An Act

ENROLLED HOUSE
BILL NO. 1599

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

and

Jolley and Ivester of the Senate

An Act relating to banks and trust companies; amending 6 O.S. 2011, Sections 102, 201.1, 202, 204 and 209, which relate to the Oklahoma Banking Code; modifying term; allowing Banking Board to set compensation of Commissioner based on certain salary limits; deleting certain Board qualification; authorizing Commissioner to enter into agreements with other state agencies; amending 6 O.S. 2011, Sections 1512, 1513 and 1514, which relate to the Oklahoma Financial Transaction Reporting Act; modifying citation; requiring agent or authorized delegate to display copy of license certificate at each place of business; directing licensee to provide agent or authorized delegate with most current copy of license certificate; stating names of licensees and their agents and authorized delegates are not confidential; amending 6 O.S. 2011, Sections 2102 and 2104, which relate to the Sale of Checks Act; modifying term; exempting practice of representing insured deposits; and declaring an emergency.

SUBJECT: Banking and financial transaction regulation

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

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

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

1. "Acquisition" or "acquire" means any act or action with 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, as amended, or the Office of Thrift Supervision under the Savings and Loan Holding Company Act, as amended~~ or other supervisory authority having jurisdiction and approval authority over the bank;

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

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

4. "Banking company" means any bank;

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

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

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

8. "Capital" shall include the paid-in common capital stock account, preferred stock account, surplus account, undivided profits account, capital reserves (other than contingency reserves), allowance for possible loan losses and mandatory convertible instruments that are convertible into common stock. "Capital" shall also include all other approved subordinated notes and debentures,

having an original weighted average maturity of at least seven (7) years, to the extent their maturity date exceeds five (5) years. As such notes and debentures approach maturity of less than five (5) years, they shall be considered "capital" in proportion to their years to maturity as it bears to five (5) years;

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

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

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

12. "Compliance review committee" means:

a. an audit, loan review or compliance committee appointed by the Board of Directors of an insured depository institution, or

b. any other person to the extent the person acts in an investigatory capacity at the direction of a compliance review committee;

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

14. "Confusingly similar name" means:

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

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

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

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

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

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

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

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

15. "Consumer banking electronic facility" means any electronic device owned, operated, leased by or on the behalf of a bank, savings association, or credit union other than a telephone or modem operated by a customer of a depository institution, to which a person may initiate an electronic fund transfer. The term includes without limitations, a point-of-sale terminal, automatic teller machines, automated loan machines, video banking centers, or any other similar electronic devices;

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

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

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

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

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

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

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

23. "Executive officer", when referring to a bank, out-of-state bank, or trust company, means any person designated as such in the bylaws and includes, whether or not so designated, the chairman of

the board of directors, chairman of the executive committee, the president, any vice-president, the trust officer, the treasurer, the cashier, the comptroller and the secretary, or any person who performs the duties appropriate to those offices;

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

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

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

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

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

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

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

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

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

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

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

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

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

37. "Local media" means:

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

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

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

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

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

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

42. "Merger" includes consolidation;

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

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

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

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

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

48. "Officer", when referring to a bank, out-of-state bank or trust company, means any person designated as such in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, the chairman of the executive committee, and any trust officer, assistant trust officer, assistant vice-president, assistant treasurer, assistant cashier, assistant

comptroller, assistant secretary, auditor or any person who performs the duties appropriate to those offices;

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

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

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

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

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

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

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

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

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

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

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

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

61. "Trust company" means:

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

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

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

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

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

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

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

B. Board - Qualifications. Other than the Commissioner, five members of the Board shall be active officers of state banks or trust companies~~, one of whom may be an officer or director of a national bank~~. One member of the Board shall be a citizen of Oklahoma, thirty-five (35) years old or older, who shall not have been in the past or become during the member's service on the Board an officer or stockholder in any state-chartered banking institution, nor shall such person be related in the first degree to any other person who is or becomes during the term of such member an officer or stockholder in any state-chartered banking institution under the jurisdiction of the Department.

C. Board - Appointment - Qualifications - Successor - Removal. Members of the Board, including the Commissioner, shall be appointed by the Governor with the advice and consent of the Senate; provided, appointments to the Board, and not including the Commissioner nor the member not affiliated in the past or during the member's term with any banking institution, shall only be made of individuals whose names shall be included in a list of twelve names submitted to the Governor by the Executive Committee of the Oklahoma Association of State Banks, a division of the Oklahoma Bankers Association. If a Board member resigns for any reason before his or her term expires under the provisions of this section, the resigning Board member shall notify the Governor in writing and shall submit a copy of his or her letter of resignation to the Commissioner and the Executive Committee of the Oklahoma Association of State Banks. If the Oklahoma Association of State Banks shall not submit such list within thirty (30) days after a vacancy shall occur, then the Governor may appoint, with the advice and consent of the Senate, such person as the Governor may select who shall meet the qualifications set forth in subsection B of this section.

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

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

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

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

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

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

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

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

2. Observe methods and standards which the Commissioner may prescribe for determining the value of various types of assets;

3. Charge off the whole or part of an asset which at the time of the Commissioner's action could not lawfully be acquired;

4. Write down an asset to its market value;

5. Record liens and other interest in property;

6. Obtain a financial statement from a borrower to the extent that the bank can do so;

7. Obtain insurance against damage to real estate taken as security;

8. Search, or obtain insurance of, the title to real estate taken as security;

9. Maintain adequate insurance against such other risks as the Commissioner may determine to be necessary and appropriate for the protection of depositors, trust funds and the public;

10. Cease and desist from engaging in any act or transaction, or doing any act in furtherance thereof, which would constitute a violation of the provisions of the Oklahoma Banking Code, federal banking law or the applicable banking law of another state, or a lawful regulation issued thereunder, or to cease and desist from engaging in any unsafe or unsound banking or trust practice; and

11. Pay civil money penalties under the same circumstances and conditions applicable to imposition of civil money penalties by the primary federal bank regulatory agency of the bank.

B. Before issuing an order provided for in subsection A of this section, the Commissioner shall give reasonable notice of an opportunity for a hearing. However, if the Commissioner makes written findings of fact that the protection of depositors will be

harmed by delay in issuing an order provided for in subsection A of this section, the Commissioner may issue a temporary order pending the hearing on the order provided for in subsection A of this section. The temporary order shall remain in effect until three (3) business days after the hearing on the order provided for in subsection A of this section and shall become final if the bank or trust company subject to the order fails within fifteen (15) days after the receipt of the order to request a hearing to determine whether the temporary order should be modified, vacated, or become final. If a hearing on the temporary order is not held upon written request, the temporary order shall dissolve and the order provided for in subsection A of this section shall not be issued except upon reasonable notice and opportunity for hearing.

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

D. The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of any bank, bank holding company, or branch in this state of an out-of-state state bank, or any branch of an Oklahoma state bank in any other state, and the Commissioner may accept such reports of examination and reports of investigation in lieu of conducting the Commissioner's own examinations or investigations. If such agreements result in the payment of fees, however calculated, by any other bank supervisory agency to the Oklahoma State Banking Department for examination or supervisory activities conducted by Department personnel, whether such activity is conducted inside or outside of this state, such fees shall be deposited in the Oklahoma State Banking Department revolving fund pursuant to Section 211.1 of this title. If such agreements result in the payment of fees, however calculated, by the Department to any other bank supervisory agency for examination or supervisory activities conducted by such other bank supervisory agency, whether such activity is conducted inside or outside of this state, such fees shall be paid by the Department from the Oklahoma State Banking Department revolving fund pursuant to Section 211.1 of this title. <u>The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with the Department of Consumer</u>

Credit and other state agencies with whom the agreements may be mutually beneficial.

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

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

2. The Commissioner may issue opinions in response to specific requests from members of the public or the banking and trust industry directly or through the Deputy Commissioner or the Department's attorneys. The Commissioner may amend or repeal an opinion by issuing an amended statement or notice of repeal of an opinion and shall provide notice thereof and make it available to all state-chartered banks and trust companies upon request, except that the requesting party may rely on the original opinion if all material facts were originally disclosed to the Commissioner, considerations of safety and soundness of the affected bank are not implicated with respect to further and prospective reliance on the original opinion, and the text and interpretation of relevant, governing provisions of this act have not been changed by legislative or judicial action.

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

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

Section 209. A. 1. The State Banking Commissioner shall, at least every eighteen (18) months or as often as the Commissioner

deems advisable, examine every bank and trust company, and for the purpose of making such examinations and special examinations, shall have full access to all books, papers, securities, records and other sources of information under the control of banks and trust companies. Upon the conclusion of the examination, the Commissioner may make and file in the office of the Commissioner a report in detail disclosing the results of such examination or may, on conditions prescribed by the Commissioner, prepare a summary memorandum regarding the results of such examination, and shall, upon request by the bank, mail a copy of such report or memorandum to the bank or trust company examined. However, the Commissioner may accept, in lieu of any three consecutive bank examinations, the examination that may have been made of the bank or trust company within a reasonable period by the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, or ~~the Office of Thrift Supervision~~ other supervisory authority having examination jurisdiction and authority over the bank or trust company provided a copy of the examination, report, or other document prepared as a result of the examination is furnished to the Commissioner.

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

3. The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, or ~~the Office of Thrift Supervision~~ other supervisory authority having examination jurisdiction and authority over the bank or trust company with respect to the periodic examination or other supervision of any state bank, trust company, or state thrift.

4. When requested in writing upon authority of the board of directors or stockholders owning a majority of the capital stock of any bank or trust company, the Commissioner shall, if in the opinion of the Commissioner such examination is desirable, make or cause to be made an examination into the affairs and conditions of such bank or trust company. For such examination such bank or trust company shall pay the same fees as provided for in subsection B of Section 211 of this title.

B. Every bank shall make four reports each year and more often if called upon by the Commissioner and according to the form which may be prescribed by the Commissioner, and every trust company shall make two reports each year and more often if called upon by the Commissioner and according to the form which may be prescribed by the Commissioner. They must be verified by the oath or affirmation of the president, cashier or secretary of such bank or trust company, attested by the signatures of at least two of the directors, and shall be retained and made available for inspection upon request of the Commissioner or designated representatives of the Commissioner. Each such report shall exhibit, in detail and under appropriate headings, the assets and liabilities of the corporation at the close of business on any last day by the Commissioner specified, and shall be transmitted to the Commissioner within thirty (30) calendar days after the call date, and may be published at the expense of the bank or trust company in the same form in which it is made to the Commissioner. The Commissioner shall also have the power to call for special reports from any bank or trust company whenever, in the judgment of the Commissioner, the same are necessary in order to gain a full and complete knowledge of its condition. However, the reports authorized and required by this section, to be called for by the Commissioner, shall relate to a date prior to the date of such call to be specified therein. Additionally, the Commissioner may accept, in lieu of the reports referred to in this section, reports made by banks that are members of the Federal Reserve System on forms provided by the Federal Reserve System or reports submitted by banks to the Federal Deposit Insurance Corporation.

C. Every bank or trust company which fails to make and transmit any report required within the discretion of the Commissioner, under the Oklahoma Banking Code, shall be subject to a penalty not to exceed Fifty Dollars ($50.00) for each day, after the period respectively therein mentioned, that the bank or trust company delays to make and transmit its report. Whenever any bank or trust delays or refuses to pay the penalty herein imposed for a failure to make and transmit a report, the Commissioner is hereby authorized to maintain an action in the name of the state against the delinquent bank or trust company for the recovery of such penalty, and all sums collected by such action shall be paid into the Oklahoma State Banking Department revolving fund pursuant to Section 211.1 of this title.

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

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

Section 1512. As used in this act:

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

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

3. "Currency" or "funds" means the coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes U.S. silver certificates, U.S. notes, and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country;

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

5. "Money services business" includes each agent, agency, branch, or office within the State of Oklahoma of any person doing business, whether or not on a regular basis or as an organized business concern, as a money transmitter or in one or more of the capacities otherwise identified and defined by the Board. The term "money services business" shall not include a "bank" as that term is defined in Title 31, Code of Federal Regulations, ~~Part 103~~ Chapter X, nor shall it include a person registered with and regulated or

examined by the Securities and Exchange Commission or the Commodity Futures Trading Commission;

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

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

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

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

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

Section 1513. A. No person shall engage in the money services business in this state without first filing a registration application on a form prescribed by the Commissioner and securing a license to do so from the Commissioner. <u>Any person acting as agent or authorized delegate for any licensee under the Oklahoma Financial Transaction Reporting Act shall prominently display a copy of the principal's license certificate at each place of business of the agent or authorized delegate where money transmitter services are offered. It shall be the responsibility of the licensee to provide copies of the most current license certificate to the agent or authorized delegate for display.</u>

B. Upon the effective date of this act, a supplier shall provide to the Commissioner, on a form prescribed by the

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

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

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

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

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

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

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

Section 2102. Unless the context otherwise requires:

1. "Commissioner" means the State Bank Commissioner~~.~~;

2. "Check" means any check, draft, money order, stored value instrument or card, or other written instrument for the transmission or payment of money or credit, except that it does not mean money or currency of any nation, or instruments commonly known as travelers checks which require that the same be signed by the person to whom such instruments are issued at the time of issue and at the time such instruments are cashed or exchanged for value by such person~~.~~;

3. "Fiscal year" means the period from July 1 through the next succeeding June 30~~.~~;

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

5. "Licensee" means any person licensed under this act~~.~~;

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

7. "Net worth" means excess of assets over liabilities as determined by accepted accounting practices~~.~~; and

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

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

Section 2104. ~~(a)~~ A. Nothing in ~~this act~~ the Sale of Checks Act shall apply to the receipt of money by any incorporated telegraph company at any agency or office of ~~such~~ the company for immediate transmission by telegraph, or to the receipt of money for the purpose of transmitting or transferring it to foreign countries.

~~(b)~~ B. Nothing in this act shall apply to the sale or issuance of checks by governmental departments. No federally insured

financial institutions authorized to do business in this state, including banks, savings and loan associations, and credit unions, whether ~~such~~ the federally insured financial institutions are organized under the laws of this state or of the United States, shall be subject to this act where ~~such~~ the institution is selling or issuing checks drawn only on itself or on another federally insured financial institution or representing insured deposits held at the institution.

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

Passed the House of Representatives the 25th day of February, 2013.

Presiding Officer of the House of Representatives

Passed the Senate the 11th day of April, 2013.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 15th day of April, 2013, at 4:23 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 18th day of April, 2013, at 3:44 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 19th day of April, 2013, at 9:40 o'clock A. M.

By: