

House Bill 2350

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Updates and clarifies portions of Bank Act and related statutes.
Becomes operative January 1, 2016.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to banking; creating new provisions; amending ORS 205.460, 705.137, 705.139, 706.005,
3 706.008, 706.015, 706.500, 706.570, 706.630, 706.650, 706.720, 706.723, 706.795, 707.010, 707.025,
4 707.075, 707.110, 707.184, 707.195, 707.200, 707.210, 707.254, 707.256, 707.350, 707.415, 707.610,
5 707.612, 707.620, 707.660, 707.665, 707.690, 707.740, 708A.010, 708A.125, 708A.145, 708A.155,
6 708A.160, 708A.165, 708A.180, 708A.195, 708A.250, 708A.255, 708A.260, 708A.265, 708A.410,
7 708A.420, 708A.425, 708A.430, 708A.435, 708A.440, 708A.445, 708A.455, 708A.460, 708A.470,
8 708A.475, 708A.485, 708A.490, 708A.495, 708A.500, 708A.505, 708A.510, 708A.515, 708A.555,
9 708A.565, 708A.575, 708A.580, 708A.585, 708A.595, 708A.600, 708A.650, 708A.990, 709.130, 709.150,
10 709.175, 709.330, 709.530, 709.535, 711.085, 711.135, 711.405, 711.520, 713.010, 713.130, 713.300,
11 713.990 and 714.995; repealing ORS 706.660, 706.680, 708A.275 and 711.199; and declaring an
12 emergency.

13 **Be It Enacted by the People of the State of Oregon:**

14 **SECTION 1.** ORS 705.137 is amended to read:

15 705.137. (1) Except as provided in subsection (3) of this section, a document, material or other
16 information that [*is in the possession or control of*] the Department of Consumer and Business Ser-
17 vices **possesses or controls** for the purpose of administering ORS 86A.095 to 86A.198, 86A.990,
18 86A.992, 697.005 to 697.095, 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and ORS
19 chapters 59, 723, 725 and 726, the Bank Act and the Insurance Code and that is described in statute
20 as confidential or as not subject to disclosure is not subject to disclosure under ORS 192.410 to
21 192.505, is not subject to subpoena and is not subject to discovery or admissible in evidence in a
22 private civil action. The Director of the Department of Consumer and Business Services may use
23 a confidential document, material or other information in administering ORS 86A.095 to 86A.198,
24 86A.990, 86A.992, 697.005 to 697.095, 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and
25 ORS chapters 59, 723, 725 and 726, the Bank Act and the Insurance Code and in furthering a regu-
26 latory or legal action [*brought*] **the director brings** as a part of the director's duties.

27 (2) A document, material or other information to which subsection (1) of this section applies is
28 subject to the public officer privilege described in ORS 40.270.

29 (3) In order to assist in the performance of the director's duties, the director may:

30 (a) Authorize sharing a confidential document, material or other information that is subject to

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 subsection (1) of this section as appropriate among the administrative divisions and staff offices of
 2 the department created under ORS 705.115 for the purpose of administering and enforcing the stat-
 3 utes identified in subsection (1) of this section, in order to enable the administrative divisions and
 4 staff offices to carry out the functions and responsibilities of the administrative divisions and staff
 5 offices.

6 (b) Share a document, material or other information, including a confidential document, material
 7 or other information that is subject to subsection (1) of this section or that is otherwise confidential
 8 under ORS 192.501 or 192.502, with other state, federal, foreign and international regulatory and law
 9 enforcement agencies, **with the Federal Reserve Board** and with the National Association of In-
 10 surance Commissioners and affiliates or subsidiaries of the National Association of Insurance Com-
 11 missioners, if the recipient agrees to maintain the confidentiality of the document, material or other
 12 information.

13 (c) Receive a document, material or other information, including an otherwise confidential docu-
 14 ment, material or other information, from state, federal, foreign and international regulatory and
 15 law enforcement agencies, **from the Federal Reserve Board** and from the National Association of
 16 Insurance Commissioners and affiliates or subsidiaries of the National Association of Insurance
 17 Commissioners. As provided in this section, the director shall maintain the confidentiality of docu-
 18 ments, materials or other information [*received upon*] **the director receives if the director re-**
 19 **ceives** notice or [*with*] **has** an understanding that the document, material or other information is
 20 confidential or privileged under the laws of the jurisdiction that is the source of the document,
 21 material or other information.

22 (4) Disclosing a document, material or other information to the director under this section or
 23 sharing a document, material or other information as authorized in subsection (3) of this section
 24 does not waive an applicable privilege or claim of confidentiality in the document, material or other
 25 information.

26 (5) This section does not prohibit the director from [*releasing a final, adjudicated action, includ-*
 27 *ing a suspension or revocation of a certificate of authority or a license if the action is otherwise open*
 28 *to public inspection,*] **disclosing** to a database or other clearinghouse service maintained by the
 29 National Association of Insurance Commissioners or affiliates or subsidiaries of the National Asso-
 30 ciation of Insurance Commissioners **information about a final, adjudicated action, including a**
 31 **suspension or revocation of a certificate of authority or a license, if the information is oth-**
 32 **erwise open to public inspection.**

33 **SECTION 2.** ORS 705.139 is amended to read:

34 705.139. (1) The Director of the Department of Consumer and Business Services, **consistent**
 35 **with ORS 705.137**, may enter into agreements with other state, federal, foreign and international
 36 regulatory and law enforcement agencies, **with the Federal Reserve Board** and with the National
 37 Association of Insurance Commissioners and [*its*] affiliates or subsidiaries[, *governing*] **of the Na-**
 38 **tional Association of Insurance Commissioners to govern** the sharing and use of information
 39 [*consistent with ORS 705.137*].

40 (2) An agreement under this section must specify the duration of the agreement, the purpose of
 41 the agreement, the methods [*that may be employed*] for terminating the agreement and any other
 42 necessary and proper matters.

43 (3) An agreement under this section does not relieve the director of any obligation or responsi-
 44 bility imposed by law.

45 (4) The director may expend funds of the Department of Consumer and Business Services and

1 may supply services for *[the purpose of]* carrying out an agreement under this section.

2 (5) Agreements under this section are exempt from ORS 190.410 to 190.440 and 190.480 to
3 190.490.

4 **SECTION 3. Section 4 of this 2015 Act is added to and made a part of ORS chapter 705.**

5 **SECTION 4. (1) A financial institution shall file a notice with the Director of the De-**
6 **partment of Consumer and Business Services and pay a nonrefundable fee of \$100 within 30**
7 **days after establishing a loan production office in this state. The notice must include:**

8 (a) **The name of the financial institution and address of the main office;**

9 (b) **The name and address of the loan production office; and**

10 (c) **The name and address of the officer of the financial institution who is responsible for**
11 **loan production office activities.**

12 (2) **A financial institution shall file a notice under subsection (1) of this section for each**
13 **loan production office the financial institution establishes in this state.**

14 (3) **A financial institution shall amend a notice the financial institution filed under sub-**
15 **section (1) of this section if a material change occurs in the information in the original no-**
16 **tice. An amendment to a notice is not subject to a fee.**

17 (4) **A financial institution shall notify the director if the financial institution closes a loan**
18 **production office in this state, specifying the date of closure and describing how the financial**
19 **institution will dispose of any records the financial institution maintained at the loan pro-**
20 **duction office. A notice under this subsection is not subject to a fee.**

21 **SECTION 5.** ORS 706.005 is amended to read:

22 706.005. As used in the Bank Act, *unless the context requires otherwise*:

23 (1)(a) "Access area" means any paved walkway or sidewalk within 50 feet of an automated teller
24 machine or night deposit facility.

25 (b) "Access area" does not include publicly maintained sidewalks or roads.

26 (2) "Access device" means:

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

29 (b) A key or other mechanism [*issued by*] **that** a financial institution **issues** to a customer to
30 give the customer access to the **financial** institution's or bank's night deposit facility.

31 (3) "Acquisition transaction" means:

32 (a) [*The*] **A** sale and purchase of all or substantially all of [*the assets of a bank that is*] **a bank's**
33 **assets that does not occur** in the **bank's** ordinary course of business [*of such bank*]; or

34 (b) The transfer and assumption of all or substantially all of [*the*] **a bank's** liabilities [*of a*
35 *bank*].

36 (4)(a) "Automated teller machine" or "ATM" means any electronic information processing de-
37 vice located in this state that:

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

41 [(b)] **(B)** Is unstaffed except for persons [*installing*] **that install** the device, [*providing*] **provide**
42 security or [*providing*] **provide** periodic servicing, maintenance or repair. [*The term*]

43 (b) "Automated teller machine" or "ATM" does not include [*devices*] **a device that is** used
44 solely to facilitate check guarantees or check authorizations, or **that is** used in connection with [*the*
45 *acceptance*] **accepting** or dispensing [*of*] cash on a person to person basis, such as by a store cashier.

1 (5) “Bank Act” means ORS chapters 706 to 716.

2 (6)(a) “Banking business” or “business of banking” means *[the]* a **regular** business of receiving
 3 or accepting money or *[its]* **the equivalent of money** on deposit, *[as a regular business]* whether the
 4 deposit is made subject to check or is evidenced by a certificate of deposit, a pass book or other
 5 writing or evidence*[, but]*.

6 (b) “**Banking business**” or “**business of banking**” does not include:

7 *[(a)]* (A) Depositing money or *[its]* **the equivalent of money** in escrow or with an agent, pending
 8 *[investments]* **an investment** in real estate or securities for or on account of a principal;

9 *[(b)]* (B) The business of *[a savings and loan association or]* a credit union;

10 *[(c)]* (C) *[Deposits accepted]* **Accepting deposits** in connection with *[the purchase or lease of]*
 11 **purchasing or leasing** property or services; or

12 *[(d)]* (D) Accepting deposits through an ATM or night deposit facility.

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

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

16 (a) A bank engages in banking business; or

17 (b) A trust company transacts trust business.

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

20 (10) “Capital debentures” means capital notes, capital debentures and any other form of unse-
 21 cured obligations *[issued by]* **that** an institution or stock savings bank **issues** to evidence bor-
 22 rowings *[where]* **in which** the rights of the lender are subordinate to the rights of the depositors.

23 (11)(a) “Defined parking area” means *[that]* a portion of any parking area **or a single level in**
 24 **a multiple-story parking area that is** *[opened]* **open** for customer parking *[that]* **and is**:

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

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

28 (C) Owned or leased by the operator of the ATM or night deposit facility or owned or controlled
 29 by the party *[leasing]* **that leases** the ATM or night deposit facility site to the operator*[:]*; **and**

30 (D) **The parking area that the operator of the ATM or night deposit facility designates**
 31 **as the most directly accessible to the ATM or night deposit facility, if the parking area is a**
 32 **single level in a multiple-story parking area.**

33 (b) “Defined parking area” does not include any parking area that:

34 (A) *[is not open or regularly used for parking by]* Users of *[the]* **an** ATM or night deposit facility
 35 *[who are]* **do not regularly use for parking while** conducting transactions during the hours of
 36 darkness*[: A parking area is not open if it]; or*

37 (B) Is physically closed to access or *[if]* **has** conspicuous signs **that** indicate that *[it]* **the**
 38 **parking area** is closed. *[If a multiple level parking area satisfies the conditions of paragraph (a) of*
 39 *this subsection and would therefore otherwise be a defined parking area, only the single parking level*
 40 *designated by the operator of the ATM and night deposit facility to be the most directly accessible to*
 41 *the users of the ATM and night deposit facility shall be a defined parking area.]*

42 (12) “Department” means the Department of Consumer and Business Services.

43 (13) “Director” means the Director of the Department of Consumer and Business Services.

44 (14) “Document of title” means document of title as defined in ORS 71.2010.

45 (15) “Federal Reserve Act” means the Act of Congress approved December 23, 1913 (38 Stat.

1 251), as amended.

2 (16) "Federal Reserve Bank" means *[the]* a Federal Reserve *[Banks]* **Bank that is** created and
 3 organized under the authority of the Federal Reserve Act.

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

6 (18) "Home state" means:

7 (a) With respect to a state bank, the state under the laws of which the state bank is incorpo-
 8 rated or otherwise organized;

9 (b) With respect to a federal bank, the state in which the main office of the federal bank is lo-
 10 cated;

11 (c) With respect to an extranational institution, the state *[determined to be the home state by*
 12 *election of]* **that the extranational institution or the Board of Governors of the Federal Reserve**
 13 **System elects as the extranational institution's home state***[, or in default of such election, by*
 14 *the Board of Governors of the Federal Reserve System; and]; or*

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

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

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

25 *[(21) "Merger" includes consolidation.]*

26 *[(22)]* (21) "Night deposit facility" means a receptacle that *[is provided by]* a financial institution
 27 **provides** for *[the use of]* the **financial** institution's customers *[in delivering]* **to use to deliver** cash,
 28 checks and other items to the financial institution.

29 *[(23)]* (22) "Obligations" includes:

30 (a) The direct liability of *[the]* a maker or acceptor of paper discounted with or sold to an in-
 31 stitution;

32 (b) The liability of *[the]* a drawer, indorser or assignor;

33 (c) *[If obligations of a copartnership or association, the]* Obligations of the several members of
 34 *[the]* a copartnership or association;

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

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

38 *[(24)]* (23) "Officer" of a banking institution means a chief executive officer, president, any vice
 39 president, secretary, treasurer, *[or]* cashier **or any individual that the board of a banking insti-**
 40 **tution designates as an officer under ORS 707.700.**

41 *[(25)]* (24) "Operator" means any financial institution or other business entity, or any person
 42 *[who]* **that** operates an ATM or night deposit facility.

43 (25) "Outside director" means a member of the board of directors of a banking institution
 44 **who is not employed by the banking institution or by any holding company or subsidiary of**
 45 **the banking institution.**

1 (26) "Paid-in capital" means the aggregate amount [*received by*] **that** an institution or stock
 2 savings bank **receives** from [*the issuance of its*] **issuing the institution's or stock savings bank's**
 3 stock or [*transferred*] **that the institution or stock savings bank transfers** from retained
 4 earnings.

5 (27) "Person" means an individual, corporation, limited liability company, partnership, associ-
 6 ation, joint stock company, business trust or unincorporated organization.

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

9 (29) "Trust business" means[:]

10 [(a)] acting as a trustee of a trust.[:]

11 [(b)] *Acting as a fiduciary, as defined in ORS 125.005;*

12 [(c)] *Acting as a personal representative, as defined in ORS 111.005;*

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

14 [(e)] *Acting in a court-appointed position of trust or any other position of trust.*

15 **SECTION 6.** ORS 706.008 is amended to read:

16 706.008. As used in the Bank Act:

17 (1) "Bank" means a company, other than an extranational institution, that accepts deposits [*in-*
 18 *sured to any extent by*] **that** the Bank Insurance Fund **insures to any extent** under the provisions
 19 of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, et seq.

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

22 (3) "Bank service corporation" means a corporation **or a limited liability company** that is or-
 23 ganized to perform services authorized by ORS 708A.145, all of the capital stock [*of*] **or membership**
 24 **interests of** which [*is owned by*] one or more banking institutions or national banks **own**.

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

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

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

33 [(7)] *"Federal bank" means a national bank or another bank organized under the laws of the United*
 34 *States.*

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

37 [(9)] (7) "Financial holding company" means a company that engages in activities described for
 38 a financial holding company in section 103 of the federal Gramm-Leach-Bliley Act (P.L. 106-102).

39 [(10)] (8) "Financial institution" means an insured institution, an extranational institution, a
 40 credit union as defined in ORS 723.006, an out-of-state credit union under ORS 723.042 [*and*] **or a**
 41 federal credit union.

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

44 [(12)] (9) "Institution" means an Oregon [*commercial bank or an Oregon trust company.*

45 [(13)] (10) "Insured institution" means a company, the deposits of which are insured under the

1 provisions of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, et seq.

2 [(14) “Insured nonstock institution” means an insured institution that does not issue capital
3 stock.]

4 [(15) “Insured stock institution” means an insured institution that issues capital stock.]

5 [(16)] (11) “National bank” means a bank that was organized under the provisions of the Na-
6 tional Bank Act, as amended, 12 U.S.C. 21, et seq.

7 [(17)] (12) “Non-Oregon institution” means:

8 (a) An out-of-state state bank [engaging] **that engages** in banking business in Oregon;

9 (b) An out-of-state trust company [transacting] **that transacts** trust business in Oregon; [and]

10 **or**

11 (c) An extranational institution [engaging] **that engages** in banking business in Oregon.

12 [(18)] (13) “Nonstock bank” means a bank that does not issue capital stock.

13 [(19)] (14) “Oregon bank” means an Oregon stock bank or Oregon nonstock bank.

14 [(20)] (15) “Oregon commercial bank” means an Oregon stock bank that was chartered under
15 ORS chapter 707 as a bank other than a stock savings bank.

16 [(21)] (16) “Oregon nonstock bank” means a state nonstock bank or savings bank, the home state
17 of which is Oregon.

18 [(22)] (17) “Oregon operating institution” means:

19 (a) A bank that engages in banking business in this state;

20 (b) An extranational institution that engages in banking business in this state; or

21 (c) A trust company that transacts trust business in this state.

22 [(23)] (18) “Oregon savings bank” or “savings bank” means an Oregon stock savings bank or an
23 Oregon nonstock savings bank.

24 [(24)] (19) “Oregon stock bank” means a state stock bank, the home state of which is Oregon.

25 [(25)] (20) “Oregon stock savings bank” means an Oregon stock bank that was initially chartered
26 as or was converted to a stock savings bank under the Bank Act.

27 [(26)] (21) “Oregon trust company” means a trust company that was organized under the pro-
28 visions of ORS chapter 707.

29 [(27)] (22) “Out-of-state bank” means an out-of-state state bank or an out-of-state federal bank.

30 [(28)] (23) “Out-of-state bank holding company” means a bank holding company, the home state
31 of which is not Oregon, and that is not the bank holding company of an Oregon stock bank or an
32 in-state federal stock bank.

33 [(29)] (24) “Out-of-state federal bank” means a federal bank, the home state of which is not
34 Oregon.

35 [(30)] (25) “Out-of-state financial holding company” means a financial holding company, the home
36 state of which is not Oregon, and that is not the financial holding company of an Oregon stock bank
37 or an in-state federal stock bank.

38 [(31)] (26) “Out-of-state state bank” means a state bank, the home state of which is not Oregon.

39 [(32)] (27) “Out-of-state trust company” means a trust company that was organized under the
40 laws of another state.

41 [(33)] (28) “State bank” means a bank that was organized under the laws of a state.

42 [(34) “State nonstock bank” means a nonstock bank that was organized under the laws of a
43 state.]

44 [(35) “State stock bank” means a stock bank that was organized under the laws of a state.]

45 [(36)] (29) “Stock bank” means a bank that issues capital stock.

1 [(37)(a)] **(30)(a)** “Trust company” means a company that is authorized under the provisions of
2 ORS chapter 709 to transact trust business, including the trust department of a bank.

3 (b) “Trust company” does not include a corporation that a United States Bankruptcy Court ap-
4 points to serve as a bankruptcy trustee under Title 11, United States Code, during a time in which
5 the corporation is acting as a bankruptcy trustee.

6 **SECTION 7.** ORS 706.015 is amended to read:

7 706.015. References in the Bank Act to federal statutes and regulations [*shall*], except as other-
8 wise provided in the Bank Act, [*be construed to refer*] **are** to the statutes or regulations as [*they*]
9 **the statutes or regulations** are in effect on January 1, [2002] **2015**. The Director of the Department
10 of Consumer and Business Services may [*adopt rules providing that*] **by rule construe** one or more
11 of the **references** to federal statutes and regulations [*shall be construed to refer*] **in the Bank Act**
12 **as references** to the statutes and regulations as [*they*] **the statutes or regulations** are in effect
13 on a later date.

14 **SECTION 8.** ORS 706.500 is amended to read:

15 706.500. (1) Each banking institution is subject to the inspection of the Director of the Depart-
16 ment of Consumer and Business Services. The director shall conduct an examination of the condition
17 and resources of each banking institution[,] and determine whether the banking institution is com-
18 plying with the laws of this state and such other matters as the director may prescribe. Except as
19 provided in subsections (3) and (5) of this section, the **director shall conduct** examinations [*shall*
20 *be conducted*] not more than 24 months apart.

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

24 (3) The director may participate in any program [*offered by*] **that** the Federal Deposit Insurance
25 Corporation or the Federal Reserve Board [*that provides*] **provide** for joint or alternate examinations
26 of banking institutions and non-Oregon institutions [*by the director and the Federal Deposit Insurance*
27 *Corporation or the Federal Reserve Board*].

28 (4) In addition to [*the examinations*] **an examination** under subsection (1), (2) or (3) of this sec-
29 tion, the director may conduct [*examinations*] **an examination** of a banking institution at any other
30 time.

31 (5) Instead of [*making*] **conducting** an examination of a banking institution or non-Oregon in-
32 stitution under subsection (1), (2) or (3) of this section, the director may accept an examination or
33 report made under the Federal Reserve Act or under other statutes of the United States [*authorizing*
34 *insurance of deposits*].

35 **SECTION 9.** ORS 706.570 is amended to read:

36 706.570. (1) **A banking institution that is engaged in the business of banking in this state**
37 **shall keep books and accounts of the banking institution’s activities, in such a manner as to**
38 **enable the Director of the Department of Consumer and Business Services to readily ascer-**
39 **tain the true condition of the banking institution.**

40 [(1)] (2) If **the director determines in an** [*upon*] examination of a banking institution [*or non-*
41 *Oregon institution it appears*] that the banking institution [*or non-Oregon institution*] does not keep
42 books and accounts in such a manner as to enable the director [*of the Department of Consumer and*
43 *Business Services*] to readily ascertain the true condition of the banking institution [*or non-Oregon*
44 *institution*], the director [*of the Department of Consumer and Business Services*] may require any of-
45 ficer of the banking institution [*or non-Oregon institution*] to open and keep books or accounts as the

1 director prescribes.

2 [(2)] (3) If a banking institution [*or non-Oregon institution*] fails to open and keep the books and
 3 accounts [*prescribed by*] **that** the director **prescribes**, the director shall send written notice to the
 4 banking institution [*or non-Oregon institution*] of intent to assess and collect the penalty under this
 5 subsection. For each day the banking institution [*or non-Oregon institution*] fails to open and keep
 6 the books and accounts after receiving notice from the director, the banking institution [*or non-*
 7 *Oregon institution*] is subject to a penalty of \$1,000. The **banking institution shall pay the** penalty
 8 [*shall be paid by the banking institution or non-Oregon institution when it*] **when the banking insti-**
 9 **tion** receives a notice and demand for the amount of the penalty from the director. If the banking
 10 institution [*or non-Oregon institution*] delays or refuses to pay the penalty upon **the director's de-**
 11 **mand**, the **Attorney General shall bring an action in the director's name to recover the** penalty
 12 [*shall be recovered in the name of the director in an action brought by the Attorney General*]. All sums
 13 collected for penalties imposed by this section [*shall*] **must** be paid into the Consumer and Business
 14 Services Fund created by ORS 705.145.

15 **SECTION 10.** ORS 706.630 is amended to read:

16 706.630. (1) The Director of the Department of Consumer and Business Services shall [*call for*
 17 *the*] **require each Oregon operating institution to submit a** report of condition [*of Oregon oper-*
 18 *ating institutions*] at the close of business on the same day on which **the federal regulatory agen-**
 19 **cies require** a report [*is required*] from national banks [*by the federal regulatory agencies*].

20 (2)(a) **In** the report of [*each Oregon operating institution*] **condition** required [*in*] **under** sub-
 21 section (1) of this section [*shall*], **an Oregon operating institution shall:**

22 [(a)] (A) Show [*its*] **the Oregon operating institution's** assets and liabilities combined for all
 23 departments at the close of business on the day specified.

24 [(b)] (B) [*Be sworn to by*] **Include a sworn statement as to the accuracy and truth of the**
 25 **report from** an officer of the Oregon operating institution [*making*] **that makes** the report and
 26 [*attested by*] **an attestation from** not less than two directors of the Oregon operating institution.

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

29 [(d)] (b) [*Be transmitted*] **The Oregon operating institution shall transmit the report** to the
 30 director within the time allowed by federal regulations for [*submission of*] **submitting** reports of
 31 national bank associations to the federal regulatory agencies.

32 (3) The director may require additional reports of condition at any time [*the director considers*
 33 *it necessary*]. The additional reports [*shall*] **must** meet the requirements of subsection (2) of this
 34 section.

35 (4) Trust companies [*not conducting a*] **that do not conduct** banking business [*are not required*
 36 *to*] **need not** submit the reports required in subsection (1) of this section, but shall submit reports
 37 [*as may be required by*] **that the director requires.**

38 **SECTION 11.** ORS 706.650 is amended to read:

39 706.650. If an Oregon operating institution delays or fails to furnish reports in the manner re-
 40 quired under ORS 706.630, the Oregon operating institution is subject to a penalty of \$250 a day for
 41 each day while in default. The [*penalty shall be paid by the*] Oregon operating institution [*upon*] **shall**
 42 **pay the penalty after** receiving notice or demand for the amount of the penalty from the Director
 43 of the Department of Consumer and Business Services. If the **Oregon operating institution does**
 44 **not pay the** penalty [*is not paid*] upon demand by the director, the director shall proceed to collect
 45 the penalty in the manner prescribed by ORS 706.570 [(2)] (3). If the director determines that the

1 default was unavoidable, the director may waive the penalty.

2 **SECTION 12.** ORS 706.720 is amended to read:

3 706.720. (1) The Director of the Department of Consumer and Business Services shall receive
4 and file in the Department of Consumer and Business Services all reports required by the Bank Act.

5 (2) Except as provided in subsection (3) of this section and ORS 706.730, the records of the De-
6 partment of Consumer and Business Services [*pertaining*] **that pertain** to the administration of the
7 Bank Act are available for public inspection unless the director determines in a particular instance
8 that an Oregon operating institution or the directors, stockholders, officers, employees and custom-
9 ers of the Oregon operating institution have an interest in keeping the records confidential that
10 outweighs the public interest in disclosing the records, or that the records are exempt from disclo-
11 sure under ORS 192.501 to 192.505. A determination by the director under this subsection is subject
12 to review under ORS 192.410 to 192.505.

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

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

18 (b) Financial statements of and investigatory information concerning persons subject to investi-
19 gation by the director under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705.

20 (c) Proprietary information.

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

22 (e) Reports filed under ORS 706.655.

23 (f) Stockholder lists.

24 (g) Correspondence, reports or other information obtained from or provided to the Financial
25 Crimes Enforcement Network established by order of the United States Secretary of the Treasury.

26 (4) Notwithstanding subsection (3) of this section, the director may disclose a record that is
27 specified in this subsection and that pertains to an Oregon operating institution that has been liq-
28 uidated under ORS 711.400 to 711.615 if the director determines in a particular instance that the
29 public interest in disclosure of the record outweighs the interests of the Oregon operating institu-
30 tion or of the directors, stockholders, officers, employees or customers of the Oregon operating in-
31 stitution in keeping the record confidential. The director may not in any circumstances, however,
32 disclose a record or a portion of a record that contains proprietary information or information that
33 relates to [*an individual's*] **a person's** financial activities or affairs unless the director concludes
34 that the activities or affairs were a direct and substantial contributing factor in the failure of the
35 Oregon operating institution. This subsection applies to the following records of the department:

36 (a) Examination reports and work papers, directives, orders and correspondence relating to ex-
37 amination reports;

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

40 (c) Reviews of financial statements; and

41 (d) Reports filed under ORS 706.655.

42 (5) Notwithstanding ORS 40.270, an officer of the department may be examined concerning re-
43 cords that are exempt from disclosure under subsection (2) or (3) of this section and ORS 706.730.
44 The records are subject to production if the court before which a civil or criminal action is pending
45 finds that the examination and production is essential for establishing a claim or defense. In making

1 a finding under this subsection, if the court views the records, the court shall do so in camera.

2 (6) A civil penalty [*imposed by*] the director **imposes** under the Bank Act [*shall become*] **is** sub-
 3 ject to public inspection after the 20th day after the director imposes the civil penalty.

4 (7) All records of the department [*pertaining*] **that pertain** to the condition of Oregon operating
 5 institutions may be furnished to:

6 (a) The Federal Reserve Bank and examiners from the Federal Reserve Bank.

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

8 (c) The Federal Deposit Insurance Corporation and examiners from the Federal Deposit Insur-
 9 ance Corporation.

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

12 (e) The State Treasurer, if the Oregon operating institution is or has applied to become a de-
 13 pository of public fund deposits.

14 (f) A supervisory authority that regulates financial institutions, financial holding companies or
 15 bank holding companies.

16 (g) The respective Oregon operating institution, or the financial holding company or bank hold-
 17 ing company that controls an Oregon operating institution.

18 (8) The director shall prescribe and furnish to interested persons the forms for all reports re-
 19 quired by the Bank Act.

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

24 **SECTION 13.** ORS 706.723 is amended to read:

25 706.723. (1) Notwithstanding any other provision of law:

26 (a) **Reports and records described in ORS 706.720 (3) and** compliance review documents [*shall*
 27 *be*] **are** confidential as provided in ORS 705.137 and [*shall not be*] **are not** discoverable or admissible
 28 as evidence in any civil action or administrative proceeding.

29 (b) **Reports and records described in ORS 706.720 (3) and** compliance review documents de-
 30 livered to a state, federal or foreign governmental or regulatory agency remain confidential as pro-
 31 vided in ORS 705.137 and [*shall not be*] **are not** discoverable or admissible in any civil action or
 32 administrative proceeding.

33 (c) A person [*serving*] **that serves** on a compliance review committee or [*acting*] **acts** at the
 34 request of a compliance review committee may not [*be required to*] testify in any civil action as to:

35 (A) The contents or conclusions of a compliance review document; or

36 (B) The actions [*taken by*] **that** a compliance review committee **takes**.

37 (2) This section does not limit the discovery or admissibility in any civil action or administrative
 38 proceeding of any documents that are not **reports or records described in ORS 706.720 (3) or**
 39 compliance review documents.

40 (3) Upon motion by any party, a court shall determine a claim of confidentiality under this
 41 section after an in camera review of the materials or information claimed to be confidential. If the
 42 court determines that part, but not all, of the materials or information is confidential under this
 43 section, the court shall ensure that only the materials or information that is not confidential is
 44 disclosed.

45 (4) The provisions of this section do not affect the ability of a person to claim any privilege that

1 may be provided by law, including but not limited to a claim of privilege under ORS 40.225.

2 (5) For the purposes of this section:

3 (a) “Compliance review committee” means a person or persons [*assigned by*] **that** a board of
 4 directors **or the managers** of a financial institution[, *or by the management of a financial*
 5 *institution,*] **assign** to test, review or evaluate the conduct of the financial institution, the trans-
 6 actions of the financial institution or the potential transactions of the financial institution for the
 7 purpose of monitoring, improving and enforcing compliance with:

8 (A) Safe, sound and fair lending practices;

9 (B) Financial reporting to state or federal regulatory agencies;

10 (C) The financial institution’s own policies and procedures; or

11 (D) Federal or state statutory or regulatory requirements relating to financial institutions.

12 (b) “Compliance review document” means any document prepared for or created by a compliance
 13 review committee.

14 **SECTION 14.** ORS 706.795 is amended to read:

15 706.795. Notwithstanding any other provision of law, the Director of the Department of Con-
 16 sumer and Business Services may, in accordance with ORS 183.310, 183.315, 183.330, 183.335 and
 17 183.341 to 183.410, make rules [*authorizing*] **that authorize** banking institutions to exercise any of
 18 the powers conferred upon any financial institution that is [*accepting deposits or transacting trust*
 19 *business*] **conducting banking business or trust business** in this state, if the director finds that
 20 the exercise of the power:

21 (1) Serves the public convenience and advantage; and

22 (2) [*Equalizes and*] **Promotes or** maintains [*the quality of*] **fair** competition between banking
 23 institutions and other financial institutions.

24 **SECTION 15.** ORS 707.010 is amended to read:

25 707.010. A person [*who*] **that** has not received **from the Director of the Department of**
 26 **Consumer and Business Services a charter or a certificate of authority** to [*do a*] **conduct**
 27 banking business [*from the Director of the Department of Consumer and Business Services, except a*
 28 *national bank, shall*] **may** not:

29 (1) Advertise that [*it*] **the person** is receiving or accepting money on deposit.

30 (2) Use a sign at [*its*] **the person’s** place of business [*containing words indicating*] **that indi-**
 31 **cates** that the [*place is a place of business*] **person:**

32 (a) **Is** [*of*] a banking institution **or that the place of business is a place of business for a**
 33 **banking institution;**

34 (b) [*Where deposits are received*] **Receives deposits** or payments made on check; or

35 (c) [*Where*] **Transacts** any other form of banking business [*is transacted*].

36 (3) Make use of or circulate any letterheads, blank notes, blank receipts, certificates, circulars
 37 or any written or printed paper [*containing words indicating*] **that indicates** that the business is the
 38 business of a banking institution.

39 (4) Transact business under any name that the director determines leads the public to believe
 40 that [*its*] **the person is transacting** business [*is that of*] **as** a banking institution or that [*it*] **the**
 41 **person** is affiliated with a banking institution.

42 (5) Solicit or receive deposits or transact business in the manner of a banking institution or in
 43 such a manner as to lead the public to believe that [*its business is that of*] **the person is trans-**
 44 **acting business as** a banking institution.

45 **(6) This section does not apply to a national bank that was lawfully transacting banking**

1 **business in this state on June 30, 2011, and has continuously transacted banking business in**
 2 **this state after June 30, 2011.**

3 **SECTION 16.** ORS 707.025 is amended to read:

4 707.025. (1) **One or more persons or a corporation may organize** a banking institution [*may*
 5 *be organized*] under this section solely for the purpose of merging with, acquiring the assets of or
 6 assuming the liabilities of one or more existing financial institutions [*pursuant to*] **under** ORS
 7 chapter 711 and, except as otherwise provided in this section, without authority to engage in or
 8 transact banking or trust business.

9 [(2) *The banking institution may be organized under this section by one or more persons or a*
 10 *corporation.*]

11 [(3)] (2) Notwithstanding ORS 707.050, 707.070, 707.080 to 707.120, 707.140, 707.170[,] **or** 707.200
 12 [*and 707.210 (1) and such other sections as may*] **or other statutes that are** specifically [*be*] incon-
 13 sistent with this section, a banking institution described in subsection (1) of this section [*shall*] **must**
 14 be organized as follows:

15 (a) [*The incorporator*] **A prospective incorporator or incorporators** shall submit to the Di-
 16 rector of the Department of Consumer and Business Services for filing articles of incorporation
 17 [*executed in*] **that the prospective incorporator or incorporators sign and execute in** duplicate,
 18 [*signed by the prospective incorporator or incorporators,*] and such other information as the director
 19 may require, which may include the additional information required in an application under ORS
 20 707.070 or 716.028 if the banking institution organized under this section is to survive the merger,
 21 will purchase assets or will assume liabilities, together with an organizational fee of \$2,500.

22 (b) [*Such*] **The** articles of incorporation [*shall*] **for the banking institution must** specify:

23 (A) The name and address of each incorporator.

24 (B) The information required under ORS 707.110 (2)(a), (b) and (h) and (3).

25 (C) The term of [*its*] **the banking institution's** existence, which may be perpetual.

26 (D) The purpose of the [*corporation*] **banking institution**, which [*shall*] **must** be limited to the
 27 purposes set forth in subsection (1) of this section. However, if the [*corporation*] **banking institution**
 28 is to be the resulting bank in [*such*] **a merger**, the articles **of incorporation** may also contain all
 29 purposes allowed a banking institution under the Bank Act, provided the implementation of such
 30 purposes are conditioned upon consummation of [*such*] **the merger**.

31 (E) The name and address of each director of the board of directors, which [*shall*] **must** be
 32 composed of not less than three directors.

33 [(4)] (3) Unless the director finds that [*approval of*] **approving** the articles would violate ORS
 34 707.145 or other applicable law, the director shall file the articles and issue a certificate of incor-
 35 poration in accordance with ORS 707.120, if:

36 (a) The director finds that the articles **of incorporation** conform to subsection (3) of this sec-
 37 tion; and

38 (b) The director finds that the banking institution, following any merger or assumption of li-
 39 abilities, will meet the requirements of ORS 707.080 (1) and (2).

40 [(5)] (4) [*Upon issuance of the*] **After the director issues a** certificate of incorporation, the
 41 corporate existence of the banking institution [*shall begin*] **begins** and the banking institution may
 42 issue stock.

43 [(6)(a)] (5)(a) After the [*issuance of the*] **director issues a** certificate of incorporation, the new
 44 banking institution shall file a certified copy of [*its*] **the banking institution's** bylaws with the di-
 45 rector within 90 days. If the director finds [*such*] **that the** bylaws [*to be*] **are** consistent with the

1 requirements of the Bank Act, the director shall issue a provisional charter to *[such bank]* **the**
2 **banking institution.**

3 (b) *[The]* A provisional charter *[shall expire]* **expires** one year after *[its date of issuance. How-*
4 *ever,]* the director **issues the provisional charter, but the director** may extend *[such]* **the** expi-
5 ration period. If a merger or assumption of liabilities is not consummated before the provisional
6 charter expires, the interim bank *[shall cease]* **ceases** to exist and *[its]* **the banking institution's**
7 articles of incorporation and **provisional** charter *[shall be]* **are** void.

8 (c) For purposes of ORS chapter 711, a provisional charter *[issued]* **that the director issues**
9 under this section *[shall be deemed]* **is** a charter, where appropriate.

10 (d) If the merger or assumption of liabilities is consummated and the banking institution organ-
11 ized under this section survives the transaction, the director shall issue to the banking institution
12 a charter to *[do a]* **engage in** banking business either as an Oregon commercial bank or as an
13 Oregon stock savings bank.

14 *[(7)]* **(6)** A banking institution organized solely for the purposes set forth in subsection (1) of this
15 section for which **the director has issued** a charter *[has been issued]* may, with the director's ap-
16 proval, have initial paid-in capital in an amount less than that required by ORS 707.050 *[prior to]*
17 **before** consummation of a proposed merger.

18 **SECTION 17.** ORS 707.075 is amended to read:

19 707.075. (1) The corporate name of a banking institution:

20 (a) *[Shall]* **May** not contain any word or phrase that indicates or implies that *[it]* **the banking**
21 **institution** is organized for any purpose other than one or more of the purposes contained in *[its]*
22 **the banking institution's** articles of incorporation.

23 (b) *[Shall]* **Must** be distinguishable from:

24 **(A) The name of** any other financial institution~~, corporate, professional corporate, nonprofit~~
25 ~~corporate, cooperative, limited liability company, limited partnership, business trust,~~ **that has re-**
26 **ceived a charter or a certificate of authority to engage in banking business from the Director**
27 **of the Department of Consumer and Business Services; or**

28 **(B) The name of:**

29 **(i) Any corporation, professional corporation, nonprofit corporation, cooperative, limited**
30 **liability company, limited partnership or business trust; or**

31 **(ii) Any reserved, [or] registered or assumed business** name currently on file with the Secre-
32 tary of State *[or Director of the Department of Consumer and Business Services, or an assumed*
33 *business name registered as provided in ORS 648.010].*

34 (2) The director may refuse to permit *[the]* **a banking institution to** use *[of]* any name *[if]* the
35 director determines *[that the name]* is deceptively similar to the name of a financial institution **that**
36 **is** already lawfully *[transacting]* **engaging in** banking business or *[accepting deposits]* **making loans**
37 in this state.

38 (3) *[Nothing contained in this section shall preclude]* A banking institution *[from transacting]* **may**
39 **transact** business under one or more assumed business names~~,~~ if the **assumed business** names
40 meet the requirements of subsection (1) of this section, unless the director determines that the **as-**
41 **sumed business** names *[will be confusingly similar to]* **are not distinguishable from:**

42 **(a) The name of** any financial institution~~, corporate, professional corporate, nonprofit corporate,~~
43 ~~cooperative, limited liability company, limited partnership, business trust,~~ **that has received a**
44 **charter or certificate of authority to engage in banking business from the director;**

45 **(b) The name of any corporation, professional corporation, nonprofit corporation, coop-**

1 **erative, limited liability company, limited partnership or business trust; or**

2 (c) **Any** reserved, [or] registered **or assumed business** name currently on file with the Secre-
 3 tary of State [*or Director of the Department of Consumer and Business Services, or an assumed*
 4 *business name registered as provided in ORS 648.010*].

5 **SECTION 18.** ORS 707.110 is amended to read:

6 707.110. (1) Any number of [persons] **individuals**, not less than five, may [*associate themselves*]
 7 by articles of incorporation [*to*] establish an institution or Oregon stock savings bank. The **individ-**
 8 **uals shall execute and sign the** articles of incorporation [*shall be executed*] in duplicate, [*signed*
 9 *by the prospective incorporators and submitted*] **and shall submit the articles of incorporation to**
 10 the Director of the Department of Consumer and Business Services.

11 (2) The articles of incorporation [*shall specify*] **must:**

12 (a) **Specify** the name of the institution or Oregon stock savings bank.

13 (b) **Specify** the initial principal place where [*its business is to be transacted*] **the institution or**
 14 **Oregon stock savings bank will transact business**, designated by legal description or street and
 15 number in the city or town.

16 (c) **Specify** the address, including street and number, and mailing address, if different, of [*its*]
 17 **the institution's or Oregon stock savings bank's** initial registered office and the name of [*its*]
 18 **the** initial registered agent at [*that*] **the registered** office.

19 (d) **List** the names of the prospective incorporators.

20 (e) **Specify** the term of [*its*] **the institution's or Oregon stock savings bank's** existence, which
 21 may be perpetual.

22 (f) **Specify** the purpose for which the institution or Oregon stock savings bank is formed.

23 (g) [*The initial board of directors of the institution or Oregon stock savings bank, composed of not*
 24 *fewer than five persons, at least three of whom shall be prospective incorporators.*] **State that a board**
 25 **of directors of not less than five individuals will govern the business of the institution or**
 26 **Oregon stock savings bank.**

27 (h) **State the preemptive rights that stockholders will have**, if the stockholders will have
 28 preemptive rights[, *a statement of such rights*].

29 (3) In addition **to the requirements set forth in subsection (2) of this section**, the articles
 30 of incorporation:

31 (a) Must prescribe the classes of shares and the number of shares of each class that the insti-
 32 tution or Oregon stock savings bank [*is authorized to*] **may issue**. If **the institution or Oregon**
 33 **stock savings bank may issue** more than one class of shares [*is authorized*], the articles of incor-
 34 poration must prescribe a distinguishing designation for each class, and [*prior to*] **before the insti-**
 35 **tution or Oregon stock savings bank issues** [*the issuance of*] shares of a class, the **articles of**
 36 **incorporation must describe the** preferences, limitations and relative rights of [*that*] **the** class
 37 [*must be described in the articles of incorporation*]. All shares of a class must have preferences, lim-
 38 itations and relative rights identical to those of other shares of the same class except to the extent
 39 otherwise permitted by ORS 707.262.

40 (b) Must authorize one or more classes of shares that together have unlimited voting rights, and
 41 one or more classes of shares, which may be the same class or classes as those with voting rights,
 42 that together are entitled to receive the net assets of the institution or Oregon stock savings bank
 43 upon dissolution.

44 (c) May authorize one or more classes of shares that:

45 (A) Have special, conditional or limited voting rights, or no voting rights, except to the extent

1 prohibited by this chapter;

2 (B) Are redeemable or convertible as specified in the articles of incorporation:

3 (i) At the option of the institution or Oregon stock savings bank, the shareholder or another
4 person or upon the occurrence of a designated event;

5 (ii) For cash, indebtedness, securities or other property; or

6 (iii) In a designated amount or in an amount determined in accordance with a designated for-
7 mula or by reference to extrinsic data or events;

8 (C) Entitle the holders to distributions calculated in any manner, including dividends that may
9 be cumulative, noncumulative or partially cumulative; or

10 (D) Have preference over any other class of shares with respect to distributions, including div-
11 idends and distributions upon the dissolution of the institution or Oregon stock savings bank.

12 (4) The description of the designations, preferences, limitations and relative rights of share
13 classes in subsection (3)(c) of this section is not exhaustive.

14 (5) The articles of incorporation also may contain any lawful provisions **that**:

15 (a) *[Regulating]* **Regulate** the business or conduct of affairs of the institution or Oregon stock
16 savings bank;

17 (b) *[Defining, limiting and regulating]* **Define, limit and regulate** the powers of the directors;
18 or

19 (c) *[Eliminating or limiting]* **Eliminate or limit** the personal liability of a director to the insti-
20 tution or Oregon stock savings bank or *[its]* **the shareholders of the institution or Oregon stock**
21 **savings bank** for monetary damages for conduct as a director, *[provided]* **except** that *[no such]* **the**
22 provisions *[shall]* **may not** eliminate or limit the liability of a director for any act or omission *[oc-*
23 *curring prior to]* **that occurs before** the date *[when such]* **on which the** provision becomes effective,
24 and *[such]* **except that the** provision *[shall]* **may not** eliminate or limit the liability of a director for:

25 (A) Any breach of the director's duty of loyalty to the institution or Oregon stock savings bank
26 or *[its]* **the shareholders of the institution or Oregon stock savings bank**;

27 (B) Acts or omissions **that are** not in good faith or *[which]* **that** involve intentional misconduct
28 or a knowing violation of law;

29 (C) Any unlawful distribution under the Bank Act; or

30 (D) Any transaction from which the director derived an improper personal benefit.

31 **SECTION 19.** ORS 707.184 is amended to read:

32 707.184. (1) An institution or Oregon stock savings bank may change *[its]* **the institution's or**
33 **Oregon stock savings bank's** registered office or registered agent by delivering to the Director
34 of the Department of Consumer and Business Services for filing a statement of change that sets
35 forth:

36 (a) The name of the institution or Oregon stock savings bank;

37 (b) *[If the registered office is to be changed,]* The address, including street and number, of *[the]*
38 **a new registered office, if the institution or Oregon stock savings bank changes the registered**
39 **office**;

40 (c) *[If the registered agent is to be changed,]* The name of *[the]* **a new registered agent** *[and that*
41 *the new agent has consented to the appointment]* **and a statement that attests that the new reg-**
42 **istered agent has consented to the appointment, if the institution or Oregon stock savings**
43 **bank changes the registered agent**; and

44 (d) **A statement that attests** that after the change or changes are made, the street addresses
45 of *[its]* **the institution's or Oregon stock savings bank's** registered office and the business office

1 of *[its]* **the institution's or Oregon stock savings bank's** registered agent will be identical.

2 (2) If a registered agent changes the street address of the **registered** agent's business office, the
3 registered agent shall change the street address of the registered office of the institution or Oregon
4 stock savings bank for which the agent is the registered agent by notifying **the chief executive**
5 **officer of** the institution or Oregon stock savings bank **of the change** in writing *[of the change and*
6 *signing, either manually or in facsimile, and]*, **either electronically or by certified mail, and**
7 **electronically** delivering to the director a **signed** statement that complies with the requirements
8 of subsection (1) of this section and recites that **the registered agent has notified** the institution
9 or Oregon stock savings bank *[has been notified]* of the change.

10 (3) The **director's** filing *[of]* the statement *[by the director]* terminates the existing registered
11 office or **registered** agent, or both, on the effective date of the filing and establishes the newly ap-
12 pointed registered office or **registered** agent, or both, as *[that]* **the registered office or registered**
13 **agent** of the institution or Oregon stock savings bank.

14 **SECTION 20.** ORS 707.195 is amended to read:

15 707.195. *[At or after the time the articles of incorporation are submitted for filing, the]* **An**
16 **institution's or Oregon stock savings bank's** incorporators shall submit *[the]* **to the Director**
17 **of the Department of Consumer and Business Services** proposed offering documents for *[the sale*
18 *of the banking]* **selling the** institution's or Oregon stock savings bank's stock *[to the Director of*
19 *the Department of Consumer and Business Services]* for **the director's** review. *[No]* Subscriptions for
20 stock in the institution or Oregon stock savings bank may **not** be accepted *[prior to]* **before** the date
21 on which the director approves the offering documents.

22 **SECTION 21.** ORS 707.200 is amended to read:

23 707.200. **Before a charter for a newly organized institution or Oregon stock savings bank**
24 **is issued**, the subscribers to the stock of *[a newly organized]* **the** institution or Oregon stock savings
25 bank shall pay in *[, prior to the time a charter is issued,]* **the full amount of the subscribers' stock**
26 **subscriptions, which must total an aggregate amount that is not less than the initial paid-in**
27 **capital that the Director of the Department of Consumer and Business Services approved.**
28 **The subscribers shall pay the amount** directly to the institution or Oregon stock savings bank
29 or by deposit with an escrow agent **that is** acceptable to the director *[of the Department of Con-*
30 *sumer and Business Services to be released]* **for release** upon the issuance of a charter*[, the full*
31 *amount of their stock subscriptions, which shall total an aggregate amount not less than the initial*
32 *paid-in capital approved by the director]*. The *[payment must be]* **subscribers shall pay** in cash or by
33 exchange of real property and improvements *[thereon]* **on real property.** The **director must ap-**
34 **prove the** real property and improvements *[are subject to approval by the director]* as provided in
35 ORS 707.050*[.], but in the absence of fraud in the transaction, the judgment of the board of*
36 **directors as to the adequacy of the real property and improvements as consideration for the**
37 **stock being purchased is conclusive. An institution or Oregon stock savings bank may not**
38 **issue any share of stock until the charter for the institution or Oregon stock savings bank**
39 **has been issued.**

40 **SECTION 22.** ORS 707.210 is amended to read:

41 707.210. *[(1) An institution or Oregon stock savings bank shall not issue any share of stock until*
42 *its charter has been issued and ORS 707.200 has been complied with.]*

43 *[(2)]* (1) Except as provided in subsection *[(3)]* (2) of this section, *[each]* a certificate
44 *[representing]* **that represents** shares of the stock of an institution or Oregon stock savings bank
45 *[shall]* **must:**

1 (a) Be signed by two officers of the institution or Oregon stock savings bank designated in the
 2 bylaws, and may be sealed with the seal of the institution or Oregon stock savings bank or a fac-
 3 simile *[thereof]* **of the seal**. The signatures of the officers upon a certificate may be facsimiles if the
 4 certificate is manually signed on behalf of a transfer agent or registrar other than the institution
 5 or Oregon stock savings bank *[itself]* or an employee of the institution or Oregon stock savings bank.
 6 *[In the case of any person who, as]* **If** an officer¹, **that** has signed or whose facsimile signature has
 7 been placed upon *[such]* **the** certificate *[and has ceased being such]* **is no longer an** officer before
 8 *[such]* **the** certificate is issued, the **institution or Oregon stock savings bank may issue the**
 9 certificate *[may be issued by the institution or Oregon stock savings bank]* with the same effect as if
 10 the *[person were such]* **former officer were an** officer at the date *[of its issue]* **on which the in-**
 11 **stitution or Oregon stock savings bank issued the certificate.**

12 (b) *[If the institution or Oregon stock savings bank is authorized to issue shares of more than one*
 13 *class,]* State upon the face or back of the certificate², *or state that the institution or Oregon stock*
 14 *savings bank will furnish to any shareholder upon request and without charge, a full statement of]* the
 15 designations, preferences, limitations and relative rights of the shares of each class authorized to
 16 be issued³, *and, if the institution or Oregon stock savings bank is authorized to issue any class in se-*
 17 *ries],* **if the institution or Oregon stock savings bank may issue shares of more than one**
 18 **class, or state that the institution or Oregon stock savings bank will provide any shareholder**
 19 **upon request and without charge a full statement of the designations, preferences, limita-**
 20 **tions and relative rights of each class of shares.**

21 (c) State the variations in the relative rights and preferences between the shares of each
 22 *[such]* series so far as the *[same have been fixed and determined]* **board of directors has fixed and**
 23 **determined the rights and preferences in a series, if the institution or Oregon stock savings**
 24 **bank may issue a class in series, and state** the authority of the board of directors to fix and de-
 25 termine the relative rights and preferences of subsequent series.

26 *[(c)]* (d) State that the institution or Oregon stock savings bank is organized under the laws of
 27 this state.

28 *[(d)]* (e) State the name of the person to whom **the institution or Oregon stock savings bank**
 29 issued **the certificate.**

30 *[(e)]* (f) State the number and class of shares, and the designation of the series, if any, *[which*
 31 *such]* **that the** certificate represents.

32 *[(3)]* (2) In lieu of issuing certificates *[representing]* **that represent** shares *[under]* **in accord-**
 33 **ance with** subsection *[(2)]* (1) of this section, the board of directors of an institution or Oregon stock
 34 savings bank may authorize the institution or Oregon stock savings bank to issue some or all of the
 35 shares of any or all *[of its]* classes or series without certificates. The authorization *[shall]* **does** not
 36 affect shares already represented by certificates until the shares are surrendered to the institution
 37 or Oregon stock savings bank. Within a reasonable time after the issuance or transfer of shares
 38 without certificates, the institution or Oregon stock savings bank shall send the shareholder a
 39 written statement of the information required on certificates under subsection *[(2)]* (1) of this sec-
 40 tion.

41 *[(4)]* (3) *[No]* **A** share *[shall]* **may not** be issued until *[such]* **the** share is fully paid.

42 *[(5)]* (4) At the request of any holder of two or more certificates of the stock of any institution
 43 or Oregon stock savings bank organized under the laws of this state, *[such]* **the** institution or
 44 Oregon stock savings bank shall, upon the surrender of the certificates, issue to the holder of
 45 *[such]* **the** stock one certificate, or a statement pursuant to subsection *[(3)]* (2) of this section, for

1 all shares of stock of any one class in *[such]* **the** institution or Oregon stock savings bank *[owned*
 2 *by]* **that** the stockholder **owns** if the number of *[such]* shares *[owned by]* **that** the stockholder **owns**
 3 in the particular class equals or exceeds 100.

4 **SECTION 23.** ORS 707.254 is amended to read:

5 707.254. (1) **Except as provided in subsection (2) of this section,** *[upon approval and filing*
 6 *of the amendment by]* **after** the Director of the Department of Consumer and Business Services **ap-**
 7 **proves and files an amendment to the articles of incorporation,** the amendment *[shall become]*
 8 **is** effective and the articles of incorporation *[shall be deemed to be]* **are** amended accordingly.

9 **(2) If an amendment to the articles of incorporation specifies a delayed effective date, the**
 10 **amendment is effective on the date specified. A delayed effective date for an amendment may**
 11 **not be later than the 90th day after the date on which the director approves and files the**
 12 **amendment.**

13 *[(2)]* **(3) [No] An** amendment *[shall]* **does not** affect any existing cause of action in favor of or
 14 against *[such]* a banking institution, any pending suit to which such banking institution *[shall be]*
 15 **is** a party or the existing rights of persons other than shareholders. *[In the event]* **An amendment**
 16 **that changes** the corporate name *[shall be changed by amendment, no suit]* **does not abate an**
 17 **action** brought by or against *[such]* **the** banking institution under *[its]* **the** former name *[shall abate*
 18 *for that reason].*

19 **SECTION 24.** ORS 707.256 is amended to read:

20 707.256. (1) An institution or Oregon stock savings bank may~~, by action taken in the same man-~~
 21 ~~ner as required for amendment of articles of incorporation,~~ adopt restated articles of incorporation
 22 **that become effective after approval and filing by the Director of the Department of Con-**
 23 **sumer and Business Services.** The restated articles of incorporation may *[contain]* **make** any
 24 changes in the articles of incorporation that *[could be made by]* **the institution or Oregon stock**
 25 **savings bank could make by regularly adopting an** amendment *[regularly adopted. Adoption of].*
 26 **Adopting** restated articles of incorporation *[containing any such changes shall have the effect of*
 27 *amending]* **amends** the existing articles of incorporation to conform to the restated articles of in-
 28 corporation, without further action of the board of directors or shareholders. Restated articles of
 29 incorporation *[shall contain a statement that they]* **must state that the restated articles of incor-**
 30 **poration** supersede the previously existing articles of incorporation and amendments *[thereto]* **to the**
 31 **previously existing articles of incorporation.** Restated articles of incorporation *[shall contain]*
 32 **must have** all the statements *[required by]* **that, under** ORS 707.110 *[to be included], must be* in
 33 the original articles of incorporation, except *[that no]* a statement *[need be made with respect to]*
 34 **that lists** the initial principal place of business, *[or]* the number or names of directors
 35 *[constituting]* **that constitute** the initial board of directors or the names of the incorporators.

36 **(2) Except as provided in subsection (3) of this section,** restated articles of incorporation
 37 *[when executed and submitted for filing with the Director of the Department of Consumer and Business*
 38 *Services shall]* **that the director has approved and filed** supersede the previously existing articles
 39 of incorporation and amendments *[thereto]* **to the previously existing articles of incorporation.**
 40 The director shall, upon request, certify a copy of the articles of incorporation, the articles of in-
 41 corporation as restated or any amendments to either *[thereof]* **the articles of incorporation or the**
 42 **restated articles of incorporation.**

43 **(3) If the restated articles of incorporation specify a delayed effective date, the restated**
 44 **articles of incorporation are effective on the date specified. A delayed effective date for re-**
 45 **stated articles of incorporation may not be later than the 90th day after the date on which**

1 **the institution or Oregon stock savings bank executes and submits the restated articles of**
 2 **incorporation for filing.**

3 [(3)] (4) *[The]* **An institution or Oregon stock savings bank that submits** restated articles
 4 of incorporation[, *when submitted*] for filing[,] shall **include** [*be accompanied by*] a statement[, *exe-*
 5 *cuted in duplicate by the institution or Oregon stock savings bank by its*] **that the** president or a vice
 6 president and [*by its*] **a** cashier, [*its*] secretary or [*an*] assistant secretary[, *setting*] **execute in du-**
 7 **plicate and that sets** forth [*the following*]:

8 (a) The name of the institution or Oregon stock savings bank[.];

9 (b) The date [*of the adoption of*] **on which the shareholders adopted** the restated articles of
 10 incorporation [*by the shareholders*.];

11 (c) The number of shares outstanding and the number of shares entitled to vote [*thereon*] **for**
 12 **or against the restated articles of incorporation**, and, if the shares of any class are entitled to
 13 vote [*thereon*] as a class, the designation and number of outstanding shares [*entitled to vote thereon*]
 14 of each [*such*] class **that are entitled to vote for or against the restated articles of incorpo-**
 15 **ration.**

16 (d) The number of shares voted for and against the restated articles of incorporation, respec-
 17 tively, and, if the shares of any class are entitled to vote [*thereon*] as a class, the number of shares
 18 of each such class voted for and against the restated articles of incorporation, respectively.

19 (e) **The manner in which the institution or Oregon stock savings bank will exchange, re-**
 20 **classify or cancel issued shares**, if the restated articles of incorporation provide for an exchange,
 21 reclassification or cancellation of issued shares[, *and if*] **but do not set forth** the manner [*in which*
 22 *the same shall be effected is not set forth in the restated articles of incorporation, a statement of the*
 23 *manner in which the same shall be effected*] **for exchanging, reclassifying or canceling the issued**
 24 **shares.**

25 **SECTION 25.** ORS 707.350 is amended to read:

26 707.350. (1) An institution or Oregon stock savings bank may not issue any certificate of stock
 27 until **the institution or Oregon stock savings bank receives** full payment for the stock. [*has been*
 28 *received. Stock sold after initial organization of the institution or Oregon stock savings bank to*] A
 29 person other than a director, officer or employee of the institution or Oregon stock savings bank
 30 [*shall be paid in the same manner as required in the organization of an institution or Oregon stock*
 31 *savings bank under ORS 707.200*] **that purchases stock after the initial organization of the in-**
 32 **stitution or Oregon stock savings bank must pay for the purchase in cash or by exchanging**
 33 **real property or improvements on real property. The Director of the Department of Con-**
 34 **sumer and Business Services must approve the real property and improvements the person**
 35 **uses for payment as meeting all applicable requirements of law and all other conditions and**
 36 **standards that the director adopts by rule, including but not limited to a proper appraisal**
 37 **by a qualified appraiser.** Stock [*issued after the initial organization of*] **that** the institution or
 38 Oregon stock savings bank **issues after initial organization** to a director, officer or employee of
 39 the institution or Oregon stock savings bank may be issued for consideration [*consisting*] **that**
 40 **consists** of cash, real property and improvements to real property, tangible personal property, other
 41 securities of the institution or Oregon stock savings bank or, subject to subsection (2) of this sec-
 42 tion, services **the director, officer or employee** performed or [*services to be performed*] **will per-**
 43 **form** under contract. In the absence of fraud, the judgment of the board of directors of the
 44 institution or Oregon stock savings bank as to the [*sufficiency*] **adequacy** of the consideration **re-**
 45 **ceived** for the stock issued under this section is [*conclusively presumed to be valid*] **conclusive and**

1 **upon issuance in payment of such consideration shall be fully paid.**

2 (2) **An institution or Oregon stock savings bank may not issue** stock [*may not be issued to*
3 *directors, officers or employees*] **to a director, officer or employee** of [*an*] **the** institution or Oregon
4 stock savings bank in consideration of services **the director, officer or employee** performed or
5 [*services to be performed*] **will perform** under contract unless the plan to issue the stock is approved
6 as follows:

7 (a) [*The Director of the Department of Consumer and Business Services approves the plan.*] **The**
8 **institution or Oregon stock savings bank shall submit the plan to the Director of the De-**
9 **partment of Consumer and Business Services for approval.** For purposes of this subsection, the
10 director approves the plan if the director either approves the plan in writing or does not disapprove
11 the plan in a writing [*delivered*] **the director delivers** to the institution or Oregon stock savings
12 bank within 30 days after the director receives [*notice and*] a copy of the plan.

13 (b) The holders of at least two-thirds of the outstanding shares of the institution or Oregon stock
14 savings bank entitled to vote on the plan approve the plan in a vote [*taken*] at the annual
15 shareholders' meeting or a special shareholders' meeting. Written or printed notice of the plan must
16 be delivered personally or by mail to each shareholder entitled to vote at the meeting. The notice
17 must be delivered or mailed not less than 10 days and not more than 60 days before the date of the
18 meeting during which the vote will be taken. The notice must describe the plan in reasonable detail,
19 state that the **shareholder must approve the** plan [*must be approved*] in accordance with this
20 subsection and state that issuing shares under the plan will dilute the interests of existing share-
21 holders in the institution or Oregon stock savings bank.

22 (3) Notwithstanding subsections (1) and (2) of this section, an institution or Oregon stock savings
23 bank [*shall have the power to*] **may** create and issue the number of shares of stock stated in [*its*] **the**
24 articles of incorporation or [*the*] amendments [*thereto*] **to the articles of incorporation.**

25 **SECTION 26.** ORS 707.415 is amended to read:

26 707.415. Within 10 days after [*the declaration of any*] **declaring a** dividend, an institution or
27 Oregon stock savings bank shall forward to the Director of the Department of Consumer and Busi-
28 ness Services a report of the dividend declared. [*This report shall also be included in the report re-*
29 *quired in ORS 706.660.*]

30 **SECTION 27.** ORS 707.610 is amended to read:

31 707.610. (1) A stockholders' meeting [*for the election of*] **to elect** a board of directors and
32 [*transaction of*] **transact** other business [*shall*] **must** be held in this state within 120 days after the
33 close of the fiscal year of the institution or Oregon stock savings bank. If [*an institution or Oregon*
34 *stock savings bank was issued one or more orders by*] the Director of the Department of Consumer
35 and Business Services **issued an order to the institution or Oregon stock savings bank** under
36 ORS 706.580 within the fiscal year immediately preceding the date of the stockholders' meeting, the
37 institution or Oregon stock savings bank shall include in every notice required for the stockholders'
38 meeting under ORS 707.611:

39 (a) A copy of ORS 706.580; [*and*]

40 (b) A statement that the institution or Oregon stock savings bank received [*such*] an order or
41 orders **from the director; and**

42 (c) **A reasonably detailed description of the order or orders.**

43 (2) [*A special meeting of stockholders may be called at any time by*] The chief executive officer,
44 a majority of the board of directors, any other person or group authorized by the articles of incor-
45 poration or bylaws of the institution or Oregon stock savings bank to call [*such*] meetings, or not

1 fewer than three stockholders holding in the aggregate not less than one-third of the outstanding
 2 voting stock of the institution or Oregon stock savings bank **may call a special meeting of**
 3 **stockholders**. The articles of incorporation or bylaws of the institution or Oregon stock savings
 4 bank may reserve to an officer or the board of directors the authority to designate the time and
 5 place of [*such a*] **the meeting**[. *However,*], **except that** the [*meetings shall be held in the State of*
 6 *Oregon*] **institution or Oregon stock savings bank must hold the meeting in this state**. Unless
 7 the Director **of the Department of Consumer and Business Services** consents to a later meeting
 8 date, the [*meetings shall be held*] **institution or Oregon stock savings bank shall hold a meeting**
 9 **not less than 10 days and** not later than [45] **60 days after issuing** the call for the meeting [*is is-*
 10 *sued*].

11 **SECTION 28.** ORS 707.612 is amended to read:

12 707.612. Any action required by this chapter to be taken at a meeting of the shareholders or
 13 directors of an institution or Oregon stock savings bank or any other action [*which*] **that** may be
 14 taken at a meeting of the shareholders[,] **or** directors or of a committee may be taken without a
 15 meeting if [*a consent in writing setting forth the action so taken is signed by*] all of the shareholders
 16 or directors or all of the members of the committee entitled to vote with respect to the subject
 17 matter [*thereof*] **of the meeting sign a consent in writing that sets forth the action to be**
 18 **taken**. The consent [*shall*] **must** be delivered to the institution or Oregon stock savings bank for
 19 inclusion in the minutes or for filing with the corporate records. The action [*shall be*] **is** effective
 20 on the date on which the last signature is placed on the consent or consents or at such earlier **or**
 21 **later** time as is set forth [*therein*] **in the consent**. [*Such consent or consents shall have*] **A consent**
 22 **has** the same force and effect as a unanimous vote of [*such*] **the** shareholders, directors or commit-
 23 tee members and [*may be stated as such in*] any articles or document filed under this chapter **may**
 24 **state that the consent has the force and effect of a unanimous vote**. If not otherwise deter-
 25 mined in accordance with ORS 707.615, the record date for determining shareholders entitled to take
 26 action by consent without a meeting is the date the first shareholder signs the consent.

27 **SECTION 29.** ORS 707.620 is amended to read:

28 707.620. [*If*] The Director of the Department of Consumer and Business Services [*considers it*
 29 *expedient the director*] may call a meeting of the stockholders of any institution or Oregon stock
 30 savings bank by giving, **or directing the institution or Oregon stock savings bank to give, not**
 31 **less than** 15 days' notice of the meeting to the stockholders in the manner prescribed in ORS
 32 707.611. **The institution or Oregon stock savings bank shall pay** all necessary [*expense incurred*
 33 *in the serving of the notice shall be paid by the institution or Oregon stock savings bank*] **expenses**
 34 **incurred in serving the notice**.

35 **SECTION 30.** ORS 707.660 is amended to read:

36 707.660. (1) **A director shall discharge the duties of a director, including the duties as a**
 37 **member of a committee, in good faith, with the care an ordinarily prudent person in a like**
 38 **position would exercise under similar circumstances and in a manner the director reasonably**
 39 **believes is in the best interests of the institution or Oregon stock savings bank**.

40 [(1)] (2) In discharging the duties of a director, a director [*is entitled to*] **may** rely on informa-
 41 tion, opinions, reports or statements, including financial statements and other financial data, [*if*]
 42 **that are** prepared or presented by:

43 (a) One or more officers or employees of the [*banking*] **institution or Oregon stock savings**
 44 **bank** whom the director reasonably believes [*to be*] **are** reliable and competent in the matters pre-
 45 sented;

1 (b) Legal counsel, public accountants or other persons as to matters the director reasonably
2 believes are within the person's professional or expert competence; or

3 (c) A committee of the board of directors of which the director is not a member, if the director
4 reasonably believes the committee merits confidence.

5 [(2)] (3) A director is not acting in good faith if the director has knowledge concerning a matter
6 in question that makes reliance otherwise permitted by subsection [(1)] (2) of this section unwar-
7 ranted.

8 [(3)] (4) When evaluating any offer of another party to make a tender or exchange offer for any
9 equity security of the [banking] institution **or Oregon stock savings bank**, or any proposal to
10 merge the [banking] institution **or Oregon stock savings bank** with another [banking] institution
11 **or Oregon stock savings bank** or to purchase or otherwise acquire all or substantially all the
12 properties and assets of the [banking] institution **or Oregon stock savings bank**, the directors of
13 [a banking institution] **an institution or Oregon stock savings bank** may, in determining what the
14 directors believe [to be] **is** in the best interests of the [banking] institution **or Oregon stock savings**
15 **bank**, give due consideration to the social, legal and economic effects on employees, customers and
16 suppliers of the [banking] institution **or Oregon stock savings bank** and on the communities and
17 geographical areas in which the [banking] institution **or Oregon stock savings bank** and [its] **the**
18 subsidiaries **of the institution or Oregon stock savings bank** operate, the economy of the state
19 and nation, the long term as well as short term interests of the [banking] institution **or Oregon**
20 **stock savings bank** and [its] **the** stockholders **of the institution or Oregon stock savings bank**,
21 including the possibility that these interests may be best served by the continued independence of
22 the [banking] institution **or Oregon stock savings bank**, and other relevant factors.

23 **SECTION 31.** ORS 707.665 is amended to read:

24 707.665. (1) **An officer with discretionary authority shall discharge the duties of an officer**
25 **under that authority:**

26 (a) **In good faith;**

27 (b) **With the care an ordinarily prudent person in a like position would exercise under**
28 **similar circumstances; and**

29 (c) **In a manner the officer reasonably believes is in the best interests of the institution**
30 **or Oregon stock savings bank.**

31 [(1)] (2) In discharging the duties of an officer, an officer [is entitled to] **may** rely on information,
32 opinions, reports or statements, including financial statements and other financial data, [if] **that are**
33 prepared or presented by:

34 (a) One or more officers or employees of the [banking] institution **or Oregon stock savings**
35 **bank** whom the officer reasonably believes [to be] **are** reliable and competent in the matters pre-
36 sented; or

37 (b) Legal counsel, public accountants or other persons as to matters the officer reasonably be-
38 lieves are within the person's professional or expert competence.

39 [(2)] (3) An officer is not acting in good faith if the officer has knowledge concerning the matter
40 in question that makes reliance otherwise permitted by subsection [(1)] (2) of this section unwar-
41 ranted.

42 **SECTION 32.** ORS 707.690 is amended to read:

43 707.690. Subject to ORS 707.705, any vacancy in the board of directors may be filled by the
44 [board] **remaining directors** for the unexpired term at a regular meeting after the vacancy occurs
45 or as otherwise provided in the bylaws of the [banking] institution **or Oregon stock savings**

1 **bank.**

2 **SECTION 33.** ORS 707.740 is amended to read:

3 707.740. The board of directors of a banking institution shall annually appoint an examining or
 4 audit committee **composed solely** of not fewer than three **outside** directors of the banking institu-
 5 tion [*who are not active officers of the banking institution*] or not fewer than three other [*persons who*
 6 *are approved by*] **individuals who** the Director of the Department of Consumer and Business Ser-
 7 vices **approves**. The examining or audit committee shall examine and study the report of each ex-
 8 amination that bank supervising authorities make and report to the board of directors within 60
 9 days after receiving the report concerning the criticisms and suggestions contained in the report
 10 [*and*]. **The examining or audit committee shall also** comment on any matter relative to the affairs
 11 of the banking institution that in the [*audit*] committee's judgment [*should be known to the*
 12 *directors*] **the directors should know**. The report must be recorded in the minute book of the
 13 banking institution, and a copy **must be** transmitted to the Director **of the Department of Con-**
 14 **sumer and Business Services** upon the director's request.

15 **SECTION 34.** ORS 708A.010 is amended to read:

16 708A.010. (1) Notwithstanding any provision of the Bank Act to the contrary, Oregon commer-
 17 cial banks [*are authorized to*] **may**:

18 (a) Engage as principal **or agent** in [*those*] activities in which national banks may engage as
 19 principal **or agent** and acquire and retain [*those*] investments that national banks may acquire and
 20 retain, subject to conditions and restrictions that apply to national banks; and

21 (b) Engage as principal **or agent** in [*those*] activities and acquire and retain [*those*] investments
 22 that are permissible for state chartered banks under 12 C.F.R. 362.3(b) and 12 C.F.R. 362.4(c), sub-
 23 ject to conditions and restrictions provided in 12 U.S.C. 1831a, 12 C.F.R. 362, and other applicable
 24 federal law.

25 (2) Notwithstanding any provision of the Bank Act to the contrary, subsidiaries of Oregon
 26 commercial banks [*are authorized to*] **may**:

27 (a) Engage as principal **or agent** in [*those*] activities in which subsidiaries of national banks
 28 may engage as principal **or agent** and acquire and retain [*those*] investments that subsidiaries of
 29 national banks may acquire and retain, subject to conditions and restrictions that apply to subsid-
 30 iaries of national banks; and

31 (b) Engage as principal **or agent** in [*those*] activities and acquire and retain [*those*] investments
 32 that are permissible for subsidiaries of state chartered bank subsidiaries under 12 C.F.R. 362.3(b)
 33 and 12 C.F.R. 362.4(c), subject to conditions and restrictions provided in 12 U.S.C. 1831a, 12 C.F.R.
 34 362, and other applicable federal law.

35 (3) Activities and investments [*referred to*] **described** in subsections (1) and (2) of this section
 36 that require notice to or approval of the Comptroller of the Currency [*shall not require such notice*
 37 *or approval but shall require*] **do not require Oregon commercial banks or subsidiaries of**
 38 **Oregon commercial banks to give notice to or obtain approval from the Comptroller of the**
 39 **Currency, but Oregon commercial banks or subsidiaries of Oregon commercial banks shall**
 40 **give** notice to or **obtain** approval [*of*] **from** the Director of the Department of Consumer and Busi-
 41 ness Services. For purposes of this section, references in federal statutes, regulations and other
 42 authorities that prescribe the permissible activities and investments of national banks and subsid-
 43 iaries of national banks [*shall be deemed*] **refer** whenever practicable [*to refer*] to comparable pro-
 44 visions of Oregon law. The director may approve an activity or investment that requires [*director*]
 45 **the director's** approval, subject to such conditions as the director deems appropriate.

1 (4) The purpose of this section is to grant Oregon commercial banks and *[their]* subsidiaries of
 2 **Oregon commercial banks** all investment and activity power and authority, as principal or
 3 **agent**, permitted state chartered banks under federal law.

4 **SECTION 35.** ORS 708A.125 is amended to read:

5 708A.125. (1) *[Upon the written application of the board of directors filed with the Director of the*
 6 *Department of Consumer and Business Services and subject to the written approval of the director and*
 7 *any limitations the director may prescribe,]* An institution may carry fully paid and nonassessable
 8 capital stock of **or membership interest in** any other corporation **or limited liability company**
 9 as an asset, if:

10 (a) **The institution's board of directors applies in writing to the Director of the Depart-**
 11 **ment of Consumer and Business Services;**

12 (b) **The director approves the application in writing;**

13 (c) **The institution obeys any limitations the director specifies in the director's approval;**
 14 **and**

15 (d) **The institution acquires** the stock **or membership interest** *[is acquired]* for the purpose
 16 of strengthening the institution's capital structure or *[the elimination of]* **eliminating** undesirable
 17 assets.

18 (2) The **institution may hold the** stock **or membership interest** *[may be held for such*
 19 *period]* **as long** as the director may determine, but in no event longer than 15 years.

20 (3) This section *[is not applicable]* **does not apply** to any stock **or membership interest** that
 21 *[may be acquired]* **an institution may acquire** in connection with *[the insurance of]* **insuring** de-
 22 posits, *[any stock that may be acquired]* under ORS 708A.120, or *[any stock that may be purchased]*
 23 **in a purchase** as a part of any transaction in which an institution borrows from the United States
 24 or an agency of the United States. This section does not repeal or in any way limit or modify ORS
 25 711.470.

26 **SECTION 36.** ORS 708A.145 is amended to read:

27 708A.145. (1) A bank service corporation may perform any of the following services for financial
 28 institutions:

29 (a) Check and deposit sorting and posting;

30 (b) *[Computation]* **Computing** and posting *[of]* interest and other credits and charges;

31 (c) *[Preparation]* **Preparing** and mailing *[of]* checks, statements, notices and similar items; or

32 (d) Any other clerical, bookkeeping, accounting, statistical or similar functions *[performed for a*
 33 *financial institution].*

34 (2) In addition to the services that *[may be performed by]* a bank service corporation **may per-**
 35 **form** for financial institutions under subsection (1) of this section, a bank service corporation:

36 (a) May perform for any person any service that *[may lawfully be performed by all]* **any** share-
 37 holders of the bank service corporation **or any holding company or subsidiary of the shareholder**
 38 **may lawfully perform**, *[or by any holding company or subsidiary of any such shareholder,]* except
 39 that a bank service corporation *[shall]* **may not** *[take deposits]* **engage in the business of**
 40 **banking.**

41 (b) *[With respect to the sale of insurance, shall be]* **Is** subject to the limitations **with respect to**
 42 **selling insurance that apply** *[applicable]* to depository institutions under ORS 746.213 to 746.219.
 43 For the purpose of this paragraph, "depository institution" has the meaning given that term in ORS
 44 746.213.

45 (3) A banking institution may not cause to be performed, by contract or otherwise, any of the

1 services described in subsection (1) of this section for *[itself]* **the banking institution**, whether on
 2 or off *[its]* **the banking institution's** premises, unless *[assurances satisfactory to the Director of the*
 3 *Department of Consumer and Business Services are furnished to the director by]* both the banking
 4 institution and the person *[performing]* **that performs** the services **give a satisfactory assurance**
 5 **to the Director of the Department of Consumer and Business Services** that the **director may**
 6 **regulate and examine the** performance of the services *[will be subject to regulation and examination*
 7 *by the director]* to the same extent as if the **banking institution performed the** services *[were*
 8 *performed by the banking institution itself on its]* **on the banking institution's** own premises.

9 (4) The director may regulate and examine the performance of the services described in sub-
 10 section (1) of this section for financial institutions, and may regulate and examine **a bank service**
 11 **corporation's performance** *[the performance by bank service corporations]* of the services described
 12 in subsection (2) of this section.

13 **SECTION 37.** ORS 708A.155 is amended to read:

14 708A.155. (1) *[Upon the approval of]* **If** the Director of the Department of Consumer and Business
 15 Services **approves**, and subject to rules *[promulgated by the director pursuant to]* **the director**
 16 **adopts in accordance with** ORS 183.310, 183.315, 183.330, 183.335 and 183.341 to 183.410, an insti-
 17 tution may invest *[an amount not exceeding in the aggregate 10 percent of its stockholders' equity]*
 18 **not more than 10 percent, in the aggregate, of the stockholders' equity in the institution** in
 19 the stock of banks or corporations **that are** chartered or incorporated under the laws of the United
 20 States or *[of any other]* **another** state. *[Such]* **The** banks or corporations *[shall]* **in which the in-**
 21 **stitution may invest under this section must** be principally engaged in international or foreign
 22 banking, or banking in a dependency or insular possession of the United States, either directly or
 23 through the agency, ownership or control of local institutions in foreign countries, or in such de-
 24 pendencies or insular possessions, including the stock of one or more banks or corporations char-
 25 tered or incorporated under section 25(a) of the Federal Reserve Act, as approved December 24,
 26 1919.

27 (2) An institution shall *[file with the]* **apply to the** director *[an application]* for permission to
 28 exercise the powers established in subsection (1) of this section. The application shall specify the
 29 name, **the** stockholders' equity *[of]* **in** the institution filing *[it,]* **the application**, the powers
 30 *[applied]* for **which the institution is applying** and the place or places where the banking oper-
 31 ations are to be carried on.

32 (3) The director may approve *[or reject]* the application, in whole or in part, **or may disapprove**
 33 **the application** if *[the]* **the director believes that** granting *[of the application]* **approval** is *[con-*
 34 *sidered]* inexpedient. The director may increase or decrease the number of places where the banking
 35 operations may be carried on.

36 (4) Before an institution may purchase stock in any **bank or** corporation *[mentioned]* **described**
 37 in subsection (1) of this section, the **bank or** corporation shall agree to restrict *[its]* **the bank's or**
 38 **corporation's** operations or conduct *[its]* **the bank's or corporation's** business in the manner and
 39 under the limitations prescribed by the director for the places in which the business is to be con-
 40 ducted.

41 (5) If the director determines that **a bank or corporation is not complying with** the limitations
 42 **the director** prescribed *[are not being complied with]*, the director may investigate the matter. If
 43 the investigation shows that the **bank or** corporation, or the institution holding stock in the **bank**
 44 **or** corporation, has not complied with the limitations, the director may require the institution to
 45 dispose of stock holdings in the **bank or** corporation.

1 (6) An institution [*investing*] **that invests** in the capital stock of banks or corporations[,] as
 2 provided in subsection (1) of this section[,] shall furnish information concerning the condition of the
 3 banks or corporations to the director upon demand[, *and*]. The director may order special exam-
 4 inations of the banks or corporations.

5 **SECTION 38.** ORS 708A.160 is amended to read:

6 708A.160. A banking institution may, subject to the approval of the Director of the Department
 7 of Consumer and Business Services, acquire and continue to hold a membership in or the fully paid
 8 stock of a **limited liability company or corporation that is** created to establish and operate ATM
 9 facilities.

10 **SECTION 39.** ORS 708A.165 is amended to read:

11 708A.165. (1) [*Any*] **An** Oregon commercial bank may subscribe to the capital stock and become
 12 a member of a Federal Reserve Bank.

13 (2) An Oregon commercial bank that is a member of a Federal Reserve Bank is subject to
 14 supervision and examination [*required by*] **under** the laws of this state. The Federal Reserve Board
 15 may also examine [*such*] **the** Oregon commercial [*banks*] **bank**. The authorities of this state
 16 [*having*] **that have** supervisory authority over an Oregon commercial bank may disclose to the
 17 Federal Reserve Board, or to examiners [*appointed by it*] **that the Federal Reserve Board**
 18 **appoints**, all information [*in reference to*] **the authorities of this state have about** the affairs of
 19 any Oregon commercial bank that has become, or desires to become, a member of a Federal Reserve
 20 Bank.

21 (3) An Oregon commercial bank that is a member bank and [*its*] **the** directors, principal officers
 22 and stockholders **of the Oregon commercial bank** are subject to all liabilities and duties [*imposed*
 23 *upon them by*] **that** the laws of this state **impose upon directors, officers and stockholders of**
 24 **Oregon commercial banks.**

25 **SECTION 40.** ORS 708A.180 is amended to read:

26 708A.180. An Oregon commercial bank may acquire and lease personal property at the request
 27 of a lessee [*who*] **that** wishes to lease [*it*] **the personal property** upon terms [*requiring payment,*
 28 *during the minimum period of the lease, of rents which exceed the total expenditures by the Oregon*
 29 *commercial bank in the acquisition, ownership, financing and protection of the property*] **that require**
 30 **paying rents.** Rents may include residual values, the payment of which [*is guaranteed by*] a re-
 31 sponsible third party **guarantees.**

32 **SECTION 41.** ORS 708A.195 is amended to read:

33 708A.195. (1) An institution shall promptly dispose of real and personal property that the insti-
 34 tution [*is not authorized to*] **may not** own or hold under the Bank Act.

35 (2) **An institution shall sell or exchange** real estate [*acquired by an*] **that the** institution
 36 [*pursuant to*] **acquires in accordance with** ORS 708A.175 (3) and (4) [*shall be sold or exchanged*] for
 37 other real estate within 10 years after title has vested in the real estate, unless the Director of the
 38 Department of Consumer and Business Services extends the time. Title vests for purposes of this
 39 section on the date the institution [*is first entitled to receive*] **receives** a deed to the real estate. An
 40 institution may not exchange real estate for other real estate without the director's prior written
 41 consent. An institution may hold real estate [*taken*] **the institution takes** in exchange for other real
 42 estate for a period of time that the director fixes, not to exceed 10 years from the date of the ex-
 43 change.

44 (3) An institution shall promptly dispose of personal property the institution acquires under ORS
 45 708A.175 (3).

1 **SECTION 42.** ORS 708A.250 is amended to read:

2 708A.250. Except as specifically limited by the Bank Act and other applicable law, *[institutions]*
3 **Oregon commercial banks** have the general power to loan money upon terms and conditions that
4 are consistent with safe and sound banking practices.

5 **SECTION 43.** ORS 708A.255 is amended to read:

6 708A.255. (1) Except as otherwise provided in this section, *[there is no limitation on]* the rate of
7 interest or *[on]* the amount of other charges that *[a financial institution]* **an Oregon commercial**
8 **bank** may contract for and receive for a loan or use of money **is not subject to limitation.**

9 (2) If a **borrower repays before maturity** a loan *[made by a financial institution is repaid before*
10 *maturity, the]* **that an Oregon commercial bank made, the Oregon commercial bank shall re-**
11 **fund or credit to the borrower as provided in this subsection** the unearned portion of the
12 charges, if any*[, shall be refunded or credited to the borrower as provided in this subsection]*. The
13 amount of the refund *[shall]* **may** not be less than the total interest contracted for to maturity, less
14 the greater of:

15 (a) Ten percent of the amount financed, or \$75, whichever is less; or

16 (b) The interest earned to the installment due date nearest the date of prepayment, computed
17 by applying the simple interest rate of the loan to the actual principal balances outstanding, for the
18 periods of time the balances were actually outstanding. For purposes of *[rebate]* computations under
19 this paragraph, the installment due date *[preceding]* **that precedes** the date of prepayment *[shall be*
20 *considered to be]* **is** nearest if prepayment occurs 15 days or less after that installment date. If pre-
21 payment occurs more than 15 days after the preceding installment due date, the next succeeding
22 installment due date *[shall be considered to be]* **is** nearest the date of prepayment. In determining the
23 simple interest rate, *[the lender]* **an Oregon commercial bank** may apply to the scheduled payments
24 the actuarial method, by which each scheduled payment is applied first to accrued and unpaid in-
25 terest and any amount remaining is applied to *[reduction of]* **reduce** the principal balance.

26 (3) Any installment of an installment loan or payment under an open-end credit arrangement
27 that *[is not paid]* **the borrower does not pay** when due *[shall continue]* **continues** to bear interest
28 until paid. In addition, if the **borrower does not pay** the installment or payment *[is not paid]* when
29 due, the installment or payment may bear a late charge in *[such]* **an** amount *[as is agreed to by the*
30 *lender]* **to which the Oregon commercial bank** and the borrower **agree.** *[However,]* Except for
31 loans secured by real property, *[the lender]* **an Oregon commercial bank** may impose a late charge
32 only if:

33 (a) The **Oregon commercial bank does not receive the** installment or payment *[is not received*
34 *by the lender]* within 10 days after the due date or, if the open-end credit arrangement is a credit
35 card account, the **Oregon commercial bank does not receive the** payment *[is not received by the*
36 *lender]* on or before the due date;

37 (b) The loan agreement or open-end credit arrangement provides for a late charge upon delin-
38 quent installments or payments; and

39 (c) **The Oregon commercial bank provides** a monthly billing, coupon or notice *[is provided by*
40 *the lender disclosing]* **that discloses** the date on which installments or payments are due and **states**
41 **that the Oregon commercial bank may impose** *[that]* a late charge *[may be imposed]* if:

42 (A) **The Oregon commercial bank does not receive** payment *[is not received by the lender]*
43 within 10 days *[thereafter]* **after the date on which the installment or payment is due;** or¹,

44 (B) In the case of an open-end credit arrangement that is a credit card account, *[that a late*
45 *charge may be imposed if payment is not received by the lender]* **the Oregon commercial bank does**

1 **not receive payment** on or before the date on which the payment is due. [*However,*] If the
 2 [*lender*] **Oregon commercial bank** and the borrower have provided in the note or other written
 3 loan agreement that the **borrower will make** payments on the loan [*shall be made by the*] **by** means
 4 of automatic deductions from a deposit account [*maintained by*] **that** the borrower **maintains, this**
 5 **paragraph does not require the Oregon commercial bank** [*the lender shall not be required*] to
 6 provide the borrower with a monthly billing, coupon or notice [*under this paragraph with respect*
 7 *to*] **on** any occasion [*on*] **in** which [*there are*] insufficient funds **are** in the borrower's account to
 8 cover the amount of a loan payment on the date the loan payment becomes due and within the pe-
 9 riods described in paragraph (a) of this subsection.

10 **SECTION 44.** ORS 708A.260 is amended to read:

11 708A.260. An [*institution*] **Oregon commercial bank** [*shall*] **may** not accept [*as collateral its own*
 12 *capital stock, except where*] **the Oregon commercial bank's own capital stock as collateral un-**
 13 **less** [*the*] taking [*of such*] **the Oregon commercial bank's own stock as collateral** is necessary to
 14 prevent loss upon an indebtedness previously contracted in good faith. If [*such*] **the** indebtedness is
 15 not paid in full within six months [*from*] **after** the date [*such*] **on which the Oregon commercial**
 16 **bank took the** stock [*was taken*] as collateral, the **Oregon commercial bank shall sell the** stock
 17 [*shall be*] promptly [*sold by the institution*].

18 **SECTION 45.** ORS 708A.265 is amended to read:

19 708A.265. An [*institution shall*] **Oregon commercial bank may** not accept or hold as loan
 20 collateral in the aggregate more than 25 percent of the capital stock of any other insured stock in-
 21 stitution.

22 **SECTION 46.** ORS 708A.410 is amended to read:

23 708A.410. (1) Within the limits established under applicable federal statutes and regulations, an
 24 Oregon commercial bank that receives savings accounts shall prescribe by the Oregon commercial
 25 bank's bylaws or by contract with the Oregon commercial bank's depositors, the time and conditions
 26 on which [*repayment is to be made to*] **the Oregon commercial bank repays** depositors or **makes**
 27 **a repayment** to the depositors' order.

28 (2) [*A bank*] **An Oregon commercial bank** may require 30 days' notice to withdraw any sum
 29 up to \$5,000, 90 days' notice to withdraw any sum over \$5,000 and not over \$50,000, and 180 days'
 30 notice to withdraw any sum over \$50,000. The bank may limit, in the aggregate, withdrawals during
 31 a specified time period to the amount designated for the time period.

32 (3)(a) Except for negotiable orders of withdrawal and similar deposit accounts, withdrawal from
 33 which is [*made*] subject to check, **negotiable order of withdrawal or similar instrument**, and
 34 except for inadvertent overdrafts, an Oregon commercial bank may not knowingly permit a depositor
 35 to overdraw the depositor's savings account.

36 (b) As used in paragraph (a) of this subsection, "inadvertent overdraft" means an overdraft that:

37 (A) [*Is*] **The Oregon commercial bank does** not expressly [*permitted or provided*] **permit or**
 38 **provide** for in [*the*] bylaws or a deposit contract [*of the Oregon commercial bank*];

39 (B) Results from events or circumstances beyond the Oregon commercial bank's reasonable
 40 control; and

41 (C) Is eliminated within 14 days after the Oregon commercial bank becomes aware of the over-
 42 draft.

43 **SECTION 47.** ORS 708A.420 is amended to read:

44 708A.420. (1) If an Oregon commercial bank changes the terms, service charges or conditions for
 45 withdrawal of any deposit account, the Oregon commercial bank shall notify the depositor in writing

1 before the change is effective. If an Oregon commercial bank decreases the interest rate on any
 2 deposit account, other than an account that by its terms provides for a floating, variable or indexed
 3 rate of interest, the Oregon commercial bank shall notify the depositor in writing before the change
 4 is effective. With respect to deposit accounts *[that by their]* **for which the** terms provide for a
 5 floating, variable or indexed rate of interest, the Oregon commercial bank *[shall not be required to]*
 6 **need not** give notice to the depositor concerning changes in the interest rate other than by means
 7 of account statements *[provided]* **the Oregon commercial bank provides** to the depositor in the
 8 ordinary course, not less than once each calendar quarter. *[Any notice required by this section may*
 9 *be given to the depositor in person or sent to the depositor by regular mail at the last address shown*
 10 *on the Oregon commercial bank's deposit account records. In the case of]* **For** accounts *[held in the*
 11 *names of]* **that** two or more depositors **hold**, the Oregon commercial bank may give or send the
 12 notice to any of the depositors. **An Oregon commercial bank may notify a depositor under this**
 13 **section:**

14 (a) **In person;**

15 (b) **By sending the notice by regular mail to the last address shown in the Oregon com-**
 16 **mercial bank's deposit account records; or**

17 (c) **By sending the notice electronically in accordance with an agreement the depositor**
 18 **has with the Oregon commercial bank, provided that the Oregon commercial bank complies**
 19 **with all laws and regulations that apply to electronic consumer notices.**

20 (2) The provisions of subsection (1) of this section *[shall]* **do** not apply to any change in the in-
 21 terest rate payable upon an account as described in ORS 86.245.

22 **SECTION 48.** ORS 708A.425 is amended to read:

23 708A.425. Any deposit *[to a financial institution]* **in an Oregon commercial bank** made to an
 24 account in the name of a minor *[shall]* **must** be held for the exclusive right and benefit of the minor
 25 free from the control or lien of all other persons, except other parties to the account and creditors,
 26 and *[shall]* **must** be paid, in accordance with the terms of the account, together with any interest
 27 *[thereon]* **on the deposit**, to or upon the order of the minor.

28 **SECTION 49.** ORS 708A.430 is amended to read:

29 708A.430. (1) On the death of a depositor of *[a financial institution]* **an Oregon commercial**
 30 **bank**, if the deposit is \$25,000 or less, the *[financial institution may]* **Oregon commercial bank**,
 31 *[upon receipt of]* **after receiving** an affidavit *[from the person claiming the deposit]* as provided in
 32 subsection (2) of this section **from a person that claims the deposit, may** pay the moneys on de-
 33 posit to the credit of the deceased depositor, **in the following order of priority, to:**

34 (a) *[To]* The surviving spouse *[on demand of]* **at** the surviving *[spouse]* **spouse's demand** at any
 35 time after the **depositor's** death *[of the depositor];*

36 (b) *[If there is no surviving spouse, to]* The Oregon Health Authority or the Department of Hu-
 37 man Services, *[on demand of the authority or the department no]* **if the authority or the department**
 38 **demands the payment not** less than 46 days and no more than 75 days from the death of the
 39 depositor *[when there is a]* **if the depositor does not have a surviving spouse and if the au-**
 40 **thority or department has a** preferred claim *[arising]* under ORS 411.708, 411.795 or 416.350;

41 (c) *[If there is no surviving spouse and no authority or department claim, to]* The depositor's sur-
 42 viving children 18 years of age or older, **if the depositor does not have a surviving spouse and**
 43 **the authority and department do not have a claim;**

44 (d) *[If there is no surviving spouse, authority claim, department claim or surviving child 18 years*
 45 *of age or older, to]* The depositor's surviving *[parents]* **parent, if the depositor does not have a**

1 **surviving spouse or surviving child 18 years of age or older and if the authority and depart-**
 2 **ment do not have a claim;** or

3 (e) *[If there is no surviving spouse, authority claim, department claim, surviving child 18 years of*
 4 *age or older or surviving parent, to]* The depositor's surviving brothers and sisters 18 years of age
 5 or older, **if the depositor does not have a surviving spouse, surviving child 18 years of age or**
 6 **older or surviving parent and the authority and department do not have a claim.**

7 (2) The affidavit *[shall]* **must:**

8 (a) State where and when the depositor died;

9 (b) State that the total deposits of the deceased depositor in all financial institutions in Oregon
 10 do not exceed \$25,000;

11 (c) Show the relationship of the affiant to the deceased depositor; and

12 (d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of
 13 the deceased depositor out of the deposit to the full extent of the deposit if necessary, in the order
 14 of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons
 15 *[who]* **that** are entitled to *[those]* **the** moneys by law.

16 (3) In the event the depositor died intestate without known heirs, an estate administrator of the
 17 Department of State Lands appointed under ORS 113.235 *[shall be]* **is** the affiant and shall receive
 18 the moneys as escheat property.

19 (4) The *[financial institution]* **Oregon commercial bank** shall determine the relationship of the
 20 affiant to the deceased depositor*.[However, payment of], but paying* the moneys in good faith to the
 21 affiant discharges and releases the *[transferor]* **Oregon commercial bank** from any liability or re-
 22 sponsibility for the transfer in the same manner and with the same effect as if the **Oregon com-**
 23 **mercial bank transferred, delivered or paid the moneys** *[property had been transferred, delivered*
 24 *or paid]* to a personal representative of the estate of the deceased depositor.

25 (5) A probate proceeding is not necessary to establish the right of the surviving spouse, au-
 26 thority, department, surviving child, surviving parent, surviving brothers and sisters or an estate
 27 administrator of the Department of State Lands to withdraw the deposits *[upon the]* **after** filing
 28 *[of]* the affidavit. If a personal representative is appointed in an estate where a withdrawal of de-
 29 posits was made under this section, the person *[withdrawing]* **that withdraws** the deposits shall
 30 account for *[them]* **the deposits** to the personal representative.

31 (6) *[When a financial institution]* **If an Oregon commercial bank** transfers moneys under sub-
 32 section (1) of this section, the *[transferor]* **Oregon commercial bank** may require the transferee to
 33 furnish the *[transferor]* **Oregon commercial bank with** a written indemnity agreement*,[indemnify-*
 34 *ing the transferor]* **that indemnifies the Oregon commercial bank** against loss for moneys *[paid]*
 35 **the Oregon commercial bank transferred** to the extent of the amount of the deposit.

36 (7) This section is subject to the rights of other parties in the account under ORS 708A.455 to
 37 708A.515.

38 **SECTION 50.** ORS 708A.435 is amended to read:

39 708A.435. (1) An *[Oregon operating]* **insured** institution shall *[be obligated to]* recognize an ad-
 40 verse claim to a deposit *[it]* **the insured institution** holds only if the adverse claimant gives notice
 41 to the *[Oregon operating]* **insured** institution of *[its]* **the adverse** claim and:

42 (a) Procures a restraining order, injunction or other appropriate process against the *[Oregon*
 43 *operating]* **insured** institution in an action wherein the person to whose credit the deposit stands is
 44 made a party and served with summons; or

45 (b) Delivers to the *[Oregon operating]* **insured** institution in a form, and with sureties acceptable

1 to the [*Oregon operating*] **insured** institution, a bond or an irrevocable letter of credit [*issued by*
 2 *an*] **that another** insured institution[, *as defined in ORS 706.008, indemnifying*] **has issued to**
 3 **indemnify** the [*Oregon operating*] **insured** institution from any liability, damage and expenses [*on*
 4 *account of the payment of*] **that may arise from paying** the adverse claim or [*the dishonor of*] **dis-**
 5 **honoring** the check or other order of the person to whose credit the deposit stands.

6 (2) This section does not apply [*where*] **if** the person in whose name the account is carried is a
 7 fiduciary for the adverse claimant, and the affidavit of the adverse claimant states the facts consti-
 8 tuting the fiduciary relationship and the facts showing reasonable cause [*of*] **for the claimant's**
 9 belief [*on the part of the claimant*] that the fiduciary is about to misappropriate the deposit.

10 (3) An [*Oregon operating*] **insured** institution may, at [*its*] **the insured institution's** option,
 11 interplead a deposit that is subject to an adverse claim.

12 **SECTION 51.** ORS 708A.440 is amended to read:

13 708A.440. If a person who owns a deposit account subject to check authorizes another person
 14 as agent to draw checks against the account, the [*financial*] **insured** institution, in the absence of
 15 written notice to the contrary, may presume that any check [*drawn by*] the agent **draws** in the
 16 manner [*authorized by*] **that** the terms and conditions of the account **authorize**, including [*checks*
 17 *drawn to the personal order of*] **a check** the agent **draws to the agent's personal order**, is
 18 [*drawn*] for a purpose [*authorized by*] **that** the principal **authorizes** and **is** within the scope of the
 19 authority conferred upon the agent.

20 **SECTION 52.** ORS 708A.445 is amended to read:

21 708A.445. An [*Oregon commercial bank or a national bank*] **insured institution** may refuse to
 22 pay any check, draft or order drawn upon [*it when*] **the insured institution if** the officers or em-
 23 ployees of the [*bank*] **insured institution** have reason to believe that the person signing or
 24 indorsing the instrument was **the victim of financial exploitation, as defined in ORS 124.050, or**
 25 **was** so under the influence of liquor, drugs or controlled substances or [*that the person is*] otherwise
 26 so incapacitated as to make it reasonably doubtful whether the person was **capable of transacting**
 27 **business** at the time of signing or indorsing the check, draft or order [*capable of transacting busi-*
 28 *ness*].

29 **SECTION 53.** ORS 708A.455 is amended to read:

30 708A.455. As used in ORS 708A.455 to 708A.515, unless the context requires otherwise:

31 (1)(a) "Account" means a contract of deposit of funds between a depositor and [*a financial*] **an**
 32 **insured** institution[, *and*].

33 (b) "**Account**" includes a checking account, savings account[,] **or** certificate of deposit [*and*
 34 *share account*].

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

37 (3) "Joint account" means an account payable on request to one or more of two or more
 38 parties, [*whether or not mention is made of any*] **with or without** a right of survivorship.

39 (4)(a) "Multiple-party account" means a joint account, a P.O.D. account or a trust account.

40 (b) "Multiple-party account" does not include:

41 (A) Accounts established [*for*] **to** deposit [*of*] funds of a partnership, joint venture or other as-
 42 sociation for business purposes[, *or*];

43 (B) Accounts [*controlled by one or more persons*] **that a person controls** as the duly authorized
 44 agent or trustee for a corporation, **limited liability company**, unincorporated association, charita-
 45 ble or civic organization; or

1 (C) A regular fiduciary or trust account *[where]* **in which** the relationship is established other
 2 than by deposit agreement.

3 (5) “Net contribution” of a party to a joint account as of any given time means:

4 (a) The sum of all deposits *[thereto]* **to the joint account** made by or for the party, less all
 5 withdrawals made by or for the party that have not been paid to or applied to the use of any other
 6 party, plus a pro rata share of any interest or dividends included in the current balance. *The term*
 7 *includes, in addition,;* **and**

8 (b) Any proceeds of deposit life insurance added to the account by reason of the death of the
 9 party whose net contribution is in question.

10 (6) “Party” means:

11 (a) A person *[who]* **that**, by the terms of *[the]* **a multiple-party** account, has a present right,
 12 subject to request, to payment from *[a multiple-party]* **the** account[.];

13 (b) A P.O.D. payee or beneficiary of a trust account *[is a party only after]* **if** the account be-
 14 comes payable to the payee or beneficiary by reason of the payee’s or beneficiary’s surviving the
 15 original party or trustee. *Unless the context requires otherwise, “party” includes;*

16 (c) A guardian, conservator, personal representative or assignee, including an attaching credi-
 17 tor, of a party. *“Party” also includes;* **or**

18 (d) A person identified as a trustee of an account for another whether or not a beneficiary is
 19 named, *[but it does not include any]* **other than a** named beneficiary, unless the named beneficiary
 20 has a present right of withdrawal.

21 (7) “Payment” *[of sums on deposit includes withdrawal, payment]* **means withdrawing, paying**
 22 on check or *[other]* **otherwise paying sums on deposit at a party’s** directive *[of a party, and any*
 23 *pledge of], a party’s pledging* sums on deposit *[by a party]* and any setoff, reduction or other dis-
 24 position of all or part of an account *[pursuant to]* **in accordance with** a pledge.

25 (8) “P.O.D. account” means an account payable on request to one person during the **person’s**
 26 lifetime *[of the person]* and, on the **person’s** death, *[of the person]* to one or more P.O.D. payees, or
 27 to one or more persons during *[their]* **the persons’** lifetimes and on the death of all of *[them]* **the**
 28 **persons** to one or more P.O.D. payees.

29 (9) “P.O.D. payee” means a person designated on a P.O.D. account as *[one]* **a person** to whom
 30 the account is payable on request after the death of *[one or more persons]* **another person**.

31 (10) “Request” means a proper request for withdrawal, or a check or order for payment, that
 32 complies with all conditions of *[the]* **an** account, including special requirements concerning neces-
 33 sary signatures and regulations of the *[financial]* **insured** institution. *[If the financial institution*
 34 *conditions withdrawal or payment on advance notice, for purposes of ORS 708A.455 to 708A.515, the*
 35 *request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw*
 36 *is treated as a request for withdrawal.]*

37 (11) “Sums on deposit” means the balance payable on a multiple-party account, including inter-
 38 est, dividends and, *in addition,;* any deposit life insurance proceeds added to the account by reason
 39 of *[the]* **a party’s** death *[of a party]*.

40 (12)(a) “Trust account” means an account in the name of one or more parties as trustee for one
 41 or more beneficiaries *[where]* **in which** the relationship is established by the form of the account
 42 and the deposit agreement with the *[financial]* **insured** institution, and *[there is no subject of]* the
 43 trust **has no subject** other than the sums on deposit in the account. *It is not essential that]*
 44 **whether or not the deposit agreement provides for** payment to the beneficiary *[be mentioned in*
 45 *the deposit agreement].*

1 **(b)** *[A trust account]* **“Trust account”** does not include a regular trust account under a
 2 testamentary trust or a trust agreement that has significance apart from the account, or a fiduciary
 3 account arising from a fiduciary relationship such as attorney-client.

4 (13) *“Withdrawal” [includes]* **means** payment to a **party or to a** third person *[pursuant to]* **by**
 5 check or *[other]* **otherwise at a party’s** directive *[of a party]*.

6 **SECTION 54.** **Section 55 of this 2015 Act is added to and made a part of ORS 708A.455 to**
 7 **708A.515.**

8 **SECTION 55.** **If an insured institution conditions withdrawal or payment on advance no-**
 9 **tice, for purposes of ORS 708A.455 to 708A.515, a request for withdrawal or payment is im-**
 10 **mediately effective and a notice of intent to withdraw is a request for withdrawal.**

11 **SECTION 56.** ORS 708A.460 is amended to read:

12 708A.460. The provisions of ORS 708A.465 to 708A.475 concerning beneficial ownership as be-
 13 tween parties, or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts,
 14 *[are relevant]* **apply** only to controversies between *[those persons]* **the parties, the P.O.D. payees**
 15 **or the beneficiaries** and *[their]* **the** creditors and other successors **of the parties, P.O.D. payees**
 16 **or beneficiaries**, and *[have no bearing on]* **do not apply to** the power of withdrawal *[of those persons*
 17 *as determined by]* **that a party, P.O.D. payee or beneficiary has under** the terms of account
 18 contracts. The provisions of ORS 708A.485 to 708A.510 govern the liability of *[financial]* **insured**
 19 institutions that make payments *[pursuant thereto]* **under ORS 708A.485 to 708A.510**, and *[their]* **an**
 20 **insured institution’s** setoff rights.

21 **SECTION 57.** ORS 708A.470 is amended to read:

22 708A.470. (1) Sums *[remaining]* **that remain** on deposit in *[a bank]* **an insured institution** at
 23 the death of a party to a joint account are rebuttably presumed to belong to the surviving party or
 24 parties as against the estate of the decedent. If *[there are]* two or more *[surviving]* parties **survive**,
 25 *[their]* **each party’s** respective *[ownerships]* **ownership** during *[their lifetimes shall]* **the party’s**
 26 **lifetime must** be in proportion to *[their]* **the party’s** previous ownership *[interests]* **interest** under
 27 ORS 708A.465, augmented by an equal share for each *[survivor]* **surviving party** of any interest the
 28 decedent may have owned in the account immediately before death. The right of survivorship con-
 29 tinues between the surviving parties.

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

31 (a) On the death of one of two or more original parties, **subsection (1) of this section governs**
 32 the rights to any sums *[remaining]* **that remain** on deposit *[are governed by subsection (1) of this*
 33 *section]*.

34 (b) On the death of the sole original party or the survivor of two or more original parties, any
 35 sums *[remaining]* **that remain** on deposit belong to the P.O.D. payee or payees, if *[surviving]* **a**
 36 **P.O.D. payee or payees survive**, or to the **remaining P.O.D. payee or payees if one or more**
 37 **P.O.D. payees die** *[survivor of them if one or more die]* before the original party. If two or more
 38 P.O.D. payees survive, *[there is no]* **a remaining P.O.D. payee does not have a** right of
 39 survivorship *[in the event of death of a]* **after one of the** P.O.D. *[payee thereafter]* **payees dies** unless
 40 the terms of the account or deposit agreement expressly provide for survivorship *[between them]*
 41 **among remaining P.O.D. payees.**

42 (3) If *[the]* **an** account is a trust account:

43 (a) On the death of one of two or more trustees, **subsection (1) of this section governs** the
 44 rights to any sums *[remaining]* **that remain** on deposit *[are governed by subsection (1) of this*
 45 *section]*.

1 (b) On the death of the sole trustee or the survivor of two or more trustees, any sums
 2 [remaining] **that remain** on deposit belong to the person or persons named as beneficiaries, if [sur-
 3 viving] **a beneficiary or beneficiaries survive**, or to the [survivor of them if one or more die] **re-**
 4 **maining beneficiary if one or more beneficiaries die** before the trustee, unless [there is] clear and
 5 convincing evidence **exists** of a contrary intent. If two or more beneficiaries survive, [there is no]
 6 **a remaining beneficiary does not have a** right of survivorship [in event of death of any beneficiary
 7 thereafter] **after one of the beneficiaries dies** unless the terms of the account or deposit agreement
 8 expressly provide for survivorship [between them] **among remaining beneficiaries**.

9 (4) [In other cases,] **Except as otherwise provided in this section**, the death of any party to
 10 a multiple-party account [has no effect on] **does not affect the** beneficial ownership of the account,
 11 other than to transfer the rights of the decedent as part of the **decedent's** estate [of the decedent].

12 (5) **A will may not change a** right of survivorship [arising] **that arises** from the express terms
 13 of the account or under this section, a beneficiary designation in a trust account, or a P.O.D. payee
 14 designation[, cannot be changed by will].

15 (6) The rebuttable presumption under subsection (1) of this section may be overcome by evidence
 16 establishing that:

17 (a) The deceased party intended a different result; or

18 (b) The deceased party lacked capacity when the joint account was established.

19 (7) [A bank] **An insured institution** is not liable [for distributing sums remaining], **with respect**
 20 **to sums that remain** on deposit at the death of a party to a joint account, **for distributing the**
 21 **sums** to a surviving party or parties in accordance with the account agreement unless, [prior to]
 22 **before** distributing the sums to a surviving party or parties:

23 (a) The [bank] **insured institution** has received notice **in writing** of an adverse claim under
 24 ORS 708A.435; and

25 (b) The adverse claimant proceeds as required under ORS 708A.435.

26 **SECTION 58.** ORS 708A.475 is amended to read:

27 708A.475. The provisions of ORS 708A.470 as to rights of survivorship are determined by the
 28 form of the account at the death of a party. Subject to satisfaction of the requirements of the [fi-
 29 nancial] **insured** institution, the form of an account may be altered by written order given by a
 30 party to the [financial] **insured** institution. *The order must be signed by a party, received by the fi-*
 31 *nancial institution* **if the party signs the order and the insured institution receives the order**
 32 during the party's lifetime, and [not countermanded by other] **if the party does not countermand**
 33 **the order with another** written order [of the same party] during the **party's** lifetime [of the
 34 party].

35 **SECTION 59.** ORS 708A.485 is amended to read:

36 708A.485. [Financial institutions] **An insured institution** may enter into a multiple-party [ac-
 37 counts] **account** to the same extent that [they] **the insured institution** may enter into a single-party
 38 [accounts] **account**. **The insured institution may pay** any multiple-party account [may be paid], on
 39 request, to any one or more of the parties. [A financial institution shall not be required to] **An in-**
 40 **insured institution need not** inquire as to the source of funds [received] **the insured institution**
 41 **receives** for deposit to a multiple-party account, or [to inquire] as to the proposed application of any
 42 sum withdrawn from an account, for purposes of establishing net contributions.

43 **SECTION 60.** ORS 708A.490 is amended to read:

44 708A.490. **An insured institution may pay** any sums in a joint account [may be paid], on re-
 45 quest, to any party without regard to whether any other party is incapacitated or deceased at the

1 time the **party demands** payment [*is demanded. Payment may not be made to*]. **An insured insti-**
 2 **tuition may not pay** the personal representative or heirs of a deceased party unless proofs of death
 3 are presented to the [*financial*] **insured** institution showing that the decedent was the last surviving
 4 party or unless [*there is*] no right of survivorship **exists** under ORS 708A.470.

5 **SECTION 61.** ORS 708A.495 is amended to read:

6 708A.495. **An insured institution may pay** any P.O.D. account [*may be paid*], on request, to any
 7 original party to the account. [*Payment may be made*] **The insured institution shall pay**, on re-
 8 quest, [*to*] the P.O.D. payee or [*to*] the personal representative or heirs of a deceased P.O.D. payee
 9 upon presentation to the [*financial*] **insured** institution of proof of death showing that the P.O.D.
 10 payee survived all persons named as original parties. [*Payment may be made to*] **The insured in-**
 11 **stitution shall pay** the personal representative or heirs of a deceased original party if proof of
 12 death is presented to the [*financial*] **insured** institution showing that the decedent [*was the survivor*
 13 *of*] **survived** all other persons named on the account either as an original party or as P.O.D. payee.

14 **SECTION 62.** ORS 708A.500 is amended to read:

15 708A.500. **An insured institution may pay** any trust account [*may be paid*], on request, to any
 16 trustee. Unless the [*financial*] **insured** institution has received written notice that the beneficiary
 17 has a vested interest [*not dependent*] **that does not depend** upon the beneficiary's surviving the
 18 trustee, [*payment may be made to*] **the insured institution shall pay** the personal representative
 19 or heirs of a deceased trustee if proof of death is presented to the [*financial*] **insured** institution
 20 showing that the decedent [*was the survivor of*] **survived** all other persons named on the account
 21 either as trustee or beneficiary. [*Payment may be made*] **The insured institution may pay**, on re-
 22 quest, [*to*] the beneficiary upon presentation to the [*financial*] **insured** institution of proof of death
 23 showing that the beneficiary or beneficiaries survived all persons named as trustees.

24 **SECTION 63.** ORS 708A.505 is amended to read:

25 708A.505. **A** payment [*made pursuant to*] **that an insured institution makes under** ORS
 26 708A.485, 708A.490, 708A.495 or 708A.500 discharges the [*financial*] **insured** institution from all
 27 claims for amounts [*so*] **the insured institution** paid whether or not the payment is consistent with
 28 the beneficial ownership of the account as between parties, P.O.D. payees or beneficiaries, or
 29 [*their*] successors **of the parties, P.O.D. payees or beneficiaries**. The protection given by this
 30 section does not extend to payments [*made*] **an insured institution makes** after [*a financial insti-*
 31 *tution has received*] **receiving a** written notice from any party able to request present payment to
 32 the effect that withdrawals in accordance with the terms of the account should not be permitted.
 33 Unless the **person that gives the notice withdraws the** notice [*is withdrawn by the person giving*
 34 *it*], the successor of any deceased party must concur in any demand for withdrawal [*if the*
 35 *financial*] **in order for the protections that this section provides to extend to the insured in-**
 36 **stitution** [*is to be protected under this section. No*]. **Any** other notice or [*any other*] information
 37 shown to have been available to [*a financial*] **an insured** institution [*shall*] **does not** affect [*its*] **the**
 38 **insured institution's** right to [*the*] protection [*provided by*] **under** this section. The protection
 39 [*provided by*] **that** this section [*shall have no bearing on*] **provides does not affect** the rights of
 40 parties in disputes between [*themselves*] **the parties** or [*their*] **the parties'** successors concerning
 41 the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

42 **SECTION 64.** ORS 708A.510 is amended to read:

43 708A.510. Without qualifying any other statutory or common law right to setoff or lien and
 44 subject to any contractual provision, if a party to a multiple-party account is indebted to [*a*
 45 *financial*] **an insured** institution, the [*financial*] **insured** institution has a right to setoff against the

1 account in which the party has or had *[immediately before the death of the party]* a present right of
 2 withdrawal **immediately before the party's death**. The amount of the account **that is** subject to
 3 setoff is *[that]* **the** proportion to which the debtor is, or was immediately before the death of the
 4 debtor, beneficially entitled and, in the absence of proof of net contributions, to an equal share with
 5 all parties *[having]* **that have** present rights of withdrawal.

6 **SECTION 65.** ORS 708A.515 is amended to read:

7 708A.515. *[Nothing in]* ORS 708A.455 to 708A.465*[, 716.024, 723.426 or 723.432 shall]* **do not** pre-
 8 clude a party to an account from adding the name of another person to *[such an]* **the** account with
 9 the designation "agent." *[Such]* **The** agent *[shall have no]* **does not have a** present or future interest
 10 in the sums on deposit in such account, but the *[financial]* **insured** institution may honor requests
 11 **from the agent** for payment from *[such]* **the** account *[by such agent]*, unless the principal is de-
 12 ceased at the time the **agent requests the** payment *[is requested]* and the *[financial]* **insured** insti-
 13 tution has actual knowledge of *[such]* **the principal's** death. *[Payments]* **An insured institution's**
 14 **payment** from *[such]* **the** account *[by such financial institution]* at the **agent's** request *[of such agent*
 15 *shall discharge such financial]* **discharges the insured** institution from all claims for amounts *[so]*
 16 **the insured institution** paid.

17 **SECTION 66.** ORS 708A.555 is amended to read:

18 708A.555. Except as otherwise provided in the Bank Act or other applicable law, institutions
 19 shall keep books and records in accordance with *[generally accepted]* accounting principles **generally**
 20 **accepted in the United States (GAAP)**, consistently applied.

21 **SECTION 67.** ORS 708A.565 is amended to read:

22 708A.565. **An institution shall carry on the institution's books, at a value that does not**
 23 **exceed 15 percent of the stockholders' equity in the institution**, investments in stock of **or**
 24 **membership interests in** a company that engages in activities in which a financial holding com-
 25 pany, a bank holding company or a nonbanking subsidiary of a financial holding company or bank
 26 holding company could engage under ORS 708A.120 (4) *[shall be carried on the books of the institution*
 27 *at a value not exceeding 15 percent of the stockholders' equity of the institution].*

28 **SECTION 68.** ORS 708A.575 is amended to read:

29 708A.575. **An institution shall carry on the institution's books, at a value that does not**
 30 **exceed \$1**, investments in a corporation **or limited liability company that is** engaged in the busi-
 31 ness of purchasing the **institution's** stock *[of an institution]* for purposes of holding and making a
 32 market for *[that]* **the** stock *[shall be carried on the books of the institution at a value not exceeding*
 33 *\$1].*

34 **SECTION 69.** ORS 708A.580 is amended to read:

35 708A.580. (1) **An institution may not carry on the institution's books, at a value in excess**
 36 **of 20 percent of the institution's capital**, the aggregate amount of stock of **or membership in-**
 37 **terests in** a corporation **or limited liability company the institution** acquired under ORS
 38 708A.125 for the purpose of strengthening the institution's capital or eliminating undesirable assets
 39 *[shall not be carried on the books in excess of 20 percent of the institution's capital].*

40 (2) **The institution each year shall amortize the** book value of the stock *[shall be amortized]*
 41 **or membership interests** by not less than five percent of *[its]* **the** original book value *[each year]*
 42 **of the stock or membership interests.**

43 **SECTION 70.** ORS 708A.585 is amended to read:

44 708A.585. **An institution may not carry** claims against the estates of insolvent persons or de-
 45 ceased or incompetent persons and judgments against any person *[shall not be carried]* as an asset

1 [upon] on the **institution's** books [of an institution] for more than two years, unless [a written ex-
 2 tension of time is granted by] the Director of the Department of Consumer and Business Services
 3 **grants a written extension of time.** This section does not apply to loans [made] **an institution**
 4 **makes** to the personal representative, guardian, **conservator** or trustee of any estate.

5 **SECTION 71.** ORS 708A.595 is amended to read:

6 708A.595. **An institution may not carry goods, as defined in ORS 79.0102, and chattels, as**
 7 **defined in ORS 87.142, [owned by an] that the institution owns** on account [of the collection of
 8 its] **of collecting the institution's** debts [shall not be carried on the books of an institution] **on the**
 9 **institution's books** for more than two years after [the property was acquired] **acquiring the goods**
 10 **or chattels,** unless [such period is extended by] the Director of the Department of Consumer and
 11 Business Services **extends the two-year period.**

12 **SECTION 72.** ORS 708A.600 is amended to read:

13 708A.600. An institution shall charge off all debts:

14 (1) On which interest is past due and unpaid for 12 months, unless the debt is fully secured and
 15 in process of collection;

16 (2) That [are classified by] an examiner **has classified** as a [bad debt] **loss;** or

17 (3) Upon the instruction of the Director of the Department of Consumer and Business Services.

18 **SECTION 73.** ORS 708A.650 is amended to read:

19 708A.650. (1) As used in this section:

20 (a) "Bank" [includes] **means** any banking institution, out-of-state state bank, **out-of-state fed-**
 21 **eral bank,** national bank or extranational institution [doing a] **that engages in** banking business
 22 in this state.

23 (b) "Banking day" means any day that is not an optional bank holiday.

24 (c) "Emergency" means any condition or occurrence [which] **that** may interfere with [the conduct
 25 of] **conducting** normal business operations at one or more of [the] **a bank's** offices [of a bank], or
 26 [which] **that** poses an imminent or existing threat to the safety or security of persons or property.

27 (d) "Open for [the general conduct of] **conducting** banking business" means the office or offices
 28 of a bank are open to the public for carrying on substantially all business functions of the bank.

29 (e) "Optional bank holiday" means:

30 (A) Each Saturday and Sunday.

31 (B) New Year's Day on January 1.

32 (C) Martin Luther King, Jr.'s birthday on the third Monday in January.

33 (D) Presidents Day on the third Monday in February.

34 (E) Memorial Day on the last Monday in May.

35 (F) Independence Day on July 4.

36 (G) Labor Day on the first Monday in September.

37 (H) Columbus Day on the second Monday in October.

38 (I) Veterans Day on November 11.

39 (J) Thanksgiving Day on the fourth Thursday in November.

40 (K) Christmas Day on December 25.

41 (2) [When] **A bank may observe** an optional bank holiday, other than a Saturday, **that** falls on
 42 a Saturday[, the bank may observe the holiday either on that day] **on the Saturday** or on the pre-
 43 ceding Friday. [When] **A bank may observe** an optional bank holiday, other than a Sunday, **that**
 44 falls on a Sunday[, the bank may observe the holiday either on that day] **on the Sunday** or on the
 45 succeeding Monday.

1 (3) Except as otherwise provided in this section, [*banks*] **a bank** shall be open for [*the general*
2 *conduct of*] **conducting** banking business on each banking day.

3 (4) Any bank may remain closed on any optional bank holiday with respect to all or any of
4 [*its*] **the bank's** banking and other functions.

5 (5) Subject to any applicable federal law or regulation, [*an office of*] a bank may [*be closed*] **close**
6 **an office** for any part or all of a banking day if the times or days which the office is open are posted
7 on the premises of the office.

8 (6) [*When*] **If** the Director of the Department of Consumer and Business Services determines that
9 an emergency exists, the director may authorize [*the closing of*] **a bank to close** the **bank's** princi-
10 pal office or branch [*of any bank which may be affected by*] **that** the emergency **affects**. The office
11 or branch [*so closed*] may remain closed until the director determines that the emergency has ended
12 and for such further time thereafter as **the bank** may reasonably [*be required*] **require** to prepare
13 the office or branch to reopen.

14 (7) [*When*] **If** the officers of a bank determine that an emergency exists [*which*] **that** affects the
15 principal office or a branch of the bank, [*they*] **the officers** may close the office or branch without
16 the **director's** approval [*of the director*] for a period not to exceed 48 hours, excluding holidays,
17 during the continuation of the emergency. A bank [*closing*] **that closes** an office or branch under
18 this subsection shall give prompt notice of [*its*] **the bank's** action to the director, or in the case of
19 a national bank, to the Comptroller of the Currency.

20 (8) The principal officers of a bank may close the principal office or any branch of the bank on
21 any day designated, by proclamation of the President of the United States or the Governor of this
22 state, as a day of mourning, rejoicing, or other special observance.

23 (9) [*When any*] **If an** obligation **that is** payable at, by or through a bank falls due on a day on
24 which the bank remains closed under this section, [*it shall be*] **the obligation is** due and payable
25 on the next banking day on which the bank is open. Any act authorized, required or permitted to
26 be performed at, by or with respect to any bank on a day on which the bank remains closed may
27 be performed on the next banking day on which the bank is open, [*and no*] **without** liability or a
28 loss of rights of any kind [*shall*] **as a** result [*from*] **of** the closing.

29 **SECTION 74.** ORS 708A.990 is amended to read:

30 708A.990. (1) An institution that violates[:]

31 [(a)] ORS 708A.560 shall forfeit a civil penalty in an amount [*determined by*] the Director of the
32 Department of Consumer and Business Services **determines that is** [*of*] not more than \$50,000.

33 [(b)] (2) **An Oregon commercial bank that violates** ORS 708A.420 shall forfeit a civil penalty
34 in an amount [*determined by the director of*] **the director determines that is** not more than \$10,000.
35 In addition, the director may revoke the **Oregon commercial bank's** charter [*of the violating in-*
36 *stitution*].

37 [(2)] (3) All money forfeited under subsections (1) and (2) of this section shall be paid to the
38 State Treasurer [*to be deposited*] **for deposit** in the Consumer and Business Services Fund.

39 [(3)] (4) The **director may recover a** civil penalty [*may be recovered*] as provided in ORS
40 706.980.

41 **SECTION 75.** ORS 709.130 is amended to read:

42 709.130. If the cash and securities [*belonging*] **that belong** to any single fiduciary account ex-
43 ceed the amount of [*the*] **a** trust company's stockholders' equity **or members' equity**, the court
44 [*appointing*] **that appoints** the trust company to the position of trust may require an indemnity bond
45 from the trust company for the amount of cash and securities [*exceeding*] **that exceeds the**

1 stockholders' equity **or members' equity**.

2 **SECTION 76.** ORS 709.150 is amended to read:

3 709.150. A trust company may:

4 (1) Act as a fiscal or transfer agent of the United States or of any state, county, municipality,
5 political subdivision or corporation, and in that capacity:

6 (a) Receive and disburse money;

7 (b) Transfer, register and countersign certificates of stock, bonds or other evidence of indebt-
8 edness;

9 (c) Authenticate and certify [*the*] bonds and certificates of indebtedness[.]; and

10 (d) Act as attorney-in-fact or agent of a person for any lawful purpose.

11 (2) Lease, hold, purchase and convey any real property necessary or convenient in [*the trans-*
12 *action of its*] **transacting trust** business.

13 (3) Receive deposits of moneys, securities and other personal property in trust from any person
14 and loan trust funds [*on real or personal securities*] **that are secured by real or personal**
15 **property**.

16 (4) Act as trustee under any mortgage or bonds and accept and execute any lawful municipal
17 or corporate trusts.

18 (5) Be appointed by a court and act as a fiduciary.

19 (6) Accept and execute any lawful trust.

20 (7) Rent receptacles for safe deposits of personal property and receive personal property upon
21 deposit for safekeeping.

22 (8) Purchase, invest in and sell bills of exchange, bonds and mortgages, and other evidences of
23 indebtedness.

24 (9) [*In the management of trust properties,*] Discount and negotiate promissory notes, drafts, bills
25 of exchange and other evidences of debt **in managing trust properties**, [*and*] accept for payment
26 at a future date drafts drawn upon [*it*] **the trust company** and issue letters of credit authorizing
27 [*the*] holders to draw drafts upon [*it*] **the trust company** or [*its*] **the trust company's** correspond-
28 ents at sight or on time, not exceeding one year.

29 (10) Exercise all other powers given to trust companies under the Bank Act.

30 **SECTION 77.** ORS 709.175 is amended to read:

31 709.175. (1) Except as provided in ORS 709.220, subsection (2) of this section, or as [*lawfully*
32 *authorized by*] the instrument [*creating*] **that creates** the trust relationship or [*by*] a court order
33 **authorizes, a trust company may not invest** funds [*held by a*] **that the** trust company **holds** as
34 fiduciary [*shall not be invested*] in stock or obligations of, or property **the trust company** acquired
35 from:

36 (a) The trust company or [*its*] **the trust company's** directors, officers or employees;

37 (b) Individuals [*connected to*] **affiliated with** the trust company or [*its*] **the trust company's**
38 directors, officers or employees;

39 (c) Organizations in which the trust company or [*its*] **the trust company's** directors, officers
40 or employees hold an interest;

41 (d) Affiliates of the trust company or [*their*] **the affiliates'** directors, officers or employees;

42 (e) Individuals with whom [*there exists*] **the trust company has** an interest that might affect
43 **the trust company's exercising the trust company's** [*exercise of the*] best judgment [*of the trust*
44 *company*] in making the investment or acquiring the property; or

45 (f) Organizations in which [*there exists*] **the trust company has** an interest [*which*] **that** might

1 affect the **trust company's exercising** *[exercise of the]* **the trust company's** best judgment *[of the*
 2 *trust company]* in making the investment or acquiring the property.

3 (2) Subsection (1) of this section *[shall]* **does** not apply if the trust company invests funds *[held*
 4 *by it]* **the trust company holds** as fiduciary in any open-end or closed-end management type in-
 5 vestment company or investment trust for which the trust company, or an affiliate of the trust
 6 company, acts as investment advisor or custodian or provides other services, for which services the
 7 trust company and *[its]* **the trust company's** affiliates may receive reasonable fees.

8 (3) For the purposes of this section, companies are affiliated if *[they]* **the companies** are mem-
 9 bers of the same affiliated group under Section 1504 of the Internal Revenue Code.

10 **SECTION 78.** ORS 709.330 is amended to read:

11 709.330. (1) When a sale or transfer of assets or liabilities becomes effective, the purchasing
 12 corporation *[shall succeed]* **succeeds** to all the rights, obligations and relations of the selling cor-
 13 poration to or in respect to any person, estate, creditor, depositor, trustee or beneficiary of any trust
 14 and in respect to any fiduciary relation, and the rights, obligations and relations *[shall]* remain un-
 15 encumbered.

16 (2) The sale or transfer of assets *[shall]* **or liabilities does** not effect a renunciation or revoca-
 17 tion of any letters of administration, letters testamentary, letters of guardianship or any other
 18 fiduciary relationship.

19 (3) If any trust, **estate, conservatorship or other fiduciary relationship of the selling cor-**
 20 **poration** requires *[the approval of the]* a court to **approve** a change of the fiduciary, within 90 days
 21 after the change becomes effective the successor fiduciary shall file notice of the change with the
 22 court *[having]* **that has** jurisdiction and serve notice of the change upon each beneficiary. The
 23 **successor fiduciary may serve the** notice *[may be served]* in the manner provided in ORCP 9 or,
 24 if the residence of a beneficiary is not known, **the successor fiduciary may publish the** notice
 25 *[may be published]* in the manner provided for the publication of summons.

26 (4) A beneficiary or other person **that is** interested in the trust, *[or]* estate, **conservatorship**
 27 **or other fiduciary relationship** may, within 90 days after the service of the notice **described in**
 28 **subsection (3) of this section**, apply to the appropriate court for a change of fiduciary or such
 29 other relief as may be proper.

30 **SECTION 79.** ORS 709.530 is amended to read:

31 709.530. ORS 711.190[,] **and** 711.197 *[and 711.199 shall be applicable]* **apply** to a merging or con-
 32 verting Oregon trust company.

33 **SECTION 80.** ORS 709.535 is amended to read:

34 709.535. (1) Subject to the provisions of this section, and subject to the approval of the Director
 35 of the Department of Consumer and Business Services, an Oregon trust company may sell all or any
 36 portion of *[its]* **the Oregon trust company's** assets or transfer all or any portion of *[its]* **the**
 37 **Oregon trust company's** liabilities to another trust company outside the ordinary course of busi-
 38 ness. *[Any such]* **The parties to the** sale or transfer *[shall be documented by]* **shall document the**
 39 **sale or transfer with** an acquisition transaction agreement *[between or among the parties]*. The
 40 *[agreement must be approved by the]* board of directors of each party to the transaction **must ap-**
 41 **prove the agreement.**

42 (2) If an Oregon trust company proposes to transfer all or substantially all of *[its]* **the Oregon**
 43 **trust company's** assets, liabilities or both outside the ordinary course of business, *[it]* **the Oregon**
 44 **trust company** shall send notice of the acquisition transaction to each of *[its]* **the Oregon trust**
 45 **company's** stockholders within 30 days after *[its]* **the board of directors** approves the acquisition

1 transaction. The notice shall set forth the substantive provisions of ORS 711.175, 711.180 and
 2 711.185. To be effective, each **selling** Oregon trust company that is a party to the acquisition
 3 transaction shall have the acquisition transaction approved by a two-thirds vote of the outstanding
 4 stock of each class of voting shares at a meeting called to consider the acquisition transaction.

5 (3) The Director **of the Department of Consumer and Business Services** shall approve an
 6 acquisition transaction that is subject to this section if the director finds that the acquisition
 7 transaction:

8 (a) Conforms with the provisions of the Bank Act;

9 (b) Will not be detrimental to the safety and soundness of an Oregon trust company that is a
 10 party to the acquisition transaction;

11 (c) Is not contrary to the public interest; and

12 (d) *[If the acquiring trust company is not an Oregon trust company, the director is satisfied that*
 13 *the acquisition transaction]* Is permitted by the supervisory authority, if any, *[having]* **that has** ju-
 14 risdiction over the acquiring trust company, **if the acquiring trust company is not an Oregon**
 15 **trust company.**

16 (4) If the director disapproves an acquisition transaction that is subject to this section, the di-
 17 rector shall state any objections in writing and give the parties to the acquisition transaction an
 18 opportunity to take action to obviate the objections.

19 (5) Any party to an acquisition transaction agreement may appeal the **director's** decision *[of the*
 20 *director]* as provided in ORS 183.415 to 183.500.

21 **SECTION 81.** ORS 711.085 is amended to read:

22 711.085. If an Oregon bank converts pursuant to ORS 711.065 to 711.080, the conversion *[shall]*
 23 **must** be approved by:

24 (1) A **simple** majority of the full board of directors of the converting Oregon bank, unless the
 25 articles or bylaws of the converting Oregon bank required a greater percentage; and

26 (2) If the converting bank is an Oregon stock bank, a vote of a **simple** majority of the out-
 27 standing stock of each class of voting shares at a meeting called to consider the conversion, unless
 28 the articles or bylaws of the converting Oregon bank required a greater percentage.

29 **SECTION 82.** ORS 711.135 is amended to read:

30 711.135. (1) Within 90 days after *[receiving the materials]* **the Director of the Department of**
 31 **Consumer and Business Services receives the materials** and fee specified in ORS 711.130, unless
 32 *[the time is extended by]* the director *[of the Department of Consumer and Business Services]* **extends**
 33 **the time** in concurrence with the applicants, the director shall approve or disapprove *[the]* **a** plan
 34 of merger or plan of share exchange. The director shall approve the plan of merger or plan of share
 35 exchange if the director finds that:

36 (a) The transaction conforms with the *[provision]* **provisions** of the Bank Act;

37 (b) The transaction will not be detrimental to the safety and soundness of the resulting Oregon
 38 stock bank or *[Oregon]* **insured** stock *[bank]* **institution** to be acquired through a share exchange;

39 (c) The transaction is not contrary to the public interest; and

40 (d) The director is satisfied that *[the transaction is permitted by]* the state or federal supervisory
 41 authority *[having]* **that has** jurisdiction over the resulting insured stock institution or acquiring
 42 company **permits the transaction.**

43 (2) If the director disapproves a plan of merger or plan of share exchange, the director shall
 44 state any objections in writing and give the boards of the parties to the transaction an opportunity
 45 to amend the plan of merger or plan of share exchange to obviate the objections. The amended plan

1 of merger or plan of share exchange [*shall*] **must** be submitted to the director for approval as if
 2 [*it*] **the amended plan** were the original plan of merger or plan of share exchange.

3 (3) Any of the parties to the transaction may appeal the decision of the director as provided in
 4 ORS 183.415 to 183.500.

5 **SECTION 83.** ORS 711.405 is amended to read:

6 711.405. An institution [*will be deemed*] **is** insolvent [*when*] **if** any of the following occurs:

7 (1) The fair market value of the **institution's** assets [*of the institution*] is insufficient to pay
 8 [*its*] **the institution's** liabilities, [*other than*] **excluding any** liability on account of capital
 9 debentures. [*In determining the value of its assets, bonds held by the institution shall be valued in*
 10 *accordance with rules promulgated by the Director of the Department of Consumer and Business Ser-*
 11 *vices pursuant to ORS 183.310, 183.315, 183.330, 183.335 and 183.341 to 183.410.*]

12 (2) An Oregon stock bank fails to make good [*its*] **the Oregon stock bank's** reserve require-
 13 ments under applicable law for a period of 30 days.

14 (3) The institution cannot meet [*its*] **the institution's** obligations or [*the*] demands upon [*it*] **the**
 15 **institution** as [*they*] **the obligations or demands** become due.

16 **SECTION 84.** ORS 711.520 is amended to read:

17 711.520. If an Oregon stock bank becomes insolvent or goes into voluntary or involuntary liq-
 18 uidation, the assets of the Oregon stock bank [*shall*] **must** be applied in the following order of pri-
 19 ority:

20 (1) First, if collateral has been pledged under ORS 295.015 and assets have been pledged under
 21 ORS 709.030, to the benefit of those for whom the collateral and assets have been pledged;

22 (2) Second, to pay the expenses of liquidation;

23 (3) Third, to satisfy the amount due the depositors; and

24 (4) Fourth, to satisfy the amount due sellers of federal funds.

25 **SECTION 85.** ORS 713.010 is amended to read:

26 713.010. (1) Every activity that an out-of-state bank or extranational institution engages in while
 27 conducting a banking business in this state is subject to the applicable provisions of the Bank Act.

28 (2) **Unless the laws of the out-of-state bank's home state limit the powers and authorities**
 29 **of the out-of-state bank**, an out-of-state bank that opens, occupies or maintains a branch in this
 30 state pursuant to and in accordance with the requirements of ORS 713.270 and that has a certificate
 31 of authority from the Director of the Department of Consumer and Business Services to conduct
 32 banking business in this state [*pursuant to*] **under** ORS 713.020 and 713.140 to 713.160 has the same
 33 powers **and authorities** to engage in an activity in this state that [*the out-of-state bank*] **an Oregon**
 34 **bank** has under the laws of [*the out-of-state bank's home*] **this** state, except that an out-of-state bank
 35 may not transact trust business in this state unless the out-of-state bank complies with ORS chapter
 36 709. [*If a conflict exists between the provisions of this chapter and the provisions of the laws of the*
 37 *home state of the out-of-state bank, the laws of the out-of-state bank's home state control.*]

38 **SECTION 86.** ORS 713.130 is amended to read:

39 713.130. (1) Except as provided in subsection (2) of this section, the Director of the Department
 40 of Consumer and Business Services may not issue a certificate of authority to an out-of-state bank
 41 or extranational institution if the name of the out-of-state bank or extranational institution [*does not*
 42 *conform to the provisions of ORS 707.075*] **is not distinguishable from:**

43 (a) **The name of any other financial institution that has received a charter or a certif-**
 44 **icate of authority to conduct banking business from the director; or**

45 (b)(A) **The name of any corporation, professional corporation, nonprofit corporation, co-**

1 **operative, limited liability company, limited partnership or business trust; or**

2 **(B) Any reserved, registered or assumed business name currently on file with the Sec-**
3 **retary of State.**

4 *[(2) If the director determines that an out-of-state bank or extranational institution that applies for*
5 *a certificate of authority has a name that is deceptively similar to the name of another financial insti-*
6 *tution that conducts a banking business in this state, the director may not issue a certificate of au-*
7 *thority unless the out-of-state bank or extranational institution states on the application for a certificate*
8 *of authority under ORS 713.140 (1)(a) and in the filings required by ORS 713.140 (3) that the corporate*
9 *name is “_____ (name under which organized), an institution of _____ (place of*
10 *organization),” the entirety of which is the “real and true name” of the out-of-state bank or*
11 *extranational institution for the purposes of ORS chapter 648.]*

12 **(2) The director may refuse to permit an out-of-state bank or extranational institution**
13 **to use a name if the director determines that the name is deceptively similar to the name**
14 **of a financial institution that is already lawfully transacting business or making loans in this**
15 **state.**

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

19 (b) An out-of-state bank or extranational institution may not transact business under a name
20 that the director determines is *[confusingly similar to the name of a financial institution,]* **not dis-**
21 **tinguishable from:**

22 **(A) The name of any other financial institution that has received a charter or a certif-**
23 **icate of authority to conduct banking business from the director; or**

24 **(B) The name of a corporation, professional corporation, nonprofit corporation, cooperative,**
25 **limited liability company, limited partnership or business trust** *[that is]* **or any reserved, registered**
26 **or assumed business name** on file with the Secretary of State *[or is registered as provided in ORS*
27 *648.010].*

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

30 (d) Issuing the certificate of authority does not abrogate or limit the law as to unfair competi-
31 tion or unfair trade practices or derogate from the common law, the principles of equity or the
32 statutes of this state or of the United States with respect to the right to acquire and protect trade
33 names, trademarks and service marks.

34 **SECTION 87.** ORS 713.300 is amended to read:

35 713.300. (1) For purposes of this section, “foreign association” means a corporation organized to
36 transact savings and loan business under federal law or under the laws of another state or territory
37 of the United States, the home state or territory of which is a state or territory other than Oregon.

38 (2) Subject to subsection (3) of this section, an out-of-state bank, extranational institution or
39 foreign association, without being authorized to transact banking business or savings and loan
40 business in this state, may take, acquire, hold and enforce notes secured by mortgages or trust deeds
41 and make commitments to purchase *[such]* **the** notes. The out-of-state bank, extranational institution
42 or foreign association may foreclose the mortgages or trust deeds in the courts of this state, acquire
43 the mortgaged property, hold, own and operate the property for a period not exceeding five years
44 and dispose of the property. The activities *[authorized under]* **that** this subsection *[by]* **authorizes**
45 an out-of-state bank, extranational institution or foreign association **to engage in** do not constitute

1 transacting business in this state for the purposes of ORS chapter 60.

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

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

15 *[(5) (4) [The filing requirements of subsection (3) of this section do not apply to an out-of-state*
 16 *bank or extranational institution that has obtained a certificate of authority to transact banking busi-*
 17 *ness in this state under ORS 713.020. Notwithstanding subsection (3) of this section, the] An* out-of-
 18 state bank, extranational institution or foreign association may take, acquire, hold and enforce notes
 19 secured by mortgages or trust deeds, make commitments to purchase the notes and participate with
 20 other lenders authorized to do business in this state in making loans for which the notes are exe-
 21 cuted and delivered.

22 *[(6) (5) An out-of-state bank, extranational institution or foreign association that indirectly en-*
 23 *gages in the activities described in subsection (2) of this section because of a beneficial interest in*
 24 *a pool of notes secured by mortgages or trust deeds need not comply with subsection (3) of this*
 25 *section.*

26 **SECTION 88.** ORS 713.990 is amended to read:

27 713.990. The Director of the Department of Consumer and Business Services may impose on any
 28 person *[violating]* **that violates** any provision of this chapter a civil penalty of up to \$1,000 for each
 29 day during which the offense continues. The penalty shall be assessed and collected in the manner
 30 prescribed in ORS 706.570 *[(2)] (3)*.

31 **SECTION 89.** ORS 714.995 is amended to read:

32 714.995. Each day a banking institution operates a branch that **the Director of the Depart-**
 33 **ment of Consumer and Business Services** has not *[been]* approved or deemed approved *[by the*
 34 *Director of the Department of Consumer and Business Services]*, the banking institution is subject to
 35 a penalty of up to \$1,000. The penalty shall be assessed and collected as prescribed in ORS 706.570
 36 *[(2)] (3)*.

37 **SECTION 89a.** ORS 205.460 is amended to read:

38 205.460. (1) A person whose property is subject to an invalid claim of encumbrance may petition
 39 the circuit court of the county in which the person resides or in which the property is located for
 40 an order, which may be granted ex parte, directing the encumbrance claimant to appear at a hearing
 41 before the court and show cause why the claim of encumbrance should not be stricken and other
 42 relief provided by this section should not be granted. The court shall schedule the hearing no earlier
 43 than seven days after the date of the order. The scheduled date of the hearing shall allow adequate
 44 time for notice of the hearing under subsection (4) of this section.

45 (2) A petition under this section shall state the grounds upon which relief is requested, and shall

1 be supported by the affidavit of the petitioner or the petitioner's attorney setting forth a concise
2 statement of the facts upon which the motion is based.

3 (3) The petition and affidavit described in subsection (2) of this section shall be in substantially
4 the following form:

5 _____

6
7 IN THE CIRCUIT COURT OF
8 THE STATE OF OREGON
9 FOR THE COUNTY OF _____

10 _____,)
11 Petitioner,) Case No. _____
12)
13) PETITION FOR AN
14) ORDER STRIKING
15 v.) AND RELEASING
16) ENCUMBRANCES,
17) AWARDING COSTS
18) AND ATTORNEY FEES
19 _____,) AND ORDER TO
20 Respondent.) SHOW CAUSE

21
22 Petitioner, _____ (insert name), by and through _____ (insert name and ti-
23 tle of attorney for petitioner, if applicable), petitions this court, pursuant to ORS 205.460, for an
24 order striking and releasing purported encumbrances, filed or recorded against Petitioner by Re-
25 spondent, _____ (insert name or names) filed or recorded in book/reel/volume No.
26 _____ on page _____ or document/fee/file/instrument/microfilm No. _____ in
27 the _____ (insert name of office where document was filed or recorded), and for an order,
28 pursuant to ORS 205.460, for costs and attorney fees required to bring this action, on the grounds
29 that the purported encumbrances have no basis in law or fact. Petitioner further requests that this
30 court enter an order requiring Respondent to appear before this court and to show cause why the
31 above order should not be entered. Finally, Petitioner requests an order from the court requiring
32 Respondent to pay penalties and damages as provided in ORS 205.470.

33 DATED this _____ day of _____, _____.

34 _____
35 Petitioner or Petitioner's Attorney
36 _____

37
38 _____
39
40 IN THE CIRCUIT COURT OF
41 THE STATE OF OREGON
42 FOR THE COUNTY OF _____

43 _____,)
44 Petitioner,) Case No. _____
45)

1) AFFIDAVIT OF
 2 v.) _____
 3)
 4)
 5 _____,)
 6 Respondent.)
 7 _____)
 8 STATE OF OREGON)
 9) ss.
 10 County of _____)

11 I, _____ (insert name of affiant), after being duly sworn, depose and say:
 12 1. I am the above-entitled petitioner (or the attorney for the petitioner) in this matter.
 13 2. The information contained in this affidavit is of my own personal knowledge.
 14 3. Attached as numbered exhibits are true and correct copies of the following documents that
 15 were filed or recorded in the _____ (insert name of office where documents were filed or
 16 recorded) on _____ (insert date):

17 (List and attach document(s))

18 4. For any purported encumbrances identified above the following is true. The encumbrance is
 19 not authorized by statute, was not entered into consensually, and is not an equitable, constructive
 20 or other encumbrance imposed by a court of competent jurisdiction.

21 DATED this ____ day of _____, ____.

22 _____
 23 (Petitioner or Petitioner’s Attorney)
 24

25 SUBSCRIBED AND SWORN to before me this ____ day of _____, ____.

26 _____
 27 NOTARY PUBLIC FOR OREGON
 28 My commission expires: _____
 29 _____

30
 31 (4) A copy of the petition and the order directing the encumbrance claimant to appear under this
 32 section shall be served upon the encumbrance claimant:

- 33 (a) By service in the manner provided for personal service of summons under ORCP 7; or
- 34 (b) By mailing a true copy of the petition, affidavit and order to the encumbrance claimant at
 35 the encumbrance claimant’s last-known address, both by first class mail and by certified or regis-
 36 tered mail, return receipt requested. A notice mailed under this paragraph is effective on the date
 37 that the notice is deposited with the United States Postal Service, properly addressed and postage
 38 prepaid.

39 (5) The order to show cause shall be in substantially the following form and shall clearly state
 40 that if the encumbrance claimant fails to appear at the time and place noted, the claim of
 41 encumbrance shall be stricken and released and that the encumbrance claimant shall be ordered to
 42 pay the costs and reasonable attorney fees incurred by the petitioner at trial and on appeal:
 43 _____
 44

45 IN THE CIRCUIT COURT OF

THE STATE OF OREGON
FOR THE COUNTY OF _____

1
2
3
4
5
6
7
8
9
10
11

_____,)
Petitioner,) Case No. _____
)
) ORDER TO
v.) SHOW CAUSE
)
)
_____,)
Respondent.)

12
13 THIS MATTER came before the court on _____ (insert date) on Petitioner’s Petition
14 for an Order Striking and Releasing Encumbrances, Awarding Costs and Attorney Fees and Order
15 to Show Cause. The court, having considered the petition, the Affidavit of _____ (insert
16 name) and the attached exhibits, and it appearing to the court that there are sufficient grounds to
17 issue an order to show cause,

18 IT IS HEREBY ORDERED that the Respondent, _____ (insert name), appear before
19 this court on _____ (insert date), at _____ (insert time), to show cause why the pe-
20 tition should not be granted in its entirety.

21
22 IMPORTANT NOTICE:

23 IF YOU FAIL TO APPEAR AT THE ABOVE TIME AND PLACE, THE COURT MAY ENTER
24 AN ORDER STRIKING AND RELEASING YOUR ENCUMBRANCE CLAIMS FILED AGAINST
25 PETITIONER AND YOU MAY BE ORDERED TO PAY COSTS AND REASONABLE ATTORNEY
26 FEES INCURRED BY THE PETITIONER.

27 DATED this ____ day of _____, ____.

28 _____
29 Circuit Court Judge
30 _____

31
32 (6) If the court determines that the claim of encumbrance is invalid, the court shall issue an
33 order striking and releasing the claim of encumbrance and may award costs and reasonable attorney
34 fees at trial and on appeal to the petitioner to be paid by the encumbrance claimant. If the court
35 determines that the claim of encumbrance is valid, the court shall issue an order so stating and may
36 award costs and reasonable attorney fees at trial and on appeal to the encumbrance claimant to be
37 paid by the petitioner.

38 (7) The procedure set forth in this section is not available against a person lawfully conducting
39 business as:

40 (a) An institution, [*a savings bank*,] a national bank, an out-of-state bank[, *a federal savings*
41 *bank*] or an extranational institution, as those terms are defined in ORS 706.008, **a savings bank,**
42 **a federal savings bank** or a subsidiary of an entity described in this paragraph;

43 (b) A financial holding company, a bank holding company, a savings and loan holding company
44 or a subsidiary of a financial holding company, a bank holding company or a savings and loan
45 holding company;

1 (c) A credit union, as defined in ORS 723.006, or a federal credit union;

2 (d) A consumer finance company subject to the provisions of ORS chapter 725;

3 (e) A mortgage banker or a mortgage broker, as those terms are defined in ORS 86A.100, a
4 mortgage servicing company or any other mortgage company; or

5 (f) An insurer as defined in ORS 731.106.

6 (8) The procedure set forth in this section is not available against:

7 (a) An officer, agency, department or instrumentality of the federal government;

8 (b) An officer, agency, department or instrumentality of this state; or

9 (c) An officer, agency, department or instrumentality of a political subdivision or public corpo-
10 ration in this state.

11 **SECTION 90. ORS 706.660, 706.680, 708A.275 and 711.199 are repealed.**

12 **SECTION 91. Sections 4 and 55 of this 2015 Act and the amendments to ORS 205.460,**
13 **705.137, 705.139, 706.005, 706.008, 706.015, 706.500, 706.570, 706.630, 706.650, 706.720, 706.723,**
14 **706.795, 707.010, 707.025, 707.075, 707.110, 707.184, 707.195, 707.200, 707.210, 707.254, 707.256,**
15 **707.350, 707.415, 707.610, 707.612, 707.620, 707.660, 707.665, 707.690, 707.740, 708A.010, 708A.125,**
16 **708A.145, 708A.155, 708A.160, 708A.165, 708A.180, 708A.195, 708A.250, 708A.255, 708A.260,**
17 **708A.265, 708A.410, 708A.420, 708A.425, 708A.430, 708A.435, 708A.440, 708A.445, 708A.455,**
18 **708A.460, 708A.470, 708A.475, 708A.485, 708A.490, 708A.495, 708A.500, 708A.505, 708A.510,**
19 **708A.515, 708A.555, 708A.565, 708A.575, 708A.580, 708A.585, 708A.595, 708A.600, 708A.650,**
20 **708A.990, 709.130, 709.150, 709.175, 709.330, 709.530, 709.535, 711.085, 711.135, 711.405, 711.520,**
21 **713.010, 713.130, 713.300, 713.990 and 714.995 by sections 1, 2, 5 to 53 and 56 to 89a of this 2015**
22 **Act and the repeal of ORS 706.660, 706.680, 708A.275 and 711.199 by section 90 of this 2015 Act**
23 **apply to transactions that occur on or after the operative date specified in section 92 of this**
24 **2015 Act.**

25 **SECTION 92. (1) Sections 4 and 55 of this 2015 Act and the amendments to ORS 205.460,**
26 **705.137, 705.139, 706.005, 706.008, 706.015, 706.500, 706.570, 706.630, 706.650, 706.720, 706.723,**
27 **706.795, 707.010, 707.025, 707.075, 707.110, 707.184, 707.195, 707.200, 707.210, 707.254, 707.256,**
28 **707.350, 707.415, 707.610, 707.612, 707.620, 707.660, 707.665, 707.690, 707.740, 708A.010, 708A.125,**
29 **708A.145, 708A.155, 708A.160, 708A.165, 708A.180, 708A.195, 708A.250, 708A.255, 708A.260,**
30 **708A.265, 708A.410, 708A.420, 708A.425, 708A.430, 708A.435, 708A.440, 708A.445, 708A.455,**
31 **708A.460, 708A.470, 708A.475, 708A.485, 708A.490, 708A.495, 708A.500, 708A.505, 708A.510,**
32 **708A.515, 708A.555, 708A.565, 708A.575, 708A.580, 708A.585, 708A.595, 708A.600, 708A.650,**
33 **708A.990, 709.130, 709.150, 709.175, 709.330, 709.530, 709.535, 711.085, 711.135, 711.405, 711.520,**
34 **713.010, 713.130, 713.300, 713.990 and 714.995 by sections 1, 2, 5 to 53 and 56 to 89a of this 2015**
35 **Act and the repeal of ORS 706.660, 706.680, 708A.275 and 711.199 by section 90 of this 2015 Act**
36 **become operative on January 1, 2016.**

37 **(2) The Director of the Department of Consumer and Business Services may adopt rules**
38 **and take any other action before the operative date specified in subsection (1) of this section**
39 **that is necessary to enable the director to exercise, on and after the operative date specified**
40 **in subsection (1) of this section, all of the duties, functions and powers conferred on the di-**
41 **rector by sections 4 and 55 of this 2015 Act and the amendments to ORS 205.460, 705.137,**
42 **705.139, 706.005, 706.008, 706.015, 706.500, 706.570, 706.630, 706.650, 706.720, 706.723, 706.795,**
43 **707.010, 707.025, 707.075, 707.110, 707.184, 707.195, 707.200, 707.210, 707.254, 707.256, 707.350,**
44 **707.415, 707.610, 707.612, 707.620, 707.660, 707.665, 707.690, 707.740, 708A.010, 708A.125, 708A.145,**
45 **708A.155, 708A.160, 708A.165, 708A.180, 708A.195, 708A.250, 708A.255, 708A.260, 708A.265,**

1 708A.410, 708A.420, 708A.425, 708A.430, 708A.435, 708A.440, 708A.445, 708A.455, 708A.460,
2 708A.470, 708A.475, 708A.485, 708A.490, 708A.495, 708A.500, 708A.505, 708A.510, 708A.515,
3 708A.555, 708A.565, 708A.575, 708A.580, 708A.585, 708A.595, 708A.600, 708A.650, 708A.990,
4 709.130, 709.150, 709.175, 709.330, 709.530, 709.535, 711.085, 711.135, 711.405, 711.520, 713.010,
5 713.130, 713.300, 713.990 and 714.995 by sections 1, 2, 5 to 53 and 56 to 89a of this 2015 Act.

6 **SECTION 93.** This 2015 Act being necessary for the immediate preservation of the public
7 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
8 on its passage.

9