

1 **SENATE FLOOR VERSION**

2 April 3, 2013

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 1599

6 By: Martin (Scott), McCall,
7 Henke, Newell, McPeak,
8 Roberts (Dustin) and Wright
9 of the House

10 and

11 Jolley and Ivester of the
12 Senate

13
14 **[banks and trust companies - Oklahoma Financial
15 Transaction Reporting Act - license certificate -
16 Sale of Checks Act -**

17 **emergency]**

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

19 SECTION 1. AMENDATORY 6 O.S. 2011, Section 102, is
20 amended to read as follows:

21 Section 102. As used in the Banking Code unless the context
22 otherwise requires:

23 1. "Acquisition" or "acquire" means any act or action with
24 respect to the ownership or control of a bank or the purchase of its
assets and the assumption of its liabilities which would require the
approval of the Federal Deposit Insurance Corporation, the Office of
the Comptroller of the Currency, the Board of Governors of the
Federal Reserve System ~~under the Bank Holding Company Act of 1956,~~

1 ~~as amended, or the Office of Thrift Supervision under the Savings~~
2 ~~and Loan Holding Company Act, as amended~~ or other supervisory
3 authority having jurisdiction and approval authority over the bank;

4 2. "Action" in the sense of a judicial proceeding includes
5 recoupment, counterclaim, third-party claims, cross claims, setoff,
6 suit in equity, arbitration and any other proceedings in which
7 rights are determined;

8 3. "Bank" means any bank authorized and chartered by the laws
9 of this state to engage in the banking business, or any bank
10 chartered by the office of the Comptroller of the Currency with its
11 main office in this state;

12 4. "Banking company" means any bank;

13 5. "Bank holding company" means any Oklahoma corporation which
14 directly or indirectly owns or controls at least one bank or out-of-
15 state bank as defined in this section;

16 6. "Board" when used with an initial capital letter means the
17 Banking Board of this state;

18 7. "Branch bank" means any place of business separated from the
19 main office of a bank at which deposits are received, or checks paid
20 or money lent;

21 8. "Capital" shall include the paid-in common capital stock
22 account, preferred stock account, surplus account, undivided profits
23 account, capital reserves (other than contingency reserves),
24 allowance for possible loan losses and mandatory convertible

1 instruments that are convertible into common stock. "Capital" shall
2 also include all other approved subordinated notes and debentures,
3 having an original weighted average maturity of at least seven (7)
4 years, to the extent their maturity date exceeds five (5) years. As
5 such notes and debentures approach maturity of less than five (5)
6 years, they shall be considered "capital" in proportion to their
7 years to maturity as it bears to five (5) years;

8 9. "Commissioner" means the State Banking Commissioner
9 appointed and serving pursuant to this act, who shall be the
10 Commissioner of Banking and who shall administer and enforce the
11 applicable provisions of this act;

12 10. "Community" means a city, town or incorporated village of
13 this state, or a trade area in this state in unincorporated
14 territory;

15 11. "Company" means any corporation, association, partnership,
16 business trust or similar organization, but shall not include any
17 corporation, the majority of the shares of which are owned by the
18 United States or by any state;

19 12. "Compliance review committee" means:

20 a. an audit, loan review or compliance committee
21 appointed by the Board of Directors of an insured
22 depository institution, or
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1 b. any other person to the extent the person acts in an
2 investigatory capacity at the direction of a
3 compliance review committee;

4 13. "Compliance review documents" means documents prepared for
5 or created by a compliance review committee;

6 14. "Confusingly similar name" means:

7 a. as applied to the name of any bank, a name which is
8 identical to that of any other bank located within
9 this state, or a name which:

10 (1) contains one or more of the following words with
11 or without the words "State," "National," or
12 "Trust": American, Central, Citizens, City,
13 Commerce, Commercial, Community, Exchange,
14 Farmers & Merchants, First, Guaranty, Oklahoma,
15 Peoples, Security or United,

16 (2) does not contain a geographical name (other than
17 "Oklahoma") descriptive of the immediate location
18 of the bank (street, town, city, county or other
19 local geographical name),

20 (3) does not contain other unique or clearly
21 distinguished words or marks, and

22 (4) is not a federally registered trade name,
23 trademark or service mark owned by or licensed to
24 the particular bank,

1 b. as applied to the name of any person not a bank, a
2 name which is confusingly similar in spelling or
3 wording or sound to the name of any bank located
4 anywhere within this state, if such name would tend to
5 suggest falsely to the public that the person is a
6 bank or is affiliated with the bank, directly or
7 indirectly. However, nothing contained in this
8 subsection shall prohibit the use of a similar name by
9 a corporation which is in a relationship to the bank
10 of parent, subsidiary, brother-sister corporation or
11 other commonly controlled company, or

12 c. notwithstanding anything to the contrary in
13 subparagraph a or b of this paragraph, the name or
14 shortened name of a bank shall not be considered
15 confusingly similar when used in conjunction with a
16 federally registered trademark or service mark owned
17 by or licensed to the particular bank. Proof of
18 ownership or license of a federally registered mark
19 must be provided to the Banking Department.

20 The Board shall promulgate rules which govern the use of
21 "confusingly similar names" as defined in this paragraph;

22 15. "Consumer banking electronic facility" means any electronic
23 device owned, operated, leased by or on the behalf of a bank,
24 savings association, or credit union other than a telephone or modem

1 operated by a customer of a depository institution, to which a
2 person may initiate an electronic fund transfer. The term includes
3 without limitations, a point-of-sale terminal, automatic teller
4 machines, automated loan machines, video banking centers, or any
5 other similar electronic devices;

6 16. "Continuing bank" means a merging bank the charter of which
7 becomes the charter of the resulting bank;

8 17. "Control" means control as such term is defined under the
9 Federal Bank Holding Company Act of 1956, as amended, 12 U.S.C.,
10 Section 1841;

11 18. "Converting bank" means a bank converting from a state to a
12 national bank, or the reverse;

13 19. "Court" means a court of competent jurisdiction;

14 20. "Department" means the Oklahoma State Banking Department
15 created by this Code;

16 21. "Deposits" means all demand, time and savings deposits of
17 individuals, partnerships, corporations, the United States and
18 states and political subdivisions of the United States, deposits of
19 banks, foreign governments, institutions, deposits held by foreign
20 banking offices or corporations organized pursuant to 12 U.S.C.,
21 Sections 601 through 604a, or Sections 611 through 631, as amended.
22 Determinations of deposits shall be made by the Commissioner by
23 reference to regulatory reports of condition or similar reports
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1 filed by banks or savings associations with state or federal
2 regulatory agencies;

3 22. "Emergency" means any condition or occurrence which may
4 interfere physically with the conduct of normal business operations
5 at one or more or all of the offices of a bank or an out-of-state
6 bank, or which poses an imminent or existing threat to the safety or
7 security of persons or property, or both. Without limiting the
8 generality of the foregoing, an emergency may arise as a result of
9 any one or more of the following: fires; floods; earthquakes;
10 hurricanes; wind, rain or snow storms; labor disputes and strikes;
11 power failures; transportation failures; interruptions of
12 communication facilities; shortages of fuel, housing, food,
13 transportation or labor; robberies or attempted robberies; actual or
14 threatened enemy attack; epidemics or other catastrophes; riots,
15 civil commotions and other acts of lawlessness or violence, actual
16 or threatened;

17 23. "Executive officer", when referring to a bank, out-of-state
18 bank, or trust company, means any person designated as such in the
19 bylaws and includes, whether or not so designated, the chairman of
20 the board of directors, chairman of the executive committee, the
21 president, any vice-president, the trust officer, the treasurer, the
22 cashier, the comptroller and the secretary, or any person who
23 performs the duties appropriate to those offices;

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1 24. "Federal Reserve Act" means the Act of Congress approved
2 December 23, 1913, (38 Stat. 251), as amended;

3 25. "Federal Reserve Bank" means the Federal Reserve Banks
4 created and organized under authority of the Federal Reserve Act;

5 26. "Federal Reserve Board" means the Board of Governors of the
6 Federal Reserve System created and described in the Federal Reserve
7 Act, as amended;

8 27. "Fiduciary" means original or successor trustee of an
9 expressed or implied trust, including, but not limited to, a
10 resulting or constructive trust, special administrator, executor,
11 administrator, administrator common trust agreement, guardian,
12 guardian-trustee or conservator for a minor or other incompetent
13 person, receiver, trustee in bankruptcy, assignee for creditors or
14 any holder of a similar position of trust acting alone or with
15 others;

16 28. "General obligation" means obligations of the State of
17 Oklahoma or a political subdivision of this state and of any other
18 state or political subdivision thereof supported by the full faith
19 and credit of the obligor. It includes all obligations payable from
20 a special fund when the full faith and credit of a state or any
21 political subdivision of a state is obligated for payment into the
22 fund of amounts which will be sufficient to provide for all required
23 payments in connection with the obligation. It implies an obligor
24 possessing resources sufficient to justify faith and credit;

1 29. "Good faith" means honesty in fact in the transaction and
2 some reasonable ground for belief that the transaction is rightful
3 or authorized;

4 30. "Insolvent" means that the actual cash market value of a
5 bank's assets is insufficient to pay its liabilities other than its
6 capital stock, surplus and undivided profits, or that the bank is
7 unable to meet the demands of its creditors in the usual course of
8 business;

9 31. "Insured depository institution" means any bank or savings
10 association the deposits of which are insured by the Federal Deposit
11 Insurance Corporation;

12 32. "Interstate merger transaction" means a merger between two
13 banks, two savings associations or a bank and a savings association,
14 one of which is chartered by or has its main office located in this
15 state, and the other of which is an out-of-state bank as defined in
16 this section;

17 33. "Investment securities" means marketable obligations in the
18 form of bonds, notes or debentures which are commonly regarded as
19 investment securities. It does not include investments which are
20 predominantly speculative in nature;

21 34. "Item" means any instrument for the payment of money even
22 though not negotiable, but does not include money;

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1 35. "Legal newspaper" means a newspaper qualified to publish
2 legal notices under the provisions of Section 106 of Title 25 of the
3 Oklahoma Statutes;

4 36. "Loan review committee" means a person or group of persons
5 who, on behalf of an insured depository institution, reviews loans
6 held by such institution for the purpose of assessing the credit
7 quality of the loans, compliance with the loan policies of such
8 institution, and compliance with the applicable state and federal
9 laws, regulations and rules;

10 37. "Local media" means:

11 a. any newspaper, radio station or television station
12 with its main office located in the same city or town
13 in which a particular main office of a bank is
14 located, and

15 b. other means or media of advertising, including without
16 limitation any outdoor signage on the premises of the
17 bank, billboards, bulk mailings and other
18 solicitations to persons who are not customers of the
19 bank, but only to the extent that any such advertising
20 is strictly limited in geographical location or
21 distribution to the same city or town, including the
22 immediate surrounding unincorporated rural area, where
23 the particular main office of the bank is located;

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1 38. "Main bank" means the office location which has been
2 designated by the State Banking Commissioner or Comptroller of the
3 Currency as the main office of a bank;

4 39. "Main office" means either the main bank or the main office
5 location of a savings association;

6 40. "Managing officer" means the chief executive officer of the
7 bank;

8 41. "Member bank" means any national bank, state bank or
9 banking and trust company which becomes a member of the Federal
10 Reserve System;

11 42. "Merger" includes consolidation;

12 43. "Military banking facility" means a facility maintained by
13 a bank upon a military installation, provided the facility must be
14 within the confines of a military reservation and located upon
15 property owned or leased by the United States government;

16 44. "Mobile" means the ability to be moved, picked up, rolled,
17 pulled or driven;

18 45. "Multibank holding company" means an Oklahoma corporation
19 which directly or indirectly owns or controls two or more banks, two
20 or more bank holding companies, or one or more of each as defined in
21 this section;

22 46. "National Bank Examiner" or "Federal Bank Examiner" means
23 any person employed as a bank examiner by the Comptroller of the
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1 Currency, the Federal Deposit Insurance Corporation and the Federal
2 Reserve Board or Bank;

3 47. "Office" means any place at which a bank or an out-of-state
4 bank transacts its business or conducts operations related to its
5 business;

6 48. "Officer", when referring to a bank, out-of-state bank or
7 trust company, means any person designated as such in the bylaws and
8 includes, whether or not so designated, any executive officer, the
9 chairman of the board of directors, the chairman of the executive
10 committee, and any trust officer, assistant trust officer, assistant
11 vice-president, assistant treasurer, assistant cashier, assistant
12 comptroller, assistant secretary, auditor or any person who performs
13 the duties appropriate to those offices;

14 49. "Order" means all, or any part, of the final disposition,
15 whether affirmative, negative, injunctive or declaratory in form, by
16 the Commissioner or the Banking Board, of any matter other than the
17 making of regulations of general application;

18 50. "Out-of-state bank" means a national bank or a state or
19 federal savings association which has its main office located in a
20 state other than Oklahoma, or a bank chartered by a state other than
21 Oklahoma;

22 51. "Out-of-state bank holding company" means a bank holding
23 company which is not incorporated in this state and which directly
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1 or indirectly owns or controls one or more banks or out-of-state
2 banks as defined in this section;

3 52. "Person" means an individual, group of individuals, board,
4 committee, partnership, firm, association, corporation or other
5 entity;

6 53. "Political subdivision" includes a county, city, town or
7 other municipal corporation, a public authority, and generally any
8 publicly owned entity which is an instrumentality of the state or a
9 municipal corporation;

10 54. "Principal place of business of a bank or a bank holding
11 company" means the state in which the total deposits of the bank or
12 the bank subsidiaries of the bank holding company are the largest;

13 55. "Reason to know" means that upon the information available
14 a person of ordinary intelligence in the particular business, or of
15 the superior intelligence or experience which the person in question
16 may have, would infer that the fact in question exists or that there
17 is such a substantial chance of its existence that, if exercising
18 reasonable care with reference to the matter in question, conduct
19 would be predicated upon the assumption of its possible existence;

20 56. "Resulting bank" means the combined banks and trust
21 companies carrying on business upon completion of a merger;

22 57. "Retailer" means a person, corporation or partnership,
23 primarily engaged in the sale of goods at retail to the general
24 public;

1 58. "Savings association" means any savings and loan
2 association or savings bank chartered under the laws of this state
3 or the laws of the United States authorized to engage in the savings
4 and loan business with its main office located in this state;

5 59. "Savings association branch" means any place of business
6 separated from the main office of a savings association at which
7 deposits are received, checks paid or money lent;

8 60. "Subsidiary" with respect to a specified bank holding
9 company or multibank holding company means a subsidiary as the term
10 is defined in the Federal Reserve Bank Holding Company Act of 1956,
11 as amended, 12 U.S.C., Section 1841; and

12 61. "Trust company" means:

13 a. any person doing a trust company business as set forth
14 in this Code except an incorporated or unincorporated
15 organization which is organized under Section
16 501(c)(3) of the Internal Revenue Code as being
17 organized and operated exclusively for educational,
18 religious, charitable, or other eleemosynary purposes
19 when exercising powers pursuant to the Oklahoma
20 Charitable Fiduciary Act and the Oklahoma General
21 Corporation Act, and

22 b. the trust departments of banks authorized to engage in
23 the trust company business.

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1 SECTION 2. AMENDATORY 6 O.S. 2011, Section 201.1, is
2 amended to read as follows:

3 Section 201.1 A. The annual compensation, payable monthly, of
4 the Commissioner, shall be fixed by the Banking Board ~~within limits~~
5 ~~established by the Legislature.~~ Unless otherwise disapproved by the
6 Legislature, and notwithstanding any other prescription of salary
7 limits including the ranges set forth in Section 3601.2 of Title 74
8 of the Oklahoma Statutes, the Banking Board may fix the salary of
9 the Commissioner in an amount not in excess of the maximum salary
10 proposed for the Banking Department and set forth in the most recent
11 Annual Compensation Report prepared by or for the Office of
12 Management and Enterprise Services.

13 B. The Commissioner and, with the Commissioner's authority,
14 other members of the Department shall be entitled to reimbursement
15 for actual and necessary travel expenses incurred in the performance
16 of their duties, as provided by the State Travel Reimbursement Act.

17 SECTION 3. AMENDATORY 6 O.S. 2011, Section 202, is
18 amended to read as follows:

19 Section 202. A. The Board shall consist of seven (7) members.
20 The Commissioner shall be Chairman and vote only in case of a tie on
21 any question requiring action by the Board.

22 B. Board - Qualifications. Other than the Commissioner, five
23 members of the Board shall be active officers of state banks or
24 trust companies, ~~one of whom may be an officer or director of a~~

1 ~~national bank~~. One member of the Board shall be a citizen of
2 Oklahoma, thirty-five (35) years old or older, who shall not have
3 been in the past or become during the member's service on the Board
4 an officer or stockholder in any state-chartered banking
5 institution, nor shall such person be related in the first degree to
6 any other person who is or becomes during the term of such member an
7 officer or stockholder in any state-chartered banking institution
8 under the jurisdiction of the Department.

9 C. Board - Appointment - Qualifications - Successor - Removal.
10 Members of the Board, including the Commissioner, shall be appointed
11 by the Governor with the advice and consent of the Senate; provided,
12 appointments to the Board, and not including the Commissioner nor
13 the member not affiliated in the past or during the member's term
14 with any banking institution, shall only be made of individuals
15 whose names shall be included in a list of twelve names submitted to
16 the Governor by the Executive Committee of the Oklahoma Association
17 of State Banks, a division of the Oklahoma Bankers Association. If
18 a Board member resigns for any reason before his or her term expires
19 under the provisions of this section, the resigning Board member
20 shall notify the Governor in writing and shall submit a copy of his
21 or her letter of resignation to the Commissioner and the Executive
22 Committee of the Oklahoma Association of State Banks. If the
23 Oklahoma Association of State Banks shall not submit such list
24 within thirty (30) days after a vacancy shall occur, then the

1 Governor may appoint, with the advice and consent of the Senate,
2 such person as the Governor may select who shall meet the
3 qualifications set forth in subsection B of this section.

4 The term of office of each Board member other than the
5 Commissioner shall be six (6) years. The Governor may, after
6 notice, hearing and proceeding in accordance with the Administrative
7 Procedures Act, remove a member for cause.

8 D. Travel Expense. Each member shall be entitled to be
9 reimbursed for necessary travel expenses pursuant to the State
10 Travel Reimbursement Act.

11 E. Board Meetings - Quorum - Disqualification. The Board shall
12 meet at least semiannually. The Commissioner may call additional
13 meetings of the Board upon at least twenty-four (24) hours' notice
14 and in any event shall call a meeting upon the written request of
15 two members. Four members of the Board shall constitute a quorum,
16 and action taken by a majority of those voting at any meeting at
17 which a quorum is present shall be the action of the Board. No
18 member shall participate in a proceeding before the Board to which
19 any corporation or partnership of which the member is or was at any
20 time in the preceding twelve (12) months a director, officer,
21 partner, employee, member or stockholder is a party. A member may
22 be disqualified upon the member's own motion from participating in a
23 proceeding for any other cause deemed by the member to be
24 sufficient.

1 F. Lack of Quorum - Appointment of Acting Members. At any
2 meeting at which a quorum is not present, whether by reason of the
3 inability of a member to participate or the voluntary
4 disqualification of the member, or otherwise, the Governor may
5 designate the Deputy Commissioner, the Attorney General, or the head
6 of any other department of the state government, in that order, as
7 acting members of the Board for the purpose of constituting a
8 quorum, but the Governor shall not designate more acting members
9 than shall be necessary to constitute a quorum.

10 G. Clerical, Technical and Legal Assistance. Such clerical,
11 technical and legal assistance as the Board may require shall be
12 provided by the Department.

13 SECTION 4. AMENDATORY 6 O.S. 2011, Section 204, is
14 amended to read as follows:

15 Section 204. A. In addition to other powers conferred by this
16 Code, the State Banking Commissioner shall have the power to require
17 a bank, bank holding company or trust company or shareholder,
18 officer, director, or bank employee to:

19 1. Maintain its accounting system in accordance with such
20 regulations as may be prescribed by the Board or as the Commissioner
21 may prescribe in absence of Board regulations; provided, the
22 accounting system required shall have due regard to the size of the
23 banking and trust organization;

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- 1 2. Observe methods and standards which the Commissioner may
2 prescribe for determining the value of various types of assets;
- 3 3. Charge off the whole or part of an asset which at the time
4 of the Commissioner's action could not lawfully be acquired;
- 5 4. Write down an asset to its market value;
- 6 5. Record liens and other interest in property;
- 7 6. Obtain a financial statement from a borrower to the extent
8 that the bank can do so;
- 9 7. Obtain insurance against damage to real estate taken as
10 security;
- 11 8. Search, or obtain insurance of, the title to real estate
12 taken as security;
- 13 9. Maintain adequate insurance against such other risks as the
14 Commissioner may determine to be necessary and appropriate for the
15 protection of depositors, trust funds and the public;
- 16 10. Cease and desist from engaging in any act or transaction,
17 or doing any act in furtherance thereof, which would constitute a
18 violation of the provisions of the Oklahoma Banking Code, federal
19 banking law or the applicable banking law of another state, or a
20 lawful regulation issued thereunder, or to cease and desist from
21 engaging in any unsafe or unsound banking or trust practice; and
- 22 11. Pay civil money penalties under the same circumstances and
23 conditions applicable to imposition of civil money penalties by the
24 primary federal bank regulatory agency of the bank.

1 B. Before issuing an order provided for in subsection A of this
2 section, the Commissioner shall give reasonable notice of an
3 opportunity for a hearing. However, if the Commissioner makes
4 written findings of fact that the protection of depositors will be
5 harmed by delay in issuing an order provided for in subsection A of
6 this section, the Commissioner may issue a temporary order pending
7 the hearing on the order provided for in subsection A of this
8 section. The temporary order shall remain in effect until three (3)
9 business days after the hearing on the order provided for in
10 subsection A of this section and shall become final if the bank or
11 trust company subject to the order fails within fifteen (15) days
12 after the receipt of the order to request a hearing to determine
13 whether the temporary order should be modified, vacated, or become
14 final. If a hearing on the temporary order is not held upon written
15 request, the temporary order shall dissolve and the order provided
16 for in subsection A of this section shall not be issued except upon
17 reasonable notice and opportunity for hearing.

18 C. Any person, bank or trust company aggrieved by a final order
19 of the Commissioner as provided for in this section may obtain a
20 review of the order by the Board, who shall have the power to
21 affirm, modify, reverse, or stay the enforcement of any order of the
22 Commissioner.

23 D. The Commissioner may enter into cooperative, coordinating,
24 and information-sharing agreements with any other bank supervisory

1 agencies or any organization affiliated with or representing one or
2 more bank supervisory agencies with respect to the periodic
3 examination or other supervision of any bank, bank holding company,
4 or branch in this state of an out-of-state state bank, or any branch
5 of an Oklahoma state bank in any other state, and the Commissioner
6 may accept such reports of examination and reports of investigation
7 in lieu of conducting the Commissioner's own examinations or
8 investigations. If such agreements result in the payment of fees,
9 however calculated, by any other bank supervisory agency to the
10 Oklahoma State Banking Department for examination or supervisory
11 activities conducted by Department personnel, whether such activity
12 is conducted inside or outside of this state, such fees shall be
13 deposited in the Oklahoma State Banking Department revolving fund
14 pursuant to Section 211.1 of this title. If such agreements result
15 in the payment of fees, however calculated, by the Department to any
16 other bank supervisory agency for examination or supervisory
17 activities conducted by such other bank supervisory agency, whether
18 such activity is conducted inside or outside of this state, such
19 fees shall be paid by the Department from the Oklahoma State Banking
20 Department revolving fund pursuant to Section 211.1 of this title.
21 The Commissioner may enter into cooperative, coordinating, and
22 information-sharing agreements with the Department of Consumer
23 Credit and other state agencies with whom the agreements may be
24 mutually beneficial.

1 E. The Commissioner may enter into cooperative agreements with
2 other bank regulatory agencies to facilitate the regulation of banks
3 and bank holding companies doing business in this state. The
4 Commissioner may accept reports of examinations and other records
5 from such other agencies in lieu of conducting its own examinations
6 of banks controlled by out-of-state bank holding companies. The
7 Commissioner may take any action jointly with other regulatory
8 agencies having concurrent jurisdiction over banks and bank holding
9 companies or may take such actions independently in order to carry
10 out the responsibilities of the Commissioner.

11 F. 1. The Commissioner may issue interpretive statements
12 containing matters of general policy for the guidance of state banks
13 and trust companies and other entities under the jurisdiction of the
14 Department. The Commissioner may amend or repeal an interpretive
15 statement by issuing an amended statement or notice of repeal of a
16 statement and shall provide notice thereof and make it available to
17 all state-chartered banks and trust companies upon request.

18 2. The Commissioner may issue opinions in response to specific
19 requests from members of the public or the banking and trust
20 industry directly or through the Deputy Commissioner or the
21 Department's attorneys. The Commissioner may amend or repeal an
22 opinion by issuing an amended statement or notice of repeal of an
23 opinion and shall provide notice thereof and make it available to
24 all state-chartered banks and trust companies upon request, except

1 that the requesting party may rely on the original opinion if all
2 material facts were originally disclosed to the Commissioner,
3 considerations of safety and soundness of the affected bank are not
4 implicated with respect to further and prospective reliance on the
5 original opinion, and the text and interpretation of relevant,
6 governing provisions of this act have not been changed by
7 legislative or judicial action.

8 3. An interpretive statement or opinion issued under this
9 section does not have the force of law and is not a rule.

10 SECTION 5. AMENDATORY 6 O.S. 2011, Section 209, is
11 amended to read as follows:

12 Section 209. A. 1. The State Banking Commissioner shall, at
13 least every eighteen (18) months or as often as the Commissioner
14 deems advisable, examine every bank and trust company, and for the
15 purpose of making such examinations and special examinations, shall
16 have full access to all books, papers, securities, records and other
17 sources of information under the control of banks and trust
18 companies. Upon the conclusion of the examination, the Commissioner
19 may make and file in the office of the Commissioner a report in
20 detail disclosing the results of such examination or may, on
21 conditions prescribed by the Commissioner, prepare a summary
22 memorandum regarding the results of such examination, and shall,
23 upon request by the bank, mail a copy of such report or memorandum
24 to the bank or trust company examined. However, the Commissioner

1 may accept, in lieu of any three consecutive bank examinations, the
2 examination that may have been made of the bank or trust company
3 within a reasonable period by the Federal Deposit Insurance
4 Corporation, the Board of Governors of the Federal Reserve System,
5 or ~~the Office of Thrift Supervision~~ other supervisory authority
6 having examination jurisdiction and authority over the bank or trust
7 company provided a copy of the examination, report, or other
8 document prepared as a result of the examination is furnished to the
9 Commissioner.

10 2. The Commissioner may also accept any other report relative
11 to the condition of a bank or trust company, to include joint or
12 concurrent examinations which may be obtained by the authorities
13 within a reasonable period, in lieu of such report authorized by the
14 laws of this state to be required of such bank by the Oklahoma State
15 Banking Department, provided a copy of such report is furnished to
16 the Commissioner.

17 3. The Commissioner may enter into cooperative, coordinating,
18 and information-sharing agreements with the Federal Deposit
19 Insurance Corporation, the Board of Governors of the Federal Reserve
20 System, or ~~the Office of Thrift Supervision~~ other supervisory
21 authority having examination jurisdiction and authority over the
22 bank or trust company with respect to the periodic examination or
23 other supervision of any state bank, trust company, or state thrift.
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1 4. When requested in writing upon authority of the board of
2 directors or stockholders owning a majority of the capital stock of
3 any bank or trust company, the Commissioner shall, if in the opinion
4 of the Commissioner such examination is desirable, make or cause to
5 be made an examination into the affairs and conditions of such bank
6 or trust company. For such examination such bank or trust company
7 shall pay the same fees as provided for in subsection B of Section
8 211 of this title.

9 B. Every bank shall make four reports each year and more often
10 if called upon by the Commissioner and according to the form which
11 may be prescribed by the Commissioner, and every trust company shall
12 make two reports each year and more often if called upon by the
13 Commissioner and according to the form which may be prescribed by
14 the Commissioner. They must be verified by the oath or affirmation
15 of the president, cashier or secretary of such bank or trust
16 company, attested by the signatures of at least two of the
17 directors, and shall be retained and made available for inspection
18 upon request of the Commissioner or designated representatives of
19 the Commissioner. Each such report shall exhibit, in detail and
20 under appropriate headings, the assets and liabilities of the
21 corporation at the close of business on any last day by the
22 Commissioner specified, and shall be transmitted to the Commissioner
23 within thirty (30) calendar days after the call date, and may be
24 published at the expense of the bank or trust company in the same

1 form in which it is made to the Commissioner. The Commissioner
2 shall also have the power to call for special reports from any bank
3 or trust company whenever, in the judgment of the Commissioner, the
4 same are necessary in order to gain a full and complete knowledge of
5 its condition. However, the reports authorized and required by this
6 section, to be called for by the Commissioner, shall relate to a
7 date prior to the date of such call to be specified therein.
8 Additionally, the Commissioner may accept, in lieu of the reports
9 referred to in this section, reports made by banks that are members
10 of the Federal Reserve System on forms provided by the Federal
11 Reserve System or reports submitted by banks to the Federal Deposit
12 Insurance Corporation.

13 C. Every bank or trust company which fails to make and transmit
14 any report required within the discretion of the Commissioner, under
15 the Oklahoma Banking Code, shall be subject to a penalty not to
16 exceed Fifty Dollars (\$50.00) for each day, after the period
17 respectively therein mentioned, that the bank or trust company
18 delays to make and transmit its report. Whenever any bank or trust
19 delays or refuses to pay the penalty herein imposed for a failure to
20 make and transmit a report, the Commissioner is hereby authorized to
21 maintain an action in the name of the state against the delinquent
22 bank or trust company for the recovery of such penalty, and all sums
23 collected by such action shall be paid into the Oklahoma State
24

1 Banking Department revolving fund pursuant to Section 211.1 of this
2 title.

3 D. For the purpose of carrying into effect the provisions of
4 this Code, the Commissioner shall provide a form for such
5 examinations and reports, and all examinations and reports received
6 by the Commissioner shall be preserved in the office of the
7 Commissioner for a period of not less than five (5) years. Such
8 examination and reports and all other records of operating banks and
9 trust companies in the Department are to be kept confidential,
10 except as permitted by this Code. Copies of such examinations and
11 reports in the possession of an institution under the Department's
12 supervision are the property of the Department and are not subject
13 to disclosure to third parties, including disclosure or production
14 pursuant to subpoena or other request. All requests for review of
15 such examinations and reports shall be directed to the Department
16 and are subject to the requirements of Section 208 of this title.

17 SECTION 6. AMENDATORY 6 O.S. 2011, Section 1512, is
18 amended to read as follows:

19 Section 1512. As used in this act:

20 1. "Board" means the ~~Oklahoma~~ Banking Board;

21 2. "Commissioner" means the ~~Oklahoma~~ State Banking
22 Commissioner;

23 3. "Currency" or "funds" means the coin and paper money of the
24 United States or of any other country that is designated as legal

1 tender and that circulates and is customarily used and accepted as a
2 medium of exchange in the country of issuance. Currency includes
3 U.S. silver certificates, U.S. notes, and Federal Reserve notes.
4 Currency also includes official foreign bank notes that are
5 customarily used and accepted as a medium of exchange in a foreign
6 country;

7 4. "Department" means the Oklahoma State Banking Department;

8 5. "Money services business" includes each agent, agency,
9 branch, or office within the State of Oklahoma of any person doing
10 business, whether or not on a regular basis or as an organized
11 business concern, as a money transmitter or in one or more of the
12 capacities otherwise identified and defined by the Board. The term
13 "money services business" shall not include a "bank" as that term is
14 defined in Title 31, Code of Federal Regulations, ~~Part 103~~ Chapter
15 X, nor shall it include a person registered with and regulated or
16 examined by the Securities and Exchange Commission or the Commodity
17 Futures Trading Commission;

18 6. "Money transmitter" means any person who engages in the
19 business of accepting currency or funds denominated in currency, and
20 transmits the currency or funds or the value of the currency or
21 funds, by any means through a financial agency or institution, a
22 Federal Reserve Bank or other facility of one or more Federal
23 Reserve Banks, the Board of Governors of the Federal Reserve System
24 or both, or an electronic funds transfer network;

1 7. "Money transmitter equipment" means any type of terminal,
2 machine, computer software, access to any network, or any other type
3 of tangible or intangible apparatus or system, or any combination
4 thereof, that may be used by a money transmitter to initiate a
5 transmittal of currency;

6 8. "Person" includes an individual, corporation, partnership,
7 limited partnership, limited liability company, trust or estate,
8 joint stock company, association, syndicate, joint venture, or other
9 unincorporated organization or group, Indian tribe, and all entities
10 cognizable as legal personalities; and

11 9. "Supplier" means any person that utilizes, designates or
12 otherwise authorizes another person, whether or not designated as an
13 agent, to perform services of a money transmitter, or who provides
14 money transmitter equipment to a person in connection therewith.

15 SECTION 7. AMENDATORY 6 O.S. 2011, Section 1513, is
16 amended to read as follows:

17 Section 1513. A. No person shall engage in the money services
18 business in this state without first filing a registration
19 application on a form prescribed by the Commissioner and securing a
20 license to do so from the Commissioner. Any person acting as agent
21 or authorized delegate for any licensee under the Oklahoma Financial
22 Transaction Reporting Act shall prominently display a copy of the
23 principal's license certificate at each place of business of the
24 agent or authorized delegate where money transmitter services are

1 offered. It shall be the responsibility of the licensee to provide
2 copies of the most current license certificate to the agent or
3 authorized delegate for display.

4 B. Upon the effective date of this act, a supplier shall
5 provide to the Commissioner, on a form prescribed by the
6 Commissioner, a list of each person to whom money transmitter
7 equipment has been provided. The list shall be updated each
8 calendar quarter and shall be provided to the Commissioner within
9 thirty (30) days after the close of the calendar quarter. The
10 updated list shall reflect any additional persons to whom money
11 transmitter equipment has been provided since the last reporting
12 period. The list need only identify those persons for whom the
13 supplier has an address in this state or who the supplier reasonably
14 believes to be operating in this state.

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

21 D. Any person who violates the provisions of this section
22 shall, upon conviction, be guilty of a misdemeanor punishable by a
23 fine of not less than One Thousand Dollars (\$1,000.00), or by
24 imprisonment in the county jail for not more than one (1) year, or

1 by both such fine and imprisonment. Each day that any violation of
2 this section occurs or continues shall constitute a separate offense
3 and shall be punishable as a separate violation.

4 E. All fees collected under this section shall be deposited in
5 the Department revolving fund pursuant to Section 211.1 of ~~Title 6~~
6 ~~of the Oklahoma Statutes~~ this title.

7 SECTION 8. AMENDATORY 6 O.S. 2011, Section 1514, is
8 amended to read as follows:

9 Section 1514. The Commissioner may cooperate, coordinate, and
10 enter into information-sharing agreements with any other local,
11 state, federal, or foreign governmental agency regarding any or all
12 information provided by suppliers and by persons submitting
13 registration applications, whether or not a license is issued. In
14 the absence of an information-sharing agreement, all Department
15 records resulting from the provisions of this act shall be
16 confidential and shall not be subject to public inspection. The
17 names of licensees and their agents and authorized delegates shall
18 not be confidential.

19 SECTION 9. AMENDATORY 6 O.S. 2011, Section 2102, is
20 amended to read as follows:

21 Section 2102. Unless the context otherwise requires:

22 1. "Commissioner" means the State Bank Commissioner;i

23 2. "Check" means any check, draft, money order, stored value
24 instrument or card, or other written instrument for the transmission

1 or payment of money or credit, except that it does not mean money or
2 currency of any nation, or instruments commonly known as travelers
3 checks which require that the same be signed by the person to whom
4 such instruments are issued at the time of issue and at the time
5 such instruments are cashed or exchanged for value by such person-; i

6 3. "Fiscal year" means the period from July 1 through the next
7 succeeding June 30-; i

8 4. "Issuing" means the act of drawing any instrument of
9 exchange by a person who engages in the business of drawing such
10 instruments as a service or for a fee or other consideration-; i

11 5. "Licensee" means any person licensed under this act-; i

12 6. "Money order" means a bill of exchange issued at the request
13 and for the use or benefit of a person other than the issuer and
14 representing an unconditional order or obligation in writing of the
15 issuer to pay a sum certain in money on demand to order or to
16 bearer-; i

17 7. "Net worth" means excess of assets over liabilities as
18 determined by accepted accounting practices-; i and

19 8. "Person" means any individual, partnership, joint-stock
20 association, trust, unincorporated association or corporation.

21 SECTION 10. AMENDATORY 6 O.S. 2011, Section 2104, is
22 amended to read as follows:

23 Section 2104. ~~(a)~~ A. Nothing in ~~this act~~ the Sale of Checks
24 Act shall apply to the receipt of money by any incorporated

1 telegraph company at any agency or office of ~~such~~ the company for
2 immediate transmission by telegraph, or to the receipt of money for
3 the purpose of transmitting or transferring it to foreign countries.

4 ~~(b)~~ B. Nothing in this act shall apply to the sale or issuance
5 of checks by governmental departments. No federally insured
6 financial institutions authorized to do business in this state,
7 including banks, savings and loan associations, and credit unions,
8 whether ~~such~~ the federally insured financial institutions are
9 organized under the laws of this state or of the United States,
10 shall be subject to this act where ~~such~~ the institution is selling
11 or issuing checks drawn only on itself or on another federally
12 insured financial institution or representing insured deposits held
13 at the institution.

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

18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
19 April 3, 2013 - DO PASS AS AMENDED
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24