Chapter 716

2013 EDITION

Savings Banks

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ORGANIZATION

716.024 Provisions of Bank Act applicable to Oregon savings banks and Oregon stock savings banks. (1) The provisions of ORS chapter 706 relating to financial institutions, the following sections in the Bank Act and any other provisions of the Bank Act that by their terms pertain to Oregon savings banks shall apply to Oregon savings banks: ORS 707.075, 707.080, 707.090, 707.100, 707.120, 707.145, 707.150, 707.155, 707.170, 707.180, 707.252, 707.254, 707.625, 707.642, 707.646 (1), 707.660, 707.665, 707.670 to 707.764, 708A.175, 708A.405, 708A.410, 708A.420 to 708A.535, 708A.590, 708A.600, 708A.640, 708A.645, 708A.655, 708A.990, 711.405 to 711.670, 711.980 and 714.075.

(2) In addition to the statutes listed in subsection (1) of this section, to the extent applicable, the following provisions of the Bank Act apply to Oregon stock savings banks: ORS 707.050, 707.110, 707.140, 707.195, 707.200 to 707.230, 707.244 to 707.250, 707.256, 707.258 to 707.272, 707.350, 707.380 to 707.410, 707.415, 707.610 to 707.623, 707.644, 707.646 (2) and 707.648. [1973 c.797 §345; 1975 c.544 §44; 1977 c.555 §15; 1979 c.88 §24; 1981 c.192 §24; 1983 c.37 §25; 1983 c.367 §4; 1985 c.762 §46; 1985 c.786 §46; 1985 c.796 §4; 1987 c.197 §8a; 1989 c.324 §72; 1997 c.631 §331; 1999 c.506 §4]

716.028 Application for authority to organize; fee; contents. Any number of persons, not less than five, desiring to organize an Oregon savings bank shall, as prospective incorporators, first file an application with the Director of the Department of Consumer and Business Services for authority to organize an Oregon savings bank. The applicants shall pay to the director at the time of their application a fee of $2,500, no part of which will be refunded. The application shall be signed by one of the applicants. The following information and documents shall be included in or with the application:

(1) The corporate name.

(2) The proposed location of the initial principal place of business.

(3) The name, occupation, residence and post-office address of each prospective incorporator.

(4) The proposed articles of incorporation. The following apply:

(a) If the Oregon savings bank is to be organized as an Oregon stock savings bank, the articles of incorporation shall conform to the provisions set forth in ORS 707.110; and

(b) If the Oregon savings bank is to be organized as an Oregon nonstock bank, the articles of incorporation shall conform to the provisions set forth in ORS 716.040.

(5) The names and residence addresses of the proposed senior officers and the names, occupations and residence addresses of proposed initial directors.

(6) If the Oregon savings bank is being organized as an Oregon stock savings bank, the number of shares of voting stock proposed to be subscribed for by the incorporators and each of the proposed directors and senior officers, and the names of any other persons who are expected to subscribe for, to own or to control more than 10 percent of the voting stock and the amount of stock for which each proposes to subscribe.

(7) Evidence satisfactory to the director of the character, financial responsibility and ability of the prospective incorporators, directors and senior officers.

(8) Evidence satisfactory to the director, in the form of a business plan and such additional information as the director may require, demonstrating that the proposed Oregon savings bank is likely to be financially successful.

(9) The proposed operating policies of the Oregon savings bank.

(10) Any other information that the director may require. [1973 c.797 §346; 1977 c.135 §58; 1979 c.88 §25; 1997 c.631 §332; 2003 c.14 §444]

716.029 [1985 c.762 §48; repealed by 1997 c.631 §567]

716.030 [Repealed by 1973 c.797 §428]

716.032 Investigation and ruling on application. The Director of the Department of Consumer and Business Services shall investigate and rule on the application for authority to organize in the manner specified for institutions in ORS 707.080, 707.090 and 707.145. [1973 c.797 §347; 1977 c.135 §30; 1997 c.631 §333]

716.036 [1973 c.797 §348; repealed by 1997 c.631 §567]

716.040 Articles of incorporation; contents. (1) Not less than five persons may associate themselves by articles of incorporation to form an Oregon savings bank, either as an Oregon stock savings bank or as an Oregon nonstock bank. If the Oregon savings bank is organized as an Oregon stock savings bank, its articles of incorporation shall conform to the provisions set forth in ORS 707.110. If the Oregon savings bank is organized as an Oregon nonstock bank, its articles of incorporation shall conform to the provisions of subsection (2) of this section, be executed in duplicate, signed by the incorporators and submitted to the Director of the Department of Consumer and Business Services.

(2) The articles of incorporation of an Oregon nonstock bank shall specify:

(a) The name by which the Oregon nonstock bank is to be known.

(b) The initial principal place where its business is to be transacted, naming the city or town and county.

(c) The address, including street and number, and mailing address, if different, of its initial registered office and the name of its initial registered agent at that office.

(d) The name of each incorporator.

(e) The term of its existence, which may be perpetual.

(f) The purpose for which it is organized.

(g) The sums that each incorporator will contribute in cash to the initial guaranty fund and the expense fund, as provided in ORS 716.060 and 716.070.

(h) The initial board of directors of the Oregon nonstock bank, composed of not less than five persons, at least three of whom shall be incorporators, who shall serve until their successors are regularly elected and qualified.

(3) The articles of incorporation also may contain any lawful provisions for the regulation of the business, for the conduct of the affairs of the Oregon nonstock bank, defining and regulating the powers of the directors or eliminating or limiting the personal liability of directors to the extent permitted under ORS 707.110 (5)(c). [Amended by 1973 c.797 §349; 1989 c.447 §2; 1991 c.883 §12; 1997 c.631 §334; 2005 c.192 §12]

716.050 Approval of articles; certificate of incorporation; filing. (1) If the Director of the Department of Consumer and Business Services finds that the articles of incorporation conform to law, the director shall, within 60 days after receiving the articles of incorporation and when all fees have been paid:

(a) Indorse on each of the duplicate originals the word "Filed," and the month, day and year of the filing.

(b) File one of the duplicate originals in the office of the director.

(c) Issue a certificate of incorporation to which the director shall affix the other duplicate original.

(2) The certificate of incorporation, with one of the duplicate originals affixed thereto shall be returned to the incorporators or their representative.

(3) Upon issuance of the certificate of incorporation, the corporate existence of a savings bank begins. [Amended by 1973 c.797 §350]

716.055 Creation of guaranty and expense funds. Before an Oregon nonstock bank may conduct its business, its incorporators shall create:

(1) A guaranty fund, as provided in ORS 716.060, for the protection of its depositors against loss on its investments, and

(2) An expense fund, as provided in ORS 716.070, to pay the expense of organizing the Oregon nonstock bank and the operating expenses. [1973 c.797 §351; 1997 c.631 §335]

716.060 Maintenance of guaranty fund or liquidation account. (1) The guaranty fund or liquidation account consists of payments in cash made by the incorporators and of all sums credited to the guaranty fund as required by ORS 716.780 or federal law.

(2) If a financial institution that is converting to another type of financial institution has a guaranty fund or liquidation account, the Oregon nonstock bank that results from the conversion must maintain the guaranty fund or liquidation account and may use the guaranty fund or liquidation account only for the purposes for which the financial institution used the guaranty fund or liquidation account before the conversion. [Amended by 1973 c.797 §352; 1997 c.631 §336; 2011 c.263 §22]

716.070 Expense fund. (1) The incorporators of an Oregon nonstock bank shall create an expense fund by depositing to the credit of the Oregon nonstock bank in cash an amount determined by the Director of the Department of Consumer and Business Services. They shall also enter into an agreement or undertaking with the director as trustee for the depositors with the Oregon nonstock bank to make further contributions in cash to the expense fund of the Oregon nonstock bank as may be necessary to pay the operating expenses until the Oregon nonstock bank can pay them from its earnings, in addition to the dividends as declared and credited to its depositors. The agreement or undertaking shall fix the liability of the incorporators jointly and severally for a reasonable amount as approved or determined by the director. In addition to the undertaking of the incorporators, the director may require a surety bond executed by an entity authorized to transact, within this state, the business of surety, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The agreement or undertaking and letter of credit or surety bond shall be filed in the office of the director.

(2) The amounts contributed to the expense fund of the Oregon nonstock bank by the incorporators is not a liability of the Oregon nonstock bank except as provided in ORS 716.800. [Amended by 1973 c.797 §353; 1991 c.331 §117; 1997 c.631 §337]

716.080 Issuance of charter. (1) The Director of the Department of Consumer and Business Services shall examine the condition of an Oregon nonstock bank when the Oregon nonstock bank files with or submits to the director:

(a) A copy of its articles of incorporation, as required by ORS 716.040;

(b) A list of incorporators, showing name, address, sums paid into the guaranty and expense fund, sworn to by the president or cashier;

(c) The sworn statement of an officer that all requirements of law have been complied with; and

(d) A list of the directors and officers elected.

(2) If, upon examination, the director determines that the Oregon nonstock bank has complied with the applicable requirements of ORS 716.028 to 716.070, the director shall issue to the Oregon nonstock bank a charter to do business as an Oregon nonstock bank under this chapter. [Amended by 1973 c.797 §354; 1987 c.216 §6; 1997 c.631 §338]

716.085 [1985 c.786 §52; repealed by 1997 c.631 §567]

716.090 [Amended by 1973 c.797 §355; 1975 c.544 §44a; repealed by 1997 c.631 §567]

716.100 Effect of failure to complete organization; liabilities. (1) If an Oregon savings bank fails to complete its organization and receive from the Director of the Department of Consumer and Business Services a charter within one year after the date of filing its articles of incorporation, the Oregon savings bank shall cease to exist and the articles of incorporation are void.

(2) All persons purporting to act as or on behalf of an Oregon savings bank, knowing there was no incorporation, are jointly and severally liable for all liabilities created while so acting. [Amended by 1973 c.797 §356; 1997 c.631 §339]

716.110 [Amended by 1959 c.185 §14; 1973 c.797 §357; repealed by 1997 c.631 §567]

716.120 Conditions precedent to transaction of business. An Oregon savings bank shall not transact any business, except as incidental or necessary to its organization, until:

(1) It has received its charter from the Director of the Department of Consumer and Business Services; and

(2) The director is satisfied that either:

(a) In the case of an Oregon stock savings bank, the incorporators have obtained paid subscriptions in at least the amount of the initial approved paid-in capital; or

(b) In the case of an Oregon nonstock bank, the incorporators have made the deposit of the:

(A) Initial guaranty fund required by ORS 716.060.

(B) Expense fund required by ORS 716.070, and, if the director so requires, have entered into the agreement or undertaking with the director and filed the agreement and the security therefor as prescribed in ORS 716.070. [Amended by 1973 c.797 §358; 1997 c.631 §340]

716.130 [Repealed by 1973 c.797 §428]

716.135 Amendment of articles of incorporation. (1) An Oregon nonstock bank may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

(2) In particular, and without limitation upon such general power of amendment, an Oregon nonstock bank may amend its articles of incorporation, from time to time, so as:

(a) To change its corporate name.

(b) To change its period of duration.

(c) To change, enlarge or diminish its corporate purposes. [1979 c.88 §18; 1997 c.631 §341]

716.140 Resolution for amending articles. The articles of incorporation of an Oregon nonstock bank may be amended by a resolution adopted by a majority of the directors of the Oregon nonstock bank. Any number of amendments may be submitted to the directors and voted upon by them at one meeting. [1979 c.88 §19; 1997 c.631 §342]

716.145 Form and content of articles of amendment. The articles of amendment shall be executed in duplicate by the Oregon nonstock bank by its president or a vice president and by its cashier, its secretary or an assistant secretary, and shall set forth:

(1) The name of the Oregon nonstock bank.

(2) If the amendment alters or changes any provision of the original or amended articles of incorporation, an identification by reference or description of the affected provision and a statement of its text as it is amended to read. If the amendment strikes or deletes any provision of the original or amended articles of incorporation, an identification by reference or description of the provision so stricken or deleted and a statement that it is stricken out or deleted. If the amendment is an addition to the original or amended articles of incorporation, a state-

ment of that fact and the full text of each provision added.

(3) The date of the adoption of the amendment by the directors. [1979 c.88 §20; 1997 c.631 §343]

716.150 [1979 c.88 §21; repealed by 1997 c.631 §567]

716.155 [1979 c.88 §22; repealed by 1997 c.631 §567]

716.160 Restated articles of incorporation; procedure; contents. (1) An Oregon nonstock bank may by action taken in the same manner as required for amendment of its articles of incorporation adopt restated articles of incorporation. The restated articles of incorporation may contain any changes in the articles of incorporation that could be made by amendment regularly adopted. Adoption of restated articles of incorporation containing any such changes shall have the effect of amending the existing articles of incorporation to conform to the restated articles of incorporation. Restated articles of incorporation shall contain a statement that they supersede the theretofore existing articles of incorporation and amendments thereto.

(2) Restated articles of incorporation shall contain all the statements required by this chapter to be included in original articles of incorporation except that no statement shall be made with respect to the number, names and addresses of directors constituting the initial board of directors or the name of each incorporator, or the sums each incorporator contributed to the initial guaranty fund.

(3) Restated articles of incorporation when executed and filed in the manner prescribed by this chapter for articles of amendment shall supersede the theretofore existing articles of incorporation and amendments thereto. The Director of the Department of Consumer and Business Services shall upon request certify a copy of the articles of incorporation, or the articles of incorporation as restated, or any amendments to either thereof.

(4) The restated articles of incorporation, when submitted for filing, shall be accompanied by a statement, executed in duplicate by the Oregon nonstock bank by an authorized officer, setting forth:

(a) The name of the Oregon nonstock bank.

(b) The date of the adoption of the restated articles of incorporation by the directors. [1979 c.88 §23; 1997 c.631 §344]

716.180 Bylaws. The initial bylaws of an Oregon savings bank shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless, in the case of an Oregon stock savings bank, such power is reserved to the stockholders by the articles of incorporation or bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of the Oregon savings bank as are not inconsistent with law or the articles of incorporation. [1997 c.631 §364]

716.185 Registered agent; registered office. (1) Each Oregon savings bank shall continuously maintain in this state a registered agent and registered office that may be, but need not be, the same as any of its places of business.

(2) A registered agent shall be:

(a) An individual who resides in this state and whose business office is identical to the registered office;

(b) A domestic corporation, domestic limited liability company, domestic professional corporation or domestic nonprofit corporation whose business office is identical to the registered office; or

(c) A foreign corporation, foreign limited liability company, foreign professional corporation or foreign nonprofit corporation authorized to transact business in this state whose business office is identical to the registered office. [2005 c.192 §8]

716.187 Changes in registered office or agent. (1) An Oregon savings bank may change its registered office or registered agent by delivering to the Director of the Department of Consumer and Business Services for filing a statement of change that sets forth:

(a) The name of the Oregon savings bank;

(b) If the registered office is to be changed, the address, including street and number, of the new registered office;

(c) If the registered agent is to be changed, the name of the new registered agent and that the new agent has consented to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the agent's business office, the registered agent shall change the street address of the registered office of the Oregon savings bank for which the agent is the registered agent by notifying the Oregon savings bank in writing of the change and signing, either manually or in facsimile, and delivering to the director a statement that complies with the requirements of subsection (1) of this section and recites that the Oregon savings bank has been notified of the change.

(3) The filing of the statement by the director terminates the existing registered of-

fice or agent, or both, on the effective date of the filing and establishes the newly appointed registered office or agent, or both, as that of the Oregon savings bank. [2005 c.192 §9]

716.190 Resignation of registered agent; discontinuance of registered office. (1) A registered agent may resign as agent upon delivering a signed statement to the Director of the Department of Consumer and Business Services and giving notice in the form of a copy of the statement to the Oregon savings bank. The statement may include a statement that the registered office is also discontinued.

(2) Upon delivery of the signed statement, the director shall file the resignation statement. The copy of the statement given to the Oregon savings bank under subsection (1) of this section shall be addressed to the Oregon savings bank at its mailing address or principal office as shown by the records of the director.

(3) The agency appointment is terminated and the registered office discontinued, if so provided, on the 31st day after the date on which the statement was filed by the director unless, prior to that date, the Oregon savings bank appoints a successor registered agent as provided in ORS 716.187, thereby terminating the capacity of such agent. [2005 c.192 §10]

716.195 Service of process on Oregon savings bank. (1) The registered agent appointed by an Oregon savings bank shall be an agent of the Oregon savings bank upon whom any process, notice or demand required or permitted by law to be served upon the Oregon savings bank may be served.

(2) The Director of the Department of Consumer and Business Services shall be an agent of an Oregon savings bank, including a dissolved Oregon savings bank, upon whom any such process, notice or demand may be served whenever the Oregon savings bank fails to appoint or maintain a registered agent in this state or whenever the Oregon savings bank's registered agent cannot with reasonable diligence be found at the registered office.

(3) Service shall be made on the director by:

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

(b) Transmittal by the person instituting the proceedings of notice of the service on the director and a copy of the process, notice or demand and accompanying papers to the Oregon savings bank being served by certified or registered mail:

(A) At the last registered office of the Oregon savings bank as shown by the records of the director; and

(B) At such address the use of which the person initiating the proceedings knows or, on the basis of reasonable inquiry, has reason to believe is most likely to result in actual notice; and

(c) Filing with the appropriate court or other body, as part of the return of service, the return receipt of mailing and an affidavit of the person initiating the proceedings stating that this section has been complied with.

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

(5) After completion of initial service upon the director, no additional documents need be served upon the director to maintain jurisdiction in the same proceeding or to give notice of any motion or provisional process.

(6) Nothing contained in this section shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon an Oregon savings bank in any other manner now or hereafter permitted by law, or enlarge the purposes for which service on the director is permitted where such purposes are limited by other provisions of law. [2005 c.192 §11]

DIRECTORS

716.205 Salaries of certain directors. (1) Subject to the written approval of the Director of the Department of Consumer and Business Services, the board of directors of a savings bank may fix the fee to be paid directors who are not acting as officers or employees of the savings bank.

(2) An attorney for a savings bank, although a director thereof, may receive a reasonable compensation for professional services. [1973 c.797 §359]

716.210 Number and qualifications of directors. (1) The board of directors of an Oregon savings bank shall manage and control the affairs of the Oregon savings bank. The board shall consist of not fewer than five members.

(2) A person shall not be a director of an Oregon savings bank if the person:

(a) Has been adjudicated a bankrupt, taken the benefit of any insolvency law or made a general assignment for the benefit of

creditors within the 10 years immediately prior to the person's election as a director.

(b) Has allowed a judgment recovered against the person for a sum of money to remain unsatisfied of record or unsecured on appeal for a period of more than three months. [Amended by 1961 c.278 §1; 1971 c.219 §1; 1973 c.797 §360; 1983 c.37 §26; 1985 c.786 §47; 1997 c.631 §345]

716.220 [Repealed by 1973 c.797 §428]

716.230 [Repealed by 1973 c.797 §428]

716.240 [Repealed by 1973 c.797 §428]

716.250 [Repealed by 1973 c.797 §428]

716.260 [Amended by 1957 c.169 §1; 1969 c.211 §1; repealed by 1973 c.797 §428]

716.270 [Amended by 1973 c.797 §361; repealed by 1997 c.631 §567]

716.280 [Amended by 1973 c.797 §362; 1983 c.37 §27; repealed by 1997 c.631 §567]

716.285 [1975 c.544 §51; 1979 c.88 §26; 1985 c.786 §48; repealed by 1997 c.631 §567]

716.290 [Amended by 1973 c.797 §363; 1981 c.192 §25; 1985 c.786 §49; repealed by 1997 c.631 §567]

716.295 [1977 c.135 §32; 1985 c.786 §50; repealed by 1997 c.631 §567]

716.300 [Repealed by 1973 c.797 §428]

716.310 [Repealed by 1973 c.797 §428]

716.320 Removal of director; vacation of director's office. (1) A board member of an Oregon nonstock bank may be removed from office by the affirmative vote of three-fourths of the directors at any regular meeting of the board if:

(a) The board member's conduct is of such character as to be injurious to the Oregon nonstock bank;

(b) A written copy of the charges made against the board member has been served upon the board member personally, and upon the Director of the Department of Consumer and Business Services, at least two weeks before the meeting; and

(c) The vote of the directors by ayes and noes is entered in the record of the minutes of the meeting.

(2) The office of a director of an Oregon nonstock bank immediately becomes vacant if the director:

(a) Becomes disqualified for any of the reasons specified in ORS 716.210 (2).

(b) Has failed to attend the regular meetings of the board of directors, or to perform any of the duties as director, for a period of six successive months, unless excused by the board for the failure.

(3) A director who has forfeited or vacated office is not eligible for reelection unless the forfeiture or vacancy occurred solely by reason of the director's neglect of official duties as prescribed in subsection (2)(b) of this section. [Amended by 1961 c.278 §2; 1973 c.797 §364; 1997 c.631 §346]

716.330 [Amended by 1973 c.797 §365; repealed by 1997 c.631 §567]

INVESTMENTS AND LOANS

716.410 Limitations on investments. A savings bank may invest its assets only as provided by ORS 716.420 to 716.590. [Amended by 1973 c.797 §366; 1979 c.88 §27]

716.420 Permitted investments. An Oregon savings bank may invest the funds mentioned in ORS 716.410:

(1) In the obligations specified in ORS 708A.115 (1), without limitation.

(2) Subject to a limitation of five percent of the assets of the Oregon savings bank, in the obligations specified in ORS 708A.115 (2).

(3) In shares of any mutual fund or unit trust, the assets of which are invested solely in obligations described in and limited under ORS 708A.115. [Amended by 1959 c.185 §12; 1961 c.157 §1; 1963 c.407 §1; 1971 c.219 §2; 1973 c.797 §367; 1981 c.192 §26; 1985 c.786 §53; 1997 c.631 §347]

716.430 [Repealed by 1959 c.185 §15]

716.440 [Repealed by 1959 c.185 §10 (716.441 enacted in lieu of 716.440)]

716.441 Investments in equipment trust certificates. (1) A savings bank may invest the funds mentioned in ORS 716.410 in equipment trust certificates that are, at the time of purchase, rated in one of the three highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating bonds.

(2) Not more than 15 percent of the assets of a savings bank may be invested under this section and not more than three percent of its assets may be invested in any one corporation. [1959 c.185 §11 (enacted in lieu of 716.440); 1973 c.797 §368]

716.450 Investments in certain obligations. An Oregon savings bank may invest the funds mentioned in ORS 716.410:

(1) In the notes of any person, with a pledge as collateral of securities or personal property which are eligible for investment under ORS 716.410 to 716.590 and have an actual cash market value at least 25 percent greater than the amount of the loan.

(2) In the obligations of any person secured by an assignment of a life insurance policy, having a cash surrender value of not less than 100 percent of the amount of the obligations, plus an amount equal to one annual premium on the insurance policy.

(3) In loans, secured or unsecured, insured or guaranteed in part or in full by the United States or any instrumentality thereof, or by this state or instrumentality thereof, or for which a conditional guarantee has been issued. The limitations prescribed by ORS 716.552 to 716.574 shall not apply to

loans made under this subsection, but the aggregate amount of loans made under this subsection and ORS 716.552 shall not exceed 85 percent of the assets of any Oregon savings bank.

(4) In loans secured as specified under ORS 708A.345.

(5) In commercial paper with a maturity of 180 days or less, subject to a limitation of one percent of the total assets of the Oregon savings bank for each obligor.

(6) In unsecured loans, retail installment contracts, leases and loans secured by security interests in personal property and by mortgages and deeds of trust covering real estate, that are not otherwise eligible for investment by an Oregon savings bank when the obligations are for home or property repairs, alterations, appliances, improvements or additions, home furnishing, for installation of underground utilities, for educational purposes, for manufactured dwellings used or to be used for permanent or semipermanent housing or for any other nonbusiness purpose, if:

(a) The application for the loan states that the proceeds are to be used for one of the purposes listed in this subsection.

(b) The loans evidenced by a note or other evidence of obligation made pursuant to this subsection to any one individual do not exceed one percent of the assets of the Oregon savings bank and the aggregate amount of such loans do not exceed 20 percent of the assets of the Oregon savings bank.

(c) In the case of leases, the lease conforms to ORS 708A.180 and 708A.560.

(7) In secured or unsecured commercial, corporate, business and agricultural loans or leases of personal property, not to exceed 25 percent of the assets of the Oregon savings bank and not to exceed one percent of its assets to any one person. Leases shall conform to ORS 708A.180 and 708A.560.

(8) Subsection (5) of this section shall not be construed to permit an Oregon savings bank to make loans on or for inventory of articles held for sale as merchandise, except manufactured dwellings. [Amended by 1963 c.393 §1; 1969 c.211 §2; 1971 c.219 §3; 1973 c.797 §369; 1975 c.544 §47; 1977 c.135 §33; 1979 c.88 §28; 1981 c.192 §27; 1983 c.37 §28; 1985 c.786 §54; 1987 c.528 §3; 1993 c.52 §1; 1997 c.631 §348]

716.460 Investments in demand notes secured by deposit accounts. A savings bank may invest the funds mentioned in ORS 716.410 in promissory notes made payable on demand to the order of the savings bank, secured by the pledge and assignment of a time or savings account or any other kind of deposit account, including but not limited to an automatic savings to checking transfer account or a negotiable order of withdrawal account, if the account is fully or partially federally insured as collateral security for the payment of the notes. The loan shall not exceed 100 percent of the balance due the owner of the time or savings account. [Amended by 1961 c.239 §1; 1973 c.797 §370; 1981 c.192 §28]

716.470 [Amended by 1959 c.185 §13; 1961 c.277 §1; 1965 c.215 §1; 1967 c.198 §1; 1969 c.211 §3; 1971 c.219 §4; 1973 c.797 §371; renumbered 716.552]

716.480 [Amended by 1973 c.797 §373; renumbered 716.578]

716.490 [Amended by 1973 c.797 §374; renumbered 716.582]

716.500 [Amended by 1973 c.797 §375; renumbered 716.584]

716.510 [Repealed by 1973 c.797 §428]

716.520 Investments in bankers' acceptances, bills of exchange, savings or time accounts; limits. (1) A savings bank may invest the funds mentioned in ORS 716.410 in:

(a) Bankers' acceptances and bills of exchange of the kind and maturities made eligible by law for rediscount with Federal Reserve Banks, if they are accepted by an institution or a national bank.

(b) Bills of exchange drawn by the seller on the purchaser of goods and accepted by the purchaser, if they are of the kind and maturities made eligible by law for rediscount with Federal Reserve Banks and are indorsed by a national bank or an institution.

(c) Savings or time accounts insured in part or wholly by an agency of the federal government.

(2) Not more than 20 percent of the assets of a savings bank may be invested in the acceptances mentioned in subsection (1) of this section. Not more than five percent of the aggregate credited to the depositors of a savings bank may be invested in the acceptances of or deposited with an institution or a national bank of which a director of the savings bank is a director. The aggregate amount of the liability of an institution or a national bank to a savings bank, whether as principal or indorser, for acceptances held by the savings bank and deposits made with it, may not exceed 25 percent of the stockholders' equity of the institution or of the paid-in capital and retained earnings of the national bank. [Amended by 1973 c.797 §376; 1999 c.59 §223]

716.530 Investments in corporate bonds, notes and debentures. A savings bank may invest the funds mentioned in ORS 716.410 in the bonds, notes and debentures of any corporation incorporated under the laws of and operating in any state of the

United States, which are rated at the time of purchase under authority of this section in one of the four highest grades by a recognized service organization that has been regularly engaged for a period of 10 years or more in rating or grading bonds. However, not more than one percent of the assets of the savings bank shall be invested in bonds, notes and debentures of any one corporation, and not more than 20 percent of the assets shall be invested under this section. [Amended by 1969 c.211 §4; 1971 c.219 §5; 1973 c.797 §377; 1977 c.135 §34; 1981 c.192 §29]

716.535 Investments in common stock of federally chartered corporation providing secondary mortgage sale markets and Federal Home Loan Bank. A savings bank may invest the funds mentioned in ORS 716.410 in the common stock of:

(1) Any federally chartered corporation that is chartered for the purpose of providing secondary markets for the sale of mortgages by savings banks.

(2) The Federal Home Loan Bank. [1975 c.544 §46]

716.540 Investments in obligations of reconstruction and development banks. A savings bank may invest not more than five percent of its assets in each of the following categories of investments:

(1) In obligations issued or guaranteed by the International Bank for Reconstruction and Development.

(2) In obligations issued or guaranteed by the Inter-American Development Bank.

(3) In obligations issued or guaranteed by the Asian Development Bank.

(4) In obligations issued or guaranteed by the African Development Bank. [1959 c.185 §2; 1973 c.797 §378; 1985 c.456 §1]

716.542 [1963 c.408 §1; repealed by 1973 c.797 §428]

716.543 [1973 c.638 §2; repealed by 1975 c.544 §62]

716.545 Investments in bonds of Dominion of Canada. A savings bank may invest the funds mentioned in ORS 716.410 in bonds issued by the Dominion of Canada for which the faith of the Dominion of Canada is pledged, or bonds issued or guaranteed by a province of the Dominion of Canada. Such investments may be made only if:

(1) The interest and principal of such bonds is payable in the United States, or with exchange to a city in the United States, in lawful money of the United States or its equivalent; and

(2) The bonds at the time of purchase pursuant to the authority of this section are rated in one of the four highest grades by a rating organization recognized in the United States that has been regularly engaged for a period of 10 years or more in rating or grading bonds. [1959 c.185 §3; 1977 c.135 §35]

716.550 [1959 c.185 §4; repealed by 1973 c.797 §428]

716.552 Investments in notes or bonds secured by real estate mortgages or trust deeds. A savings bank may invest the funds mentioned in ORS 716.410 in notes or bonds, secured by first or junior mortgages or deeds of trust upon real estate. [Formerly 716.470; 1979 c.199 §8; 1979 c.810 §3; 1985 c.554 §5]

716.554 Participation in investments in notes or bonds secured by real estate mortgages or trust deeds. (1) In participation with other mortgagees, a savings bank may invest the funds mentioned in ORS 716.410 in notes or bonds secured by mortgage or deed of trust upon real estate.

(2) An agreement setting forth the manner in which the participating mortgagees shall administer the mortgage and acquired real estate, if any, shall be executed on behalf of each of the mortgagees by two of their authorized officers. [1973 c.797 §371a; 1977 c.135 §36; 1985 c.554 §6]

716.555 [1959 c.185 §5; repealed by 1973 c.797 §428]

716.556 Investment in loans secured by pledged notes or bonds. A savings bank may invest in loans secured by pledge of the notes or bonds specified in ORS 716.552, if the notes or bonds pledged as collateral are at least 25 percent more than the loans which they secure. [1973 c.797 §371b]

716.558 Investment in notes or bonds secured by mortgages or trust deeds on real property leases. A savings bank may invest the funds mentioned in ORS 716.410, in notes or bonds secured by mortgage or deed of trust upon leasehold estates in real property, if the lease is binding upon the owners of the fee title to the leased premises, in full force and free from default. [1973 c.797 §371c; 1985 c.554 §7]

716.560 [1959 c.185 §6; repealed by 1973 c.797 §428]

716.562 Investment in notes or bonds secured by mortgages or trust deeds to finance building construction and improvement. A savings bank may invest the funds mentioned in ORS 716.410 in notes or bonds secured by a mortgage, deed of trust or similar instrument to finance the construction of buildings and improvements appurtenant thereto, if before making the investment, the savings bank requires sufficient guarantee from the contractor, builder or owner for the completion of the construction in accordance with the plans and specifications and within the estimated contract price for the construction. Moneys shall be advanced from time to time during the progress of construction upon a certificate of estimate to be furnished by the architect, contractor, builder or superintendent in

charge of construction or the owner. [1973 c.797 §371d; 1977 c.135 §37; 1985 c.554 §8]

716.564 Investment in notes or bonds secured by mortgages or trust deeds to finance real estate development. A savings bank may invest the funds mentioned in ORS 716.410 in notes or bonds secured by a mortgage, deed of trust or other instrument for the purpose of financing the acquisition and development of land for primarily commercial, industrial or residential usage. A loan may be made on real estate which is to be improved with the developments to be paid for from the proceeds of the loan if the proceeds will be used for that purpose. [1973 c.797 §371e; 1985 c.554 §9]

716.565 [1959 c.185 §7; repealed by 1973 c.797 §428]

716.566 Documents to be furnished by borrower in real estate loans. In loans upon real property, the borrower shall furnish the savings bank with:

(1) A note or bond secured by a mortgage or deed of trust on the real estate upon which the loan is made; and

(2) A policy of title insurance issued by a reliable title insurance company authorized to insure titles within the state in which the property is situated. [1973 c.797 §371f; 1985 c.554 §10]

716.568 Requirement of insurance for loan secured by mortgage, trust deed or other instrument on real estate. If a loan is secured by mortgage, deed of trust or other similar instrument on real estate, the mortgage, deed of trust or other instrument shall contain provisions requiring the maintenance of insurance on the buildings on the premises to the reasonable amount as stipulated in the mortgage, deed of trust or other instrument. The policy shall be payable, in case of loss, to the savings bank and shall be deposited with the savings bank except where the savings bank's interest is insured under a blanket policy of insurance. [1973 c.797 §371g; 1985 c.554 §11]

716.570 [1959 c.185 §8; repealed by 1973 c.797 §428]

716.572 Mortgage loan applications; conditions for granting loan; manner of holding mortgages and trust deeds. (1) An application for a mortgage loan or renewal or extension of a mortgage loan shall be written and show the date, name of the applicant, amount of loan requested and the security offered.

(2) A mortgage loan shall be granted only upon the written report of at least two members of the board of investment of the savings bank certifying on the application, according to their best judgment, the value of the property to be mortgaged and recommending the loan. The application and written report shall be filed and preserved with the savings bank's records.

(3) Every mortgage and deed of trust and every assignment of a mortgage taken or held by a savings bank shall be held in its own name and immediately recorded in the office of the proper officer of the county in which the mortgaged property is located. [1973 c.797 §371h]

716.574 Purchase of real estate sale contract as loan; authority to acquire contracts. (1) The purchase of a bona fide contract covering a sale of real estate is a loan on real estate within the meaning of ORS 716.552 to 716.574.

(2) A savings bank may acquire contracts covering a sale of real estate if all other requirements of ORS 716.552 to 716.574 are satisfied. [1973 c.797 §371i; 1985 c.554 §12]

716.575 [1959 c.185 §9; repealed by 1973 c.797 §428]

716.576 [1973 c.797 §372; 1979 c.88 §29; 1981 c.192 §30; repealed by 1985 c.554 §13]

716.578 Purchase of notes secured by real estate from third persons. A savings bank may take and hold by purchase and assignment from third persons notes, bonds, mortgages and deeds of trust eligible for investment under ORS 716.552 to 716.574. [Formerly 716.480]

716.582 [Formerly 716.490; repealed by 1985 c.554 §13]

716.584 Limitations on single loans on real estate; exceptions. (1) If deposits are less than $1 million, a single loan on real estate shall not exceed $10,000. When deposits exceed $1 million but are less than $2 million, a single loan on real estate shall not exceed two and one-half percent of the deposits. When deposits exceed $2 million, a single loan on real estate shall not exceed two percent of the savings bank's deposit liability.

(2) A loan may exceed the limitations prescribed in subsection (1) of this section if the borrower furnishes the savings bank with a copy of an agreement entered into with a financially responsible person wherein the person agrees to refinance or repurchase, without recourse, the entire loan:

(a) Upon completion of the construction, if the loan is a construction loan; or

(b) Within six months from the date of the loan, if the loan is not a construction loan. [Formerly 716.500]

716.586 Credit card transactions. (1) A savings bank may issue and honor credit cards for the purpose of making loans to one or more persons. The loans shall be made by the means determined by the board of investment of the savings bank including, but not limited to, the means of paying to or for the account of a party the amount of a sales

slip, voucher or other evidence of a transaction in which goods or services are sold or cash advanced to the party in reliance on a credit card issued by the savings bank.

(2) The savings bank may advance cash to a person holding a credit card issued by the savings bank or any other person who, directly or indirectly, has agreed to pay to or for the account of the savings bank the amount of cash advanced by it in reliance on credit cards issued by the other person.

(3) Credit cards, loans, advances and documents used in connection with the use of credit cards shall be in the form and upon the terms and conditions prescribed by the board of investment of the savings bank, including, but not limited to, terms and conditions as to revocation, rates of interest and other charges, maturity dates and security, if any.

(4) A savings bank may become a stockholder, member of, or otherwise affiliated with, an organization that, in the opinion of the board of directors of the savings bank, will enable the savings bank to exercise fully the powers granted under this section. [1973 c.797 §375a]

716.588 Investments in certain corporate capital stocks; conditions; restrictions on corporate indebtedness. (1) A savings bank may invest the funds mentioned in ORS 716.410 in the capital stock of a corporation organized under the laws of this state if:

(a) All of the capital stock of the corporation is owned by one or more savings banks organized under the laws of this state;

(b) The activities of the corporation are performed directly or through one or more wholly owned subsidiaries, and consist only of one or more of the following:

(A) Originating, purchasing, selling and servicing education loans and loans and participations in loans secured by first liens upon real estate and manufactured dwellings, including brokerage and warehousing of loans;

(B) Making any investment which would be an authorized investment of a savings bank organized under the laws of this state;

(C) Performing services for savings banks organized under the laws of this state; or

(D) Making investments in unimproved real estate for the purpose of prompt development and subdivision;

(c) The aggregate outstanding investment in the capital stock, obligations, or other securities of service corporations and subsidiaries thereof, including all loans, secured and unsecured, to the service corporations or any subsidiaries thereof and to joint ventures of the service corporation or subsidiaries, whether or not the savings bank is a stockholder in the service corporation, do not exceed three percent of the savings bank's assets. For the purpose of this subsection the term "aggregate outstanding investment" means the sum of the amounts paid for the acquisition of capital stock or securities and amounts invested in obligations of service corporations, less amounts received from the sale of capital stock or securities of service corporations and amounts paid to the savings bank to retire obligations of service corporations; and

(d) The corporation executes and files with the Director of the Department of Consumer and Business Services a written agreement in the form prescribed by the Director that the corporation will permit and pay the cost of examinations and audits by the director as the director considers necessary.

(2) If one of the savings banks holds more than 40 percent of the stock, the corporation, including any subsidiary, shall not incur or have outstanding at any time debts in excess of the following limitations:

(a) In the case of an unsecured debt other than to a holder of its capital stock, the lesser of an amount equal to one percent of the assets of the holder or holders of its capital stock or to the investment in the stock, obligations or other securities of the corporation by the holder or holders of its capital stock, excluding secured debts owed by the corporation to the holder or holders; and

(b) In the case of a secured debt, other than to a holder of its capital stock, the lesser of an amount equal to four percent of the assets of the holder or holders of its capital stock or four times the investment in the stock obligations or other securities of the corporation by the holder or holders of its capital stock excluding secured debts owed by the corporation to the holder or holders. [1973 c.797 §375b; 1981 c.192 §31; 1987 c.911 §15; 1999 c.59 §224; 2005 c.80 §5]

716.590 Miscellaneous investments; conditions. A savings bank may invest the funds mentioned in ORS 716.410 in investments which do not qualify under any of the provisions of ORS 716.420 to 716.590, however an investment shall not be made under this section:

(1) If the amount of the investment exceeds one percent of the assets of the savings bank or 10 percent of the total amount of its guaranty fund, undivided profits and unallocated reserves, whichever is less;

(2) If the aggregate amount of all the investments exceeds or by the making of the

investment will exceed five percent of its assets; or

(3) In the equity securities of any one issuer if the aggregate amount invested by the savings bank under this section together with the amount invested in the equity securities of the issuer under any other provision of law exceeds or by the making of the investment will exceed the limitations under subsections (1) and (2) of this section. [1973 c.797 §375c; 1981 c.192 §32]

716.592 Pledging assets to secure public funds. A savings bank may pledge its assets to secure public funds as provided under ORS chapter 295. For the purposes of this section, "public funds" has the meaning given that term in ORS 295.001. [1973 c.288 §7; 1999 c.311 §6; 2007 c.71 §232]

716.594 Authority of Oregon savings bank to acquire corporation licensed as insurance producer; rules. An Oregon savings bank may acquire and hold all or part of the stock of a corporation that is or may thereafter be licensed as an insurance producer as required by ORS 744.053 to transact one or more of the classes of insurance described in ORS 744.062, subject to the following requirements:

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

(2) The director may revoke or restrict the ongoing authority of the Oregon savings bank to hold stock in the corporation if the condition of the Oregon savings bank substantially deteriorates or if the insurance activities are adversely affecting the Oregon savings bank.

(3) For each calendar year during which an Oregon savings bank owns all or part of any corporation licensed as an insurance producer as required by ORS 744.053, the Oregon savings bank shall file a written report with the director. The report shall be filed no later than March 31 of the following year and shall disclose the insurance activities of the corporation. The required contents of the report shall be established by the director by rule. The reports filed with the director under this subsection shall be available for public inspection in the office of the director.

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

(5) The corporation shall be subject to the limitations applicable to depository institutions under ORS 746.213 to 746.219. For the purpose of this subsection, "depository institution" has the meaning given that term in ORS 746.213. [1987 c.916 §7; 1989 c.331 §31; 1989 c.701 §67; 1997 c.831 §§4,4a; 2001 c.191 §55; 2003 c.363 §10; 2003 c.364 §61a; 2005 c.194 §3]

POWERS, DUTIES AND REGULATION

716.600 Relationship to powers of federal savings banks. (1) Notwithstanding any provision contained in ORS chapters 706 to 715, except as limited by articles of incorporation of an Oregon savings bank:

(a) Oregon savings banks are authorized to engage in those activities in which federal savings banks may engage and may acquire and retain those investments that federal savings banks may acquire and retain, subject to the conditions and restrictions that apply to federal savings banks.

(b) Oregon savings banks shall have all powers necessary or convenient to effect any or all of the purposes for which the Oregon savings bank is organized or to perform any or all of the acts expressly or impliedly authorized or required under ORS chapter 706 or this chapter.

(c) Subsidiaries of Oregon savings banks are authorized to engage in those activities in which subsidiaries of federal savings banks may engage and may acquire and retain those investments that subsidiaries of federal savings banks may acquire and retain, subject to the conditions and restrictions that apply to subsidiaries of federal savings banks.

(d) Activities and investments referred to in paragraphs (a) to (c) of this subsection that require notice to or approval of the Director of the Office of Thrift Supervision shall not require such notice or approval but shall require notice to or approval of the Director of the Department of Consumer and Business Services. For purposes of this section, references in federal statutes, regulations and other authorities that prescribe permissible activities and investments of federal savings banks and subsidiaries of federal savings banks shall be considered whenever practicable to refer to comparable provisions of Oregon law. The Director of the Department of Consumer and Business Services may approve an activity or investment that requires director approval subject to such conditions as the director deems appropriate.

(2) The purpose of this section is to grant Oregon savings banks and their subsidiaries

investment and activity powers and authorities equivalent to that permitted federal savings banks under federal law. [1973 c.797 §379; 1987 c.197 §9; 1989 c.324 §73; 1997 c.631 §350]

716.610 General powers; licensing as insurance producer; rules. A savings bank, subject to the restrictions and limitations contained in this chapter, may:

(1) Receive time deposits and demand deposits of money without restriction.

(2) Offer time and savings accounts and other kinds of deposit accounts, including but not limited to automatic savings to checking transfer accounts and negotiable order of withdrawal accounts, to individuals and nonprofit corporations.

(3) Exercise by its board of directors or authorized officers or agents, subject to law, all powers necessary to carry on the business of savings banks.

(4) Pay depositors when requested by them, by drafts upon deposits to the credit of the savings bank in any city in the United States, and charge current rates of exchange for the drafts.

(5) Borrow money, and pledge securities to secure the money borrowed, but any amount borrowed in excess of 20 percent of deposits shall first be approved in writing by the Director of the Department of Consumer and Business Services. The failure to obtain the approval of the director shall not make an excess loan invalid as to the lender.

(6) Collect or protest promissory notes or bills of exchange owned by the savings bank or held by it as collateral, and charge the usual fees for the collection or protest.

(7) Sell gold or silver received in payment of interest or principal of obligations owned by the savings bank, or from depositors in the ordinary course of business.

(8) Become a member of the Federal Reserve Bank or the Federal Home Loan Bank of the district in which the savings bank is located.

(9) Conduct a trust business and exercise all the powers of a trust company as defined by ORS 709.150 upon compliance with the laws of this state relating to the regulations of a trust business.

(10) Be licensed as an insurance producer as required by ORS 744.053 to transact one or more of the classes of insurance described in ORS 744.062 except for title insurance. With respect to the exercise of the power granted under this subsection, other than the maintenance of any insurance license granted to a savings bank prior to September 27, 1987, or the licensing of the savings bank to transact types of limited class insurance, as that term is defined in ORS 744.052, designated by the Director of the Department of Consumer and Business Services:

(a) The conduct by the savings bank of insurance producer activities shall be subject to the approval of the director. The director shall base consideration for approval on the condition of the savings bank, the adequacy of a formal business plan for the insurance activities and the existence of satisfactory management for the insurance activity.

(b) The director may revoke or restrict the ongoing authority of the savings bank to engage in the insurance producer activity if the condition of the savings bank substantially deteriorates or if the insurance activities are adversely affecting the savings bank.

(c) The savings bank shall file a written report with the director no later than March 31 each year disclosing the insurance activities of the savings bank. The required contents of the report shall be established by the director by rule. The reports filed with the director under this paragraph shall be available for public inspection in the office of the director.

(d) The savings bank shall not in any manner use customer information obtained from another insurance producer to promote, develop or solicit insurance business for the savings bank unless the other insurance producer consents to such use of the customer information. [Amended by 1955 c.690 §1; 1957 c.167 §1; 1969 c.211 §5; 1971 c.219 §6; 1973 c.797 §380; 1981 c.192 §33; 1987 c.916 §5; 1989 c.331 §32; 1989 c.701 §68; 1993 c.52 §2; 1995 c.334 §4; 1997 c.831 §5; 2001 c.191 §56; 2003 c.363 §11; 2003 c.364 §62a]

716.616 [1973 c.797 §380a; repealed by 1975 c.291 §1]

716.620 [Amended by 1969 c.211 §6; 1971 c.219 §7; repealed by 1973 c.797 §428]

716.622 [1973 c.797 §380b; repealed by 1981 c.192 §46]

716.626 Certificates indicating contribution to guaranty or expense funds. (1) An Oregon nonstock bank may issue transferable certificates showing the amounts contributed by any incorporator or director to the guaranty or expense funds of the Oregon nonstock bank.

(2) The certificate shall show that it does not constitute a liability of the Oregon nonstock bank, except as provided in ORS 716.800.

(3) A certificate shall not be transferred by an incorporator or director without the prior written consent of the Director of the Department of Consumer and Business Services. [1973 c.797 §381; 1997 c.631 §351]

716.630 Real estate held for use as place of business. (1) The cost of the land and buildings to be used by an Oregon nonstock bank for the transaction of its business shall not exceed:

(a) 50 percent of the guaranty fund and undivided profits account of the Oregon nonstock bank; or

(b) 50 percent of the capital, as defined in ORS 708A.290, of the Oregon stock savings bank.

(2) The Director of the Department of Consumer and Business Services may approve an amount in excess of the limitation prescribed under subsection (1) of this section if the director finds that an excess amount is reasonably necessary for the operation of the business and does not adversely affect the public interest. [Amended by 1971 c.219 §8; 1973 c.797 §382; 1997 c.631 §352]

716.640 [Amended by 1957 c.161 §3; repealed by 1973 c.797 §428]

716.645 [1957 c.161 §2; 1973 c.797 §383; 1975 c.193 §12; 1977 c.135 §59; 1995 c.79 §355; 1995 c.313 §2; repealed by 1997 c.631 §567]

716.650 [Repealed by 1973 c.797 §428]

716.660 [Amended by 1961 c.57 §2; repealed by 1973 c.797 §428]

716.670 [Amended by 1973 c.797 §384; repealed by 1997 c.631 §567]

716.680 [Repealed by 1973 c.797 §428]

716.690 [Repealed by 1957 c.168 §2]

716.695 [1957 c.168 §1; repealed by 1973 c.797 §428]

716.700 [Repealed by 1957 c.168 §2]

716.710 [Amended by 1971 c.219 §9; repealed by 1973 c.797 §428]

716.720 [Amended by 1961 c.96 §2; 1971 c.219 §10; repealed by 1973 c.797 §428]

716.730 [Amended by 1969 c.193 §2; repealed by 1973 c.797 §428]

716.740 [Repealed by 1973 c.797 §428]

716.750 [Repealed by 1973 c.797 §428]

716.760 [Amended by 1953 c.86 §2; 1965 c.214 §1; 1973 c.797 §385; 1975 c.544 §47a; 1981 c.7 §3; repealed by 1997 c.631 §567]

716.770 [Repealed by 1973 c.797 §428]

716.780 Crediting portion of net earnings to guaranty fund. (1) If at the close of any dividend period the guaranty fund of an Oregon nonstock bank is impaired or is less than 10 percent of the amount due to depositors, a sum not less than five percent of the net earnings for the period shall be deducted from the net earnings and credited to its guaranty fund, after declaration of dividends, if the deduction will not compel the Oregon nonstock bank to reduce its dividends to depositors below the rate of one percent per annum.

(2) If the guaranty fund accumulated from earnings equals or exceeds 10 percent of the amount due depositors and the net earnings for a dividend period are sufficient, the minimum dividend shall be four percent, unless a smaller percentage is authorized by rule promulgated by the Director of the Department of Consumer and Business Services. [Amended by 1973 c.797 §386; 1975 c.544 §48; 1997 c.631 §353]

716.790 Computation of guaranty fund. (1) To determine the amount of a guaranty fund of an Oregon nonstock bank, the total liabilities due and accrued, undivided profits and net earnings since the last declaration of dividends shall be subtracted from the total assets. In determining the value of the assets:

(a) Securities, other evidences of indebtedness and other interest-bearing obligations shall be carried at a sum, not to exceed their cost to the Oregon nonstock bank, calculated according to accepted principles of accounting.

(b) Real estate shall not be estimated above cost unless its fair market value has been determined by written appraisal made by a certified appraiser and approved by the board of the Oregon nonstock bank, in which case the real estate may be carried at the fair market value determined by the appraisal. If the real estate has been acquired by foreclosure or judgment at more than its actual fair market value, the value of the real estate shall be determined by written appraisal made by a certified appraiser and approved by the board of the Oregon nonstock bank and filed with the Oregon nonstock bank.

(c) Except as provided in subsection (2) of this section, the following shall be excluded:

(A) Assets that have been disallowed by the Director of the Department of Consumer and Business Services or the directors of the Oregon nonstock bank;

(B) Debts owed to an Oregon nonstock bank that have remained due and upon which no interest has been paid for more than one year; and

(C) Debts on which a judgment has been recovered which has remained unsatisfied for more than two years.

(2) A debt mentioned in subsection (1)(c) of this section may be carried as an asset and will not be excluded in determining the value of the assets if:

(a) The director, upon application by the Oregon nonstock bank, fixes a valuation at

which the debt may be carried as an asset; or

(b) The debt is secured by a first mortgage upon real estate and is carried as an asset at the amount of the debt secured by the mortgage or at the actual fair market value of the real estate as determined by written appraisal made by a certified appraiser and approved by the board of the Oregon nonstock bank and filed with the Oregon nonstock bank, whichever is smaller. [Amended by 1973 c.797 §387; 1997 c.631 §354; 2003 c.576 §551]

716.800 Repayment of contributions made to expense fund and guaranty fund. (1) Contributions made by the incorporators or directors to the expense fund may be repaid pro rata to the contributors from that portion of the guaranty fund created from earnings if the payments will not reduce the guaranty fund below 10 percent of the total amount due depositors. If the Oregon nonstock bank liquidates before the contributions to the expense fund have been repaid, any contributions to the expense fund remaining after the payment of the expenses of liquidation and the payment to depositors in full may be repaid to the contributors pro rata.

(2) When the contributions of the incorporators or directors to the expense fund have been returned to the contributors, the contributions made to the guaranty fund by incorporators or directors may be returned to them pro rata from that portion of the guaranty fund created from the earnings of the Oregon nonstock bank, if the repayments will not reduce the earned portion of the guaranty fund below 10 percent of the amount due depositors. If the Oregon nonstock bank liquidates before the contributions to the guaranty fund have been repaid, any portion of the contributions not needed for the payment of the expenses of liquidation, the payment of depositors in full and the repayment of contributions to the expense fund may be repaid to the contributors pro rata.

(3) The board of directors may create a fund to be known as the guarantor's reimbursement fund. One percent of the net earnings at the close of any dividend period may be paid in the guarantor's reimbursement fund if it can be done without reducing the dividend rate below one percent per annum. The guarantor's reimbursement fund may accumulate until it is equal to the amount contributed by the incorporators to the guaranty and expense funds, at which time the fund shall be used to repay the incorporators the amounts contributed by them to the guaranty and expense funds, if that portion of the guaranty fund created from earnings amounts to at least $15,000. [Amended by 1973 c.797 §388; 1997 c.631 §355]

716.805 Determining earnings. Earnings of a savings bank shall be calculated on an accrual basis according to generally accepted accounting principles. [1973 c.797 §389]

716.810 [Repealed by 1973 c.797 §428]

716.820 [Repealed by 1973 c.797 §428]

716.830 Payment of dividends; classification of depositors; certificates of deposit; notice of change of rate. (1) Every Oregon nonstock bank shall regulate the rate of dividends upon the amounts to the credit of its time depositors so that time depositors receive dividends on their deposits in accordance with the terms of their respective deposit agreements with the Oregon nonstock bank, after transferring:

(a) To the guaranty fund any amount considered by the directors to be expedient and for the security of the depositors; and

(b) To undivided profits, for the purpose of maintaining its rate of dividends, the amount considered by the directors as wise.

(2) An Oregon nonstock bank may classify its time depositors according to the character, amount or duration of their deposits with the Oregon nonstock bank, and may regulate its dividends so that each time depositor shall receive the same ratable portion of dividends as all others in the same class of time depositors.

(3) Dividends may be apportioned upon unimpaired contributions to the initial guaranty fund and to the expense fund, and may be credited and paid to the contributors. If the guaranty fund of any Oregon nonstock bank is sufficiently large to permit the return of the contributions, the contributors may receive dividends on the contributions not exceeding the highest rate paid to depositors.

(4) An Oregon nonstock bank may issue certificates of deposit and agree to pay dividends on the amounts deposited at a rate specified in the certificate for the entire term of the certificate.

(5) An Oregon nonstock bank shall not:

(a) Declare, credit or pay any dividend except as authorized by a vote of a majority of the board of directors and recorded in its minutes according to the ayes and noes upon each vote.

(b) Pay any dividend other than the regular monthly, quarterly, semiannual or annual dividend, or the dividends prescribed in this subsection.

(c) Declare, credit or pay dividends on any amount to the credit of a depositor for a longer period than it has been credited, but deposits made not later than the 10th busi-

ness day of any month, or withdrawn upon one of the last three business days of the month ending any quarterly or semiannual dividend period, may have dividends declared upon them for the whole of the period or month when they were so deposited or withdrawn. If authorized in the bylaws, 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.

(6) A notice posted in an Oregon nonstock bank of a change in the rate of dividends is equivalent to a personal notice. [Amended by 1963 c.409 §1; 1969 c.211 §7; 1971 c.219 §11; 1973 c.797 §390; 1975 c.544 §49; 1983 c.37 §29; 1997 c.631 §356]

716.840 Liability of directors voting improper dividend. If any dividend is declared and credited in excess of profits earned together with surplus and undivided profits since the last declaration of dividends and appearing to the credit of the Oregon nonstock bank, after making the deduction for expenses and the guaranty fund as provided in ORS 716.780 and 716.830, the directors voting for the dividend shall be jointly and severally liable to the Oregon nonstock bank for the amount of the excess so declared and credited. [Amended by 1973 c.797 §391; 1975 c.544 §49a; 1997 c.631 §357]

716.850 False advertising of surplus or guaranty fund prohibited. An Oregon nonstock bank shall not use any sign or notice or publish or circulate any advertisement in which the surplus or guaranty fund is stated in excess of its value, as determined under this chapter, unless the nature of the excess clearly appears. [Amended by 1973 c.797 §392; 1997 c.631 §358]

716.855 [1975 c.544 §52; 1997 c.631 §359; renumbered 716.991 in 2001]

716.860 [Amended by 1973 c.797 §393; repealed by 1975 c.544 §62]

716.870 [Repealed by 1973 c.797 §428]

716.880 [Repealed by 1973 c.797 §428]

716.890 [Repealed by 1973 c.797 §428]

DISSOLUTION; LIQUIDATION

716.900 Voluntary dissolution of Oregon nonstock banks; priority of payment. (1) Subject to the written approval of the Director of the Department of Consumer and Business Services and if necessary or expedient, the board of directors of an Oregon nonstock bank may adopt, by resolution passed by the affirmative vote of two-thirds of the directors, at a meeting called for that purpose, a plan to close the business, liquidate the assets, pay money due first to depositors, including those depositors whose deposits are uninsured, second to holders of consumer repurchase agreements, third to holders of capital notes, and then to other creditors, distribute the remaining assets, if any, as provided by this chapter and the plan of liquidation and surrender the corporate charter. The plan shall provide that any assets remaining after payment of depositors, holders of consumer repurchase agreements, capital noteholders and other creditors, and payment of the costs of liquidation and dissolution, shall be distributed to the time depositors and to other persons entitled thereto according to their several interests as determined by this chapter and the plan of liquidation. Each depositor shall receive a share of the remaining assets based on an apportionment as provided by the plan of dissolution approved by the director.

(2) Before approving the plan for closing the Oregon nonstock bank under subsection (1) of this section, the director may make a special examination of the condition and affairs of the Oregon nonstock bank. [Amended by 1973 c.797 §394; 1979 c.88 §30; 1983 c.37 §30; 1997 c.631 §360]

716.905 Notice of intention to close; disposition of unclaimed deposits. (1) Acting under ORS 716.900 the directors shall direct the mailing of a written notice of their intention to close the Oregon nonstock bank to the last-known address of all depositors and other creditors.

(2) All deposits and amounts reserved for creditors that remain unclaimed after six months from the date of the written notice required under subsection (1) of this section shall be reported and transferred by the directors to the Department of State Lands as unclaimed property under ORS 98.302 to 98.436 and 98.992.

(3) A copy of the report of unclaimed deposits and amounts reserved for creditors filed with the Department of State Lands shall be filed with the Director of the Department of Consumer and Business Services. [1973 c.797 §395; 1983 c.37 §31; 1993 c.694 §38; 1997 c.631 §361]

716.910 Report to director; termination of existence. After the directors of an Oregon nonstock bank have filed their report and deposited the unclaimed funds with the Department of State Lands as required under ORS 716.905, the directors shall report their proceedings to the Director of the Department of Consumer and Business Services. Upon filing the report and the petition of the directors with the Director of the Department of Consumer and Business Services, the director shall order the charter surrendered, the directors discharged from liability accruing after the order, and the existence of the Oregon nonstock bank terminated. [Amended by 1973 c.797 §396; 1997 c.631 §362]

716.915 Voluntary liquidation. An Oregon stock savings bank may go into voluntary liquidation in accordance with the procedures and subject to the provisions set forth for institutions in ORS 711.215 to 711.250. [1997 c.631 §365]

716.920 [1955 c.690 §3; 1971 c.219 §12; 1973 c.797 §397; 1977 c.135 §60; 1983 c.37 §32; 1983 c.367 §5; 1985 c.12 §14; 1985 c.762 §49; 1987 c.197 §10; 1987 c.445 §8; 1989 c.324 §74; repealed by 1997 c.631 §567]

716.925 [1973 c.797 §398; 1977 c.135 §61; 1981 c.192 §34; 1983 c.37 §33; 1987 c.445 §9; repealed by 1997 c.631 §567]

716.930 [1973 c.797 §399; 1977 c.135 §62; 1981 c.192 §35; 1983 c.37 §34; 1987 c.445 §10; repealed by 1997 c.631 §567]

716.935 [1973 c.797 §400; 1977 c.135 §63; 1979 c.88 §31; 1981 c.192 §36; 1983 c.37 §35; repealed by 1997 c.631 §567]

716.990 [Amended by 1973 c.797 §401; 1985 c.762 §50; repealed by 1997 c.631 §567]

CIVIL PENALTIES

716.991 Civil penalties. Any person who violates ORS 716.850 shall forfeit and pay to the State Treasurer to be deposited in the Consumer and Business Services Fund a civil penalty in an amount determined by the Director of the Department of Consumer and Business Services of not more than $2,500. The civil penalty may be recovered as provided in ORS 706.980. [Formerly 716.855]