

# Chapter 714

2007 EDITION

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**FINANCIAL INSTITUTIONS**

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**714.010** [Repealed by 1973 c.797 §428]

**BRANCH BANKING**  
**(Branches of Banking Institutions)**

**714.015 Branches not in compliance with ORS 714.025 to 714.079 prohibited.** Banking institutions shall not establish or maintain branches except as expressly authorized in ORS 714.025 to 714.079 and 714.995. [1997 c.631 §312]

**714.020** [Repealed by 1973 c.797 §428]

**714.025 Application required to establish branches in Oregon or outside of Oregon; fee; rules.** (1) A banking institution may establish and operate one or more branches within or outside the State of Oregon. The board of directors of a banking institution desiring to establish a branch shall file an application with the Director of the Department of Consumer and Business Services. The application shall be in the form the banking institution is required to file with the Federal Reserve System or the Federal Deposit Insurance Corporation to establish a branch at such location, as the case may be, or in such other form as the director may require. The application shall be accompanied by a \$500 fee, which fee shall only apply to the establishment of new branches and not to the acquisition or relocation of existing branches. The director shall promptly advise the banking institution if the application is incomplete or if the director requires additional information.

(2) Mobile banking facilities described in ORS 714.035 and temporary branches are considered branches for purposes of this section. A temporary branch is a branch that operates for a period not to exceed 60 days, which period shall not be extended. The application fee for a temporary branch shall be \$100. The director may establish rules regarding temporary branches.

(3) Branches to be located in other countries or to be located in dependencies or insular possessions of the United States are subject to the requirements of this section and ORS 714.045. [1997 c.631 §313]

**714.030** [Amended by 1973 c.797 §321; 1975 c.725 §17; 1993 c.229 §15; repealed by 1997 c.631 §567]

**714.035 Mobile banking facilities; fee.** A banking institution may, in accordance with ORS 714.025, establish one or more mobile facilities to engage in the banking business or to transact trust business. Mobile banking facilities may operate within the State of Oregon and in other states. An application under ORS 714.025 shall not be required for mobile facilities that exercise permissible powers or engage in permissible activities that do not constitute engaging in the banking business or transacting trust

business. The application fee for each facility is \$500. [1997 c.631 §314]

**714.040** [Amended by 1971 c.68 §4; 1973 c.797 §322; 1975 c.544 §40a; 1977 c.135 §26; 1993 c.255 §2; repealed by 1997 c.631 §567]

**714.045 Application to establish foreign branches; furnishing information; examination; rules.** (1) A banking institution may establish branches in foreign countries or dependencies or insular possessions of the United States in accordance with ORS 714.025 if it possesses stockholder's equity of at least \$1 million.

(2) A banking institution operating such branches shall furnish information concerning the condition of the branches to the Director of the Department of Consumer and Business Services upon demand.

(3) The director may order special examinations of such branches.

(4) The director may promulgate rules regarding such branches pursuant to ORS 183.310, 183.315, 183.330, 183.335, 183.341 and 183.410. [1997 c.631 §315]

**714.049 Investigating applications; soliciting comments.** (1) The Director of the Department of Consumer and Business Services shall investigate each application to establish a branch. With respect to applications covering branches to be located outside the State of Oregon, the director shall promptly provide the local bank supervisory agency or regulator with a copy of the application and an opportunity to comment on the application. The director shall not be bound by any such comments.

(2) In determining whether to approve or disapprove an application to establish a branch, the director shall consider such factors as the director deems appropriate, including the likely impact of the branch on the safety and soundness of the banking institution, the adequacy of the capital of the banking institution, the institution's record of complying with applicable law, and the results of supervisory examinations of the banking institution.

(3) The director's decision to disapprove an application is subject to appeal in the manner provided in ORS 707.080 for the organization of an institution. [1997 c.631 §316]

**714.050** [Amended by 1973 c.797 §323; repealed by 1979 c.826 §1]

**714.054 Approval or disapproval of application; when application deemed approved.** With respect to applications to establish branches in the State of Oregon or in a state outside of the State of Oregon, the Director of the Department of Consumer and Business Services may approve or disapprove the application, provided however, that failure to disapprove an application within 30

days after receipt of a complete application shall be deemed an approval of the application. With respect to applications by banking institutions to establish branches in foreign countries or dependencies or insular possessions of the United States, the director may approve or disapprove an application, provided however, that failure to disapprove an application within 90 days after receipt of a complete application shall be deemed an approval of the application. [1997 c.631 §317]

**714.055** [1973 c.797 §324; repealed by 1979 c.826 §1]

**714.059 Certificate authorizing branch to conduct business.** Upon the request of a banking institution, the Director of the Department of Consumer and Business Services shall issue and deliver a certificate authorizing each approved branch to conduct business. [1997 c.631 §318]

**714.060** [Amended by 1973 c.797 §325; 1985 c.12 §7; 1993 c.229 §16; 1993 c.255 §3; repealed by 1997 c.631 §567]

**714.064 Time to commence business.** A branch shall commence business within one year after the application for the branch has been approved or deemed approved by the Director of the Department of Consumer and Business Services. The director may extend the period within which the branch may open up to one additional year. If a branch fails to commence business within the year or any extension of time granted by the director, the approval of the application shall be deemed withdrawn and the branch may not open or operate. [1997 c.631 §319]

**714.065** [1973 c.797 §326; repealed by 1975 c.193 §13]

**714.069 Activities and powers at branches outside this state.** (1) A banking institution may exercise the same powers and engage in the same activities at a branch or branches located in states outside this state as are permitted the banking institution within this state.

(2) A banking institution may exercise the same powers and engage in the same activities at a branch or branches located in foreign countries and dependencies or insular possessions of the United States as are permitted the banking institution within this state and in addition may exercise such additional powers as are permitted to such branches under 12 C.F.R. 211.3(b), 12 C.F.R. 347.3(c) and other applicable federal law. This subsection shall not be construed to permit a banking institution that opens, occupies or maintains one or more branches in a foreign country or dependency or insular possession of the United States to use the branch or branches or engage in any activities within this state that are not permitted to the banking institution under the laws of this state. [1997 c.631 §320]

**714.070** [Repealed by 1973 c.797 §428]

**714.075 Reports of deposits held at branches.** Upon the call for a report of condition by the Director of the Department of Consumer and Business Services:

(1) Each Oregon commercial bank and Oregon savings bank shall report to the director the total deposits held at each of its branches; and

(2) Each non-Oregon institution and each federal bank that in either case holds deposits of the State of Oregon or any political subdivision thereof, or that underwrites bonds or other debt instruments issued by the state or any political subdivision thereof, shall report to the director the total deposits held at each of its branches located in the State of Oregon. [1997 c.631 §321]

**714.079 Closure and relocation of branches.** A banking institution may close and relocate branches provided the banking institution provides the Director of the Department of Consumer and Business Services with a copy of any notice required under 12 U.S.C. 1831r-1(a), or comparable federal law, at the time and in the form required by such law or laws. [1997 c.631 §322]

**714.080** [Amended by 1973 c.797 §327; repealed by 1997 c.631 §567]

**714.090** [Amended by 1971 c.68 §5; repealed by 1973 c.797 §428]

### **(Oregon Branches of Out-of-State Banks and Extranational Institutions)**

**714.095 Establishment of branches by out-of-state banks in this state; powers and activities at branches.** (1) An out-of-state bank may occupy and maintain its initial branches in this state if and only if the branches are acquired by the out-of-state bank in accordance with ORS chapters 711 and 713.

(2) An out-of-state bank that is properly occupying and maintaining one or more branches in Oregon in accordance with ORS chapters 711 and 713 may thereafter open, occupy and maintain one or more additional branches in this state. The out-of-state bank shall not be required to file an application under ORS 714.025 to establish such additional branches.

(3) An out-of-state bank that acquires branches in accordance with ORS chapters 711 and 713 shall be entitled to exercise powers and engage in activities at its branches in this state as provided in ORS 713.010 and applicable federal law. [1997 c.631 §324]

**714.100** [Amended by 1963 c.195 §11; 1969 c.360 §1; 1973 c.797 §328; repealed by 1993 c.255 §4]

**714.105 Establishment of branches by extranational institutions in this state; powers and activities at branches.** (1) An extranational banking institution may occupy and maintain branches in this state as permitted by ORS chapter 713 and applicable federal law.

(2) An extranational banking institution may exercise powers and engage in activities at branches located in this state as permitted by ORS chapter 713 and applicable federal law. [1997 c.631 §325]

**714.110** [Amended by 1973 c.797 §329; repealed by 1997 c.631 §567]

**714.120** [Repealed by 1963 c.402 §11]

**714.130** [Amended by 1973 c.797 §330; repealed by 1997 c.631 §567]

**714.133** [1993 c.229 §18; repealed by 1997 c.631 §567]

**714.135** [1993 c.229 §19; repealed by 1997 c.631 §567]

**714.140** [Amended by 1973 c.797 §331; repealed by 1997 c.631 §567]

**714.150** [Amended by 1973 c.797 §332; repealed by 1997 c.631 §567]

**714.160** [Amended by 1973 c.797 §333; repealed by 1997 c.631 §567]

**714.170** [Amended by 1973 c.797 §334; repealed by 1997 c.631 §567]

**714.180** [1991 c.31 §2; repealed by 1997 c.631 §567]

#### **AUTOMATED TELLER MACHINES; NIGHT DEPOSIT FACILITIES**

**714.200** [1975 c.193 §11; 1985 c.762 §45; 1993 c.381 §1; repealed by 1997 c.631 §567]

**714.205 Disclosure of fees for ATM transaction; method; rules.** (1) If the operator of an ATM charges a fee to any person to use the ATM, the operator shall disclose to persons using the ATM that a fee will be imposed for the ATM transaction.

(2) Subject to subsection (3) of this section, the disclosure required under subsection (1) of this section shall be made electronically during the ATM transaction and shall allow the person who will be charged a fee to cancel the ATM transaction without incurring a fee. The disclosure shall also be printed on the ATM transaction receipt.

(3) The Director of the Department of Consumer and Business Services may adopt rules conforming the disclosure requirements of subsection (2) of this section to disclosure requirements contained in:

(a) Any law enacted by the Congress of the United States; or

(b) Any regulation adopted by any federal agency having regulatory authority over ATMs. [1997 c.631 §310b]

**714.210 Use of ATMs; verification; application of branch banking law.** (1) A banking institution, through its own facili-

ties or those of an entity described in ORS 708A.160, may make available for use by its customers and others one or more ATMs. Every transaction initiated through an ATM shall be subject to verification by the banking institution either by direct wire transmission or otherwise.

(2) ORS 714.025 does not apply to the establishment and maintenance of ATMs. [1975 c.193 §3; 1993 c.381 §2; 1997 c.631 §309]

**714.220** [1975 c.193 §4; 1993 c.381 §3; repealed by 1997 c.631 §567]

**714.230** [1975 c.193 §5; repealed by 1989 c.245 §1]

**714.240** [1975 c.193 §6; 1979 c.810 §1; 1989 c.245 §2; 1993 c.381 §4; repealed by 1997 c.631 §567]

**714.250** [1975 c.193 §7; 1979 c.810 §2; 1993 c.381 §5; repealed by 1997 c.631 §567]

**714.260** [1975 c.193 §8; 1993 c.381 §6; repealed by 1997 c.631 §567]

**714.270 Prohibitions on use of ATM for banking information.** No person shall use or attempt to use an ATM facility for the purpose of obtaining any information concerning an account or line of credit other than the person's own account or line of credit without the prior approval of an authorized signer on the account or line of credit. No person having received prior approval of the customer shall utilize such authority to obtain through the use of the ATM any information not necessary to the transaction which the customer seeks to accomplish through its use. [1975 c.193 §9; 1993 c.381 §7; 1997 c.631 §310]

**714.280 Legislative intent of ATM and night deposit facility law.** (1) It is the intent of the Legislative Assembly in enacting ORS 714.280 to 714.315 to enhance the safety of consumers using ATMs and night deposit facilities in Oregon without discouraging the siting of ATMs and night deposit facilities in locations convenient to consumers' homes and workplaces. Since decisions concerning safety at ATMs and night deposit facilities are inherently subjective, the Legislative Assembly intends to establish as the standard of care applicable to operators of ATMs and night deposit facilities in connection with user safety, the compliance with the objective standards and information requirements of ORS 714.280 to 714.315. The Legislative Assembly further recognizes the need for uniformity as to the establishment of safety standards for ATMs and night deposit facilities and intends with ORS 714.280 to 714.315 to supersede and preempt any rule, regulation, code or ordinance of any city, county, municipality or local agency regarding customer safety at ATMs and night deposit facilities in this state.

(2) It is not the intent of the Legislative Assembly in enacting ORS 714.280 to 714.315 to impose a duty to relocate or modify ATMs

or night deposit facilities upon the occurrence of any particular events or circumstances, but rather to establish a means for the evaluation of all ATMs and night deposit facilities as provided in ORS 714.210 to 714.992. [1993 c.381 §§9,11]

**714.285 Adoption of procedures for evaluating safety of ATM or night deposit facilities.** Before installing any ATM or night deposit facility, the operator shall adopt procedures for evaluating the safety of the ATM or night deposit facility. For ATMs and night deposit facilities installed on or before July 1, 1994, operators shall adopt procedures not later than July 1, 1994. The procedures shall include a consideration of the following:

(1) The extent to which the lighting for the ATM or night deposit facility complies or will comply with the standards required by ORS 714.290 and 714.295.

(2) The presence of landscaping, vegetation or other obstructions in the area of the ATM or night deposit facility, the access area and the defined parking area.

(3) The incidence of crimes of violence in the immediate neighborhood of the ATM or night deposit facility, as reflected in the records of the local law enforcement agency and of which the operator has actual knowledge. [1993 c.381 §10]

**714.290 Deadlines for compliance with ORS 714.295.** (1) Each operator of an ATM or night deposit facility installed after July 1, 1994, shall comply with ORS 714.295. Compliance with ORS 714.295 by operators of ATMs and night deposit facilities existing on or before July 1, 1994, shall be optional until July 1, 1996, and mandatory thereafter. This section shall apply to an operator of an ATM or night deposit facility only to the extent that the operator controls the access area or defined parking area to be lighted.

(2) If an access area or a defined parking area is not controlled by the operator of an ATM or night deposit facility, and if the person who leased the ATM or night deposit facility site to the operator controls the access area or defined parking area, the person who controls the access area or defined parking area shall comply with ORS 714.295 regarding any ATM or night deposit facility installed after July 1, 1994. Regarding any ATM or night deposit facility installed on or before July 1, 1994, the person shall comply with ORS 714.295 no later than July 1, 1996. [1993 c.381 §12]

**714.295 Lighting requirements for ATMs and night deposit facilities.** The operator, owner or other person responsible for the ATM or night deposit facility shall provide lighting during hours of darkness for an

open and operating ATM or night deposit facility and any defined parking area, access area and the exterior of an enclosed ATM or night deposit facility installation according to the following standards:

(1) There shall be a minimum of 10 candlefoot power at the face of the ATM or night deposit facility and extending in an unobstructed direction outward five feet.

(2) There shall be a minimum of two candlefoot power within 50 feet in all unobstructed directions from the face of the ATM or night deposit facility. In the event the ATM or night deposit facility is located within 10 feet of the corner of the building and the ATM or night deposit facility is generally accessible from the adjacent side, there shall be minimum of two candlefoot power along the first 40 unobstructed feet of the adjacent side of the building.

(3) There shall be a minimum of two candlefoot power in that portion of the defined parking area within 60 feet of the ATM or night deposit facility. [1993 c.381 §13]

**714.300 Issuance of safety information to customers of ATMs and night deposit facilities.** The issuers of access devices shall furnish customers receiving the devices with notices of basic safety precautions which customers should employ while using an ATM or night deposit facility. This information shall be furnished by personally delivering or by mailing the information to each customer whose mailing address as to the account to which the access device relates is in this state. This information shall be furnished with respect to access devices issued after July 1, 1994, at or before the time the customer is furnished with his or her access device. With respect to a customer to whom an access device has been issued on or before July 1, 1994, the information shall be delivered or mailed to the customer on or before December 31, 1994. Only one notice need be furnished per household, and if access devices are furnished to more than one customer for a single account or set of accounts or on the basis of a single application or other request for the access devices, only a single notice need be furnished in satisfaction of the notification responsibilities as to all those customers. The information may be included with other disclosures related to the access device furnished to the customer, such as with any initial or periodic disclosure statement furnished pursuant to the Electronic Fund Transfer Act (15 U.S.C. 1501 et seq.). [1993 c.381 §14]

**714.305 Exempted ATMs and night deposit facilities.** The requirements of ORS 714.280 (2) and 714.285 to 714.295 shall not apply to any ATM or night deposit facility that is:

(1) Located inside of a building, unless it is a freestanding installation that exists for the sole purpose of providing an enclosure for the ATM or night deposit facility.

(2) Located inside of a building, except to the extent that a transaction can be conducted from outside the building.

(3) Located in any area, including any access area, building, enclosed space or parking area that is not controlled by the operator. [1993 c.381 §15]

**714.310 Preemption of local regulation.** ORS 714.210 to 714.315 supersede and preempt all rules, regulations, codes, statutes or ordinances of all cities, counties, municipalities and local agencies regarding customer safety at ATMs or night deposit facilities located in Oregon. [1993 c.381 §16]

**714.315 Creation of rebuttable presumption.** Compliance with ORS 714.280 to

714.300 shall create a rebuttable presumption that the operator of the ATM or night deposit facility in question has provided adequate measures for the safety of users of the ATM or night deposit facility. [1993 c.381 §17]

#### PENALTIES

**714.990** [Repealed by 1973 c.797 §428]

**714.992 Criminal penalty.** Violation knowingly of ORS 714.270 is a Class C felony. [1975 c.193 §10]

**714.995 Civil penalty.** Each day a banking institution operates a branch that has not been approved or deemed approved by the Director of the Department of Consumer and Business Services, the banking institution is subject to a penalty of up to \$1,000. The penalty shall be assessed and collected as prescribed in ORS 706.570 (2). [1997 c.631 §323]

