

Chapter 715

1993 EDITION

Companies Controlling Banks

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CROSS REFERENCES

- Administration of banking laws generally, Ch. 706
- Banking institution property insurance requirements, limitation, 746.185 to 746.211
- Financial institution acting as insurer prohibited, 707.454

FINANCIAL INSTITUTIONS

715.010 Definitions. As used in this chapter:

(1) "Bank" means any company that accepts deposits in Oregon that are insured under the provisions of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, et seq., provided, however, that:

(a) The term "bank" shall not include a company engaged solely in the trust business, all or substantially all of the deposits of which are in trust funds and are received in a bona fide fiduciary capacity or a savings bank or stock savings bank electing to be treated as a Federal Association as defined in ORS 722.004; and

(b) For the purposes of ORS 715.025 only, the term "bank" shall not include a company that:

(A) Engages only in credit card operations;

(B) Does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;

(C) Does not accept any savings or time deposits of less than \$100,000;

(D) Does not permit any depositor to reduce the balance of funds on deposit in any account below the sum of \$100,000, unless the account is closed;

(E) Maintains only one office that accepts deposits; and

(F) Does not engage in the business of making commercial loans.

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

(3) "Company" means an entity that is a company under the federal Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841, et seq. [Amended by 1973 c.797 §336; 1977 c.135 §27; 1979 c.88 §15; 1983 c.296 §9; 1985 c.12 §8; 1989 c.12 §1; 1989 c. 447 §1]

715.015 Approval required to become bank holding company of bank organized under Oregon laws. (1) If a company proposes to become the bank holding company of a bank chartered under the laws of this state, the company shall apply to the director for a certificate of approval. The application shall contain the name and address of the company and any other information required by the director to make a determination under this section.

(2) The director shall issue the certificate of approval only if the director finds that:

(a) The directors and officers of the company that will control the management and

affairs of the bank chartered under the laws of this state if the change of control takes place are qualified by character, experience and financial responsibility to control and operate the bank in a legal and proper manner;

(b) The interests of the stockholders, depositors and creditors of the bank chartered under the laws of this state and the public generally will not be jeopardized by the proposed change in ownership and management;

(c) The transfer is not disapproved under ORS 706.690;

(d) The proposed change in management and ownership will not result in a monopoly or be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in the relevant financial market served by the bank to be acquired; and

(e) The proposed change in ownership and management will not substantially lessen competition or tend to create a monopoly or in any other manner be a restraint of trade in the relevant financial market served by the bank to be acquired, unless the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable benefits of the transaction in meeting the convenience and needs of the relevant financial market to be served.

(3) The director may disapprove an application for a certificate of approval under this section if any of the reasons stated in ORS 707.145 apply to the proposed new bank holding company.

(4) A director or officer of a bank chartered under the laws of this state, a transfer agent, vendee or vendor who has reason to believe that a transfer of stock will make the transferee the bank holding company of a bank chartered under the laws of this state, shall immediately notify the director of the transfer. The transfer of stock shall not be effective or be entered upon the books of the bank until the certificate of approval of the transfer is issued. [1973 c.797 §337; 1975 c.544 §41; 1977 c.135 §28; 1979 c.88 §16; 1985 c.12 §9; 1985 c.786 §44]

715.020 [Repealed by 1973 c.797 §428]

715.025 Limitations on control of banks by bank holding companies and by other companies; "control" defined. (1) No bank holding company shall control a bank as defined in ORS 715.010 unless the bank is also a bank as defined in section 2 (c) of the federal Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841 (c).

(2) No company that is not a bank holding company shall control a bank.

(3) As used in this section, "control" means:

(a) Having the direct or indirect ownership, control of or power to vote 25 percent or more of any class of voting stock of the bank;

(b) Having control in any manner over the election of a majority of the directors or trustees of the bank; or

(c) Exerting in any other manner what the director finds constitutes a controlling influence over the management or policies of the bank. [1973 c.797 §338; 1985 c.12 §10]

715.030 [Repealed by 1973 c.797 §428]

715.035 Restrictions on loans to holding company or company controlled thereby. (1) A bank may loan its funds to the bank holding company controlling the bank, a company controlled by the bank holding company or an officer, director or employee of the bank holding company or a company controlled by the bank holding company if:

(a) The loan to the bank holding company, or the company controlled by the bank holding company is adequately secured by collateral other than stock or evidences of indebtedness of the bank holding company or the company controlled by the bank holding company.

(b) The combined obligations of the bank holding company, companies controlled by the bank holding company and the officers and employees of the bank holding company and companies controlled by the bank holding company do not exceed 50 percent of the bank's paid-up capital and surplus.

(c) The obligations of any officer or employee of the bank holding company or companies controlled by the bank holding company do not exceed five percent of the paid-up capital and surplus of the bank.

(d) The obligations of any officer, who is actively engaged in the management of the bank holding company or a company controlled by the bank holding company, or of any of the employees of a bank holding company or the companies controlled by the bank holding company in excess of \$10,000 in the aggregate are fully secured by good collateral.

(2) Officers and employees of the bank controlled by a bank holding company shall not be included in determining the limitations of subsection (1)(b), (c) and (d) of this section unless the officer or employee of the bank is also serving as an officer or employee of the bank holding company controlling the bank or a company controlled by the bank holding company.

(3) All loans made as provided in subsection (1) of this section shall be reported by the officers of the bank to:

(a) The board of directors at its next regular meeting after the making of the loan; and

(b) The director at such times as the director prescribes. [1973 c.797 §339; 1977 c.135 §29; 1983 c.37 §24; 1985 c.786 §45]

715.040 [Repealed by 1973 c.797 §428]

715.045 Examination of books; payment of costs of examination. (1) The director may examine the books, accounts, records and files of a bank holding company when the director considers it necessary to evaluate the relationship between a bank and the bank holding company.

(2) The bank holding company examined shall pay to the director the actual cost of the examination. [1973 c.797 §340]

715.050 [Repealed by 1973 c.797 §428]

715.055 Reports of condition; penalty for failure to submit. (1) A bank holding company shall submit to the director a report of the condition of the bank holding company within 90 days after close of the fiscal year for the bank holding company.

(2) The bank holding company shall include in the report of condition information which the director considers necessary to disclose fully the relations between the bank holding company and the bank it controls.

(3) The director may call for reports of condition from a bank holding company, in such form as the director may prescribe, if the director considers it necessary in order to obtain a full knowledge of the condition of the bank which the bank holding company controls. The bank holding company shall submit the report to the director within 45 days after receiving the call from the director.

(4) A bank holding company may in lieu of all the reports called for in this section, submit to the director a copy of the report furnished by the holding company to the Federal Reserve Bank under the provisions of Regulation Y of the Board of Governors of the Federal Reserve System and any additional information the director may require.

(5) If a bank holding company fails to submit a report of condition as required by this section, the bank holding company shall pay to the director a penalty of \$100 for each day it fails to comply. If the bank holding company delays or refuses to pay the penalty upon demand by the director, the director may maintain an action in the director's name against the delinquent bank holding company for the recovery of the penalty. [1973 c.797 §341]

715.065 Authority of out-of-state institution to acquire bank, bank holding company; status of acquired bank. (1) On or after July 1, 1989, an out-of-state banking institution may acquire:

(a) All or portions of the capital stock of a bank that has been engaged in the business of banking for a period of not less than three years prior to the effective date of the acquisition, or all or portions of the capital stock of the bank holding company of any such bank.

(b) All or portions of the capital stock of an institution organized under ORS 707.029 that has merged with or acquired all or portions of the capital stock of or all or portions of the assets and liabilities of:

(A) A bank that has been engaged in the business of banking for a period of not less than three years prior to the effective date of the acquisition; or

(B) The bank holding company of a bank that has been engaged in the business of banking for a period of not less than three years prior to the effective date of the acquisition.

(2) An out-of-state banking institution that proposes to make an acquisition under subsection (1) of this section of a bank chartered under the laws of this state or of the bank holding company of a bank chartered under the laws of this state shall file an application for a certificate of approval with the director under ORS 715.015, and the provisions of that section shall be applicable to the application.

(3) Any out-of-state banking institution that makes an acquisition of a bank chartered under the laws of this state or of the bank holding company of such a bank under subsection (1) of this section shall comply with all orders, instructions, limitations, restrictions and other directives issued by the director in connection with the approval of the application for acquisition.

(4) A bank chartered under the laws of this state that has been acquired by an out-of-state banking institution under subsection (1) of this section shall be a bank, shall comply with the provisions of the Bank Act and shall be subject to the jurisdiction of the director. The bank shall have all the rights, powers and privileges that it had prior to such acquisition. [1985 c.12 §12; 1987 c.371 §3]

715.070 Prohibition against control of bank by company other than in-state or out-of-state institution. No company other than an in-state banking institution or an out-of-state banking institution shall acquire control over any bank. [1985 c.12 §13; 1987 c.371 §4]

715.075 Authority of bank holding company to acquire corporation licensed as insurance agent. A bank holding company may acquire and hold all or part of the stock of a corporation which is or may thereafter be licensed under ORS 744.002 as an agent to transact one or more of the classes of insurance described in ORS 744.115 except for title insurance, subject to the following requirements:

(1) The acquisition and holding of such stock shall be subject to the approval of the director. The director shall base consideration for approval on the condition of the bank holding company, the adequacy of a formal business plan for the insurance activities and the existence of satisfactory management for the corporation.

(2) The director may revoke or restrict the ongoing authority of the bank holding company to hold stock in the corporation if the condition of the bank holding company or of any bank owned by it substantially deteriorates or if the insurance activities are adversely affecting the bank holding company or any bank owned by it.

(3) If the corporation conducts the insurance agency activity in any branch or office in which any bank owned by the bank holding company carries on its banking business, the insurance agency activity shall be physically separated from those parts of the premises in which the bank carries on the banking business.

(4) All persons who act on behalf of the corporation to transact insurance, as that term is defined in ORS 731.146, shall be employees of the corporation only and shall not while employed by the corporation be in any manner employed or compensated by or perform any work for the bank holding company or any bank owned by it.

(5) The name of the corporation and any assumed business name used by it shall not be identical to that of any bank owned by the bank holding company.

(6) Prior to selling any policy of insurance, the corporation shall disclose in writing to the purchaser that the corporation is owned in whole or in part by the bank holding company, the name or names of any bank owned by the bank holding company and that the purchaser shall not be required to purchase the insurance from the corporation as a condition of obtaining any service from or engaging in any transaction with the bank holding company or any bank or other subsidiary corporation owned by the bank holding company.

(7) For each calendar year during which a bank holding company owns all or part of any corporation licensed under ORS 744.002

as an agent; the bank holding company shall file a written report with the director. The report shall be filed no later than March 31 of the following year and shall disclose the insurance activities of the corporation. The required contents of the report shall be established by the director by rule. The reports filed with the director under this paragraph shall be available for public inspection in the office of the director.

(8) The corporation shall not in any manner use customer information obtained by the institution from another insurance agent to promote, develop or solicit insurance business for the corporation unless the other insurance agent consents to such use of the customer information.

(9) The corporation shall be subject to the limitations applicable to lending institutions under ORS 746.180 and 746.185 to 746.211. For the purpose of this subsection, the term "lending institution" has the meaning set forth in ORS 746.185. [1987 c.916 §4; 1989 c.331 §30; 1989 c.701 §66]

715.090 Authority of bank holding company to share information concerning customers with controlled company.

(1) A bank holding company may share financial and credit information concerning its

customers with any company of which it directly or indirectly controls 50 percent or more of the voting shares. Any company so controlled by a bank holding company may share information concerning its customers with the bank holding company and with any other company so controlled by the same bank holding company. This section shall not be construed as otherwise permitting or limiting the sharing or disclosure of information.

(2) For purposes of this section, "customers" includes but is not limited to depositors, borrowers, credit card holders, lessees, purchasers under contracts and applicants for credit. [1985 c.357 §2]

715.100 [1985 c.12 §17; repealed by 1987 c.371 §5]

715.910 Civil penalties. Any person who violates ORS 715.035 shall forfeit and pay to the State Treasurer to be deposited in the Consumer and Business Services Fund a civil penalty in an amount determined by the director of not more than \$2,500 for individuals and \$50,000 for institutions. The civil penalty may be recovered as provided in ORS 706.980. [1975 c.544 §43]

715.990 [Amended by 1973 c.797 §342; repealed by 1975 c.544 §62]