Chapter 708

1973 REPLACEMENT PART

Regulation of Institutions Generally

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REGULATION OF INSTITUTIONS

708.005 [Repealed by 1973 c.797 §428]

708.006 Definitions. As used in this chapter:

(1) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(2) "Obligations" includes:

(a) The direct liability of the maker or acceptor of paper discounted with or sold to an institution;

(b) The liability of the drawer, indorser or assignor;

(c) If obligations of a copartnership or association, the obligations of the several members of the copartnership or association; and

(d) If obligations of a corporation, the obligations of all subsidiaries of the corporation in which the corporation owns or controls 50 percent or more of the capital stock.

[1973 c.797 §98]

708.010 Inapplicability of departmental banking laws. All assets of commercial and savings departments of banks may be commingled. All deposit liabilities are chargeable against all assets.

[Amended by 1973 c.797 §99]

708.015 [Repealed by 1973 c.797 §428]

708.020 [Amended by 1963 c.195 §5; 1963 c.580 §83; 1971 c.138 §1; repealed by 1973 c.797 §428]

708.025 Savings accounts; conditions for withdrawal; interest rate. (1) Within the limits established under applicable federal statutes and regulations, a bank receiving savings accounts shall prescribe by its bylaws or by contract with its depositors, the time and conditions on which repayment is to be made to depositors or to their order. The bank shall give a copy of the terms and conditions of repayment to the depositor when the account is opened.

(2) A bank may require 30 days' notice to withdraw any sum up to $500; 90 days' notice to withdraw any sum over $500 and not over $5,000; and 180 days' notice to withdraw any sum over $5,000. Withdrawals during a specified time period may be limited in the aggregate to the amount designated for that time period.

(3) The directors of a bank may prescribe, within the limits established under applicable federal statutes and regulations, the rate of interest which shall be paid on savings accounts and the time, terms and conditions of payment of interest.

(4) A bank shall not knowingly permit a depositor to overdraw his savings account.

[Amended by 1961 c.96 §1; 1973 c.797 §100]

708.026 Deposits; FDIC insurance required. Banks shall secure insurance for their deposits from the Federal Deposit Insurance Corporation or a similar organization organized under the laws of the United States.

[1973 c.797 §100a]

Note: 708.026 was not added to and made a part of ORS chapter 708 or any series therein by legislative action.

708.027 [1961 c.165 §2; repealed by 1973 c.797 §428]

708.030 Real estate loans. (1) Subject to the restrictions contained in ORS 708.305 to 708.370, any bank may loan, upon obligations secured by first liens on improved real estate or leaseholds, not to exceed in the aggregate 25 percent of its capital and surplus plus 10 percent of demand deposits, and 75 percent of its time deposits. For the purposes of this section, surplus does not include undivided profits. The lien may be subsequent to taxes not due and bonded indebtedness for public improvements not due, but the obligation plus taxes not due and bonded indebtedness for public improvements not due, shall not exceed the percentage of appraised value of the real estate or leasehold provided under ORS 708.034.

(2) A mortgage on real estate may be a first lien within the meaning of this section and ORS 708.034 to 708.062 although subordinate to another lien if the bank:

(a) Holds funds pledged by or on behalf of the borrower in an amount sufficient to cover at all times the prior lien; and

(b) May, at any time, effect payment on the prior lien.

[Amended by 1955 c.315 §1; 1957 c.255 §1; 1961 c.220 §1; 1965 c.168 §1; 1971 c.209 §1; 1973 c.797 §101]

708.032 [1959 c.383 §1; 1973 c.797 §109; renumbered 708.068]

708.034 Real estate loans, limitations and security. (1) The amount of a loan authorized by ORS 708.030 shall not exceed 60 percent of the appraised value of the real estate or leasehold offered as security and shall not be made for a term longer than five years, except:

(a) A loan may be made in an amount not to exceed 70 percent of the appraised value for a term not longer than 10 years if the loan is secured by an amortized mortgage, deed of trust or other similar instrument under the terms of which the instalment payments are sufficient to amortize 40 percent or more of the principal of the loan within a period of not more than 10 years.

(b) If a loan is secured by an amortized mortgage, deed of trust or other similar instrument under the terms of which the instalment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity, a loan may be made in an amount not to exceed:

(A) 95 percent of the appraised value for a term not longer than 30 years if that part of the loan which exceeds 80 percent of the appraised value is insured against loss by a mortgage insurer authorized to do business in Oregon; or

(B) 80 percent of the appraised value for a term not longer than 30 years.

(2) If the proceeds of any loan are to be used to finance the construction of a building on the real estate, as authorized under ORS 708.068, then the term of the loan may exceed the terms prescribed in subsection (1) of this section by the time required to complete construction but not exceeding 24 months. Amortization of the principal is not required during the construction period, but interest shall be paid quarterly.
[1973 c.797 §102]

708.035 [Amended by 1973 c.797 §112; renumbered 708.078]

708.038 Real estate loans on leaseholds. (1) A loan shall not be made on any leasehold unless the lease has at least 10 years to run beyond the maturity date of the loan, or may be renewed so that it will not expire for at least 10 years after the maturity date of the loan.

(2) A bank shall not make a loan secured by a leasehold if:

(a) The covenants and restrictions contained in the lease providing for forfeiture or reversion in the event of a breach are more onerous or burdensome than those contained in leases in general use in this state;

(b) The lease does not permit acquisition of the leasehold by the bank by voluntary conveyance and judicial process; or

(c) The lease contains restrictions that would jeopardize recovery of the security for the loan.
[1973 c.797 §103]

708.040 [Amended by 1973 c.797 §113; renumbered 708.082]

708.044 Appraised value of leasehold defined. As used in ORS 708.030, 708.034 and 708.052, the appraised value of a leasehold is the full appraised value of the fee simple estate of the land and improvements, less the greater of:

(1) The value of the land without improvements; or

(2) The total rental due under the lease for the land from the date the loan is made or acquired by the bank to the maturity of the loan.
[1973 c.797 §104]

708.045 [Repealed by 1955 c.310 §2]

708.048 Real estate loans; forest tracts. (1) A bank may make real estate loans secured by first liens upon forest tracts which are properly managed. The loans shall be in the form of an obligation secured by mortgage, deed of trust or other similar instrument. The amount of the loan secured by a first lien upon a forest tract shall not exceed 60 percent of the appraised fair market value of the growing timber, lands, and improvements thereon offered as security, and the loan shall be made upon terms and conditions which assure that at no time shall the loan balance exceed 60 percent of the original appraised total value of the property then remaining.

(2) A loan secured by a first lien upon a forest tract shall not be made for a term longer than three years, except the loan may be made for a term not longer than 15 years if the loan is secured by an amortized mortgage, deed of trust or other similar instrument under which the instalment payments are sufficient to amortize the principal of the loan within a period of not more than 15 years.

(3) All loans secured by first liens upon

forest tracts shall be included in the permissable aggregate of all real estate loans prescribed in ORS 708.030, but shall not in the aggregate exceed 50 percent of a bank's capital and surplus.
[1973 c.797 §105]

708.050 [Amended by 1973 c.797 §114; renumbered 708.088]

708.052 Purchase of real estate contracts as loans. The purchase of a bona fide contract covering sale of real estate constitutes a loan on real estate within the meaning of ORS 708.030 and ORS 708.034 to 708.062. The bank may acquire contracts if the requirements of ORS 708.030 and 708.034 are complied with. The appraised value of real estate covered by the contracts shall be determined as of the date of the purchase of the contract.
[1973 c.797 §106]

708.055 [Repealed by 1973 c.797 §428]

708.058 Real estate loans, evidence of title and insurance. In support of a real estate or leasehold obligation, a bank shall maintain a file containing such appraisal, evidence of merchantable title and insurance as may be required by the superintendent.
[1973 c.797 §107]

708.060 [Repealed by 1973 c.797 §428]

708.062 Real estate loans; restrictions. ORS 708.030 and 708.034 to 708.062 shall not apply to mortgages or other liens on real estate or leaseholds taken to secure a debt previously contracted in good faith or to facilitate the sale of real estate owned by the bank.
[1973 c.797 §108]

708.068 Construction loans. Subject to the restrictions contained in ORS 708.305 to 708.370, any bank may make loans to finance the construction of buildings and the improvements appurtenant thereto when the loan is secured by a first lien on the real estate where the building and improvements are being or are to be constructed. The bank making the loan shall require sufficient guaranty from the contractor, builder or owner for the completion of the construction in accordance with the plans and specifications and within the estimated contract price for the construction. Moneys on the loans shall be advanced from time to time during the progress of construction upon a certificate of estimate to be furnished by the architect, contractor, builder, superintendent in charge of the construction or owner. If the loan exceeds the limitations set forth in ORS 708.034, the bank making the loan shall require the borrower to furnish a copy of an agreement entered into with a financially responsible person whereunder the person agrees to refinance or purchase, without recourse, the entire loan upon completion of the construction, or in any event not later than 24 months after the date of the construction loan.
[Formerly 708.032]

708.072 Loans excepted from limitations prescribed for real estate loans. Loans, including but not limited to home improvement loans, secured by real estate and made in substantial reliance upon the credit standing of the borrower, insurance, collateral or combination of these factors, are not real estate loans, and additional security in the form of junior mortgages, taken as a matter of prudent banking practice, need not meet the requirements of ORS 708.030 or 708.034 to 708.062.
[1973 c.797 §110]

708.078 Stock in other corporations. (1) Upon the written application of the board of directors filed with the superintendent and subject to his written approval and any limitations he may prescribe, an institution may carry fully paid-up and nonassessable capital stock of any other corporation as an asset, if:

(a) The stocks are acquired for the purpose of strengthening the institution's capital structure or the elimination of undesirable assets.

(b) The aggregate amount of the stocks carried on the books as an asset is not in excess of 20 percent of the institution's unimpaired capital and surplus.

(2) An institution carrying the capital stock of another corporation shall not make a loan, directly or indirectly, to the corporation unless the obligation is fully secured.

(3) The stock may be held for such period as the superintendent may determine, but in no event longer than that provided under ORS 708.410 for the holding of real estate other than banking premises.

(4) The book value of the asset shall be amortized in the manner provided in ORS 708.410 for the reduction of the book value of real estate other than banking premises.

(5) This section is not applicable to any stock that may be acquired in connection with the insurance of deposits or stock that

may be purchased as a part of any transaction in which an institution borrows from the United States or an agency of the United States. This section does not repeal or in any way limit or modify ORS 711.470.
[Formerly 708.035]

708.082 Obligations; limitation on amount or security. The limitations provided by law as to amount or security upon obligations to an institution of any person are not applicable to that portion of any loan made by an institution which is secured or covered by guaranties or by commitments or agreements to take over or purchase, made by any Federal Reserve Bank, the United States, any agency of the United States or any corporation wholly owned, directly or indirectly, by the United States.
[Formerly 708.040]

708.088 Bad debts; charging off. (1) Upon instruction of the superintendent, an institution shall charge off all bad debts.

(2) A bad debt is a debt:

(a) On which interest is past due and unpaid for 12 months, unless the debt is well secured and in process of collection; or

(b) Which is classified by an examiner as a bad debt.
[Formerly 708.050]

RESERVE REQUIREMENTS AND RESERVE BANKS

708.100 Reserve requirements. (1) An institution shall have on hand at all times, in lawful money of the United States, or on deposit payable on demand in reserve institutions, approved by the division, an amount equal to 15 percent of the total demand deposits, and five percent of the total time deposits. The reserve required on time deposits may be in the form of unpledged direct obligations of the United States Government that mature within one year. An institution shall not be required to maintain any reserve on deposits of the United States. Cash items shall not be considered as part of the reserve of an institution, excepting unpresented checks on other solvent banks or national banking associations in the same town or city received in the regular course of business and payable forthwith. The method of computing reserves and the forms to be used shall be prescribed by the superintendent.

(2) If an unanticipated reserve deficiency exists at the close of any banking day due to necessary delayed posting of cash items or the clearance of large cash items without notification, the institution shall eliminate the reserve deficiency within three banking days. If a deficiency is not eliminated within the three-day period, the institution is subject to a penalty to be assessed and collected by the superintendent at the time of the examination of the institution or more frequently, as determined by the superintendent. The penalty shall be assessed on the basis of average daily deficiencies from the expiration of the three-day period until the deficiency is eliminated at a rate of two percent per annum above the lowest rate applicable to borrowings by a member bank from its Federal Reserve Bank on the first day of the calendar month in which the deficiency first occurs. All moneys received by the superintendent under this subsection shall be deposited with the State Treasurer to be credited to the State Banking Fund.
[1973 c.797 §115]

708.105 [Amended by 1973 c.797 §118; renumbered 708.126]

708.108 Federal Reserve Banks; reserve requirements. If an institution becomes a member of the Federal Reserve System, it shall comply with the reserve requirements of the Federal Reserve Act and its amendments. Compliance with the Federal Reserve Act relieves the institution from compliance with ORS 708.100 and 708.116.
[1973 c.797 §116]

708.110 [Amended by 1973 c.797 §119; renumbered 708.136]

708.115 [Amended by 1963 c.195 §6; 1973 c.797 §120; renumbered 708.146]

708.116 Reserve requirements; change by Banking Division. If the superintendent determines that the maintenance of sound banking practices or the prevention of injurious credit expansion or contraction make it advisable, the superintendent may by rule, as provided in ORS 183.310 to 183.410, change the reserve requirements established under ORS 708.100. The reserves required under the rule shall not be less than 50 percent nor more than 200 percent of the amount of the reserves required under ORS 708.100.
[1973 c.797 §117]

708.120 [Repealed by 1973 c.797 §428]

708.126 Deficiency in reserve; loans, discounts, investments and profit distribution prohibited. If the reserve is not corrected under subsection (2) of ORS 708.100, an institution shall not increase its loans and discounts except the discounting or purchasing of bills of exchange payable at sight or on demand, nor make any investment of its funds or distribution of its profits until the required reserve is restored.
[Formerly 708.105]

708.136 Deficiency in reserve; notice for correction. If the reserve of an institution is found by the superintendent to be less than the amount required under ORS 708.100 and 708.116, the superintendent shall notify the institution to make good the reserve.
[Formerly 708.110]

708.146 Deposit of reserve funds in approved banks; approval of reserve depository banks. (1) A bank shall not deposit any of its reserve funds in any other bank or national bank, except a Federal Reserve Bank, unless the bank or national bank has been approved as a reserve depository bank by the superintendent and a majority of the directors of the depositing bank.

(2) A bank or national bank applying for approval as a reserve depository bank and approved reserve depository banks shall furnish the superintendent with the information he may require to evaluate the bank or national bank as a reserve depository bank.

(3) A bank or national bank shall not be approved by the superintendent as a reserve depository bank unless it has an unimpaired paid-up capital and surplus of $1 million or more.

(4) The superintendent may deny an application or cancel any appointment as a reserve depository bank.

(5) The restrictions of subsection (1) of this section shall not apply to deposits which are fully insured by the Federal Deposit Insurance Corporation.
[Formerly 708.115]

BORROWING, REDISCOUNTING AND PLEDGING ASSETS

708.205 Borrowed money and rediscounts; records kept; issuing notes or pledging assets; certificates of deposit. (1) An institution borrowing money or rediscounting any of its notes shall show on its books and in its reports the amount borrowed or rediscounted.

(2) An officer, director or employe of an institution may issue the note of the institution for borrowed money, rediscount any note or pledge the assets of the institution only:

(a) When authorized by previous resolution of the board of directors of the institution entered upon the minutes of the institution; and

(b) Under rules and in the form prescribed by the superintendent pursuant to ORS 183.310 to 183.410.

(3) A bank shall not issue its certificate of deposit for the purpose of borrowing money.
[Amended by 1973 c.797 §121]

708.210 Pledge of assets. An institution shall not pledge any of its assets except as authorized in ORS 708.212, 708.220, 708.225, 708.265 and 709.030.
[Amended by 1973 c.797 §122]

708.212 Borrowing from Federal Home Loan Bank. An institution may borrow from the Federal Home Loan Bank and pledge collateral therefor according to the laws creating the Federal Home Loan Bank and the regulations made pursuant to the laws.
[1973 c.797 §123]

708.215 Rediscounting and selling assets. (1) An institution may rediscount or sell any of its assets for temporary purposes.

(2) An institution may rediscount with and sell to a Federal Reserve Bank any notes, drafts, bills of exchange, acceptances and other securities, to the same extent as this privilege is given to national bank members under the terms of the Federal Reserve Act, or by regulations of the Federal Reserve Board made pursuant thereto.
[Amended by 1973 c.797 §124]

708.220 Limitation on borrowing money and collateral. (1) A bank may, for any temporary purpose, borrow money and may pledge its assets as security for the loan, but the value of the assets pledged shall not be more than 50 percent greater than the amount borrowed. If the value of the assets pledged is more than 25 percent greater than the amount borrowed or if the amount borrowed is greater than the capital and surplus of the bank, the transaction

shall first be approved in writing by the superintendent. If the approval of the superintendent is not obtained, the loan is not invalid or illegal as to the lender.

(2) Any pledge of collateral to any depositor or creditor not permitted by law, or in excess of the amount prescribed in subsection (1) of this section, is void as to that portion of the collateral pledged which is excessive or illegal. In case of liquidation the illegal or excessive collateral shall be returned to the superintendent upon demand without the prior payment of the debt it was intended to secure, but the creditor or depositor may retain the collateral which is legally pledged.
[Amended by 1973 c.797 §125]

708.225 Pledge of assets to secure public or trust funds; "public funds" defined. (1) A bank may pledge its assets to secure:

(a) Public funds;

(b) Trust funds awaiting investment or distribution; and

(c) Trust funds deposited with it by an institution.

(2) As used in this section, "public funds" means funds belonging to:

(a) The State of Oregon which may be deposited to the official credit of the State Treasurer, and funds which may be deposited in an official capacity by any state officer, board or commission.

(b) Any county within this state deposited to the official credit of the county treasurer, including the funds of any irrigation or drainage district organized under the laws of this state, or any school district within this state where funds of the school district are deposited with the county treasurer, and funds which may be deposited in an official capacity by any county officer.

(c) Any port, port commission, dock or dock commission, which may be deposited to the credit of the port, port commission, dock or dock commission, or the treasurer thereof.

(d) Any city deposited to the official credit of the city treasurer and funds which may be deposited in an official capacity by any officer of any municipal corporation.

(e) Any school district within the State of Oregon.

(f) Any district organized under the laws of this state with the power to levy taxes.

(g) The United States and any of its agencies and instrumentalities to be deposited in the manner and under the rules prescribed by the United States Government.
[Amended by 1973 c.797 §126]

708.230 Securing deposits by surety bond or insurance. (1) An institution may secure any of the funds deposited with the institution by giving a surety bond or policy of insurance under which some person other than the institution becomes liable for deposits except the aggregate amount of the bonds or policies of insurance shall not exceed 20 percent of the capital of the institution.

(2) A depositor may insure any deposit if the institution is not a party to the insurance and does not pay any premium or other charges.
[Amended by 1973 c.797 §127]

708.235 Security by both assets and bond; prorating. If trust funds or public funds are secured by the assets of an institution and a bond of a surety company, the assets and bond shall be held as security for a ratable proportion of the deposit on the basis of the market value of the assets and of the total amount of the surety bonds.
[Amended by 1973 c.797 §128]

708.240 [Repealed by 1973 c.797 §428]

708.245 [Repealed by 1973 c.797 §428]

708.250 "Capital debentures" defined for ORS 708.265 to 708.272. "Capital debentures" means capital notes, capital debentures and any other form of unsecured obligations issued by an institution to evidence borrowings where the rights of the lender are subordinate to the rights of the depositors.
[Amended by 1963 c.195 §7; 1973 c.797 §130]

708.255 [Amended by 1963 c.195 §8; repealed by 1973 c.797 §428]

708.260 [Repealed by 1973 c.797 §428]

708.265 Borrowing from approved sources; issuance of capital debentures; sources for repayment. (1) An institution may borrow funds from any source available for any proper purpose approved by the superintendent and issue capital debentures to evidence the borrowings. The terms and amounts of the capital debentures shall be approved by the superintendent and authorized by the board of directors of the institution.

(2) The rights and priorities of the lenders shall be stated in the capital debenture.

(3) Except where the borrowing institution goes into liquidation, capital debentures and interest thereon are enforceable only against the sources, and in the manner, approved by the superintendent and the board of directors of the institution at the time of the borrowing. If liquidation occurs, capital debentures shall be paid out of assets remaining after depositors, other prior claims and the expenses of liquidation have been paid.

[Amended by 1973 c.797 §131]

708.270 [Repealed by 1973 c.797 §428]

708.272 Issuance of convertible capital debentures. (1) Subject to any limitation in its articles, an institution may, in connection with the issue, subscription or sale of any of its bonds or capital debentures, grant to the purchaser or holder thereof, the right to convert them into shares of any class or classes.

(2) The terms and conditions of the conversion rights not fixed by the articles shall be fixed by a resolution adopted by the board of directors.

(3) The terms and conditions of the conversion rights shall be set forth in the certificate or other instruments evidencing the securities in connection with the issue, subscription or sale in which the rights are granted.

(4) If at the time of granting conversion rights, or at any later time, the institution is not authorized by its articles to issue all the shares required for the satisfaction of the rights, the additional number of shares required to be issued upon the exercise of the conversion rights shall be authorized by an amendment to the articles. The authorization by the shareholders to amend the articles acts as a waiver by the shareholders of their preemptive rights.

[1973 c.797 §132]

708.275 [Repealed by 1973 c.797 §428]

LOANS AND INVESTMENTS

708.300 "Capital and surplus" defined for ORS 708.305 to 708.380. As used in ORS 708.305 to 708.380 the term "capital and surplus" includes capital debentures with a maturity date of more than five years.

[1973 c.797 §134]

708.305 Limitation on amount of obligations to bank. (1) Except as provided in ORS 708.310 to 708.380, the total obligations of a person to a bank shall not exceed 15 percent of the aggregate paid-up and unimpaired capital and surplus. Any loan made under any of such exceptions shall be in addition to the 15 percent loan limitation.

(2) The limitations of this section shall not apply to letters of credit or bankers' acceptances provided for in ORS 708.380 or to time or demand deposits in approved reserve depository banks or other banks.

(3) Obligations negotiated in another name for the benefit of any person shall be included in the obligations of the person benefited.

[Amended by 1955 c.310 §1; 1973 c.797 §133]

708.310 Obligations of indorser of discounted commercial paper. (1) Obligations as indorser arising out of the discount of commercial or business paper actually owned by the person negotiating the same are not subject under ORS 708.305 to any limitation based upon capital and surplus.

(2) As used in this section "commercial or business paper" means negotiable notes, drafts, acceptances or bills of exchange having a maturity of not more than six months, which have been given by one person to another in settlement of a commercial or business transaction involving the purchase of goods, and upon which both parties to the transaction are liable either as maker, drawer, acceptor or indorser.

[Amended by 1973 c.797 §135]

708.315 Obligations secured by shipping documents. Obligations drawn in good faith against actually existing values and secured by shipping documents, conveying or securing title to instruments, goods or commodities in process of shipment are not subject under ORS 708.305 to any limitation based upon capital and surplus.

[Amended by 1973 c.797 §136]

708.320 Noncommercial short-term notes. Obligations as indorser or guarantor of notes, other than commercial or business paper excepted under ORS 708.310, having a maturity of not more than six months, and owned by the person indorsing and negotiating the same, are subject under ORS 708.305 to a limitation of 15 percent of capital and surplus.

[Amended by 1973 c.797 §137]

708.325 Instalment consumer paper. (1) Obligations as indorser or guarantor of negotiable or nonnegotiable instalment consumer paper which carry a full recourse indorsement or unconditional guarantee by the person transferring the obligation and conform to the rules prescribed by the superintendent, are subject to a limitation of 20 percent of capital and surplus.

(2) The limitation of subsection (1) of this section does not apply if the bank relies primarily on the makers of the obligations for the payment of the obligations, the bank has a reasonably adequate knowledge of the financial condition of the makers of the obligations and an officer of the bank certifies in writing that the responsibility of the makers of the obligations has been evaluated. The certificate shall be retained as part of the records of the bank.
[Amended by 1973 c.797 §138]

708.330 Bankers' acceptances of other banks. Obligations in the form of bankers' acceptances of other banks of the kind described in section 13 of the Federal Reserve Act are not subject under ORS 708.305 to any limitation based upon capital and surplus.
[Amended by 1973 c.797 §139]

708.335 Obligations secured by documents covering insured staples. (1) Obligations of any person, in the form of notes or drafts secured by documents of title covering readily marketable, nonperishable staples shall not exceed:

(a) 15 percent of capital and surplus where the principal amount of the obligation does not exceed 85 percent of the market value of the staples.

(b) 20 percent of capital and surplus where the principal amount of the obligation does not exceed 80 percent of the market value of the staples.

(c) 25 percent of capital and surplus where the principal amount of the obligation does not exceed 75 percent of the market value of the staples.

(d) 35 percent of capital and surplus where the principal amount of the obligation does not exceed 70 percent of the market value of the staples.

(e) 40 percent of capital and surplus where the principal amount of the obligation does not exceed 65 percent of the market value of the staples.

(2) If it is customary to insure the staples mentioned in subsection (1) of this section, the staples shall be fully covered by insurance.

(3) This section does not apply to obligations of a person arising from the same transactions or secured upon the identical staples for more than 10 months.
[Amended by 1973 c.797 §140]

708.340 Obligations secured by documents covering livestock. (1) Obligations of any person in the form of notes or drafts secured by documents of title covering livestock are subject to a limitation under ORS 708.305 to 15 percent of capital and surplus where the principal amount of the obligation is not more than 80 percent of the market value of the livestock.

(2) Turkeys are considered as livestock within the meaning of this section.
[Amended by 1973 c.797 §141]

708.345 Notes secured by interest-bearing obligations of United States, state and political subdivisions. (1) Obligations of any person in the form of secured notes are not subject under ORS 708.305 to any limitation based upon capital and surplus if the principal amount of the obligation is not more than 90 percent of the market value of the security and the obligation is secured by:

(a) Obligations of the United States, including those of its agencies and instrumentalities;

(b) Interest-bearing obligations of public housing agencies issued pursuant to the United States Housing Act of 1937, as amended; or

(c) Interest-bearing obligations of the State of Oregon, any county, city, school district, port district or other public body with the power to levy taxes issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county or city within the State of Oregon, if the issuing body has not been in default with respect to the payment of principal or interest on any of its obligations within five years preceding the date of the investment.

(2) Notwithstanding the limitation under ORS 708.305, obligations of any person in the form of secured notes are subject to a limitation of 20 percent of capital and surplus if the principal amount of the obligation is not more than 90 percent of the market value of the securities and the obligation is secured by bonds of any state of the

United States or bonds of any county, city, school district, port district or other public body in the United States payable from ad valorem taxes and the bonds are rated in one of the two highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating state and municipal bonds.
[Amended by 1973 c.797 §142]

708.350 [Repealed by 1973 c.797 §428]

708.355 Demand notes secured by deposit account assignment. Obligations of any person in the form of notes payable upon demand are not subject to any limitation when fully secured by a bona fide assignment of a deposit account subject to time restrictions, if:

(1) Such deposit account is fully or partially insured, guaranteed or underwritten by the United States Government or any agency or instrumentality of the United States by virtue of any Acts of Congress or amendments thereto; and

(2) The time restrictions to which the deposit account is subject are not in excess of 24 months.
[Amended by 1963 c.502 §1; 1973 c.797 §143]

708.360 Notes secured by life insurance policy assignment. Obligations of any person in the form of notes secured by a bona fide assignment of a life insurance policy having a cash surrender value of not less than 100 percent of the amount of the obligations, plus an amount equal to one annual premium on the insurance policy, are subject under ORS 708.305 to a limitation of 10 percent of capital and surplus.
[Amended by 1973 c.797 §144]

708.365 Notes secured by first lien on real estate. Subject to the limitations of ORS 708.030, obligations of any person in the form of notes secured by a first lien on real estate are subject to a limitation of 10 percent of capital and surplus.
[Amended by 1973 c.797 §145]

708.370 Loans guaranteed by Federal Reserve Bank, United States or instrumentality. The limitations provided in ORS 708.305 to 708.365 as to amount or security upon obligations to any bank of any person are not applicable to that portion of any loan which is secured or covered by guaranties or by agreements to take over or purchase made by private company mortgage insurance or guaranty, any Federal Reserve Bank or the United States or any department, bureau, board, commission or agency of the United States, including any corporation wholly owned, directly or indirectly, by the United States.
[Amended by 1973 c.797 §146]

708.375 Obligations of guarantors. Notwithstanding ORS 708.305 to 708.365 and with the written permission of the superintendent, any person may become obligated to a bank for any amount to provide additional security to any obligations previously contracted in good faith. Such obligation shall be considered the same as a direct obligation as maker in determining whether any additional loans may be made to the person.
[Amended by 1973 c.797 §147]

708.380 Acceptance of drafts and bills of exchange; issuance of letters of credit. (1) A bank may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace, which grow out of transactions involving the importation or exportation of goods, or the domestic shipment of goods, if documents of title are attached at the time of acceptance.

(2) A bank shall not accept drafts or bills of exchange or issue letters of credit, whether in a foreign or domestic transaction, for any one person to an amount equal at any one time in the aggregate to more than 20 percent of its paid-up and unimpaired capital and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance of letter of credit.

(3) A bank shall not accept bills or issue letters of credit to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital and surplus. The aggregate of acceptances or bills growing out of domestic transactions shall not exceed 50 percent of its capital and surplus.

(4) A bank may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace, drawn under rules prescribed by the superintendent or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange, as required by the usages of trade in the respective

countries, dependencies or insular possessions. A bank shall not accept the drafts or bills of exchange for any one bank to any amount exceeding in the aggregate 20 percent of the paid-up and unimpaired capital and surplus of the accepting bank, unless the draft or bill of exchange is accompanied by documents conveying or securing the title or by some other adequate security. A bank shall not accept the drafts or bills of exchange in an amount exceeding at any time the aggregate of its paid-up and unimpaired capital and surplus.
[Amended by 1973 c.797 §148]

708.385 Investments; valuation; entry on books. Investments made by a bank shall be entered on the books of the bank in a sum not to exceed their cost to the bank calculated according to accepted principles of accounting.
[Amended by 1973 c.797 §149]

708.388 Obligations of United States, state and political subdivisions. (1) Institutions may invest, without regard to any limitation based on capital and surplus in:

(a) Obligations of the United States, including those of its agencies and instrumentalities;

(b) Interest-bearing obligations of public housing agencies issued pursuant to the United States Housing Act of 1937, as amended; and

(c) Interest-bearing obligations of the State of Oregon, any county, city, school district, port district or other public body with the power to levy taxes issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county or city within the State of Oregon, if the issuing body has not been in default with respect to the payment of principal or interest on any of its obligations within five years preceding the date of the investment.

(2) Subject to a limitation of 20 percent of capital and surplus, institutions may invest in bonds of any other state of the United States or bonds of any out-of-state county, city, school district, port district or other public body in the United States payable from ad valorem taxes, if the bonds are rated in one of the two highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating state and municipal bonds.
[1973 c.797 §150]

708.390 [Amended by 1967 c.359 §702; repealed by 1973 c.797 §428]

708.395 Real and personal property, right to purchase, hold and dispose of. An institution may purchase, hold, convey, sell or lease:

(1) The lots and buildings in which the business of the institution is carried on, including, with its offices, other apartments in the same building to rent as a source of income.

(2) Furniture and fixtures, vaults and safe deposit vaults and boxes and other personal property as necessary to carry on the business of the institution.

(3) Real or personal property purchased by or conveyed to the institution in satisfaction of or on account of debts previously contracted in the course of its business.

(4) Real estate purchased at execution sale or decree under securities held by the institution.

(5) Real estate conveyed to the institution in connection with its purchase of a bona fide contract of sale covering the real estate conveyed.

(6) Real estate purchased with the approval of the superintendent for the purpose of future location or expansion of the business of the institution.
[Amended by 1963 c.502 §2; 1973 c.797 §151]

708.400 Restrictions on real and personal property used in business. (1) Real estate, furniture, fixtures and safe deposit vaults and boxes mentioned in subsections (1), (2) and (6) of ORS 708.395 shall not in the aggregate be carried on the books of an institution as an asset to an amount exceeding 50 percent of its paid-up capital, surplus, undivided profits and capital debentures with a five-year maturity, no more than half of the amount carried on the books shall represent furniture and fixtures. Within guidelines established by rules promulgated under ORS 183.310 to 183.410 the superintendent may authorize an institution to exceed the limitations prescribed under this subsection.

(2) A two-thirds vote of all directors is necessary to authorize the purchase of any lot and building or the construction of any building mentioned in subsection (1) of ORS 708.395.

(3) If an institution does not use the real estate and improvements thereon as its place of business, it shall sell the same

or reduce its book value, as required in ORS 708.410.
[Amended by 1963 c.502 §3; 1973 c.797 §152]

708.405 Removal of unauthorized real estate from assets. An institution acquiring any real estate in any manner other than provided by ORS 708.395 and 708.400 shall immediately, upon receiving notice from the superintendent, charge the real estate to profit and loss or otherwise remove the real estate from the assets. If the loss impairs the capital of the institution the impairment shall be made good in the manner provided in ORS 711.310 to 711.320.
[Amended by 1973 c.797 §153]

708.410 Reduction of book value and disposition of real property. All real estate purchased by any bank at sales under pledges, mortgages or deeds of trust for its benefit for money loaned, all real estate conveyed to it by borrowers in satisfaction and discharge of loans and all other real estate owned or held by it, except as provided in subsections (1), (5) and (6) of ORS 708.395 and ORS 708.400 and 708.405, shall be:

(1) Reduced in book value not less than 10 percent within two years after title is vested, and in addition not less than 20 percent within three years after title is vested, and not less than 20 percent within four years after title is vested unless the time is extended by the superintendent.

(2) Sold or exchanged for other real estate by the bank within five years after title has vested in it unless the time is extended by the superintendent. An exchange of real estate for other real estate shall not be made until written consent has been given by the superintendent. Any real estate taken in exchange may be held for a period of time as the superintendent may fix, but not to exceed five years.
[Amended by 1973 c.797 §154]

708.415 When title deemed vested. For the purpose of ORS 708.395 to 708.420, title is vested in an institution on the date the institution first had title either by deed direct or by deed or conveyance to any other person for the benefit of the institution, or when entitled to have a deed under sheriff's certificate of sale. Deeds or conveyances held in good faith as security for loans are not included in the deeds mentioned in this section.
[Amended by 1973 c.797 §155]

708.420 Unsold real estate not carried as asset. If any real estate is not sold within the time prescribed by ORS 708.410, it shall not be carried as an asset of the institution. This section does not apply to real estate held in trust or real estate purchased with funds other than the capital and resources of the institution.
[Amended by 1973 c.797 §156]

708.425 No loans made on undivided interest in real estate. An institution shall not make any loan secured by an undivided interest in real estate, but a lien may be taken on an undivided interest in real estate to secure a debt previously contracted in good faith.
[Amended by 1973 c.797 §157]

708.428 Acquisition and leasing of personal property. A bank may acquire and lease personal property upon terms requiring payment, during the minimum period of the lease, of rents which will exceed the total expenditures by the bank in the acquisition, ownership, maintenance and protection of the property.
[1973 c.797 §158]

708.430 Investment in stock of other corporations. (1) An institution shall not invest any of its assets in the capital stock of any other corporation except:

(a) In the capital stock of the Federal Reserve Bank.

(b) In stock acquired or purchased to save a loss on a preexisting debt. The stock shall be sold within two years of the date acquired or purchased. The superintendent may extend the time if he finds that an extension will not be detrimental to the public interest and will not contravene any other law.

(c) In the capital stock of any safe deposit company organized and existing under the laws of this state and doing an exclusive safe deposit business on premises owned or leased by the institution, if the purchasing and holding of the stock is first authorized by resolution of the board of directors of the institution and by the written approval of the superintendent. The board of directors and superintendent shall state in the authorization the number and amount of the shares which the institution may purchase and hold. The superintendent may examine, unrestricted, the assets, accounts and affairs of the safe deposit company.

(d) In the capital stock of agricultural and livestock finance companies subject to the same limitations applicable to national banks and to the approval of the superintendent.

(e) In the capital stock, eligible for purchase by national banks, of small business investment companies, but the aggregate investment in the stock shall not exceed two percent of the capital and surplus of the institution.

(f) In the shares of a state development credit corporation formed under ORS chapter 63, but the aggregate investment in the shares shall not exceed one percent of the capital and surplus of the institution.

(g) In the common stock of the Federal National Mortgage Association, but the investment in the stock shall not exceed the minimum required for the sale of mortgages to the association by the laws creating the association and the rules and regulations pertaining thereto.

(h) In the stock of the Federal Home Loan Bank.

(i) In the capital stock of a corporation exclusively engaged in a trust business, but the aggregate investment in the stock shall not exceed 10 percent of the capital and surplus of the institution.

(j) In the capital stock of bank service corporations as provided in ORS 708.431 to 708.434.

(k) If a trust company is not engaged in a general banking business and if the investment is first approved by the superintendent the trust company may invest in the capital stock of a subsidiary investment company to an amount not to exceed 20 percent of the paid-in capital and surplus of the trust company.

(2) An institution may acquire or continue to hold the fully paid stock of a subsidiary corporation to assist the institution in handling real estate, claims, judgments or other assets or in holding title to the assets, if the institution is the owner of all the common stock of the subsidiary corporation, except qualifying shares of directors, and the stock is carried on the books of the institution at a value not exceeding $1.

[Amended by 1959 c.107 §1; 1959 c.660 §18; 1961 c.97 §1; 1963 c.195 §9; 1973 c.797 §159]

708.431 Definitions; "bank service corporation," "bank services," "invest". As used in ORS 708.431 to 708.434, unless the context requires otherwise:

(1) "Bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of the corporation.

(2) "Bank services" means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items or any other clerical, bookkeeping, accounting, statistical or similar functions performed for a bank.

(3) "Invest" includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan or otherwise, but does not include a payment for rent earned, goods sold and delivered or services rendered prior to the making of the payment.

[1973 c.797 §160]

708.432 Purchase of stock in bank service corporation. (1) Any two or more banks may invest an amount not to exceed 10 percent of the paid-in and unimpaired capital and unimpaired surplus of each bank in a bank service corporation.

(2) If stock of a bank service corporation is owned by two banks, and one of the banks stops using the services of the bank service corporation and leaves the other bank as the only bank owning stock of the corporation, the bank service corporation may continue to function and the other bank may continue to own stock of the bank service corporation.

[1973 c.797 §161]

708.433 Bank service corporations; performing services for competing banks. (1) If a bank applies for a type of bank services for itself from a bank service corporation which performs the same type of bank services for another bank, and the applying bank is competitive with a bank which owns stock of the bank service corporation, the corporation shall offer to perform the services applied for by:

(a) Issuing its stock to the applying bank and performing bank services for the applying bank on the same basis as for the banks owning its stock; or

(b) Performing bank services for the applying bank at rates which fairly reflect the cost of the services, including the reasonable cost of the capital provided to the

corporation by its stockholders, unless comparable services at competitive over-all cost are available to the applying bank from another source or the performing of the services would be beyond the practical capacity of the bank service corporation.

(2) In any action to enforce the duty imposed by this section upon a bank service corporation, or for damages for the breach of the duty, the burden is upon the bank service corporation to show the availability from another source of comparable services at competitive over-all cost.
[1973 c.797 §162]

708.434 Bank service corporation; restriction on activities; regulation of bank services. (1) A bank service corporation may not engage in any revenue-producing activity other than the performance of bank services for banks and, to an extent not exceeding one-half of its total activity, the performance of similar services for persons other than banks.

(2) A bank may not cause to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises, unless assurances satisfactory to the superintendent are furnished to the superintendent by both the bank and the person or organization performing the services that the performance of the services will be subject to regulation and examination by the superintendent to the same extent as if the services were performed by the bank itself on its own premises.

(3) The superintendent may regulate and examine the performance of bank services for any bank.
[1973 c.797 §§163, 164]

708.435 Acquisition of own stock prohibited; exception. An institution shall not purchase or accept as collateral its own capital stock, except where the purchase or taking of collateral is necessary to prevent loss upon an indebtedness previously contracted in good faith. If full payment of the indebtedness is not made, the stock shall be sold by the institution within six months from the date it was purchased or received as collateral.
[Amended by 1973 c.797 §165]

708.440 Loans on stocks of other institutions. (1) An institution shall not make a loan secured by the stock of another institution, if by making the loan the total stock of the other institution held as collateral will exceed in the aggregate 25 percent of the capital stock of the other institution. A loan upon the capital stock of an institution shall not be made unless the institution has restored in either its surplus or undivided profit accounts the full amount of its guaranty fund.

(2) An institution shall not loan in the aggregate more than five percent of its total resources upon the capital stock of a single corporation as collateral security.
[Amended by 1963 c.195 §10; 1973 c.797 §166]

708.445 Dealing in chattels or manufacturing prohibited; sale of property acquired in satisfaction of indebtedness. Except as provided in ORS 708.428, an institution shall not employ its funds, directly or indirectly, in trade or commerce, by buying or selling except for account promotion ordinary goods, chattels, wares and merchandise, or by owning or operating industrial or manufacturing plants of any kind. It may, however, sell property which may come into its possession as security for loans or in the ordinary collection of debts, but goods or chattels so coming into the possession of an institution shall be disposed of as soon as possible and shall not be considered a part of the assets of the institution six months after the date the property is acquired.
[Amended by 1973 c.797 §167]

708.450 [Repealed by 1973 c.797 §428]

708.455 Claims and judgments as assets. Claims against the estates of insolvent persons or deceased or incompetent persons and judgments against any person shall not be carried as an asset upon the books of an institution for more than two years, unless a written extension of time is granted by the superintendent. This section does not apply to loans made to the personal representative, guardian or trustee of any estate.
[Amended by 1973 c.797 §168]

708.460 Loans to officers, directors, employes and companies controlled by them. (1) A bank may loan its funds to directors, officers and employes of the bank if:

(a) The combined obligations of directors, officers and employes of the bank do not exceed 50 percent of its paid-up capital and surplus.

(b) The obligations of any employe or

of any officer actively engaged in the management of the bank do not exceed five percent of the paid-up capital and surplus of the bank.

(c) The obligations of an employe or of an officer who is actively engaged in the management of the bank in excess of $5,000 are fully secured by good collateral.

(2) Officers of the bank shall report all loans to directors, officers and employes to the board of directors at its next regular meeting after the loan is made.

(3) A loan to a copartnership, association or corporation in which an officer, director or employe of the bank is a partner, officer or director, or in which the aggregate stock owned or controlled by any one or more than one of the officers, directors or employes of the bank is 20 percent or more of its outstanding capital shall be reported to the board of directors the same as for a loan to an officer, director or employe.

(4) Obligations negotiated in another name for the benefit or use of any person shall be included in the obligations of the person.

[Amended by 1963 c.502 §4; 1973 c.797 §169]

708.465 Including obligations secured by first lien on real estate as part of borrower's total obligation. Obligations secured by a first lien on real estate shall not be included with other obligations of the maker for the purpose of determining the total amount which may be loaned to the maker if:

(1) Title to the real estate has, in good faith, passed to another and the original maker of the note is no longer either directly or through some other person the owner of the real estate;

(2) The institution looks to the owner of the real estate rather than the maker of the obligation for payment;

(3) There is no default in either principal or interest; and

(4) The obligations are not in excess of 80 percent of the valuation of the real estate.

[1973 c.797 §170]

708.470 Negligent, excessive, dishonest or unlawful loans; civil liability of officer, director or employe. Any officer, director or employe of an institution who knowingly or negligently loans the funds of the institution in a dishonest or unlawful manner or permits the funds of the institution to be so loaned, is liable for the full amount of the loan and for all damages which the institution, its stockholders or any other person has sustained in consequence thereof. The liability for the loan continues until the loan, with interest, is paid in full without loss to the institution. The amount of the liability may be collected by suit or action without first attempting to collect from the debtor.

[Amended by 1973 c.797 §171]

708.475 Participation by director in illegal loan; reporting certain transactions to board. (1) A director of an institution shall not participate in any vote or act of the directors of the institution to approve a loan or discount to any director of the corporation, or upon paper upon which any such director is liable or responsible to an amount exceeding the amount allowed under ORS 708.460.

(2) An officer, director or employe of an institution shall not conceal from or fail to report to the board of directors of the institution any transaction occurring between the regular meetings of the board of directors involving:

(a) Any discounts or loans made by the institution; or

(b) The purchase or sale of securities.

[Amended by 1973 c.797 §172]

708.480 Maximum interest rates on loans by banks. Notwithstanding ORS chapter 82, a bank or national bank may contract for and receive for a loan or use of money involving a principal amount of less than $50,000:

(1) On any loan or use of money payable in instalments:

(a) Interest at a rate not exceeding 10 percent per annum or 12 percent per annum if the borrower is a corporation; or on that part of the original principal amount of the loan:

(A) Not exceeding $500, a charge at a rate not exceeding $8 per $100 per annum, or 15½ percent per annum of the declining principal balance, at the lender's option.

(B) In excess of $500 but not exceeding $1,000, a charge at a rate not exceeding $6 per $100 per annum, or 11½ percent per annum of the declining principal balance, at the lender's option.

(b) If the loan is repaid before maturity except as provided in subsection (6) of this section, the unearned portion of the charges, if any, shall be refunded to the

borrower. If the loan is payable in substantially equal instalments, the amount of the refund shall not be less than the amount computed according to the "rule of seventy-eighths" as set forth in ORS 83.130.

(2) On any loan or use of money through the use of a credit card or other open-end credit arrangement:

(a) A charge for each billing cycle determined by applying a periodic rate computed in accordance with subsection (4) of this section to the indebtedness owing under the terms of the credit arrangement.

(b) In addition to other charges authorized by this subsection, a non-refundable charge equal to a monthly periodic rate charge computed in accordance with subsection (4) of this section on the initial amount of advances of cash or credit, other than for purchases of goods or services.

(3) Any instalment of an instalment loan or payment under an open-end credit arrangement not paid at maturity shall continue to bear interest and may bear a charge of five percent of the amount of the instalment or payment, or $5, whichever is less.

(4) When a periodic rate is applied to compute the charge under subsection (1) or (2) of this section, the periodic rate shall not exceed a rate computed by dividing the applicable per annum rate in paragraph (a) of subsection (1) of this section by the number of the periods in a year, but in no case shall the applicable rate exceed 15 percent per annum.

(5) On any loan or use of money not payable in instalments and not pursuant to a credit card or other open-end credit arrangement, interest at a rate not exceeding 10 percent per annum or, if the borrower is a corporation, 12 percent per annum.

(6) On any loan, other than pursuant to an open-end credit arrangement, and not in renewal or extension of a prior loan, on which interest to maturity does not exceed $7.50, a charge not exceeding $7.50 in lieu of interest to maturity. The payment of any loan before maturity does not entitle the borrower to a refund or adjustment by which interest or charges are reduced to less than $7.50.

(7) On a loan or use of money involving a principal amount over $50,000, there is no limitation on the interest which banks or national banks may charge.

[1953 c.388 §1; 1965 c.338 §1; 1973 c.797 §173]

708.485 Definitions for ORS 708.480. As used in ORS 708.480:

(1) "Billing cycle" means the time interval between periodic billing statement dates.

(2) "Open-end credit" means an arrangement where:

(a) A bank or national bank permits a customer, from time to time, to purchase goods or services on credit or through the use of a credit card, check or other device, or to obtain loans from the bank or national bank through the use of a credit card, check or other device;

(b) The unpaid balances and the interest and other appropriate charges are debited to an account;

(c) The interest, if charged, is computed on the account periodically; and

(d) The customer has the privilege of paying the balances in instalments.

[1973 c.797 §173a]

DEPOSITS AND WITHDRAWALS

708.505 [Repealed by 1973 c.797 §428]

708.510 [Repealed by 1973 c.797 §428]

708.512 Payment of deposits. Unless otherwise instructed by a depositor, a bank may pay a deposit or any part thereof with the interest thereon to the person for whom or in whose name the deposit is made.

[1973 c.797 §174]

708.515 [Repealed by 1973 c.797 §428]

708.520 Disposition of deposit on death of depositor. (1) On the death of a depositor of an institution or a national bank, if the deposit is $5,000 or less, the institution or national bank may, upon receipt of an affidavit from the person claiming the deposit as provided in subsection (2) of this section, pay the moneys on deposit to the credit of the deceased depositor to:

(a) The surviving spouse;

(b) If there is no surviving spouse, to the surviving children 18 years of age or older;

(c) If the depositor left no surviving spouse or children, to his surviving parents; or

(d) If there is no surviving spouse, surviving child or surviving parent, to the depositor's surviving brothers and sisters 18 years of age or older.

(2) The affidavit shall:

(a) State where and when the depositor died;

(b) State that the total deposits of the deceased depositor in all banks in Oregon do not exceed $5,000;

(c) Show the relationship of the affiant or affiants to the deceased depositor; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased out of the deposit to the full extent of the deposit if necessary.

(3) The institution shall determine the relationship of the affiant to the deceased depositor.

(4) A probate proceeding is not necessary to establish the right of the surviving spouse or surviving children or surviving parent or surviving brothers and sisters to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person withdrawing the deposits shall account for them to the personal representative.

[Amended by 1969 c.193 §1; 1969 c.591 §302; 1973 c.797 §175]

708.525 Adverse claim to deposit; notice; restraining order or other process; indemnity bond. (1) A bank or national bank shall recognize an adverse claim to a deposit it holds if the adverse claimant gives notice to the bank or national bank of its claim and:

(a) Procures a restraining order, injunction or other appropriate process against the bank or national bank in an action wherein the person to whose credit the deposit stands is made a party and served with summons; or

(b) Executes to the bank or national bank, in a form and with sureties acceptable to the bank or national bank, a bond indemnifying the bank or national bank from any liability, damage and expenses on account of the payment of the adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands.

(2) This section does not apply where the person to whose credit the deposit stands is a fiduciary for the adverse claimant, and the affidavit of the adverse claimant states the facts constituting the relationship and the facts showing reasonable cause of belief on the part of the claimant that the fiduciary is about to misappropriate the deposit.

[Amended by 1973 c.797 §176]

708.530 Checks drawn by agents presumed to be in authorized manner. If a person, who owns a deposit account subject to check, authorizes another person as his agent to draw checks on the bank or national bank against the account, the bank or national bank, in the absence of written notice to the contrary, may presume that any check drawn by the agent in the manner authorized by the principal, including checks drawn to the personal order of the agent, is drawn for a purpose authorized by the principal and within the scope of the authority conferred upon the agent.

[Amended by 1973 c.797 §177]

708.535 Checks of intoxicated or drugged persons. (1) A bank or national bank may refuse to pay any check, draft or order drawn upon it when the officers of the bank or national bank have reason to believe that the person signing or indorsing the instrument was so under the influence of liquor or drug as to make it reasonably doubtful whether the person was at the time of signing or indorsing the check, draft or order capable of transacting business.

(2) A bank, national bank or the principal officers of a bank or national bank are not liable for damages for refusing in good faith to pay any check, draft or order pursuant to subsection (1) of this section.

[Amended by 1973 c.797 §178]

708.540 [Repealed by 1963 c.402 §11]

708.545 [Repealed by 1963 c.402 §11]

708.550 [Repealed by 1973 c.797 §428]

708.555 Certified checks. (1) A bank shall certify a check only if the amount of the check actually stands to the credit of the drawer in collected funds on the books of the bank.

(2) The amount of any check certified shall be immediately charged to the drawer's account.

[Amended by 1963 c.402 §4; 1973 c.797 §179]

708.605 [Repealed by 1973 c.797 §428]

708.610 [Repealed by 1973 c.797 §428]

708.615 [Repealed by 1973 c.797 §428]

708.620 [Amended by 1963 c.580 §84; repealed by 1973 c.797 §428]

708.625 [Repealed by 1973 c.797 §428]

708.630 [Repealed by 1973 c.797 §428]

708.635 [Repealed by 1973 c.797 §428]

708.640 [Repealed by 1973 c.797 §428]

708.645 [Repealed by 1973 c.797 §428]

708.650 [Repealed by 1973 c.797 §428]

708.655 [Repealed by 1973 c.797 §428]

708.660 [Repealed by 1973 c.797 §428]

MISCELLANEOUS PROHIBITED PRACTICES

708.705 [Repealed by 1973 c.797 §428]

708.710 [Repealed by 1973 c.797 §428]

708.715 Receiving illegal compensation; misapplication of property and credit. (1) An officer, director, agent or employe of an institution shall not ask for, receive or agree to receive any money, property or thing of value or of personal advantage, for:

(a) Procuring or endeavoring to procure for any person any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange by the institution.

(b) Permitting any person to overdraw any account with the institution.

(2) An officer, director, stockholder, employe or agent of an institution shall not abstract or wilfully misapply any of the property of the institution, or wilfully misapply its credit.

[Amended by 1973 c.797 §180]

708.720 Illegal guaranty or indorsement. An officer, director or employe of an institution shall not make or deliver any guaranty or indorsement on behalf of the institution whereby the institution becomes liable upon any of its discounted notes, bills or obligations, in any sum beyond the amount of loans and discounts which the institution may legally make.

[Amended by 1973 c.797 §181]

708.725 [Repealed by 1973 c.797 §428]

PENALTIES

708.990 Penalties. (1) Violation knowingly by any officer, director or employe of any provision of ORS 708.126 is a Class C felony.

(2) Violation knowingly by any officer, director or employe of any provision of ORS 708.210 to 708.220 is a Class C felony.

(3) Violation knowingly by any officer, director, agent, stockholder or employe of an institution of any provision of ORS 708.230 to 708.245 is a Class B felony.

(4) Violation knowingly of any of the provisions of ORS 708.715 is a Class C felony.

[Amended by 1973 c.797 §182]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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 November 1, 1973.

Thomas G. Clifford
Legislative Counsel