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Question Submitted by: The Honorable Fred Stanley, State Representative, District 49

2001 OK AG 29

Decided: 06/25/2001

Oklahoma Attorney General Opinions

Cite as: 2001 OK AG 29, __ __

¶0 This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following question:

Can a bank legally withhold from the public information about public funds it holds in deposit?

¶1 The Oklahoma Open Records Act ("the Act"), 51 O.S. 1991 & Supp. 2000, §§ 24A.1 – 24A.26, applies to the records of all "public bodies." Under the Act the term "public body" includes, but is not limited to:

[A]ny office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property

51 O.S. Supp.2000, § 24A.3(2).

¶2 "The fundamental rule of statutory construction is to ascertain and, if possible, give effect to the intention and purpose of the Legislature as expressed in the statute." *Jackson v. Indep. Sch. Dist. No. 16*, 648 P.2d 26, 29 (Okla. 1982) (footnote omitted). When the language of a statute "is plain and unambiguous and its meaning clear" rules of construction are not used, and the statute's "evident meaning must be accepted." *Id.* at 29 (footnote omitted). Under the plain meaning of the statute, the statute applies only to defined "public bodies"¹ and not to private entities. Banks are not, under the above-quoted definition, "public bodies," and are therefore not subject to the disclosure provisions of the Act.² Therefore, a bank may withhold information about public funds deposited with the bank.

¶3 **It is, therefore, the official Opinion of the Attorney General that:**

The Oklahoma Open Records Act, 51 O.S. 1991 & Supp. 2000, §§ 24A.1 – 24A.26, applies to defined "public bodies." Banks are not a "public body" as defined in the Act and are therefore not subject to its disclosure requirements. A bank may withhold information from the public, about public funds it holds in deposit.

W.A. DREW EDMONDSON
ATTORNEY GENERAL OF OKLAHOMA
DOUGLAS F. PRICE

ASSISTANT ATTORNEY GENERAL

FOOTNOTE:

¹ The records of a public body are subject to the Open Records Act and, therefore, the information sought from a bank could be obtained from the public body.

² Although it is beyond the scope of this Opinion, Oklahoma case law suggests that banks are under an obligation to keep customer information confidential from non-governmental third parties. See *Alva State Bank & Trust Co. v. Dayton*, 755 P.2d 635, 636-37 (Okla. 1988); *Djowharzadeh v. City Nat'l Bank & Trust Co.*, 646 P.2d 616, 619 (Okla. Ct. App. 1982).

The Oklahoma Financial Privacy Act, 6 O.S. 1991 & Supp.2000, §§ 2201 – 2208, prohibits a financial institution from giving, releasing or disclosing any financial record to any "government authority" except with the consent of the customer or pursuant to a subpoena. 6 O.S. 1991, § 2203.

Citationizer[®] Summary of Documents Citing This Document**Cite Name Level**

None Found.

Citationizer: Table of Authority**Cite Name****Level****Oklahoma Court of Civil Appeals Cases**

Cite	Name	Level
<u>1982 OK CIV APP 3, 646 P.2d 616,</u>	<u>Djowharzadeh v. City Nat. Bank and Trust Co. of Norman</u>	Cited

Oklahoma Supreme Court Cases

Cite	Name	Level
<u>1988 OK 44, 755 P.2d 635, 59 OBJ 1159,</u>	<u>Alva State Bank and Trust Co. v. Dayton</u>	Cited
<u>1982 OK 74, 648 P.2d 26,</u>	<u>Jackson v. Independent School Dist. No. 16 of Payne County</u>	Cited

Title 6. Banks and Trust Companies

Cite	Name	Level
<u>6 O.S. 2201,</u>	<u>Short Title</u>	Cited
<u>6 O.S. 2203,</u>	<u>Financial Institutions Prohibited from Disclosing Financial Records Unless</u>	Cited

Title 51. Officers

Cite	Name	Level
<u>51 O.S. 24A.1,</u>	<u>Short Title</u>	Discussed
<u>51 O.S. 24A.3,</u>	<u>Definitions</u>	Cited

