Chapter 713

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Out-of-State Banks and Extranational Institutions

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713.010 Application of Bank Act to out-of-state banks and extranational institutions; powers of out-of-state bank. (1) Every activity that an out-of-state bank or extranational institution engages in while conducting a banking business in this state is subject to the applicable provisions of the Bank Act.

(2) An out-of-state bank that opens, occupies or maintains a branch in this state pursuant to and in accordance with the requirements of ORS 713.270 and that has a certificate of authority from the Director of the Department of Consumer and Business Services to conduct banking business in this state pursuant to ORS 713.020 and 713.140 to 713.160 has the same powers to engage in an activity in this state that the out-of-state bank has under the laws of the out-of-state bank's home state, except that an out-of-state bank may not transact trust business in this state unless the out-of-state bank complies with ORS chapter 709. If a conflict exists between the provisions of this chapter and the provisions of the laws of the home state of the out-of-state bank, the laws of the out-of-state bank's home state control. [Amended by 1965 c.170 §2; 1967 c.333 §1; 1973 c.797 §307; 1975 c.725 §8; 1979 c.88 §13; 1997 c.631 §283; 2011 c.263 §2]

713.011 [1993 c.229 §14; repealed by 1997 c.631 §567]

713.012 [1973 c.797 §308; 1975 c.725 §9; 1979 c.362 §1; 1981 c.192 §22; 1983 c.37 §22; 1987 c.445 §16; repealed by 1997 c.631 §567]

713.016 Requirements for conducting banking business; deposit insurance. (1) An out-of-state bank may not conduct banking business in this state unless the Federal Deposit Insurance Corporation insures the out-of-state bank's insurable deposits and the out-of-state bank has received a certificate of authority to conduct banking business pursuant to ORS 713.020 and 713.140 to 713.160.

(2) An extranational institution may not conduct banking business in this state unless the extranational institution complies with the requirements of ORS 713.025. This subsection and ORS 713.025 do not apply to an extranational institution that has a branch office in this state and was lawfully conducting banking business on December 31, 1966. [1973 c.797 §309; 1975 c.725 §10; 1997 c.631 §286; 2011 c.263 §3]

713.020 Certificate of authority to conduct banking business. The Director of the Department of Consumer and Business Services shall issue a certificate of authority to conduct banking business in this state to an out-of-state bank or extranational institution that applies for the certificate under ORS 713.140 and that otherwise complies with the requirements of this chapter. [Amended by 1965 c.170 §3; 1973 c.797 §310; 1975 c.725 §11; 1983 c.37 §23; 1987 c.197 §8; 1989 c.324 §55; 1991 c.67 §190; 1997 c.631 §287; 2011 c.263 §4]

713.025 Assets requirement for extranational institutions; type; amount. (1) Except as provided in subsection (4) of this section and ORS 713.300, every extranational institution with one or more offices in this state shall deposit with the Director of the Department of Consumer and Business Services in an office located in this state of another bank approved by the director under an agreement satisfactory to the director for the protection of depositors of the extranational institution, free and clear of all other liens and encumbrances, assets in an amount set forth in subsection (2) of this section of the following types:

(a) Cash;

(b) 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;

(c) 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 general obligations 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;

(d) A surety bond issued by a surety company authorized to transact business in this state and in a form approved by the director, under which the principal and surety indemnify the depositors and creditors of the extranational institution against loss due to nonpayment by the extranational institution, including by reason of the failure of the extranational institution;

(e) An irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, satisfactory to the director; or

(f) Any combination of cash, securities complying with subsection (1)(b) and (c) of this section, surety bonds complying with subsection (1)(d) of this section, and letters

of credit complying with subsection (1)(e) of this section.

(2) The market value of the assets deposited pursuant to subsection (1) of this section shall be not less than:

(a) Five percent of the total liabilities of the office including acceptances, but excluding accrued expenses and amounts due to and other liabilities of offices, branches, agencies and subsidiaries of the extranational institution; or

(b) Such other amount as the director may determine to be necessary for the protection of depositors and the public interest.

(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.

(4) The deposit requirements of subsection (1) of this section shall not apply to an office of an extranational institution that is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)). [1975 c.725 §3; 1997 c.631 §290; 1999 c.30 §5]

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 on deposit the assets required to be maintained under ORS 713.025, the managing officer in charge of the office of the extranational institution shall immediately notify the Director of the Department of Consumer and Business Services and the main office of the extranational 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 extranational institution is prohibited from conducting banking business, 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; 1997 c.631 §291]

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 becomes insolvent or goes into voluntary or involuntary liquidation or cannot otherwise pay its deposit or other liabilities, the Director of the Department of Consumer and Business Services may take possession of the assets required to be deposited under ORS 713.025 directly or through the appointment of a receiver, free of any liens and other claims. The assets shall be held by the director or receiver in trust.

(2) Unless the deposited assets are delivered to the Federal Deposit Insurance Corporation as receiver, the amount available for distribution to the depositors under subsection (1) of this section shall be allocated to the depositors of the office pro rata to the extent of their deposits.

(3) Any additional deposited assets remaining after the distributions to depositors provided for in subsection (2) of this section shall be available for distribution to the other creditors of the extranational institution in accordance with ORS 711.530 to 711.570.

(4) As used in this section, the term "depositor" has the meaning given that term in ORS 711.515. [1975 c.725 §5; 1997 c.631 §292; 2007 c.71 §231]

713.050 [Amended by 1973 c.797 §313; repealed by 1997 c.631 §567]

713.060 [Amended by 1973 c.797 §314; 1974 s.s. c.15 §1; 1975 c.725 §12; 1979 c.88 §14; repealed by 1997 c.631 §567]

713.070 [Amended by 1973 c.797 §315; 1975 c.725 §13; repealed by 1997 c.631 §567]

713.080 [Amended by 1973 c.797 §316; 1975 c.725 §14; 1981 c.192 §23; repealed by 1997 c.631 §567]

713.090 Reports; fees; examination and regulation. (1) An out-of-state bank or extranational institution that conducts banking business in this state shall file reports under oath with the Director of the Department of Consumer and Business Services in the form and giving the information the director requires.

(2) An out-of-state bank or extranational institution that conducts banking business in this state is subject to the fee provided in ORS 706.530 and to examination and regulation in the manner provided in ORS 706.500.

(3) This section does not apply to a federal bank. [Amended by 1973 c.797 §317; 1975 c.725 §15; 1997 c.631 §293; 1999 c.59 §222; 2011 c.263 §5]

713.100 [Amended by 1973 c.797 §318; 1975 c.725 §16; repealed by 1997 c.631 §567]

713.110 [Amended by 1973 c.797 §319; repealed by 1997 c.631 §567]

713.120 [1989 c.324 §57; repealed by 1997 c.631 §567]

713.130 Name of out-of-state bank or extranational institution. (1) Except as provided in subsection (2) of this section, the Director of the Department of Consumer and Business Services may not issue a certificate of authority to an out-of-state bank or extranational institution if the name of the out-of-state bank or extranational institution does not conform to the provisions of ORS 707.075.

(2) If the director determines that an out-of-state bank or extranational institution that applies for a certificate of authority has

a name that is deceptively similar to the name of another financial institution that conducts a banking business in this state, the director may not issue a certificate of authority unless the out-of-state bank or extranational institution states on the application for a certificate of authority under ORS 713.140 (1)(a) and in the filings required by ORS 713.140 (3) that the corporate name is "_____ (name under which organized), an institution of _____ (place of organization)," the entirety of which is the "real and true name" of the out-of-state bank or extranational institution for the purposes of ORS chapter 648.

(3)(a) Except as provided in paragraph (b) of this subsection, this section does not preclude an out-of-state bank or extranational institution from transacting business under one or more assumed business names if the names conform to the provisions of ORS 707.075.

(b) An out-of-state bank or extranational institution may not transact business under a name that the director determines is confusingly similar to the name of a financial institution, corporation, professional corporation, nonprofit corporation, cooperative, limited liability company, limited partnership or business trust that is reserved, registered or on file with the Secretary of State or is registered as provided in ORS 648.010.

(c) The name designated under this section has the same legal effect under ORS 707.075 and ORS chapters 647 and 648 as the name of an Oregon state bank.

(d) Issuing the certificate of authority does not abrogate or limit the law as to unfair competition or unfair trade practices or derogate from the common law, the principles of equity or the statutes of this state or of the United States with respect to the right to acquire and protect trade names, trademarks and service marks. [1989 c.324 §58; 1997 c.631 §294; 2011 c.263 §6]

713.140 Contents of application for certificate of authority; rules; authority to transact business under other laws. (1) To procure a certificate of authority to conduct banking business in this state, an out-of-state bank or extranational institution shall apply to the Director of the Department of Consumer and Business Services. The application must state:

(a) The name, in accordance with the provisions of ORS 713.130.

(b) The state or country under the laws of which the out-of-state bank or extranational institution is organized.

(c) The date of organization.

(d) The period of duration of the out-of-state bank or extranational institution, if the duration is not perpetual.

(e) A mailing address to which the director may send notices.

(f) The address of the main office of the out-of-state bank or extranational institution in the state or country under the laws of which the out-of-state bank or extranational institution is organized.

(g) The name of the proposed registered agent and the street address in this state of the proposed registered office that will receive service of process for the out-of-state bank or extranational institution.

(h) The names and addresses of the president and secretary of the out-of-state bank or extranational institution.

(i) Additional information that the director by rule requires.

(2) The director may prescribe and furnish forms for the application. The president or a vice president and secretary or an assistant secretary of the out-of-state bank or extranational institution shall sign the application.

(3) The out-of-state bank or extranational institution shall also take the steps necessary to become authorized to transact business:

(a) If a corporation, as a foreign corporation under ORS chapter 60;

(b) If a limited partnership, as a foreign limited partnership under ORS chapter 70;

(c) If a limited liability company, as a foreign limited liability company under ORS chapter 63; or

(d) If a business trust, as a business trust under ORS 128.560 to 128.600.

(4) If the out-of-state bank is an unincorporated company, partnership or association, the out-of-state bank shall register the out-of-state bank's name as an assumed business name as provided in ORS chapter 648. [1989 c.324 §59; 1997 c.631 §295; 2011 c.263 §7]

713.150 Submission of application; fee; issuance of certificate of authority. (1) An out-of-state bank or extranational institution shall submit an application for a certificate of authority, together with an application fee of $2,500, to the Director of the Department of Consumer and Business Services for filing. The out-of-state bank or extranational institution shall also deliver with the completed application a certificate of existence or a document of similar import, duly authenticated by the official with custody of records in the state or country under whose law the out-of-state bank or extranational institution is organized and a copy of the documents

filed with the Secretary of State to comply with ORS 713.140 (3).

(2) If the director finds that the application conforms to this chapter, the director, when all fees and charges have been paid, shall issue and return to the sender a certificate of authority to conduct banking business in this state with the copy of the filed application. [1989 c.324 §60; 1997 c.631 §296; 2011 c.263 §8]

713.160 Conduct of banking business under certificate of authority. After the Director of the Department of Consumer and Business Services issues a certificate of authority, the out-of-state bank or extranational institution is authorized to conduct banking business in this state, subject, however, to the right of this state to suspend or revoke the authority as provided in ORS 713.230. [1989 c.324 §61; 1997 c.631 §297; 2011 c.263 §9]

713.170 Registered office or agent. An out-of-state state bank or extranational institution authorized to conduct banking business in this state shall have and continuously maintain in this state:

(1) A registered office that may be, but need not be, the same as the out-of-state state bank's or extranational institution's place of business in this state.

(2) A registered agent in compliance with the requirements imposed by ORS 713.140 (3). [1989 c.324 §62; 1997 c.631 §298; 2011 c.263 §10]

713.180 [1989 c.324 §63; repealed by 1997 c.631 §567]

713.190 Service of process on agent; director as agent; fee; affidavit. (1) A registered agent appointed by an out-of-state bank or extranational institution authorized to transact business in this state must be an agent of the out-of-state bank or extranational institution upon which may be served process, notice or demand required or permitted by law to be served upon the out-of-state bank or extranational institution.

(2) The Director of the Department of Consumer and Business Services is an agent of an out-of-state bank or extranational institution upon which process, notice or demand may be served, if:

(a) The out-of-state bank or extranational institution is authorized to conduct banking business in this state, and:

(A) The out-of-state bank or extranational institution fails to appoint or maintain a registered agent in this state;

(B) The registered agent that the out-of-state bank or extranational institution appointed cannot with reasonable diligence be found at the registered office;

(C) The certificate of authority for the out-of-state bank or extranational institution has been suspended or revoked; or

(D) The out-of-state bank or extranational institution is an unincorporated company, partnership or association;

(b) The out-of-state bank or extranational institution is conducting banking business in this state without the authorization required under this chapter;

(c) The out-of-state bank or extranational institution has been authorized to conduct banking business in this state and has withdrawn and consented to service on the director as prescribed in this chapter; or

(d) The out-of-state bank or extranational institution has conducted banking business in this state without the authorization to do so, has ceased to conduct banking business and has become subject to service on the director as prescribed in this chapter.

(3)(a) Except as provided in subsection (4) of this section, service of process, notice or demand must be made on the director by:

(A) Serving the director or a clerk on duty in an office of the director with a copy of the process, notice or demand and papers required by law to be delivered in connection with the service, or by mailing to the director a copy of the process, notice or demand by certified or registered mail, and paying a $25 fee for each document being served; or

(B) Transmitting notice of the service from the person that initiates the proceedings to the director and transmitting, by certified or registered mail, a copy of the process, notice or demand and accompanying papers to the out-of-state bank or extranational institution being served:

(i) At the last-registered office of the out-of-state bank or extranational institution as shown by the records of the director; or

(ii) At an address that the person that initiates the proceedings knows or, on the basis of reasonable inquiry, has reason to believe is most likely to result in actual notice.

(b) The person that initiates the proceedings shall file with the appropriate court or other body, as part of the return of service, the return receipt of mailing and an affidavit that states that the person complied with this section.

(4) If the out-of-state bank or extranational institution that is being served with the process, notice or demand is not authorized to conduct banking business in this state and was not authorized to conduct banking business in this state at the time the transaction, event or occurrence upon which the suit or proceeding is based occurred, service must be made in accordance with subsection (3) of this section, except that the plaintiff or the plaintiff's attorney shall im-

mediately send a copy of the process, notice or demand by registered or certified mail to the principal office or place of business of the out-of-state bank or extranational institution, instead of the last-registered office of the out-of-state bank or extranational institution.

(5) The director shall keep a record of all processes, notices and demands served upon the director under this section.

(6) This section does not limit or affect the right to serve process, notice or demand required or permitted by law to be served upon an out-of-state bank or extranational institution in a manner permitted by law, or enlarge the purposes for which service on the director is permitted where other provisions of law limit such purposes. [1989 c.324 §64; 1997 c.631 §299; 2011 c.263 §11]

713.200 Delivery of documents filed with Secretary of State; change of name or duration. (1) An out-of-state bank or extranational institution that has a certificate of authority to conduct banking business in this state shall deliver copies of documents that the out-of-state bank or extranational institution filed with the Secretary of State pursuant to ORS chapters 60, 63, 70 and 648 and ORS 128.560 to 128.600 to the Director of the Department of Consumer and Business Services promptly after filing the documents with the Secretary of State.

(2) If an out-of-state bank or an extranational institution that has a certificate of authority to conduct banking business in this state changes the out-of-state bank's or extranational institution's name or duration, the out-of-state bank or extranational institution shall apply to the director to amend the certificate of authority.

(3) The requirements for signing and submitting the application described in subsection (2) of this section to the director and that prescribe the form and contents of the application are the same as in the case of an original application for a certificate of authority under ORS 713.140. Filing the application for the amended certificate of authority by the director has the same legal effect as filing the original certificate of authority. [1989 c.324 §65; 1997 c.631 §300; 2011 c.263 §12]

713.210 Withdrawal from state. (1) An out-of-state bank or extranational institution that has a certificate of authority to conduct banking business in this state may withdraw from this state by applying to the Director of the Department of Consumer and Business Services to withdraw. An application to withdraw must set forth:

(a) The name of the out-of-state bank or extranational institution and the state or country under the laws of which the out-of-state bank or extranational institution is organized.

(b) A statement that the out-of-state bank or extranational institution no longer conducts banking business in this state.

(c) A statement that the out-of-state bank or extranational institution surrenders authority to conduct banking business in this state.

(d) A statement that the out-of-state bank or extranational institution revokes the authority of the out-of-state bank's or extranational institution's registered agent in this state to accept service of process, notice or demand and authorizes the director to accept on the out-of-state bank's or extranational institution's behalf service of process, notice or demand in any action, suit or proceeding based upon a transaction, event or occurrence that took place in this state before the filing of the application to withdraw.

(e) A mailing address to which a person that initiates proceedings may mail a copy of process, notice or demand that has been served on the director, to the out-of-state bank or extranational institution.

(f) Additional information that is necessary or appropriate to enable the director to determine and assess unpaid fees or charges payable by the out-of-state bank or extranational institution as prescribed in the Bank Act.

(2) The out-of-state bank or extranational institution may apply for withdrawal on forms the director prescribes or furnishes. The president or vice-president and secretary or assistant secretary of the out-of-state bank or extranational institution shall sign the application and one of the officers signing the application shall verify the application or, if the out-of-state bank or extranational institution is in the hands of a receiver or trustee, the receiver or trustee shall sign and verify the application on behalf of the out-of-state bank or extranational institution.

(3) An out-of-state bank or extranational institution that conducted banking business in this state without the authorization provided by this chapter is subject to service after ceasing to conduct banking business in this state in the same manner as though the out-of-state bank or extranational institution was authorized to conduct banking business, later withdrew and, in connection with the withdrawal, filed an authorization for service in the manner required by subsection (1)(d) of this section. [1989 c.324 §66; 1997 c.631 §301; 2011 c.263 §13]

713.220 Application for withdrawal; effect of filing. (1) An out-of-state bank or extranational institution that applies to withdraw from this state under ORS 713.210

must deliver the application to the Director of the Department of Consumer and Business Services. If the director finds that the application conforms to the provisions of this chapter, the director, when all fees and charges have been paid, shall file the application to withdraw and return the copy marked "Filed" to the sender.

(2) The authority of the out-of-state bank or extranational institution to conduct banking business in this state ceases when the application to withdraw is filed. [1989 c.324 §67; 1997 c.631 §302; 2011 c.263 §14]

713.230 Revocation of certificate of authority. A certificate of authority for an out-of-state bank or extranational institution to conduct banking business in this state may be revoked if the out-of-state bank or extranational institution:

(1) Failed to file a report or pay a fee required under the Bank Act;

(2) Failed to appoint or maintain a registered agent or office in this state as required by ORS 713.170 or failed to maintain authority to transact business as required by ORS 713.140 (3);

(3) Changed the out-of-state bank's or extranational institution's registered office or registered agent and failed to submit a statement of the change to the Director of the Department of Consumer and Business Services as required by ORS 713.200 (1);

(4) Misrepresented or allowed a misrepresentation of a material matter in an application, report, affidavit or other document that the out-of-state bank or extranational institution submitted pursuant to the Bank Act;

(5) Failed to submit for filing an application to amend the out-of-state bank's or extranational institution's certificate of authority as required by ORS 713.200 (2); or

(6) Failed to submit for filing a certificate of merger or consolidation as required by ORS 713.260. [1989 c.324 §68; 1997 c.631 §303; 2011 c.263 §15]

713.240 Procedure for revocation of certificate of authority; restoration; reinstatement; fee. (1) If an out-of-state bank or extranational institution has given cause for revocation of a certificate of authority as provided in ORS 713.230 and has failed to correct the neglect, omission, misrepresentation or delinquency, the Director of the Department of Consumer and Business Services may revoke the right of the out-of-state bank or extranational institution to conduct banking business in this state. The director shall mail a notice of the revocation to the mailing address shown for the out-of-state bank or extranational institution in the current records of the director and to the out-of-state bank or extranational institution at the registered office for the out-of-state bank or extranational institution in this state or the principal office in the out-of-state bank's or extranational institution's home state or country.

(2) After the director revokes the certificate of authority, all powers that this state conferred upon the out-of-state bank or extranational institution cease, and thereafter a person may not exercise or attempt to exercise power under the revoked certificate of authority in this state.

(3) If the director is satisfied that an out-of-state bank or extranational institution that has had a certificate of authority revoked under subsection (1) of this section has corrected the cause for revocation, the director shall restore the out-of-state bank's or extranational institution's former rights and privileges in the same manner as the director revoked the authority of the out-of-state bank or extranational institution.

(4) An out-of-state bank or extranational institution previously authorized to conduct banking business in this state that has had a certificate of authority revoked and that has corrected the cause for revocation under subsection (1) of this section may apply to reinstate the certificate of authority within two years after the date of revocation. The out-of-state bank or extranational institution shall pay all fees that accrued before the director revoked the certificate of authority and a reinstatement filing fee of $100. The payment must accompany the application for reinstatement. If the director is satisfied that the out-of-state bank or extranational institution has corrected the cause for revocation, the director shall file the application for reinstatement, which entitles the out-of-state bank or extranational institution to resume business in this state. The director may not file the application for reinstatement unless the name of the out-of-state bank or extranational institution conforms to ORS 713.130 and the application is filed within two years after the date of revocation.

(5) Reinstatement under this section relates back to and takes effect as of the effective date of the revocation of the certificate of authority, so that the existence of the out-of-state bank or extranational institution is deemed to have continued without interruption from that date. [1989 c.324 §69; 1997 c.631 §304; 2011 c.263 §16]

713.250 Limits on banks and institutions without certificates of authority. (1) An out-of-state bank or extranational institution that conducts banking business in this state without a certificate of authority may not maintain an action, suit or proceeding in a court of this state until the out-of-

state bank or extranational institution obtains a certificate of authority.

(2) An out-of-state bank's or extranational institution's failure to obtain a certificate of authority to conduct banking business in this state does not impair the validity of a contract or an act of the out-of-state bank or extranational institution, and does not prevent the out-of-state bank or extranational institution from defending an action, suit or proceeding in a court of this state.

(3) An out-of-state bank or extranational institution that conducts banking business in this state without a certificate of authority is liable to this state for the years or partial years during which the out-of-state bank or extranational institution conducted banking business in this state without a certificate of authority. The amount of the liability is equal to all fees, assessments and other charges that the out-of-state bank or extranational institution would have paid under the Bank Act had the out-of-state bank or extranational institution duly applied for and received a certificate of authority to conduct banking business in this state and filed all reports required under the Bank Act, plus all penalties imposed under the Bank Act for failure to pay the fees and charges. The Attorney General may bring proceedings to recover amounts due this state under the provisions of this section. [1989 c.324 §70; 1997 c.631 §305; 2011 c.263 §17]

713.260 Merger or consolidation. If an out-of-state bank or extranational institution that has a certificate of authority under ORS 713.020 ceases to exist because of a statutory merger or consolidation with any other out-of-state bank, an extranational institution or other entity, the resulting institution shall, within 60 days after the effective date of the merger or consolidation, file with the Director of the Department of Consumer and Business Services a certificate from the appropriate public officer of the state, territory or country under the laws of which the out-of-state bank or extranational institution is organized, or other evidence satisfactory to the director to the effect that the out-of-state bank or extranational institution has merged or consolidated and has ceased to exist. [1989 c.324 §71; 1997 c.631 §306; 2011 c.263 §18]

713.270 Maintaining out-of-state bank branch in this state; requirements; application; fee; denial of application; enforcement. (1) An out-of-state bank, including a savings bank organized under the laws of another state, may open, occupy or maintain a branch in this state that results from:

(a) Acquiring another bank or branch of another bank that is located in this state; or

(b) Merging with or converting from another bank or branch of another bank that is located in this state.

(2) An out-of-state bank may conduct banking business in this state under the provisions of subsection (1) of this section or by opening one or more de novo branches in this state if the laws of the jurisdiction in which the out-of-state bank's principal office is located expressly permit an Oregon bank to open one or more de novo branches in the jurisdiction under conditions that are not more restrictive than the conditions this chapter imposes on an out-of-state bank.

(3) An out-of-state bank must submit an application for a certificate of authority to conduct banking business in this state to the Director of the Department of Consumer and Business Services at the time that the out-of-state bank files with the out-of-state bank's home state or primary federal regulator for approval to open, occupy or maintain a branch in this state.

(4) At the time the out-of-state bank applies for a certificate of authority, the out-of-state bank must pay the application fee prescribed in ORS 713.150.

(5) If the director authorizes an out-of-state bank to open, occupy or maintain a branch in this state, the out-of-state bank may exercise the powers and authorities that the laws of this state authorize for Oregon banks unless the laws of the out-of-state bank's home state limit the powers and authorities.

(6) If the director determines that an out-of-state bank's opening, occupying or maintaining of a branch in this state is not consistent with the laws of this state or that the branch would operate in an unsafe or unsound manner, the director shall notify the out-of-state bank that:

(a) The director has denied the out-of-state bank's application for a certificate of authority to conduct banking business in this state; and

(b) The out-of-state bank may not conduct banking business at a branch located in this state.

(7) If the director determines that a branch that an out-of-state bank maintains in this state is being operated in violation of the laws of this state or that the branch is being operated in an unsafe or unsound manner, the director may take all enforcement actions the director could take with respect to an Oregon bank, except that the director shall notify the responsible bank supervisory agency of each enforcement action the director takes and, to the extent practicable, shall consult and cooperate with the responsible bank supervisory agency in pur-

suing and resolving the enforcement action. [1997 c.631 §284; 2011 c.263 §19]

713.280 Effect of laws of state or country in which out-of-state bank or extranational institution is organized. The Director of the Department of Consumer and Business Services may not deny a certificate of authority to an out-of-state bank or extranational institution solely because the laws of the state or country under which the out-of-state bank or extranational institution is organized, or the laws that govern the organization and internal affairs of the out-of-state bank or extranational institution, differ from the laws of this state. This chapter does not authorize this state to regulate the organization or internal affairs of an out-of-state bank or extranational institution. [1997 c.631 §285; 2011 c.263 §20]

713.290 Requirements for deposits at office of extranational institution. An extranational institution may not accept deposits at an office in this state in an amount less than $250,000, unless the Federal Deposit Insurance Corporation insures the insurable deposits of the office or the Federal Deposit Insurance Act and the regulations of the Federal Deposit Insurance Corporation do not require insurance. [1997 c.631 §289; 2011 c.263 §21]

713.300 Out-of-state bank, extranational institution or foreign association; activities that do not constitute transacting business in this state; filing statement with director; fee. (1) For purposes of this section, "foreign association" means a corporation organized to transact savings and loan business under federal law or under the laws of another state or territory of the United States, the home state or territory of which is a state or territory other than Oregon.

(2) Subject to subsection (3) of this section, an out-of-state bank, extranational institution or foreign association, without being authorized to transact banking business or savings and loan business in this state, may take, acquire, hold and enforce notes secured by mortgages or trust deeds and make commitments to purchase such notes. The out-of-state bank, extranational institution or foreign association may foreclose the mortgages or trust deeds in the courts of this state, acquire the mortgaged property, hold, own and operate the property for a period not exceeding five years and dispose of the property. The activities authorized under this subsection by an out-of-state bank, extranational institution or foreign association do not constitute transacting business in this state for the purposes of ORS chapter 60.

(3) Before an out-of-state bank, extranational institution or foreign association engages in an activity described in subsection (2) of this section, the bank, institution or association shall first file with the Department of Consumer and Business Services a statement signed by the president, secretary, treasurer or general manager of the bank, institution or association indicating that the bank, institution or association designates the Director of the Department of Consumer and Business Services as the bank's, institution's or association's attorney for service of process. The out-of-state bank, extranational institution or foreign association shall pay an initial filing fee of $200 and an annual fee of $200. The statement shall include the address of the principal place of business of the out-of-state bank, extranational institution or foreign association.

(4) The Director of the Department of Consumer and Business Services, upon receiving service of process as authorized by subsection (3) of this section, immediately shall forward all documents served upon the director to the principal place of business of the out-of-state bank, extranational institution or foreign association.

(5) The filing requirements of subsection (3) of this section do not apply to an out-of-state bank or extranational institution that has obtained a certificate of authority to transact banking business in this state under ORS 713.020. Notwithstanding subsection (3) of this section, the out-of-state bank, extranational institution or foreign association may take, acquire, hold and enforce notes secured by mortgages or trust deeds, make commitments to purchase the notes and participate with other lenders authorized to do business in this state in making loans for which the notes are executed and delivered.

(6) An out-of-state bank, extranational institution or foreign association that indirectly engages in the activities described in subsection (2) of this section because of a beneficial interest in a pool of notes secured by mortgages or trust deeds need not comply with subsection (3) of this section. [1999 c.30 §4; 2009 c.541 §32]

713.990 Civil penalties. The Director of the Department of Consumer and Business Services may impose on any person violating any provision of this chapter a civil penalty of up to $1,000 for each day during which the offense continues. The penalty shall be assessed and collected in the manner prescribed in ORS 706.570 (2). [1997 c.631 §308]