shall give priority in authorizing any
12 such acquisition to any acquiring bank whose total deposits do not
13 exceed the deposit limitation.

14 J. The provisions of this section shall not be construed in
15 derogation or denial of the rights to operate and maintain
16 facilities as provided for in Sections 421 and 422 of this title.

17 K. An operating subsidiary of a bank which engages in the
18 business of owner-occupied home mortgage lending shall not be
19 considered a branch under this section in order to conduct such
20 lending operations at any location.

21 SECTION 6. AMENDATORY 8 O.S. 2001, Section 162, is
22 amended to read as follows:

23 Section 162. As used in the Perpetual Care Fund Act:
24

- 1 1. "Cemetery" or "cemeteries" means any land or structure in
2 this state dedicated to or used, or intended to be used, for the
3 interment of human remains;
- 4 2. "Burial space" means any grave space, lot, mausoleum crypt
5 or niche, whether above or below ground, which is used or intended
6 to be used for the interment of human remains;
- 7 3. "Purchase price" means the gross dollar amount the customer
8 must pay the cemetery under a contractual agreement between the two
9 to exchange ownership of, or rights to, certain ~~grave~~ burial spaces,
10 ~~lots, mausoleum crypts or niches~~. Purchase price does not include
11 finance charges, sales tax, charges for credit life insurance,
12 opening and closing costs and setting fees, but does include any
13 amount which the customer is required to pay as a deposit to the
14 Perpetual Care Fund, described in Section 163 of this title. On
15 sales of burial spaces wherein discounts or free spaces are granted
16 to the customer by the cemetery, the purchase price is determined to
17 be the fair market value or the normal selling price of that
18 particular type of burial space as sold by the cemetery; and
- 19 4. "Financial institution" means a federally insured bank or
20 savings and loan authorized to exercise trust powers or a trust
21 company ~~or savings and loan association which~~ that is authorized to
22 do business in this state.

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1 SECTION 7. AMENDATORY 8 O.S. 2001, Section 163, as
2 amended by Section 9, Chapter 80, O.S.L. 2007 (8 O.S. Supp. 2007,
3 Section 163), is amended to read as follows:

4 Section 163. A. In all cemeteries in this state where ~~grave~~
5 ~~burial spaces, lots, mausoleum crypts or niches~~ are sold, whether
6 ~~above or below the surface of the ground,~~ not less than ten percent
7 (10%) of the purchase price thereof shall be segregated and set
8 aside as a permanent trust fund to be known as the "Perpetual Care
9 Fund". The Perpetual Care Fund shall be invested as hereinafter
10 prescribed, and the income only shall be used in improving, caring
11 for, and embellishing the lots, walks, drives, parks and other
12 improvements in such cemeteries and maintenance of office and care
13 of records.

14 B. If a cemetery allows a person or other entity to construct
15 or otherwise establish a burial space at the cemetery that is not
16 purchased from the cemetery, the cemetery shall collect from such
17 person or entity an amount not less than ten percent (10%) of the
18 construction or retail cost of the burial space, to be deposited in
19 the cemetery's Perpetual Care Fund. Alternatively, the cemetery may
20 allow the person or entity to establish a separate nonrevocable
21 trust account in a financial institution, in an amount agreed upon
22 by the cemetery and the person or entity, and only the income
23 derived from such account may be used in the care, maintenance and
24 repair of such burial space.

1 C. The owner of a cemetery shall set aside and deposit such
2 amounts in a financial institution authorized by law, as trustee, to
3 administer such trusts, not later than thirty (30) days after the
4 close of the month in which was received the final payment on the
5 purchase price of each ~~grave~~ burial space, ~~lot, mausoleum crypt or~~
6 ~~niche~~. Such amounts shall be held by the trustee of the Perpetual
7 Care Fund in trust for the specific purposes stated in a written
8 trust agreement. The trust agreement may provide for an individual
9 or other entity to exist as cotrustee; provided, however, in no
10 instance shall the cotrustee have sole access to deposits held in
11 the Perpetual Care Fund, except as otherwise provided in this act.

12 ~~C.~~ D. Notwithstanding the requirements of subsection B C of
13 this section, if the total amount of the Perpetual Care Fund
14 maintained by the cemetery is One Hundred Thousand Dollars
15 (\$100,000.00) or less, the cemetery may, in lieu of depositing the
16 funds in a trust account, purchase a certificate of deposit from a
17 financial institution according to the terms of this subsection.
18 The certificate of deposit shall be pledged in favor of the Oklahoma
19 State Banking Department with no right of withdrawal by the
20 cemetery, whether before or after maturity, except upon application
21 to, and approval by, the State Banking Commissioner. The terms of
22 the certificate of deposit shall provide for notice to the
23 Department within thirty (30) days prior to maturity. Only interest
24 accruing from the certificate of deposit may be withdrawn by the

1 cemetery and shall be considered income for purposes of subsection A
2 of this section. If a cemetery maintains a certificate of deposit
3 in lieu of a trust fund, as it collects funds which must be
4 deposited into its Perpetual Care Fund, it shall segregate those
5 funds from its other operating funds and contribute those funds to
6 the certificate of deposit upon its next maturity date. If a
7 cemetery's Perpetual Care Fund is maintained in a certificate of
8 deposit, but grows in an amount greater than One Hundred Thousand
9 Dollars (\$100,000.00), the cemetery shall comply with the provisions
10 of subsection B C of this section by placing all of its Perpetual
11 Care Fund in trust and shall no longer maintain a certificate of
12 deposit as authorized by this subsection.

13 SECTION 8. AMENDATORY 8 O.S. 2001, Section 305, is
14 amended to read as follows:

15 Section 305. A. Each organization desiring to accept money or
16 anything of value for prepaid cemetery merchandise shall file an
17 application for a permit with the State Banking Commissioner, and
18 shall at the time of filing such application pay one initial filing
19 fee of Two Hundred Dollars (\$200.00). The Commissioner shall issue
20 a permit upon the receipt of the application and payment of the
21 filing fee, and upon making a finding that the applicant has
22 complied with the rules as may be established pursuant to the
23 Cemetery Merchandise Trust Act by the Commissioner. All such
24 applications shall be signed by the organization requesting the

1 permit, and shall contain a statement that the applicant will comply
2 with all the requirements as established pursuant to the Cemetery
3 Merchandise Trust Act. All permits shall expire on the 15th day of
4 March of the year following the year the permit is first issued,
5 unless renewed. Permits shall be renewed for a period not to exceed
6 the succeeding March 15 upon the payment of a renewal fee of Two
7 Hundred Dollars (\$200.00). Late application for renewal of a permit
8 shall require a fee of double the renewal fee. No application for
9 renewal of a permit shall be accepted after May 1 of each year.
10 Applicants shall be required to reapply as if they were a new
11 applicant, and pay an application fee and all late fees and renewal
12 fees that had not been paid with respect to an expired permit.

13 B. The Commissioner may cancel a permit or refuse to issue a
14 permit or refuse to issue a renewal of such permit for failure to
15 comply with any provisions of the Cemetery Merchandise Trust Act or
16 any rules promulgated thereto by the Commissioner, after reasonable
17 notice to the permittee and after a hearing before the Commissioner
18 if the permittee requests a hearing in accordance with Article II of
19 the Administrative Procedures Act.

20 C. No organization shall be entitled to a new permit after
21 cancellation, or refusal by the Commissioner to renew a permit, but
22 shall thereafter be issued a new permit upon satisfactory proof of
23 compliance with the Cemetery Merchandise Trust Act.

24

1 D. Any person or organization aggrieved by the actions of the
2 Commissioner may appeal therefrom to the State Banking Board as
3 provided by the Administrative Procedures Act.

4 SECTION 9. This act shall become effective November 1, 2008.

5 Passed the House of Representatives the 25th day of February,
6 2008.

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9 _____
10 Presiding Officer of the House of
Representatives

11 Passed the Senate the ____ day of _____, 2008.

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14 _____
15 Presiding Officer of the Senate
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