

THE HOUSE OF REPRESENTATIVES
Tuesday, February 19, 2008

House Bill No. 2725

HOUSE BILL NO. 2725 - By: WINCHESTER of the House and JOLLEY of the Senate.

An Act relating to banks and trust companies; amending 6 O.S. 2001, Section 201, as amended by Section 2, Chapter 48, O.S.L. 2005 (6 O.S. Supp. 2007, Section 201), which relates to Banking Department organization and duties; requiring seniority status be addressed in employee manual; amending 6 O.S. 2001, Section 211, as last amended by Section 6, Chapter 57, O.S.L. 2006 (6 O.S. Supp. 2007, Section 211), which relates to fees for banks and trust companies; providing Banking Board authority to refund portion of certain assessments; amending 6 O.S. 2001, Section 304, as amended by Section 4, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2007, Section 304), which relates to incorporation requirements for banks and trust companies; modifying subscriber requirements; prohibiting payments from organizational expense fund for certain purpose; 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 financial institution; amending 8 O.S. 2001, Section 305, which relates to the Cemetery Merchandise Trust Act; specifying fee payment requirements for expired permits; and providing an effective date.

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

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

4 Section 201. A. There shall be a Banking Department which shall be a separate
5 department of the state government charged with supervision of the activities in this
6 state as provided in the Oklahoma Banking Code of 1997 and in other legislation
7 conferring jurisdiction upon the Department.

8 B. The head of the Department shall be the Commissioner. The Commissioner
9 shall be appointed by the Governor with the advice and consent of the Senate. The
10 Commissioner shall have been a qualified elector of the state for at least three (3) years
11 prior to the appointment, shall be at least thirty-five (35) years old and shall have had
12 ten (10) years' experience as a bank officer or employee, or five (5) years' experience as a
13 bank president or managing officer of a bank, or five (5) years' experience as a state or
14 federal bank examiner. The Commissioner shall be appointed for a term of four (4)
15 years. The Commissioner shall continue to serve until a successor is duly appointed,
16 confirmed and qualified. The Commissioner may be removed by the Governor for cause
17 after notice and hearing. A successor to a Commissioner who dies, resigns or is removed
18 shall be appointed in the same manner as provided in this section.

19 C. 1. The Commissioner shall appoint a Deputy Commissioner who may also serve
20 as secretary to the Board hereinafter created. The Deputy Commissioner shall have been
21 a qualified elector of the state for at least three (3) years prior to the appointment, shall
22 be at least thirty (30) years old and shall have had five (5) years' experience as a bank

1 officer or employee, or three (3) years' experience as a bank president or managing officer
2 of a bank, or five (5) years' experience as a state or federal bank examiner. If the office of
3 the Commissioner is vacant or if the Commissioner is absent or unable to act, the Deputy
4 Commissioner shall be the acting Commissioner.

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

7 3. The Attorney General is hereby authorized to appoint an Assistant Attorney
8 General, in addition to those now provided by law, to be assigned to the Department.
9 The Assistant Attorney General shall perform such additional duties as may be assigned
10 by the Attorney General, and shall otherwise be subject to all provisions of the statutes
11 relating to Assistant Attorneys General. The Banking Department is authorized to pay
12 all or any part of the salary of the Assistant Attorney General.

13 4. The Commissioner may also appoint a Budget Director for the Department, a
14 Credit Union Administrator and Assistant Deputy Commissioners. The Budget Director,
15 Credit Union Administrator and Assistant Deputy Commissioners shall have the duties
16 and authority as prescribed by the Commissioner.

17 5. The Commissioner shall prepare in writing a manual of all employee positions
18 for the Department, including job classifications, seniority status, personnel
19 qualifications, duties, maximum and minimum salary schedules and other personnel
20 information for approval by the Board. The Commissioner may select, appoint and
21 employ such accountants, attorneys, auditors, examiners, clerks, secretaries,

1 stenographers and other personnel as the Commissioner deems necessary for the proper
2 administration of the Department and any other statutory duties of the Commissioner.

3 D. All officers and employees of the Department shall be in the exempt unclassified
4 service as provided for in Section 840-5.5 of Title 74 of the Oklahoma Statutes. All future
5 appointees to such positions shall be in the exempt unclassified service. Except as
6 provided in subsection B of this section, officers and employees of the Department shall
7 not be terminable except for cause as defined by the Board.

8 E. The Commissioner may delegate to any officer or employee of the Department
9 any of the powers of the Commissioner and may designate any officer or employee of the
10 Department to perform any of the duties of the Commissioner.

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

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

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

1 3. Whenever it is necessary for the Commissioner to approve any instrument or to
2 affix the official seal thereto, the Commissioner may charge a fee for affixing the
3 approval of the Commissioner or the official seal to such instrument. Copies of all
4 records and papers in the office of the Department, certified by the Commissioner and
5 authenticated by the seal, shall be received in evidence in all cases equally and of like
6 effect as the original. Whenever it is proper to furnish a copy of any paper filed in the
7 Department or to certify such paper, the Commissioner may charge a fee for furnishing
8 such copy, for affixing the official seal on such copy and/or for certifying the same.

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

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

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

21 3. Effective January 1, 2007, and each year thereafter, ten percent (10%) of all
22 assessments collected from state-chartered banks existing as of December 31 of the

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

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

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

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

11 C. Section 211 of Title 62 of the Oklahoma Statutes shall not apply to the
12 Oklahoma State Banking Department, the Banking Board, the Credit Union Board nor
13 the Banking Commissioner.

14 SECTION 3. AMENDATORY 6 O.S. 2001, Section 304, as amended by Section
15 4, Chapter 67, O.S.L. 2002 (6 O.S. Supp. 2007, Section 304), is amended to read as
16 follows:

17 Section 304. A. Each subscriber at the time the subscriber subscribes to the stock
18 of a proposed state bank or trust company shall pay in cash a sum ~~at least~~ equal to at
19 least five percent (5%) of the ~~par value~~ sale price of such stock into a fund to be used to
20 pay the expenses of organization. No organizational expense shall be paid out of any
21 other funds of the bank.

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

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

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

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

15 Section 306.1 A. Once the Commissioner is satisfied that the organizers have
16 substantially complied with the requirements of ~~Sections 304 and~~ Section 305 of this title
17 and an organizational expense fund in a minimum amount approved by the
18 Commissioner has been fully funded, the Commissioner shall accept the application for
19 filing and shall notify the organizers of the acceptance. ~~Applicants~~ Prior to acceptance by
20 the Commissioner, an applicant shall have one opportunity to correct deficiencies in an
21 application. Deficiencies that are not corrected adequately when the application is
22 resubmitted may cause the application to be considered withdrawn or disapproved.

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

8 The applicant shall promptly furnish the Commissioner an affidavit evidencing
9 such publication.

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

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

16 B. Upon approval of the Commissioner or Comptroller of the Currency, any bank is
17 authorized to establish and operate in Oklahoma, on real property owned or leased by
18 the bank, an unlimited number of branches by acquisition, de novo, or otherwise,
19 whether fixed or mobile, at or from which any permissible function, business, power, or
20 activity of any kind whatsoever of the bank may be performed or engaged in. Provided,
21 however, no bank, savings bank, savings association, out-of-state bank, out-of-state
22 savings bank, out-of-state savings association, industrial loan company or industrial

1 bank may establish or maintain a branch in this state on the premises or property of an
2 affiliate if the affiliate engages in commercial activities. For purposes of this section,
3 “affiliate” means any company that controls, or is controlled by another company, and
4 “commercial activities” means activities in which a bank may not engage under federal
5 law, either directly or indirectly through an operating subsidiary or financial subsidiary.

6 C. ~~The~~ Except for the procedures relating to establishment of temporary branches,
7 the procedures, standards and requirements for making application for permission to
8 establish and operate a branch shall be set by rule of the Banking Board. However, no
9 emphasis upon competition or competitive factors shall be imposed, and in no event shall
10 such rules impose standards, criteria, or requirements upon state-chartered banks which
11 are more onerous than those existing for national banks.

12 D. All existing branches and detached facilities of a bank shall, upon the expiration
13 of sixty (60) days after the effective date of this act, by operation of law and without
14 further action by the bank or Commissioner, or the Comptroller of the Currency, become
15 and be deemed lawful branches, fully authorized and validly existing pursuant to this
16 section. Provided, a bank may elect to opt-out of the effects of this subsection as to one or
17 more of its existing detached facilities, by providing to its chartering authority, prior to
18 the expiration of sixty (60) days after the effective date of this act, a written notice that
19 the bank has opted-out of the effects of this subsection with the result that one or more of
20 its detached facilities will continue to be classified as detached facilities rather than as
21 branches. The written notice must clearly identify each particular detached facility to
22 which it applies. “Existing branches and detached facilities”, for purposes of this

1 subsection, means branches or detached facilities which have been approved and are
2 open and operating, or are approved but unopened, or for which application was made
3 prior to the effective date of this act and for which approval is given after the effective
4 date of this act.

5 E. Any bank or savings association with its main office or a branch office located in
6 a county where an institution of higher education is located, may open accounts and
7 accept deposits on the campus of the institution of higher education if notice is provided
8 to the Department and written permission is granted by the institution, for no more than
9 ~~three (3)~~ seven (7) days per year. The authorization of this subsection shall be self-
10 executing and no application to the regulators of the bank or savings association shall be
11 required by this section for a bank or savings association to comply with this subsection.

12 F. A temporary branch may be established and operated upon approval of the
13 Commissioner or Comptroller of the Currency. As used in this subsection, “temporary
14 branch” means ~~a branch located at a fixed site that:~~

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 2. ~~Is~~ A branch that is approved for a limited period of time, without requirement of
2 notice or hearing, as a temporary replacement for a previously existing branch that is
3 inoperable due to an “emergency” as defined in Section 102 of this title or that is
4 established because of an emergency in a community that prevents access to an
5 established branch by customers in a specified community. Approval of a temporary
6 branch established under this paragraph shall expire at the time the emergency that
7 caused the establishment of the temporary branch no longer exists. No separate fee shall
8 be imposed for a temporary branch approved under this paragraph; or

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

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

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

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

6 2. The deposit limitation provided for in this subsection shall not apply to disallow
7 an acquisition of a bank or savings association if control results only by reason of
8 ownership or control of shares of a bank or savings association acquired directly or
9 indirectly:

- 10 a. in a good faith fiduciary capacity, except when such shares are held for
11 the benefit of the acquiring bank's shareholders,
12 b. by a bank in the regular course of securing or collecting a debt
13 previously contracted in good faith, or
14 c. at the request of or in connection with the exercise of regulatory
15 authority for the purpose of preventing imminent failure of the bank or
16 savings association or to protect the depositors thereof as determined
17 by the principal supervisory agency in its sole discretion.

18 However, at the end of a period of five (5) years from the date of acquisition, for the
19 circumstances set forth in subparagraphs b and c of this paragraph, the deposits of the
20 acquired bank or savings association shall be included in computing the deposit
21 limitation and if deposits are in excess, appropriate reductions and disposition shall be
22 made with six (6) months to meet such limitations. Further, in the circumstances set

1 forth in subparagraph c of this paragraph, the Commissioner and Federal Deposit
2 Insurance Corporation shall give priority in authorizing any such acquisition to any
3 acquiring bank whose total deposits do not exceed the deposit limitation.

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

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

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

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

13 1. "Cemetery" or "cemeteries" means any land or structure in this state dedicated to
14 or used, or intended to be used, for the interment of human remains;

15 2. "Burial space" means any grave space, lot, mausoleum crypt or niche, whether
16 above or below ground, which is used or intended to be used for the interment of human
17 remains;

18 3. "Purchase price" means the gross dollar amount the customer must pay the
19 cemetery under a contractual agreement between the two to exchange ownership of, or
20 rights to, certain grave burial spaces, ~~lots, mausoleum crypts or niches~~. Purchase price
21 does not include finance charges, sales tax, charges for credit life insurance, opening and
22 closing costs and setting fees, but does include any amount which the customer is

1 required to pay as a deposit to the Perpetual Care Fund, described in Section 163 of this
2 title. On sales of burial spaces wherein discounts or free spaces are granted to the
3 customer by the cemetery, the purchase price is determined to be the fair market value
4 or the normal selling price of that particular type of burial space as sold by the cemetery;
5 and

6 4. "Financial institution" means a federally insured bank or savings and loan
7 authorized to exercise trust powers or a trust company ~~or savings and loan association~~
8 ~~which~~ that is authorized to do business in this state.

9 SECTION 7. AMENDATORY 8 O.S. 2001, Section 163, as amended by Section
10 9, Chapter 80, O.S.L. 2007 (8 O.S. Supp. 2007, Section 163), is amended to read as
11 follows:

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

19 B. If a cemetery allows a person or other entity to construct or otherwise establish a
20 burial space at the cemetery that is not purchased from the cemetery, the cemetery shall
21 collect from such person or entity an amount not less than ten percent (10%) of the
22 construction or retail cost of the burial space, to be deposited in the cemetery's Perpetual

1 Care Fund. Alternatively, the cemetery may allow the person or entity to establish a
2 separate nonrevocable trust account in a financial institution, in an amount agreed upon
3 by the cemetery and the person or entity, and only the income derived from such account
4 may be used in the care, maintenance and repair of such burial space.

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

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

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

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

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

1 the year following the year the permit is first issued, unless renewed. Permits shall be
2 renewed for a period not to exceed the succeeding March 15 upon the payment of a
3 renewal fee of Two Hundred Dollars (\$200.00). Late application for renewal of a permit
4 shall require a fee of double the renewal fee. No application for renewal of a permit shall
5 be accepted after May 1 of each year. Applicants shall be required to reapply as if they
6 were a new applicant, and pay an application fee and all late fees and renewal fees that
7 had not been paid with respect to an expired permit.

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

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

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

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

21 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
22 FINANCIAL SERVICES, dated 02-18-08 - DO PASS, As Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.