

Chapter 723

1999 EDITION

Credit Unions

GENERAL PROVISIONS

723.001 Definitions

723.002 Short title

723.006 “Credit union” defined

723.008 “Credit union” defined for ORS 723.008, 723.136, 723.462 to 723.498 and 723.840

FORMATION

723.012 Organization procedure; articles of incorporation; bylaws; fee

723.014 Denial of certificate of approval

723.016 Form of articles and bylaws

723.022 Amendments

723.026 Use of name exclusive

723.032 Places of business

723.036 Fiscal year

723.042 Interstate credit unions

REGULATORY AUTHORITY

723.102 Rulemaking authority

723.106 Reports

723.112 Examinations

723.114 Annual fees paid by credit unions

723.116 Records

723.122 Bond or letter of credit

723.126 Enforcement actions

723.132 Order to remove officer, director or committee member

723.136 Agreements with other credit union supervisory agencies; contracts for use of credit union examiners; joint

examination or enforcement; fees

## POWERS OF CREDIT UNIONS

723.152 General powers

723.156 Exercise of powers of federal credit union

## MEMBERSHIP

723.172 Credit union membership

723.176 Business and nonbusiness organizations as members

723.182 Other credit unions

723.184 State deemed member with respect to deferred compensation deposits; restrictions on membership

723.186 Members who leave field

723.188 Foster parents as members

723.192 Individual liability

723.196 Meeting of members

723.202 Withdrawal and expulsion of members

## DIRECTION OF AFFAIRS

723.252 Election or appointment of officials

723.256 Record of board and committee members

723.262 Vacancies

723.266 Compensation of officials

723.272 Conflicts of interest

723.276 Executive officers

723.282 Authority of directors

723.286 Executive committee

723.292 Meetings of directors

723.296 Duties of directors

723.302 Duties of credit committee

723.306 Meetings of credit committee

- 723.312 Loan officers
- 723.316 Credit manager
- 723.322 Duties of supervisory committee; verification of member accounts
- 723.326 Suspension and removal of officials; restrictions on service as director
- 723.332 Special meetings
- 723.338 Duty to notify law enforcement officers of violations of Oregon Credit Union Act; investigations; costs

## ACCOUNTS

- 723.402 Shares
- 723.406 Dividends
- 723.412 Deposit and deposit certificate accounts; interest; priority
- 723.426 Joint accounts
- 723.432 Trust accounts
- 723.434 Share draft accounts
- 723.447 Certified share drafts
- 723.450 Payment on shares and deposits; restriction on class of shares
- 723.454 Liens
- 723.457 Dormant accounts
- 723.460 Reduction in shares
- 723.462 Notice to member upon change in terms, charges, withdrawal conditions or decrease in interest rate; exceptions
- 723.464 Deposits made in name of minor
- 723.466 Disposition of deposit on death of depositor
- 723.468 Adverse claim to deposit; notice; restraining order or other process; indemnity bond or letter of credit
- 723.470 Checks drawn by agents presumed to be in authorized manner
- 723.472 Checks of intoxicated or drugged persons
- 723.474 Definitions for ORS 723.474 to 723.498
- 723.476 Application of ORS 723.478, 723.480 and 723.482; liability and setoff rights of credit unions
- 723.478 Ownership of multiple-party accounts

- 723.480 Multiple-party accounts; disposition of deposit upon death of party or trustee; effect of will
- 723.482 Rights of survivorship based on form of account; alteration of form of account
- 723.484 Transfers of moneys upon death of depositor or trustee is not testamentary disposition
- 723.486 Payment of deposit in multiple-party account to one or more parties; credit union not required to determine source or use of funds in account
- 723.488 Joint account; payment to any party to account; payment to others
- 723.490 P.O.D. account; payment to any original party; payment to others
- 723.492 Trust account; payment to trustee; payment to others
- 723.494 Discharge of credit union for payments made; conditions
- 723.496 Right of credit union to setoff; amount
- 723.498 Designation of agent for account; powers of agent

## LOANS

- 723.502 Purposes; terms
- 723.506 Application
- 723.512 Loan limit
- 723.516 Installments
- 723.522 Line of credit
- 723.526 Other loan programs
- 723.532 Loans to credit union officials; waiver
- 723.536 Loans to nonmembers; personal liability

## INSURANCE AND GROUP PURCHASING

- 723.572 Insurance for members
- 723.576 Liability insurance for director, officer, employee or agent
- 723.582 Share and deposit insurance
- 723.586 Group purchasing

## INVESTMENTS

- 723.602 Investment of funds

## RESERVE ALLOCATIONS

723.631 Regular reserve; reserve for loan losses

723.636 Use of regular reserve

723.646 Special reserves; purpose

## CHANGE IN CORPORATE STATUS

723.672 Suspension

723.676 Liquidation

723.682 Merger

723.686 Conversion of charter

## CENTRAL CREDIT UNIONS

723.702 Organization; name

723.706 Membership

723.712 Voting representative

723.716 Additional rights and powers

## CORPORATE CENTRAL CREDIT UNION

723.730 Corporate central credit union; membership; rights and powers

## TAXATION

723.752 Application of tax statutes to credit unions

723.756 Stock transfer taxes

723.762 Participation in government programs

## MISCELLANEOUS

723.806 Notice to law enforcement officers of violation of Oregon Credit Union Act; exceptions

723.812 Actions; assistance

723.816 Prohibited acts

723.818 Giving false document, statement or report prohibited

723.822 Cease and desist orders; contents; effective date; removal or suspension

723.830 Regulation of services performed for credit union

- 723.832 Application to credit unions existing on September 13, 1975
- 723.836 Effect of amendment or repeal of Oregon Credit Union Act
- 723.840 Limitation on personal liability for good faith acts or omissions
- 723.844 Procedures for opening safe deposit box after death of person who was sole lessee or last surviving lessee of box

## PENALTIES

- 723.992 Penalties
- 723.995 Civil penalties

## CROSS-REFERENCES

- Administrative procedures and rules of state agencies, 183.310 to 183.550
- Commodity transactions, regulations, exemptions, 645.015
- Corporations, generally, Ch. 60
- Credit life and credit health insurance, 83.580, 743.371 to 743.380
- Deduction from salary or wages of state employees and payment to designated financial institution, 292.067
- Financial institution property insurance requirements, limitation, 746.185 to 746.211
- Interest rates, limits and computation methods, exemption, 82.025
- Retail installment contracts, Ch. 83
- Securities, Ch. 59
- Unclaimed property, disposition, 98.302 to 98.436
- 723.012
- Acting as corporation without being incorporated, 30.510
- Action to annul corporate existence, 30.570
- 723.152
- Usurious interest, 82.010
- 723.202
- Stockholders' liability, Const. Art. XI, s.3
- 723.602
- Investment in bonds of Oregon Mass Transportation Financing Authority, 391.640

Disclosure of financial records, 192.555

Rules for delivery of will, 112.810

## GENERAL PROVISIONS

**723.001 Definitions.** As used in this chapter, unless the context requires otherwise:

- (1) "Assets" means property, a right or a claim with future objectively measurable value that is owned or effectively controlled by a credit union.
- (2) "Capital" means a credit union's reserves, undivided earnings and allowances for loan loss.
- (3) "Corporate central credit union" means a cooperative organization whose members consist primarily of other credit unions and whose purposes are:
  - (a) To accumulate and prudently manage the liquidity of its member credit unions through interlending and investment services;
  - (b) To act as an intermediary for member credit unions to the payment systems and facilitate funds transfers between its member credit unions and other financial institutions or their agents;
  - (c) To obtain liquid funds from other credit union organizations, financial intermediaries and other sources; and
  - (d) To perform such other financial services that benefit its member credit unions and that are authorized in writing by the Director of the Department of Consumer and Business Services.
- (4) "Department" means the Department of Consumer and Business Services.
- (5) "Director" means the Director of the Department of Consumer and Business Services.
- (6) "Equity" means a credit union's reserves and undivided earnings.
- (7) "Home state" means the state in which the credit union is chartered.
- (8) "Host state" means the state in which a credit union conducts business, but that is not the home state.
- (9) "Interstate credit union" means a credit union chartered under the provisions of this chapter or under the authority of the laws of another state and operating in this state and in one or more other states.
- (10) "Official" means any of the following:
  - (a) An individual who is or was a director or officer of the credit union; or
  - (b) An individual who is or was a member of a credit union's credit committee or supervisory committee.
- (11) "Regular reserve" means an irrevocable reserve set aside to cover losses. [1985 c.762 s.80; 1987 c.158 s.151; 1987 c.373 s.62; 1987 c.650 s.1; 1993 c.744 s.25; 1995 c.319 s.7; 1999 c.185 s.1]

**723.002 Short title.** This chapter shall be known and may be cited as the "Oregon Credit Union Act." [1975 c.652 s.2; 1985 c.762 s.78; 1985 c.801 s.1; 1987 c.158 s.152; 1987 c.373 s.63; 1987 c.650 s.2]

**723.006 "Credit union" defined.** A credit union is a cooperative, nonprofit association, incorporated under the laws of this state, for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest and providing an opportunity for its members to use and control their own money in order to improve their economic and social condition. [1975 c.652 s.3]

**723.008 "Credit union" defined for ORS 723.008, 723.136, 723.462 to 723.498 and 723.840.** As used in ORS 723.008, 723.136, 723.462 to 723.498 and 723.840, "credit union" means a credit union organized under this chapter, an interstate credit union doing business in this state or a federal credit union. [1999 c.185 s.18]

**723.010** [Amended by 1955 c.550 s.1; repealed by 1975 c.652 s.88]

## FORMATION

**723.012 Organization procedure; articles of incorporation; bylaws; fee.** (1) Any seven or more residents of this state or another appropriate jurisdiction, of legal age, who have a common bond referred to in ORS 723.172 may organize a credit union and become charter members thereof by complying with this section.

(2) The incorporators shall execute the documents, including the articles of incorporation, required by the Director of the Department of Consumer and Business Services to apply for a credit union charter. The articles shall state:

(a) The name, which shall include the words "credit union" and which shall not be the same as that of any other existing credit union in this state.

(b) The location where the proposed credit union is to have its principal place of business.

(c) The par value, if any, of the shares of the credit union shall be defined in the bylaws.

(d) The full name, residence and post-office address of each of the incorporators.

(e) The number of its directors, which shall not be less than five, and the names of the incorporators who shall be its directors until the first annual meeting of shareholders.

(f) The number of members of the supervisory committee, which shall not be less than three, and the name, residence and post-office address of the persons who are to serve as members until the first meeting of directors.

(3) The incorporators shall prepare and adopt bylaws for the general government of the credit union, which shall be consistent with this chapter.

(4) The incorporators shall forward the articles of incorporation and the bylaws to the Director of the Department of Consumer and Business Services, together with a filing fee of \$150. The director shall issue a certificate of approval if the articles and the bylaws are in conformity with this chapter and the director is satisfied that the ability of the proposed credit union to operate successfully is favorable. The director shall return a copy of the bylaws and the articles to the applicants or their representatives, which shall be preserved in the permanent files of the credit union. The application shall be acted upon by the director within 60 days.

(5) The subscribers for a credit union charter shall not transact any business until formal approval of the articles and bylaws has been received. [1975 c.652 s.4; 1985 c.762 s.85; 1987 c.286 s.1; 1999 c.185 s.2]

**723.014 Denial of certificate of approval.** The Director of the Department of Consumer and Business Services may not issue a certificate of approval under ORS 723.012 if any person named in the articles of incorporation submitted for approval:

(1) Is insolvent or bankrupt;

(2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession;

(3) Has willfully or repeatedly violated or failed to comply with any provision of the Oregon Bank Act, the Savings Association Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act, the Oregon Securities Law, the Oregon Mortgage Lender Law or the Pawnbrokers Act, or any administrative rule or order adopted pursuant to any such Act;

(4) Has been convicted of a crime, an essential element of which is fraud;

(5) Is not qualified to conduct a credit union business on the basis of such factors as training, experience and knowledge of the business;

(6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the credit union business;

(7) Is the subject of an order of the director subjecting the person to a fine or other civil penalty, or removing the person from an office in any entity regulated by the director; or

(8) Is the subject of an order entered within the past five years subjecting the person to a fine or other civil penalty or removing the person from an office in a state banking institution, a national bank, a state or federal credit union, a state or federal savings association or a consumer finance company, or from a position as a securities broker or dealer, a state or federal investment adviser or a mortgage lender, that was issued by the regulatory authority of another state, or of the federal government, with authority over such banking institutions, credit unions, consumer finance companies, savings associations, securities firms or mortgage lenders. [1977 c.135 s.42; 1985 c.762 s.86; 1987 c.373 s.63a; 1987 c.650 s.3; 1999 c.185 s.3]

**723.016 Form of articles and bylaws.** In order to simplify the organization of credit unions, the Director of the Department of Consumer and Business Services shall cause to be prepared a form of articles of incorporation and a form of bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance. The articles of incorporation and bylaws shall be available without charge to persons desiring to organize a credit union. [1975 c.652 s.5; 1985 c.762 s.87]

**723.020** [Repealed by 1975 c.652 s.88]

**723.022 Amendments.** (1) The articles of incorporation or the bylaws may be amended as provided in the bylaws. Amendments to the articles of incorporation or bylaws shall be submitted, together with a fee established by rule of the Director of the Department of Consumer and Business Services, to the director, who shall approve or disapprove the amendments within 30 days.

(2) Amendments shall become effective upon approval in writing by the director. [1975 c.652 s.6; 1991 c.635 s.1; 1999 c.185 s.4]

**723.026 Use of name exclusive.** With the exception of a credit union organized under this chapter or of any other credit union act, or an association of credit unions or a recognized chapter thereof, any person using a name or title containing the words "credit union" or any derivation thereof or representing themselves in their advertising or otherwise as conducting business as a credit union shall be fined not more than \$500 or imprisoned not more than one year, or both, and may be permanently enjoined from using such words in its name. [1975 c.652 s.7; 1985 c.762 s.88]

**723.030** [Amended by 1973 c.414 s.1; repealed by 1975 c.652 s.88]

**723.032 Places of business.** (1) A credit union may establish a place of business or change its place of business within this state upon written notice to the Director of the Department of Consumer and Business Services.

(2) A credit union may establish additional places of business upon written application to the Director of the Department of Consumer and Business Services. The application shall be accompanied by a \$500 fee. The fee shall be paid only with applications for the establishment of new places of business. The fee is not required to be paid with applications relating to the acquisition or relocation of existing places of business. The director may approve or disapprove the application. If the director does not disapprove an application within 30 days after a completed application is received, the application shall be considered approved.

(3) The director may limit or restrict the ability of a credit union to establish additional places of business upon written notice to the credit union if the director determines that the safety and soundness of the credit union would be adversely affected by any addition.

(4) A credit union may share office space with one or more credit unions and contract with any person or corporation to provide facilities or personnel. [1975 c.652 s.8; 1977 c.135 s.44; 1991 c.635 s.3; 1997 c.832 s.1; 1999 c.185 s.55]

**723.036 Fiscal year.** The fiscal year of each credit union shall end on the last day of December. [1975 c.652 s.9]

**723.040** [Amended by 1959 c.106 s.1; 1971 c.681 s.1; repealed by 1975 c.652 s.88]

**723.042 Interstate credit unions.** (1) A credit union chartered under this chapter may operate in another state unless prohibited by the laws of the other state. Oregon is the home state for any credit union chartered under this chapter.

(2) A credit union organized under the laws of another state may conduct business as a credit union in this state with the approval of the Director of the Department of Consumer and Business Services under the conditions described in subsection (3) of this section. Oregon is the host state for any credit union chartered under the laws of any other state and conducting business as a credit union in this state. The state that charters the credit union is the home state of the credit union.

(3) The director may issue a branch certificate to a credit union chartered in another state for the purposes of operating in this state if all of the following conditions are met:

(a) The credit union is organized under a credit union law substantially similar to this chapter;

(b) The credit union files an application that includes an agreement to comply with all rules prescribed by the director;

(c) The credit union agrees to submit an annual or other regular report of examination from the supervising agency of the state in which it is chartered;

(d) The credit union agrees to authorize the examination of its parent credit union by the director and to pay the fee determined under ORS 723.114;

(e) The field of membership of the credit union meets the definition of membership as defined in ORS 723.172;

(f) The credit union acknowledges that laws of this state relating to consumer protection apply to transactions with residents of this state;

(g) The credit union has account insurance comparable to that required for credit unions incorporated under this chapter;

(h) The credit union designates and maintains an agent for the service of process in this state; and

(i) The credit union submits quarterly financial reports as required by the director.

(4) The director may suspend or revoke the certificate of any credit union for which Oregon is the host state for any violation of the provisions of this chapter or rules or orders issued by the director. [1975 c.652 s.10; 1981 c.412 s.6; 1985 c.762 s.89; 1987 c.373 s.63b; 1999 c.185 s.5]

**723.050** [Amended by 1955 c.550 s.2; 1959 c.106 s.2; repealed by 1975 c.652 s.88]

**723.060** [Amended by 1971 c.681 s.2; repealed by 1975 c.652 s.88]

**723.070** [Repealed by 1975 c.652 s.88]

**723.080** [Repealed by 1975 c.652 s.88]

**723.090** [Repealed by 1975 c.652 s.88]

**723.100** [Amended by 1955 c.550 s.3; repealed by 1975 c.652 s.88]

## REGULATORY AUTHORITY

**723.102 Rulemaking authority.** In accordance with ORS 183.310 to 183.550, the Director of the Department of Consumer and Business Services may adopt rules for the purpose of carrying out this chapter. [1975 c.652 s.11; 1985 c.762 s.90; 1991 c.331 s.123; 1991 c.635 s.4; 1999 c.185 s.6]

**723.104** [1977 c.135 s.43; repealed by 1985 c.762 s.196]

**723.106 Reports.** (1) Credit unions shall report to the Director of the Department of Consumer and Business Services annually by a date established by the director on forms supplied and in the manner specified by the director for that purpose. Additional reports may be required.

(2) A fine in an amount to be established by rule of the director, but not to exceed \$1,000 for each day a report is in arrears shall be levied against the offending credit union unless it is excused for cause by the director. [1975 c.652 s.12; 1991 c.635 s.2; 1999 c.185 s.7]

**723.110** [Amended by 1971 c.681 s.3; repealed by 1975 c.652 s.88]

**723.112 Examinations.** (1) The Director of the Department of Consumer and Business Services shall examine each credit union to determine its condition and whether the credit union is complying with the laws of this state and such other matters as the director may prescribe. For the purpose of conducting an examination or any part thereof, the director may employ an independent consultant determined by the director as qualified to conduct examinations. Except as provided in subsection (3) of this section, examinations under this subsection must be conducted not less frequently than 24 months apart.

(2) For purposes of an examination under subsection (1) of this section:

(a) Each credit union and all of its officers and agents shall be required to give to representatives of the director full access to all of the credit union's books, papers, securities, records and other sources of information under their control.

(b) The director may subpoena witnesses, administer oaths, compel the giving of testimony and require the submission of documents.

(3) Instead of an examination under subsection (1) of this section, the director may accept an examination or report made by an agency of the United States Government under statutes of the United States.

(4) A report of an examination under subsection (1) of this section shall be forwarded to the executive officer of each credit union within 60 days after completion. The report shall contain comments relative to the management of the affairs of the credit union and also as to the general condition of its assets. Within 45 days after the receipt of the

report, the directors and supervisory committee members shall meet to consider matters contained in the report and shall report in writing to the director on the manner in which the credit union is complying or will comply with the director's recommendations. [1975 c.652 s.13; 1977 c.135 s.45; 1985 c.762 s.91; 1987 c.373 s.63c; 1999 c.185 s.8]

**723.114 Annual fees paid by credit unions.** (1) Each credit union shall pay to the Director of the Department of Consumer and Business Services each year 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.

(2) In addition to any fee collected under subsection (1) of this section, whenever the director devotes any extra attention to the affairs of a credit union, either upon determination by the director or upon request of the credit union, the fee for the extra service shall be the actual cost thereof. [1985 c.762 s.92; 1987 c.171 s.6; 1987 c.373 s.64]

**723.116 Records.** A credit union shall maintain all books, records, accounting systems and procedures in accordance with such rules as the Director of the Department of Consumer and Business Services from time to time prescribes. In prescribing such rules, the director shall consider the relative size of a credit union and its reasonable capability of compliance. [1975 c.652 s.14; 1991 c.635 s.5; 1999 c.185 s.9]

**723.120** [Amended by 1959 c.106 s.3; 1971 c.681 s.5; 1973 c.719 s.1; repealed by 1975 c.652 s.88]

**723.122 Bond or letter of credit.** (1) Each credit union shall obtain and maintain a fidelity bond or irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, which includes coverage in accordance with any rules of the Director of the Department of Consumer and Business Services, to protect the credit union against losses caused by occurrences covered therein such as fraud, dishonesty, forgery, embezzlement, misappropriation, misapplication of duty and all acts of its agents, directors, officers, committee members, employees or attorneys. The minimum amount of the bond or letter of credit shall be determined based on the amount of the credit union's total assets in accordance with the following table:

---

Assets	Minimum Amount of Bond or Letter of Credit
\$0 to \$10,000	Coverage equal to the credit union's assets.
\$10,001 to \$1,000,000	\$10,000 for each \$100,000 or fraction thereof.
\$1,000,001 to \$50,000,000	\$100,000 plus \$50,000 for each \$1 million or fraction thereof over \$1 million.
\$50,000,001 to \$295,000,000	\$2.55 million plus \$10,000 for each \$1million or fraction thereof over \$50 million.
More than \$295,000,000	\$5 million.

---

(2) Each bond or letter of credit shall include a faithful performance clause to cover the chief financial officer. Each bond or letter of credit shall be approved by the director who may require such additional amounts as the director considers necessary.

(3) All bond claims or claims upon a letter of credit that exceed one percent of the credit union's reserves and undivided earnings or that are related to the errors or omissions of an officer, director or committee member shall be reported to the director.

(4) In addition to the requirements of subsections (1) to (3) of this section, the director shall adopt rules prescribing the minimum amount of insurance and surety bond or letter of credit coverage required of credit unions in relation to their assets, personal property or exposure to risk. [1975 c.652 s.15; 1987 c.286 s.2; 1991 c.331 s.124; 1995 c.319 s.1; 1997 c.249 s.216; 1997 c.631 s.542; 1997 c.832 s.2; 1999 c.185 s.10]

**723.124** [1971 c.681 s.4; repealed by 1975 c.652 s.88]

**723.126 Enforcement actions.** The Director of the Department of Consumer and Business Services may institute any action or other proceeding that the director considers necessary for enforcing any provision of this chapter or any rule, order or action adopted, issued or taken by the director under this chapter. [1987 c.215 s.10]

**723.128** [1971 c.681 s.12; repealed by 1975 c.652 s.88]

**723.130** [Amended by 1955 c.550 s.4; 1967 c.279 s.1; 1971 c.681 s.6; repealed by 1975 c.652 s.88]

**723.132 Order to remove officer, director or committee member.** The Director of the Department of Consumer and Business Services by order may direct a credit union to remove any officer, director or committee member of the credit union for any reason stated in ORS 723.014. [1987 c.650 s.6]

**723.135** [1973 c.148 s.2; repealed by 1975 c.652 s.88]

**723.136 Agreements with other credit union supervisory agencies; contracts for use of credit union examiners; joint examination or enforcement; fees.** (1) The Director of the Department of Consumer and Business Services may enter into cooperative, coordinating and information sharing agreements with any other credit union supervisory agency or any organization affiliated with or representing one or more credit union supervisory agencies with respect to the periodic examination or other supervision of any branch or other office or place of business in this state of any non-Oregon institution, or any branch of a credit union that is chartered in Oregon and is located in any other state. The director may accept the supervisory agency's reports of examination and reports of investigation in lieu of conducting the director's own examinations or investigations. The agreement may resolve conflicts of laws and specify the manner in which examination, supervision and application processes shall be coordinated between this state and the home state of the non-Oregon institution. The director may also share information with the Federal Home Loan Bank and its directors.

(2) The director may enter into contracts with any credit union supervisory agency that has concurrent jurisdiction over a credit union operating a branch or other office or place of business in this state, to engage the services of such agency's examiners at a reasonable rate of compensation, or to provide the services of the director's examiners to such agency at a reasonable rate of compensation. Any such contract shall be deemed exempt from competitive bidding requirements under the provisions of ORS chapter 279. The contract may resolve conflicts of laws and specify the manner in which examination, supervision and application processes shall be coordinated between this state and the home state of the non-Oregon institution.

(3) The director may enter into joint examinations or joint enforcement actions with other credit union supervisory agencies that have concurrent jurisdiction over any branch or other office or place of business in this state of a non-Oregon institution, or any branch of a credit union that is chartered in Oregon and is located in any other state, provided that the director may at any time take the actions independently if the director deems the actions to be necessary or appropriate to carry out the director's responsibilities or to ensure compliance with the laws of this state. In the case of a non-Oregon institution, the director may recognize:

(a) The exclusive authority of the credit union supervisory agency of the home state of the non-Oregon institution over corporate governance matters; and

(b) The primary responsibility of the credit union supervisory agency of the home state of the non-Oregon institution over safety and soundness matters.

(4) Any fees collected by the director from non-Oregon institutions under the provisions of this chapter may be shared with other credit union supervisory agencies or any organization affiliated with or representing one or more credit union supervisory agencies in accordance with agreements between such parties and the director. [1999 c.185 s.39]

## POWERS OF CREDIT UNIONS

**723.152 General powers.** In addition to the powers conferred by the general corporation law a credit union may, subject to the restrictions and limitations contained in this chapter and its bylaws:

- (1) Make contracts.
- (2) Sue and be sued.

- (3) Adopt and use a common seal and alter same.
- (4) Acquire, lease, hold and dispose of property, either in whole or in part, necessary or incidental to its operations.
- (5) At the discretion of the board of directors, require the payment of an entrance fee or annual membership fee, or both, of any person admitted to membership.
- (6) Receive savings from its members in the form of various classes of shares, deposits or deposit certificates, deposit accounts or special-purpose thrift accounts.
- (7) Receive from its members or from another credit union deposits or deposit certificates, deposit accounts or various classes of shares payable on nonnegotiable request.
- (8) Lend its funds to its members and credit unions as provided in this chapter.
- (9) Acquire and lease personal property at the request of a member who wishes to lease the property on terms requiring payment, during the term of the lease, of rents that exceed the total expenditures made by the credit union for the acquisition, ownership, financing and protection of the property. Rents may include residual value payments that are the obligation of a responsible third party.
- (10) Borrow from any source in accordance with policy established by the board of directors and issue debentures pursuant to a plan approved by the Director of the Department of Consumer and Business Services. The debentures shall be subordinate to the shares and deposits of the credit union.
- (11) Discount and sell any eligible obligations, subject to rules adopted by the Director of the Department of Consumer and Business Services.
- (12) Sell all or substantially all of its assets or purchase all or substantially all of the assets of another credit union, subject to the approval of the director.
- (13) Invest surplus funds as provided in this chapter.
- (14) Make deposits in legally chartered banks, savings banks, savings and loan associations, trust companies and credit unions.
- (15) Assess charges to members in accordance with the bylaws for failure to meet promptly their obligations to the credit union.
- (16) Hold membership in other credit unions organized under this chapter or other state or federal laws, and in other associations and organizations composed of credit unions.
- (17) Declare dividends, pay interest on deposit and deposit certificate accounts and pay interest refunds to borrowers as provided in this chapter.
- (18) Collect, receive and disburse moneys in connection with the sale of travelers' checks, money orders, prepaid phone cards and other money-type instruments and products, and for such other purposes as may provide benefit or convenience to its members, and charge a reasonable fee for such services.
- (19) Receive deposits from the federal government or this state, or any agency or political subdivision thereof, when payable for the accounts of members.
- (20) With the approval of the director, purchase accounting services, participate in a service center or share quarters and carry on business operations either individually or jointly with one or more state or federal credit unions or with an association of credit unions in this state. A credit union may purchase stock of a corporation that provides the services described in this subsection. The stock purchase shall be limited to one percent of the credit union's assets.
- (21) Make donations or contributions to any civic, charitable, political or community organization as authorized by the board of directors, subject to any rules adopted by the director.
- (22) Act as a custodian of qualified pension funds of members if permitted by federal law.
- (23) Purchase or make available insurance for its directors, officers, agents, employees and members.
- (24) Allow its members to use share accounts, deposit accounts or deposit certificate accounts as share draft accounts as provided in ORS 723.434.
- (25) Provide digital signature verification or other electronic authentication services to its members.
- (26) Act as trustee or custodian for members of individual retirement accounts or other arrangements established pursuant to sections 408 and 530 of the Internal Revenue Code, deferred compensation accounts established pursuant to section 457 of the Internal Revenue Code, or any other qualified individual retirement account established pursuant to the provisions of the federal Employee Retirement Income Security Act of 1974, provided that the trust or custodial agreement establishing the arrangement requires all funds subject to the arrangement to be invested exclusively in share accounts in the credit union. The State of Oregon, or the applicable instrumentality or municipality, shall be deemed to be a member with respect to such deposits, except that the state or other instrumentality or municipality shall not be entitled to vote, hold office or otherwise participate in the management or operation of the credit union.
- (27) Indemnify its directors, officers, employees and committee members or other volunteers in accordance with

the provisions of its articles, bylaws and the indemnification provisions of ORS chapter 60.

(28) Exercise other powers that are necessary to carry out the credit union's purpose. [1975 c.652 s.16; 1981 c.290 s.3; 1983 c.37 s.36b; 1985 c.762 s.93; 1985 c.801 s.2; 1987 c.650 s.4; 1999 c.185 s.11]

**723.156 Exercise of powers of federal credit union.** Notwithstanding any other provision of law, a credit union may, upon prior approval by the Director of the Department of Consumer and Business Services and subject to any limitations prescribed by the director, exercise any of the powers conferred upon a federally chartered credit union doing business in this state that is subject to the regulations of the administrator of the National Credit Union Administration or the successor or successors of the administrator, if the director finds that the exercise of the power:

- (1) Serves the public and members' convenience and advantage; and
- (2) Equalizes and maintains the quality of competition between state chartered credit unions and federally chartered credit unions. [1975 c.652 s.17; 1991 c.635 s.6; 1997 c.832 s.3]

## MEMBERSHIP

**723.172 Credit union membership.** (1) The membership of a credit union shall be limited to and consist of the incorporators to the articles of incorporation and such other persons within the common bond set forth in the bylaws as have been duly admitted members, have paid the required entrance fee or membership fee, or both, have subscribed for one or more shares and have paid the initial installment thereon, and have complied with such other requirements as the articles of incorporation or bylaws specify.

(2) Credit union membership may include:

- (a) One or more groups, each having a common bond of occupation or association; or
- (b) Persons who live or work in, or organizations located within, a well-defined local community, neighborhood or rural district.

(3) Credit union membership may also include any of the immediate family of a person who is eligible for membership in the credit union under subsection (2) of this section.

(4) For purposes of this section, a "well-defined local community, neighborhood or rural district" shall consist of one or more adjacent precincts, districts, cities, counties or other boundaries defined by the state or a unit of local government or by any state or local government agency.

(5) In determining whether adjacent precincts, districts, cities, counties or other boundaries defined by the state or a unit of local government or by any state or local government agency form a well-defined local community, neighborhood or rural district, the Director of the Department of Consumer and Business Services shall consider:

- (a) Any interaction or shared interests that tie the precincts, districts, cities, counties or other boundaries together;
- (b) The size of the population of the proposed well-defined local community, neighborhood or rural district;
- (c) The size of the geographic area of the proposed well-defined local community, neighborhood or rural district;

and

(d) Any other criteria that the director considers relevant in accordance with the purposes of this chapter.

(6)(a) A credit union may not add a group with a separate bond of occupation or association to its membership unless, at the time the group is added to the membership of the credit union, the group does not contain more than 3,000 members.

(b) The limitation in paragraph (a) of this subsection does not apply to:

(A) Any group the director determines could not feasibly or reasonably establish a new credit union due to a lack of volunteer resources, financial resources or other factors the director considers important to the likelihood of the successful formation of a new credit union; or

(B) Any group transferred to the credit union in connection with a merger, consolidation or transfer approved by the director, or in connection with the liquidation of another credit union.

(7) Notwithstanding subsection (2) of this section, a credit union whose membership includes one or more groups, each having a common bond of occupation or association, may add to its membership persons who live or work in, or organizations located within, a well-defined local community, neighborhood or rural district if:

(a) The director determines that the well-defined local community, neighborhood or rural district is underserved by other depository institutions, as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)), based on data of the National Credit Union Administration and the federal banking agencies, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(b) The credit union establishes and maintains an office or facility in the well-defined local community,

neighborhood or rural district at which credit union services are available.

(8) In reviewing a proposed amendment to a credit union's bylaws that would include an additional group within the credit union's membership, the director shall consider:

(a) Whether, within the preceding year, the credit union has engaged in any unsafe or unsound practice that is material;

(b) Whether the credit union has the capitalization, administrative capability and financial resources to serve the additional group; and

(c) Other factors the director may prescribe by rule. [1975 c.652 s.18; 1999 c.730 s.1]

**Note:** Section 2, chapter 730, Oregon Laws 1999, provides:

**Sec. 2.** The amendments to ORS 723.172 by section 1 of this 1999 Act apply to credit unions incorporated before, on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.730 s.2]

**723.176 Business and nonbusiness organizations as members.** Business and nonbusiness organizations composed of individuals who are eligible for membership, or whose employees are eligible for membership, may be admitted to membership in the same manner and under the same conditions as individuals, but may not borrow in excess of \$100,000. [1975 c.652 s.19; 1987 c.286 s.3; 1999 c.185 s.56]

**723.182 Other credit unions.** Any credit union organized under the laws of this state may permit membership of any other credit union organized under the laws of this state, of any other state or of the United States. [1975 c.652 s.20]

**723.184 State deemed member with respect to deferred compensation deposits; restrictions on membership.** Notwithstanding any other provision of this chapter, a credit union may receive deposits from the State of Oregon of moneys belonging to the Deferred Compensation Fund established under ORS 243.411. With respect to such deposits, the State of Oregon shall be deemed to be a member of the credit union, except that the state shall not be entitled to vote, hold office or otherwise participate in the management or operation of the credit union. [1977 c.721 s.17; 1997 c.179 s.31]

**723.186 Members who leave field.** Members who leave the field of membership may be permitted to retain their membership in the credit union as a matter of general policy of the board of directors. [1975 c.652 s.21]

**723.188 Foster parents as members.** (1) Notwithstanding any other provision of this chapter, a credit union that provides in its articles of incorporation or bylaws for membership of employees of the State of Oregon shall also permit membership of any person:

(a) Serving as a foster parent in a foster home certified by the State Office for Services to Children and Families under ORS 418.625 to 418.645; and

(b) Maintaining a developmental disability child foster home certified by the Mental Health and Developmental Disability Services Division under ORS 443.830 and 443.835.

(2) A person eligible for membership in a credit union under subsection (1) of this section shall comply with all other membership requirements applicable to any other person eligible for membership in the credit union. [1989 c.550 s.2; 1999 c.59 s.226; 1999 c.316 s.9]

**723.192 Individual liability.** The members of the credit union shall not be personally or individually liable for the payment of the debts of the credit union. [1975 c.652 s.22; 1981 c.903 s.10]

**723.196 Meeting of members.** (1) The annual meeting and any special meetings of the members of the credit union shall be held at the time, place, and in the manner indicated by the bylaws.

(2) At all such meetings a member shall have but one vote, irrespective of the amount of that member's shareholdings. No member may vote by proxy, but a member may vote by absentee ballot if the bylaws of the credit union so provide.

(3) The board of directors may establish a minimum age as a qualification of eligibility to vote at meetings of the members. [1975 c.652 s.23; 1999 c.185 s.12]

**723.202 Withdrawal and expulsion of members.** (1) A member desiring to withdraw from a credit union shall file a written notice of intention to withdraw.

(2) Subject to subsection (3) of this section, the board of directors may expel any member who:

(a) Has not carried out the member's engagements with the credit union;

(b) Has been convicted of a criminal offense;

(c) Fails to comply with the provisions of this chapter or of the credit union's articles, bylaws or policies;

(d) Threatens, harasses or abuses any member, employee, board or committee member or agent of the credit union;

or

(e) Habitually neglects to pay the member's debts or becomes insolvent or bankrupt.

(3) A member shall not be expelled until the member has been informed in writing of the reasons for the expulsion and has had reasonable opportunity to be heard. Members of a credit union who withdraw or are expelled shall not be relieved of any liability to the credit union. The amounts paid in on shares or deposited by such members, together with any dividends credited to their shares and any interest which has accrued on their deposits, shall be repaid to them in the order of their withdrawal or expulsion, as funds become available therefor, but the credit union may deduct from such payments any sums due it from such members. [1975 c.652 s.24; 1985 c.762 s.94; 1999 c.185 s.13]

**723.210** [Repealed by 1975 c.652 s.88]

**723.220** [Repealed by 1959 c.106 s.23]

**723.230** [Amended by 1959 c.106 s.7; 1967 c.279 s.2; 1971 c.681 s.7; repealed by 1975 c.652 s.88]

**723.240** [Amended by 1959 c.106 s.8; 1967 c.279 s.3; repealed by 1975 c.652 s.88]

**723.245** [1959 c.106 s.6; repealed by 1975 c.652 s.88]

**723.250** [Amended by 1959 c.106 s.9; 1967 c.279 s.4; 1971 c.681 s.8; 1973 c.147 s.1; repealed by 1975 c.652 s.88]

## DIRECTION OF AFFAIRS

**723.252 Election or appointment of officials.** (1) The credit union shall be directed by a board consisting of an odd number of directors, at least five in number, to be elected by and from the members in the manner provided in the credit union's bylaws. All members of the board shall hold office for such terms as the bylaws provide.

(2) The board of directors shall appoint a supervisory committee of not less than three members at the organizational meeting and within 30 days following each annual meeting of the members for such terms as the bylaws provide.

(3) The board of directors shall appoint a credit committee consisting of an odd number, not less than three in number, for such terms as the bylaws provide, or said credit committee may be elected at the annual members' meeting by and from the members, or in lieu of a credit committee, a credit manager may be appointed.

(4) The board of directors may appoint alternate directors, credit committee or supervisory committee members to serve in place of absent officials. [1975 c.652 s.25; 1997 c.832 s.4]

**723.256 Record of board and committee members.** Within such time as the Director of the Department of Consumer and Business Services may establish, a record of the names and addresses of the members of the board, committees and all officers of the credit union shall be filed with the director on forms provided and in the manner prescribed by the director. [1975 c.652 s.26; 1991 c.635 s.7; 1999 c.185 s.14]

**723.260** [Amended by 1959 c.106 s.10; repealed by 1975 c.652 s.88]

**723.262 Vacancies.** The board of directors shall fill any vacancies occurring in the board until successors elected at the next annual meeting have qualified. The board shall also fill vacancies in the credit and supervisory committees or in the office of credit manager. [1975 c.652 s.27]

**723.266 Compensation of officials.** No officer, director, or committee member, other than the treasurer, a credit manager, a general manager, or a loan officer may be compensated for service as such, but providing reasonable life, health, accident and similar insurance protection for a director or committee member, or indemnification and related insurance, shall not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary expenses incidental to the performance of such business. [1975 c.652 s.28; 1991 c.635 s.8]

**723.270** [Repealed by 1975 c.652 s.88]

**723.272 Conflicts of interest.** No director, committee member, officer, agent or employee of the credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting pecuniary interest or the pecuniary interest of any corporation, partnership or association (other than the credit union) in which the director, committee member, officer, agent or employee is directly or indirectly interested. [1975 c.652 s.29]

**723.275** [1959 c.106 s.5; repealed by 1975 c.652 s.88]

**723.276 Executive officers.** (1) At their organizational meeting and within 30 days following each annual meeting of the members, the directors shall elect an executive officer, who may be designated as chairman of the board or president; a vice chairman of the board or one or more vice presidents; a treasurer; and a secretary. The treasurer and the secretary may be the same individual. The persons so elected shall be the executive officers of the corporation.

(2) The terms of the officers shall be one year, or until their successors are chosen and have duly qualified.

(3) The duties of the officers shall be prescribed in the bylaws.

(4) The board of directors may employ an officer in charge of operations whose title shall be president, general manager, or such other title as may be designated in the bylaws of the credit union; or, in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to be in active charge of the affairs of the credit union.

(5) The board of directors may appoint a security officer. [1975 c.652 s.30; 1987 c.286 s.4; 1991 c.635 s.9]

**723.280** [Amended by 1955 c.550 s.5; 1959 c.106 s.11; 1971 c.681 s.9; repealed by 1975 c.652 s.88]

**723.282 Authority of directors.** The board of directors shall have the general direction of the business affairs, funds and records of the credit union. [1975 c.652 s.31]

**723.286 Executive committee.** From the persons elected to the board, the board may appoint an executive committee of not less than three directors who may be authorized to act for the board in all respects, subject to such conditions and limitations as are prescribed by the board. [1975 c.652 s.32]

**723.290** [Amended by 1959 c.106 s.12; repealed by 1975 c.652 s.88]

**723.292 Meetings of directors.** The board of directors shall meet at least monthly. [1975 c.652 s.33; 1999 c.185 s.15]

**723.296 Duties of directors.** It shall be the duty of the directors to:

(1) Act upon applications for membership or appoint one or more membership officers to approve applications for membership under such conditions as the board prescribes. A record of a membership officer's approval or denial of membership shall be available to the board of directors for inspection. A person denied membership by a membership officer may appeal the denial to the board.

(2) Purchase a blanket fidelity bond, in accordance with ORS 723.122.

(3) Determine from time to time the interest rate or rates that shall be charged on loans and to authorize interest refunds, if any, to members from income earned and received in proportion to the interest paid by them on such classes of loans and under such conditions as the board prescribes.

(4) Fix from time to time the maximum amount that may be loaned to any one member.

(5) Establish different types or classes of shares.

(6) Declare dividends on shares and share certificates in the manner and form as provided in the bylaws and

determine the interest rate or rates that will be paid on deposits and deposit certificates.

(7) Limit the number of shares and the amount of deposits that may be owned by a member. Limitations adopted under this subsection must apply alike to all members.

(8) Have charge of the investment of surplus funds, except that the board of directors may designate an investment committee or any qualified individual to have charge of making investments under controls established by the board of directors.

(9) Authorize the employment of such persons necessary to carry on the business of the credit union, fix the compensation, if any, of the treasurer or general manager, and provide for compensation for other employees within guidelines predetermined by the board of directors.

(10) Authorize the conveyance of property.

(11) Borrow or lend money to carry on the functions of the credit union.

(12) Designate a depository or depositories for the funds of the credit union.

(13) Suspend any or all members of the credit or supervisory committee for failure to perform their duties.

(14) Appoint any special committees deemed necessary.

(15) Perform such other duties as the members from time to time direct, and perform or authorize any action not inconsistent with this chapter and not specifically reserved by the bylaws for the members. [1975 c.652 s.34; 1981 c.412 s.7; 1985 c.762 s.95; 1985 c.801 s.3; 1987 c.286 s.5; 1997 c.832 s.5]

**723.302 Duties of credit committee.** The credit committee shall have the general supervision of all loans to members. [1975 c.652 s.35]

**723.306 Meetings of credit committee.** The credit committee shall meet as often as the business of the credit union requires and not less frequently than once a month to consider applications for loans. No loan shall be made unless it is approved by a majority of the committee who are present at the meeting at which the application is considered. [1975 c.652 s.36]

**723.312 Loan officers.** (1) The credit committee may appoint one or more loan officers and delegate the power to approve or disapprove loans, subject to such limitations or conditions as the credit committee prescribes.

(2) Loan applications not approved by a loan officer may be reviewed by the credit committee. [1975 c.652 s.37; 1987 c.286 s.6]

**723.316 Credit manager.** The credit committee may be dispensed with, and a credit manager empowered to approve or disapprove loans under conditions prescribed by the board of directors. In the event the credit committee is dispensed with, the procedures prescribed in ORS 723.302 to 723.312 do not apply, and no loans shall be made unless approved by the credit manager, except the credit manager may appoint one or more loan officers with the power to approve loans, subject to such limitations or conditions as the credit manager prescribes. [1975 c.652 s.38]

**723.322 Duties of supervisory committee; verification of member accounts.** (1) The supervisory committee shall make or cause to be made a comprehensive annual audit of the books and affairs of the credit union and shall submit a report of the audit to the board of directors and the Director of the Department of Consumer and Business Services and a summary of that report to the members at the next annual meeting of the credit union. It shall make or cause to be made such supplementary audits or examinations as it deems necessary or as are required by the director or by the board of directors, and submit reports of these supplementary audits to the board of directors.

(2) The supervisory committee shall cause the accounts of the members to be verified with the records of the credit union from time to time in accordance with subsection (3) of this section. This verification shall be done not less frequently than every two years.

(3) Verification of members' accounts shall be made using either of the following methods:

(a) A controlled verification of 100 percent of members' share and loan accounts; or

(b) A controlled random statistical sampling method in accordance with rules that the director may prescribe.

(4) Records of accounts verified shall be maintained and retained until the next verification of members' accounts is completed. [1975 c.652 s.39; 1991 c.635 s.10]

**723.326 Suspension and removal of officials; restrictions on service as director.** (1) The supervisory committee by a unanimous vote may suspend any member of the credit committee and shall report such action to the board of

directors for appropriate action.

(2) The supervisory committee by a unanimous vote may suspend any officer or member of the board of directors until the next members' meeting, which shall be held not less than seven nor more than 21 days after the suspension. At such meeting the members shall decide whether to remove the suspended officer or board member.

(3) Any member of the supervisory committee may be removed by the board of directors for failure to perform duties prescribed in this chapter or in the credit union's articles of incorporation, bylaws or policies.

(4) A person may not serve as a director if the person has defaulted on payment of a voluntary obligation to the credit union or has otherwise caused the credit union to incur a financial loss. [1975 c.652 s.40; 1985 c.762 s.96; 1999 c.185 s.16]

**723.332 Special meetings.** The supervisory committee by a majority vote may call a special meeting of the members to consider any violation of this chapter, the articles of incorporation or bylaws, or any practice of the credit union deemed by the supervisory committee to be unsafe or unauthorized. [1975 c.652 s.41; 1985 c.762 s.97]

**723.338 Duty to notify law enforcement officers of violations of Oregon Credit Union Act; investigations; costs.** (1) If a director, officer or committee member of a credit union has reason to believe that a person has violated any provision of the Oregon Credit Union Act for which criminal prosecution is provided, such official shall give the information relative to the violation to the appropriate federal, state or local law enforcement officer having jurisdiction of the violation, and to the Director of the Department of Consumer and Business Services.

(2) If the matter is referred to the Attorney General or to a district attorney, such official promptly shall investigate the violation and institute such action against the person as the information and investigation requires or justifies. The cost of the investigation and action shall be paid by the county or state in the manner in which other criminal actions are paid. [1979 c.88 s.33]

**723.350** [Amended by 1959 c.106 s.13; repealed by 1975 c.652 s.88]

**723.360** [Amended by 1959 c.106 s.14; repealed by 1975 c.652 s.88]

**723.370** [Amended by 1959 c.106 s.15; repealed by 1975 c.652 s.88]

**723.380** [Amended by 1959 c.106 s.16; repealed by 1975 c.652 s.88]

**723.390** [Amended by 1959 c.106 s.17; 1971 c.681 s.10; 1973 c.719 s.2; repealed by 1975 c.652 s.88]

**723.400** [Amended by 1955 c.550 s.6; 1959 c.106 s.18; 1967 c.279 s.5; repealed by 1975 c.652 s.88]

## ACCOUNTS

**723.402 Shares.** (1) Shares may be subscribed to, paid for and transferred in such manner as the bylaws prescribe.

(2) A certificate need not be issued to denote ownership of a share in a credit union. [1975 c.652 s.42; 1985 c.801 s.4; 1987 c.158 s.153; 1987 c.650 s.7]

**723.406 Dividends.** (1) At such intervals and for such periods as the board of directors may authorize, and after provision for the required reserves, the board of directors may declare dividends to be paid on shares or share certificates. Dividends may be paid at various rates, or not paid at all, with due regard to the conditions that pertain to each class of share.

(2) Subject to the approval of the board of directors, accounts closed between dividend periods may be credited with dividends at the rate of the last dividend, computed from the last dividend period to the date when closed. [1975 c.652 s.43; 1985 c.206 s.1; 1985 c.801 s.5; 1995 c.319 s.2]

**723.410** [Amended by 1959 c.106 s.19; 1967 c.279 s.6; repealed by 1975 c.652 s.88]

**723.412 Deposit and deposit certificate accounts; interest; priority.** (1) A credit union may receive savings in deposit and deposit certificate accounts from its members and other credit unions, subject to such conditions as the

board of directors establishes.

(2) Deposit and deposit certificate accounts differ from shares and share certificates in that a predeclared rate of return, as determined from time to time at such rates and upon such classes of deposit and deposit certificate accounts as are established by the board of directors, shall be established on deposit accounts.

(3) Interest may be paid on deposits and deposit certificates at various rates with due regard to the conditions that pertain to each type of account such as minimum balance, notice and time requirements.

(4) In the event of liquidation of a credit union, shares and share certificates shall be subordinate to the claims of depositors and other creditors. [1975 c.652 s.44; 1985 c.801 s.8]

**723.416** [1975 c.652 s.45; repealed by 1999 c.185 s.58]

**723.420** [Repealed by 1959 c.106 s.23]

**723.422** [1975 c.652 s.46; repealed by 1999 c.185 s.58]

**723.426 Joint accounts.** A member may designate any person or persons to hold shares, deposits and thrift club accounts with the member in joint tenancy, with or without the right of survivorship, but no joint tenant, unless a member in the member's own right, shall be permitted to vote, obtain loans, or hold office or be required to pay an entrance or membership fee. [1975 c.652 s.47; 1977 c.555 s.16; 1991 c.635 s.11]

**723.430** [Repealed by 1975 c.652 s.88]

**723.432 Trust accounts.** Shares may be issued and deposits may be held in the name of a member in trust for a beneficiary, including a minor, but no beneficiary, unless a member in the beneficiary's own right, shall be permitted to vote, obtain loans, hold office or be required to pay an entrance or membership fee. [1975 c.652 s.48; 1977 c.555 s.17]

**723.434 Share draft accounts.** (1) A credit union may allow a member holding a regular share or deposit account to use that account as a share draft account as provided in this section, subject to conditions established by the board of directors.

(2) As used in this section:

(a) "Share draft" means a negotiable or nonnegotiable draft used to withdraw shares or deposits from a share draft account.

(b) "Share draft account" means any regular share account or deposit account from which the credit union allows shares or deposits to be withdrawn by means of a share draft or other order.

(3) The terms "share draft" and "share draft account" may encompass accounts whether the underlying account is a share account or a deposit account, without changing the type of account. [1981 c.290 s.2; 1983 c.37 s.36c; 1999 c.185 s.40]

**723.436** [1975 c.652 s.49; renumbered 723.454]

**723.440** [Repealed by 1975 c.652 s.88]

**723.441** [1985 c.804 s.6; repealed by 1987 c.491 s.9]

**723.442** [1975 c.652 s.50; 1981 c.257 s.1; renumbered 723.457]

**723.444** [1987 c.491 s.8; repealed by 1997 c.832 s.10]

**723.446** [1975 c.652 s.51; renumbered 723.460]

**723.447 Certified share drafts.** A credit union may certify a share draft issued by the credit union. A credit union that certifies a share draft may immediately charge the amount of the share draft to the drawer's share draft account. [1985 c.206 s.5; 1987 c.286 s.7; 1999 c.185 s.41]

**723.450 Payment on shares and deposits; restriction on class of shares.** Shares, share certificates, deposits and deposit certificates may be withdrawn for payment to the account holder or to third parties in accordance with the manner and procedures established by the board of directors. The board of directors may restrict one class of shares so that a share in the class may not be redeemed, withdrawn or transferred except upon termination of membership in the credit union. [1985 c.801 s.7]

**723.452** [1981 c.298 s.1; renumbered 723.463]

**723.454 Liens.** The credit union shall have a lien on all funds of a member or joint owner on deposit with the credit union in any individual or joint account held in any capacity, for any obligation of the member or joint owner to the credit union. [Formerly 723.436; 1991 c.635 s.12; 1999 c.185 s.57]

**723.457 Dormant accounts.** (1) If a credit union is unable to contact a member, any of the persons named on a joint account, beneficiary or other person via first class mail at the last address shown on the records of the credit union, and if such inability continues for a period of more than one year, all shares, dividends, deposit accounts, interest and other sums due or standing in the name of such member, beneficiary or other person may, by action of the board of directors, be credited to the accounts payable of the credit union, and thereafter no dividends or interest will accrue thereto, providing the balance of said account is below \$500.

(2) ORS 98.302 to 98.436 and 98.992, the Uniform Disposition of Unclaimed Property Act, provides for escheat to the State of Oregon of dormant accounts. Such items shall be carried until the period provided by said law has expired, after which items shall be turned over to the State of Oregon. [Formerly 723.442; 1991 c.635 s.13]

**723.460 Reduction in shares.** (1) Whenever the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and reserve fund so that the estimated value of its assets is less than the total amount due the shareholders, the credit union may by a majority vote of the entire membership order a reduction in the shares of each of its shareholders to divide the loss proportionately among the members.

(2) If the credit union thereafter realizes from such assets a greater amount than was fixed by the order of reduction, such excess shall be divided proportionately among the shareholders whose assets were reduced, but only to the extent of such reduction. [Formerly 723.446]

**723.462 Notice to member upon change in terms, charges, withdrawal conditions or decrease in interest rate; exceptions.** (1)(a) If a credit union changes the terms, service charges or conditions for withdrawal of any share or deposit account, the credit union shall notify the member in writing before the change becomes effective.

(b) If a credit union decreases the interest rate on any share or deposit account, other than an account that by its terms provides for a variable or indexed rate of interest, the credit union shall notify the member in writing before the change becomes effective.

(c) With respect to share or deposit accounts that by their terms provide for a variable or indexed rate of interest, the credit union shall not be required to give notice to the member concerning changes in the interest rate other than by means of account statements provided to the member in the ordinary course of business, not less than once each calendar quarter.

(d) Any notice required by this subsection may be given to the member in person or sent by regular mail at the last address shown on the credit union's account records. In the case of accounts held in the names of two or more members, the credit union may give or send the notice to any of the members.

(2) The provisions of subsection (1) of this section shall not apply to any change in the interest rate payable upon an account as described in ORS 86.245. [1999 c.185 s.19]

**723.463** [Formerly 723.452; 1987 c.658 s.4; repealed by 1997 c.832 s.10]

**723.464 Deposits made in name of minor.** Any deposit to a credit union made to an account in the name of a minor shall be held for the exclusive right and benefit of the minor and free from the control or lien of all other persons, except other parties to the account and creditors, and shall be paid, in accordance with the terms of the account, together with any interest thereon, to or upon the order of the minor. [1999 c.185 s.20]

**723.466 Disposition of deposit on death of depositor.** (1) On the death of a member of a credit union, if the deposit to the credit of the deceased member is \$25,000 or less, the credit union may, upon receipt of an affidavit from the person claiming the deposit as provided in subsection (2) of this section, pay the moneys on deposit:

(a) To the surviving spouse;

(b) If there is no surviving spouse, to the Adult and Family Services Division, on demand of the division within 60 days from the death of the member when there is a preferred claim arising under ORS 411.795, 412.600, 413.200 or 414.105, or if there is no claim by the division, to the surviving children 18 years of age or older;

(c) If there is no surviving spouse, Adult and Family Services Division claim or surviving children, to the member's surviving parents; or

(d) If there is no surviving spouse, Adult and Family Services Division claim, surviving children or surviving parents, to the member's surviving brothers and sisters 18 years of age or older.

(2) The affidavit shall:

(a) State where and when the member died;

(b) State that the total deposits of the deceased member in all financial institutions in this state do not exceed \$25,000;

(c) Show the relationship of the affiant or affiants to the deceased member; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased out of the deposit, to the full extent of the deposit if necessary.

(3) In the event the decedent died intestate without known heirs, the Director of the Division of State Lands shall be the affiant.

(4) The credit union shall determine the relationship of the affiant to the deceased member. However, payment of such moneys in good faith to the affiant or affiants shall discharge and release the transferor from any liability or responsibility for the transfer in the same manner and with the same effect as if the property had been transferred, delivered or paid to a personal representative of the estate of the decedent.

(5) A probate proceeding is not necessary to establish the right of the surviving spouse, Adult and Family Services Division claim, surviving children, surviving parents, surviving brothers and sisters or the Director of the Division of State Lands to withdraw the deposits upon the filing of the affidavit. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person withdrawing the deposits shall account for them to the personal representative.

(6) When a credit union transfers moneys under subsection (1) of this section, the transferor may require the transferee to furnish the transferor with a written indemnity agreement, indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

(7) This section is subject to the rights of other parties to the account under ORS 723.474 to 723.498. [1999 c.185 s.21]

**723.468 Adverse claim to deposit; notice; restraining order or other process; indemnity bond or letter of credit.** (1) A credit union shall be obligated to recognize an adverse claim to a deposit it holds only if the adverse claimant gives notice to the credit union of its claim and:

(a) Procures a restraining order, injunction or other appropriate process against the credit union in an action wherein the person to whose credit the deposit stands is made a party and served with summons; or

(b) Delivers to the credit union in a form, and with sureties acceptable to the credit union, a bond or an irrevocable letter of credit issued by a financial institution, as defined in ORS 706.008, indemnifying the credit union from any liability, damage or expenses on account of the payment of the adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands.

(2) This section does not apply when the person in whose name the account is carried is a fiduciary for the adverse claimant, and the affidavit of the adverse claimant states the facts constituting the fiduciary relationship and the facts showing reasonable cause of belief on the part of the claimant that the fiduciary is about to misappropriate the deposit.

(3) A credit union may, at its option, interplead a deposit that is subject to any adverse claim. [1999 c.185 s.22]

**723.470 Checks drawn by agents presumed to be in authorized manner.** If a person who owns a share or deposit account subject to check authorizes another person as agent to draw checks against the account, the credit union, in the absence of written notice to the contrary, may presume that any check drawn by the agent in the manner authorized by the terms and conditions of the account, including checks drawn to the personal order of the agent, is

drawn for a purpose authorized by the principal and within the scope of the authority conferred upon the agent. [1999 c.185 s.23]

**723.472 Checks of intoxicated or drugged persons.** A credit union may refuse to pay any check, draft or order drawn upon it when the officers or employees of the credit union have reason to believe that the person signing or indorsing the instrument was so under the influence of alcohol, drugs or controlled substances or that the person was otherwise so incapacitated as to make it reasonably doubtful whether the person was capable of transacting business at the time of signing or indorsing the check, draft or order. [1999 c.185 s.24]

**723.474 Definitions for ORS 723.474 to 723.498.** As used in ORS 723.474 to 723.498, unless the context requires otherwise:

(1) "Account" means a contract of deposit of funds between a member and a credit union and includes a checking account, savings account, certificate of deposit and share account.

(2) "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee.

(3) "Joint account" means an account payable on request to one or more of two or more parties whether or not mention is made of any right of survivorship.

(4) "Multiple-party account" means a joint account, a P.O.D. account or a trust account. "Multiple-party account" does not include:

(a) Accounts established for the deposit of funds of a partnership, joint venture or other association for business purposes; or

(b) Accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

(5) "Net contribution" of a party to a joint account means the sum of all deposits made to the account by or for the party, less all withdrawals made by or for the party that have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. "Net contribution" includes any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question.

(6) "Party" means a person who, by the terms of the multiple-party account, has a present right, subject to request, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to the payee or beneficiary by reason of the payee or beneficiary surviving the original party or trustee. "Party" includes a guardian, conservator, personal representative or assignee, including an attaching creditor, of a party. "Party" also includes a person identified as a trustee of an account, whether or not a beneficiary is named, but does not include any named beneficiary unless the named beneficiary has a present right of withdrawal.

(7) "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, any pledge of sums on deposit by a party and any setoff, deduction or other disposition of all or part of an account pursuant to a pledge.

(8) "P.O.D. account" means an account payable on request:

(a) To one person during the lifetime of the person and upon the death of the person to one or more P.O.D. payees; or

(b) To one or more persons during their lifetimes and upon the death of all of them to one or more P.O.D. payees.

(9) "P.O.D. payee" means a person designated on a P.O.D. account as the person to whom the account is payable on request after the death of one or more persons.

(10) "Request" means a proper request for withdrawal, or a check or order for payment, that complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the credit union. If the credit union conditions withdrawal or payment on advance notice, for purposes of ORS 723.474 to 723.498, the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(11) "Sums on deposit" means the balance payable on a multiple-party account including interest, dividends and any deposit life insurance proceeds added to the account by reason of the death of a party.

(12) "Trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the credit union, and there is no subject of the trust other than the sums on deposit in the account. It is not essential that payment to the

beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust, a trust agreement that has significance apart from the account, or a fiduciary account arising from a fiduciary relationship such as attorney-client.

(13) "Withdrawal" includes payment to a third person pursuant to check or other directive of a party. [1999 c.185 s.25]

**723.476 Application of ORS 723.478, 723.480 and 723.482; liability and setoff rights of credit unions.** The provisions of ORS 723.478, 723.480 and 723.482 concerning beneficial ownership between parties or between parties and P.O.D. payees or beneficiaries of multiple-party accounts are relevant only to controversies between those persons and their creditors and other successors, and have no bearing on the power of withdrawal of those persons as determined by the terms of account contracts. The provisions of ORS 723.486 to 723.496 govern the liability of credit unions that make payments pursuant thereto, and their setoff rights. [1999 c.185 s.26]

**723.478 Ownership of multiple-party accounts.** (1) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each party to the sums on deposit, unless there is clear and convincing evidence of a different intent.

(2) A P.O.D. account belongs to the original party during the lifetime of the party and not to the P.O.D. payee or payees. If two or more persons are named as original parties, during their lifetimes, rights between them are governed by subsection (1) of this section.

(3) Unless a contrary intent is manifested by the terms of the account or the deposit agreement, or there is other clear and convincing evidence of an irrevocable trust, a trust account belongs beneficially to the trustee during the lifetime of the trustee. If two or more parties are named as trustees of the account, during their lifetimes, beneficial rights between them are governed by subsection (1) of this section. If there is an irrevocable trust, the account belongs beneficially to the beneficiary. [1999 c.185 s.27]

**723.480 Multiple-party accounts; disposition of deposit upon death of party or trustee; effect of will.** (1) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties against the estate of the decedent, unless there is clear and convincing evidence of a different intention in the credit union's account records at the time of death of the party. If there are two or more surviving parties, their respective ownerships during their lifetimes shall be in proportion to their previous ownership interests under ORS 723.478, augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before death. The right of survivorship continues between the surviving parties.

(2) If the account is a P.O.D. account:

(a) Upon the death of one of two or more original parties, the rights to any sums remaining on deposit are governed by subsection (1) of this section.

(b) Upon the death of the sole original party or the survivor of two or more original parties, any sums remaining on deposit belong to the P.O.D. payee or payees, if surviving, or to the survivor of them if one or more die before the original party. If two or more P.O.D. payees survive, there is no right of survivorship in the event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(3) If the account is a trust account:

(a) Upon the death of one of two or more trustees, the rights to any sums remaining on deposit are governed by subsection (1) of this section.

(b) Upon the death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear and convincing evidence of a contrary intent. If two or more beneficiaries survive, there is no right of survivorship in the event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(4) In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account, other than to transfer the rights of the decedent as part of the estate of the decedent.

(5) A right of survivorship arising under this section or from the express terms of the account, a beneficiary designation in a trust account or a P.O.D. payee designation cannot be changed by will. [1999 c.185 s.28]

**723.482 Rights of survivorship based on form of account; alteration of form of account.** The provisions of ORS 723.480 that apply to rights of survivorship are determined by the form of the account at the time of death of a

party. Subject to satisfaction of the requirements of the credit union, the form of an account may be altered by a written order given by a party to the credit union. The order must be signed by the party, be received by the credit union during the party's lifetime, and not be countermanded by other written order of the same party during the lifetime of the party. [1999 c.185 s.29]

**723.484 Transfers of moneys upon death of depositor or trustee is not testamentary disposition.** Any transfers resulting from the application of ORS 723.480 are effective by reason of the account contracts involved and application of ORS 723.480. The transfers are not to be considered as testamentary or subject to administration in the estate of a deceased party. [1999 c.185 s.30]

**723.486 Payment of deposit in multiple-party account to one or more parties; credit union not required to determine source or use of funds in account.** Credit unions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Any multiple-party account may be paid, on request, to any one or more of the parties. For purposes of establishing net contributions a credit union shall not be required to inquire about the source of funds received for deposit to a multiple-party account, or to inquire about the proposed application of any sum withdrawn from an account. [1999 c.185 s.31]

**723.488 Joint account; payment to any party to account; payment to others.** Any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is requested. Payment may not be made to the personal representative or heirs of a deceased party unless:

- (1) Proof of death is presented to the credit union, showing that the decedent was the last surviving party; or
- (2) There is no right of survivorship under ORS 723.480. [1999 c.185 s.32]

**723.490 P.O.D. account; payment to any original party; payment to others.** Any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the credit union of proof of death showing that the P.O.D. payee survived all persons named as original parties. Payment may be made to the personal representative or heirs of a deceased original party if proof of death is presented to the credit union showing that the decedent was the survivor of all other persons named on the account either as an original party or as a P.O.D. payee. [1999 c.185 s.33]

**723.492 Trust account; payment to trustee; payment to others.** Any trust account may be paid, on request, to any trustee. Unless the credit union has received written notice that the beneficiary has a vested interest not dependent upon the beneficiary surviving the trustee, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the credit union showing that the decedent survived all other persons named on the account as either trustee or beneficiary. Payment may be made, on request, to the beneficiary upon presentation to the credit union of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees. [1999 c.185 s.34]

**723.494 Discharge of credit union for payments made; conditions.** Payment made pursuant to ORS 723.486, 723.488, 723.490 or 723.492 discharges the credit union from all claims for amounts paid, whether or not the payment is consistent with the beneficial ownership of the account between parties, P.O.D. payees or beneficiaries, or their successors. The protection given by this section does not extend to payments made after a credit union has received written notice from any party able to request present payment that states that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the credit union is to be protected under this section. No other notice or any other information shown to have been available to a credit union shall affect its right to the protection provided by this section. The protection provided by this section shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in or withdrawn from multiple-party accounts. [1999 c.185 s.35]

**723.496 Right of credit union to setoff; amount.** Without qualifying any other statutory or common law right to setoff or lien, and subject to any contractual provision, if a party to a multiple-party account is indebted to a credit union, the credit union has a right to setoff against the account in which the party has or had immediately before the

death of the party a present right of withdrawal. The amount of the account subject to setoff is that proportion to which the debtor is, or was immediately before the death of the debtor, beneficially entitled and, in the absence of proof of net contributions, to an equal share with all parties having present rights of withdrawal. [1999 c.185 s.36]

**723.498 Designation of agent for account; powers of agent.** Nothing in ORS 723.426, 723.432, 723.474, 723.476 or 723.478 shall preclude a party to an account from adding the name of another person to the account with the designation of "agent." The agent shall have no present or future interest in the sums on deposit in the account, but the credit union may honor requests for payment from the accounts by the agent, unless the principal is deceased at the time the payment is requested and the credit union has actual knowledge of the death. Payments from the account by the credit union at the request of the agent shall discharge the credit union from all claims for amounts so paid. [1999 c.185 s.37]

## LOANS

**723.502 Purposes; terms.** A credit union may loan to members for such purpose and upon such security and terms as the credit committee, credit manager or loan officer approves. [1975 c.652 s.52; 1981 c.412 s.8]

**723.506 Application.** Every application for a loan shall be made in the form prescribed by the credit committee, credit manager or loan officer. The application shall state the security, if any offered. Each loan shall be evidenced by a written document. [1975 c.652 s.53; 1991 c.635 s.14]

**723.510** [Amended by 1959 c.106 s.20; 1971 c.681 s.11; repealed by 1975 c.652 s.88]

**723.512 Loan limit.** (1) No loan shall be made to any member in an aggregate amount in excess of \$15,000, or 15 percent of the credit union's equity, whichever is greater. In determining the amount of loans to be made to a member, loans for which that member is a guarantor or surety shall be included, as well as loans to persons who are not individuals if the individual member is a principal or owner of the person who is not an individual or the loan is for that member's benefit.

(2) The restrictions in subsection (1) of this section do not apply to any loan fully guaranteed by shares or deposits. [1975 c.652 s.54; 1977 c.628 s.3; 1979 c.88 s.34; 1987 c.650 s.8; 1995 c.319 s.8; 1999 c.185 s.42]

**723.516 Installments.** A member may receive a loan in installments, or in one sum, and may pay the whole or any part of the member's loan on any day on which the office of the credit union is open for business. [1975 c.652 s.55]

**723.520** [Repealed by 1959 c.106 s.23]

**723.522 Line of credit.** The credit committee, credit manager, or loan officer may approve in advance upon their own motion or upon application by a member, a line of credit, and advances may be granted to such member within the limit of such extension of credit. Where a line of credit has been approved, no additional loan applications are required as long as the aggregate obligation does not exceed the limit of such extension of credit. [1975 c.652 s.56; 1987 c.286 s.8]

**723.526 Other loan programs.** (1) Loans to credit union members may be shared with other credit unions, corporations or financial organizations.

(2) A credit union may participate in guaranteed loan programs of the federal government, the State of Oregon or any other state.

(3) A credit union may purchase the conditional sales contracts, notes and similar instruments of its members.

(4) A credit union may purchase the leases of its members if the leases satisfy the requirements of ORS 723.152 (9). [1975 c.652 s.57; 1999 c.185 s.43]

**723.530** [Amended by 1959 c.106 s.21; 1971 c.367 s.1; repealed by 1975 c.652 s.88]

**723.532 Loans to credit union officials; waiver.** (1) For the purposes of this section, "management team" means any individual who holds a position of vice president or higher or who has policymaking authority.

(2) A credit union may make loans to its individual directors, members of its management team, credit managers and members of its supervisory and credit committees, provided that:

(a) The loan complies with all lawful requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;

(b) The combined aggregate amount of loans to any one such individual that exceeds five percent of the credit union's equity or \$25,000, whichever is less, has been approved by the credit union's board of directors; and

(c) The combined aggregate amount of such loans to all such individuals may not exceed 10 percent of the credit union's assets.

(3) Except when approved by the board of directors of the credit union, no director, officer or committee member shall be permitted to become surety or guarantor for any loan or advance made by the credit union except for the spouse or children of the director, officer or committee member.

(4) The Director of the Department of Consumer and Business Services may waive the requirements of this section by rule or order upon request of a credit union. The director may establish by rule a higher amount than set in subsection (2)(b) of this section and the type of loans to directors, officers or committee members that must be approved by the board of directors of the credit union. [1975 c.652 s.58; 1985 c.206 s.2; 1985 c.762 s.98; 1987 c.286 s.9; 1997 c.832 s.7; 1999 c.185 s.44]

**723.536 Loans to nonmembers; personal liability.** Any officer, director or member of a committee of a credit union who knowingly permits a loan to be made or participates in a loan to a nonmember of the credit union shall be primarily liable to the credit union for the amount thus illegally loaned. The illegality of such loan shall be no defense in any action by the credit union to recover the amount loaned. [1975 c.652 s.59]

**723.540** [Repealed by 1975 c.652 s.88]

**723.550** [Amended by 1959 c.106 s.22; repealed by 1975 c.652 s.88]

**723.560** [Repealed by 1975 c.652 s.88]

## INSURANCE AND GROUP PURCHASING

**723.572 Insurance for members.** (1) A credit union may purchase or make available life savings, loan protection and other forms of insurance for its members in amounts related to their respective ages, shares, deposits or loan balances or to any combination of them.

(2) A credit union may enter into cooperative marketing arrangements to facilitate its members' voluntary purchases of insurance. [1975 c.652 s.60; 1999 c.185 s.45]

**723.576 Liability insurance for director, officer, employee or agent.** A credit union may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the credit union, or who is or was serving at the request of the credit union as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the credit union would have the power to indemnify such person against such liability. [1975 c.652 s.61]

**723.582 Share and deposit insurance.** (1) Each credit union shall secure insurance on shares and deposits from the National Credit Union Administration under the Federal Credit Union Act or its successor, or from any other insuring organization that provides comparable coverages and is approved by the Director of the Department of Consumer and Business Services. Any one share of a member, as designated in the bylaws of the credit union, may be excluded from the requirement for insurance.

(2) The director may make available condition and examination reports to the appropriate insuring organization and may accept any report of examination made by such organization. The director may appoint the appropriate insuring organization as liquidating agent of an insured credit union. [1975 c.652 s.62; 1977 c.549 s.1; 1985 c.801 s.9; 1987 c.286 s.10; 1999 c.185 s.46]

**723.586 Group purchasing.** A credit union may enter into cooperative marketing arrangements to facilitate its

members' voluntary purchases of such goods and services as are in the interest of improving economic and social conditions of the members. Said investment shall not exceed one percent of the credit union's assets. Notwithstanding any other provision of law, the taxable income from such activities which are conducted by the credit union shall be subject to tax pursuant to ORS 317.920. [1975 c.652 s.63; 1983 c.162 s.56; 1999 c.185 s.47]

## INVESTMENTS

**723.602 Investment of funds.** Funds not used in loans to members may be invested:

- (1) In securities, obligations or other instruments of or issued by or fully guaranteed as to principal and interest by the United States or any agency thereof or in any trust or trusts established directly or collectively in the same.
- (2) In obligations of any state of the United States, the agencies or instrumentalities of the federal government, the District of Columbia, the Commonwealth of Puerto Rico and the several territories organized by Congress, or any political subdivision thereof.
- (3) In certificates of deposit or passbook type accounts issued by a state or national bank, mutual savings bank or savings and loan association.
- (4) In loans to or in shares or deposits of other credit unions.
- (5) In the shares, other ownership interests or obligations of a corporation, limited liability company or mutual association, provided that the ownership or membership, as applicable, is primarily confined to credit unions or organizations of credit unions, and provided the purposes for which such agency or association is organized are designed primarily to service or otherwise assist credit union operations, not to exceed one percent of assets.
- (6) In shares of a credit union cooperative society organized under the laws of this state or of the laws of the United States in the total amount not exceeding one percent of the shares, deposits, and surplus of the credit union.
- (7) In loans to any credit union association or corporation, national or state, of which the credit union is a member, except that such investments shall be limited to two percent of the assets of the credit union.
- (8) In such other investments as approved by the Director of the Department of Consumer and Business Services by rule or order. [1975 c.652 s.64; 1987 c.286 s.11; 1999 c.185 s.48]

## RESERVE ALLOCATIONS

**723.631 Regular reserve; reserve for loan losses.** (1) At the end of each accounting period, the gross earnings of the credit union shall be determined. From this amount the credit union shall set aside as a regular reserve for contingencies an amount in accordance with the following schedule:

- (a) A credit union in operation for more than four years and having assets of \$500,000 or more shall set aside 10 percent of gross earnings until the regular reserve equals four percent of the total outstanding loans and risk assets. The credit union shall then set aside five percent of gross earnings until the regular reserve equals six percent of the total outstanding loans and risk assets; and
- (b) A credit union in operation for four years or less or having assets of less than \$500,000 shall set aside 10 percent of gross earnings until the regular reserve equals seven and one-half percent of the total of outstanding loans and risk assets. The credit union shall then set aside five percent of gross earnings until the regular reserve equals 10 percent of the total outstanding loans and risk assets.

(2) Whenever the regular reserve falls below the applicable amount described in subsection (1) of this section, it shall be replenished by regular contributions in amounts as are necessary to maintain the stated reserve goals. The Director of the Department of Consumer and Business Services may decrease the reserve requirements set forth in this section when necessary or desirable.

(3) In addition to the regular reserve required in subsection (1) of this section, a credit union shall establish a reserve for loan losses. The credit union shall allocate sufficient funds each month to the reserve for loan losses in an amount at least equal to the credit union's best estimate of the losses the credit union expects to sustain in the liquidation of currently outstanding loans.

(4) As used in this section, "risk assets" has the meaning given that term in regulations adopted by the National Credit Union Administration. [1981 c.192 s.38 (enacted in lieu of 723.632); 1995 c.319 s.3]

**723.632** [1975 c.652 s.65; 1979 c.88 s.35; repealed by 1981 c.192 s.37 (723.631 enacted in lieu of 723.632)]

**723.636 Use of regular reserve.** The regular reserve established under ORS 723.631 (1) shall belong to the credit

union, shall be used to meet losses and shall not be distributed except on liquidation of the credit union, or in accordance with a plan approved by the Director of the Department of Consumer and Business Services. [1975 c.652 s.66; 1981 c.192 s.39; 1999 c.185 s.49]

**723.642** [1975 c.652 s.67; 1977 c.628 s.4; repealed by 1981 c.192 s.46]

**723.646 Special reserves; purpose.** (1) In addition to the regular reserve established under ORS 723.631, special reserves to protect the interest of members shall be established, as provided in this section:

(a) When required by rule; or

(b) When found by the board of directors of the credit union or by the Director of the Department of Consumer and Business Services, or if the members' accounts are insured by the National Credit Union Administration, the Administrator of the National Credit Union Administration, in any special case, to be necessary for that purpose.

(2) Special reserves belong to the credit union and shall be used to provide liquidity for the credit union. A credit union may not pay regular or special dividends from the special reserve. [1975 c.652 s.68; 1981 c.192 s.40; 1995 c.319 s.4]

## CHANGE IN CORPORATE STATUS

**723.672 Suspension.** (1) If it appears that any credit union is bankrupt or insolvent, or that it has willfully violated any provision of this chapter, or is operating in an unsafe or unsound manner, the Director of the Department of Consumer and Business Services shall issue an order temporarily suspending the credit union's operations for not less than 30 nor more than 60 days. The board of directors shall be given notice by registered mail or by certified mail with return receipt of such suspension, and a list of the specific violations of this chapter.

(2) Upon receipt of the suspension notice, the credit union shall cease all operations, except those authorized by the director. The board of directors shall then file with the director a reply to the suspension notice, and may request a hearing to present a plan of corrective actions proposed if it desires to continue operations. The board may request that the credit union be declared insolvent and a liquidating agent be appointed.

(3) Upon receipt from the suspended credit union of evidence that the conditions causing the order of suspension have been corrected, the director may revoke the suspension notice and permit the credit union to resume normal operations.

(4) If the director, after issuing notice of suspension and providing an opportunity for a hearing, rejects the credit union's plan to continue operations, the director may then revoke the credit union's charter, appoint a liquidating agent and liquidate the credit union. The credit union may request the appropriate court to stay execution of such action. Involuntary liquidation may not be ordered prior to the conclusion of suspension procedures outlined in this section.

(5) If, within the suspension period, the credit union fails to answer the suspension notice or request a hearing, the director may then revoke the credit union's charter, appoint a liquidating agent and liquidate the credit union. [1975 c.652 s.69; 1985 c.762 s.99; 1991 c.249 s.68]

**723.676 Liquidation.** (1) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section.

(2) The board of directors shall adopt a resolution recommending the credit union be dissolved voluntarily and directing that the question of liquidation be submitted to the members.

(3) Within 10 days after the board of directors decides to submit the question of liquidation to the members, the president or chairperson of the board shall notify the Director of the Department of Consumer and Business Services thereof in writing setting forth the reasons for the proposed action. Within 10 days after the members act on the question of liquidation, the president or chairperson of the board shall notify the director in writing as to whether or not the members approved the proposed liquidation.

(4) As soon as the board of directors decides to submit the question of liquidation to the members, payment on shares, withdrawal of shares, making any transfer of shares to loans and interest, making investments of any kind and granting loans shall be suspended pending action by members on the proposal to liquidate. On approval by the members of such proposal, all such business transactions shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on authorization of the board of directors or liquidating agent during the period of liquidation.

(5) For a credit union to enter voluntary liquidation, approval by a majority of the members in writing or by a two-

thirds majority of the members present at a regular or special meeting of the members is required. Where authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member by first class mail to the member's last-known address at least 10 days prior to such meeting.

(6) A liquidating credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted.

(7) The board of directors or the liquidating agent shall use the assets of the credit union to pay: First, expenses incidental to liquidating including any surety bond that may be required; and, second, any liability due nonmembers. Assets then remaining shall be distributed to the members proportionately to the shares and deposits held by each member as of the date dissolution was voted.

(8) As soon as the board of directors or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, they shall execute a certificate of dissolution on a form prescribed by the director and file the same, together with all pertinent books and records of the liquidating credit union, with the director, whereupon such credit union shall be dissolved. [1975 c.652 s.70; 1999 c.185 s.50]

**723.682 Merger.** (1) Any credit union chartered in this state may, with the approval of the Director of the Department of Consumer and Business Services, merge with another credit union under the existing charter of the other credit union pursuant to any plan agreed upon by the majority of each board of directors of each credit union joining in the merger and approved by the affirmative vote of a majority of the members of the merging credit union voting at a meeting of its members duly called for such purpose.

(2) After agreement by the directors and approval by the members of the merging credit union, the president and secretary of the credit union shall execute a certificate of merger, which shall set forth all of the following:

- (a) The time and place of the meeting of the board of directors at which the plan was agreed upon.
- (b) The vote in favor of the adoption of the plan.
- (c) A copy of the resolution or other action by which the plan was agreed upon.
- (d) The time and place of the meeting of the members at which the plan agreed upon was approved.
- (e) The vote by which the plan was approved by the members.

(3) The certificate and a copy of the plan of merger agreed upon shall be forwarded to the director, certified by the director and returned to the continuing credit union within 30 days.

(4) Upon return of the certificate from the director, all property, property rights and members' interest of the merged credit union shall vest in the continuing credit union without deed, indorsement or other instrument of transfer, and all debts, obligations and liabilities of the merged credit union shall be deemed to have been assumed by the continuing credit union under whose charter the merger was affected. The rights and privileges of the members of the merged credit union shall remain intact.

(5) This section shall be construed, whenever possible, to permit a credit union chartered under the laws of any other state or of the United States to merge with one chartered under the laws of this state, or to permit one chartered under the laws of this state to merge with one chartered under the laws of any other state or of the United States. [1975 c.652 s.71; 1999 c.185 s.51]

**723.686 Conversion of charter.** (1) A credit union chartered under the laws of this state may be converted to a credit union chartered under the laws of the United States, subject to the approval of the National Credit Union Administration.

(2) A credit union chartered under the laws of the United States may convert to a credit union chartered under the laws of this state subject to approval of the Director of the Department of Consumer and Business Services. [1975 c.652 s.72; 1987 c.286 s.12]

## CENTRAL CREDIT UNIONS

**723.702 Organization; name.** Any central credit union may be organized and operated under this chapter with all the rights and powers of any credit union organized under this chapter, except those granted to a corporate central credit union under ORS 723.730, and shall be subject to all provisions of this chapter not inconsistent with ORS 723.702 to 723.730. Such a credit union shall use the term "central" in its official name. [1975 c.652 s.73; 1985 c.762 s.100; 1999 c.185 s.52]

**723.706 Membership.** Membership in a central credit union is limited to:

- (1) Credit unions organized and operating under this chapter or under any other credit union act.
- (2) Officers, directors, committee members and employees of such credit unions; officials and employees of any association of credit unions; and employees of federal or state governmental agencies responsible for the supervision of credit unions in this state.
- (3) Organizations and associations of those persons or organizations enumerated in subsection (1) or (2) of this section.
- (4) Employees of an employer with insufficient numbers to form or conduct the affairs of a credit union that would provide substantially similar services and facilities.
- (5) Persons in the field of membership of liquidated credit unions or of credit unions that have entered into or are about to enter into voluntary or involuntary liquidation proceedings.
- (6) Members of the immediate families of all members qualified above. [1975 c.652 s.74; 1985 c.762 s.101; 1999 c.185 s.53]

**723.712 Voting representative.** Each credit union becoming a member of such central credit union may designate one person to be its voting representative in the central credit union, which person shall be designated by the board of directors of the member credit union. Such voting representative shall be eligible to hold office in the central credit union as if such person were a member of the central credit union. [1975 c.652 s.75]

**723.716 Additional rights and powers.** (1) A central credit union shall have all of the rights and powers of any other credit union organized under this chapter and the additional rights and powers specified in this section, notwithstanding any limitations or restrictions found elsewhere in this chapter.

(2) A central credit union may make loans to other credit unions, purchase shares of and make deposits in other credit unions and, with the approval of the director, obtain or acquire the assets and liabilities of any credit union operating in this state that enters into liquidation.

(3) A central credit union may invest in and grant loans to associations of credit unions, central funds of credit unions or organizations chartered to provide service to credit unions.

(4) A central credit union may borrow money from any source. It may also issue debentures pursuant to a plan approved by the director. The debentures must be subordinate to the deposits and shares of the credit union. [1975 c.652 s.76; 1985 c.762 s.102]

## CORPORATE CENTRAL CREDIT UNION

**723.730 Corporate central credit union; membership; rights and powers.** Membership in a corporate central credit union shall be limited to credit unions organized under federal law or under the laws of states listed in the bylaws of the corporate central credit union, and to subsidiaries of any such credit unions, associations of any such credit unions and affiliates of such associations. A corporate central credit union shall have all the powers, rights and obligations imposed upon or granted central credit unions under this chapter, except:

(1) It shall be exempt from the regular reserve requirements of ORS 723.631, but shall be required to establish and maintain a minimum capital to assets ratio as set by the Director of the Department of Consumer and Business Services by rule.

(2) It shall be exempt from the bond or letter of credit requirements of ORS 723.122, but shall be required to obtain and maintain a fidelity bond in accordance with any rules adopted by the director.

(3) It may buy and sell any form of marketable debt obligations of domestic corporations or of federal, state or local government units in accordance with an investment plan approved by the director prior to the purchase or sale of the obligation.

(4) A corporate central credit union may make loans or establish lines of credit to a member without regard to the limit set in ORS 723.512. Notwithstanding ORS 723.502 or any other provision of law limiting allowable interest on a loan, a corporate central credit union and a member may agree in writing on the rate of interest that shall be charged on such loans.

(5) A corporate central credit union may issue membership capital share accounts as provided by rule. [1977 c.628 s.2; 1981 c.192 s.41; 1981 c.256 s.1; 1985 c.206 s.3; 1995 c.319 s.6; 1997 c.832 s.8; 1999 c.185 s.54]

## TAXATION

**723.752 Application of tax statutes to credit unions.** Any credit union subject to this chapter shall be deemed an institution for savings within the meaning of the law that exempts such institutions from taxation. No law, except as stated in this section, that taxes corporations in any form, or the shares thereof or the accumulations therein, shall apply to credit unions doing business in accordance with this chapter unless the credit unions are specifically named in the law. However, credit unions subject to this chapter shall be subject to the same tax as mutual savings and loan associations. [1975 c.652 s.77; 1985 c.762 s.103]

**723.756 Stock transfer taxes.** The shares of any credit union shall not be subject to stock transfer taxes, either when issued or when transferred from one member to another. [1975 c.652 s.78]

**723.762 Participation in government programs.** The participation by a credit union in any government program providing unemployment, social security, old age pension or other benefits shall not be deemed a waiver of the taxation exemption hereby granted. [1975 c.652 s.79]

**723.802** [1975 c.652 s.80; repealed by 1985 c.762 s.196]

## MISCELLANEOUS

**723.806 Notice to law enforcement officers of violation of Oregon Credit Union Act; exceptions.** If the Director of the Department of Consumer and Business Services has reason to believe that a person has violated any provision of the Oregon Credit Union Act for which criminal prosecution is provided, the director shall give the information relative to the violation to the federal, state or local law enforcement agency having jurisdiction of the violation. This section does not apply, however, if an official of the credit union has reported the information to the proper law enforcement officer under ORS 723.338. [1975 c.652 s.81; 1979 c.88 s.36]

**723.812 Actions; assistance.** The Attorney General shall conduct all actions begun by the Director of the Department of Consumer and Business Services under authority of the Oregon Credit Union Act, and may require the assistance of the district attorney of the district in which the action is conducted. [1975 c.652 s.82]

**723.816 Prohibited acts.** (1) No credit union officer, director, employee or agent, shall willfully:

(a) With intent to deceive, falsify any book of account, report, statement, record or other document of a credit union whether by alteration, false entry, omission or otherwise.

(b) Sign, issue, publish or transmit to a governmental office any book of account, report, statement, record or other document which the person knows to be false.

(c) By means of deceit, obtain a signature to a writing which is a subject of forgery.

(d) With intent to deceive, destroy any credit union book of account, report, statement, record or other document.

(2) No person shall maliciously and knowingly spread false reports about the management or finances of any credit union. [1975 c.652 s.83]

**723.818 Giving false document, statement or report prohibited.** A person may not knowingly give or cause to be given to the Director of the Department of Consumer and Business Services any document or any oral or written statement or report that is false in any material respect, in the course of any investigation or examination by the director under this chapter. [1987 c.215 s.7]

**723.822 Cease and desist orders; contents; effective date; removal or suspension.** (1) The Director of the Department of Consumer and Business Services may issue and serve upon a credit union or a director, officer, committee member, employee or agent of a credit union an order to cease and desist from a practice or a violation as follows:

(a) The director may issue an order to cease and desist from an unsafe or unsound practice when the director has reasonable cause to believe that the person to whom the order is directed is engaging, has engaged or is about to engage in an unsafe or unsound practice in conducting the business of the credit union.

(b) The director may issue an order to cease and desist from a violation when the director has reasonable cause to

believe that the person to whom the order is directed is violating, has violated or is about to violate a law or rule, an order of the director or any provision of the articles of incorporation or bylaws of the credit union.

(2) An order under subsection (1) of this section shall include the following:

(a) A statement of the facts constituting the practice or violation.

(b) A provision requiring the person named in the order to cease and desist from the practice or violation. The provision may be mandatory or otherwise.

(c) The effective date of the order.

(d) A notice to the person named in the order of the right to a contested case hearing under ORS 183.310 to 183.550.

(3) When the practice or violation specified in the order or the continuation of the practice or violation is likely to prejudice the interest of the members of a credit union, the director may issue an order effective immediately or at a later date. In all other cases, the order shall be effective 30 days after the date of the order unless the person named in the order requests a hearing thereon.

(4) An order under this section remains in effect until it is withdrawn by the director or by a court order.

(5) If an individual named in an order under this section fails to comply with the order, the director may issue an order removing or suspending the individual from the office or position held by the individual. The removal or suspension is in addition to any penalty provided by ORS 723.995 for failure to comply with an order issued under this section. [1975 c.544 s.56; 1977 c.135 s.46; 1987 c.215 s.8; 1987 c.286 s.13]

**723.826** [1975 c.544 s.57; 1981 c.192 s.42; 1985 c.762 s.104; 1987 c.215 s.9; 1987 c.373 s.65; 1991 c.734 s.97; renumbered 723.995 in 1995]

**723.830 Regulation of services performed for credit union.** A credit union may not contract for any of the services described in this section to be performed for the credit union unless both the credit union and the person performing the services agree to be subject to regulation and examination by the Director of the Department of Consumer and Business Services to the same extent as if the services were performed by the credit union. This section applies to the following services:

(1) Check and deposit sorting and posting.

(2) Computation and posting of interest and other credits and charges.

(3) Any other bookkeeping, accounting or similar functions performed for a credit union. [1987 c.650 s.9; 1997 c.832 s.9]

**723.832 Application to credit unions existing on September 13, 1975.** The provisions of the Oregon Credit Union Act shall apply to the fullest extent permitted by the laws and Constitutions of the United States and of the State of Oregon, to all existing credit unions organized under any general Act of this state. [1975 c.652 s.85]

**723.836 Effect of amendment or repeal of Oregon Credit Union Act.** (1) The Oregon Credit Union Act may be amended, repealed or modified, but such amendment, repeal or modification shall not take away or impair any remedy for any liability which shall have been previously incurred.

(2) The repeal of a previous law by section 88, chapter 652, Oregon Laws 1975, shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such previous law, prior to the repeal thereof. [1975 c.652 ss.86,87; 1985 c.762 s.105]

**723.840 Limitation on personal liability for good faith acts or omissions.** A person may not be held personally liable for an act or omission by the person in good faith and in compliance with a statute, rule or order of the Director of the Department of Consumer and Business Services under this chapter regardless of whether the statute, rule or order is later amended, rescinded or determined to be invalid by judicial or other authority. [1999 c.185 s.38]

**723.844 Procedures for opening safe deposit box after death of person who was sole lessee or last surviving lessee of box.** (1) This section applies to the safe deposit box of any person who is the sole lessee or last surviving lessee of the box and who has died.

(2) Upon being furnished with a certified copy of the decedent's death certificate or other evidence of death satisfactory to the credit union, the credit union within which the box is located shall cause or permit the box to be opened and the contents of the box examined at the request of an individual who furnishes an affidavit stating:

(a) That the individual believes the box may contain the will of the decedent, a trust instrument creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death, documents pertaining to the disposition of the remains of the decedent, documents pertaining to property of the estate of the decedent or property of the estate of the decedent; and

(b) That the individual is an interested person as defined in this section and wishes to open the box to conduct a will search or trust instrument search, obtain documents relating to the disposition of the decedent's remains or inventory the contents of the box.

(3) For the purpose of this section, "interested person" means any of the following:

(a) A person named as personal representative of the decedent in a purported will of the decedent;

(b) The surviving spouse or any heir of the decedent;

(c) A person who was serving as the court-appointed guardian or conservator of the decedent or as trustee for the decedent immediately prior to the decedent's death;

(d) A person named as successor trustee in a purported trust instrument creating a trust of which the decedent was a trustor or a trustee at the time of the decedent's death;

(e) A person designated by the decedent in a writing that is acceptable to the credit union and is filed with it prior to the decedent's death;

(f) A person who immediately prior to the death of the decedent had the right of access to the box as an agent of the decedent under a durable power of attorney; or

(g) If there are no heirs of the decedent, the Director of the Division of State Lands.

(4) If the box is opened for the purpose of conducting a will search, the credit union shall remove any document that appears to be a will, make a true and correct copy of it and deliver the original will to a person designated in the will to serve as the decedent's personal representative, or if no such person is designated or the credit union cannot, despite reasonable efforts, determine the whereabouts of such person, the credit union shall retain the will or deliver it to a court having jurisdiction of the estate of the decedent. A copy of the will shall be retained in the box. At the request of the interested person, a copy of the will, together with copies of any documents pertaining to the disposition of the remains of the decedent, may be given to the interested person.

(5) If the box is opened for the purpose of conducting a trust instrument search, the credit union shall remove any document that appears to be a trust instrument creating a trust of which the decedent was a trustor or trustee at the time of the decedent's death, make a true and correct copy of it and deliver the original trust instrument to a person designated in the trust instrument to serve as the successor trustee on the death of the decedent. If no such person is designated or the credit union cannot, despite reasonable efforts, determine the whereabouts of such person, the credit union shall retain the trust instrument. A copy of the trust instrument shall be retained in the box. At the request of any interested person, a copy of the trust instrument may be given to the interested person.

(6) If the box is opened for the purpose of obtaining documents pertaining to the disposition of the decedent's remains, the credit union shall comply with subsection (4) of this section with respect to any will of the decedent found in the box, and may in its discretion either:

(a) Make and retain in the box a copy of any documents pertaining to the disposition of the remains of the decedent and tender the original documents to the interested person; or

(b) Provide a copy of any documents pertaining to the disposition of the remains of the decedent to the interested person and retain the original documents in the box.

(7) If the box is opened for the purpose of making an inventory of its contents, the credit union shall comply with subsection (4) or (5) of this section with respect to any will or trust instrument of the decedent that is found in the box, and shall cause the inventory to be made. The inventory shall be attested to by a representative of the credit union and may be attested to by the interested person, if the interested person is present when the inventory is made. The credit union shall retain the original inventory in the box, and shall furnish a copy of the inventory to the interested person upon request.

(8) The credit union may presume the truth of any statement contained in the affidavit required to be furnished under this section, and when acting in reliance upon such an affidavit, the credit union is discharged as if it had dealt with the personal representative of the decedent. The credit union is not responsible for the adequacy of the description of any property included in an inventory of the contents of a box, or for the conversion of the property in connection with actions performed under this section, except for conversion by intentional acts of the credit union or its employees, directors, officers or agents. If the credit union is not satisfied that the requirements of this section have been satisfied, the credit union may decline to open the box.

(9) If the interested person does not furnish the key needed to open the box, and the credit union must incur

expense in gaining entry to the box, the credit union may require that the interested person pay the expense of opening the box.

(10) Any examination of the contents of a box under this section shall be conducted in the presence of at least one employee of the credit union. [1999 c.506 s.11]

## PENALTIES

**723.990** [Repealed by 1975 c.544 s.62 and by 1975 c.652 s.88]

**723.992 Penalties.** (1) Violation of ORS 723.816 (1) is a Class C felony.

(2) Violation of ORS 723.816 (2) is a Class A misdemeanor. [1975 c.652 s.84]

**723.995 Civil penalties.** (1) The Director of the Department of Consumer and Business Services may assess any person who violates any provision of this chapter or any rule or final order issued under this chapter a civil penalty of not more than \$2,000 for each violation or \$10,000 in the aggregate for all violations within any three-month period. In the case of an individual agent or employee of a credit union, the civil penalty shall be not more than \$1,000 for each violation or \$5,000 in the aggregate for all violations within any three-month period. The director shall count each day that a violation continues as a separate violation.

(2) In addition to the civil penalty provided by subsection (1) of this section, a credit union or a director, officer, committee member, agent or employee of a credit union who violates any provision of this chapter, or any rule or final order issued under this chapter, may be assessed a civil penalty in an amount determined by the director but not to exceed the amount by which the person profited as a result of the violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.090.

(4) If a civil penalty is assessed against a director, officer, committee member, agent or employee of a credit union, unless the director provides otherwise, the director, officer, committee member, agent or employee shall forfeit the penalty and the penalty shall not be paid either directly or indirectly by the credit union.

(5) All moneys collected under this section shall be paid to the State Treasurer and credited as provided in ORS 705.145. [Formerly 723.826]

---