

EHB 2725

THE STATE SENATE
Monday, April 7, 2008

ENGROSSED

House Bill No. 2725

As Amended

ENGROSSED HOUSE BILL NO. 2725 - By: Winchester of the House and Jolley of the Senate.

[banks and trust companies - which relate to the Perpetual Care Fund Act - effective date - emergency]

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

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

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

B. The head of the Department shall be the Commissioner. The Commissioner shall be appointed by the Governor with the advice and consent of the Senate. The Commissioner shall have been a qualified elector of the state for at least three (3) years prior to the appointment, shall be at least thirty-five (35) years old and shall have had ten (10) years' experience as a bank officer or employee,

1 or five (5) years' experience as a bank president or managing
2 officer of a bank, or five (5) years' experience as a state or
3 federal bank examiner. The Commissioner shall be appointed for a
4 term of four (4) years. The Commissioner shall continue to serve
5 until a successor is duly appointed, confirmed and qualified. The
6 Commissioner may be removed by the Governor for cause after notice
7 and hearing. A successor to a Commissioner who dies, resigns or is
8 removed shall be appointed in the same manner as provided in this
9 section.

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

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

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

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

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

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

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

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

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

20 2. Every certificate, assignment and conveyance executed by the
21 Commissioner, in pursuance of the authority conferred upon the
22 Commissioner by law and sealed with the seal of the Department,
23 shall be received in evidence and recorded in the proper recording

1 offices in the same manner as a deed regularly acknowledged, as
2 required by law.

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

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

17 Section 211. A. 1. The Banking Board shall charge and collect
18 from each bank and trust company under its supervision an annual fee
19 of One Thousand Dollars (\$1,000.00) which shall be deposited in the
20 Oklahoma State Banking Department revolving fund pursuant to Section
21 211.1 of this title.

22 2. The Board shall charge and collect assessments from each
23 bank or trust company under its supervision on each One Thousand

1 Dollars (\$1,000.00) of assets, or major fraction thereof, at rates
2 established by the Board. Assessments shall be deposited in the
3 Oklahoma State Banking Department revolving fund created by Section
4 211.1 of this title.

5 3. Effective January 1, 2007, and each year thereafter, ten
6 percent (10%) of all assessments collected from state-chartered
7 banks existing as of December 31 of the previous year shall be
8 deposited to the General Revenue Fund of the State Treasury. The
9 Board may charge and collect assessments on an annual basis and may,
10 in addition to any annual assessment, charge and collect a special
11 assessment from each bank or trust company, at rates established by
12 the Board. The annual assessments shall be paid to the Oklahoma
13 State Banking Department no later than the fifth day of February in
14 each year. The Board may order refunds of a portion of collected
15 assessments on a pro-rata basis. Refunds shall be paid from the
16 Oklahoma State Banking Department revolving fund created by Section
17 211.1 of this title.

18 4. The fee for bank trust departments, which shall be in
19 addition to the assessment collected pursuant to paragraph 2 of this
20 subsection, shall be One Thousand Dollars (\$1,000.00). The fees due
21 under this paragraph shall be paid annually to the Banking
22 Department no later than the fifth day of February in each year and
23 shall be deposited in the Oklahoma State Banking Department

1 revolving fund pursuant to Section 211.1 of this title. Failure to
2 pay any assessment or fee imposed pursuant to this section by its
3 due date will result in a penalty of Fifty Dollars (\$50.00) per day
4 for each day it is in violation of this section, which penalty,
5 together with the amount due under the foregoing provisions of this
6 section, may be recovered in a civil action in the name of the
7 state.

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

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

1 C. Section 211 of Title 62 of the Oklahoma Statutes shall not
2 apply to the Oklahoma State Banking Department, the Banking Board,
3 the Credit Union Board nor the Banking Commissioner.

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

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

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

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

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

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

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

18 B. Within ten (10) days after the Commissioner has accepted an
19 application for filing, the applicant shall publish notice of the
20 filing in a legal newspaper of general circulation in the city,
21 town, or county in which the proposed bank or trust company is to be
22 located. The notice shall be published on the same day for two (2)
23 consecutive weeks and shall contain a statement that an application

1 has been submitted, the names of the organizers, the name and
2 location of the proposed bank or trust company and the date on which
3 the application was accepted for filing.

4 The applicant shall promptly furnish the Commissioner an
5 affidavit evidencing such publication.

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

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

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

1 commercial activities. For purposes of this section, "affiliate"
2 means any company that controls, or is controlled by another
3 company, and "commercial activities" means activities in which a
4 bank may not engage under federal law, either directly or indirectly
5 through an operating subsidiary or financial subsidiary.

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

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

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

11 E. Any bank or savings association with its main office or a
12 branch office located in a county where an institution of higher
13 education is located, may open accounts and accept deposits on the
14 campus of the institution of higher education if notice is provided
15 to the Department and written permission is granted by the
16 institution, for no more than ~~three (3)~~ seven (7) days per year.
17 The authorization of this subsection shall be self-executing and no
18 application to the regulators of the bank or savings association
19 shall be required by this section for a bank or savings association
20 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~~ A branch that is located at a fixed site that is within
4 one thousand (1,000) feet of the location of the approved site of
5 the same bank for a permanent branch, and such temporary branch is
6 scheduled to, and will, permanently close not later than a certain
7 date, no longer than one (1) year after the temporary branch is
8 first opened, as specified in the permanent branch application and
9 the public notice. No separate fee shall be imposed for a temporary
10 branch approved under this paragraph if the temporary site is
11 originally described in an application seeking to establish a
12 permanent branch; or

13 2. ~~Is~~ A branch that is approved for a limited period of time,
14 without requirement of notice or hearing, as a temporary replacement
15 for a previously existing branch that is inoperable due to an
16 "emergency" as defined in Section 102 of this title or that is
17 established because of an emergency in a community that prevents
18 access to an established branch by customers in a specified
19 community. Approval of a temporary branch established under this
20 paragraph shall expire at the time the emergency that caused the
21 establishment of the temporary branch no longer exists. No separate
22 fee shall be imposed for a temporary branch approved under this
23 paragraph; or

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

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

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

19 I. 1. It shall be unlawful for any bank or out-of-state bank
20 which has direct or indirect control of more than twenty percent
21 (20%) of the total amount of deposits of insured depository
22 institutions located in Oklahoma, as determined by the Commissioner
23 on the basis of the most recent reports of such institutions to

1 their supervisory authorities, to acquire any other bank or savings
2 association in this state.

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

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

19 However, at the end of a period of five (5) years from the date of
20 acquisition, for the circumstances set forth in subparagraphs b and
21 c of this paragraph, the deposits of the acquired bank or savings
22 association shall be included in computing the deposit limitation
23 and if deposits are in excess, appropriate reductions and

1 disposition shall be made with six (6) months to meet such
2 limitations. Further, in the circumstances set forth in
3 subparagraph c of this paragraph, the Commissioner and Federal
4 Deposit Insurance Corporation shall give priority in authorizing any
5 such acquisition to any acquiring bank whose total deposits do not
6 exceed the deposit limitation.

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

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

14 **SECTION 6. AMENDATORY Section 3, Chapter 57, O.S.L. 2006**
15 **(6 O.S. Supp. 2007, Section 1513), is amended to read as follows:**

16 **Section 1513. A. No person shall engage in the money services**
17 **business in this state without first filing a registration**
18 **application on a form prescribed by the Commissioner and securing a**
19 **license to do so from the Commissioner.**

20 **B. Upon the effective date of this act, a supplier shall**
21 **provide to the Commissioner, on a form prescribed by the**
22 **Commissioner, a list of each person to whom money transmitter**
23 **equipment has been provided. The list shall be updated each**

1 calendar quarter and shall be provided to the Commissioner within
2 thirty (30) days after the close of the calendar quarter. The
3 updated list shall reflect any additional persons to whom money
4 transmitter equipment has been provided since the last reporting
5 period. The list need only identify those persons for whom the
6 supplier has an address in this state or who the supplier reasonably
7 believes to be operating in this state.

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

14 D. Any person who violates the provisions of this section
15 shall, upon conviction, be guilty of a misdemeanor punishable by a
16 fine of not less than One Thousand Dollars (\$1,000.00), or by
17 imprisonment in the county jail for not more than one (1) year, or
18 by both such fine and imprisonment. Each day that any violation of
19 this section occurs or continues shall constitute a separate offense
20 and shall be punishable as a separate violation.

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

1 SECTION 7. AMENDATORY 8 O.S. 2001, Section 162, is
2 amended to read as follows:

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

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

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

10 3. "Purchase price" means the gross dollar amount the customer
11 must pay the cemetery under a contractual agreement between the two
12 to exchange ownership of, or rights to, certain ~~grave~~ burial spaces,
13 ~~lots, mausoleum crypts or niches~~. Purchase price does not include
14 finance charges, sales tax, charges for credit life insurance,
15 opening and closing costs and setting fees, but does include any
16 amount which the customer is required to pay as a deposit to the
17 Perpetual Care Fund, described in Section 163 of this title. On
18 sales of burial spaces wherein discounts or free spaces are granted
19 to the customer by the cemetery, the purchase price is determined to
20 be the fair market value or the normal selling price of that
21 particular type of burial space as sold by the cemetery; and

22 4. "Financial institution" means a federally insured bank or
23 savings and loan authorized to exercise trust powers or a trust

1 company ~~or savings and loan association which~~ that is authorized to
2 do business in this state.

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

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

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

22 C. The owner of a cemetery shall set aside and deposit such
23 amounts in a financial institution authorized by law, as trustee, to

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

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

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

12 SECTION 9. AMENDATORY 8 O.S. 2001, Section 305, is
13 amended to read as follows:

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

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 10. This act shall become effective July 1, 2008.

5 SECTION 11. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 3-31-08 -
10 DO PASS, As Amended.