

Chapter 713

1987 REPLACEMENT PART

Foreign and Extranational Institutions

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FINANCIAL INSTITUTIONS

713.010 Application of Bank Act to foreign and extranational institutions; when deposit insurance required. (1) Every foreign institution and extranational institution doing business in this state is subject to all the provisions of the Bank Act. However, when there is a conflict between the provisions of this chapter and the provisions of another chapter of the Bank Act, the provisions of this chapter control.

(2) The Bank Act does not apply to any foreign or extranational copartnership, firm, joint stock company, association or corporation engaged in the business of loaning money on mortgage security which does not accept deposits or receive from citizens or residents of this state property or money in trust on deposit or for investment. [Amended by 1965 c 170 §2, 1967 c 333 §1, 1973 c 797 §307, 1975 c 725 §8, 1979 c 88 §13]

713.012 Limitation on authority to act as fiduciary; authority of certain foreign trust companies to engage in trust business.

(1) A foreign institution or extranational institution shall not hold real or personal property in trust in this state or act in a fiduciary capacity except as provided in this section.

(2) A corporation qualified to act as a trust company in the state of its domicile and a national bank authorized by the appropriate authorities of the United States to act in a fiduciary capacity, whether or not the national bank is authorized to transact business in this state, may acquire, hold and transfer real or personal property in this state as trustee to secure indebtedness issued under the terms of a mortgage, deed of trust, security agreements or financing statements filed or recorded in this state.

(3) A corporation qualified to act as a trust company in the state of its domicile and a national bank authorized by the appropriate authorities of the United States to act in a fiduciary capacity, whether or not the national bank is authorized to transact business in this state, may invest collective investment funds without qualifying to do business in Oregon if the funds consist solely of assets of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from federal income taxation under the federal Internal Revenue Code, and if the funds are lawfully held in trust, in real or personal property in the state. A corporation authorized under this subsection to invest trust funds in property in this state may hold title to the property as trustee and exercise all rights and remedies with regard to such property as any other trustee.

(4) Subsection (3) of this section applies to all property acquired prior to January 1, 1985, by a corporation or national bank authorized to hold property in trust under this section. On and after January 1, 1985, subsection (3) of this section applies to a corporation or national bank permitted to hold property in trust in Oregon under subsection (3) of this section only if the state of its incorporation or domicile permits banks incorporated under the laws of Oregon or national banks domiciled in Oregon to hold title to property in trust in that state as provided in subsection (3) of this section.

(5) The prohibitions contained in this section do not apply to any national bank, foreign institution or extranational institution having a branch office in this state and lawfully doing a trust business on December 31, 1964.

(6) Notwithstanding any other provision of this section, the Bank Act or the Oregon Business Corporation Act, ORS chapter 60, any corporation which is organized under the laws of any of the states enumerated in this subsection for the purpose of acting as a fiduciary or otherwise engaging in the business of a trust company, may act as a fiduciary or otherwise engage in the business of a trust company in this state upon compliance with the following requirements. The corporation shall be

(a) Organized under the laws of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Utah or Washington,

(b) Owned or controlled, either directly or indirectly, by a bank holding company which owns or controls, either directly or indirectly, a bank organized under the laws of this state, or a national bank or bank holding company which has its principal place of business in this state, and

(c) Subject to the jurisdiction of the director and comply with the provisions of ORS 713 020 and 713 050.

(7) Upon compliance with the requirements of ORS 706 005, 707 625, 713 012, 716 920 to 716 930, 722 056, 722 058, 722 066 to 722 072, 722 658 and 725 317, the director shall issue the corporation referred to in subsection (6) of this section a certificate of authority to transact business as provided in ORS 713 020 (2).

(8) A corporation which has been issued a certificate of authority to transact business in this state pursuant to ORS 706 005, 707 625, 713 012, 716 920 to 716 930, 722 056, 722 058, 722 066 to 722 072, 722 658 and 725 317 and the provisions of ORS 713 020 (2) shall have the

same rights, powers and privileges as any trust company organized under the laws of this state or any trust department of a bank or national bank doing business in this state, except that such corporation may accept deposits of money only in trust and not in the capacity of a debtor [1973 c 797 §308 1975 c 725 §9, 1979 c 362 §1, 1981 c 192 §22, 1983 c 37 §22, 1987 c 445 §16]

713.016 When deposit insurance required; acceptance of deposits. (1) A foreign institution shall not accept deposits in this state unless the deposits are insured by the Federal Deposit Insurance Corporation. This subsection does not apply to any foreign institution having a branch office in this state and lawfully doing a banking business on December 31, 1966, or to extranational institutions

(2) Unless it complies with the requirements of ORS 713 025, an extranational institution shall not accept deposits in this state. This subsection and ORS 713 025 do not apply to any extranational institution having a branch office in this state and lawfully doing a banking business on December 31, 1966 [1973 c 797 §309, 1975 c 725 §10]

713.020 Application of corporation laws. (1) Every foreign institution and extranational institution, doing business in this state, other than the loaning of money on mortgage security or performing those functions described in ORS 713 012 (2), shall, in addition to the requirements of the Bank Act, comply with ORS 57 655 to 57 745 (1985 Replacement Part), except that all declarations, powers of attorney, articles of incorporation, annual reports and all other papers required in ORS 57 655 to 57 745 (1985 Replacement Part) to be filed with the Corporation Commissioner shall be filed with the Director of Insurance and Finance and all filing fees, annual license fees and moneys payable to the Corporation Commissioner shall be paid by the foreign institution or extranational institution to the director

(2) The director shall issue to a foreign institution or extranational institution the certificate of authority to transact business in this state, provided for in ORS 57 675 to 57 685 (1985 Replacement Part) [Amended by 1965 c 170 §3, 1973 c 797 §310 1975 c 725 §11 1983 c 37 §23, 1987 c 197 §8]

713.025 Assets requirement for extranational institutions. (1) Every extranational institution with one or more offices in this state shall maintain in this state assets equal to the amount of deposit liabilities of the extranational institution payable at or through its offices in this state

(2) As used in this section

(a) "Assets" include currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness owed by persons in the United States and collectible in the United States in currency of the United States or, with prior approval of the director, in currency freely convertible into currency of the United States, but do not include prepaid expenses, customers' liability on acceptances and amounts due from other offices, agencies or branches of and wholly owned subsidiaries of the parent institution. For purposes of this section, assets may also include any assets held in a manner approved by the director

(b) "Deposit liabilities" include the total amount of deposits in offices of the extranational institution in this state but do not include accrued expenses, amounts due to other offices, agencies or branches of and wholly owned subsidiaries of the parent extranational institution, acceptances outstanding and borrowings

(3) The director shall determine the value of the assets maintained for the purposes of this section and shall value marketable securities according to accepted principles of accounting [1975 c 725 §3]

713 030 [Repealed by 1973 c 797 §428]

713.035 Failure to maintain required assets; notice to director; effect of deficiency. If at the close of any banking day an extranational institution does not have in this state the assets required to be maintained under ORS 713 025, the managing officer in charge of the extranational institution shall immediately notify the director and the main office of the parent institution of the deficit. The extranational institution shall have three banking days to eliminate the deficiency. If the deficiency is not eliminated within the three-day period, the institution is prohibited from making loans, issuing letters of credit or accepting drafts or bills of exchange and the director may revoke its certificate of authority [1975 c 725 §4]

713 040 [Repealed by 1973 c 797 §428]

713.045 Distribution of assets of extranational institution by director after insolvency or liquidation. (1) If an extranational institution whose deposit liabilities are not insured to any extent by the Federal Deposit Insurance Corporation, becomes insolvent or goes into voluntary or involuntary liquidation or cannot otherwise pay its deposit liabilities, the assets required to be maintained under ORS 713 025 shall become the property of the director, free of any liens and other claims and shall be held by the director in trust and applied in the order of priority established in ORS 711 520

(2) The amount available for distribution to the depositors under subsection (1) of this section shall be allocated to the depositors by dividing the total amount of cash to be distributed by the total number of depositors. The amount so determined shall be the basic distribution allocable to each depositor, however, any one depositor shall not receive an amount in excess of the depositor's account balances or \$20,000 whichever is the lesser.

(3) If any cash remains after the basic distribution, the director shall on a similar basis continue to compute the amount to be paid to those depositors for whom the first basic distribution would not permit payment in full.

(4) As used in this section, the term "depositor" has the meaning ascribed to it in ORS 711 515 [1975 c 725 §5]

Note 713 045 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 713 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

713.050 Filing evidence of responsibility of parent organization. Foreign institutions shall file with the director evidence, as the director requires, showing that the entire capital and surplus of the parent foreign institution or parent corporation is hable for all obligations of the branch of the foreign institution [Amended by 1973 c 797 §313]

713.060 Acceptance of drafts and bills of exchange; certain loans and acceptances based on paid-up capital and surplus. (1) A foreign institution may, in accordance with ORS 708 380, accept drafts or bills of exchange or issue letters of credit based upon its entire paid-up capital and surplus. Drafts or bills of exchange shall not be accepted or letters of credit issued to any one person in excess of 10 percent of capital and surplus.

(2) An extranational institution, in accordance with ORS 708 030 and 708 380 may loan on real estate or leaseholds or may accept drafts or bills of exchange or issue letters of credit in this state, based upon its entire paid-up capital and surplus. Drafts or bills of exchange shall not be accepted or letters of credit issued to any one person in excess of 10 percent of capital and surplus [Amended by 1973 c 797 §314, 1974 s s c 15 §1, 1975 c 725 §12, 1979 c 88 §14]

713.070 Certificate authorizing mortgage loans; license fee. A foreign institution

or extranational institution may obtain from the director a certificate authorizing the foreign institution or extranational institution to make mortgage loans within the State of Oregon upon filing with the director an application for the certificate with a certified copy of its articles of incorporation, and upon payment to the director of an annual license fee of \$200 [Amended by 1973 c 797 §315, 1975 c 725 §13]

713.080 Certain companies desiring to make mortgage loans must file resolution as to business to be transacted. If any foreign or extranational copartnership, firm, joint stock company, association or corporation whose name contains the word "trust" or whose articles of incorporation empower it to do a trust business, desires to engage in the business of loaning money on mortgages in this state, it shall file with the director, in addition to its articles of incorporation or association, a resolution of its governing board, attested by its president and secretary, stating that it will not

(1) Receive deposits in the State of Oregon,

(2) Accept from citizens or residents of the State of Oregon property or money in trust or for investment, except as provided in ORS 713 012, or

(3) Act in any capacity except as authorized by ORS 713 010, 713 012, 713 016 and 713 020 [Amended by 1973 c 797 §316, 1975 c 725 §14 1981 c 192 §23]

713.090 Reports. Every foreign institution and extranational institution shall file reports under oath with the director in the form and giving the information the director may require [Amended by 1973 c 797 §317, 1975 c 725 §15]

713.100 Discontinuance of operations in state. Before any foreign institution or extranational institution discontinues its operations in this state it shall file a sworn statement with the director to the effect that there are no obligations outstanding in this state which would require it to qualify under this chapter [Amended by 1973 c 797 §318, 1975 c 725 §16]

713.110 Forfeiture for violation of chapter; action to recover. Any person violating any provision of this chapter shall forfeit to the Insurance and Finance Fund \$100 for each day during which the offense continues. The penalty shall be assessed and collected in the manner prescribed in ORS 706 570 (2) [Amended by 1973 c 797 §319]

