

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1543

By: Winchester

4  
5  
6 AS INTRODUCED

7 An Act relating to banks and trust companies;  
8 amending 6 O.S. 2001, Section 402, which relates to  
9 powers of banks and trust companies; increasing  
10 amount of certain investment; amending Section 3,  
11 Chapter 235, O.S.L. 2006 (6 O.S. Supp. 2006, Section  
12 512), which relates to out-of-state banks; removing  
13 certain restriction on branch operations; amending 6  
14 O.S. 2001, Section 603, which relates to emergency  
15 closing; substituting term; allowing certain  
16 emergency measures during specific situations;  
17 defining term; amending 6 O.S. 2001, Section 906,  
18 which relates to sole beneficiary deposits; modifying  
19 scope to include credit unions; amending 6 O.S. 2001,  
20 Section 907, which relates to husband and wife  
21 deposits; modifying scope to include credit unions;  
22 amending 6 O.S. 2001, Section 2006, as amended by  
23 Section 2, Chapter 209, O.S.L. 2005 (6 O.S. Supp.  
24 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.

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

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

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

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

24

1 9. To make contributions to or for the use or benefit of the  
2 following:

3 a. the United States, any state, territory, or political  
4 subdivision thereof, the District of Columbia or any  
5 possession of the United States, for exclusively  
6 public purposes,

7 b. a corporation, foundation, trust, community chest, or  
8 other organization created or organized in the United  
9 States, or in any state or territory, or of the  
10 District of Columbia, or of any possession of the  
11 United States, and organized and operated exclusively  
12 for religious, charitable, scientific, veteran  
13 rehabilitation service, civic enterprise, literary or  
14 educational purposes, or for the prevention of cruelty  
15 to children or animals, no part of the net earnings of  
16 which inures to the benefit of any private shareholder  
17 or individual, and no substantial part of the  
18 activities of which is carrying on propaganda or  
19 otherwise attempting to influence legislation, or

20 c. other lawful expenditures, contributions and  
21 donations; to the extent authorized, approved, or  
22 ratified by action of the board of directors of the  
23 corporation, except as otherwise specifically provided  
24 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;

23           13. To purchase for its own account investment securities under  
24 such limitations and restrictions as the Commissioner may prescribe

1 by policy statement pursuant to subsection F of Section 204 of this  
2 title;

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

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

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

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

18 18. To make investments designed primarily to promote the  
19 public welfare, including the welfare of low- and moderate-income  
20 communities or families, such as by providing housing, services, or  
21 jobs. A state bank may make such investments directly or by  
22 purchasing interests in an entity primarily engaged in making such  
23 investments. A state bank shall not make any such investment if the  
24 investment would expose the bank to unlimited liability. The

1 aggregate investment of a state bank under this subsection shall not  
2 exceed ~~ten percent (10%)~~ fifteen percent (15%) of the capital of the  
3 bank; and

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

6 SECTION 2. AMENDATORY Section 3, Chapter 235, O.S.L.  
7 2006 (6 O.S. Supp. 2006, Section 512), is amended to read as  
8 follows:

9 Section 512. A. An out-of-state industrial loan company or  
10 industrial bank shall not be permitted to establish a de novo branch  
11 in this state, nor to acquire a branch bank or savings association  
12 branch in this state, unless, on a reciprocal basis, the state where  
13 the main office of the out-of-state industrial loan company or  
14 industrial bank is located would permit a bank chartered under the  
15 laws of this state with a main office located in this state to  
16 establish a de novo industrial loan company or industrial bank  
17 branch in that other state without having engaged in an interstate  
18 merger transaction with an industrial loan company or industrial  
19 bank having its main office in that other state.

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

23 C. The State Banking Board shall adopt and promulgate rules  
24 necessary to effectuate the provisions of this act. The Board may,

1 by rule, establish a procedure whereby the Commissioner may grant  
2 approval and issue the certificate to establish or acquire and  
3 operate or relocate a branch or other banking office permitted by  
4 this section without a hearing before the Board. The procedure  
5 shall include criteria set by the Board to be applied by the  
6 Commissioner in the consideration of the application.

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

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

14 SECTION 3. AMENDATORY 6 O.S. 2001, Section 603, is  
15 amended to read as follows:

16 Section 603. A. Power of the Commissioner. Whenever the  
17 Commissioner is of the opinion that an emergency exists or is  
18 impending in this state or in any part or parts of this state, he  
19 may, by proclamation, authorize ~~banks~~ institutions located in the  
20 affected area or areas to close any or all of their offices. In  
21 addition, if the Commissioner is of the opinion that an emergency  
22 exists or is impending, which affects or may affect a particular  
23 ~~bank or banks~~ institution, or a particular office or offices  
24 thereof, but not ~~banks~~ institutions located in the area generally,

1 he may authorize the particular ~~bank or banks~~ institution or office  
2 or offices so affected to close. The office or offices so closed  
3 shall remain closed until the Commissioner proclaims that the  
4 emergency has ended, or until such earlier time as the officers of  
5 the ~~bank~~ institution determine that one or more offices, theretofore  
6 closed because of the emergency, should reopen, and, in either  
7 event, for such further time thereafter as may reasonably be  
8 required to reopen. If an emergency exists such that, in the  
9 opinion of the Commissioner, one or more institutions in the  
10 affected area will not be able to resume business at the closed  
11 offices within a reasonable period of time, the Commissioner may  
12 authorize the affected institutions to open one or more temporary  
13 facilities at locations outside of the affected area, including  
14 branch facilities, without formal application or fee, after notice  
15 to and approval by the Commissioner. Any temporary facility opened  
16 under this paragraph may remain open until the Commissioner declares  
17 that the emergency has passed, at which time the institution shall  
18 close the temporary facility or seek approval to remain at the  
19 location through filing of a formal application and payment of any  
20 required fee.

21 B. Powers of officers. Whenever the officers of a ~~bank~~ an  
22 institution are of the opinion that an emergency exists or is  
23 impending, which affects or may affect one or more or all of a  
24 ~~bank's~~ an institution's offices, they shall have the authority, in

1 the reasonable and proper exercise of their discretion, to determine  
2 not to open any one or more or all of such offices on any business  
3 or banking day or, if having opened, to close any one or more or all  
4 of such offices during the continuation of such emergency, even if  
5 the Commissioner has not issued and does not issue a proclamation of  
6 emergency. The office or offices so closed shall remain closed  
7 until such time as the officers determine that the emergency has  
8 ended, and for such further time thereafter as may reasonably be  
9 required to reopen; however, in no case shall such office or offices  
10 remain closed for more than forty-eight (48) consecutive hours,  
11 excluding other legal holidays, without requesting the approval of  
12 the Commissioner.

13 The officers of a ~~bank~~ an institution may close any one or more  
14 or all of the ~~bank's~~ institution's offices on any day or days  
15 designated by proclamation of the President of the United States or  
16 the Governor of this state as a day or days of mourning, rejoicing,  
17 or other special observance.

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

24

1 D. Effect of closing. Any day on which a ~~bank~~ an institution,  
2 or any one or more of its offices, is closed during all or any part  
3 of its normal banking hours pursuant to the authorization granted  
4 under this ~~act~~ section shall be, with respect to such ~~bank~~  
5 institution or, if not all of its offices are closed, then with  
6 respect to any office or offices which are closed, a legal holiday  
7 for all purposes with respect to any banking business of any  
8 character. No liability, or loss of rights of any kind, on the part  
9 of any ~~bank~~ institution, or director, officer, or employee thereof,  
10 shall accrue or result by virtue of any closing authorized by this  
11 ~~act~~ section.

12 The provisions of this ~~act~~ section shall be construed and  
13 applied as being in addition to, and not in substitution for or  
14 limitation of, any other law of this state or of the United States,  
15 authorizing the closing of a ~~bank~~ an institution or excusing the  
16 delay by a ~~bank~~ an institution in the performance of its duties and  
17 obligations because of emergencies or conditions beyond the ~~bank's~~  
18 institution's control or otherwise.

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

21 F. As used in this section, the term "institution" means banks,  
22 credit unions, and savings associations chartered under the laws of  
23 this state. The term also includes banks, credit unions, and  
24 savings associations chartered under the laws of another state that

1 have branch offices in this state unless the laws of the other state  
2 provide a more restrictive rule in the case of emergencies.

3 SECTION 4. AMENDATORY 6 O.S. 2001, Section 906, is  
4 amended to read as follows:

5 Section 906. A. When a deposit has been made in a bank or  
6 credit union in the name of a sole individual without designation of  
7 a payable-on-death beneficiary, upon the death of the sole owner of  
8 the account if the amount of the aggregate deposits held in single  
9 ownership accounts in the name of the deceased individual is Five  
10 Thousand Dollars (\$5,000.00) or less, the bank or credit union may  
11 transfer the funds to the known heirs of the deceased upon receipt  
12 of an affidavit sworn to by the known heirs of the deceased which  
13 establishes jurisdiction and relationship and states that the owner  
14 of the account left no will. The affidavit shall be sworn to and  
15 signed by the known heirs of the deceased and the same shall swear  
16 that the facts set forth in the affidavit establishing jurisdiction,  
17 heirship and intestacy are true and correct.

18 B. Receipt by the bank or credit union of the affidavit  
19 described in subsection A of this section shall be a valid and  
20 sufficient release and discharge to the bank or credit union for any  
21 transfer of deposits made pursuant thereto and shall ~~set~~ serve to  
22 discharge the bank or credit union from liability as to any other  
23 party, including any heir, legatee, devisee, creditor or other  
24 person having rights or claims to funds or property of the decedent,

1 and include a discharge of the bank or credit union from liability  
2 for any estate, inheritance or other taxes which may be due the  
3 state from the estate or as a result of the transfer.

4 C. Any person who knowingly submits and signs a false affidavit  
5 as provided in this section shall be fined not more than Three  
6 Thousand Dollars (\$3,000.00) or imprisoned for not more than six (6)  
7 months, or both. Restitution of the amount fraudulently attained  
8 shall be made to the rightful beneficiary by the guilty person.

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

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

16 SECTION 6. AMENDATORY 6 O.S. 2001, Section 2006, as  
17 amended by Section 2, Chapter 209, O.S.L. 2005 (6 O.S. Supp. 2006,  
18 Section 2006), is amended to read as follows:

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

- 21 1. To make contracts;
- 22 2. To sue and be sued;
- 23 3. To adopt and use a common seal and alter the same at  
24 pleasure;

1       4. To purchase, lease, own, hold, and dispose of any real  
2 estate, buildings, fixtures, equipment, furniture and furnishings  
3 necessary, incidental and convenient to the operation of the credit  
4 union, the aggregate book value of which shall not exceed seven  
5 percent (7%) of the total assets of the credit union, unless  
6 otherwise specifically approved by the State Credit Union Board. A  
7 credit union may lease to any tenants as the credit union deems  
8 appropriate any portion of the facilities or premises of the credit  
9 union which are not utilized in the conduct of the business of the  
10 credit union;

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

20           a. loans to credit union members shall be made in  
21 conformity with criteria established by the board of  
22 directors of the lending credit union; provided that:  
23           (1) a real estate loan secured by a first mortgage  
24                lien may have a maturity not exceeding thirty

1 (30) years or any longer term which may be  
2 authorized by the State Credit Union Board,

3 (2) a loan to finance a manufactured home, which  
4 shall be secured by a first lien on such  
5 manufactured home, or a second mortgage loan  
6 secured by a dwelling, shall have a maturity not  
7 exceeding fifteen (15) years or any longer term  
8 which may be allowed by the State Credit Union  
9 Board,

10 (3) a loan secured by the insurance or guarantee of,  
11 or with advance commitment to purchase the loan  
12 by, a state or federal governmental agency may be  
13 made for the maturity and under the terms and  
14 conditions specified in the state or federal law  
15 under which such insurance, guarantee or  
16 commitment is provided,

17 (4) a loan or aggregate of loans to a director or to  
18 a member of the supervisory committee or the  
19 credit committee or the credit manager of the  
20 lending credit union which exceeds Sixty Thousand  
21 Dollars (\$60,000.00) plus the amount of any  
22 pledged shares, shall be approved by the board of  
23 directors of the lending credit union, and  
24

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

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

22 c. unless approval by the board of directors of the  
23 lending credit union is otherwise expressly required  
24 herein, loans to credit union members and other

1 eligible borrowers shall be approved by the credit  
2 committee or by a loan officer of the lending credit  
3 union in accordance with criteria established by the  
4 board of directors,

5 d. no loan or line of credit may be made to or  
6 established for a credit union member if the amount of  
7 such loan or line of credit, when aggregated with all  
8 other outstanding loans and lines of credit made to or  
9 established for such credit union member, will cause  
10 the credit union member to be indebted to the lending  
11 credit union in an amount exceeding six percent (6%)  
12 of the greater of either (i) the paid-in and  
13 unimpaired capital and surplus of the lending credit  
14 union or (ii) an amount which is six percent (6%) of  
15 the total assets of the lending credit union,  
16 ~~whichever is greater,~~

17 e. a self-replenishing line of credit may be established  
18 by a credit union for any eligible borrower to a  
19 stated maximum amount on terms and conditions which  
20 may differ from the terms and conditions established  
21 for other eligible borrowers,

22 f. loans to other credit unions shall be approved by the  
23 board of directors of the lending credit union and  
24 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 i. a credit union may participate in any guaranteed loan  
2 program of the federal government or of this state  
3 under the terms and conditions specified in the laws  
4 under which such program is provided,

5 j. a credit union may finance for any person, whether or  
6 not such person is a member of the credit union, the  
7 purchase from the credit union of any real or personal  
8 property owned and held by the credit union, including  
9 any property obtained by the credit union as a result  
10 of defaults in obligations owed to the credit union,  
11 and

12 k. a credit union may make loans to its officers and  
13 directors and to members of its supervisory and credit  
14 committees. However, such loans shall not be made on  
15 terms more favorable than those extended to other  
16 members of the credit union. A credit union may  
17 permit officers, directors and members of its  
18 supervisory and credit committees to act as co-makers,  
19 guarantors or endorsers of loans to other credit union  
20 members;

21 6. To receive from its members, and other credit unions, state  
22 and federal, doing business in the United States, payments on shares  
23 and deposits, and to require such notice for withdrawal of shares  
24 and deposits as the bylaws may provide;

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

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

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

10          b. the following investments shall be authorized for  
11 credit unions:

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

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

19           (3) general obligations and revenue obligations of  
20 any state or any political subdivision thereof;  
21 provided the aggregate of such investments shall  
22 not exceed ten percent (10%) of the paid-in and  
23 unimpaired capital and surplus of the credit  
24 union; and provided that such investments shall

1 be limited to obligations rated among the three  
2 highest rating categories established by one or  
3 more national rating services for governmental  
4 obligations,

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

1 (5) shares of, deposits with or loans to other  
2 federally insured credit unions in a total  
3 amount, in either case, not exceeding twenty-five  
4 percent (25%) of the paid-in and unimpaired  
5 capital and surplus of the investing credit  
6 union,

7 (6) shares of, or accounts or deposits with any state  
8 or federal banks, mutual savings banks and  
9 savings and loan associations, the accounts of  
10 which are insured by an agency of the federal  
11 government,

12 (7) shares of, deposits with or loans to any Federal  
13 Reserve Bank or any central liquidity facility  
14 established under state or federal law,

15 (8) shares of, deposits with or loans to any central  
16 credit union or corporate credit union organized  
17 under state or federal law,

18 (9) shares of, deposits with or loans to any  
19 organization, corporation or association  
20 providing services associated with the general  
21 purposes of the investing credit union or  
22 engaging in activities incidental to the  
23 operations of any credit union; provided that  
24 such investments in the aggregate may not exceed

1 one percent (1%) of the unimpaired capital and  
2 surplus of the investing credit union,

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

11 (11) money market funds rated among the three highest  
12 rating categories established by one or more  
13 national rating services for corporate or  
14 governmental securities,

15 (12) shares of mutual funds if the investments and  
16 investment transactions of the fund are  
17 authorized for credit unions under the laws of  
18 this state, or

19 (13) such other investments or types of investments as  
20 may be authorized from time to time by the State  
21 Credit Union Board; provided that the State  
22 Credit Union Board shall not be permitted under  
23 this specific grant of authority to authorize a  
24

1 credit union to purchase or own real estate  
2 solely for investment purposes;

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

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

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

17 12. To impress and enforce a lien upon the shares, deposits,  
18 dividends, and interest of any member to the extent of any loan made  
19 to the member or endorsed by the member and any interest or fines  
20 payable by the member;

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

22 14. To hire clerical help; ~~and~~

23 15. To become the owner and lessor of personal property upon  
24 the specific request of and for the use of a member. A credit union

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

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

16 SECTION 7. AMENDATORY 6 O.S. 2001, Section 2025, is  
17 amended to read as follows:

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

21 1. When shares are owned or a deposit has been made ~~by a member~~  
22 or shall hereafter be made in any credit union using the terms  
23 "Payable on Death" or "~~Payable on the Death of~~" or "P.O.D.", such  
24 ~~shares and deposit~~ deposits shall be payable on the ~~member or~~

1 ~~owner's death to~~ of the account owner to one or more designated  
2 P.O.D. beneficiaries, or to an individual or individuals named  
3 beneficiary if living and if not living, to the named ~~beneficiary's~~  
4 estate of the beneficiary, notwithstanding any provision to the  
5 contrary contained in Sections 41 through 57 of Title 84 of the  
6 Oklahoma Statutes. ~~The receipt or acquittance of the named~~  
7 ~~beneficiary so paid or the legal representative of the named~~  
8 ~~beneficiary's estate, if deceased, shall be valid and sufficient~~  
9 ~~release and discharge to the credit union for any payment so made.~~  
10 ~~No change in the designation of a named beneficiary shall be valid~~  
11 ~~unless executed by the member or owner of the shares or deposit in~~  
12 ~~the form and manner prescribed by the credit union; however, this~~  
13 ~~section shall be subject to the provisions of Section 178 of Title~~  
14 ~~15 of the Oklahoma Statutes. Until the member or owner's death, the~~  
15 ~~member or owner shall possess and may exercise all rights respecting~~  
16 ~~the shares or deposits, including the power to vote, pledge,~~  
17 ~~withdraw, in whole or in part, make additions to, and to in any way~~  
18 ~~deal with the shares or deposit; the receipt or acquittance of the~~  
19 ~~member or owner shall be a valid and sufficient release and~~  
20 ~~discharge of the credit union as to any payment to the member or~~  
21 ~~owner~~ Each designated P.O.D. beneficiary shall be a trust, an  
22 individual, or a nonprofit organization exempt from taxation  
23 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,  
24 Section 501(c)(3);

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

13       3. Each P.O.D. beneficiary designated on an account shall be a  
14 primary beneficiary unless specifically designated as a contingent  
15 beneficiary;

16       4. If there is only one primary P.O.D. beneficiary on an  
17 account and that beneficiary is an individual, the account owner may  
18 designate one or more contingent beneficiaries for whom the funds  
19 shall be held or to whom the funds shall be paid if the primary  
20 beneficiary is not living when the last surviving owner of the  
21 account dies. If there is more than one primary P.O.D. beneficiary  
22 on an account, contingent beneficiaries shall not be allowed on that  
23 account;

24

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

13       6. In order to designate multiple primary P.O.D. beneficiaries  
14 for an account, the account should be styled as follows: "(Name of  
15 Account Owner), payable on death (or P.O.D.) to (Name of  
16 Beneficiary), (Name of Beneficiary), and (Name of Beneficiary, in  
17 equal shares.)";

18       7. If only one primary P.O.D. beneficiary has been designated  
19 on an account, the account owner may add the following, or words of  
20 similar meaning, in the style of the account or in the account  
21 agreement: "If the designated P.O.D. beneficiary is deceased, then  
22 payable on the death of the account owner to (Name of Beneficiary),  
23 (Name of Beneficiary), and (Name of Beneficiary), as contingent  
24 beneficiaries, in equal share";

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

16       9. A credit union may require the owner of an account to  
17 provide an address for any primary or contingent P.O.D. beneficiary.  
18 If the P.O.D. account is an interest-bearing account and the funds  
19 are not claimed by the P.O.D. beneficiary or beneficiaries within  
20 sixty (60) days after the death of the last surviving account  
21 holder, or after the credit union has notice of the death of the  
22 last surviving account holder, whichever is later, the credit union  
23 has the right to convert the account to a noninterest-bearing  
24 account;

1       10. No change in the designation of a named beneficiary shall  
2 be valid unless executed by the owner of the fund and in the form  
3 and manner prescribed by the credit union; however, this section  
4 shall be subject to the provisions of Section 178 of Title 15 of the  
5 Oklahoma Statutes. Until the death of the member or owner, the  
6 member or owner shall possess and may exercise all rights,  
7 respecting the shares or deposits, including the power to vote,  
8 pledge, withdraw, in whole or in part, make additions to, and to in  
9 any way deal with the shares or deposit. The receipt or acquittance  
10 of the member or owner shall be a valid and sufficient release and  
11 discharge of the credit union as to any payment to the member or  
12 owner;

13       11. The receipt or acquittance of the named beneficiary so  
14 paid, or of the legal representative of such named beneficiary's  
15 estate, if the beneficiary is deceased and there is no contingent  
16 beneficiary designated to take the place of that beneficiary, shall  
17 be valid and sufficient release and discharge to the credit union  
18 for any payment so made; and

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

23       B. The provisions of this section shall apply to all forms of  
24 deposit accounts including, but not limited to, share accounts,

1 transaction accounts, savings accounts, certificates of deposits,  
2 negotiable order of withdrawal (N.O.W.) accounts, and M.M.D.A.  
3 accounts.

4 SECTION 8. AMENDATORY 8 O.S. 2001, Section 163, is  
5 amended to read as follows:

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

15 B. The owner of a cemetery shall set aside and deposit such  
16 amounts in a financial institution authorized by law, as trustee, to  
17 administer such trusts, not later than thirty (30) days after the  
18 close of the month in which was received the final payment on the  
19 purchase price of each grave space, lot, mausoleum crypt or niche.  
20 Such amounts shall be held by the trustee of the Perpetual Care Fund  
21 in trust for the specific purposes stated in a written trust  
22 agreement. The trust agreement may provide for an individual or  
23 other entity to exist as cotrustee; provided, however, in no  
24

1 instance shall the cotrustee have sole access to deposits held in  
2 the Perpetual Care Fund, except as otherwise provided in this act.

3 C. Notwithstanding the requirements of subsection B of this  
4 section, if the total amount of the perpetual care fund maintained  
5 by the cemetery is One Hundred Thousand Dollars (\$100,000.00) or  
6 less, the cemetery may, in lieu of depositing the funds in a trust  
7 account, purchase a certificate of deposit from a financial  
8 institution according to the terms of this subsection. The  
9 certificate of deposit shall be pledged in favor of the Oklahoma  
10 State Banking Department with no right of withdrawal by the  
11 cemetery, whether before or after maturity, except upon application  
12 to, and approval by, the State Banking Commissioner. The terms of  
13 the certificate of deposit shall provide for notice to the  
14 Department within thirty (30) days prior to maturity. Only interest  
15 accruing from the certificate of deposit may be withdrawn by the  
16 cemetery and shall be considered income for purposes of subsection A  
17 of this section. If a cemetery maintains a certificate of deposit  
18 in lieu of a trust fund, as it collects funds which must be  
19 deposited into its perpetual care fund, it shall segregate those  
20 funds from its other operating funds and contribute those funds to  
21 the certificate of deposit upon its next maturity date. If a  
22 cemetery's perpetual care fund is maintained in a certificate of  
23 deposit, but grows in an amount greater than One Hundred Thousand  
24 Dollars (\$100,000.00), the cemetery shall comply with the provisions

1 of subsection B of this section by placing all of its perpetual care  
2 fund in trust and shall no longer maintain a certificate of deposit  
3 as authorized by this subsection.

4 SECTION 9. AMENDATORY 8 O.S. 2001, Section 166, as  
5 amended by Section 23, Chapter 48, O.S.L. 2005 (8 O.S. Supp. 2006,  
6 Section 166), is amended to read as follows:

7 Section 166. A. The owner of a cemetery maintaining a  
8 Perpetual Care Trust Fund, or certificate of deposit in lieu of a  
9 Perpetual Care Trust Fund, shall be required to pay to the State  
10 Banking Commissioner an annual fee of Two Hundred Dollars (\$200.00),  
11 and file a report of each cemetery by March 15 of each year with the  
12 State Banking Commissioner, showing, for the preceding calendar  
13 year:

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

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

20 3. The operating expenses incurred during the calendar year  
21 which are eligible to be paid from income of the Perpetual Care  
22 Fund;

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

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

- 5           a. the total amount of the principal of the Perpetual
- 6                 Care Fund as of the end of the calendar year,
- 7           b. the securities and other assets in which such
- 8                 perpetual care funds are invested,
- 9           c. the cash on hand,
- 10           d. a verification in writing of all assets in which
- 11                 monies of the Perpetual Care Fund have been invested;
- 12                 provided, such verification shall be obtained from the
- 13                 holder or holders of such assets,
- 14           e. the income derived from the Perpetual Care Fund
- 15                 investments during the calendar year, and
- 16           f. the gross expenditures or transfers from income of the
- 17                 Perpetual Care Fund during the calendar year.

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

21           B. If the Perpetual Care Fund is maintained in a certificate of  
22 deposit in lieu of a trust fund, the cemetery shall provide in its  
23 annual report a verification from the financial institution as to  
24 the amount of principal of the Perpetual Care Fund as of the end of

1 the calendar year, and the amount of funds contributed to the  
2 certificate of deposit by the cemetery as of each maturity date of  
3 the certificate of deposit during the last calendar year.

4 C. The Commissioner shall have authority, at any time, to  
5 inspect the books and records of any such cemetery, and to make an  
6 examination thereof for the purpose of determining if proper sums  
7 have been deposited with the trustee in the Perpetual Care Fund, or  
8 in a certificate of deposit maintained in lieu of a trust fund, and  
9 if the Fund is being properly administered by the trustee in  
10 accordance with the provisions of the Perpetual Care Fund Act and  
11 rules of the Commissioner. Each cemetery owner and trustee is  
12 responsible for maintaining satisfactory books and records which  
13 adequately justify all information contained in the annual report  
14 required by this section. The Commissioner shall charge and collect  
15 a fee for such examination, which fee shall be deposited in the  
16 Cemetery Merchandise Trust Act Revolving Fund.

17 SECTION 10. This act shall become effective January 1, 2008.

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