TITLE 53

BANKS AND TRUST COMPANIES

Chapter 706. Application, Administration and Enforcement of Banking Laws Generally
707. Organization of Institutions; General Powers; Stockholders, Directors and Officers
708. Regulation of Institutions Generally
709. Regulation of Trust Business
711. Merger and Conversion; Reorganization; Liquidation; Insolvency
713. Foreign and Extranational Institutions
714. Branch Banking
715. Corporations Controlling Banks
716. Mutual Savings Banks
717. Sale of Checks

Chapter 706

1981 REPLACEMENT PART

Application, Administration and Enforcement of Banking Laws Generally

GENERAL PROVISIONS

706.005 Definitions for Bank Act
706.100 Applicability of general corporation laws

ADMINISTRATION OF BANKING LAWS

706.205 Banking Division
706.215 Superintendent of Banks; appointment; qualifications; oath; bond
706.218 Appointment of deputy superintendent
706.225 Powers of superintendent
706.226 Investigation of fitness of applicants for employment; rejection of applicants and dismissal of employes
706.228 Employe bond
706.235 Filing bond with Secretary of State; liability of superintendent and personnel
706.245 State Banking Board; appointment; qualifications; vacancy; compensation and expenses
706.255 Board to select chairman; meetings; quorum
706.265 Powers and duties of board; expenses
706.285 Indebtedness to financial institutions and interest in banking transactions and business prohibited; exceptions
706.290 State Banking Fund; expenditures and receipts of Banking Division

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
706.430 Notice to law enforcement officers of Bank Act violations; exception
706.440 Attorney General to conduct actions; assistance of district attorneys
706.450 Seal of Banking Division; affixing to documents; effect
706.455 Documents, fees
706.460 Adoption of rules
706.475 Review of rules
706.500 Supervision and inspection of financial institutions

706.520 Request by directors or stockholders for examination
706.530 Fees and percentages for examination of banks and savings banks
706.540 Fees and percentages for examination of trust companies
706.544 Special examination costs
706.548 Fees for examination of branches
706.550 Reduction of examination fees
706.555 Adoption of rules comparable to federal law and regulations
706.560 Appraisal of securities and audit by superintendent
706.570 Requiring financial institution to keep proper records and accounts; civil penalty
706.580 Illegal, unauthorized or unsafe practices; ordering discontinuance
706.600 Taking possession and control of financial institution by superintendent
706.610 Examiners required to report insolvency of financial institution
706.620 Records kept by superintendent
706.630 Regular reports of condition; publication; additional reports as required by superintendent
706.650 Delay or failure to furnish reports of condition
706.660 Report of earnings and dividends
706.670 Report of dividend declaration
706.680 Failure to make reports of earnings and dividends and dividend declarations
706.690 Transfer of stock or controlling interest; notice to and approval by superintendent
706.700 Resignation of officers; notice to superintendent
706.710 Waiver of disqualification, retirement or resignation notices; reducing effective date
706.720 Reports filed with superintendent; inspection of reports; forms
706.725 False statements, reports and book entries
706.730 Depositors and debtors; disclosure of names prohibited
706.740 Annual report of Banking Division

PENALTIES

706.980 Civil penalties
706.990 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183 310 to 183 550
Bank deposits and collections, Ch 74
Business trusts and trustees are not subject to certain bank and trust company regulations, 128 570
Commercial paper, Ch 73
Conversion of savings bank to savings association, 722 058
Financial institution property insurance requirements, limitation, 746 185 to 746 211
Lending institutions, tax credits for certain loans for alternative energy devices, 317 100
Open meeting law not applicable to State Banking Board, 192 690
Political contributions by banks, 260 415
Unclaimed property, disposition of, 98 302 to 98 436

706.205
Department of Commerce, 184 510

706.215
Appointive officers generally, 236 140

706.225
Employment of personnel by state agencies, Ch 182
Licensing and supervision powers of superintendent
Consumer finance, Ch 725
Credit unions, Ch 723
Pawnbrokers, Ch 726
State development credit corporations, Ch 63

706.245
Director of Department of Commerce as ex officio board member, 184 545

706.290
Penalties of foreign banks, trust companies paid to State Banking Fund, 713 110
State Banking Fund part of General Fund, 293 110
State Banking Fund to receive civil penalties under ORS chapter 725, 725 910
State Banking Fund to receive civil penalties under ORS chapter 726, 726 910

706.410
Depositions, Ch 45
Witness fees and mileage expenses, 44 410, 44 430

706.720
Reports by foreign banks, 713 090

706.990
Classification of criminal offenses, penalties, 161 505 to 161 585

GENERAL PROVISIONS

706.005 Definitions for Bank Act. As used in the Bank Act, unless the context requires otherwise:

(1) "Action" includes suits and legal proceedings.

(2) "Bank" means a corporation with capital stock which is organized under the laws of this state and is authorized to engage in a banking business and includes the banking department of a trust company authorized to do a banking business.

(3) "Bank Act" means ORS chapters 706 to 716.

(4) "Banking business" means the business of soliciting, receiving or accepting money or its equivalent on deposit as a regular business whether the deposit is made subject to check or is evidenced by a certificate of deposit, a pass book or other writing, but does not include:

(a) Depositing money or its equivalent in escrow or with an agent, pending investments in real estate or securities for or on account of a principal; or

(b) The business of a savings and loan association or a building and loan association.

(5) "Banking day" means a day a financial institution is required to be open for the normal conduct of its business but does not include Saturday, Sunday, legal holidays or any day the bank is closed under ORS 707.430.

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

(7) "Branch" means an office or other place, except a principal place of business, at which:

(a) A bank receives money or its equivalent from the public for deposit and conducts a general banking business.

(b) A trust company engages in the business of acting as a fiduciary.

(c) CBCT facilities are installed and operated off the premises of the principal place of business and branches of institutions described in paragraphs (a) and (b) of this subsection, and of national banks in accordance with ORS 714.210 to 714.992.

(8) "Capital" means the aggregate par value of all classes of outstanding stock of an institution.

(9) "Demand deposits" means all deposits payable on demand.

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

(11) "Extranational institution" includes:

(a) A corporation organized under the laws of a nation other than the United States and doing a banking or trust business within this state;

(b) An unincorporated company, partnership or association of two or more individuals organized under the laws of a nation other than the United States and doing a banking or trust business within this state;

(c) An incorporated company, partnership or association of two or more individuals doing a banking or trust business if persons who are not citizens of the United States and not residents of this state own a majority interest of the business and are entitled to more than half the profits of the business, or who would, if it were dissolved, be entitled to more than one-half the net assets of the business; or

(d) An individual who is not a citizen of the United States and not a resident of this state doing a banking or trust business in his own name and right.

(12) "Fiduciary" means a personal representative, conservator, receiver, trustee, assignee for the benefit of creditors or one acting in a court appointed position of trust or any other position of trust.

(13) "Financial institution" means a bank, a trust company or a savings bank.

(14) "Federal Reserve Act" means the Act of Congress approved December 23, 1913, (38 Stat. 251) as amended.

(15) "Foreign institution" includes:

(a) A corporation organized under the laws of another state doing a banking or trust business within this state, except a national bank whose principal office as designated in its articles of incorporation is located in the State of Oregon;

(b) An unincorporated company, partnership or association of two or more individuals organized under the laws of another state doing a banking or trust business;

(c) An incorporated company, partnership or association of two or more individuals doing a banking or trust business if persons who are citizens of the United States but not residents of this state own a majority interest of the business and are entitled to more than half the profits of the business, or who would, if it

were dissolved, be entitled to more than one-half the net assets of the business; or

(d) Every citizen of the United States but nonresident of this state doing a banking or trust business in his own name and right.

"Foreign institution" does not include a national bank that has its principal office, as designated in its articles of incorporation, outside the State of Oregon, and that maintains a branch in the State of Oregon on January 1, 1974.

(16) "Institution" means a bank or a trust company.

(17) "National bank" means a national bank authorized to do business in this state.

(18) "Officer" of a financial institution means a president, vice president, secretary, treasurer or cashier.

(19) "Personal representative" means a personal representative as defined in ORS 111.005 (26).

(20) "Principal place of business" means the location in Oregon of the principal office or main office of a financial institution.

(21) "Savings bank" means a corporation without capital stock which is organized under the laws of this state and is authorized to engage in a banking business.

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

(23) "Surplus" represents the cumulative total of amounts transferred from undivided profits, any capital contributed for shares in excess of their par value, capital contributed other than for shares, and reduced by amounts converted into capital stock.

(24) "Time deposits" comprise all deposits, however evidenced, which may be restricted as to time of withdrawal.

(25) "Trust company" means any corporation which is authorized to engage in the business of acting as a fiduciary and includes the trust department of a bank or savings bank.

(26) "Unimpaired capital" is capital of an institution which has not become impaired as provided in ORS 711.305.

(27) "Customer Bank Communication Terminal" or "CBCT" means an electronic or other automated device through which a customer of a financial institution or national bank, or someone specifically authorized by the customer, may communicate to the financial institution or national bank:

(a) A request to withdraw money from an account or a previously authorized line of credit;

(b) An instruction to receive or transfer funds for the customer's benefit; and

(c) A request for information concerning the existence and condition of the customer's account and lines of credit with the financial institution. [1973 c 797 §2; 1975 c 193 §1; 1975 c 725 §1]

706.010 [Amended by 1971 c 743 §413, repealed by 1973 c 797 §428]

706.020 [Repealed by 1973 c 797 §428]

706.025 [1963 c 580 §68; repealed by 1973 c 797 §428]

706.030 [Repealed by 1973 c 797 §428]

706.040 [Repealed by 1973 c 797 §428]

706.050 [Repealed by 1973 c 797 §428]

706.060 [Repealed by 1973 c 797 §428]

706.070 [Repealed by 1973 c 797 §428]

706.080 [Repealed by 1973 c 797 §428]

706.090 [Repealed by 1973 c 797 §428]

706.100 Applicability of general corporation laws. (1) The following sections in ORS chapter 57 (1973 Replacement Part) shall apply to institutions: ORS 57.040, 57.045 (1)(b) and (c), 57.080 (2), 57.085, 57.111 (1), 57.126, 57.141, 57.150 to 57.170, 57.206, 57.211, 57.241, 57.255, 57.260, 57.331, 57.355 (1) and (2), 57.360 to 57.375, 57.380 to 57.395, 57.411 (1) to (3), 57.781, 57.788 to 57.793, 57.798, 57.805 and 57.992.

(2) In applying ORS chapter 57 as provided in this section, unless the context requires otherwise:

(a) "Corporation Division" or "division" means the Banking Division.

(b) "Corporation Commissioner" or "commissioner" means the superintendent.

(c) "Corporation" and "domestic corporation" means a financial institution. [Amended by 1973 c 797 §3; 1975 c 544 §1, 1979 c 88 §1; 1981 c 192 §2]

ADMINISTRATION OF BANKING LAWS

706.205 Banking Division. The Banking Division is established within the Department of Commerce. The division shall enforce all laws relating to financial institutions. [1963 c 580 §69, 1973 c 797 §4]

706.210 [Repealed by 1963 c 580 §103]

706.215 Superintendent of Banks; appointment; qualifications; oath; bond. (1) The division is under the supervision 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 from a list of qualified candidates nominated by the board. The superintendent is responsible for the performance of the duties imposed upon the division. An individual is not eligible to hold the office of superintendent unless he has 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. The oath shall be filed with the Secretary of State. 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 a sum as may be fixed by the Director of the Executive Department. The premium on the bond shall be paid from the State Banking Fund. [1963 c 580 §70, 1973 c 797 §5]

706.218 Appointment of deputy superintendent. The superintendent may appoint one or more deputy superintendents of banks to assist him in the duties of his office Deputy superintendents shall serve at the pleasure of the superintendent. A certificate of appointment and notice of the revocation of an appointment shall be filed in the office of the superintendent and in the office of the Secretary of State. [1973 c 797 §6]

706.220 [Repealed by 1963 c 580 §103]

706.225 Powers of superintendent. The superintendent may:

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

(2) Appoint all subordinate officers and employes of the division and prescribe their duties and fix their compensation, subject to the applicable provisions of the State Personnel Relations Law. [1963 c 580 §71, 1973 c 797 §7, 1974 s s c 27 §1]

706.226 Investigation of fitness of applicants for employment; rejection of applicants and dismissal of employes. The superintendent may investigate the honesty and general fitness of a person before employing the person in the division, or before naming the person as deputy superintendent or as an examiner with the division. Notwithstanding the State Personnel Relations Law, the superintendent may reject any applicant or dismiss any officer or employe if any of the reasons stated in ORS 707.145 (1) apply to the applicant, officer or employe. [1977 c 135 §7]

706.228 Employe bond. The superintendent shall require a fidelity bond, with one or more corporate sureties authorized to do business in this state, of an employe who examines or assists in the examination of a financial institution and may require a fidelity bond of any other officer or employe of the division. The premium on the bond shall be paid from the State Banking Fund. [1973 c 797 §8]

706.230 [Repealed by 1963 c 580 §103]

706.235 Filing bond with Secretary of State; liability of superintendent and personnel. (1) The bonds provided in ORS 706.215 and 706.228 shall be filed with the Secretary of State.

(2) The superintendent and other officers and employes of the division shall not be personally liable for any act done in good faith in the performance of their duties. [1963 c 580 §72, 1973 c 797 §9]

706.240 [Repealed by 1963 c 580 §103]

706.245 State Banking Board; appointment; qualifications; vacancy; compensation and expenses. (1) The State Banking Board is established within the Department of Commerce. The board shall consist of three members appointed by the Director of Commerce with the approval of the Governor. Each member of the board shall have 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. If a vacancy occurs, the appointment to fill the vacancy shall be for the unexpired term.

(2) A member of the State Banking Board is entitled to compensation and expenses as provided in ORS 292.495. [1963 c 580 §73, 1969 c 314 §101, 1973 c 797 §10]

706.250 [Repealed by 1963 c 580 §103]

706.255 Board to select chairman; meetings; quorum. (1) The 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 as determined by the board, or upon call of the chairman.

(2) A majority of the board constitutes 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, 1973 c 797 §11]

706.260 [Renumbered 706 285]

706.265 Powers and duties of board; expenses. (1) The board may:

(a) Inquire into the needs of financial institutions and the functions and the business policy of the division;

(b) Fix the compensation of the superintendent, subject to the salary plan for unclassified employes of the state established by the Personnel Division under ORS 240.240 (2);

(c) Confer with and advise the Director of Commerce as to how the division may best serve the state and the financial institutions; and

(d) Make recommendations and suggestions of policy to the division for the welfare and progress of the financial institutions, the public and the banking business in Oregon.

(2) The expenses of the board shall be paid from moneys available to the division for payment of the administrative expenses of the division. [1963 c 580 §76, 1973 c 797 §12, 1974 s s c 27 §2]

706.270 [Repealed by 1963 c 580 §103]

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

706.285 Indebtedness to financial institutions and interest in banking transactions and business prohibited; exceptions. (1) The superintendent and employes of the division shall not:

(a) Be indebted to any financial institution, except as provided in subsection (2) of this section;

(b) Engage or have an interest in the sale of securities or the negotiation of loans for others to or with any financial institution; or

(c) Be employed by or have an interest in any financial institution or national banking association doing business in this state.

(2) Notwithstanding subsection (1) of this section, an employe of the division may be indebted to a financial institution if:

(a) The employe incurred the debt before employment with the division; or

(b) The employe becomes indebted to the financial institution, whether before or after employment with the division, because of a transfer of the employe's indebtedness to a financial institution, when the transfer results from conversion of a savings association under ORS 722.056 or a national bank under ORS 711.015 or from a merger of a national bank, foreign institution or a federal or savings association as defined in ORS 722.004 with a financial institution.

(3) Subject to ORS 183.310 to 183.550, the division may make reasonable rules for reporting any indebtedness under this section and providing for prevention or resolution of possible conflicts of interest for the employe because of the indebtedness.

(4) Any person violating subsection (1) of this section shall forfeit the person's office. [Formerly 706 260, 1973 c 797 §13, 1981 c 192 §3]

706.290 State Banking Fund; expenditures and receipts of Banking Division. (1) A fund, to be known as the State Banking Fund, is created. Out of the fund shall be paid all the expenses incurred in the operation of the division.

(2) All fees, penalties and fines shall be paid to the superintendent. The superintendent shall remit to the State Treasurer to be deposited in the State Banking Fund all money received by the division. [Amended by 1973 c 797 §14]

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) For the purpose of an investigation or proceeding under the Bank Act, the superintendent may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records which

the superintendent considers relevant or material to the inquiry.

(2) If a person fails to comply with a subpena so issued or a party or witness refuses to testify on any matter, the judge of the circuit court for any county, on the application of the superintendent, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of subpena issued from the court or a refusal to testify therein.

(3) Each witness who appears before the superintendent under a subpena shall receive the fees and mileage provided for witnesses in civil cases, except a witness subpenaed at the instance of parties other than the superintendent or his examiner shall not be compensated for attendance or travel unless the superintendent certifies that his testimony was material to the matter investigated.

(4) The superintendent may, in any investigation, cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil suits in the circuit court. [Amended by 1973 c 797 §15]

706.420 [Repealed by 1973 c 797 §428]

706.430 Notice to law enforcement officers of Bank Act violations; exception. If the superintendent has reason to believe that a person has violated any provision of the Bank Act for which criminal prosecution is provided, he shall give the information relative to the violation to the appropriate federal, state or local law enforcement officer having jurisdiction of the violation. However, this section does not apply when a director or officer of an institution has reported the information to the appropriate law enforcement agency under ORS 707.735. [Amended by 1973 c 797 §16, 1975 c 544 §2; 1979 c 88 §2]

706.440 Attorney General to conduct actions; assistance of district attorneys. The Attorney General shall conduct all actions begun by the superintendent under authority of the Bank Act, and may require the assistance of the district attorney of the district in which the action is conducted. [Amended by 1973 c 797 §17]

706.450 Seal of Banking Division; affixing to documents; effect. (1) The division shall have an official seal. The superintendent shall issue under the official seal all certificates and licenses provided for in the Bank Act.

(2) Every certificate or other document or paper executed by the 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 regularly acknowledged deed.

(3) Copies of papers in the office of the division certified by the division and authenticated by the seal, shall be received in evidence in all cases equally and of like manner as the original. [Amended by 1963 c 580 §77, 1969 c 43 §1, 1973 c 797 §18]

706.455 Documents, fees. The division shall charge a fee of:

(1) $5 for affixing the official seal to any instrument.

(2) 50 cents per page or fraction of a page for furnishing a copy of any paper filed in the division.

(3) $2 for certifying and affixing the official seal on a copy furnished by the division. [1973 c 797 §19]

706.460 Adoption of rules. (1) Subject to ORS 183.310 to 183.550, the division may make reasonable rules necessary for or as an aid to the effectuation of the Bank Act.

(2) Before a rule is adopted the division, in addition to the notice requirements of ORS 183.310 to 183.550, shall submit a copy to each financial institution. [Amended by 1963 c 580 §78, 1971 c 734 §169; 1973 c 797 §20]

706.470 [Repealed by 1971 c 734 §21]

706.475 Review of rules. Judicial review of rules shall be in accordance with ORS 183.310 to 183.550. [1971 c 734 §171, 1973 c 797 §21]

706.480 [Amended by 1963 c 580 §79, repealed by 1971 c 743 §21]

706.490 [Repealed by 1973 c.797 §428]

706.500 Supervision and inspection of financial institutions. (1) Each financial institution is subject to the inspection of the superintendent. Except as provided in subsection (2) of this section, at least once every calendar year and at such other times as may be designated by the superintendent, the superintendent or an examiner shall make a complete and careful examination of the condition and resources of the financial institution, and determine whether the financial institution is complying with the laws of this

state and such other matters as the superintendent may prescribe.

(2) Instead of making an examination of a financial institution under subsection (1) of this section, the superintendent may accept an examination or report made under the Federal Reserve Act or under other statutes of the United States authorizing insurance of deposits. [Amended by 1973 c 797 §22, 1981 c 192 §4]

706.510 [Repealed by 1973 c 797 §428]

706.520 Request by directors or stockholders for examination. When requested in writing by the board of directors of a financial institution or stockholders owning a majority of the capital stock of an institution, the superintendent may make or cause to be made an examination into the affairs and conditions of the financial institution. For the examination the financial institution shall pay the fees prescribed in ORS 706.544. [Amended by 1973 c 797 §23]

706.530 Fees and percentages for examination of banks and savings banks. (1) Subject to subsections (2) to (4) of this section, each bank and savings bank shall pay to the superintendent each year such fees as the superintendent finds and determines to be necessary, with the amount of all other fees paid or payable to the superintendent by such banks and savings banks in the current calendar year, to defray the costs of performing the duties imposed by law upon the superintendent in respect to such banks and savings banks respectively.

(2) The superintendent shall collect from each bank and savings bank a fee for each regular examination, in an amount based on the capital and surplus of the bank or savings bank at the time of examination, as set out in the following schedule.

If capital and surplus exceed	But do not exceed	Fee
$ 0	$ 100,000	$150
100,000	150,000	175
150,000	200,000	200
200,000	250,000	225
250,000	300,000	250
300,000	500,000	300
500,000	750,000	350
750,000	1,500,000	450
1,500,000	2,000,000	550
2,000,000	2,500,000	650
2,500,000	3,000,000	750
3,000,000	3,500,000	850
3,500,000		950

(3) In addition to the fee set forth in subsection (2) of this section, the bank or savings bank shall pay at the same time a fee in an amount found necessary under subsection (1) of this section but not in excess of one-twentieth of one percent of its total resources minus the deposits of the state made by the State Treasurer. However, if, in any calendar year, the superintendent increases the fee charged under this subsection so that it constitutes a greater percentage of the bank's or savings bank's total resources minus state deposits than the percentage used in the previous calendar year, the State Banking Board shall review the superintendent's action to determine whether the increase is necessary to defray the costs of performing the duties imposed upon him by law. In addition, if, in any biennium, the superintendent intends to increase the fee charged under this subsection by decreasing the denominator of the fraction used to determine the fee by an amount greater than 10, the superintendent must obtain the approval of the Legislative Assembly, or the Emergency Board when the Legislative Assembly is not in session, before the increased fee is effective.

(4) For the purpose of computing the examination fees for savings banks, the guaranty fund, undivided profits and surplus are the capital and surplus of the savings bank. [Amended by 1969 c 94 §1, 1971 c 68 §1; 1973 c 797 §24, 1977 c 135 §8]

706.540 Fees and percentages for examination of trust companies. (1) Subject to subsections (2) and (3) of this section, each trust company shall pay to the superintendent each year such fees as the superintendent finds and determines to be necessary, with the amount of all other fees paid or payable to the superintendent by trust companies in the current calendar year, to defray the costs of performing the duties of supervision and enforcement imposed by law upon the superintendent in respect to trust companies.

(2) The superintendent shall collect at the time of each regular examination of a trust company, the aggregate of:

(a) An amount determined by using the schedule set forth in ORS 706.530 and substituting the amount of bonds or securities pledged with the superintendent under ORS

709.030 for capital and surplus in the schedule; and

(b) An amount found necessary under subsection (1) of this section, but equal to not more than one-twentieth of one percent of the total assets, less real estate, held by the trust company in any fiduciary capacity. However, if, in any calendar year, the superintendent increases the fee charged under this paragraph so that it constitutes a greater percentage of the trust company's total assets less real estate than the percentage used in the previous calendar year, the State Banking Board shall review the superintendent's action to determine whether the increase is necessary to defray the costs of performing the duties imposed upon him by law. In addition, if, in any biennium, the superintendent intends to increase the fee charged under this subsection by decreasing the denominator of the fraction used to determine the fee by an amount greater than 10, the superintendent must obtain the approval of the Legislative Assembly, or the Emergency Board when the Legislative Assembly is not in session, before the increased fee is effective.

(3) In determining the total assets, all trust assets shall be figured at the market value. [Amended by 1969 c 94 §2; 1971 c 68 §2, 1973 c 797 §25, 1977 c 135 §9]

706.544 Special examination costs. For any special examination, the financial institution shall pay to the superintendent the actual costs of the division in conducting the examination. [1973 c 797 §25a, 1977 c 135 §10]

Note: 706 544 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 706 or any series therein by legislative action See the preface to Oregon Revised Statutes for further explanation

706.548 Fees for examination of branches. (1) The superintendent shall collect for the examination of each branch the fee required for the examination of a financial institution under ORS 706.530 or 706.540, but in no case shall the fee be less than $150. In computing this fee, the capital of the branch shall be considered to be one-tenth of the total liabilities carried at the branch.

(2) The fee charged for an examination of the principal office of an institution having branches shall be based upon the total capital and surplus of the institution plus the total resources, without deduction on account of any fee charged for the examination of a branch. [1973 c 797 §26]

706.550 Reduction of examination fees. The division may fix the fees to be collected for the examination of financial institutions at a lesser sum than provided in ORS 706.530 and 706.540. [Amended by 1963 c 580 §80, 1973 c 797 §27]

706.555 Adoption of rules comparable to federal law and regulations. Notwithstanding any other provision of law, the superintendent may, in accordance with ORS 183.310, 183.315, 183.330, 183.335 and 183.341 to 183.410, make reasonable rules authorizing a financial institution to exercise any of the powers conferred upon a federally chartered bank, trust company, savings and loan association or savings association or institution doing business in this state which is subject to the regulations of the Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the superintendent finds that the exercise of the power:

(1) Serves the public convenience and advantage; and

(2) Equalizes and maintains the quality of competition between state chartered financial institutions and federally chartered financial institutions. [1973 c 797 §28]

706.560 Appraisal of securities and audit by superintendent. (1) When a financial institution has been examined by an examiner and he finds securities which are of doubtful value, he shall report the same to the superintendent, who may, at the expense of the financial institution, investigate and appraise the securities.

(2) The superintendent may, in his discretion or whenever requested to do so by a financial institution, make an audit of the affairs of the financial institution. The division shall be reimbursed by the financial institution for all costs incurred by the division in conducting the audit. [Amended by 1973 c 797 §29]

706.570 Requiring financial institution to keep proper records and accounts; civil penalty. (1) If upon examination of a financial institution it appears to the superintendent that the financial institution does not keep books and accounts in such a manner as to enable him or his examiners to readily ascertain the true condition of the financial institution, he may require any officer of the

financial institution to open and keep books or accounts as the superintendent prescribes for the purpose of keeping accurate and convenient records of the transactions and accounts of the financial institution.

(2) If a financial institution refuses and neglects to open and keep the books and accounts prescribed by the superintendent, the superintendent shall send written notice to the financial institution of his intent to assess and collect the penalty under this subsection. For each day it neglects or fails to open and keep the books and accounts after receiving notice from the superintendent the financial institution is subject to a penalty of $100. The penalty shall be paid by the financial institution upon receiving notice and demand for the amount of the penalty from the superintendent. If the financial institution delays or refuses to pay the penalty upon demand by the superintendent, the penalty shall be recovered in the name of the superintendent in an action brought by the Attorney General. All sums collected for penalties imposed by this section shall be paid into the State Treasury for the account of the State Banking Fund. [Amended by 1973 c 797 §30]

706.580 Illegal, unauthorized or unsafe practices; ordering discontinuance. When it appears to the superintendent that a financial institution is violating any law or is conducting its business in an unsafe or unauthorized manner, he shall, by an order in writing, direct the discontinuance of the illegal, unsafe or unauthorized practices. [Amended by 1973 c 797 §31]

706.590 [Repealed by 1973 c 797 §428]

706.600 Taking possession and control of financial institution by superintendent. The superintendent may take immediate possession and control of the property and affairs of a financial institution and act to protect the interest of the creditors and depositors of the financial institution if:

(1) It is unsafe or inexpedient for the financial institution to continue to transact business;

(2) Extraordinary withdrawals of money are jeopardizing the interests of remaining depositors;

(3) A director or officer has abused his trust or has been guilty of misconduct in his official position injurious to the financial institution;

(4) The financial institution has suffered a serious loss by fire, floods, burglary, disaster or otherwise;

(5) The financial institution neglects or refuses to observe an order of the superintendent under ORS 706.580 or refuses to submit to the inspection of an examiner; or

(6) A director or officer refuses to be examined under oath regarding the affairs of the financial institution. [Amended by 1973 c 797 §32]

706.610 Examiners required to report insolvency of financial institution. An examiner of the division, having knowledge of the insolvency or unsafe condition of a financial institution shall report the fact in writing, over his signature, to the superintendent. [Amended by 1973 c 797 §33]

706.620 Records kept by superintendent. The superintendent shall keep proper books showing the acts, matters and things by him done under the provisions of the Bank Act. [Amended by 1973 c 797 §34]

706.630 Regular reports of condition; publication; additional reports as required by superintendent. (1) The superintendent shall call for the report of condition of financial institutions, foreign institutions, extranational institutions and branches of foreign and extranational institutions at the close of business on the same day on which a report is required from national banking associations by the federal regulatory agencies.

(2) The report of each financial, foreign and extranational institution and each branch of a foreign and extranational institution required in subsection (1) of this section shall:

(a) Show its assets and liabilities combined for all departments at the close of business on the day specified.

(b) Be sworn to by an officer of the financial institution making the report and attested by not less than two directors of the financial institution.

(c) Exhibit in detail, and under appropriate heads, the total liabilities and resources of the financial institution at the close of business on the day specified.

(d) Be transmitted to the superintendent within the time allowed by federal regulations for submission of reports of national bank associations to the federal regulatory agencies

(e) Be published by the institution, according to the form prescribed by the superintendent, in a newspaper of general circulation in the county in which the financial institution is located, within 10 days after the report is transmitted to the superintendent; and proof of the publication shall be furnished to the superintendent by each financial institution within 10 days after the date of publication.

(3) The superintendent may require additional reports of condition at any time he considers it necessary. The additional reports shall meet the requirements of subsection (2) of this section except they need not be published.

(4) Trust companies not conducting a banking business are not required to submit the reports required in subsection (1) of this section, but shall submit reports as may be required by the superintendent. [Amended by 1973 c 797 §35, 1975 c 544 §3, 1975 c 725 §6a, 1977 c 135 §11]

706.640 [Repealed by 1973 c 797 §428]

706.650 Delay or failure to furnish reports of condition. If a financial institution delays or fails to furnish reports in the manner required under ORS 706.630, the financial institution is subject to a penalty of $25 a day for each day while in default. The penalty shall be paid by the financial institution upon receiving notice or demand for the amount of the penalty from the superintendent. If the penalty is not paid upon demand by the superintendent, the superintendent shall proceed to collect the penalty in the manner prescribed by ORS 706 570 (2). If the superintendent determines that the default was unavoidable, he may waive the penalty. [Amended by 1973 c 797 §36]

706.660 Report of earnings and dividends. (1) Each financial institution, foreign institution, extranational institution and each branch of every foreign and extranational institution shall submit to the superintendent a report of earnings and dividends when called for by the superintendent. The superintendent shall call for a report of earnings and dividends on the same day on which an earnings and dividends report is required from national banking associations by the federal regulatory agencies. The report shall be for a period designated by the superintendent in the call.

(2) The report shall be in the form prescribed by the superintendent and shall show all losses sustained, expenses and taxes paid, gross earnings and profits, losses recovered since the last report, payments made by stockholders and all amounts carried to surplus, undivided profits or dividends paid.

(3) The superintendent may require additional reports of earnings and dividends at any time he considers it necessary. The additional reports shall meet the requirements of subsection (2) of this section. [Amended by 1973 c 797 §37, 1979 c 88 §3]

706.670 Report of dividend declaration. Within 10 days after the declaration of any dividend, an institution shall forward to the superintendent a report of the dividend declared. This report shall also be included in the report required in ORS 706.660. [Amended by 1973 c 797 §38]

706.680 Failure to make reports of earnings and dividends and dividend declarations. A financial institution, foreign institution, extranational institution and any branch of a foreign or extranational institution which fails to make and submit any report required by ORS 706.660 or 706.670 is subject to a penalty of $25 for each day the reports are delayed beyond the time allowed by ORS 706.660 or 706.670. The penalty shall be collected in the manner provided in ORS 706.570. [Amended by 1973 c 797 §39, 1979 c 88 §4]

706.690 Transfer of stock or controlling interest; notice to and approval by superintendent. (1) If the superintendent determines that the condition of an institution is such that any transfer of the capital stock of the institution would jeopardize the interest of its depositors, the superintendent shall notify the institution in writing that when any shares of the capital stock of the institution are to be transferred on the books or records of the institution, the officer proposing to make the transfer shall report in writing to the superintendent the proposed transfer of stock. A transfer of stock shall not be made, after the date such a notice is issued, unless the transfer agent first obtains the written consent of the superintendent. The superintendent shall notify the institution of his decision within 30 days after receiving the report.

(2) If a director or officer of an institution, a transfer agent, vendee or vendor has reason to believe that a transfer of stock creates or changes a controlling interest in an institution, he shall immediately notify the superin-

tendent of the transfer. A transfer that creates a controlling interest in, or changes the control of, an institution shall not be entered upon the books of the institution or become effective until:

(a) Notice has been received at the office of the superintendent; and

(b) The sale, exchange or other disposition has been approved in writing by the superintendent.

(3) As used in this section, "controlling interest" has the meaning given the term by ORS 715.010.

(4) The superintendent shall approve or disapprove the transfer in accordance with the standards provided by ORS 707.080 (1). He also may disapprove a transfer under subsection (2) of this section if any of the reasons stated by ORS 707.145 (1) apply to the proposed new owner of the shares. [Amended by 1973 c 797 §40; 1975 c 544 §4; 1977 c 135 §12; 1979 c 88 §5]

706.700 Resignation of officers; notice to superintendent. An officer of a financial institution who voluntarily disqualifies himself, retires or resigns from his position shall give 30 days prior written notice to the superintendent. [Amended by 1963 c 195 §1; 1973 c 797 §41]

706.710 Waiver of disqualification, retirement or resignation notices; reducing effective date. The superintendent may, by writing, waive the notices provided for in ORS 706.690 and 706.700, or shorten the period after the notice when the resignation, disqualification or retirement becomes effective. [Amended by 1973 c 797 §42, 1975 c 544 §5]

706.720 Reports filed with superintendent; inspection of reports; forms. (1) The superintendent shall receive and file in his office all reports required by the Bank Act. The reports, except the published statement, are not public records and shall not be open for public inspection, but copies of all reports and information pertaining to the condition of banks may be furnished to:

(a) The Federal Reserve Bank and its examiners.

(b) The Comptroller of the Currency of the United States and national bank examiners.

(c) The Federal Deposit Insurance Corporation and its examiners.

(d) The State Treasurer if the bank is a depository of public fund deposits.

(2) The superintendent shall prescribe and furnish to interested persons the forms for all reports required by the Bank Act. [Amended by 1973 c 797 §43; 1975 c 515 §6]

706.725 False statements, reports and book entries. An officer, director, stockholder or employe of any financial institution shall not:

(1) Knowingly subscribe to or make or cause to be made any false statement or report to the superintendent or any false entry in the books or accounts of the financial institution.

(2) Knowingly subscribe to or exhibit false papers with the intent to deceive any person authorized to examine into the affairs of the financial institution.

(3) Knowingly state or publish any false report or statement of the financial institution or prepare any false minutes, with intent to deceive the directors of the financial institution or any person authorized to examine the affairs of the financial institution.

(4) Make improper or fail to make proper entry upon the books or records or in any statement or report of the financial institution with intent to deceive or conceal the true condition of the financial institution. [1973 c 797 §44]

706.730 Depositors and debtors; disclosure of names prohibited. The superintendent or anyone employed by the division shall not knowingly disclose the name of a depositor or debtor of a financial institution, or the amount of his deposit or debt, except:

(1) As may be necessary in the performance of his official duty including his duty under ORS 295.018; or

(2) The superintendent may maintain a record of borrowers from financial institutions and may give information concerning the total liabilities of a borrower to a financial institution owning obligations of the borrower. [Amended by 1973 c 797 §45; 1975 c 515 §7]

706.740 Annual report of Banking Division. Each year the division shall prepare a report for the prior calendar year and submit it to the Director of Commerce. The report shall contain:

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

(2) A statement of all financial institutions authorized to commence business during the prior calendar year.

(3) A statement of all financial institutions discontinuing business during the prior calendar year.

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

(5) The names and compensation of the examiners and clerical assistants employed and appointed by the superintendent, and the expense of the division during the prior calendar year.

(6) The amount of fees, penalties or other moneys received by the superintendent and paid into the State Treasury during the prior calendar year.

(7) A statement of financial institutions liquidated or in process of liquidation by the division, and the status of their affairs at the time of the report, including the amount and nature of their resources and liabilities and the amount paid the creditors.

(8) An abstract of the last published report of each financial institution. [Amended by 1963 c.195 §2, 1963 c 580 §81; 1973 c 797 §46]

PENALTIES

706.980 Civil penalties. (1) Any person who violates:

(a) Any provision of the Bank Act, or any lawful rule or final order of the superintendent for which a civil penalty is not expressly provided, shall forfeit a civil penalty in an amount determined by the superintendent of not more than $2,000 for each offense, or $10,000 in the aggregate for all such offenses within any three-month period. In the case of individuals, the civil penalty shall be not more than $200 for each offense or $1,000 in the aggregate for all such offenses within any three-month period. Each violation is a separate offense.

(b) ORS 706.610 and 706.725 shall forfeit a civil penalty in an amount determined by the superintendent of not more than $5,000. In addition, a person violating ORS 706.610 shall forfeit his office.

(c) ORS 706.730 shall forfeit a civil penalty, in an amount determined by the superintendent, of not more than $1,000. In addition, the violator shall forfeit his office.

(2) All money forfeited under subsection (1) of this section shall be paid to the State Treasurer to be deposited in the State Banking Fund.

(3) In addition to a civil penalty, any person who violates any provision of the Bank Act or any lawful rule or final order of the superintendent may be required to forfeit and pay to the State Treasurer to be deposited in the State Banking Fund a civil penalty in an amount determined by the superintendent but not to exceed the amount by which the person profited in any transaction which violates any such provision, rule or order.

(4) The civil penalty may be recovered in an action brought thereon in the name of the state of Oregon in any court of appropriate jurisdiction.

(5) In any court action with respect to a civil penalty, the court may review the penalty as to both liability and reasonableness of amount.

(6) The provisions of this section are in addition to and not in lieu of any other enforcement provisions contained in the Bank Act. [1975 c 544 §8]

706.990 Penalties. Violation of ORS 706.725 is a Class C felony. [Amended by 1973 c 797 §48, 1975 c 544 §6]