

EHB 1543

THE STATE SENATE
Tuesday, April 10, 2007

ENGROSSED

House Bill No. 1543

ENGROSSED HOUSE BILL NO. 1543 - By: WINCHESTER, CAREY and MURPHEY of the House and CORN of the Senate.

An Act relating to banks and trust companies; amending 6 O.S. 2001, Section 402, which relates to powers of banks and trust companies; increasing amount of certain investment; amending 6 O.S. 2001, Section 501.2, which relates to branch banks; prohibiting certain branch bank locations; defining terms; amending Section 3, Chapter 235, O.S.L. 2006 (6 O.S. Supp. 2006, Section 512), which relates to out-of-state banks; removing certain restriction on branch operations; amending 6 O.S. 2001, Section 603, which relates to emergency closing; substituting term; allowing certain emergency measures during specific situations; defining term; amending 6 O.S. 2001, Section 906, which relates to sole beneficiary deposits; modifying scope to include credit unions; amending 6 O.S. 2001, Section 907, which relates to husband and wife deposits; modifying scope to include credit unions; amending 6 O.S. 2001, Section 2006, as amended by Section 2, Chapter 209, O.S.L. 2005 (6 O.S. Supp. 2006, Section 2006), which relates to credit union powers; modifying certain loan limitation; adding additional power to own or lease certain personal property; amending 6 O.S. 2001, Section 2025, which relates to payable on death accounts; modifying requirements controlling payable on death accounts; amending 8 O.S. 2001, Sections 163 and 166, as amended by Section 23, Chapter 48, O.S.L. 2005 (8 O.S. Supp. 2006, Section 166), which relate to cemeteries; allowing certain cemeteries to use a certificate of deposit under certain circumstances; adding certain reporting requirements; and providing an effective date.

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

SECTION 1. AMENDATORY 6 O.S. 2001, Section 402, is amended to read as follows:

1 Section 402. Any bank or trust company now or hereafter
2 organized under the laws of this state shall, without specific
3 mention thereof in its certificate of incorporation, have all the
4 powers conferred by the Oklahoma Banking Code and the following
5 additional corporate powers:

- 6 1. To continue perpetually as a corporation;
- 7 2. To make contracts;
- 8 3. To sue and be sued, complain and defend, in its corporate
9 name;
- 10 4. To sell any asset in the ordinary course of business;
- 11 5. To have a corporate seal, which may be altered at pleasure,
12 and to use the same by causing it or a facsimile thereof to be
13 impressed or affixed, or in any manner reproduced;
- 14 6. To make, alter, amend, and repeal bylaws, not inconsistent
15 with its certificate of incorporation or with law, for the
16 administration and regulation of the affairs of the corporation;
- 17 7. To elect, appoint or remove officers and agents of the
18 corporation and to define their duties and fix their compensation;
- 19 8. To adopt and operate reasonable bonus, profit-sharing and
20 pension plans for officers and employees;
- 21 9. To make contributions to or for the use or benefit of the
22 following:

- 1 a. the United States, any state, territory, or political
2 subdivision thereof, the District of Columbia or any
3 possession of the United States, for exclusively
4 public purposes,
- 5 b. a corporation, foundation, trust, community chest, or
6 other organization created or organized in the United
7 States, or in any state or territory, or of the
8 District of Columbia, or of any possession of the
9 United States, and organized and operated exclusively
10 for religious, charitable, scientific, veteran
11 rehabilitation service, civic enterprise, literary or
12 educational purposes, or for the prevention of cruelty
13 to children or animals, no part of the net earnings of
14 which inures to the benefit of any private shareholder
15 or individual, and no substantial part of the
16 activities of which is carrying on propaganda or
17 otherwise attempting to influence legislation, or
- 18 c. other lawful expenditures, contributions and
19 donations; to the extent authorized, approved, or
20 ratified by action of the board of directors of the
21 corporation, except as otherwise specifically provided
22 or limited by its certificate of incorporation, its

1 bylaws, or by resolution duly adopted by its
2 stockholders;

3 10. To exercise such incidental powers as may be necessary or
4 desirable to carry on the banking business including, but not
5 limited to, powers as may now or hereafter be conferred upon
6 national banks by the laws of the United States and the regulations
7 and policies of the United States Comptroller of the Currency,
8 unless otherwise prohibited or limited by the State Banking
9 Commissioner or the State Banking Board. Upon approval of the
10 Commissioner, and subject to all applicable federal and state laws,
11 the operating subsidiaries or financial subsidiaries of a bank may
12 exercise any power and engage in any activity that is permitted for
13 an operating subsidiary or financial subsidiary of a national bank
14 pursuant to laws of the United States and the regulations and
15 policies of the United States Comptroller of the Currency, or the
16 Board of Governors of the Federal Reserve System unless otherwise
17 prohibited or limited by the Commissioner or the Board;

18 11. To exercise by its directors, duly authorized officers or
19 agents, subject to law, all such powers as shall be necessary to
20 carry on the banking business;

21 12. Without specific mention in its charter, to act as escrow
22 agent;

1 13. To purchase for its own account investment securities under
2 such limitations and restrictions as the Commissioner may prescribe
3 by policy statement pursuant to subsection F of Section 204 of this
4 title;

5 14. To lease, hold, purchase and convey any and all real estate
6 in the manner provided in this Code and not otherwise;

7 15. To act as fiscal or transfer agent, executor,
8 administrator, guardian of estates, assignee, receiver, depository
9 and trustee, provided such bank or trust company has complied with
10 the laws of this state relating to the organization and regulation
11 of trust companies;

12 16. To issue and sell securities as the Commissioner may
13 prescribe by policy statement pursuant to subsection F of Section
14 204 of this title;

15 17. To invest in tangible personal property, including, without
16 limitation, vehicles, manufactured homes, machinery, equipment, or
17 furniture, for lease financing transactions on a net-lease basis,
18 subject to rule or order of the Commissioner limiting the amount the
19 bank may invest in such property;

20 18. To make investments designed primarily to promote the
21 public welfare, including the welfare of low- and moderate-income
22 communities or families, such as by providing housing, services, or
23 jobs. A state bank may make such investments directly or by

1 purchasing interests in an entity primarily engaged in making such
2 investments. A state bank shall not make any such investment if the
3 investment would expose the bank to unlimited liability. The
4 aggregate investment of a state bank under this subsection shall not
5 exceed ~~ten percent (10%)~~ fifteen percent (15%) of the capital of the
6 bank; and

7 19. Upon approval by the Commissioner, to underwrite issues of
8 securities or stock through a subsidiary.

9 SECTION 2. AMENDATORY 6 O.S. 2001, Section 501.2, is
10 amended to read as follows:

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

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

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

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

15 D. All existing branches and detached facilities of a bank
16 shall, upon the expiration of sixty (60) days after the effective
17 date of this act, by operation of law and without further action by
18 the bank or Commissioner, or the Comptroller of the Currency, become
19 and be deemed lawful branches, fully authorized and validly existing
20 pursuant to this section. Provided, a bank may elect to opt-out of
21 the effects of this subsection as to one or more of its existing
22 detached facilities, by providing to its chartering authority, prior
23 to the expiration of sixty (60) days after the effective date of

1 this act, a written notice that the bank has opted-out of the
2 effects of this subsection with the result that one or more of its
3 detached facilities will continue to be classified as detached
4 facilities rather than as branches. The written notice must clearly
5 identify each particular detached facility to which it applies.
6 "Existing branches and detached facilities", for purposes of this
7 subsection, means branches or detached facilities which have been
8 approved and are open and operating, or are approved but unopened,
9 or for which application was made prior to the effective date of
10 this act and for which approval is given after the effective date of
11 this act.

12 E. Any bank or savings association with its main office or a
13 branch office located in a county where an institution of higher
14 education is located, may open accounts and accept deposits on the
15 campus of the institution of higher education if written permission
16 is granted by the institution, for no more than three (3) days per
17 year. The authorization of this subsection shall be self-executing
18 and no application to the regulators of the bank or savings
19 association shall be required by this section for a bank or savings
20 association to comply with this subsection.

21 F. A temporary branch may be established and operated upon
22 approval of the Commissioner or Comptroller of the Currency. As

1 used in this subsection, "temporary branch" means a branch located
2 at a fixed site that:

3 1. Is within one thousand (1,000) feet of the location of the
4 approved site of the same bank for a permanent branch, and such
5 temporary branch is scheduled to, and will, permanently close not
6 later than a certain date, no longer than one (1) year after the
7 temporary branch is first opened, as specified in the permanent
8 branch application and the public notice; or

9 2. Is approved for a limited period of time, without
10 requirement of notice or hearing, as a temporary replacement for a
11 previously existing branch that is inoperable due to an "emergency"
12 as defined in Section 102 of this title.

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

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

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

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

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

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

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

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

19 SECTION 3. AMENDATORY Section 3, Chapter 235, O.S.L.
20 2006 (6 O.S. Supp. 2006, Section 512), is amended to read as
21 follows:

22 Section 512. A. An out-of-state industrial loan company or
23 industrial bank shall not be permitted to establish a de novo branch

1 in this state, nor to acquire a branch bank or savings association
2 branch in this state, unless, on a reciprocal basis, the state where
3 the main office of the out-of-state industrial loan company or
4 industrial bank is located would permit a bank chartered under the
5 laws of this state with a main office located in this state to
6 establish a de novo industrial loan company or industrial bank
7 branch in that other state without having engaged in an interstate
8 merger transaction with an industrial loan company or industrial
9 bank having its main office in that other state.

10 B. No industrial loan company or industrial bank shall be
11 permitted to establish and operate a branch, or relocate a branch,
12 except upon a certificate issued by the State Banking Commissioner.

13 C. The State Banking Board shall adopt and promulgate rules
14 necessary to effectuate the provisions of this act. The Board may,
15 by rule, establish a procedure whereby the Commissioner may grant
16 approval and issue the certificate to establish or acquire and
17 operate or relocate a branch or other banking office permitted by
18 this section without a hearing before the Board. The procedure
19 shall include criteria set by the Board to be applied by the
20 Commissioner in the consideration of the application.

21 ~~D. No industrial loan company or industrial bank may establish~~
22 ~~a branch operation for any purpose in any retail store located~~
23 ~~within this state.~~

1 ~~E. As used in this section, "retail store" means any store that~~
2 ~~obtains on a consolidated basis more than fifteen percent (15%) of~~
3 ~~its annual gross revenues from activities that are nonfinancial in~~
4 ~~nature.~~

5 SECTION 4. AMENDATORY 6 O.S. 2001, Section 603, is
6 amended to read as follows:

7 Section 603. A. Power of the Commissioner. Whenever the
8 Commissioner is of the opinion that an emergency exists or is
9 impending in this state or in any part or parts of this state, he
10 may, by proclamation, authorize ~~banks~~ institutions located in the
11 affected area or areas to close any or all of their offices. In
12 addition, if the Commissioner is of the opinion that an emergency
13 exists or is impending, which affects or may affect a particular
14 ~~bank or banks~~ institution, or a particular office or offices
15 thereof, but not ~~banks~~ institutions located in the area generally,
16 he may authorize the particular ~~bank or banks~~ institution or office
17 or offices so affected to close. The office or offices so closed
18 shall remain closed until the Commissioner proclaims that the
19 emergency has ended, or until such earlier time as the officers of
20 the ~~bank~~ institution determine that one or more offices, theretofore
21 closed because of the emergency, should reopen, and, in either
22 event, for such further time thereafter as may reasonably be
23 required to reopen. If an emergency exists such that, in the

1 opinion of the Commissioner, one or more institutions in the
2 affected area will not be able to resume business at the closed
3 offices within a reasonable period of time, the Commissioner may
4 authorize the affected institutions to open one or more temporary
5 facilities at locations outside of the affected area, including
6 branch facilities, without formal application or fee, after notice
7 to and approval by the Commissioner. Any temporary facility opened
8 under this subsection may remain open until the Commissioner
9 declares that the emergency has passed, at which time the
10 institution shall close the temporary facility or seek approval to
11 remain at the location through filing of a formal application and
12 payment of any required fee.

13 B. Powers of officers. Whenever the officers of ~~a bank~~ an
14 institution are of the opinion that an emergency exists or is
15 impending, which affects or may affect one or more or all of a
16 ~~bank's~~ an institution's offices, they shall have the authority, in
17 the reasonable and proper exercise of their discretion, to determine
18 not to open any one or more or all of such offices on any business
19 or banking day or, if having opened, to close any one or more or all
20 of such offices during the continuation of such emergency, even if
21 the Commissioner has not issued and does not issue a proclamation of
22 emergency. The office or offices so closed shall remain closed
23 until such time as the officers determine that the emergency has

1 ended, and for such further time thereafter as may reasonably be
2 required to reopen; however, in no case shall such office or offices
3 remain closed for more than forty-eight (48) consecutive hours,
4 excluding other legal holidays, without requesting the approval of
5 the Commissioner.

6 The officers of ~~a bank~~ an institution may close any one or more
7 or all of the ~~bank's~~ institution's offices on any day or days
8 designated by proclamation of the President of the United States or
9 the Governor of this state as a day or days of mourning, rejoicing,
10 or other special observance.

11 C. Notice to Commissioner. ~~A bank~~ An institution closing an
12 office or offices pursuant to the authority granted under subsection
13 B of this ~~act~~ section shall give as prompt notice of its action as
14 conditions will permit, and by any means available, to the
15 Commissioner or, in the case of a national bank, to the Comptroller
16 of the Currency.

17 D. Effect of closing. Any day on which ~~a bank~~ an institution,
18 or any one or more of its offices, is closed during all or any part
19 of its normal banking hours pursuant to the authorization granted
20 under this ~~act~~ section shall be, with respect to such ~~bank~~
21 institution or, if not all of its offices are closed, then with
22 respect to any office or offices which are closed, a legal holiday
23 for all purposes with respect to any banking business of any

1 character. No liability, or loss of rights of any kind, on the part
2 of any ~~bank~~ institution, or director, officer, or employee thereof,
3 shall accrue or result by virtue of any closing authorized by this
4 ~~act~~ section.

5 The provisions of this ~~act~~ section shall be construed and
6 applied as being in addition to, and not in substitution for or
7 limitation of, any other law of this state or of the United States,
8 authorizing the closing of a ~~bank~~ an institution or excusing the
9 delay by a ~~bank~~ an institution in the performance of its duties and
10 obligations because of emergencies or conditions beyond the ~~bank's~~
11 institution's control or otherwise.

12 E. National banks. This section shall apply to national banks
13 only with the approval of the Comptroller of the Currency.

14 F. As used in this section, the term "institution" means banks,
15 credit unions, and savings associations chartered under the laws of
16 this state. The term also includes banks, credit unions, and
17 savings associations chartered under the laws of another state that
18 have branch offices in this state unless the laws of the other state
19 provide a more restrictive rule in the case of emergencies.

20 SECTION 5. AMENDATORY 6 O.S. 2001, Section 906, is
21 amended to read as follows:

22 Section 906. A. When a deposit has been made in a bank or
23 credit union in the name of a sole individual without designation of

1 a payable-on-death beneficiary, upon the death of the sole owner of
2 the account if the amount of the aggregate deposits held in single
3 ownership accounts in the name of the deceased individual is Five
4 Thousand Dollars (\$5,000.00) or less, the bank or credit union may
5 transfer the funds to the known heirs of the deceased upon receipt
6 of an affidavit sworn to by the known heirs of the deceased which
7 establishes jurisdiction and relationship and states that the owner
8 of the account left no will. The affidavit shall be sworn to and
9 signed by the known heirs of the deceased and the same shall swear
10 that the facts set forth in the affidavit establishing jurisdiction,
11 heirship and intestacy are true and correct.

12 B. Receipt by the bank or credit union of the affidavit
13 described in subsection A of this section shall be a valid and
14 sufficient release and discharge to the bank or credit union for any
15 transfer of deposits made pursuant thereto and shall ~~set~~ serve to
16 discharge the bank or credit union from liability as to any other
17 party, including any heir, legatee, devisee, creditor or other
18 person having rights or claims to funds or property of the decedent,
19 and include a discharge of the bank or credit union from liability
20 for any estate, inheritance or other taxes which may be due the
21 state from the estate or as a result of the transfer.

22 C. Any person who knowingly submits and signs a false affidavit
23 as provided in this section shall be fined not more than Three

1 Thousand Dollars (\$3,000.00) or imprisoned for not more than six (6)
2 months, or both. Restitution of the amount fraudulently attained
3 shall be made to the rightful beneficiary by the guilty person.

4 SECTION 6. AMENDATORY 6 O.S. 2001, Section 907, is
5 amended to read as follows:

6 Section 907. A deposit made in any bank or credit union by a
7 husband and wife which is primarily for a business purpose may be
8 treated, at the option of the depositors, as a sole proprietorship
9 account, rather than a partnership account unless a formal
10 partnership has been formed.

11 SECTION 7. AMENDATORY 6 O.S. 2001, Section 2006, as
12 amended by Section 2, Chapter 209, O.S.L. 2005 (6 O.S. Supp. 2006,
13 Section 2006), is amended to read as follows:

14 Section 2006. A credit union shall have succession in its
15 corporate name during its existence and shall have power:

- 16 1. To make contracts;
- 17 2. To sue and be sued;
- 18 3. To adopt and use a common seal and alter the same at
19 pleasure;
- 20 4. To purchase, lease, own, hold, and dispose of any real
21 estate, buildings, fixtures, equipment, furniture and furnishings
22 necessary, incidental and convenient to the operation of the credit
23 union, the aggregate book value of which shall not exceed seven

1 percent (7%) of the total assets of the credit union, unless
2 otherwise specifically approved by the State Credit Union Board. A
3 credit union may lease to any tenants as the credit union deems
4 appropriate any portion of the facilities or premises of the credit
5 union which are not utilized in the conduct of the business of the
6 credit union;

7 5. To make loans to its members for provident or productive
8 purposes, the maturities of which shall not exceed fifteen (15)
9 years, except as otherwise provided herein and except as otherwise
10 approved by the State Credit Union Board, and extend lines of credit
11 to its members, to other credit unions and to credit union
12 organizations and to participate with other credit unions, credit
13 union organizations or financial organizations in making loans to
14 credit union members, other credit unions and credit union
15 organizations in accordance with the following:

16 a. loans to credit union members shall be made in
17 conformity with criteria established by the board of
18 directors of the lending credit union; provided that:
19 (1) a real estate loan secured by a first mortgage
20 lien may have a maturity not exceeding thirty
21 (30) years or any longer term which may be
22 authorized by the State Credit Union Board,

- 1 (2) a loan to finance a manufactured home, which
2 shall be secured by a first lien on such
3 manufactured home, or a second mortgage loan
4 secured by a dwelling, shall have a maturity not
5 exceeding fifteen (15) years or any longer term
6 which may be allowed by the State Credit Union
7 Board,
- 8 (3) a loan secured by the insurance or guarantee of,
9 or with advance commitment to purchase the loan
10 by, a state or federal governmental agency may be
11 made for the maturity and under the terms and
12 conditions specified in the state or federal law
13 under which such insurance, guarantee or
14 commitment is provided,
- 15 (4) a loan or aggregate of loans to a director or to
16 a member of the supervisory committee or the
17 credit committee or the credit manager of the
18 lending credit union which exceeds Sixty Thousand
19 Dollars (\$60,000.00) plus the amount of any
20 pledged shares, shall be approved by the board of
21 directors of the lending credit union, and
- 22 (5) loans to credit union members for which any
23 director of the lending credit union or any

1 member of the supervisory committee or credit
2 committee or the credit manager of the lending
3 credit union acts as a guarantor or endorser
4 shall be approved by the board of directors of
5 the lending credit union when such loan, either
6 standing alone or when added to any outstanding
7 loan or loans of the guarantor or endorser,
8 exceeds Sixty Thousand Dollars (\$60,000.00) plus
9 the amount of any pledged shares,

10 b. loans to credit union members and other eligible
11 borrowers shall be made in accordance with and shall
12 be paid or amortized in accordance with any rules or
13 regulations as may be prescribed and adopted from time
14 to time by the State Credit Union Board, after taking
15 into account the needs or conditions of the borrowers,
16 the amounts and duration of the loans, the interests
17 of the members and the credit unions and such other
18 factors as the State Credit Union Board may deem
19 relevant,

20 c. unless approval by the board of directors of the
21 lending credit union is otherwise expressly required
22 herein, loans to credit union members and other
23 eligible borrowers shall be approved by the credit

1 committee or by a loan officer of the lending credit
2 union in accordance with criteria established by the
3 board of directors,
4 d. no loan or line of credit may be made to or
5 established for a credit union member if the amount of
6 such loan or line of credit, when aggregated with all
7 other outstanding loans and lines of credit made to or
8 established for such credit union member, will cause
9 the credit union member to be indebted to the lending
10 credit union in an amount exceeding six percent (6%)
11 of the greater of either (i) the paid-in and
12 unimpaired capital and surplus of the lending credit
13 union or (ii) an amount which is six percent (6%) of
14 the total assets of the lending credit union,
15 ~~whichever is greater,~~
16 e. a self-replenishing line of credit may be established
17 by a credit union for any eligible borrower to a
18 stated maximum amount on terms and conditions which
19 may differ from the terms and conditions established
20 for other eligible borrowers,
21 f. loans to other credit unions shall be approved by the
22 board of directors of the lending credit union and
23 shall not exceed twenty-five percent (25%) of the

1 paid-in and unimpaired capital and surplus of the
2 lending credit union,
3 g. loans to credit union organizations shall be approved
4 by the board of directors of the lending credit union
5 and shall not exceed one percent (1%) of the paid-in
6 and unimpaired capital and surplus of the lending
7 credit union, except as otherwise approved by the
8 State Credit Union Board. A "credit union
9 organization" means any organization which is
10 established primarily to serve the needs of credit
11 unions and whose business relates to the daily
12 operations of the credit unions served by such credit
13 union organization,
14 h. participation loans with other credit unions, credit
15 union organizations or other financial organizations
16 shall be in accordance with written policies adopted
17 by the board of directors of the lending credit union
18 and shall be approved by the board of directors of the
19 lending credit union. However, a credit union which
20 originates a loan for which participation arrangements
21 are made in accordance with this subsection shall
22 retain an interest of at least ten percent (10%) of
23 the face amount of such loan,

1 and deposits, and to require such notice for withdrawal of shares
2 and deposits as the bylaws may provide;

3 7. To amend its bylaws in the manner provided by the bylaws,
4 but all amendments to the bylaws must be submitted to and approved
5 by the State Credit Union Board before they become operative;

6 8. To invest its funds in accordance with the following:

7 a. investments shall be made in conformity with criteria
8 established by the board of directors of the credit
9 union and in accordance with any rules or regulations
10 as may be prescribed and adopted from time to time by
11 the State Credit Union Board, and

12 b. the following investments shall be authorized for
13 credit unions:

14 (1) loans to credit union members and other loans
15 authorized for credit unions under the laws of
16 this state,

17 (2) obligations of the United States of America and
18 obligations fully guaranteed as to principal and
19 interest by any instrumentality or agency of the
20 United States of America,

21 (3) general obligations and revenue obligations of
22 any state or any political subdivision thereof;
23 provided the aggregate of such investments shall

1 not exceed ten percent (10%) of the paid-in and
2 unimpaired capital and surplus of the credit
3 union; and provided that such investments shall
4 be limited to obligations rated among the three
5 highest rating categories established by one or
6 more national rating services for governmental
7 obligations,

8 (4) obligations issued by banks for cooperatives,
9 federal land banks, federal intermediate credit
10 banks, federal home loan banks, the Federal Home
11 Loan Bank Board or any corporation designated by
12 federal law as a wholly owned government
13 corporation, or obligations, participations or
14 other instruments of or issued by, or fully
15 guaranteed as to principal and interest by, the
16 Federal National Mortgage Association or the
17 Government National Mortgage Association, or in
18 mortgages, obligations or other securities which
19 are or ever have been sold by the Federal Home
20 Loan Mortgage Corporation pursuant to the Federal
21 Home Loan Mortgage Corporation Act, or in other
22 obligations or other instruments or securities of
23 the Student Loan Marketing Association, or

1 obligations, participations, securities or other
2 instruments of or issued by or fully guaranteed
3 as to principal and interest by any other agency
4 of the United States of America,
5 (5) shares of, deposits with or loans to other
6 federally insured credit unions in a total
7 amount, in either case, not exceeding twenty-five
8 percent (25%) of the paid-in and unimpaired
9 capital and surplus of the investing credit
10 union,
11 (6) shares of, or accounts or deposits with any state
12 or federal banks, mutual savings banks and
13 savings and loan associations, the accounts of
14 which are insured by an agency of the federal
15 government,
16 (7) shares of, deposits with or loans to any Federal
17 Reserve Bank or any central liquidity facility
18 established under state or federal law,
19 (8) shares of, deposits with or loans to any central
20 credit union or corporate credit union organized
21 under state or federal law,
22 (9) shares of, deposits with or loans to any
23 organization, corporation or association

1 providing services associated with the general
2 purposes of the investing credit union or
3 engaging in activities incidental to the
4 operations of any credit union; provided that
5 such investments in the aggregate may not exceed
6 one percent (1%) of the unimpaired capital and
7 surplus of the investing credit union,

8 (10) any obligations or securities authorized for
9 investment by federal credit unions under the
10 laws of the United States of America. However,
11 such investments shall be in compliance with any
12 restrictions or limitations pertaining thereto
13 under the laws of the United States of America or
14 under the regulations of the National Credit
15 Union Administration,

16 (11) money market funds rated among the three highest
17 rating categories established by one or more
18 national rating services for corporate or
19 governmental securities,

20 (12) shares of mutual funds if the investments and
21 investment transactions of the fund are
22 authorized for credit unions under the laws of
23 this state, or

1 (13) such other investments or types of investments as
2 may be authorized from time to time by the State
3 Credit Union Board; provided that the State
4 Credit Union Board shall not be permitted under
5 this specific grant of authority to authorize a
6 credit union to purchase or own real estate
7 solely for investment purposes;

8 9. To make deposits in national banks and in state banks, trust
9 companies, savings and loan associations, and credit unions
10 organized under the laws of this state, any other state, or the
11 United States, operating in accordance with the laws of the State of
12 Oklahoma, or of the laws of the United States and approved by State
13 Credit Union Board as depositories;

14 10. To borrow, from any source, in an aggregate amount not
15 exceeding fifty percent (50%) of its shares, deposits and undivided
16 earnings; such borrowed money may be borrowed either by means of
17 bills payable or through rediscounts of its negotiable instruments,
18 and credit unions may pledge their assets as collateral securities
19 therefor;

20 11. To fine members, in accordance with the bylaws, for failure
21 to meet their obligations promptly to their credit union;

22 12. To impress and enforce a lien upon the shares, deposits,
23 dividends, and interest of any member to the extent of any loan made

1 to the member or endorsed by the member and any interest or fines
2 payable by the member;

3 13. To charge an entrance fee as provided in the bylaws;

4 14. To hire clerical help; and

5 15. To become the owner and lessor of personal property upon
6 the specific request of and for the use of a member. A credit union
7 may only purchase the personal property to be leased after it has
8 completed a leasing arrangement with a member. Except upon the
9 written approval of the Commissioner, the term of the lease shall in
10 no event exceed ten (10) years and all such leases shall provide for
11 the payment of regularly scheduled periodic payments, the total of
12 which shall at least equal the cost to the credit union of the
13 personal property so leased. The total investment by a credit union
14 for benefit of any member, combined with all other obligations of
15 such member to the credit union, shall at no time exceed six percent
16 (6%) of the greater of either (i) the paid-in and unimpaired capital
17 and surplus of the credit union or (ii) an amount which is six
18 percent (6%) of the total assets of the credit union; and

19 16. To exercise such incidental powers as shall be necessary or
20 requisite to enable it to carry on effectively the business for
21 which it is incorporated.

22 SECTION 8. AMENDATORY 6 O.S. 2001, Section 2025, is
23 amended to read as follows:

1 Section 2025. A. Share and deposit account proceeds that are
2 payable to a beneficiary upon the death of the account owner shall
3 be offered pursuant to the following provisions:

4 1. When shares are owned or a deposit has been made ~~by a member~~
5 or shall hereafter be made in any credit union using the terms
6 "Payable on Death" or ~~"Payable on the Death of" or "P.O.D."~~, such
7 ~~shares and deposit~~ deposits shall be payable on the ~~member or~~
8 ~~owner's~~ death ~~to~~ of the account owner to one or more designated
9 P.O.D. beneficiaries, or to an individual or individuals named
10 beneficiary if living and if not living, to the named ~~beneficiary's~~
11 estate of the beneficiary, notwithstanding any provision to the
12 contrary contained in Sections 41 through 57 of Title 84 of the
13 Oklahoma Statutes. ~~The receipt or acquittance of the named~~
14 ~~beneficiary so paid or the legal representative of the named~~
15 ~~beneficiary's estate, if deceased, shall be valid and sufficient~~
16 ~~release and discharge to the credit union for any payment so made.~~
17 ~~No change in the designation of a named beneficiary shall be valid~~
18 ~~unless executed by the member or owner of the shares or deposit in~~
19 ~~the form and manner prescribed by the credit union; however, this~~
20 ~~section shall be subject to the provisions of Section 178 of Title~~
21 ~~15 of the Oklahoma Statutes. Until the member or owner's death, the~~
22 ~~member or owner shall possess and may exercise all rights respecting~~
23 ~~the shares or deposits, including the power to vote, pledge,~~

1 ~~withdraw, in whole or in part, make additions to, and to in any way~~
2 ~~deal with the shares or deposit; the receipt or acquittance of the~~
3 ~~member or owner shall be a valid and sufficient release and~~
4 ~~discharge of the credit union as to any payment to the member or~~
5 ~~owner~~ Each designated P.O.D. beneficiary shall be a trust, an
6 individual, or a nonprofit organization exempt from taxation
7 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
8 Section 501(c)(3);

9 2. A share or deposit account with a P.O.D. designation shall
10 constitute a contract between the account owner, or owners, if there
11 is more than one, and the credit union that upon the death of the
12 last surviving owner of the account, and after payment of account
13 proceeds to any secured party with a valid security interest in the
14 account, the credit union will hold the funds for or pay the funds
15 to the named primary beneficiary or beneficiaries, if living. If
16 any named primary beneficiary is not living, the share of that
17 beneficiary shall instead be held for or paid to the estate of that
18 deceased beneficiary unless contingent beneficiaries have been
19 designated by the account owner as allowed by paragraph 4 of this
20 subsection;

21 3. Each P.O.D. beneficiary designated on an account shall be a
22 primary beneficiary unless specifically designated as a contingent
23 beneficiary;

1 4. If there is only one primary P.O.D. beneficiary on an
2 account and that beneficiary is an individual, the account owner may
3 designate one or more contingent beneficiaries for whom the funds
4 shall be held or to whom the funds shall be paid if the primary
5 beneficiary is not living when the last surviving owner of the
6 account dies. If there is more than one primary P.O.D. beneficiary
7 on an account, contingent beneficiaries shall not be allowed on that
8 account;

9 5. If the only primary P.O.D. beneficiary is not living and one
10 or more contingent beneficiaries have been designated as allowed by
11 paragraph 4 of this subsection, the funds shall be held for or paid
12 to the contingent beneficiaries in equal shares, and shall not
13 belong to the estate of the deceased primary beneficiary. If the
14 only primary beneficiary is not living, and a contingent beneficiary
15 or contingent beneficiaries have been designated as allowed by
16 paragraph 4 of this subsection, but one or more designated
17 contingent beneficiaries are also not living, the share that
18 otherwise would belong to any deceased contingent beneficiary shall
19 instead be held for or paid to the estate of that deceased
20 contingent beneficiary;

21 6. In order to designate multiple primary P.O.D. beneficiaries
22 for an account, the account should be styled as follows: "(Name of
23 Account Owner), payable on death (or P.O.D.) to (Name of

1 Beneficiary), (Name of Beneficiary), and (Name of Beneficiary), in
2 equal shares.";

3 7. If only one primary P.O.D. beneficiary has been designated
4 on an account, the account owner may add the following, or words of
5 similar meaning, in the style of the account or in the account
6 agreement: "If the designated P.O.D. beneficiary is deceased, then
7 payable on the death of the account owner to (Name of Beneficiary),
8 (Name of Beneficiary), and (Name of Beneficiary), as contingent
9 beneficiaries, in equal shares.";

10 8. Adjustments may be made in the styling, depending upon the
11 number of owners of the account, to allow for survivorship rights,
12 and the number of beneficiaries. It is to be understood that each
13 beneficiary is entitled to a proportionate share of the account
14 proceeds only after the death of the last surviving account owner,
15 and after payment of account proceeds to any secured party with a
16 valid security interest in the account. In the event of the death
17 of a beneficiary prior to the death of the account owner, the share
18 of that beneficiary shall go to the estate of that beneficiary
19 unless one or more contingent beneficiaries have been designated to
20 take the place of that beneficiary as provided in paragraph 4 of
21 this subsection. All designated primary P.O.D. beneficiaries shall
22 have equal shares. All designated contingent P.O.D. beneficiaries

1 shall have equal shares as if the sole primary beneficiary is
2 deceased;

3 9. A credit union may require the owner of an account to
4 provide an address for any primary or contingent P.O.D. beneficiary.
5 If the P.O.D. account is an interest-bearing account and the funds
6 are not claimed by the P.O.D. beneficiary or beneficiaries within
7 sixty (60) days after the death of the last surviving account
8 holder, or after the credit union has notice of the death of the
9 last surviving account holder, whichever is later, the credit union
10 has the right to convert the account to a non-interest-bearing
11 account;

12 10. No change in the designation of a named beneficiary shall
13 be valid unless executed by the owner of the fund and in the form
14 and manner prescribed by the credit union; however, this section
15 shall be subject to the provisions of Section 178 of Title 15 of the
16 Oklahoma Statutes. Until the death of the member or owner, the
17 member or owner shall possess and may exercise all rights,
18 respecting the shares or deposits, including the power to vote,
19 pledge, withdraw, in whole or in part, make additions to, and to in
20 any way deal with the shares or deposit. The receipt or acquittance
21 of the member or owner shall be a valid and sufficient release and
22 discharge of the credit union as to any payment to the member or
23 owner;

1 11. The receipt or acquittance of the named beneficiary so
2 paid, or of the legal representative of such named beneficiary's
3 estate, if the beneficiary is deceased and there is no contingent
4 beneficiary designated to take the place of that beneficiary, shall
5 be valid and sufficient release and discharge to the credit union
6 for any payment so made; and

7 12. After January 1, 2008, a credit union shall provide a
8 customer creating a P.O.D. account with a written notice that the
9 distribution of the proceeds in the P.O.D. account shall be
10 consistent with the provisions of this section.

11 B. The provisions of this section shall apply to all forms of
12 deposit accounts including, but not limited to, share accounts,
13 transaction accounts, savings accounts, certificates of deposits,
14 negotiable order of withdrawal (N.O.W.) accounts, and M.M.D.A.
15 accounts.

16 SECTION 9. AMENDATORY 8 O.S. 2001, Section 163, is
17 amended to read as follows:

18 Section 163. A. In all cemeteries in this state where grave
19 spaces, lots, mausoleum crypts or niches are sold, whether above or
20 below the surface of the ground, not less than ten percent (10%) of
21 the purchase price thereof shall be segregated and set aside as a
22 permanent trust fund to be known as the "Perpetual Care Fund". The
23 Perpetual Care Fund shall be invested as hereinafter prescribed, and

1 the income only shall be used in improving, caring for, and
2 embellishing the lots, walks, drives, parks and other improvements
3 in such cemeteries and maintenance of office and care of records.

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

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

1 to, and approval by, the State Banking Commissioner. The terms of
2 the certificate of deposit shall provide for notice to the
3 Department within thirty (30) days prior to maturity. Only interest
4 accruing from the certificate of deposit may be withdrawn by the
5 cemetery and shall be considered income for purposes of subsection A
6 of this section. If a cemetery maintains a certificate of deposit
7 in lieu of a trust fund, as it collects funds which must be
8 deposited into its Perpetual Care Fund, it shall segregate those
9 funds from its other operating funds and contribute those funds to
10 the certificate of deposit upon its next maturity date. If a
11 cemetery's Perpetual Care Fund is maintained in a certificate of
12 deposit, but grows in an amount greater than One Hundred Thousand
13 Dollars (\$100,000.00), the cemetery shall comply with the provisions
14 of subsection B of this section by placing all of its Perpetual Care
15 Fund in trust and shall no longer maintain a certificate of deposit
16 as authorized by this subsection.

17 SECTION 10. AMENDATORY 8 O.S. 2001, Section 166, as
18 amended by Section 23, Chapter 48, O.S.L. 2005 (8 O.S. Supp. 2006,
19 Section 166), is amended to read as follows:

20 Section 166. A. The owner of a cemetery maintaining a
21 Perpetual Care Trust Fund, or certificate of deposit in lieu of a
22 Perpetual Care Trust Fund, shall be required to pay to the State
23 Banking Commissioner an annual fee of Two Hundred Dollars (\$200.00),

1 and file a report of each cemetery by March 15 of each year with the
2 State Banking Commissioner, showing, for the preceding calendar
3 year:

4 1. The gross amount received from sales of grave spaces, lots,
5 mausoleum crypts and niches;

6 2. The total purchase price of grave spaces, lots, mausoleum
7 crypts and niches on contracts which received final payment and
8 required deposits to the Perpetual Care Fund during the calendar
9 year;

10 3. The operating expenses incurred during the calendar year
11 which are eligible to be paid from income of the Perpetual Care
12 Fund;

13 4. The total amount of the principal of the Perpetual Care Fund
14 as of the beginning of the preceding calendar year; and

15 5. The amount segregated and deposited in the Perpetual Care
16 Fund as provided by this act which, if the Perpetual Care Fund is
17 held in trust, shall be certified by the trustee of the Perpetual
18 Care Fund as to correctness thereof, and the trustee shall provide:

19 a. the total amount of the principal of the Perpetual
20 Care Fund as of the end of the calendar year,

21 b. the securities and other assets in which such
22 perpetual care funds are invested,

23 c. the cash on hand,

- 1 d. a verification in writing of all assets in which
2 monies of the Perpetual Care Fund have been invested;
3 provided, such verification shall be obtained from the
4 holder or holders of such assets,
5 e. the income derived from the Perpetual Care Fund
6 investments during the calendar year, and
7 f. the gross expenditures or transfers from income of the
8 Perpetual Care Fund during the calendar year.

9 The annual fee collected pursuant to this subsection shall be
10 deposited in the Cemetery Merchandise Trust Act Revolving Fund
11 created pursuant to Section 316 of this title.

12 B. If the Perpetual Care Fund is maintained in a certificate of
13 deposit in lieu of a trust fund, the cemetery shall provide in its
14 annual report a verification from the financial institution as to
15 the amount of principal of the Perpetual Care Fund as of the end of
16 the calendar year, and the amount of funds contributed to the
17 certificate of deposit by the cemetery as of each maturity date of
18 the certificate of deposit during the last calendar year.

19 C. The Commissioner shall have authority, at any time, to
20 inspect the books and records of any such cemetery, and to make an
21 examination thereof for the purpose of determining if proper sums
22 have been deposited with the trustee in the Perpetual Care Fund, or
23 in a certificate of deposit maintained in lieu of a trust fund, and

1 if the Fund is being properly administered by the trustee in
2 accordance with the provisions of the Perpetual Care Fund Act and
3 rules of the Commissioner. Each cemetery owner and trustee is
4 responsible for maintaining satisfactory books and records which
5 adequately justify all information contained in the annual report
6 required by this section. The Commissioner shall charge and collect
7 a fee for such examination, which fee shall be deposited in the
8 Cemetery Merchandise Trust Act Revolving Fund.

9 SECTION 11. This act shall become effective January 1, 2008.

10 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-3-07 - DO PASS.