Chapter 709

1981 REPLACEMENT PART

Regulation of Trust Business

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709.020 [Amended by 1973 c 428 §10; repealed by 1973 c 797 §428]

709.030 Deposit of cash, securities or surety bond with superintendent; amount. (1) Before a trust company or a national bank authorized to conduct a trust business transacts any trust business it shall deposit with the superintendent, as security and as a pledge for the faithful performance of its fiduciary duties:

(a) Cash or interest-bearing securities, which securities shall have a ready market value;

(b) A surety bond issued by a surety company authorized to transact business in this state and in a form approved by the superintendent, under which the principal and surety indemnify the several owners of the fund held in trust against loss due to the failure of the trust company or the national bank; or

(c) Any combination of cash, interest-bearing securities and surety bond.

(2) If the cash and securities held in trust amount to less than $1,000,000, the deposit, bond, or combination thereof shall be $50,000. If the cash and securities held in trust amount to $1,000,000 but do not exceed $1,500,000, the deposit, bond or combination thereof shall be $100,000. For each $500,000 or fraction thereof in excess of $1,500,000 held in trust, the deposit, bond or combination thereof shall be increased an additional $25,000; except a trust company or national bank shall not be required to increase the deposit, bond, or combination thereof to an amount in excess of $500,000.

(3) The securities shall be deposited with the superintendent and held by the superintendent as trustee for the beneficiaries of the trust funds held by the trust company or the national bank. [Amended by 1957 c 82 §1, 1967 c 139 §1; 1973 c 797 §183a; 1979 c 88 §12; 1981 c 192 §14]

709.040 Securities eligible for deposit. The securities mentioned in ORS 709.030 may only be of the following classes:

(1) Interest-bearing bonds, notes or obligations of the United States including those of its agencies and instrumentalities, or bonds, notes or obligations for which the faith of the United States is pledged for the payment of the principal and interest.

(2) Bonds or other obligations of the State of Oregon, any county of this state or any incorporated city, town or school or port district of this state having a population of not less than 2,000 as shown by the last federal census, or bonds of any other state, any county, incorporated city, town or school or port district therein having a population of not less than 25,000, as shown by the last federal census, if:

(a) The bonds or obligations are issued in compliance with the constitution and laws of the applicable state;

(b) The bonds or obligations are a general obligation of the state, city, town or school or port district issuing the bonds; and

(c) There has been no default in payment of either principal or interest on any of the general obligations of the state, county, incorporated city, town or school or port district for a period of five years preceding the date of the deposit.

(3) Notes or bonds secured by first lien upon improved real estate in any of the States of Oregon, Washington, Idaho or California if the obligation, plus taxes not due and bonded indebtedness for public improvements not due, do not exceed 50 percent of the reasonable market value of the real estate. The trust company or national bank shall file in support of a real estate obligation, such appraisal, evidence of merchantable title and insurance as may be required by the superintendent. [Amended by 1973 c 797 §184]

709.050 Trust companies depositing securities guaranteed by mortgage insurance and mortgage participation certificates. A trust company or a national bank authorized to do a trust business in this state which is required to make any deposit of securities with any public official in order to do business in this state may deposit:

(1) Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance; and

(2) Mortgage participation certificates issued by a mortgage insurance company authorized to do business in this state in accordance with ORS 743.705 to 743.708. [Amended by 1967 c 359 §703, 1973 c 797 §185]

709.060 Primary liability of deposit. The deposit mentioned in ORS 709.030 is primarily liable for the malfeasance of a trust company or a national bank as a fiduciary and is not liable for any debt or other obligation of the company until such malfeasance liability has been discharged. [Amended by 1973 c 797 §186]

709.070 Right of action against deposit. A person who suffers loss or damage because of the breach of any trust committed to a trust company or a national bank may recover the amount of the loss or damage out of the moneys or securities deposited under ORS 709.030 with the superintendent by the trust company or national bank. [Amended by 1973 c 797 §187]

709.080 Charges for handling securities; collection procedure. (1) The superintendent may charge a reasonable amount for any expenses incurred and services rendered in connection with deposits of securities.

(2) If a trust company or a national bank does not, after due notice, pay to the superintendent any charge assessed against it under this section, the superintendent may:

(a) Apply in payment of the charges, with interest at the legal rate, as much as necessary of the interest accruing on any securities deposited with him; or

(b) Report the facts to the Attorney General, who shall, in the name of the superintendent, institute appropriate action against the trust company or national bank. [Amended by 1973 c 797 §188]

709.090 [Repealed by 1973 c 797 §428]

709.100 [Repealed by 1973 c 797 §428]

709.110 Deposit of documents with notes or bonds. All mortgages or deeds of trust and all insurance policies, abstracts of title, certificates of title or title insurance policies and appraisements required by the superintendent under ORS 709.040 (3) shall be deposited with the notes or bonds. When less than the whole of a bond issue is deposited, the superintendent shall not require the deposit of the abstract of title, certificates of title or title insurance policies and appraisements, but may require a certificate from the trustee of the mortgage or bond issue that the documents have been deposited with the trustee. [Amended by 1973 c 797 §189]

709.120 Substitution of deposit securities; income of securities deposited. (1) The superintendent may require the immediate substitution of other securities when he has reason to believe that the market value of securities which have been deposited under ORS 709.030 have depreciated below the amount required under ORS 709.030. Substitution of securities with the superintendent at the request of the depositing trust company or national bank may be permitted if approved by the superintendent.

(2) All interest, income or dividends from all securities deposited with the superintendent belong to the depositing trust company or national bank, and if the trust company or national bank is solvent, it may receive and retain the interest, income or dividends. [Amended by 1973 c 797 §190]

709.130 Indemnity bond when cash and securities of one trust exceed capital and surplus of the trust company. If the cash and securities belonging to any single fiduciary account exceed the amount of the trust company's capital and surplus, the court appointing the trust company to the position of trust, may require an indemnity bond from the trust company for the amount of cash and securities exceeding capital and surplus. [Amended by 1973 c 797 §191]

709.140 Return of deposit; liability of state. The State of Oregon is liable for the return of any funds or securities deposited in accordance with ORS 709.030. [Amended by 1973 c 797 §192]

709.145 Investment of capital. The capital of a trust company may be invested in the securities specified in ORS 709.040. [1973 c 797 §193]

709.150 General powers of trust companies. A trust company may:

(1) Act as fiscal or transfer agent of the United States or of any state, county, municipality, political subdivision or corporation, and in that capacity receive and disburse money; transfer, register and countersign certificates of stock, bonds or other evidence of indebtedness; authenticate and certify the bonds and certificates of indebtedness, and act as attorney-in-fact or agent of a person for any lawful purpose.

(2) Lease, hold, purchase and convey any real property necessary or convenient in the transaction of its business.

(3) Receive deposits of moneys, securities and other personal property in trust from any person and loan trust funds on real or personal securities.

(4) Act as trustee under any mortgage or bonds and accept and execute any lawful municipal or corporate trusts.

(5) Be appointed by a court and act as a fiduciary.

(6) Accept and execute any lawful trust.

(7) Rent receptacles for safe deposits of personal property and receive personal property upon deposit for safekeeping.

(8) Purchase, invest in and sell bills of exchange, bonds and mortgages, and other evidences of indebtedness.

(9) In the management of trust properties, discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, and accept for payment at a future date drafts drawn upon it and issue letters of credit authorizing the holders to draw drafts upon it or its correspondents at sight or on time, not exceeding one year.

(10) Exercise all powers given to institutions under the Bank Act. [Amended by 1961 c 344 §106; 1973 c 797 §194, 1973 c 823 §141; 1974 s s c 36 §24]

709.160 Solicitation and performance of legal business prohibited. (1) A trust company shall not advertise to furnish or furnish to the public legal advice or hold itself out as practicing law.

(2) A trust company that violates subsection (1) of this section is ineligible for one year thereafter to be judicially appointed as a fiduciary. [Amended by 1973 c.797 §195, 1975 c 544 §28]

709.170 Establishment and investment in common trust funds; accounting. (1) "Common trust fund" as used in this section, means any fund maintained by a trust company exclusively for the collective investment and reinvestment of moneys contributed thereto by the trust company as a fiduciary.

(2) A trust company may establish common trust funds for the purpose of furnishing investments to itself as fiduciary, or to itself and others as cofiduciaries. A trust company may, as a fiduciary or cofiduciary, invest funds which it lawfully holds for investment, in interests in the common trust fund, if the investment is not prohibited by the instrument, judgment, decree or order creating the fiduciary relationship, and if, in the case of cofiduciaries, the trust company procures the consent of its cofiduciary or cofiduciaries to the investment.

(3) The division may, pursuant to ORS 183.310, 183.315, 183.330, 183.335 and 183.341 to 183.410, promulgate rules necessary to control the establishment and operation of common trust funds and to protect the investors. A trust company except national banks which are qualified to act as fiduciaries pursuant to the laws of the United States shall, in the operation of the common trust fund, comply with the rules.

(4) Unless ordered by a court a trust company operating common trust funds is not required to render a court accounting with respect to the funds, but it may, upon application to the circuit court of the county in which it has its principal office, obtain a settlement of its common trust fund accounts on conditions specified by the court. When application for the settlement is presented to a circuit court for approval, the circuit court shall assign a time and place for hearing and order notice thereof by:

(a) Publication once a week for three successive publications, the first publication to be not less than 20 days prior to the date of hearing, of a notice in a newspaper having a general circulation in the county in which the trust company operating the common trust fund has its principal office;

(b) Mailing, not less than 14 days prior to the date of the hearing, a copy of the notice to all beneficiaries of the trusts participating in the common trust fund whose names are known to the trust company from the records kept by it in the regular course of business in the administration of the trust, directed to them at the addresses shown by the records; and

(c) Such further notice, if any, as the court may order. [Amended by 1953 c 258 §2; 1959 c 91 §1, 1963 c.56 §1; 1973 c 797 §196; 1973 c 823 §142; 1974 s s. c 36 §25]

709.180 [Repealed by 1973 c 797 §428]

709.190 Trust department kept separate; records of securities. (1) A financial institution authorized to transact a trust business shall establish and maintain in its office a trust department, in which separate books and accounts shall be maintained. All property of the trust department shall be segregated from and unmingled with other property.

(2) The books and accounts of the trust department shall show the ownership of all moneys, funds, investments and property held by the trust department. Securities may be kept by the trust department in either of the following ways:

(a) All certificates representing the securities of an account may be held separate from those of all other accounts; or

(b) Certificates representing securities of the same class of the same issuer held for particular accounts may be held in bulk without certification as to ownership attached and, to the extent feasible, certificates of small denomination may be merged into one or more certificates of larger denomination. A trust department, if operating under the method of safekeeping security certificates described in this paragraph, is subject to the rules as, in the case of state chartered institutions, the division and, in the case of national banking associations, the Comptroller of the Currency may issue. Upon demand by any person to whom it has a duty to account, a trust department shall certify in writing the securities held by it for an account. [Amended by 1971 c 263 §1; 1973 c 797 §197; 1975 c 544 §29]

709.200 Acquisition or investment of trust property in own name or name of nominee. (1) In the acquisition or investment of trust property, a trust company or trust department of a national bank may take in its own name, or in the name of its nominee, any assets in which it may be authorized to invest or hold trust property.

(2) Upon the satisfaction, conveyance or investment of trust property, whether the trust property is held in the name of the trust company or national bank, individually, or in its name as trustee or in a specified fiduciary capacity or otherwise, the instrument of satisfaction or transfer may be executed by the trust company or national bank in its own name. [Amended by 1973 c 797 §198]

709.210 Disclosure of fiduciary character or terms of trust instrument. In acquiring, holding, satisfying and conveying trust property, a trust company is not required to disclose that it is acting in a fiduciary capacity, the terms or conditions of the instrument under which it acts, the nature or extent of its authority or the application of the proceeds of the transaction. A person dealing with a trust company may not inquire into the matters, except to the extent specified in ORS 709.270. [Amended by 1973 c.797 §199]

709.220 Separation of funds awaiting investment or distribution. (1) Funds deposited or held in trust by a trust company awaiting investment or distribution shall be carried in a separate account and shall not be used by the trust company in the conduct of its business or in the conduct of the business of any of its affiliates unless it first obtains and sets aside in its trust department:

(a) Bonds or other securities eligible for the investment of trust funds;

(b) A surety bond; or

(c) Both the securities and surety bond.

(2) The surety bond shall be issued by a surety company authorized to transact business in this state and approved by the superintendent, and shall provide that the principal and surety shall indemnify the several owners of the funds held in trust against loss due to the failure of the trust company.

(3) Notwithstanding the provisions of ORS 708.230, the securities, the surety bond or the securities and the surety bond together shall be in an amount equal to the portion of the trust funds not insured by the Federal Deposit Insurance Corporation.

(4) If the trust company fails, the owners of the funds held in trust for investment or distribution have a lien on the bonds or other securities set apart, or a right of action on the surety bond, in addition to their claim against the estate of the trust company. [Amended by 1957 c.82 §2, 1973 c 797 §200, 1975 c 544 §29d]

709.230 [Amended by 1961 c 344 §107, repealed by 1973 c 797 §428, amended by 1973 c 823 §143, (see 709 231)]

709.231 [Repealed by 1974 s.s c 36 §28]

709.240 Oath and bond not required on appointment as fiduciary. An official oath or indemnity bond or other security shall not be required when a trust company is appointed as fiduciary or during the administration of the trust except as required by ORS 709.030 and 709.130. [Amended by 1973 c 797 §201, 1973 c 823 §144; 1974 s s c.36 §26]

709.250 [Repealed by 1973 c 797 §428; amended by 1973 c 823 §145 (see 709 251)]

709.251 [Repealed by 1974 s s c 36 §28]

709.260 [Repealed by 1973 c 797 §428]

709.270 Disclosure of communications and writings prohibited; exceptions. A trust company shall, except as otherwise provided in this section, keep inviolate all communications and writings made to or by the trustees touching the existence, condition, management and administration of any private trust confided to it. A creditor or stock-

holder is not entitled to disclosure or knowledge of the communication or writing. However, the officers, manager, trust officer, secretary or regularly employed attorney of the trust company may know of the communication or writing. In any suit or proceeding touching the existence, condition, management or administration of the trust, the court in which the matter is pending may require disclosure of the communication or writing. [Amended by 1973 c 797 §202]

709.280 Loans to directors, officers or employes prohibited; loans to affiliates or subsidiaries prohibited. (1) A trust company shall not make any loan to any director, officer or employe of the company or to any affiliate or subsidiary corporation or any director, officer or employe of an affiliate or subsidiary corporation from its trust funds, and shall not permit any director, officer, employe, affiliate or subsidiary corporation to become indebted to it in any way out of its trust funds, unless specifically authorized to do so by the terms of the trust.

(2) An officer, director or employe of a trust company shall not knowingly violate any provision of this section, or aid or abet any other person in a violation.

(3) This section shall not prevent the maintenance by a trust company of time or demand deposits of its trust funds in an affiliate or subsidiary corporation which is a bank. [Amended by 1973 c 797 §203; 1975 c 544 §29e]

709.290 Closing of trust unduly delayed. If, as a result of an examination, the superintendent finds that the closing of any trust by a trust company has been unreasonably delayed, the superintendent may initiate proceedings in a court of competent jurisdiction to require the trust company to perform its duties in closing the trust. [Amended by 1973 c 797 §204]

709.300 National bank as fiduciary. (1) If a national banking association is domiciled within this state or if it had a lawfully established branch office in this state on December 31, 1964, it may act in fiduciary capacities in all respects, as provided by applicable laws of the United States and rules and regulations promulgated pursuant thereto. All acts provided in the Bank Act to be performed by the State Treasurer, the superintendent or other public officials for or in respect to trust companies, shall be performed for national banking associations equally with trust companies.

(2) Every national banking association which is authorized to exercise fiduciary powers and which has qualified by making the deposit of securities required under ORS 709.030, may:

(a) Act or be appointed by any court to act in any fiduciary capacity to the same extent as any trust company;

(b) Use the word "trust" in its corporate name; and

(c) Advertise its authority to act in fiduciary capacities. [Amended by 1963 c 55 §1; 1965 c 170 §1; 1973 c.797 §205]

709.310 [Amended by 1963 c 55 §2; repealed by 1973 c 797 §428]

709.320 [Repealed by 1973 c 797 §428]

709.330 Sale or transfer of assets or liabilities; effect on fiduciary relations. (1) When a sale or transfer of assets or liabilities becomes effective, as provided in ORS 711.205, the purchasing corporation shall succeed to all the rights, obligations and relations of the selling corporation to or in respect to any person, estate, creditor, depositor, trustee or beneficiary of any trust and in respect to any fiduciary relation, and the rights, obligations and relations shall remain unencumbered.

(2) The sale or transfer of assets shall not effect a renunciation or revocation of any letters of administration, letters testamentary, letters of guardianship or any other fiduciary relationship.

(3) If any trust requires the approval of the court to a change of the fiduciary, within 90 days after the change becomes effective the successor fiduciary shall file notice of the change with the court having jurisdiction and serve notice of the change upon each beneficiary. The notice may be served in the manner provided in ORCP 9 or, if the residence of a beneficiary is not known, notice may be published in the manner provided for the publication of summons.

(4) A beneficiary or other person interested in the trust or estate may, within 90 days after the service of the notice, apply to the appropriate court for a change of fiduciary or such other relief as may be proper. [Amended by 1973 c 797 §206, 1979 c 284 §195]

709.340 Trust company quitting business; examination. A trust company quitting business shall furnish to the superintendent satisfactory evidence of its release and discharge from all obligations and trusts provided for in the Bank Act. The superintendent shall examine the trust company, and, if he is satisfied after the examination that the trust company has discharged all its obligations and trusts, he shall revoke its certificate of authority and deliver up all securities on deposit with him under ORS 709.030. [Amended by 1973 c 797 §207]

709.350 Successor trustee upon liquidation or receivership; appointment and qualification; petition by superintendent. (1) If a trust company or national bank doing a trust business goes into voluntary or involuntary liquidation or receivership, the appointment of a successor trustee for the trust shall be handled by the court hearing the liquidation proceedings upon petition by the superintendent, the trust company, any interested person or, in the case of a national bank, by its receiver or liquidating agent.

(2) Upon the filing of the petition, the court shall order all persons interested in any trust to designate and take all necessary steps to appoint a successor trustee within a time fixed in the order, or to show cause why a successor trustee should not be appointed by the court. The order may be general in its terms and need not designate the trusts involved or the nature, purpose or extent of the trusts, or give the name of any of the beneficiaries or interested persons.

(3) In a trust where those interested in the trust fail to cause a successor trustee to be appointed prior to the time fixed in the order, the court shall appoint a successor trustee

(4) The successor trustee shall succeed to all the rights, powers, and obligations of the trust company or national bank in liquidation, except claims or liabilities arising out of the management of the trust prior to the date of transfer.

(5) A copy of the order provided for in subsection (2) of this section, shall be published once a week for four successive weeks in a newspaper of general circulation to be designated by the court and published in the county in which the liquidation proceedings of the trust company or national bank are carried on. If there is no newspaper published in the county, publication shall be made in a newspaper of general circulation in the State of Oregon designated by the court. Proof of publication shall be made in the same manner as proof of publication of summons is made.

(6) The filing of the petition and the making and entering of the order and the publishing of a copy of the order, gives the court full jurisdiction of the trusts and all parties interested in the trusts. A court having jurisdiction shall require the superintendent to mail, by registered mail postage prepaid, a copy of the order to each living trustor of all private trusts in which the trust company or national bank is trustee or to the then directly participating beneficiaries of all private trusts in which there is no living trustor. The notice shall be mailed to the last-known address of each trustor or participating beneficiary as shown by the records of the trust company or national bank. Proof of mailing shall be in such form as the court may require. Failure to mail the notice or the nonreceipt of the notice by any trustor or participating beneficiary shall not affect the jurisdiction of the court or invalidate any order or decree made in the proceedings.

(7) It is unnecessary to require the appearance of minors or other incompetents by guardians ad litem or otherwise. [Amended by 1973 c 797 §208]

709.360 [Repealed by 1973 c 797 §428]

709.370 [Repealed by 1973 c 797 §428]

709.380 [Repealed by 1973 c 797 §428]

709.390 Discontinuance of trust business; determination of claims against deposit of securities. If a trust company or national bank discontinues its trust business, the superintendent shall file in the circuit court for the county in which the principal place of business of the trust company or national bank is located a verified petition:

(1) Stating that the trust company or national bank is closing, dissolving or transferring its trust business or is in process of voluntary or involuntary liquidation.

(2) Requesting that claims, if any, against the deposit made under ORS 709.030 by the trust company or national bank with the superintendent be determined. [Amended by 1957 c 115 §1, 1973 c 797 §209]

709.400 Order to start court action; publication of order; jurisdiction over securities; notice to trustor; appearance of minors and incompetents unnecessary. (1)

Upon the filing of the petition under ORS 709.390, the court shall make an order requiring all persons having claims against the deposits to start action in the circuit court hearing the superintendent's petition within six months after the date of the order. Any claim not filed within the six-month period is barred. The petition or the order need not give the names of any beneficiary or the nature of the trusts protected by the deposit.

(2) A copy of the order shall be published in a newspaper designated by the court, having a general circulation in the county of the principal place of business of the trust company or national bank at least once a week for as many consecutive weeks as the court orders, but not less than four weeks nor more than 12 weeks. If a newspaper is not published in the county, the copy of the order shall be published in a newspaper designated by the court. Proof of publication shall be made in the same manner as proof of publication of summons is made and the proof shall be filed with the clerk of the court.

(3) The filing of the petition, under ORS 709.390, and the making and entering of the order and the publishing of a copy of the order under this section gives the court exclusive jurisdiction of deposited securities and of all parties having an interest in or claim upon the securities.

(4) A court shall require the superintendent to mail, by registered mail, postage prepaid, a copy of the order to each living trustor of all private trusts in which the trust company or national bank is trustee and which have not been closed or to the directly participating beneficiaries of all private trusts in which there is no living trustor. The notice shall be mailed to the last-known address of each trustor or participating beneficiary as shown by the records of the trust company or national bank. Proof of mailing shall be in the form required by the court. Failure to mail the notice or the nonreceipt of the notice by any trustor or participating beneficiary shall not affect the jurisdiction of the court or invalidate any order or judgment made in the proceedings.

(5) The appearance of minors or other incompetents by guardians ad litem or otherwise is not necessary. [Amended by 1973 c 797 §210; 1979 c 284 §196]

709.410 Termination of right to do trust business. The filing by the superintendent of the petition provided for in ORS 709.390 terminates the right of the trust company or national bank affected thereby to do a trust business, except as may be necessary to wind up then existing trusts. [Amended by 1973 c 797 §211]

709.420 Actions or suits on claims; service of summons; preference on calendar. (1) In all actions to determine claims to the deposits, the superintendent shall be a necessary party defendant.

(2) An action shall not be considered to have begun within the time required by the order unless, in the case of defendants within the state, summons is actually served within 60 days after the time limited in the order.

(3) Actions filed to determine claims to the deposits shall have preference upon the calendar of any trial or appellate court and shall be tried by the courts without unnecessary delay. [Amended by 1973 c 797 §212]

709.430 Release or payment of deposit pending suit; distribution of deposits upon determination of suit. (1) If any actions on claims against the deposit mentioned in ORS 709.390 are begun within the six-month period, the superintendent shall not release and the court shall not order the payment of any part of the deposit until all actions are determined by final judgment.

(2) When all actions on claims against the deposit are finally determined, so much of the deposit as is necessary shall be paid to the claimants who have established their claims in the sums allowed by the court or, if not sufficient, the deposit shall be distributed pro rata among the claimants establishing their claims.

(3) The court, in the proceeding initiated by the superintendent, shall decree that the balance of the deposit be paid to the trust company or national bank or if the trust company or national bank is in the process of liquidation, to the official in charge of the liquidation. [Amended by 1973 c 797 §213]

709.440 Superintendent's charges as a prior lien on deposit. All unpaid charges owing to the superintendent for expenses and services rendered under ORS 709.080 in connection with the deposit mentioned in ORS 709.030, and all expenses incurred by the superintendent, including services rendered by him, attorney's fees and necessary court expenses in connection with the determination of claims against the deposit, are a first and prior lien on the deposit, and shall be paid

before any part of the deposit is released or paid to any claimant, trust company or national bank. [Amended by 1973 c 797 §214]

709.450 Sale and disposition of securities to pay expenses, costs and claims. The court hearing the proceedings instituted by the superintendent under ORS 709.390 may, upon terms fixed by the court, order the superintendent to sell and reduce to cash the deposited securities as necessary to pay:

(1) The unpaid charges and expenses described in ORS 709.440; and

(2) Claims established against the deposit. [Amended by 1973 c 797 §215]

709.460 Application of ORS 709.390 to 709.450; return of security deposit after consolidation or merger. (1) ORS 709.390 to 709.450 do not apply to a merger or consolidation of a trust company or national bank with another trust company or national bank authorized to conduct a trust business whereby the security deposits and the trust business of the retiring trust company or national bank are acquired by the resulting trust company or national bank.

(2) Immediately following the completion of a merger or consolidation described in subsection (1) of this section, the superintendent, upon written application of the resulting trust company or national bank, shall return to the resulting trust company or national bank that portion of the combined security deposits of the trust companies or national banks involved in the merger or consolidation which exceeds the deposit required by ORS 709.030 for the combined cash and securities held in trust by the resulting trust company or national bank following the merger or consolidation. [Amended by 1957 c 115 §2, 1973 c 797 §216]

709.980 Civil penalties. (1) Any person who violates ORS 709.270 or 709.280 or any rule adopted under ORS 709.170 (3) shall forfeit a civil penalty in an amount determined by the superintendent of not more than $2,500 for each offense.

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

(3) The civil penalty may be recovered as provided in ORS 706.980. [1975 c 544 §29c]

709.990 [Repealed by 1973 c 797 §428]

CHAPTER 710
[Reserved for expansion]