TITLE 53

BANKS AND TRUST COMPANIES

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Chapter 706

1963 REPLACEMENT PART

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GENERAL PROVISIONS

706.010 "Bank Act" defined. As used in ORS chapters 706, 707, 708, 709, 711, 713 and 714, "Bank Act" means and includes ORS 163.440, 165.035, 194.100, ORS chapter 706, ORS 707.010 to 707.230, 707.310, 707.320, 707.340 to 707.420, 707.610 to 707.740, 707.990, 708.105 to 708.120, 708.205 to 708.245, 708.305 to 708.385, 708.395 to 708.475, 708.505 to 708.555, 708.705 to 708.725, 708.990, 709.010 to 709.040, 709.060 to 709.160, 709.180 to 709.340, 709.990, 711.205 to 711.250, 711.305 to 711.320, 711.405 to 711.465, 711.475 to 711.615, 711.990, ORS chapter 713 and ORS 714.140 to 714.170.

706.020 Corporations to which Bank Act applicable. The Bank Act is applicable to all corporations specified in ORS 706.030, to such other corporations as shall subject themselves to special provisions and sections of the Bank Act and to such other persons, associations, copartnerships or corporations as shall, by violating any of its provisions, be subject to the penalties provided in the Bank Act.

706.025 "Board," "division" and "superintendent" defined. As used in the Bank Act:

(1) "Board" means the State Banking Board.

(2) "Division" means the Banking Division of the Department of Commerce.

(3) "Superintendent" means the Superintendent of Banks, who is the administrator of the Banking Division.

[1963 c.580 §68]

Note: See note for ORS 706.205.

706.030 "Bank" defined; who may transact banking business; classes of banks. (1) As used in the Bank Act, "bank" means any incorporated banking institution which has been incorporated to conduct the business of receiving money on deposit, or transacting a trust business as defined in ORS 709.010.

(2) The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business is deemed doing a banking business whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass book or other writing, but nothing in the Bank Act applies to or includes money or its equivalent left in escrow or left with an agent, pending investment in real estate or securities for or on account of his principal. It is unlawful for any corporation, partnership, firm or individual to engage in or transact a banking or trust business within this state, except by means of a corporation duly organized for such purpose.

(3) Banks are divided into the following classes:

(a) Commercial banks.

(b) Savings banks.

(c) Trust companies.

706.040 "Commercial bank" defined. (1) As used in the Bank Act, "commercial bank" means:

(a) Any bank which does not maintain a savings department and which is authorized by law to receive deposits of money, deal in commercial paper or make loans thereon, lend money on real or personal property, purchase or discount bills, notes or other commercial paper, and buy, sell and advertise for purchase or sale such securities as are permissible for investment by commercial banks, gold and silver bullion, foreign coins or bills of exchange.

(b) The commercial department of any savings bank or trust company, which may conduct a commercial and savings department.

(2) Any commercial bank may also act as broker or agent for others in making or procuring loans on real estate located within this state, and receive for such services a reasonable fee or commission, but no such bank shall in any case guarantee either the principal or interest of any such loans, and such bank shall not guarantee the truth of any statement made by any applicant filing his application for any of such loans.

706.050 "Savings bank" defined. As used in the Bank Act, "savings bank" means:

(1) A bank organized for the purpose of accumulating and loaning the funds of its stockholders and depositors, and which may loan and invest the funds thereof; receive deposits of money; loan, invest and collect the same, with interest; repay depositors with or without interest; invest such funds in such property, securities and obligations as may be prescribed by the Bank Act, and declare and pay dividends on its general deposits and a stipulated rate of interest on deposits made for a stated period or upon special terms.

(2) The savings department of any commercial bank or trust company, which may conduct a commercial and savings department.

706.060 "Trust company" defined. As used in the Bank Act, "trust company" means:

(1) A corporation which is incorporated under the laws of this state for the purpose of conducting a trust or banking business or acting as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law.

(2) The trust department of any bank or trust company.

706.070 "Foreign banks and trust companies" defined. As used in the Bank Act, "foreign bank" or "foreign banker" or "foreign trust company" includes:

(1) Every corporation not organized under the laws of this state doing a banking or trust business within this state, except a national bank.

(2) Every unincorporated company, partnership or association of two or more individuals organized under or pursuant to the laws of another state or country doing a banking or trust business authorized and prescribed by the Bank Act.

(3) Every other incorporated company, partnership or association of two or more individuals doing a banking or trust business authorized by the Bank Act, if the members thereof owning a majority interest therein, or entitled to more than half the profits thereof, or who would, if it were dissolved, be entitled to more than one-half the net assets thereof are not residents of this state.

(4) Every nonresident of this state doing a banking business authorized by the Bank Act in his own name and right only.

706.080 Application of Bank Act to foreign insurance companies. The Bank Act does not apply to foreign insurance companies duly licensed to transact the business of insurance within this state in so far as the business of such companies is strictly limited to an insurance business. In addition to the requirements imposed upon foreign companies transacting the business of insurance within this state, any such company having as a part of its corporate name the word "trust" or other similar term shall file with the Superintendent of Banks a duly certified copy of the certificate issued by the State Insurance Commissioner authorizing it to transact the business of life insurance within the state.

706.090 Application of Bank Act to savings and loan and building and loan associations. The Bank Act does not prevent any savings and loan association or building and loan association from doing the business of a savings and loan association or a building and loan association as provided by law, provided such associations are operating in compliance with the laws governing the same.

706.100 Applicability of general corporation laws. All banks, bankers and trust companies are subject to the general corporation laws of this state in every case in which the provisions of the Bank Act do not apply.

706.110 to 706.200 [Reserved for expansion]

ADMINISTRATION OF BANKING LAWS

706.205 Banking Division. The Banking Division is established within the Department of Commerce and is charged with the enforcement of all laws relating to banks, trust companies and the banking business of this state.

[1963 c.580 §69]

Note: Chapter 580, Oregon Laws 1963, which creates the Banking Division within the Department of Commerce, becomes operative not later than July 1, 1964, and stands repealed on July 1, 1967. Section 66 of chapter 580 has not been compiled because it is temporary, but it is set out below for the convenience of the user:

Sec. 66. (1) The Banking Division of the Department of Commerce succeeds to and is vested with all the duties, functions and powers vested in the State Banking Department; and, except as otherwise provided by law, there hereby are transferred to, imposed upon and vested in the Banking Division all the duties, functions and powers of the State Banking Department and the Superintendent of Banks. After the operative date of this Act the Banking Division shall exercise such duties, functions and powers.

(2) The Legislative Counsel, for the purpose of harmonizing and clarifying the provisions of statute sections published in the Oregon Revised Statutes, may substitute for words designating the State Banking Department and the Superintendent of Banks, wherever such words occur in the statute sections to be published in the Oregon Revised Statutes, words designating the Banking Division of the Department of Commerce. The Legislative Counsel shall substitute for words designating the State Banking Board, words designating the Banking Division in ORS 708.605, 708.610, 708.625, 708.635 and 708.650.

706.210 [Repealed by 1963 c.580 §103]

Note: The repeal of ORS 706.210, 706.220, 706.230, 706.240, 706.250, 706.270 and 706.280 is operative not later than July 1, 1964. See 1963 c.580 §104.

706.215 Superintendent of Banks; appointment; term; qualifications; oath; bond. (1) The Banking Division shall be under the

supervision and control of an administrator who shall be known as the Superintendent of Banks. The Director of Commerce shall, with the approval of the Governor, appoint the Superintendent of Banks from a list of qualified candidates nominated by the State Banking Board, to hold office for the term of four years from the date of such appointment, unless sooner removed for misconduct, incapacity, or neglect of duty, and until his successor is appointed and qualified. The superintendent shall hold his office at the pleasure of the Director of Commerce and shall be responsible for the performance of the duties imposed upon the division. The Superintendent of Banks shall receive such salary as may be established by the State Banking Board. No person shall be appointed to the office of Superintendent of Banks who has not had at least five years' practical experience in the banking business, or served a like period in the Banking Division of this or some other state in a senior administrative position.

(2) Before entering upon the duties of his office the superintendent shall subscribe to an oath that he will faithfully and impartially discharge the duties of his office, and he shall execute to the State of Oregon a fidelity bond with one or more corporate sureties authorized to do business in this state in such sum as may be fixed by the Director of Commerce, with the approval of the Governor. The bond shall be conditioned that the superintendent will faithfully and impartially discharge the duties of his office, and pay over to the persons entitled by law to receive it all money coming into his hands by virtue of his office. The bond shall be conditioned, further, for the payment of any and all damages and costs that may be adjudged against the superintendent under the Bank Act. The cost of the bond shall be charged against the State Banking Fund, to be audited and allowed as other claims.

[1963 c.580 §70]

Note: See note for ORS 706.205.

706.220 [Repealed by 1963 c.580 §103]

Note: See note for ORS 706.210.

706.225 Powers of superintendent. The Superintendent of Banks shall have the power to:

(1) For the purpose of administration, organize and reorganize, as necessary, the division in the manner that he deems necessary to properly conduct the work of the division.

(2) Appoint all subordinate officers and employes of the division, including but not limited to, deputies, bank examiners and assistant bank examiners, and prescribe their duties and fix their compensation, subject to the applicable provisions of the State Civil Service Law. Subject to any other applicable law regulating travel expenses, the officers and employes of the division shall be allowed such reasonable and necessary travel and other expenses as may be incurred in the performance of their duties.

(3) Require a fidelity bond of any officer or employe of the division who examines or assists in the examination of a bank, or who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amount of the bond shall be fixed by the superintendent, except as otherwise provided by law, and the sureties shall be approved by him. The bond may be in the form of a blanket or schedule bond and the division shall pay the premium on the bond.

[1963 c.580 §71]

Note: See note for ORS 706.205.

706.230 [Repealed by 1963 c.580 §103]

Note: See note for ORS 706.210.

706.235 Filing bond and copy of oath with Secretary of State; liability of superintendent and personnel; other bonds. (1) The oath of office and bonds provided in ORS 706.215 and 706.225 shall be filed with the Secretary of State.

(2) Neither the Superintendent of Banks nor any officer or employe of the division shall be personally liable for any act done by him in good faith in the performance of his duties.

(3) If any other person is employed by the superintendent for any particular purpose he shall execute to the State of Oregon a bond in a sum to be determined by the superintendent at the time of his employment.

[1963 c.580 §72]

Note: See note for ORS 706.205.

706.240 [Repealed by 1963 c.580 §103]

Note: See note for ORS 706.210.

706.245 State Banking Board; appointment; terms; qualifications; vacancy; compensation. (1) The State Banking Board is established within the Department of Commerce. The board shall consist of three members to be appointed by the Director of Commerce with the approval of the Governor.

The members shall be appointed to hold office for a period of four years, but each member shall serve at the pleasure of the Director of Commerce. Each member of the board must have had, before his appointment, at least five years' practical experience in the banking business or served for a like period in the banking division of this or some other state. In case of a vacancy for any cause the Director of Commerce, with the approval of the Governor, shall make an appointment to become immediately effective for the unexpired term.

(2) A member of the State Banking Board shall receive a $10 per diem compensation each day during which he is actually engaged in the performance of his official duties, and subject to any other applicable law regulating travel and other expenses for state officers, he shall receive his reasonable and necessary travel and other expenses incurred in performing the duties of his office.
[1963 c.580 §73]

Note: See note for ORS 706.205.

706.250 [Repealed by 1963 c.580 §103]

Note: See note for ORS 706.210.

706.255 Board to select chairman; meetings; quorum. (1) The State Banking Board shall annually select one of its members as chairman, who shall preside at the meetings of the board. In the absence of the chairman some other member of the board may serve as chairman. The board shall meet for the transaction of business as determined by the board, and may also meet upon call of the chairman.

(2) A majority of the board shall constitute a quorum for the transaction of business. A vacancy on the board shall not impair the right of the remaining members to perform all the duties and exercise all the functions and authority of the board.
[1963 c.580 §75]

Note: See note for ORS 706.205.

706.260 [Renumbered 706.285]

706.265 Powers and duties of board; expenses. (1) The State Banking Board is authorized to inquire into the needs of the banking institutions of Oregon, the functions of the Banking Division and the matter of the business policy thereof, to confer with and advise the Director of Commerce as to how the division may best serve the state and the banking institutions, and to make recommendations and suggestions of policy to the Banking Division as the board shall deem beneficial and proper for the welfare and progress of the banking institutions and of the public and of the banking business in Oregon.

(2) The State Banking Board shall perform such administrative hearing and review functions as are vested in it under the provisions of the Bank Act.

(3) The expenses of the State Banking Board shall be paid from moneys available to the Banking Division for payment of the administrative expenses of the division.
[1963 c.580 §76]

Note: See note for ORS 706.205.

706.270 [Repealed by 1963 c.580 §103]

Note: See note for ORS 706.210.

706.280 [Amended by 1959 c.210 §1; repealed by 1963 c.580 §103]

Note: See note for ORS 706.210.

706.285 Indebtedness to banking institutions and interest in banking transactions and business prohibited. (1) Neither the Superintendent of Banks, examiners, or any clerk or employe of the Banking Division shall become indebted to any bank, banking institution or trust company under state supervision, nor shall be engaged or interested in the sale of securities or the negotiation of loans for others to or with any such bank, banking institution or trust company under penalty of forfeiture of his office.

(2) No person, while occupying any position in the Banking Division, shall be employed by or have any interest in any bank or banking business in this state.
[Formerly 706.260]

Note: See note for ORS 706.205.

706.290 State Banking Fund; expenditures and receipts of Banking Division. A fund, to be known as the State Banking Fund, is created. Out of such fund shall be paid all of the expenses incurred in and about the conduct of the business of the State Banking Division, including the salaries of the Superintendent of Banks, examiners, clerical assistants, traveling expenses, furnishings of offices, rent, stationery, supplies and all other expenditures necessary and incident thereto. All fees, penalties and fines shall be paid to the Superintendent of Banks. The Superintendent of Banks shall certify monthly, under oath, to the State Treasurer and to the Secretary of State, the total amount of receipts of the State Banking Division for each current month and remit to the State Treasurer all money received by the division.

Note: See note for ORS 706.205.

706.300 to 706.400 [Reserved for expansion]

ENFORCEMENT OF BANKING LAWS; POWERS OF BANKING LAW ADMINISTRATORS

706.410 Enforcement of Bank Act; production of witnesses and evidence; fees and mileage of witnesses. (1) In the enforcement of the Bank Act the Superintendent of Banks or a duly appointed examiner may administer oaths, certify to official acts, issue notices and summons in writing under his official seal, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony, and take and receive testimony, conduct hearings and investigate, whether upon complaint or upon the motion of the Superintendent of Banks.

(2) In case of failure on the part of any person to comply with any order of subpena of the Superintendent of Banks or examiner, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated before the superintendent or examiner, the circuit court of any county or the judge thereof, upon application of the superintendent or examiner, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of subpena issued from such court or a refusal to testify therein.

(3) Each witness who appears before the Superintendent of Banks or any examiner by his order or subpena shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the Superintendent of Banks; provided, no witness is entitled to receive double mileage fees. No witness subpenaed at the instance of parties other than the Superintendent of Banks or his examiner is entitled to compensation from the state for attendance or travel unless the superintendent certifies that his testimony was material to the matter investigated.

(4) The Superintendent of Banks or any of his examiners may, in any investigation, cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil suits in the circuit court.

706.420 Witnesses required to testify and produce records. No person shall neglect or refuse to attend and testify or answer any lawful inquiry or to produce books, papers, accounts, records, contracts or documents, if in his power to do so, in obedience to the subpena or lawful requirement of the Superintendent of Banks, or any deputy or examiner employed by the Superintendent of Banks.

706.430 Notice to district attorney of Bank Act violations; investigations and proceedings. The Superintendent of Banks shall inform the district attorney of the judicial district in which the bank or trust company is located of any violation of any provision of the Bank Act, which constitutes a misdemeanor or felony, by any officer, director, owner or employe of any bank, which comes to his notice. Upon receipt of such information the district attorney shall immediately investigate such violations and shall institute proceedings to enforce the provisions of law. The cost of all such investigations by the district attorney and proceedings shall be paid by the county in the same manner as in other criminal proceedings.

706.440 Attorney General to conduct actions; assistance of district attorneys. The Attorney General shall conduct all actions, suits or proceedings begun by the Superintendent of Banks under authority of the Bank Act, and may call to his assistance the district attorney of the district in which such actions, suits or proceedings are conducted.

706.450 Seal of Banking Division; affixing to documents; effect; fees. (1) The Banking Division shall adopt a seal by which the division shall authenticate its proceedings.

(2) Every certificate, assignment and conveyance executed by the Banking Division, in pursuance of the authority conferred upon it by law and sealed with the seal of the division, shall be received in evidence and recorded in the proper recording offices in the same manner as a deed regularly acknowledged, as required by law.

(3) Whenever it is necessary for the Banking Division to approve any instrument and to affix its official seal thereto, the division shall charge a fee of $5 for affixing its approval and official seal to such instrument.

(4) Copies of all records and papers in

the office of the Banking Division certified by the division and authenticated by its seal, shall be received in evidence in all cases equally and of like effect as the original. Whenever it is proper to furnish a copy of any paper filed in the Banking Division and to certify such paper, the division may charge 25 cents per folio for such copy, and for affixing its official seal on such copy and certifying the same, $2.
[Amended by 1963 c.580 §77]

Note: The 1963 amendment to ORS 706.450 becomes operative not later than July 1, 1964.

706.460 Adoption of rules and regulations; hearing. (1) The Banking Division may adopt and promulgate reasonable and uniform rules and regulations to govern the conduct, operation and management of all banks or trust companies created, organized or existing under or by the virtue of the laws of the State of Oregon, and to govern the examination, valuation of assets and the statements and reports of such banks or trust companies, and the form on which such banks or trust companies shall report their assets, liabilities and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of the Bank Act.

(2) Before any such rule or regulation is adopted the Banking Division shall submit a copy by mail to each bank or trust company, together with notice of the date set by the State Banking Board for a public hearing of any suggestions, amendments or objections which may be made by any officer of a bank or trust company. The date for such hearing shall be not less than 30 days after the proposed rule or regulation is so submitted. Suggestions, amendments or objections shall first be filed with the Banking Division in writing, which shall transmit the same to the State Banking Board. Failure to file such objection is not deemed a waiver of the right of review granted by ORS 706.470.

(3) At such hearing the proposed rule or regulation may be amended, revised or approved by the State Banking Board and, if approved by the State Banking Board, a copy of each rule and regulation shall be mailed forthwith upon the promulgation thereof to each bank or trust company at its principal place of business. The person mailing such copies shall file an affidavit thereof in the office of the Banking Division.
[Amended by 1963 c.580 §78]

Note: The 1963 amendment to ORS 706.460 becomes operative not later than July 1, 1964.

706.470 Review by circuit court of adoption of rule or regulation; appeal to Supreme Court. Any bank or trust company mentioned in ORS 706.460 deeming any rule or regulation mentioned in ORS 706.460 unreasonable or contrary to law may, within five days after the promulgation of such rule or regulation, apply to the Circuit Court for Marion County, for a writ of review for the purpose of having its reasonableness or lawfulness inquired into or determined. Any such rule or regulation is deemed reasonable when it requires compliance with any sound banking principles. In each such hearing the burden shall be upon the bank or trust company to establish the rule or regulation to be unreasonable or unlawful. Appeals shall lie from such circuit court to the Supreme Court of the State of Oregon, as in other actions. The pendency of such a writ of review shall not of itself stay the operation of the rule or regulation, but the circuit court may, in its discretion, restrain or suspend the same in whole or in part.

706.480 Effective date and duration of rules and regulations. Any rule or regulation promulgated by the Banking Division shall be effective and conclusive at the expiration of 45 days from the promulgation thereof, and shall continue in force and effect until modified or set aside by the Banking Division, except as such regulation may be restrained or suspended by the circuit court, as provided in ORS 706.470.
[Amended by 1963 c.580 §79]

Note: The 1963 amendment to ORS 706.480 becomes operative not later than July 1, 1964.

706.490 Compliance with rules and regulations required. Each bank and trust company and each officer, director, owner, stockholder, agent and employe thereof shall comply with every rule and regulation promulgated as provided in ORS 706.460 to 706.480, so long as the same remain in force.

706.500 Supervision and inspection of banks and trust companies. Every state bank or trust company in this state shall be under the supervision and subject to the inspection of the Superintendent of Banks. The Superintendent of Banks or a duly appointed examiner shall visit every such bank or trust company at least once in every calendar year and whenever the Superintendent of Banks deems it necessary or expedient,

and make a complete and careful examination of the condition and resources of such bank or trust company, the mode of managing its business and conducting its affairs, the action of its officers and directors in the investment and disposition of its funds, the safety and prudence of its management, its policy of transacting business, the security afforded to those by whom its engagements are held, whether such bank or trust company is complying with the laws of this state and such other matters as the Superintendent of Banks may prescribe. Any trust company which does not transact a banking business, or a corporation transacting a trust business, may be examined once each year by the Superintendent of Banks or any duly appointed examiner, or at such other times as may be designated or determined by the Superintendent of Banks.

706.510 Special examination of banks and trust companies. Whenever, in the judgment of the Superintendent of Banks, the condition of any bank or trust company renders it necessary or expedient to make an extra examination or to devote any extraordinary attention to its affairs, the Superintendent of Banks may make any extra or necessary examinations and devote any necessary extra attention to the conduct of its affairs. Such bank or trust company shall pay for all such extra services rendered by the Superintendent of Banks at the actual per diem cost and expenses of each man who may be engaged in such special service at the direction of the Superintendent of Banks.

706.520 Request by directors or stockholders for examination. 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 Superintendent of Banks shall, if in his opinion 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 other examinations.

706.530 Fees and percentages for examination of banks and trust companies. (1) The Superintendent of Banks shall collect from each bank or trust company for each examination thereof, or for any special examination thereof, an amount regulated by the capital and surplus of such bank or trust company at the time of such examination, according to the following schedule:

If capital and surplus exceed	But do not exceed	Fee
$ 0	$ 20,000	$ 40
20,000	50,000	50
50,000	75,000	60
75,000	100,000	70
100,000	150,000	80
150,000	200,000	100
200,000	250,000	125
250,000	300,000	150
300,000	500,000	200
500,000	750,000	250
750,000	1,500,000	350
1,500,000		450

(2) In addition to the fees set forth in subsection (1) of this section, such bank or trust company shall pay at the same time an amount equal to one one-hundredth of one percent of its total resources, excepting the deposits of the state made by the State Treasurer in the designated active depository of the state.

706.540 Fees and percentages for examination of trust departments and trusts held by banks and trust companies. The Superintendent of Banks shall collect for each examination of the trust department or trusts held by any bank or trust company, an amount regulated by the amount of bonds or securities pledged with the Superintendent of Banks under the provisions of ORS 709.030, 709.040, 709.310 and 709.320, according to the schedule set forth in ORS 706.530 for capital and surplus of banks, and, in addition thereto, an amount equal to one one-hundredth of one percent of its total trust resources, excepting real estate held in trust. In determining the total trust resources all trust assets shall be figured at the reasonable or market value. In addition to the fees and percentages set forth above in this section, the Superintendent of Banks shall collect an amount equal to one five-hundredth of one percent of the total bonds or notes outstanding under corporate bonds or note issues for which the bank or trust company is acting as trustee. Trust companies organized prior to June 3, 1913, which do not deposit cash or securities with the Superintendent of Banks shall pay such a fee as would be required if incorporated after June 3, 1913.

706.550 Reduction of examination fees. The Banking Division may, from time to time, as it may appear to the division advisable, fix the fees to be collected for the examination of banks or trust companies at a lesser sum than provided in ORS 706.530 and 706.540.

[Amended by 1963 c.580 §80]

Note: The 1963 amendment to ORS 706.550 becomes operative not later than July 1, 1964.

706.560 Appraisal of securities and audit by superintendent. (1) When a bank or trust company has been examined by an examiner and he finds securities therein which are, in his judgment, of doubtful value, he shall report the same to the Superintendent of Banks, who thereupon may, at the expense of such bank or trust company, investigate and appraise the securities.

(2) The Superintendent of Banks may, in his discretion, or whenever requested to do so by any bank or trust company, make an audit of the affairs of such bank or trust company. The compensation for making such audit shall be paid by the bank or trust company at the same per diem and expenses as allowed examiners.

706.570 Requiring bank or trust company to keep proper records and accounts; civil penalty. (1) If upon examination of any bank or trust company it appears to the Superintendent of Banks that such bank or trust company does not keep books and accounts in such a manner as to enable him or his examiners to readily ascertain the true condition of such bank or trust company, he may require any officer of such bank or trust company to open and keep such books or accounts as he, in his discretion, may determine and prescribe for the purpose of keeping accurate and convenient records of the transactions and accounts of such bank or trust company.

(2) Any bank or trust company that refuses and neglects to open and keep such books and accounts as may be prescribed by the Superintendent of Banks is subject to a penalty of $10 for each day it neglects or fails to open and keep such books and accounts after receiving notice from the Superintendent of Banks. Such penalty shall be paid by such bank or trust company upon receiving notice and demand for the amount of the penalty from the Superintendent of Banks. If the bank or trust company delays or refuses to pay any such penalties upon demand by the Superintendent of Banks, the Superintendent of Banks may maintain an action in his name against the delinquent bank or trust company for the recovery of the penalty. All sums collected by such action for penalties imposed by this section shall be paid into the State Treasury for the account of the State Banking Fund.

706.580 Illegal or unsafe practices; ordering discontinuance. When it appears to the Superintendent of Banks from any examination or report that any bank or trust company has committed any violation of the law, or is conducting its business in an unsafe or unauthorized manner, he shall, by an order in writing, direct the discontinuance of such illegal or unsafe or unauthorized practices and enforce strict conformity to the requirements of the law.

706.590 Refusal to obey orders or submit records; action taken by superintendent. If any bank or trust company neglects or refuses to observe any order of the Superintendent of Banks, as provided in ORS 706.580, or refuses to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof refuses to be examined upon oath touching the affairs of any such bank or trust company, the Superintendent of Banks may forthwith take possession of the property and business of such bank and retain such possession until such bank or trust company resumes business or its affairs are liquidated in the manner provided in ORS chapter 711 in the case of insolvent banks.

706.600 Taking possession and control of bank or trust company by superintendent. Whenever it appears to the Superintendent of Banks that it is unsafe or inexpedient for any bank or trust company to continue to transact business, or that extraordinary withdrawals of money are jeopardizing the interests of remaining depositors, or that any director or officer has abused his trust or has been guilty of misconduct or malversation in his official position injurious to the institution, or that such bank or trust company has suffered a serious loss by fire, floods, burglary, disaster, repudiation or otherwise, he may, in his discretion, take immediate possession and control of the property and affairs of such bank or trust company and take such action as, in his judgment, will best protect the interests of its creditors.

706.610 Insolvency; failure of examiner to report. No examiner of the Banking Division, having knowledge of the insolvency or unsafe condition of any bank or trust company, under the provisions of the Bank Act, and that it is unsafe and inexpedient to permit such bank or trust company to continue business, shall fail to forthwith report such fact in writing, over his signature, to the Superintendent of Banks.

Note: See note for ORS 706.205.

706.620 Records kept by superintendent. The Superintendent of Banks shall keep as records of his office proper books showing the acts, matters and things by him done under the provisions of the Bank Act.

706.630 Regular reports of condition; publication. (1) The Superintendent of Banks shall call upon each bank and trust company under his supervision for not less than three reports each year, and according to the form which he shall prescribe and furnish for that purpose. Such reports shall:

(a) Call for the condition of state banks and trust companies at the close of business on the same days on which reports are required from national banking associations by the Comptroller of the Currency.

(b) Show the assets and liabilities combined for all departments.

(c) Be sworn to by an owner or an executive officer of the bank or trust company making same and attested by not less than two directors of every incorporated bank or trust company.

(d) Exhibit in detail, and under appropriate heads, the total liabilities and resources of such bank at the close of business on the day specified.

(e) Be transmitted to the Superintendent of Banks within 10 days after receipt of the request therefor.

(f) Be published according to the form prescribed by the Superintendent of Banks in a newspaper published in the city, town or county in which the bank or trust company is located, within 10 days from the receipt of call for the report. Proof of such publication shall be furnished the Superintendent of Banks by each bank or trust company, within 10 days from the date of publication thereof.

(2) Trust companies not conducting a banking business under the Bank Act are not required to submit the reports provided for by subsection (1) of this section, but are required to submit such special reports as may be required by the Superintendent of Banks.

706.640 Special reports of condition. The Superintendent of Banks may call for special reports from any bank or trust company whenever, in his judgment, the same are necessary to fully inform him of the condition of the bank or trust company. This report shall be verified by oath, as provided in ORS 706.630. Any special reports required by the Superintendent of Banks need not be published.

706.650 Delay or failure to furnish reports of condition. Whenever any bank or trust company delays or fails to furnish reports provided for in ORS 706.630 and 706.640, or publish the same, or supply proof of publication, within the time specified, such bank or trust company shall be subject to a penalty of $25 a day for each day while in default. Such penalty shall be paid by the bank or trust company upon receiving notice or demand for the amount of the penalty from the Superintendent of Banks. If the penalty is not paid, upon demand by the Superintendent of Banks, the Superintendent of Banks shall then proceed to collect the penalty in the manner prescribed by ORS 706.570.

706.660 Report of earnings and dividends. On or before January 15 of every year, every state bank or trust company shall submit to the Superintendent of Banks a report of earnings and dividends for the year ending December 31 next preceding. Such report shall be made in the form prescribed by the Superintendent of Banks and shall show all losses sustained, expenses and taxes paid, gross earnings and profits, losses recovered since last report, payments made by stockholders and all amounts carried to surplus, undivided profits or dividends paid.

706.670 Report of dividend declaration. Within 10 days after the declaration of any dividend, every state bank or trust company shall forward to the Superintendent of Banks a report of such dividend declared. This report shall also be again included in the report of earnings, expenses and dividends of December 31 of each year.

706.680 Failure to make reports of earnings and dividends and dividend declarations. Failure of any bank, banker or trust

company to make and submit any report required by ORS 706.660 or 706.670 shall subject the bank, banker or trust company to a penalty of $10 for each day such reports are delayed beyond the time allowed by ORS 706.660 or 706.670, such penalty to be collected in the manner provided in ORS 706.570.

706.690 Transfer of stock or controlling interest; notice to and approval by superintendent. (1) Whenever, in the opinion of the Superintendent of Banks, the condition of any bank or trust company is such that any transfer of the capital stock of such bank or trust company would jeopardize the interest of its depositors, the Superintendent of Banks shall require that when any shares of the capital stock of the bank or trust company are to be transferred on the books or records of the bank or trust company, the officer or officers proposing to make the transfer shall report in writing to the Superintendent of Banks such proposed transfer of stock. No transfer thereof shall be made without first obtaining the written consent thereto of the Superintendent of Banks.

(2) Whenever stock representing the controlling interest in any bank or trust company is to be sold, exchanged or otherwise disposed of, the Superintendent of Banks immediately shall be notified in writing by the vendor. No transfer of such stock shall be entered upon the books of the bank or become effective until 30 days after notice has been received at the office of the Superintendent of Banks or until such sale, exchange or other disposition has been approved and consented to in writing by the Superintendent of Banks.

(3) No officer of any bank or trust company shall fail to report any transfer of stock to the Superintendent of Banks at the time the same is made, as required by this section.

706.700 Resignation of officers; notice to superintendent. Before the president, vice president or cashier of any bank or trust company voluntarily disqualifies himself or retires or resigns from his position as an officer, he shall notify the Superintendent of Banks in writing of his intention to do so. The responsibility and liability of such officer for the proper conduct of such bank or trust company shall continue in all respects for a period of 30 days after the notice has been received at the office of the Superintendent of Banks, and, for such period, the officer shall remain actively in charge of the affairs of the bank or trust company entrusted to him.

[Amended by 1963 c.195 §1]

706.710 Waiver of transfer and resignation notices; reducing effective date. The Superintendent of Banks may, by writing, waive the notices provided for in ORS 706.690 and 706.700, or shorten the period after such notice when the transfer of stock, resignation, disqualification or retirement becomes effective.

706.720 Reports filed with superintendent; inspection of reports; forms. (1) The Superintendent of Banks shall receive and place on file in his office all reports required by the Bank Act. None of such reports, except the published statement, shall be deemed public records or be open for public inspection, but the Superintendent of Banks may furnish to the Federal Reserve Bank and its examiners and to the Comptroller of the Currency of the United States and the national bank examiners and to the Federal Deposit Insurance Corporation and its examiners copies of all reports and information pertaining to the condition of state banks.

(2) The Superintendent of Banks shall prescribe the forms for all reports required by the Bank Act, and may change same at pleasure. The Superintendent of Banks shall furnish, upon request of banks or trust companies coming under his supervision, any blank forms necessary and required by the Bank Act.

706.730 Depositors and debtors; disclosure of names prohibited. Neither the Superintendent of Banks nor anyone connected with the Banking Division shall in any instance disclose the name of any depositor or debtor of any bank, or the amount of his deposit or debt to anyone, except in so far as may be necessary in the performance of his official duty. However, the Superintendent of Banks may maintain a record of borrowers from banks in this state and, in his discretion, may give information concerning the total liabilities of any such borrowers to any bank owning obligations of such borrowers.

Note: See note for ORS 706.205.

706.740 Annual report of Banking Division. Each year the Banking Division shall

make an annual report for the prior calendar year to the Director of Commerce, which report shall contain:

(1) A summary showing the condition of the banking business in this state.

(2) A statement of all banks and trust companies authorized to commence business during the prior calendar year.

(3) A statement of all banks and trust companies discontinuing business during the prior calendar year.

(4) A statement of banks and trust companies whose business has been closed during the prior calendar year, the amount of their resources and liabilities, and the amount paid to the creditors thereof.

(5) The names and compensation of the examiners and clerical assistants employed and appointed by the Superintendent of Banks, and the whole expense of the Banking Division during the prior calendar year.

(6) The amount of fees, penalties or other moneys coming into the hands of the Superintendent of Banks and paid into the State Treasury during the prior calendar year.

(7) A statement of banks and trust companies liquidated or in process of liquidation by the Banking Division, and the status of the affairs thereof at the time of the report, including the amount of their resources and liabilities and the nature of the same, and the amount paid the creditors.

(8) An abstract of the last published report of each bank and trust company.

[Amended by 1963 c.195 §2; 1963 c.580 §81]

Note: The 1963 amendment to ORS 706.740 becomes operative not later than July 1, 1964.

706.750 to 706.980 [Reserved for expansion]

PENALTIES

706.990 Penalties. (1) Any officer, manager, director, owner or employe of any bank or trust company in this state who wilfully and knowingly violates any provision of the Bank Act for which a penalty is not expressly provided in the Bank Act, shall be punished, upon conviction, by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than one year, or both.

(2) Any bank or trust company, and any officer, director, owner, stockholder, agent or employe thereof, violating any rule or regulation adopted or promulgated by the Superintendent of Banks, shall be punished, upon conviction, by a fine of not less than $100 nor more than $1,000. In default in the payment of such fine the violator shall be confined in the county jail in the county wherein the unlawful act was committed one day for each $2 of the fine. In case of a continuance of the violation, every day thereof is a separate offense. Justice and district courts have concurrent jurisdiction with the circuit court of the respective county of all prosecutions under this subsection.

(3) Violation of ORS 706.420 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than one year, or both.

(4) Violation of ORS 706.610 is punishable, upon conviction, by a fine of not less than $1,000 nor more than $5,000, or by imprisonment in the county jail for not less than six months nor more than one year, or both. In addition, the violator shall forfeit his office.

(5) Violation of subsection (3) of ORS 706.690 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not less than six months nor more than one year, or both.

(6) Violation of ORS 706.730 is punishable, upon conviction, by a fine of not more than $1,000, or by imprisonment in the county jail for not less than six months, or both. In addition, the violator shall forfeit his office.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel