

## Chapter 717

### 1971 REPLACEMENT PART

## Sale of Checks

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**717.010 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Check" means any check, draft, money order, personal money order or other instrument for the transmission or payment of money.

(2) "Superintendent" means the Superintendent of Banks.

(3) "Deliver" means to deliver a check to the first person who in payment for such check makes or purports to make a remittance of or against the face amount thereof, whether or not the deliveror also charges a fee in addition to the face amount, and whether or not the deliveror signs the check.

(4) "Licensee" means a person duly licensed by the superintendent pursuant to this chapter.

(5) "Person" means any individual, partnership, association, joint stock association, trust or corporation, but does not include the United States Government or the government of this state.

(6) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission or handling of money, whether such instrument be signed by the seller or by the purchaser or remitter or some other person.

(7) "Sell" means to sell, issue or deliver a check.

[1965 c.503 §2]

**717.020 Short title.** This chapter may be cited as the "Sale of Checks Act."

[1965 c.503 §1]

**717.030 License to sell checks required.** Except as provided in ORS 717.040, no person shall engage in the business of selling checks, as a service or for a fee or other consideration, unless licensed pursuant to this chapter. The business of selling checks does not, of itself, constitute banking for the purposes of the Bank Act or branch banking for the purposes of ORS chapter 714.

[1965 c.503 §3]

**717.040 When license not required.** No license to sell checks is required of any of the following:

(1) Banks, trust companies, building and loan associations and savings and loan associations authorized to do business in this state; provided, however, that nothing in

this section shall be deemed to enlarge the powers of any of the persons referred to in this subsection.

(2) Incorporated telegraph companies in so far as they receive money at any of their respective offices or agencies for immediate transmission by telegraph.

(3) Agents or subagents of a licensee, as provided in subsection (1) of ORS 717.120 or agents and subagents of a bank with respect to the sale of the bank's checks whether on or off its business premises.

[1965 c.503 §4]

**717.050 Qualifications for license.** (1) Licenses shall be issued under this chapter only to persons whose financial responsibility, financial condition, business experience, character and general fitness are such as reasonably to warrant the superintendent to believe that the applicant's business will be conducted honestly, carefully and efficiently. The superintendent may investigate and consider the qualifications of officers and directors of an applicant as he considers advisable to determine whether the requirements of this subsection have been met.

(2) Every applicant for a license under this chapter shall have a net worth of at least \$100,000 computed according to generally accepted accounting principles.

[1965 c.503 §5]

**717.060 Content of application.** Each application for a license under this chapter shall be made in writing and under oath to the superintendent in such form as he may prescribe. The application shall state the full name and business address of:

(1) The proprietor, if the applicant is an individual.

(2) Every member, if the applicant is a partnership or association, except that if the applicant is a joint stock association having 50 or more members, only the name and business address of the association and each officer and director thereof is required to be stated on the application.

(3) Every trustee and officer, if the applicant is a trust.

(4) The corporation and each officer and director thereof, if the applicant is a corporation.

[1965 c.503 §6]

**717.070 Fee, financial statement and surety bond.** Each application for a license under this chapter shall be accompanied by:

(1) An investigation fee of \$250, payable to the superintendent, which is not to be refunded but which, if the license is granted, shall constitute the license fee for the first license year or part thereof.

(2) Financial statements of the applicant which the superintendent may require to be certified to by an independent public accountant reasonably showing the applicant's compliance with the requirements of subsection (2) of ORS 717.050.

(3) Except as provided in subsection (1) of ORS 717.080, a surety bond issued by a bonding company or insurance company authorized to do business in this state, in the principal sum of \$25,000 and in an additional principal sum of \$5,000 for each location, in excess of one, at which the applicant or his agents or subagents propose to sell checks in Oregon, but in no event shall the bond be required to be in a principal sum of over \$150,000. If the bond accompanying the application is in a principal sum of less than \$150,000, the application shall also be accompanied by a list of the locations at which the business is to be conducted. The bond shall be in a form satisfactory to the superintendent and shall not be cancelable, nor liability terminated thereunder, without first giving the superintendent at least 30 days' written notice of the proposed cancellation or termination. The bond shall be payable to the State of Oregon for the benefit of any claimants against the applicant or his agents or subagents to secure the faithful performance of the obligations of the applicant and his agents or subagents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Such claimants against the applicant or his agents or subagents may themselves bring suit directly on the bond, or the Attorney General may bring suit thereon on behalf of such claimants, either in one action or successive actions.

[1965 c.503 §7(1)]

**717.080 Deposit of securities in lieu of surety bond.** (1) In lieu of a surety bond or of any portion of the principal sum thereof as required by subsection (3) of ORS 717.070, the applicant may deposit with the superintendent (who shall in turn deposit the same with the State Treasurer) or with such banks, trust companies or national

banks in this state as designated by the applicant and approved by the superintendent, stocks, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, school district or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required surety bond or portion thereof. The securities deposited as provided in this subsection shall be held to secure the same obligations as would the required surety bond, but the depositor may receive all interest and dividends thereon, may with the approval of the superintendent, substitute other securities for those deposited and shall substitute other securities upon written order of the superintendent for good cause shown.

(2) Securities deposited in accordance with the provisions of subsection (1) of this section shall be returned to a licensee upon the termination of his license, whether voluntarily or involuntarily, upon the licensee either submitting proof to the superintendent that all issued and outstanding checks of the licensee, his agents or subagents, have been paid, or by the licensee posting a surety bond, in a form meeting the requirements of ORS 717.070, in an amount to be determined by the superintendent not to exceed the amount of all of the issued and outstanding checks of the licensee, his agents or subagents, which have not been paid; provided, however, that such securities shall be returned and no bond required upon submission to the superintendent of proof that the only checks of the licensee outstanding are those for which the purchaser, the payee or any other holder has been reimbursed and those with respect to which the funds for their redemption have been deposited in compliance with ORS 98.302 to 98.432.

[1965 c.503 §7(2), (3)]

**717.090 Investigation; issuance of license.** Upon the filing of an application as provided in ORS 717.060 accompanied by the fee and documents required by ORS 717.070 and 717.080, the superintendent shall investigate the qualifications of the applicant required by ORS 717.050. If he determines that such qualifications have been met and that the bond or deposit of securities as required

by ORS 717.070 and 717.080 is in the prescribed amount, he shall issue to the applicant a license to engage in the business of selling checks in this state.

[1965 c.503 §8]

**717.100 Reports required of certain licensees; additional bond or securities may be required.** (1) Each licensee who does not have on file or deposit a bond or securities as required by ORS 717.070 and 717.080 in the undiminished principal sum of \$150,000 shall file quarterly reports with the superintendent setting forth the locations at which he sells checks in this state as of January 1, April 1, July 1 and October 1 in each year. Such reports shall be filed with the superintendent not later than the 15th day of the month for which the report is made. Within 10 days following the date of filing of such report, the principal sum of the bond or securities shall be increased or may be decreased to reflect any increase or decrease in the number of locations at which a licensee sells checks, in conformance with the requirements for applicants specified in ORS 717.070 and 717.080.

(2) If at any time the superintendent reasonably determines that the bond or securities filed or deposited pursuant to this chapter are insecure, deficient in amount or exhausted in whole or in part, he may by written order require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this chapter. Each licensee shall comply with such order within 10 days following service of such order upon the licensee.

[1965 c.503 §9]

**717.110 Term of license; fee upon issuance and renewal.** A license issued pursuant to the provisions of this chapter shall continue in force until terminated voluntarily by the licensee or terminated, revoked or suspended by order of the superintendent, provided that each licensee shall deliver to the superintendent annually on or before April 15 of each year following the calendar year in which the license is issued a fee of \$250 for the first year and \$150 each year thereafter, payable to the superintendent.

[1965 c.503 §10]

**717.120 Agents and subagents; when license required of agent.** (1) Any licensee may conduct his business of selling checks at one or more locations within this state

through or by means of such agents and subagents as the licensee may from time to time designate or appoint. Except as provided in subsection (2) of this section, no license shall be required of any such agent or subagent of a licensee.

(2) A license issued under this chapter shall be required of any agent or subagent, other than a person referred to in subsection (1) or (2) of ORS 717.040, who sells a licensee's checks over the counter to the public and in the regular conduct of such business receives or at any time has access:

(a) To the licensee's checks, which, having been paid, are returned through banking channels or otherwise for verification or for reconciliation or accounting with respect thereto; or

(b) To bank statements relating to checks returned as specified in paragraph (a) of this subsection.

[1965 c.503 §11]

**717.130 Liability of licensee.** Each licensee is liable for the payment of all checks which he sells, in whatever form and whether directly or through an agent or subagent, as the maker or drawer thereof according to the negotiable instrument laws of this state; and a licensee who sells a check, whether directly or through an agent or subagent, upon which he is not designated as maker or drawer shall have the same liabilities with respect thereto as if he had signed the check as the drawer thereof.

[1965 c.503 §12]

**717.140 Check to bear name of licensee.** Every check sold by a licensee, directly or through an agent or subagent, shall bear the name of the licensee clearly imprinted thereon.

[1965 c.503 §13]

**717.150 Revocation and suspension of licenses.** The superintendent may revoke or suspend a license on any ground on which he may refuse to grant a license or for violation of any provision of this chapter. Whenever the superintendent has reasonable cause to believe that grounds for revocation of a license exist, he may investigate the business, books and records of such licensee.

[1965 c.503 §14]

**717.160 Hearing; notice; order of denial, revocation or suspension; appeal.** Except for nonpayment of the fee required by

ORS 717.110, no license shall be denied, revoked or suspended by the superintendent without according opportunity for a hearing in accordance with ORS 183.310 to 183.500; provided, however, that where the immediate protection of the public interest so requires, a license shall be suspended without a hearing in accordance with subsection (2) of ORS 183.430. Any order of the superintendent denying, revoking or suspending a license issued under this chapter shall state the grounds upon which the order is based and, except for a summary order issued in accordance with subsection (2) of ORS 183.430 shall become effective no earlier than 20 days after written notice thereof has been sent by registered or certified mail to the applicant or licensee at

his principal place of business. Appeals from orders of the superintendent may be taken to the courts of this state as provided by ORS 183.310 to 183.500.

[1965 c.503 §15; 1971 c.734 §173]

**717.990 Penalties.** Any person who directly or through an agent or subagent violates or attempts to violate any provision of ORS 717.030 shall be punished, upon conviction, by imprisonment in the county jail for not more than 90 days or by a fine of not less than \$100 or more than \$500, or both. Each transaction and violation of any provision of ORS 717.030 and each day that a violation thereof continues shall be a separate offense.

[1965 c.503 §16]

#### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1971.

Robert W. Lundy  
Legislative Counsel

#### CHAPTERS 718 TO 720

[Reserved for expansion]

