TITLE 53

FINANCIAL INSTITUTIONS

Chapter 706. 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. Companies Controlling Banks
716. Mutual Savings Banks
717. Sale of Checks

Chapter 706

1989 EDITION

Administration and Enforcement of Banking Laws Generally

GENERAL PROVISIONS

706.005 Definitions for Bank Act

706.100 Applicability of general corporation laws

SUPERVISION OF BANKING INSTITUTIONS

706.500 Inspection of banking institutions; examination program with federal regulators

706.520 Request by directors or stockholders for examination; fees

706.530 Annual fees paid by banks, savings banks and stock savings banks

706.540 Fees paid by trust companies

706.544 Costs for special examination or other actions taken

706.560 Appraisal of securities and audit

706.570 Requiring banking institution to keep proper records and accounts; civil penalty

706.575 Certificate as evidence that document is filed with director

706.580 Illegal, unauthorized or unsafe practices; ordering discontinuance

706.600 Authority to protect creditors and depositors of banking institution

706.610 Examiners required to report insolvency of banking institution

706.620 Records

706.630 Regular reports of condition; additional reports as required by director

706.650 Delay or failure to furnish reports of condition

706.655 Records of extensions of credit by banking institutions

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 director

706.700 Resignation of officers; notice to director

706.710 Waiver of disqualification, retirement or resignation notices; reducing effective date

706.720 Reports filed with director; public inspection of records; exemptions; forms

706.725 False statements, reports and book entries

706.730 Prohibition against disclosing depositor and debtor names; exceptions

706.775 Enforcement of Bank Act; production of witnesses and evidence; fees and mileage of witnesses

706.780 Notice to law enforcement officers of Bank Act violations; exception

706.785 Attorney General to conduct actions; assistance of district attorneys

706.790 Adoption of rules

706.795 Adoption of rules comparable to federal law and regulations

STATE BANKING BOARD

706.900 State Banking Board; appointment; qualifications; vacancy; compensation and expenses

706.905 Board to select chairman; meetings; quorum

706.910 Powers and duties of board; expenses

706.915 Report on failure of banking institution
706.920 Report on violations of law

PENALTIES

706.980 Civil penalties
706.990 Criminal penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183 310 to 183.550

Bank deposits and collections, Ch. 74

Banking institution property insurance requirements, limitation, 746 185 to 746 211

Business trusts and trustees are not subject to certain bank and trust company regulations, 128 570

Commercial paper, Ch. 73

Consumer contract review for plain language, 180 540

Conversion of savings bank to savings association, 722.058

Deduction from salary or wages of state employees and payment to designated banking institution, 292.067

Fees for consumer loan contract review, 180.545

Interest rates, limits and computation methods, exemption, 82.025

Open meeting law not applicable to State Banking Board, 192.690

Securities, Ch. 59

Unclaimed property, disposition of, 98.302 to 98 436

706.775

Depositions, Ch. 45

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 that is organized under the laws of this state and is authorized to engage in a banking business. "Bank" 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 banking institution is required to be open for the normal conduct of its business but does not include Saturday or any day the bank is closed under ORS 707.430.

(6) "Banking institution" means a bank, a trust company, a savings bank or a stock savings bank.

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

(8) "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.

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

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

(11) "Department" means the Department of Insurance and Finance.

(12) "Director" means the Director of the Department of Insurance and Finance.

(13) "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 the name and right of the individual.

(14) "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.

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

(16) "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 the name and right of the citizen.

"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.

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

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

(19) "Officer" of a banking institution means a chief executive officer, president, vice president, secretary, treasurer or cashier.

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

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

(22) "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.

(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, but does not include a corporation appointed by a United States Bankruptcy Court to serve as a bankruptcy trustee under Title 11, United States Code, when the corporation is acting in its capacity as a bankruptcy trustee.

(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 banking institution or national bank, or someone specifically authorized by the customer, may communicate to the banking 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 banking institution.

(28) "Stock savings bank" means a corporation with capital stock organized under the laws of this state, authorized to engage in a banking business, and which has converted from a savings bank under provisions of ORS chapter 716, from a stock savings association chartered under the provisions of ORS chapter 722, from a federally chartered stock savings and loan association or a federally chartered stock savings bank or which was converted to a federal stock savings bank under the provisions of the Garn-St. Germain Depository Institutions Act of 1982 (P.L. 97-320).

(29) "Out-of-state banking institution" means any bank organized under the laws of any state other than Oregon, or any national bank that has its principal place of business in one of such states or bank holding company that has its principal place of business in one of such states.

(30) "Bank holding company" means any company that is a bank holding company under the federal Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841, et seq.

(31) "Principal place of business" of a national bank or bank holding company means that state in which the deposits of the national bank or the total deposits of all the bank holding company's banking subsidiaries are the largest.

(32) "In-state banking institution" means a banking institution, a national bank having its principal place of business in Oregon or a bank holding company having its principal place of business in Oregon.

(33) "Financial institution" means banking institutions, national banks, extranational institutions, foreign institutions, federal associations as defined in ORS 722.004, savings associations as defined in ORS 722.004, credit unions as defined in ORS 723.006, out-of-state credit unions doing business in this state under ORS 723.042 and federal credit unions. [1973 c.797 §2; 1975 c.193 §1; 1975 c.725 §1; 1983 c.37 §1; 1985 c.12 §1; 1985 c.451 §1; 1985 c.627 §3, 1985 c.762 §16; 1987 c.373 §47; 1987 c.371 §1; 1987 c.445 §7]

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 [Amended by 1973 c.797 §3, 1975 c.544 §1; 1979 c.88 §1; 1981 c.192 §2, 1983 c.296 §1; 1983 c.367 §1; 1985 c 762 §17; 1985 c.796 §1, 1987 c 197 §1; 1987 c.414 §166a, repealed by 1989 c.324 §75]

706.205 [1963 c.580 §69; 1973 c 797 §4; repealed by 1985 c.762 §196]

706.210 [Repealed by 1963 c 580 §103]

706.215 [1963 c.580 §70; 1973 c.797 §5, repealed by 1985 c.762 §196]

706.218 [1973 c.797 §6; repealed by 1985 c.762 §196]

706.220 [Repealed by 1963 c 580 §103]

706.225 [1963 c 580 §71; 1973 c.797 §7; 1974 s.s c.27 §1, repealed by 1985 c.762 §196]

706.226 [1977 c 135 §7; repealed by 1985 c.762 §196]

706.228 [1973 c 797 §8, repealed by 1985 c.762 §196]

706.230 [Repealed by 1963 c 580 §103]

706.235 [1963 c 580 §72, 1973 c.797 §9, repealed by 1985 c 762 §196]

706.240 [Repealed by 1963 c 580 §103]

706.245 [1963 c.580 §73; 1969 c.314 §101; 1973 c 797 §10, 1985 c 786 §5; renumbered 706.900]

706.250 [Repealed by 1963 c.580 §103]

706.255 [1963 c 580 §75; 1973 c.797 §11; renumbered 706 905]

706.260 [Renumbered 706.285]

706.265 [1963 c.580 §76; 1973 c.797 §12, 1974 s.s. c.27 §2, 1985 c.762 §21a, 1985 c.786 §6, renumbered 706.910]

706.270 [Repealed by 1963 c.580 §103]

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

706.285 [Formerly 706 260; 1973 c.797 §13, 1981 c 192 §3, repealed by 1985 c.762 §196]

706.290 [Amended by 1973 c.797 §14, repealed by 1985 c 762 §196]

706.410 [Amended by 1973 c 797 §15, 1985 c.762 §23, renumbered 706 775]

706.420 [Repealed by 1973 c.797 §428]

706.430 [Amended by 1973 c.797 §16; 1975 c.544 §2; 1979 c.88 §2; renumbered 706.780]

706.440 [Amended by 1973 c.797 §17; renumbered 706 785]

706.450 [Amended by 1963 c.580 §77; 1969 c 43 §1; 1973 c.797 §18, repealed by 1985 c.762 §196]

706.455 [1973 c 797 §19; repealed by 1985 c.762 §196]

706.460 [Amended by 1963 c 580 §78; 1971 c.734 §169; 1973 c 797 §20; 1985 c.762 §25; renumbered 706.790]

706.470 [Repealed by 1971 c.734 §21]

706.475 [1971 c.734 §171; 1973 c.797 §21; repealed by 1985 c.762 §196]

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

706.490 [Repealed by 1973 c.797 §428]

SUPERVISION OF BANKING INSTITUTIONS

706.500 Inspection of banking institutions; examination program with federal regulators. (1) Each banking institution is subject to the inspection of the director. The director shall conduct an examination of the condition and resources of each banking institution, and determine whether the banking institution is complying with the laws of this state and such other matters as the director may prescribe. Except as provided in subsections (2) and (4) of this section, the examinations shall be conducted not more than 24 months apart.

(2) The director may participate in any program offered by the Federal Deposit Insurance Corporation or the Federal Reserve Board that provides for joint or alternate examinations of banking institutions by the director and the Federal Deposit Insurance Corporation or the Federal Reserve Board.

(3) In addition to the examinations under subsection (1) or (2) of this section, the director may conduct examinations of a banking institution at any other time.

(4) Instead of making an examination of a banking institution under subsection (1) or (2) of this section, the director 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; 1985 c 786 §7]

706.510 [Repealed by 1973 c.797 §428]

706.520 Request by directors or stockholders for examination; fees. When requested in writing by the board of directors of a banking institution or stockholders owning a majority of the capital stock of an institution, the director may make or cause to be made an examination into the affairs and conditions of the banking institution. For the examination the banking institution shall pay the fee imposed under ORS 706.544. [Amended by 1973 c 797 §23; 1985 c.762 §26, 1985 c.786 §8]

706.530 Annual fees paid by banks, savings banks and stock savings banks. Each bank, savings bank and stock savings bank shall pay each year to the director the fee determined by reference to the schedule adopted by the director under ORS 705.620. The fee shall be paid by the date set by the director in the rule establishing the schedule. [Amended by 1969 c.94 §1; 1971 c.68 §1; 1973 c.797 §24; 1977 c 135 §8, 1985 c.762 §27a; 1985 c.786 §9, 1987 c.171 §3; 1987 c.373 §48]

706.540 Fees paid by trust companies. The director shall charge and collect a fee from each trust company, according to a fee schedule established by the director under ORS 705.620. The fee shall be paid by the date set by the director in the rule establishing the schedule. [Amended by 1969 c.94 §2; 1971 c.68 §2; 1973 c 797 §25; 1977 c.135 §9, 1983 c.296 §1a; 1985 c 762 §28a, 1985 c.786 §10; 1987 c 171 §4; 1987 c.373 §49]

706.544 Costs for special examination or other actions taken. A banking institution shall pay to the director the actual costs of the department, as determined by the director, for conducting any special examination or taking any action under ORS 706.600.

[1973 c.797 §25a, 1977 c.135 §10, 1985 c.762 §30a, 1985 c.786 §11]

706.548 [1973 c.797 §26; repealed by 1985 c.762 §196 and 1985 c.786 §69]

706.550 [Amended by 1963 c 580 §80; 1973 c 797 §27; repealed by 1985 c.762 §196 and 1985 c.786 §69]

706.555 [1973 c 797 §28, 1985 c.796 §2; renumbered 706.795]

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

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

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

(2) If a banking institution fails to open and keep the books and accounts prescribed by the director, the director shall send written notice to the banking institution of intent to assess and collect the penalty under this subsection. For each day the banking institution fails to open and keep the books and accounts after receiving notice from the director, the banking institution is subject to a penalty of $100. The penalty shall be paid by the banking institution when it receives a notice and demand for the amount of the penalty from the director. If the banking institution delays or refuses to pay the penalty upon demand, the penalty shall be recovered in the name of the director in an action brought by the Attorney General. All sums collected for penalties imposed by this section shall be paid into the Insurance and Finance Fund created by ORS 705.145. [Amended by 1973 c.797 §30, 1985 c.762 §31, 1987 c.373 §50]

706.575 Certificate as evidence that document is filed with director. (1) A certificate attached to a copy of a document filed by the director, bearing the director's signature, which may be in facsimile, is conclusive evidence that the original document or a facsimile thereof is on file with the office.

(2) All certificates issued by the director in accordance with the provisions of this chapter and all copies of documents filed in the office of the director in accordance with the provisions of this chapter, when certified by the director, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the facts stated in the certificates or documents. A certificate by the director, as to the existence or nonexistence of the facts relating to institutions which would appear from the presence or absence of documents filed in the office of the director or the compliance or noncompliance with provisions of this chapter, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or nonexistence of the facts stated in the certificates or documents. [1989 c.324 §2]

706.580 Illegal, unauthorized or unsafe practices; ordering discontinuance. When it appears to the director that a banking institution is violating any law or is conducting its business in an unsafe or unauthorized manner, the director 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 Authority to protect creditors and depositors of banking institution. (1) The director may take one or more of the actions described in this section to protect the interest of the creditors and depositors of a banking institution if any of the following occurs:

(a) It is unsafe or inexpedient for the banking institution to continue to transact business.

(b) Extraordinary withdrawals of money are jeopardizing the interests of remaining depositors.

(c) A director or officer has abused that person's trust or has been guilty of misconduct in an official position injurious to the banking institution.

(d) The banking institution has suffered a serious loss by fire, floods, burglary, disaster or otherwise.

(e) The banking institution neglects or refuses to observe an order of the director under ORS 706.580 or refuses to submit to the inspection of an examiner.

(f) A director or officer refuses to be examined under oath regarding the affairs of the banking institution.

(2) For purposes of subsection (1) of this section and subject to subsections (4) and (5)

of this section, the director may take any of the following actions in regard to a banking institution:

(a) Take immediate possession and control of the property and affairs of the banking institution.

(b) If the director has issued an order under ORS 706.580, enter the banking institution to monitor and enforce implementation of the order.

(c) Direct the sale of all or part of the banking institution's assets, or portions thereof, and the assumption of all or part of its liabilities.

(d) Direct the conversion, reorganization or consolidation of the banking institution, either with or without a merger.

(e) Direct the merger of the banking institution.

(f) Direct the sale of a banking institution.

(g) Direct the banking institution to develop and endeavor to implement an acquisition plan, under which the banking institution will acquire or be acquired by a national bank or banking institution, or a state or federal savings association.

(h) Take any other action that the director determines is necessary and expedient to facilitate the sale of the stock or assets of the banking institution, or the sale, conversion, reorganization, consolidation or merger of the banking institution.

(3) Notwithstanding any other provision of law and pursuant to ORS 706.544, any actual costs incurred by the department under this section shall be paid by the banking institution to the director for deposit in the Insurance and Finance Fund. The moneys deposited in the Insurance and Finance Fund under this subsection shall not be considered as a budget item on which a limitation is otherwise fixed by law, but shall be in addition to any specific biennial appropriations or amounts authorized to be expended from the Insurance and finance Fund for any biennial period.

(4) Paragraphs (c) to (h) of subsection (2) of this section are available to the director only when a banking institution is in immediate danger of insolvency.

(5) At any time after the director has taken action under subsection (2) of this section, the banking institution may apply to the State Banking Board to review the director's actions. After hearing from the director and the banking institution, but not later than the 15th day after the board receives the application for review, the board by order shall approve or disapprove the director's action. The order by the board is subject to judicial review under ORS 183.470 to 183.485 upon petition by the director or the banking institution. [Amended by 1973 c.797 §32; 1985 c 786 §12]

706.610 Examiners required to report insolvency of banking institution. An examiner of the Department of Insurance and Finance, having knowledge of the insolvency or unsafe condition of a banking institution shall report the fact in writing, over the examiner's signature, to the director. [Amended by 1973 c.797 §33; 1985 c.762 §32]

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

706.630 Regular reports of condition; additional reports as required by director. (1) The director shall call for the report of condition of banking institutions, foreign 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 banking and foreign 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 banking institution making the report and attested by not less than two directors of the banking institution.

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

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

(3) The director may require additional reports of condition at any time the director 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 director. [Amended by 1973 c.797 §35; 1975 c.544 §3; 1975 c.725 §6a; 1977 c.135 §11; 1983 c 37 §2; 1989 c.269 §1]

706.640 [Repealed by 1973 c.797 §428]

706.650 Delay or failure to furnish reports of condition. If a banking institution

delays or fails to furnish reports in the manner required under ORS 706.630, the banking institution is subject to a penalty of $25 a day for each day while in default. The penalty shall be paid by the banking institution upon receiving notice or demand for the amount of the penalty from the director. If the penalty is not paid upon demand by the director, the director shall proceed to collect the penalty in the manner prescribed by ORS 706.570 (2). If the director determines that the default was unavoidable, the director may waive the penalty. [Amended by 1973 c.797 §36]

706.655 Records of extensions of credit by banking institutions. (1) Each banking institution shall submit to the director each calendar quarter a copy of such records concerning extensions of credit by the banking institution to its executive officers, directors and principal shareholders, and the related interests of those persons, as are required by rule of the director.

(2) The director may require a banking institution to file records under subsection (1) of this section more often than quarterly, as the director determines is necessary.

(3) The director shall adopt rules governing the submission of records concerning extensions of credit, as required under subsections (1) and (2) of this section, and the identification of the persons to whom the extensions are made. The rules shall be consistent with provisions of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 and regulations adopted by the Federal Reserve Board and the Federal Deposit Insurance Corporation thereunder:

(a) In order that banking institutions may satisfy the requirements of subsections (1) and (2) of this section by submitting copies of records required to be maintained under such federal laws and regulations; and

(b) In order to otherwise minimize the inconvenience to banking institutions of having to maintain separate records for the federal regulators and the director. [1985 c.786 §2]

706.660 Report of earnings and dividends. (1) Each banking institution, foreign institution, extranational institution and each branch of every foreign and extranational institution shall submit to the director a report of earnings and dividends when called for by the director. The director 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 director in the call.

(2) The report shall be in the form prescribed by the director 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 director may require additional reports of earnings and dividends at any time the director 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 director 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 banking 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 director. (1) If the director 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 director 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 director 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 director. The director shall notify the institution of the director's 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, that person shall immediately notify the director 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 director; and

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

(3) For purposes of this section, a controlling interest of an institution exists if a person, directly or indirectly, acting through one or more other persons, owns or has power to vote 25 percent or more of any class of voting stock of an institution or of a corporation that is or becomes a bank holding company as defined in ORS 715.010 unless:

(a) The stock of the institution is held in a fiduciary capacity and not for the benefit of the person or of the shareholders, employees or members of the person; or

(b) The stock is acquired, not as a means of circumventing ORS chapter 715, but by the person in the ordinary course of business to secure or collect a debt previously contracted in good faith and the person disposes of the stock within two years after the acquisition of the stock. The director may extend the period if an extension will not be detrimental to the public interest or in contravention of any other law.

(4) The director shall approve or disapprove the transfer in accordance with the standards provided by ORS 707.080 (1). The director also may disapprove a transfer under subsection (2) of this section if any of the reasons stated by ORS 707.145 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; 1985 c.12 §15; 1985 c.786 §13]

706.700 Resignation of officers; notice to director. An officer of a banking institution who is voluntarily disqualified or retires or resigns from the position of the officer shall give 30 days prior written notice to the director. [Amended by 1963 c.195 §1; 1973 c.797 §41; 1987 c.158 §150]

706.710 Waiver of disqualification, retirement or resignation notices; reducing effective date. The director 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 director; public inspection of records; exemptions; forms. (1) The director shall receive and file in the department all reports required by the Bank Act.

(2) Except as provided in subsection (3) of this section and ORS 706.730, the records of the Department of Insurance and Finance pertaining to the administration of the Bank Act and the records of the State Banking Board are available for public inspection unless the director determines in the particular instance that the public interest in disclosure of the records is outweighed by the interests of a banking institution or its directors, stockholders, officers, employees and customers in keeping the records confidential, or that the records are exempt from disclosure under ORS 192.501 to 192.505. A determination by the director under this subsection is subject to review under ORS 192.410 to 192.505.

(3) Except as provided in subsections (4) and (5) of this section, the following records of the department and the board are exempt from disclosure or production:

(a) Examination reports and work papers, directives, orders and correspondence that relate to examination reports.

(b) Investigatory information concerning persons subject to investigation by the director under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155, 707.705 or 716.085 and financial statements of such persons.

(c) Proprietary information.

(d) Operational audits and reviews of financial statements submitted to the director.

(e) Reports filed under ORS 706.655.

(f) Stockholder lists.

(g) Reports of the director under ORS 706.915.

(4) Notwithstanding subsection (3) of this section, the director may disclose any record of the department specified in this subsection pertaining to an institution that has been liquidated under ORS 711.400 to 711.615 if the director, with the concurrence of the State Banking Board, determines in the particular instance that the public interest in disclosure of the record outweighs the interests of the banking institution or its directors, stockholders, officers, employees or customers in keeping the record confidential. Under no circumstances, however, shall the director disclose any such record or portion thereof that contains any proprietary information or any information relating to the individual financial activities or affairs of persons unless the director concludes that those activities or affairs were a direct and substantial contributing factor in the failure of the institution. This subsection applies to the following records of the department:

(a) Examination reports and work papers, directives, orders and correspondence relating to examination reports;

(b) Investigatory information concerning persons subject to investigation by the direc-

tor under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155, 707.705 or 716.085;

(c) Operational audits and reviews of financial statements; and

(d) Reports filed under ORS 706.655.

(5) Notwithstanding ORS 40.270, an officer of the department or member of the board may be examined concerning records that are exempt from disclosure under subsection (2) or (3) of this section and ORS 706.730 and the records are subject to production if the court before which a civil or criminal action is pending finds that such examination and production is essential for establishing a claim or defense. In making a finding under this subsection, if the court views the records, the court shall do so in camera.

(6) A civil penalty imposed by the director under the Bank Act shall become subject to public inspection:

(a) After the 20th day after the director imposes the civil penalty, if the board does not review the civil penalty.

(b) On the date the board approves, disapproves or reduces the civil penalty.

(7) The State Banking Board may inspect all records of the department pertaining to the condition of banking institutions. The director shall furnish to the board, upon request of the board, all records of the department that pertain to violations of law to which ORS 706.920 applies. The director also may furnish such records without request. The board shall not disclose any records.

(8) All records of the department pertaining to the condition of banking institutions 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 banking institution is a depository of public fund deposits.

(e) The following, if a merger, purchase or consolidation is prospective or imminent of institutions supervised by the director, or if the following supervise an institution that owns or controls an institution under the supervision of the director:

(A) The Federal Home Loan Bank.

(B) Regulators of out-of-state institutions or foreign bank holding companies or subsidiaries of foreign bank holding companies.

(f) The respective banking institution, or the out-of-state institution, foreign bank holding company or subsidiary of a foreign bank holding company that controls a banking institution.

(g) A holding company of a bank.

(9) The director shall prescribe and furnish to interested persons the forms for all reports required by the Bank Act.

(10) If the director is requested to disclose any record subject to this section and the record contains both material that is exempt from disclosure under this section or any other provision of law and material that is not exempt from disclosure, the director shall separate the exempt and nonexempt material and shall disclose only the nonexempt material. [Amended by 1973 c.797 §43, 1975 c.515 §6; 1983 c.37 §3, 1983 c.367 §2, 1985 c.762 §33a; 1985 c.786 §14; 1987 c.373 §50a]

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

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

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

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

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

706.730 Prohibition against disclosing depositor and debtor names; exceptions. (1) The State Banking Board, director or any other person employed by the Department of Insurance and Finance shall not knowingly disclose the name of a person who is a depositor or debtor of a banking institution, or the amount of the person's deposit or debt, except as follows:

(a) The director or the employee may disclose such information as may be required under ORS 706.720 (5) or as may be necessary in the performance of the director's or employee's official duty including any duty under ORS 295.018.

(b) The director may maintain a record of borrowers from banking institutions and

may give information concerning the total liabilities of a borrower to a banking institution owning obligations of the borrower.

(2) Subsection (1) of this section does not prohibit disclosure of the name of any debtor or the amount of the person's debt included in reports that are filed under ORS 706.655, if the reports were filed by a banking institution that has been liquidated or is in the process of being liquidated under ORS 711.400 to 711.615 and if disclosure is otherwise allowed under ORS 706.720. [Amended by 1973 c.797 §45; 1975 c 515 §7; 1985 c 762 §§34, 34a; 1985 c.786 §15]

706.740 [Amended by 1963 c 195 §2; 1963 c 580 §81; 1973 c.797 §46; repealed by 1985 c 762 §196]

706.775 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 director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records that the director considers relevant or material to the inquiry.

(2) If a person fails to comply with a subpoena 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 director, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of subpoena issued from the court or a refusal to testify therein.

(3) Each witness who appears before the director under a subpoena shall receive the fees and mileage provided for witnesses in ORS 44.415 (2), except that a witness subpoenaed at the instance of parties other than the director or an examiner shall not be compensated for attendance or travel unless the director certifies that the testimony of the witness was material to the matter investigated.

(4) The director in any investigation may cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil suits in the circuit court. [Formerly 706.410; 1989 c.980 §19]

706.780 Notice to law enforcement officers of Bank Act violations; exception. If the director has reason to believe that a person has violated any provision of the Bank Act for which criminal prosecution is provided, the director 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. [Formerly 706 430]

706.785 Attorney General to conduct actions; assistance of district attorneys. The Attorney General shall conduct all actions begun by the director under authority of the Bank Act, and may require the assistance of the district attorney of the district in which the action is conducted. [Formerly 706.440]

706.790 Adoption of rules. (1) In accordance with ORS 183.310 to 183.550, the director may adopt rules for the purpose of carrying out the Bank Act.

(2) In addition to the notice requirements of ORS 183.310 to 183.550, before the director adopts a rule, the director shall submit a copy of the rule to each banking institution. [Formerly 706.460]

706.795 Adoption of rules comparable to federal law and regulations. Notwithstanding any other provision of law, the director may, in accordance with ORS 183.310, 183.315, 183.330, 183.335 and 183.341 to 183.410, make rules authorizing a banking institution to exercise any of the powers conferred upon a federally chartered bank, trust company, credit union, savings and loan association or savings association or institution doing business in this state that 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, the National Credit Union Administration or the successor or successors of them, if the director 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 banking institutions and federally chartered banking institutions. [Formerly 706 555]

STATE BANKING BOARD

706.900 State Banking Board; appointment; qualifications; vacancy; compensation and expenses. (1) The State Banking Board is established within the Department of Insurance and Finance. The board shall consist of five members appointed by the Governor. The members shall be subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. Three of the members of the board shall each have at least five years' employment as senior officers of a banking institution in this or any other state and shall be employed as such at the time of appointment. The other two members shall be members of the general

public with no occupational or directorial interest in any banking institution, national bank, state or federal savings association or state or federal credit union. 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. [Formerly 706 245, 1987 c 373 §51]

706.905 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. [Formerly 706 255]

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

(a) Inquire into the needs of banking institutions and the functions and the business policy of the department;

(b) Make recommendations to the department concerning the adoption of rules and policies and the proposal of legislation for the welfare and progress of the banking institutions, the public and the banking business in Oregon; and

(c) Exercise any powers conferred on the board by law.

(2) The expenses of the board shall be paid from moneys available to the department for payment of the administrative expenses of the department. [Formerly 706 265]

706.915 Report on failure of banking institution. (1) The director shall prepare and submit to the State Banking Board a report described in subsection (2) of this section:

(a) When a banking institution is liquidated; or

(b) When a banking institution is merged, sold or consolidated with the approval of the director due to its insolvency or impending insolvency.

(2) In the report, the director shall:

(a) Give a full and complete statement, to the best of the director's knowledge, of the reasons for the failure of the banking institution;

(b) Describe specifically any violations of law or noncompliance with the institution's own internal procedures that are directly connected with the failure;

(c) Provide a statement of the liabilities and resources of the institution; and

(d) Provide any other information that the director believes should be included in the report.

(3) The director shall submit the report to the board not later than the 90th day:

(a) After the date on which the director transfers the duty of liquidating the institution to the Federal Deposit Insurance Corporation under ORS 711.465 or after the date on which the director completes the liquidation of the banking institution, whichever date is earlier.

(b) After the date on which the sale, merger or consolidation takes effect.

(4) The board shall review the report and may suggest to the director changes that it believes ought to be made in the report or information that ought to be added to it. The director may amend the report according to the suggestions.

(5) Not later than the 15th day after the director submits the report or amended report to the board, the director shall prepare a summary of the report. The summary shall not be exempt from disclosure but shall be available to the public. The summary shall not contain any information that is confidential under ORS 706.720 (3)(a) to (f) or 706.730, or mention any names of employees, officers or directors of the banking institution or the name of any other person whose privacy, in the opinion of the director, would be unreasonably infringed by disclosure.

(6) Except as provided in subsection (5) of this section, the director, any member of the board or any employee of the department shall not publicly disclose any report prepared under this section.

(7) The director, the board and the department shall be immune from liability for any claim for injury to any person:

(a) Resulting from the publication of a summary of a report under this section, except for publication of any matter that is included in the summary through negligence, in bad faith or with malice.

(b) Resulting from public disclosure of a report by any person other than the director, any member of the board or any employee of the department. If the director, a member of the board or any employee of the department publicly discloses a report, the person making the disclosure shall not be immune from liability.

(c) Resulting from actions taken in good faith by the director, members of the board

and employees of the department in connection with the preparation of the report or presentation of the report to the board. [1985 c.786 §16]

706.920 Report on violations of law. (1) The director shall report to the State Banking Board each calendar quarter on all violations of law of the nature described in this subsection that have occurred during the previous calendar quarter. The violations to be reported are as follows:

(a) Any violation for which an order or directive is issued under ORS 706.580.

(b) Any violation of statutory requirements and limitations under the Bank Act concerning loans by a banking institution, or concerning collateral that a banking institution may accept for loans.

(c) Any failure to obey or put into effect any order or directive of the director.

(d) Any refusal to submit to an examination of the director.

(e) Any filing of a false report with the director, when the person required to file the report knew or should have known that the report was false.

(f) Operation as a banking institution by any person without a proper certificate, in violation of ORS 707.010.

(g) Repeated violations or a continuing pattern of violations by a person of any provision or provisions of the Bank Act or rules adopted thereunder.

(h) Any violation of any provision of the Bank Act or rules adopted thereunder that the director determines to be of major significance.

(2) The director shall state in regard to each violation reported under subsection (1) of this section:

(a) Whether the director imposed a civil penalty; and

(b) If no civil penalty was imposed, what other action, if any, has been or will be taken by the director.

(3) The board may request the director to provide additional information about violations reported or unreported by the director. [1985 c.786 §17]

PENALTIES

706.980 Civil penalties. (1) Any person who violates any provision of the Bank Act, or any lawful rule or final order of the director for which a civil penalty is not expressly provided, shall forfeit a civil penalty in an amount determined by the director 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 $1,000 for each offense or $5,000 in the aggregate for all such offenses within any three-month period. Each violation is a separate offense.

(2) Any person who violates ORS 706.610 and 706.725 shall forfeit a civil penalty in an amount determined by the director of not more than $5,000. In addition, a person violating ORS 706.610 shall forfeit the person's office.

(3) Any person who violates ORS 706.730 shall forfeit a civil penalty, in an amount determined by the director, of not more than $1.000. In addition, the violator shall forfeit the violator's office.

(4) All money forfeited under subsections (1), (2) and (3) of this section shall be paid to the State Treasurer to be deposited in the Insurance and Finance Fund.

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

(6) The State Banking Board without hearing may review and reduce, approve or disapprove any civil penalty imposed by the director under the Bank Act. The board may not reduce, approve or disapprove a civil penalty later than the 20th day after the date of the order of the director imposing the penalty.

(7) 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.

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

(9) If a civil penalty is assessed against a director, officer or employee of a banking institution, unless the director provides otherwise, the director, officer or employee shall forfeit the penalty and the penalty shall not be paid either directly or indirectly by the banking institution.

(10) 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, 1985 c.786 §18]

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