TITLE 55

INVESTMENT CONTRACT AND MOTORISTS' SERVICE COMPANIES

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Chapter 731

Investment Contract Companies

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731.010 Definitions. As used in this chapter:

(1) "Commissioner" means the State Insurance Commissioner.

(2) "Department" means the Department of Insurance of the State of Oregon.

731.020 Licensing of investment contract business organizations. Except as provided in ORS 731.140, any person transacting business in Oregon on a plan whereby moneys are received in lump sums or in instalments and credited upon shares, stocks, notes, bonds, debentures, certificates or contracts, or in a passbook, with a fixed or guaranteed maturity, withdrawal, surrender or redemption value, and whereby the proceeds are credited upon such shares, stocks, notes, bonds, debentures, certificates or contracts, or in such passbooks, shall, together with its agents, dealers and securities, be subject exclusively to licensing, examination and regulation by the department in the manner provided by ORS 736.100, 736.105, 736.120, 736.210, 736.470, 736.510, 736.515, 736.525, 736.545 to 736.565, 739.505 to 739.515 and 739.555, so far as applicable to such business.

731.030 Capital. Any company applying for authority to transact the business defined in ORS 731.020 shall show, to the satisfaction of the commissioner, if a foreign company, that it is possessed of paid-up capital or maintains a deposit capital in the United States over all liabilities therein, for the benefit of all contract holders in the United States, of not less than $200,000 and a surplus of not less than $100,000, or, if a domestic company, a paid-up capital of not less than $100,000 and a surplus of not less than $50,000, and that it complies with the requirements of the laws of this state relating to such paid-up capital.

731.040 Certificate of authority. If the company has furnished evidence of its authority to transact the business described in ORS 731.020 in this state and has complied with all the requirements of law and of the department, the commissioner shall issue his certificate of authority to the company. The certificate shall continue in full force and effect until suspended or revoked by the commissioner.

731.050 Suspension or revocation of certificate of authority. The certificate of authority granted to such companies or to persons may be suspended by the commissioner on receipt of satisfactory evidence that the company is financially impaired or that the acts of the company or its agents are contrary to the public good. The certificate of authority also may be revoked for the same causes after due notice of complaint has been given and hearing granted to the company on such complaint.

731.060 Licensing of foreign or alien persons. Any foreign or alien person transacting a business described in ORS 731.020 may be authorized or licensed to do such business in this state when it has:

(1) Filed with the commissioner a certified copy of its charter, articles of incorporation, association or partnership, and a statement of its financial condition and business in the United States in such form and detail as he may require, signed and sworn to by at least two of its executive officers or partners or its manager;

(2) Satisfied the commissioner that it is fully and legally organized under the laws of its state or government to do the business it proposes to transact; and

(3) Met the requirements of ORS 731.030.

731.070 Bond; deposit of securities. (1) Every foreign or alien company or person, before engaging in the business defined in ORS 731.020:

(a) Shall deposit with the commissioner, as he may prescribe, either $25,000 in approved securities to be held in trust, or, in lieu of such securities, a corporate surety bond of the same amount payable to the State of Oregon, such deposit or bond to be held and conditioned upon the faithful performance by such company of all contracts and other requirements within the state; or

(b) May deposit in a bank or trust company of the state in which the company has its principal place of business or such other depositary or public officer of such state or of this state as the commissioner may prescribe for the benefit of the holders of such contracts in Oregon, cash or securities, satisfactory to the commissioner, of the total value of not less than 100 percent of its total liabilities, by way of withdrawal, surrender or loan values, on all contracts sold or issued in this state.

(2) The bond shall be executed by a duly licensed surety company and approved by the commissioner, and shall continue in full force and effect until the commissioner receives 60 days' written notice of its termi-

nation, which notice shall be given by the surety company that executed such bond.

(3) Any securities or bond deposited with the commissioner or the deposit mentioned in this section made by any such company likewise shall be applicable to the payment of any liability on contracts written to residents of this state assumed by the company prior to June 14, 1941, whether the cause of action which formed the basis of such liability accrued before or after that date.

731.080 Certificate of authority to foreign person. Upon compliance with the requirement of ORS 731.060 and 731.070 and upon payment of the fees and charges imposed by ORS 731.100, the commissioner shall issue to the foreign or alien person a certificate of authority to transact business in this state, which, on 30 days' notice, may be revoked if the commissioner finds that its condition in the United States is unsound or its surplus of admitted assets in the United States over all contract liabilities pertaining to business in the United States has not been maintained or is less than required by ORS 731.030.

731.090 Filing of business forms. Every company or person before receiving a license or a renewal of license to transact the business defined in ORS 731.020, shall file in the office of the commissioner its applications and contract forms to be used in the transaction of its business in this state.

731.100 Fees. Every person shall pay to the department fees as follows:

(1) For issuing certificate of authority to transact business, $5.

(2) For filing power of attorney in case of corporations, $2.50.

(3) For filing annual report, $5.

(4) For annual license, $100.

(5) For annual license, resident agents, $2.

(6) For annual license, nonresident agents, $5.

(7) For certificate under seal of department, $2.

(8) For copy of papers filed in department, per folio, 25 cents.

(9) Annually on or before April 1 of each year, a sum equal to one-tenth of one percent of the sums received during the preceding calendar year on the securities or contracts sold in this state, but in no case shall such amounts be less than $250 or more than $500.

731.110 Nonapplicability of other foreign corporation law. Any foreign or alien company transacting business defined in ORS 731.020 which has complied with the requirements of ORS 731.020 to 731.100 shall not be subject to any other provisions of the laws of this state relating to the admission or licensing of foreign or alien corporations.

731.120 Suit by commissioner upon insolvency of sellers of investment contracts. Whenever any person engaged in the business described in ORS 731.020 and who has deposited money, securities, or a surety bond with the commissioner or such other depositary or public officer of the State of Oregon as the insurance commissioner may have prescribed, has become insolvent, the commissioner shall file a bill in the Marion County Circuit Court for the benefit of the State of Oregon, and of all claimants having valid claims against such deposits or bonds. In case such deposits or bonds have been deposited with a depositary or public officer of the State of Oregon other than the commissioner, such depositary or public officer, as the case may be, shall be a party to the suit.

731.130 Disposition of deposits or bonds; claims; expenses. (1) The deposits or the proceeds of the bonds shall be distributed by the court in settlement of claims originating in Oregon for the payment of which such deposits or bonds were made. The deposits and the proceeds of such bonds shall be apportioned and paid ratably by the commissioner to all claimants whose claims against the company have been proved to the satisfaction of the commissioner and have been approved by the court.

(2) The claims shall be in such form as the court shall require, and notice of the time, place and manner of the filing thereof shall be given by the commissioner by publication in a newspaper printed and published in the most populous county in the state at least once each month for a period of six months from the date of the filing of the bill in court. All claimants having claims payable from such deposits or from the proceeds of such surety bonds shall file claims with the commissioner within the six-month period.

(3) The expenses of publishing notice,

together with any unpaid fees and taxes due from the depositor to the state and county and the costs and expenses of the commissioner in connection with the settlement of the claims, are preferred claims payable from such deposits.

(4) Any residue of any such deposits or of the proceeds derived from any such bonds shall be disposed of by the commissioner as the court may direct. The commissioner and other depositary or public officer shall thereupon be discharged from any further duties or responsibilities with respect thereto.

731.140 Application of statutes. ORS 731.020 to 731.110 and 731.990 do not apply to banks and trust companies, insurance companies, credit unions, industrial loan companies or to building and loan or savings and loan associations which were qualified and authorized to do business under the provisions of chapter III, title XXV, Oregon Code 1930.

731.990 Penalties. Violation of any of the provisions of ORS 731.020 to 731.100 is a misdemeanor and, upon conviction thereof, the offender, its or their officers, agents and representatives are punishable by a fine not exceeding $500.