

TITLE 53

FINANCIAL INSTITUTIONS

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Chapter 706

2007 EDITION

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GENERAL PROVISIONS

706.005 Definitions for Bank Act. As used in the Bank Act, unless the context requires otherwise:

(1) "Access area" means any paved walkway or sidewalk within 50 feet of an automated teller machine or night deposit facility. "Access area" does not include publicly maintained sidewalks or roads.

(2) "Access device" means:

(a) An "access device" as defined in Federal Reserve Board Regulation E (12 C.F.R. Part 205) adopted under the Electronic Fund Transfer Act (15 U.S.C. 1601, et seq.); or

(b) A key or other mechanism issued by a financial institution to a customer to give the customer access to the institution's or bank's night deposit facility.

(3) "Acquisition transaction" means:

(a) The sale and purchase of all or substantially all of the assets of a bank that is not in the ordinary course of business of such bank; or

(b) The transfer and assumption of all or substantially all of the liabilities of a bank.

(4) "Automated teller machine" or "ATM" means any electronic information processing device located in this state that:

(a) Accepts or dispenses cash in connection with a credit, deposit or convenience account, provides information and initiates transactions in accordance with the request or instruction of a customer or the customer's agent; and

(b) Is unstaffed except for persons installing the device, providing security or providing periodic servicing, maintenance or repair. The term does not include devices used solely to facilitate check guarantees or check authorizations, or used in connection with the acceptance or dispensing of cash on a person to person basis, such as by a store cashier.

(5) "Bank Act" means ORS chapters 706 to 716.

(6) "Banking business" or "business of banking" means the business of receiving or accepting money or its equivalent on deposit as a regular business whether the deposit is made subject to check or is evidenced by a certificate of deposit, a pass book or other writing or evidence, but does not include:

(a) Depositing money or its equivalent in escrow or with an agent, pending investments in real estate or securities for or on account of a principal;

(b) The business of a savings and loan association or a credit union;

(c) Deposits accepted in connection with the purchase or lease of property or services; or

(d) Accepting deposits through an ATM or night deposit facility.

(7) "Banking day" has the meaning given that term in ORS 708A.650.

(8) "Branch" means an office or other place, except a principal place of business or an ATM, at which:

(a) A bank engages in banking business; or

(b) A trust company transacts trust business.

(9) "Candlefoot power" means a light intensity of candles on a horizontal plane at 36 inches above ground level and 5 feet in front of the area to be measured.

(10) "Capital debentures" means capital notes, capital debentures and any other form of unsecured obligations issued by an institution or stock savings bank to evidence borrowings where the rights of the lender are subordinate to the rights of the depositors.

(11)(a) "Defined parking area" means that portion of any parking area opened for customer parking that is:

(A) Contiguous to the access area of an ATM or night deposit facility;

(B) Regularly, principally and lawfully used for parking by users of the ATM or night deposit facility while the users conduct transactions during hours of darkness; and

(C) Owned or leased by the operator of the ATM or night deposit facility or owned or controlled by the party leasing the ATM or night deposit facility site to the operator.

(b) "Defined parking area" does not include any parking area that is not open or regularly used for parking by users of the ATM or night deposit facility who are conducting transactions during the hours of darkness. A parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is closed. If a multiple level parking area satisfies the conditions of paragraph (a) of this subsection and would therefore otherwise be a defined parking area, only the single parking level designated by the operator of the ATM and night deposit facility to be the most directly accessible to the users of the ATM and night deposit facility shall be a defined parking area.

(12) "Department" means the Department of Consumer and Business Services.

(13) "Director" means the Director of the Department of Consumer and Business Services.

(14) "Document of title" means document of title as defined in ORS 71.2010.

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

(16) "Federal Reserve Bank" means the Federal Reserve Banks created and organized under the authority of the Federal Reserve Act.

(17) "Federal Reserve Board" means the Federal Reserve Board created and described in the Federal Reserve Act.

(18) "Home state" means:

(a) With respect to a state bank, the state under the laws of which the state bank is incorporated or otherwise organized;

(b) With respect to a federal bank, the state in which the main office of the federal bank is located;

(c) With respect to an extranational institution, the state determined to be the home state by election of the extranational institution, or in default of such election, by the Board of Governors of the Federal Reserve System; and

(d) With respect to a financial holding company or a bank holding company, the state in which the total deposits of all banking subsidiaries of such company are the largest on the date on which the company becomes a financial holding company or a bank holding company.

(19) "Hours of darkness" means the period that commences 30 minutes after sunset and ends 30 minutes before sunrise.

(20) "Loan production office" means a physical location in this state at which representatives of a financial institution hold themselves out to the public as providing loan origination services, leasing services or services of a similar nature, but at which representatives of the financial institution do not conduct banking business.

(21) "Merger" includes consolidation.

(22) "Night deposit facility" means a receptacle that is provided by a financial institution for the use of the institution's customers in delivering cash, checks and other items to the financial institution.

(23) "Obligations" includes:

(a) The direct liability of the maker or acceptor of paper discounted with or sold to an institution;

(b) The liability of the drawer, indorser or assignor;

(c) If obligations of a copartnership or association, the obligations of the several members of the copartnership or association;

(d) If obligations of a corporation, the obligations of all subsidiaries of the corporation in which the corporation owns or controls 50 percent or more of the capital stock; and

(e) The liability of a lessee under a lease.

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

(25) "Operator" means any financial institution or other business entity, or any person who operates an ATM or night deposit facility.

(26) "Paid-in capital" means the aggregate amount received by an institution or stock savings bank from the issuance of its stock or transferred from retained earnings.

(27) "Person" means an individual, corporation, limited liability company, partnership, association, joint stock company, business trust or unincorporated organization.

(28) "Stockholders' equity" means the aggregate of paid-in capital and retained earnings of an institution or Oregon stock savings bank.

(29) "Trust business" means:

(a) Acting as a trustee of a trust;

(b) Acting as a fiduciary, as defined in ORS 125.005;

(c) Acting as a personal representative, as defined in ORS 111.005;

(d) Acting as a receiver, trustee or assignee for the benefit of creditors; or

(e) Acting in a court-appointed position of trust or any other position of trust. [1973 c.797 §2; 1975 c.193 §1; 1975 c.725 §1; 1983 c.37 §1; 1985 c.12 §1; 1985 c.451 §1; 1985 c.627 §3; 1985 c.762 §16; 1987 c.373 §47; 1987 c.371 §1; 1987 c.445 §7; 1991 c.331 §109; 1993 c.229 §1; 1993 c.318 §6; 1993 c.744 §22; 1995 c.313 §1; 1997 c.631 §1; 1999 c.107 §1; 2001 c.377 §45; 2005 c.348 §123]

706.008 Additional definitions for Bank Act. As used in the Bank Act, unless the context requires otherwise:

(1) "Bank" means a company, other than an extranational institution, that accepts deposits insured to any extent by the Bank Insurance Fund under the provisions of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, et seq.

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

(3) "Bank service corporation" means a corporation, all of the capital stock of which is owned by one or more banking institutions

or national banks, that is organized to perform services authorized by ORS 708A.145.

(4) "Banking institution" means an Oregon commercial bank, an Oregon trust company or an Oregon savings bank.

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

(6) "Extrajurisdictional institution" means a corporation, unincorporated company, partnership or association of two or more persons organized under the laws of a nation other than the United States, any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, that engages directly in a banking business.

(7) "Federal bank" means a national bank or any other bank organized under the laws of the United States.

(8) "Federal savings bank" means a corporation chartered as a federal savings bank under the provisions of 12 U.S.C. 1464.

(9) "Financial holding company" means a company as referred to in section 103 of the federal Gramm-Leach-Bliley Act (P.L. 106-102).

(10) "Financial institution" means insured institutions, extrajurisdictional institutions, credit unions as defined in ORS 723.006, out-of-state credit unions under ORS 723.042 and federal credit unions.

(11) "In-state federal stock bank" means a federal bank that issues capital stock, the home state of which is Oregon.

(12) "Institution" means an Oregon commercial bank or an Oregon trust company.

(13) "Insured institution" means a company, the deposits of which are insured under the provisions of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, et seq.

(14) "Insured nonstock institution" means an insured institution that does not issue capital stock.

(15) "Insured stock institution" means an insured institution that issues capital stock.

(16) "National bank" means a bank that was organized under the provisions of the National Bank Act, as amended, 12 U.S.C. 21, et seq.

(17) "Non-Oregon institution" means:

(a) An out-of-state state bank engaging in banking business in Oregon;

(b) An out-of-state trust company transacting trust business in Oregon; and

(c) An extrajurisdictional institution engaging in banking business in Oregon.

(18) "Nonstock bank" means a bank that does not issue capital stock.

(19) "Oregon bank" means an Oregon stock bank or Oregon nonstock bank.

(20) "Oregon commercial bank" means an Oregon stock bank that was chartered under ORS chapter 707 as a bank other than a stock savings bank.

(21) "Oregon nonstock bank" means a state nonstock bank, the home state of which is Oregon.

(22) "Oregon operating institution" means:

(a) A bank that is engaging in banking business in this state;

(b) An extrajurisdictional institution that is engaging in banking business in this state; or

(c) A trust company that is transacting trust business in this state.

(23) "Oregon savings bank" or "savings bank" means an Oregon stock savings bank or an Oregon nonstock bank.

(24) "Oregon stock bank" means a state stock bank, the home state of which is Oregon.

(25) "Oregon stock savings bank" means an Oregon stock bank that was initially chartered as or was converted to a stock savings bank under the Bank Act.

(26) "Oregon trust company" means a trust company that was organized under the provisions of ORS chapter 707.

(27) "Out-of-state bank" means an out-of-state state bank or an out-of-state federal bank.

(28) "Out-of-state bank holding company" means a bank holding company whose home state is not Oregon, and that is not the bank holding company of an Oregon stock bank or an in-state federal stock bank.

(29) "Out-of-state federal bank" means a federal bank, the home state of which is a state other than Oregon.

(30) "Out-of-state financial holding company" means a financial holding company whose home state is not Oregon, and that is not the financial holding company of an Oregon stock bank or an in-state federal stock bank.

(31) "Out-of-state state bank" means a state bank, the home state of which is a state other than Oregon.

(32) "Out-of-state trust company" means a trust company that was organized under the laws of another state.

(33) "State bank" means a bank that was organized under the laws of a state.

(34) "State nonstock bank" means a non-stock bank that was organized under the laws of a state.

(35) "State stock bank" means a stock bank that was organized under the laws of a state.

(36) "Stock bank" means a bank that issues capital stock.

(37) "Trust company" means any company that is authorized under the provisions of ORS chapter 709 to transact trust business, and includes the trust department of a bank, but does not include a corporation appointed by a United States Bankruptcy Court to serve as a bankruptcy trustee under Title 11, United States Code, when the corporation is acting in its capacity as a bankruptcy trustee. [1997 c.631 §3; 2001 c.377 §29]

706.010 [Amended by 1971 c.743 §413; repealed by 1973 c.797 §428]

706.015 Bank Act references to federal statutes and regulations; rules. References in the Bank Act to federal statutes and regulations shall, except as otherwise provided in the Bank Act, be construed to refer to the statutes or regulations as they are in effect on January 1, 2002. The Director of the Department of Consumer and Business Services may adopt rules providing that one or more of the federal statutes and regulations shall be construed to refer to the statutes and regulations as they are in effect on a later date. [1997 c.631 §28; 1999 c.107 §1a; 2001 c.377 §56]

706.020 [Repealed by 1973 c.797 §428]

706.025 [1963 c.580 §68; repealed by 1973 c.797 §428]

706.030 [Repealed by 1973 c.797 §428]

706.040 [Repealed by 1973 c.797 §428]

706.050 [Repealed by 1973 c.797 §428]

706.060 [Repealed by 1973 c.797 §428]

706.070 [Repealed by 1973 c.797 §428]

706.080 [Repealed by 1973 c.797 §428]

706.090 [Repealed by 1973 c.797 §428]

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

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

706.210 [Repealed by 1963 c.580 §103]

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

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

706.220 [Repealed by 1963 c.580 §103]

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

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

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

706.230 [Repealed by 1963 c.580 §103]

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

706.240 [Repealed by 1963 c.580 §103]

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

706.250 [Repealed by 1963 c.580 §103]

706.255 [1963 c.580 §75; 1973 c.797 §11; renumbered 706.905]

706.260 [Renumbered 706.285]

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

706.270 [Repealed by 1963 c.580 §103]

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

706.285 [Formerly 706.260; 1973 c.797 §13; 1981 c.192 §3; repealed by 1985 c.762 §196]

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

706.410 [Amended by 1973 c.797 §15; 1985 c.762 §23; renumbered 706.775]

706.420 [Repealed by 1973 c.797 §428]

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

706.440 [Amended by 1973 c.797 §17; renumbered 706.785]

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

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

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

706.470 [Repealed by 1971 c.734 §21]

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

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

706.490 [Repealed by 1973 c.797 §428]

SUPERVISION OF BANKING INSTITUTIONS

706.500 Examination of banking institutions and non-Oregon institutions; examination program with federal regulators. (1) Each banking institution is subject to the inspection of the Director of the Department of Consumer and Business Services. The director shall conduct an examination of the condition and resources of each banking institution, and determine whether the banking institution is complying with the laws of this state and such other matters as the director may prescribe. Except as provided in subsections (3) and (5) of this section, the examinations shall be conducted not more than 24 months apart.

(2) Subject to ORS 706.515, the director shall have the power at any time in the discretion of the director to examine every branch of a non-Oregon institution located in this state, for the same purposes and to the same extent as provided in the case of banking institutions.

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

non-Oregon institutions by the director and the Federal Deposit Insurance Corporation or the Federal Reserve Board.

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

(5) Instead of making an examination of a banking institution or non-Oregon institution under subsection (1), (2) or (3) of this section, the director may accept an examination or report made under the Federal Reserve Act or under other statutes of the United States authorizing insurance of deposits. [Amended by 1973 c.797 §22; 1981 c.192 §4; 1985 c.786 §7; 1997 c.631 §3a]

706.510 [Repealed by 1973 c.797 §428]

706.515 Agreements with other bank supervisory agencies; contracts for use of bank 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 bank supervisory agencies or any organization affiliated with or representing one or more bank 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 banking institution located in any other state. The director may accept such supervisory agencies' 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.

(2) The director may enter into contracts with any bank supervisory agency that has concurrent jurisdiction over a banking institution or non-Oregon institution 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 279.835 to 279.855 and ORS chapters 279A and 279B. 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 bank supervisory agencies having 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 banking institution located in any other state, provided that the director may at any time take such actions independently if the director deems such actions to be necessary or appropriate to carry out the director's responsibilities or to ensure compliance with the laws of this state, but provided further, that in the case of a non-Oregon institution, the director shall recognize:

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

(b) The primary responsibility of the banking supervisory agency of the home state or country 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 the Bank Act may be shared with other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies in accordance with agreements between such parties and the director. [1997 c.631 §27; 2003 c.794 §323]

706.520 Request by directors or stockholders for examination; costs. When requested in writing by the board of directors of a banking institution or stockholders owning a majority of the capital stock of an institution or an Oregon stock savings bank, the Director of the Department of Consumer and Business Services may make or cause to be made an examination into the affairs and conditions of the banking institution or Oregon stock savings bank. The banking institution or Oregon stock savings bank shall pay the actual costs of the examination as provided in ORS 706.544. [Amended by 1973 c.797 §23; 1985 c.762 §26; 1985 c.786 §8; 1997 c.631 §4; 1999 c.59 §214]

706.530 Annual fees paid by banking institutions and non-Oregon institutions; rules. Each banking institution and each non-Oregon institution shall pay each year to the Director of the Department of Consumer and Business Services the fee determined by reference to the schedule adopted by the director under ORS 705.620. The fee shall be paid by the date set by the director in the rule establishing the schedule. [Amended by 1969 c.94 §1; 1971 c.68 §1; 1973 c.797 §24; 1977 c.135 §8; 1985 c.762 §27a; 1985 c.786 §9; 1987 c.171 §3; 1987 c.373 §48; 1993 c.229 §3; 1993 c.264 §4; 1997 c.631 §5]

706.540 [Amended by 1969 c.94 §2; 1971 c.68 §2; 1973 c.797 §25; 1977 c.135 §9; 1983 c.296 §1a; 1985 c.762 §28a; 1985 c.786 §10; 1987 c.171 §4; 1987 c.373 §49; repealed by 1993 c.264 §5]

706.544 Costs for special examination or other actions taken. A banking institution or a non-Oregon institution shall pay to the Director of the Department of Consumer and Business Services the actual costs of the Department of Consumer and Business Services, as determined by the director, for conducting any special examination or taking any action under ORS 706.600. [1973 c.797 §25a; 1977 c.135 §10; 1985 c.762 §30a; 1985 c.786 §11; 1997 c.631 §6]

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

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

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

706.560 Appraisal of securities and audit. (1) When a banking institution or a non-Oregon institution has been examined by an examiner and the examiner finds securities that are of doubtful value, the examiner shall report the same to the Director of the Department of Consumer and Business Services, who may, at the expense of the banking institution or non-Oregon institution, investigate and appraise the securities.

(2) The director may, in the discretion of the director or whenever requested to do so by a banking institution or non-Oregon institution, make an audit of the affairs of the banking institution or non-Oregon institution. The Department of Consumer and Business Services shall be reimbursed by the banking institution or non-Oregon institution for all costs incurred by the department in conducting the audit. [Amended by 1973 c.797 §29; 1997 c.631 §7]

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

(2) If a banking institution or non-Oregon institution fails to open and keep the books and accounts prescribed by the director, the director shall send written notice to the banking institution or non-Oregon institution of intent to assess and collect the penalty under this subsection. For each day the banking institution or non-Oregon institution

fails to open and keep the books and accounts after receiving notice from the director, the banking institution or non-Oregon institution is subject to a penalty of \$1,000. The penalty shall be paid by the banking institution or non-Oregon institution when it receives a notice and demand for the amount of the penalty from the director. If the banking institution or non-Oregon institution delays or refuses to pay the penalty upon demand, the penalty shall be recovered in the name of the director in an action brought by the Attorney General. All sums collected for penalties imposed by this section shall be paid into the Consumer and Business Services Fund created by ORS 705.145. [Amended by 1973 c.797 §30; 1985 c.762 §31; 1987 c.373 §50; 1997 c.631 §8]

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

(2) All certificates issued by the director in accordance with the provisions of this chapter and all copies of documents filed in the office of the director in accordance with the provisions of this chapter, when certified by the director, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the facts stated in the certificates or documents. A certificate by the director, as to the existence or non-existence of the facts relating to financial institutions that would appear from the presence or absence of documents filed in the office of the director or the compliance or noncompliance with provisions of this chapter, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or nonexistence of the facts stated in the certificates or documents. [1989 c.324 §2; 1997 c.631 §9]

706.580 Illegal, unauthorized or unsafe practices; authority of director. When it appears to the Director of the Department of Consumer and Business Services that a banking institution or non-Oregon institution is violating any law or duly issued order of the director, is conducting its business in an unsafe or unauthorized manner, or has refused to submit its records for inspection by an examiner or examination by the Department of Consumer and Business Services:

(1) The director may:

(a) Notify the appropriate bank supervisory agency, with respect to such banking institution or non-Oregon institution, of the director's determination and the facts and

circumstances on which such determination is based;

(b) Provide the banking institution or non-Oregon institution with a statement of the charges on the basis of which the determination was made that the banking institution or non-Oregon institution is violating the law or conducting its business in an unsafe or unauthorized manner;

(c) Notify the banking institution or non-Oregon institution of the date and place of a hearing before the director, or any person designated by the director, with respect to the charges against the banking institution or non-Oregon institution; and

(d) Conduct a hearing pursuant to the notice given to the banking institution or non-Oregon institution under subsection (1)(c) of this section, and make findings with respect to each of the charges specified in the notice to the banking institution or non-Oregon institution.

(2) The director may:

(a) By an order in writing:

(A) Direct the discontinuance of the illegal, unsafe or unauthorized practices; and

(B) Direct the banking institution or non-Oregon institution to take affirmative action to correct or remedy any conditions resulting from the illegal, unsafe or unauthorized practice;

(b) Apply for and obtain an injunction or other appropriate order from a court having jurisdiction over the matter, enforcing the director's order issued under subsection (2)(a) of this section;

(c) Publish notice of any order issued by the director pursuant to subsection (2)(a) of this section; and

(d) Suspend or revoke the authority of a non-Oregon institution to open, occupy or maintain a branch or branches in this state. [Amended by 1973 c.797 §31; 1997 c.631 §10]

706.590 [Repealed by 1973 c.797 §428]

706.600 Authority to protect creditors and depositors of banking institution or non-Oregon institution. (1) The Director of the Department of Consumer and Business Services may take one or more of the actions described in this section to protect the interest of the creditors and depositors of a banking institution or non-Oregon institution if any of the following occurs:

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

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

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

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

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

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

(2) For purposes of subsection (1) of this section and subject to subsection (5) of this section, the director may take any of the following actions in regard to a banking institution:

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

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

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

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

(e) Direct the merger of the banking institution.

(f) Direct the sale of a banking institution.

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

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

(3) For purposes of subsection (1) of this section, and subject to ORS 706.515, the director may take any one of the following actions in regard to a non-Oregon institution:

(a) Take immediate possession and control of the property in this state of the non-Oregon institution.

(b) If the director has issued an order under ORS 706.580, enter the branches, offices or other places of business in this state of the non-Oregon institution to monitor and enforce implementation of the order.

(c) Acting alone or in concert with another appropriate bank supervisory agency, take any action authorized or permitted to be taken under or pursuant to any agreement or contract between the director and one or more bank supervisory agencies.

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

(5) Subsection (2)(c) to (h) of this section are available to the director only when a banking institution is in immediate danger of insolvency. [Amended by 1973 c.797 §32; 1985 c.786 §12; 1993 c.318 §7; 1997 c.631 §11]

706.610 Examiners required to report insolvency of Oregon operating institution. An examiner of the Department of Consumer and Business Services, having knowledge of the insolvency or unsafe condition of an Oregon operating institution shall report the fact in writing, over the examiner's signature, to the Director of the Department of Consumer and Business Services. [Amended by 1973 c.797 §33; 1985 c.762 §32; 1997 c.631 §12]

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

706.630 Regular reports of condition; additional reports as required by director. (1) The Director of the Department of Consumer and Business Services shall call for the report of condition of Oregon operating institutions at the close of business on the same day on which a report is required from national banks by the federal regulatory agencies.

(2) The report of each Oregon operating institution required in subsection (1) of this section shall:

(a) Show its assets and liabilities combined for all departments at the close of business on the day specified.

(b) Be sworn to by an officer of the Oregon operating institution making the report and attested by not less than two directors of the Oregon operating institution.

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

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

(3) The director may require additional reports of condition at any time the director considers it necessary. The additional reports shall meet the requirements of subsection (2) of this section.

(4) Trust companies not conducting a banking business are not required to submit the reports required in subsection (1) of this section, but shall submit reports as may be required by the director. [Amended by 1973 c.797 §35; 1975 c.544 §3; 1975 c.725 §6a; 1977 c.135 §11; 1983 c.37 §2; 1989 c.269 §1; 1991 c.67 §188; 1997 c.631 §13]

706.640 [Repealed by 1973 c.797 §428]

706.650 Delay or failure to furnish reports of condition; penalty. If an Oregon operating institution delays or fails to furnish reports in the manner required under ORS 706.630, the Oregon operating institution is subject to a penalty of \$250 a day for each day while in default. The penalty shall be paid by the Oregon operating institution upon receiving notice or demand for the amount of the penalty from the Director of the Department of Consumer and Business Services. If the penalty is not paid upon demand by the director, the director shall proceed to collect the penalty in the manner prescribed by ORS 706.570 (2). If the director determines that the default was unavoidable, the director may waive the penalty. [Amended by 1973 c.797 §36; 1997 c.631 §14]

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

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

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

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

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

706.660 Report of earnings and dividends. (1) Each banking institution, non-Oregon institution and each branch in this state of every extranational institution shall submit to the Director of the Department of Consumer and Business Services a report of earnings and dividends when called for by the director. The director shall call for a report of earnings and dividends on the same day on which an earnings and dividends report is required from national banks by the federal regulatory agencies. The report shall be for a period designated by the director in the call.

(2) The report shall be in the form prescribed by the director and shall show all losses sustained, expenses and taxes paid, gross earnings and profits, losses recovered since the last report, payments made by stockholders and all amounts carried to surplus, undivided profits or dividends paid.

(3) The director may require additional reports of earnings and dividends at any time the director considers it necessary. The additional reports shall meet the requirements of subsection (2) of this section. [Amended by 1973 c.797 §37; 1979 c.88 §3; 1997 c.631 §15]

706.670 [Amended by 1973 c.797 §38; repealed by 1997 c.631 §567]

706.680 Failure to make reports of earnings and dividends; penalty. A banking institution, non-Oregon institution and any branch in this state of an extranational institution that fails to make and submit any report required by ORS 706.660 is subject to a penalty of \$250 for each day the reports are delayed beyond the time allowed by ORS 706.660. The penalty shall be collected in the manner provided in ORS 706.570. If the Director of the Department of Consumer and Business Services determines that the default

was unavoidable, the director may waive the penalty. [Amended by 1973 c.797 §39; 1979 c.88 §4; 1997 c.631 §16]

706.690 Transfer of stock or controlling interest; notice to and approval by director; applicability to financial holding companies and bank holding companies.

(1) If the Director of the Department of Consumer and Business Services determines that the condition of an institution or Oregon stock savings bank is such that any transfer of the capital stock of the institution or Oregon stock savings bank would jeopardize the interest of its depositors, the director shall notify the institution or Oregon stock savings bank in writing that when any shares of the capital stock of the institution or Oregon stock savings bank are to be transferred on the books or records of the institution or Oregon stock savings bank, the officer proposing to make the transfer shall report in writing to the director the proposed transfer of stock. A transfer of stock shall not be made, after the date such a notice is issued, unless the transfer agent first obtains the written consent of the director. The director shall notify the institution or Oregon stock savings bank of the director's decision within 30 days after receiving the report.

(2) If a director or officer of an institution or Oregon stock savings bank, a transfer agent, vendee or vendor has reason to believe that a transfer of stock creates or changes a controlling interest in an institution or Oregon stock savings bank, that person shall immediately notify the director of the transfer. A transfer that creates a controlling interest in, or changes the control of, an institution or Oregon stock savings bank shall not be entered upon the books of the institution or Oregon stock savings bank or become effective until:

(a) Notice has been received at the office of the director; and

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

(3) For purposes of this section, a controlling interest of an institution or Oregon stock savings bank exists if a person, directly or indirectly, acting through one or more other persons, owns or has power to vote 25 percent or more of any class of voting stock of an institution or Oregon stock savings bank or of a corporation that is or becomes a financial holding company or a bank holding company as defined in ORS 706.008 unless:

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

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

(4) The director shall approve or disapprove the transfer in accordance with the standards provided by ORS 707.080 (1). The director also may disapprove a transfer under subsection (2) of this section if any of the reasons stated by ORS 707.145 apply to the proposed new owner of the shares.

(5) Notwithstanding subsections (2) to (4) of this section, if the person acquiring a controlling interest in an institution or Oregon stock savings bank is or will through such acquisition become a financial holding company or a bank holding company, the provisions of ORS chapter 715 apply to the change in controlling interest in lieu of the provisions of subsections (2) to (4) of this section. [Amended by 1973 c.797 §40; 1975 c.544 §4; 1977 c.135 §12; 1979 c.88 §5; 1985 c.12 §15; 1985 c.786 §13; 1997 c.631 §17; 2001 c.377 §46]

706.700 Resignation or retirement of director, president or chief executive officer; notice to director. A director, president or chief executive officer of a banking institution who retires or resigns from the position of director, president or chief executive officer shall give 30 days prior written notice to the Director of the Department of Consumer and Business Services. [Amended by 1963 c.195 §1; 1973 c.797 §41; 1987 c.158 §150; 1995 c.316 §1]

706.710 Waiver of retirement or resignation notices; modifying effective date. The Director of the Department of Consumer and Business Services may, by writing, waive the notices provided for in ORS 706.690 and 706.700, or shorten the period after the notice when the resignation or retirement becomes effective. [Amended by 1973 c.797 §42; 1975 c.544 §5; 1995 c.316 §2]

706.720 Reports filed with director; public inspection of records; exemptions; confidentiality; forms. (1) The Director of the Department of Consumer and Business Services shall receive and file in the Department of Consumer and Business Services all reports required by the Bank Act.

(2) Except as provided in subsection (3) of this section and ORS 706.730, the records of the Department of Consumer and Business Services pertaining to the administration of the Bank Act are available for public inspection unless the director determines in the particular instance that the public inter-

est in disclosure of the records is outweighed by the interests of an Oregon operating institution or its directors, stockholders, officers, employees and customers in keeping the records confidential, or that the records are exempt from disclosure under ORS 192.501 to 192.505. A determination by the director under this subsection is subject to review under ORS 192.410 to 192.505.

(3) Except as provided in subsections (4) and (5) of this section, the following records of the department are exempt from disclosure or production and shall be treated as confidential as provided in ORS 705.137:

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

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

(c) Proprietary information.

(d) Reviews of financial statements submitted to the director.

(e) Reports filed under ORS 706.655.

(f) Stockholder lists.

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

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

(b) Investigatory information concerning persons subject to investigation by the director under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705;

(c) Reviews of financial statements; and

(d) Reports filed under ORS 706.655.

(5) Notwithstanding ORS 40.270, an officer of the department may be examined con-

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

(6) A civil penalty imposed by the director under the Bank Act shall become subject to public inspection after the 20th day after the director imposes the civil penalty.

(7) All records of the department pertaining to the condition of Oregon operating institutions may be furnished to:

(a) The Federal Reserve Bank and its examiners.

(b) The Comptroller of the Currency of the United States and national bank examiners.

(c) The Federal Deposit Insurance Corporation and its examiners.

(d) The Federal Home Loan Bank of which the operating institution is a member or to which the operating institution has applied for membership.

(e) The State Treasurer if the Oregon operating institution is or has applied to become a depository of public fund deposits.

(f) Any supervisory authority that regulates financial institutions, financial holding companies or bank holding companies.

(g) The respective Oregon operating institution, or the financial holding company or bank holding company that controls an Oregon operating institution.

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

(9) If the director is requested to disclose any record subject to this section and the record contains both material that is exempt from disclosure under this section or any other provision of law and material that is not exempt from disclosure, the director shall separate the exempt and nonexempt material and shall disclose only the nonexempt material. [Amended by 1973 c.797 §43; 1975 c.515 §6; 1983 c.37 §3; 1983 c.367 §2; 1985 c.762 §33a; 1985 c.786 §14; 1987 c.373 §50a; 1993 c.318 §8; 1995 c.314 §2; 1997 c.631 §18; 1999 c.107 §2; 2001 c.377 §21; 2007 c.871 §30]

Note: The amendments to 706.720 by section 30, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

706.720. (1) The Director of the Department of Consumer and Business Services shall receive and file in the Department of Consumer and Business Services all reports required by the Bank Act.

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

(3) Except as provided in subsections (4) and (5) of this section, the following records of the department are exempt from disclosure or production and shall be treated as confidential as provided in ORS 705.137:

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

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

(c) Proprietary information.

(d) Reviews of financial statements submitted to the director.

(e) Reports filed under ORS 706.655.

(f) Stockholder lists.

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

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

(b) Investigatory information concerning persons subject to investigation by the director under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705;

(c) Reviews of financial statements; and

(d) Reports filed under ORS 706.655.

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

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

after the 20th day after the director imposes the civil penalty.

(7) All records of the department pertaining to the condition of Oregon operating institutions may be furnished to:

- (a) The Federal Reserve Bank and its examiners.
- (b) The Comptroller of the Currency of the United States and national bank examiners.
- (c) The Federal Deposit Insurance Corporation and its examiners.
- (d) The Federal Home Loan Bank of which the operating institution is a member or to which the operating institution has applied for membership.
- (e) The State Treasurer if the Oregon operating institution is a depository of public fund deposits.
- (f) Any supervisory authority that regulates financial institutions, financial holding companies or bank holding companies.
- (g) The respective Oregon operating institution, or the financial holding company or bank holding company that controls an Oregon operating institution.

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

(9) If the director is requested to disclose any record subject to this section and the record contains both material that is exempt from disclosure under this section or any other provision of law and material that is not exempt from disclosure, the director shall separate the exempt and nonexempt material and shall disclose only the nonexempt material.

706.723 Compliance review documents confidential; review by court. (1) Notwithstanding any other provision of law:

(a) Compliance review documents shall be confidential as provided in ORS 705.137 and shall not be discoverable or admissible as evidence in any civil action or administrative proceeding.

(b) Compliance review documents delivered to a state, federal or foreign governmental or regulatory agency remain confidential as provided in ORS 705.137 and shall not be discoverable or admissible in any civil action or administrative proceeding.

(c) A person serving on a compliance review committee or acting at the request of a compliance review committee may not be required to testify in any civil action as to:

- (A) The contents or conclusions of a compliance review document; or
- (B) The actions taken by a compliance review committee.

(2) This section does not limit the discovery or admissibility in any civil action or administrative proceeding of any documents that are not compliance review documents.

(3) Upon motion by any party, a court shall determine a claim of confidentiality under this section after an in camera review of the materials or information claimed to be confidential. If the court determines that part, but not all, of the materials or infor-

mation is confidential under this section, the court shall ensure that only the materials or information that is not confidential is disclosed.

(4) The provisions of this section do not affect the ability of a person to claim any privilege that may be provided by law, including but not limited to a claim of privilege under ORS 40.225.

(5) For the purposes of this section:

(a) "Compliance review committee" means a person or persons assigned by a board of directors of a financial institution, or by the management of a financial institution, to test, review or evaluate the conduct of the financial institution, the transactions of the financial institution or the potential transactions of the financial institution for the purpose of monitoring, improving and enforcing compliance with:

- (A) Safe, sound and fair lending practices;
- (B) Financial reporting to state or federal regulatory agencies;
- (C) The financial institution's own policies and procedures; or
- (D) Federal or state statutory or regulatory requirements relating to financial institutions.

(b) "Compliance review document" means any document prepared for or created by a compliance review committee. [1997 c.81 §2; 2001 c.377 §22]

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

(1) Knowingly subscribe to or make or cause to be made any false statement or report to the Director of the Department of Consumer and Business Services or any false entry in the books or accounts of the Oregon operating institution.

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

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

(4) Make improper or fail to make proper entry upon the books or records or in any statement or report of the Oregon operating institution with intent to deceive or conceal the true condition of the Oregon operating institution. [1973 c.797 §44; 1997 c.631 §19]

706.730 Depositor and debtor information confidential; disclosure prohibited; exceptions.

(1) The name of a person who is a depositor or debtor of a bank and the amount of the person's deposit or debt are confidential as provided in ORS 705.137. The Director of the Department of Consumer and Business Services or any other person employed by the Department of Consumer and Business Services shall not knowingly disclose the name of a person who is a depositor or debtor of a bank, or the amount of the person's deposit or debt, except that the director or the employee may disclose such information as may be required under ORS 706.720 (5) or as may be necessary in the performance of the director's or employee's official duty including any duty under ORS 295.018.

(2) Subsection (1) of this section does not prohibit disclosure of the name of any debtor or the amount of the person's debt included in reports that are filed under ORS 706.655, if the reports were filed by a banking institution that has been liquidated or is in the process of being liquidated under ORS 711.400 to 711.615 and if disclosure is otherwise allowed under ORS 706.720. [Amended by 1973 c.797 §45; 1975 c.515 §7; 1985 c.762 §§34,34a; 1985 c.786 §15; 1993 c.318 §9; 1997 c.631 §20; 2001 c.377 §23]

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

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

(1) For the purpose of an investigation or proceeding under the Bank Act, the Director of the Department of Consumer and Business Services may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records that the director considers relevant or material to the inquiry.

(2) If a person fails to comply with a subpoena so issued or a party or witness refuses to testify on any matter, the judge of the circuit court for any county, on the application of the director, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of subpoena issued from the court or a refusal to testify therein.

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

the witness was material to the matter investigated.

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

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

If the Director of the Department of Consumer and Business Services has reason to believe that a person has violated any provision of the Bank Act for which criminal prosecution is provided, the director shall give the information relative to the violation to the appropriate federal, state or local law enforcement officer having jurisdiction of the violation. However, this section does not apply when a director or officer of an Oregon operating institution has reported the information to the appropriate law enforcement agency under ORS 707.735. [Formerly 706.430; 1997 c.631 §21]

706.785 Attorney General to conduct actions; assistance of district attorneys.

The Attorney General shall conduct all actions begun by the Director of the Department of Consumer and Business Services under authority of the Bank Act, and may require the assistance of the district attorney of the district in which the action is conducted. [Formerly 706.440]

706.790 Rules. (1) In accordance with ORS chapter 183, the Director of the Department of Consumer and Business Services may adopt rules for the purpose of carrying out the Bank Act.

(2) In addition to the notice requirements of ORS chapter 183, before the director adopts a rule, the director shall submit a copy of the rule to each Oregon operating institution. [Formerly 706.460; 1997 c.631 §22]

706.795 Rules authorizing banking institutions to exercise powers of certain financial institutions.

Notwithstanding any other provision of law, the Director of the Department of Consumer and Business Services may, in accordance with ORS 183.310, 183.315, 183.330, 183.335 and 183.341 to 183.410, make rules authorizing banking institutions to exercise any of the powers conferred upon any financial institution that is accepting deposits or transacting trust business in this state, if the director finds that the exercise of the power:

(1) Serves the public convenience and advantage; and

(2) Equalizes and maintains the quality of competition between banking institutions and other financial institutions. [Formerly 706.555; 1997 c.631 §23]

706.800 [1993 c.229 §21; repealed by 1997 c.631 §567]

706.805 [1993 c.229 §5; repealed by 1997 c.631 §567]

706.815 Single account for moneys relating to supervision of Oregon operating institutions. Notwithstanding ORS 705.145 (2), moneys received or expended by the Director of the Department of Consumer and Business Services under this chapter relating to the supervision of Oregon operating institutions may be deposited in or withdrawn from a single account. The director need not establish a separate account in the Consumer and Business Services Fund relating to the supervision of banks and a separate account relating to the supervision of trust companies. [1993 c.264 §2; 1997 c.631 §24]

706.900 [Formerly 706.245; 1987 c.373 §51; repealed by 1993 c.318 §2]

706.905 [Formerly 706.255; repealed by 1993 c.318 §2]

706.910 [Formerly 706.265; repealed by 1993 c.318 §2]

706.915 [1985 c.786 §16; repealed by 1993 c.318 §2]

706.920 [1985 c.786 §17; repealed by 1993 c.318 §2]

PENALTIES

706.980 Civil penalties. (1) Any person who violates any provision of the Bank Act, or any lawful rule or final order of the Director of the Department of Consumer and Business Services for which a civil penalty is not expressly provided, shall forfeit a civil penalty in an amount determined by the director of not more than \$2,000 for each offense, or \$10,000 in the aggregate for all such offenses within any three-month period. In the case of individuals, the civil penalty shall be not more than \$1,000 for each offense or \$5,000 in the aggregate for all such offenses within any three-month period. Each violation is a separate offense.

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

(3) Any person who violates ORS 706.730 shall forfeit a civil penalty, in an amount determined by the director, of not more than \$1,000. In addition, the violator shall forfeit the violator's office.

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

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

(6) The civil penalty may be recovered in an action brought thereon in the name of the State of Oregon in any court of appropriate jurisdiction or may be imposed as provided in ORS 183.745.

(7) In any court action with respect to a civil penalty, including judicial review under ORS 183.745, the court may review the penalty as to both liability and reasonableness of amount.

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

(9) The provisions of this section are in addition to and not in lieu of any other enforcement provisions contained in the Bank Act.

(10) If a civil penalty is assessed against a director, officer or employee of a non-Oregon institution, the director shall give notice of the assessment to the bank supervisory agency having primary responsibility for the supervision of the non-Oregon institution in the state or country in which it is chartered or otherwise organized. [1975 c.544 §8; 1985 c.786 §18; 1991 c.734 §94; 1993 c.318 §10; 1997 c.631 §25]

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