

# Senate Bill 92

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## 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**.

Provides for Director of Department of Consumer and Business Services to regulate activities of out-of-state financial institutions. Specifies conditions under which out-of-state financial institutions may obtain certificate of authority to operate in this state.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to regulating out-of-state financial institutions; creating new provisions; amending ORS  
3 706.008, 713.010, 713.016, 713.020, 713.090, 713.130, 713.140, 713.150, 713.160, 713.170, 713.190,  
4 713.200, 713.210, 713.220, 713.230, 713.240, 713.250, 713.260, 713.270, 713.280, 713.290 and 716.060;  
5 and declaring an emergency.

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

7 **SECTION 1.** ORS 706.008 is amended to read:

8 706.008. As used in the Bank Act[, *unless the context requires otherwise*]:

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

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

14 (3) "Bank service corporation" means a corporation **that is organized to perform services**  
15 **authorized by ORS 708A.145**, all of the capital stock of which is owned by one or more banking  
16 institutions or national banks[, *that is organized to perform services authorized by ORS 708A.145*].

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

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

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

25 (7) "Federal bank" means a national bank or [*any other*] **another** bank organized under the laws  
26 of the United States.

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

29 (9) "Financial holding company" means a company [*as referred to*] **that engages in activities**

**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 **described for a financial holding company** in section 103 of the federal Gramm-Leach-Bliley Act  
2 (P.L. 106-102).

3 (10) “Financial institution” means **an** insured [*institutions*] **institution, an** extranational [*insti-*  
4 *tutions,*] **institution, a** credit [*unions*] **union** as defined in ORS 723.006, **an** out-of-state credit  
5 [*unions*] **union** under ORS 723.042 and **a** federal credit [*unions*] **union**.

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

8 (12) “Institution” means an Oregon commercial bank or an Oregon trust company.

9 (13) “Insured institution” means a company, the deposits of which are insured under the pro-  
10 visions of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, et seq.

11 (14) “Insured nonstock institution” means an insured institution that does not issue capital  
12 stock.

13 (15) “Insured stock institution” means an insured institution that issues capital stock.

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

16 (17) “Non-Oregon institution” means:

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

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

19 (c) An extranational institution engaging in banking business in Oregon.

20 (18) “Nonstock bank” means a bank that does not issue capital stock.

21 (19) “Oregon bank” means an Oregon stock bank or Oregon nonstock bank.

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

24 (21) “Oregon nonstock bank” means a state nonstock bank **or savings bank**, the home state of  
25 which is Oregon.

26 (22) “Oregon operating institution” means:

27 (a) A bank that [*is engaging*] **engages** in banking business in this state;

28 (b) An extranational institution that [*is engaging*] **engages** in banking business in this state; or

29 (c) A trust company that [*is transacting*] **transacts** trust business in this state.

30 (23) “Oregon savings bank” or “savings bank” means an Oregon stock savings bank or an  
31 Oregon nonstock **savings** bank.

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

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

35 (26) “Oregon trust company” means a trust company that was organized under the provisions  
36 of ORS chapter 707.

37 (27) “Out-of-state bank” means an out-of-state state bank or an out-of-state federal bank.

38 (28) “Out-of-state bank holding company” means a bank holding company [*whose*], **the** home  
39 state **of which** is not Oregon, and that is not the bank holding company of an Oregon stock bank  
40 or an in-state federal stock bank.

41 (29) “Out-of-state federal bank” means a federal bank, the home state of which is [*a state other*  
42 *than*] **not** Oregon.

43 (30) “Out-of-state financial holding company” means a financial holding company [*whose*], **the**  
44 home state **of which** is not Oregon, and that is not the financial holding company of an Oregon  
45 stock bank or an in-state federal stock bank.

1 (31) “Out-of-state state bank” means a state bank, the home state of which is [*a state other*  
2 *than*] **not** Oregon.

3 (32) “Out-of-state trust company” means a trust company that was organized under the laws of  
4 another state.

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

6 (34) “State nonstock bank” means a nonstock bank that was organized under the laws of a state.

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

8 (36) “Stock bank” means a bank that issues capital stock.

9 (37)(a) “Trust company” means [*any*] **a** company that is authorized under the provisions of ORS  
10 chapter 709 to transact trust business, [*and includes*] **including** the trust department of a bank[.].

11 (b) [*but*] “**Trust company**” does not include a corporation [*appointed by*] **that** a United States  
12 Bankruptcy Court **appoints** to serve as a bankruptcy trustee under Title 11, United States Code,  
13 [*when*] **during a time in which** the corporation is acting [*in its capacity*] as a bankruptcy trustee.

14 **SECTION 2.** ORS 713.010 is amended to read:

15 713.010. (1) Every activity [*engaged in by every*] **that an** out-of-state bank [*and*] **or** extranational  
16 institution **engages in while** conducting a banking business in this state is subject to [*all of*] the  
17 applicable provisions of the Bank Act.

18 (2) An out-of-state [*state*] bank that opens, occupies or maintains a branch in this state pursuant  
19 to and in accordance with the requirements of ORS 713.270 and that has [*been issued*] a certificate  
20 of authority [*by*] **from** the Director of the Department of Consumer and Business Services to con-  
21 duct [*a*] banking business in this state pursuant to ORS 713.020[,], and 713.140 to 713.160[, *shall*  
22 *have*] **has** the same powers to engage in [*any*] **an** activity in this state [*as permitted to*] **that** the  
23 out-of-state [*state*] bank **has** under the laws of [*its*] **the out-of-state bank’s** home state, except that  
24 an out-of-state [*state*] bank may not transact trust business in this state unless [*it*] **the out-of-state**  
25 **bank** complies with ORS chapter 709. [*When there is*] **If** a conflict **exists** between the provisions of  
26 this chapter and the provisions of the laws of the home state of the out-of-state [*state*] bank, the laws  
27 of [*that*] **the out-of-state bank’s** home state control.

28 **SECTION 3.** ORS 713.016 is amended to read:

29 713.016. (1) An out-of-state [*state*] bank [*shall*] **may** not conduct banking business in this state  
30 unless [*its*] **the Federal Deposit Insurance Corporation insures the out-of-state bank’s**  
31 insurable deposits [*are insured by the Federal Deposit Insurance Corporation*] and the out-of-state  
32 [*state*] bank has received a certificate of authority to conduct banking business pursuant to ORS  
33 713.020 and 713.140 to 713.160.

34 (2) [*Unless it complies with the requirements of ORS 713.025,*] An extranational institution  
35 [*shall*] **may** not conduct banking business in this state **unless the extranational institution com-**  
36 **plies with the requirements of ORS 713.025.** This subsection and ORS 713.025 do not apply to  
37 [*any*] **an** extranational institution [*having*] **that has** a branch office in this state and **was** lawfully  
38 conducting banking business on December 31, 1966.

39 **SECTION 4.** ORS 713.020 is amended to read:

40 713.020. The Director of the Department of Consumer and Business Services shall issue **a cer-**  
41 **tificate of authority to conduct banking business in this state** to an out-of-state [*state*] bank or  
42 extranational institution that applies **for the certificate under ORS 713.140** and that **otherwise**  
43 complies with the requirements of this chapter. [*a certificate of authority to transact business in this*  
44 *state, provided for in ORS 713.140 to 713.160.*]

45 **SECTION 5.** ORS 713.090 is amended to read:

1 713.090. (1) *[Every]* **An** out-of-state *[state]* bank *[and every]* **or** extranational institution *[conduct-*  
 2 *ing]* **that conducts** banking business in this state shall file reports under oath with the Director  
 3 of the Department of Consumer and Business Services in the form and giving the information the  
 4 director *[may require]* **requires**.

5 (2) *[Every]* **An** out-of-state *[state]* bank *[and]* **or** extranational institution *[conducting]* **that con-**  
 6 **ducts** banking business *[shall be]* **in this state is** subject to the fee provided in ORS 706.530 and  
 7 to examination and regulation in the manner provided in ORS 706.500.

8 **(3) This section does not apply to a federal bank.**

9 **SECTION 6.** ORS 713.130 is amended to read:

10 713.130. (1) **Except as provided in subsection (2) of this section,** the Director of the Depart-  
 11 ment of Consumer and Business Services *[shall]* **may** not issue a certificate of authority to an out-  
 12 of-state *[state]* bank or extranational institution if the name of the out-of-state *[state]* bank or  
 13 extranational institution does not conform to **the provisions of ORS 707.075**, *[except as provided in*  
 14 *subsection (2) of this section]*.

15 (2) If the director determines that *[the name of the applicant]* **an** out-of-state *[state]* bank or  
 16 extranational institution **that applies for a certificate of authority has a name that** is  
 17 deceptively similar to the name of another financial institution *[conducting]* **that conducts** a bank-  
 18 ing business in this state, the director *[shall]* **may** not issue a certificate of authority *[to the appli-*  
 19 *cant]* unless the out-of-state *[state]* bank or extranational institution states *[the corporate name]* on  
 20 the application for a certificate of authority under ORS 713.140 (1)(a) and in the filings required by  
 21 ORS 713.140 (3) *[as]* **that the corporate name is** “\_\_\_\_\_ (name under which organized),  
 22 an institution of \_\_\_\_\_ (place of organization),” the entirety of which *[shall be]* **is** the “real  
 23 and true name” of the out-of-state *[state]* bank or extranational institution *[under]* **for the purposes**  
 24 **of ORS chapter 648.**

25 *[(3) Nothing contained in this section shall preclude an out-of-state state bank or extranational in-*  
 26 *stitution from transacting business under one or more assumed business names, if the names meet the*  
 27 *requirements of subsection (1) of this section, unless the director determines that the names will be*  
 28 *confusingly similar to any financial institution, corporate, professional corporate, nonprofit corporate,*  
 29 *cooperative, limited liability company, limited partnership, business trust, reserved or registered name*  
 30 *currently on file with the Secretary of State or Director of the Department of Consumer and Business*  
 31 *Services, or an assumed business name registered as provided in ORS 648.010.]*

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

35 **(b) An out-of-state bank or extranational institution may not transact business under a**  
 36 **name that the director determines is confusingly similar to the name of a financial institu-**  
 37 **tion, corporation, professional corporation, nonprofit corporation, cooperative, limited liabil-**  
 38 **ity company, limited partnership or business trust that is reserved, registered or on file with**  
 39 **the Secretary of State or is registered as provided in ORS 648.010.**

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

42 **(d) [Issuance of] Issuing** the certificate of authority *[shall]* **does** not abrogate or limit the law  
 43 as to unfair competition or unfair trade practices or derogate from the common law, the principles  
 44 of equity or the statutes of this state or of the United States with respect to the right to acquire  
 45 and protect trade names, trademarks and service marks.

1       **SECTION 7.** ORS 713.140 is amended to read:

2       713.140. (1) To procure a certificate of authority to conduct banking business in this state, an  
3 out-of-state [*state*] bank or extranational institution shall apply to the Director of the Department  
4 of Consumer and Business Services. The application [*shall*] **must** state:

5       (a) The name, [*as designated under*] **in accordance with the provisions of** ORS 713.130.

6       (b) The state or country under the laws of which the out-of-state [*state*] bank or extranational  
7 institution [*was*] **is** organized.

8       (c) The date of organization.

9       (d) The period of duration of the out-of-state [*state*] bank or extranational institution, if the du-  
10 ration is not perpetual.

11       (e) A mailing address to which the director may send notices.

12       (f) The address of the main office of the out-of-state [*state*] bank or extranational institution in  
13 the state or country under the laws of which [*it*] **the out-of-state bank or extranational institu-**  
14 **tion** is organized.

15       (g) [*Unless the out-of-state state bank or extranational institution is a corporation, limited partner-*  
16 *ship, limited liability company or business trust, the street address of the proposed registered office of*  
17 *the institution in this state, and the name of its proposed registered agent, who shall be amenable to*  
18 *service of process at the address.*] **The name of the proposed registered agent and the street**  
19 **address in this state of the proposed registered office that will receive service of process for**  
20 **the out-of-state bank or extranational institution.**

21       (h) The names and [*respective*] addresses of the president and secretary of the out-of-state  
22 [*state*] bank or extranational institution.

23       (i) [*Any*] Additional information that the director [*may*] by rule [*require*] **requires**.

24       (2) The director may prescribe and furnish forms for the application. The president or a vice  
25 president and secretary or an assistant secretary of the out-of-state [*state*] bank or extranational  
26 institution shall sign the application.

27       (3) The out-of-state [*state*] bank or extranational institution shall also take the steps necessary  
28 to become authorized to transact business:

29       (a) If a corporation, as a foreign corporation under ORS chapter 60;

30       (b) If a limited partnership, as a foreign limited partnership under ORS chapter 70;

31       (c) If a limited liability company, as a foreign limited liability company under ORS chapter 63;

32       or

33       (d) If a business trust, as a business trust under ORS 128.560 to 128.600.

34       (4) If the out-of-state [*state*] bank is an unincorporated company, partnership or association, [*it*]  
35 **the out-of-state bank** shall register [*its*] **the out-of-state bank's** name as an assumed business  
36 name as provided in ORS chapter 648.

37       **SECTION 8.** ORS 713.150 is amended to read:

38       713.150. (1) [*The*] **An** out-of-state [*state*] bank or extranational institution shall submit [*the*] **an**  
39 application for a certificate of authority, together with an application fee of [*\$500*] **\$2,500**, to the  
40 Director of the Department of Consumer and Business Services for filing. The out-of-state [*state*]  
41 bank or extranational institution shall also deliver with the completed application a certificate of  
42 existence or a document of similar import, duly authenticated by the official with custody of records  
43 in the state or country under whose law [*it*] **the out-of-state bank or extranational institution**  
44 is organized and a copy of the documents filed **with the Secretary of State** to comply with ORS  
45 713.140 (3) [*evidencing filing of such documents by the Secretary of State*].

1 (2) If the director finds that *[such]* **the** application conforms to this chapter, the director, when  
 2 all fees and charges have been paid, shall issue and return to the sender a certificate of authority  
 3 to conduct banking business in this state with the copy of the filed application.

4 **SECTION 9.** ORS 713.160 is amended to read:

5 713.160. *[Upon the issuance of a certificate of authority by]* **After** the Director of the Department  
 6 of Consumer and Business Services **issues a certificate of authority**, the out-of-state *[state]* bank  
 7 or extranational institution *[shall be]* **is** authorized to conduct *[a]* banking business in this state,  
 8 subject, however, to the right of this state to suspend or revoke the authority as provided in ORS  
 9 713.230.

10 **SECTION 10.** ORS 713.170 is amended to read:

11 713.170. *[Each]* **An** out-of-state state bank *[and each]* **or** extranational institution authorized to  
 12 conduct banking business in this state shall have and continuously maintain in this state:

13 (1) A registered office that may be, but need not be, the same as *[its]* **the out-of-state state**  
 14 **bank's or extranational institution's** place of business in this state.

15 (2) A registered agent *[or authorized representative,]* in compliance with the requirements im-  
 16 posed by ORS 713.140 (3).

17 **SECTION 11.** ORS 713.190 is amended to read:

18 713.190. (1) *[The]* **A** registered agent appointed by an out-of-state *[state]* bank or extranational  
 19 institution authorized to transact business in this state *[shall]* **must** be an agent of *[such institution*  
 20 *upon whom any]* **the out-of-state bank or extranational institution upon which may be served**  
 21 process, notice or demand required or permitted by law to be served upon the *[institution may be*  
 22 *served]* **out-of-state bank or extranational institution.**

23 (2) The Director of the Department of Consumer and Business Services *[shall be]* **is** an agent  
 24 of an out-of-state *[state]* bank or extranational institution upon *[whom any]* **which** process, notice  
 25 or demand may be served, if:

26 (a) The out-of-state *[state]* bank or extranational institution is authorized to conduct banking  
 27 business in this state, and:

28 (A) *[It]* **The out-of-state bank or extranational institution** fails to appoint or maintain a  
 29 registered agent in this state;

30 (B) *[Its]* **The** registered agent **that the out-of-state bank or extranational institution ap-**  
 31 **pointed** cannot with reasonable diligence be found at the registered office;

32 (C) *[Its]* **The** certificate of authority **for the out-of-state bank or extranational institution**  
 33 has been suspended or revoked; or

34 (D) *[It]* **The out-of-state bank or extranational institution** is an unincorporated company,  
 35 partnership or association;

36 (b) The out-of-state *[state]* bank or extranational institution is conducting banking business in  
 37 this state without the authorization *[provided by]* **required under** this chapter;

38 (c) The out-of-state *[state]* bank or extranational institution has been authorized to conduct  
 39 banking business in this state and has withdrawn and consented to service on the director as pre-  
 40 scribed in this chapter; or

41 (d) The out-of-state *[state]* bank or extranational institution has conducted banking business in  
 42 this state without the authorization to do so, has ceased to conduct banking business and has be-  
 43 come subject to service on the director as prescribed in this chapter.

44 (3)(a) Except as provided in subsection (4) of this section, service *[on the director of any such]*  
 45 **of** process, notice or demand *[shall]* **must** be made **on the director** by:

1        [(a)] (A) [*Service on*] **Serving** the director or a clerk on duty in [*any*] **an** office of the director  
 2 [*of*] **with** a copy of the process, notice or demand [*with any*] **and** papers required by law to be de-  
 3 livered in connection with the service, or by mailing to the director a copy of the process, notice  
 4 or demand by certified or registered mail, and **paying** a [\$2] **\$25** fee for each document being served;  
 5 or

6        [(b)] (B) [*Transmittal by the person instituting the proceedings of*] **Transmitting** notice of the  
 7 service [*on*] **from the person that initiates the proceedings to** the director and **transmitting,**  
 8 **by certified or registered mail,** a copy of the process, notice or demand and accompanying papers  
 9 to the out-of-state [*state*] bank or extranational institution being served [*by certified or registered*  
 10 *mail*]:

11        [(A)] (i) At the last-registered office of the out-of-state [*state*] bank or extranational institution  
 12 as shown by the records of the director; **or**

13        [(B)] (ii) At [*such address, the use of which*] **an address that** the person [*initiating*] **that initi-**  
 14 **ates** the proceedings knows or, on the basis of reasonable inquiry, has reason to believe is most  
 15 likely to result in actual notice[; *and*].

16        [(C)] (b) [*Filing*] **The person that initiates the proceedings shall file** with the appropriate  
 17 court or other body, as part of the return of service, the return receipt of mailing and an affidavit  
 18 [*of the person initiating the proceedings stating compliance*] **that states that the person complied**  
 19 with this section.

20        (4) [*When*] **If** the out-of-state [*state*] bank or extranational institution that is being served with  
 21 the process, notice or demand is not authorized to conduct banking business in this state and was  
 22 not authorized to conduct banking business in this state at the time the transaction, event or oc-  
 23 currence upon which the suit or proceeding is based occurred, service [*shall*] **must** be made in [*the*  
 24 *same manner as provided in*] **accordance with** subsection (3) of this section, except that the  
 25 **plaintiff or the plaintiff's attorney shall immediately send a** copy of the process, notice or de-  
 26 mand [*shall be sent forthwith*] by registered or certified mail [*by the plaintiff or the attorney of the*  
 27 *plaintiff*] to the principal office or place of business of the out-of-state [*state*] bank or extranational  
 28 institution, instead of the last-registered office of the out-of-state [*state*] bank or extranational insti-  
 29 tution.

30        (5) The director shall keep a record of all processes, notices and demands served upon the di-  
 31 rector under this section.

32        (6) [*Nothing contained in*] This section [*shall*] **does not** limit or affect the right to serve [*any*]  
 33 process, notice or demand required or permitted by law to be served upon an out-of-state [*state*] bank  
 34 or extranational institution in [*any other*] **a manner** [*now or hereafter*] permitted by law, or enlarge  
 35 the purposes for which service on the director is permitted where **other provisions of law limit**  
 36 such purposes [*are limited by other provisions of law*].

37        **SECTION 12.** ORS 713.200 is amended to read:

38        713.200. (1) [*Every*] **An** out-of-state [*state*] bank [*and every*] **or** extranational institution that has  
 39 [*been issued*] a certificate of authority to conduct banking business in this state shall deliver [*to the*  
 40 *Director of the Department of Consumer and Business Services, promptly after filing with the Secretary*  
 41 *of State, all documents filed by*] **copies of documents that** the out-of-state [*state*] bank or  
 42 extranational institution **filed** with the Secretary of State pursuant to ORS chapters 60, 63, 70 and  
 43 648 and ORS 128.560 to 128.600 **to the Director of the Department of Consumer and Business**  
 44 **Services promptly after filing the documents with the Secretary of State.**

45        (2) If an out-of-state [*state*] bank or an extranational institution that has [*been issued*] a certif-

1 icate of authority to conduct banking business in this state changes *[its]* **the out-of-state bank's**  
 2 **or extranational institution's** name or duration, *[it]* **the out-of-state bank or extranational in-**  
 3 **stitution** shall apply to the director to amend *[its]* **the** certificate of authority.

4 (3) The requirements *[in respect to]* **for signing and submitting the application described in**  
 5 **subsection (2) of this section to the director and that prescribe** the form and contents of the  
 6 application, *the manner of its signing and the submission of the application referred to in subsection*  
 7 *(2) of this section to the director shall be* **are** the same as in the case of an original application for  
 8 a certificate of authority under ORS 713.140. *[The]* Filing *[of]* the application for the amended cer-  
 9 tificate of authority by the director *[shall have]* **has** the same legal effect as *[the]* filing *[of]* the ori-  
 10 ginal certificate of authority.

11 **SECTION 13.** ORS 713.210 is amended to read:

12 713.210. (1) An out-of-state *[state]* bank or extranational institution that has *[been issued]* a cer-  
 13 tificate of authority to conduct banking business in this state may withdraw from this state by ap-  
 14 plying to the Director of the Department of Consumer and Business Services to withdraw. An  
 15 application to withdraw *[shall]* **must** set forth:

16 (a) The name of the out-of-state *[state]* bank or extranational institution and the state or country  
 17 under the laws of which *[it]* **the out-of-state bank or extranational institution** is organized.

18 (b) A statement that the out-of-state *[state]* bank or extranational institution no longer conducts  
 19 banking business in this state.

20 (c) A statement that the out-of-state *[state]* bank or extranational institution surrenders *[its]*  
 21 authority to conduct banking business in this state.

22 (d) A statement that the out-of-state *[state]* bank or extranational institution revokes the au-  
 23 thority of *[its]* **the out-of-state bank's or extranational institution's** registered agent in this state  
 24 to accept service of process, notice or demand and *[consents that]* **authorizes the director to ac-**  
 25 **cept on the out-of-state bank's or extranational institution's behalf** service of process, notice  
 26 or demand in any action, suit or proceeding based upon *[any]* a transaction, event or occurrence  
 27 *[which]* **that** took place in this state *[prior to]* **before** the filing of the application to withdraw *[may*  
 28 *thereafter be made on such out-of-state state bank or extranational institution by service thereof on the*  
 29 *director]*.

30 (e) A mailing address to which *[the person initiating any]* **a person that initiates** proceedings  
 31 may mail a copy of *[any]* process, notice or demand, *[which]* **that** has been served on the director,  
 32 to the out-of-state *[state]* bank or extranational institution.

33 (f) *[Such]* Additional information *[as may be]* **that is** necessary or appropriate to enable the di-  
 34 rector to determine and assess *[any]* unpaid fees or charges payable by *[such]* **the** out-of-state  
 35 *[state]* bank or extranational institution as prescribed in the Bank Act.

36 (2) The **out-of-state bank or extranational institution may apply** *[application]* for withdrawal  
 37 *[may be made]* on forms *[prescribed or furnished by]* the director **prescribes or furnishes.** *[and*  
 38 *shall be signed by]* The **president or vice-president and secretary or assistant secretary of the**  
 39 out-of-state *[state]* bank or extranational institution *[by its president or a vice president and by its*  
 40 *secretary or an assistant secretary,]* **shall sign the application** and *[verified by]* one of the officers  
 41 signing the application **shall verify the application** or, if the out-of-state *[state]* bank or  
 42 extranational institution is in the hands of a receiver or trustee, **the receiver or trustee shall sign**  
 43 **and verify the application** *[shall be signed]* on behalf of the *[institution and verified by the receiver*  
 44 *or trustee]* **out-of-state bank or extranational institution.**

45 (3) An out-of-state *[state]* bank or extranational institution that conducted banking business in



1 this state without the authorization provided by this chapter *[will be]* **is** subject to service after *[it*  
 2 *has ceased]* **ceasing** to conduct banking business in this state in the same manner as though *[it had*  
 3 *been]* **the out-of-state bank or extranational institution was** authorized to conduct banking  
 4 business, *[had]* later *[withdrawn]* **withdrew** and, in connection with *[such]* **the** withdrawal, *[had]*  
 5 filed *[a consent to]* **an authorization for** service in the manner required by subsection (1)(d) of this  
 6 section.

7 **SECTION 14.** ORS 713.220 is amended to read:

8 713.220. (1) **An out-of-state bank or extranational institution that applies to withdraw**  
 9 **from this state under ORS 713.210 must deliver** the application *[to withdraw shall be delivered]*  
 10 to the Director of the Department of Consumer and Business Services. If the director finds that  
 11 *[such]* **the** application conforms to the provisions of this chapter, the director, when all fees and  
 12 charges have been paid, shall file the application to withdraw and return the copy marked "Filed"  
 13 to the sender.

14 (2) *[Upon the filing of the application to withdraw,]* The authority of the out-of-state *[state]* bank  
 15 or extranational institution to conduct banking business in this state *[shall cease]* **ceases when the**  
 16 **application to withdraw is filed.**

17 **SECTION 15.** ORS 713.230 is amended to read:

18 713.230. *[The]* **A** certificate of authority *[of]* **for** an out-of-state *[state]* bank or extranational in-  
 19 stitution to conduct banking business in this state may be revoked *[when]* **if the out-of-state bank**  
 20 **or extranational institution:**

21 *[(1) The out-of-state state bank or extranational institution has not filed any report which it is re-*  
 22 *quired to file under the Bank Act or has not paid any fee which it is required to pay under the Bank*  
 23 *Act;]*

24 (1) **Failed to file a report or pay a fee required under the Bank Act;**

25 (2) *[The out-of-state state bank or extranational institution has]* Failed to appoint or maintain a  
 26 registered agent or office in this state as required by ORS 713.170 or *[has]* failed to maintain au-  
 27 thority to transact business as required by ORS 713.140 (3);

28 (3) *[The out-of-state state bank or extranational institution has changed its]* **Changed the out-of-**  
 29 **state bank's or extranational institution's** registered office or registered agent and *[has]* failed  
 30 to submit *[to the Director of the Department of Consumer and Business Services]* a statement of the  
 31 change **to the Director of the Department of Consumer and Business Services** as required by  
 32 ORS 713.200 (1);

33 (4) *[A misrepresentation has been made of any]* **Misrepresented or allowed a misrepresen-**  
 34 **tation of a** material matter in *[any]* **an** application, report, affidavit or other document *[submitted*  
 35 *by such]* **that the** out-of-state *[state]* bank or extranational institution **submitted** pursuant to the  
 36 Bank Act;

37 (5) *[The out-of-state state bank or extranational institution has]* Failed to submit for filing an ap-  
 38 plication to amend *[its]* **the out-of-state bank's or extranational institution's** certificate of au-  
 39 thority as required by ORS 713.200 (2); or

40 (6) *[The out-of-state state bank or extranational institution has]* Failed to submit for filing a cer-  
 41 tificate of merger or consolidation as required by ORS 713.260.

42 **SECTION 16.** ORS 713.240 is amended to read:

43 713.240. (1) *[Whenever]* **If** an out-of-state *[state]* bank or extranational institution has given cause  
 44 for revocation of *[its]* **a** certificate of authority as provided in ORS 713.230 and has failed to correct  
 45 the neglect, omission, misrepresentation or delinquency, the Director of the Department of Consumer

1 and Business Services may revoke the right of the out-of-state *[state]* bank or extranational institu-  
 2 tion to conduct banking business in this state. The director shall mail a notice of the revocation to  
 3 the mailing address shown for the out-of-state *[state]* bank or extranational institution in the current  
 4 records of the director **and** to the out-of-state *[state]* bank or extranational institution at *[its]* **the**  
 5 registered office **for the out-of-state bank or extranational institution** in this state or *[its]* **the**  
 6 principal office in *[its]* **the out-of-state bank's or extranational institution's** home state or  
 7 **country**.

8 (2) After the director revokes the certificate of authority, all powers that this state conferred  
 9 upon the out-of-state *[state]* bank or extranational institution *[shall]* cease, and thereafter *[no]* **a**  
 10 person *[shall]* **may not** exercise or attempt to exercise *[in this state any]* power under the revoked  
 11 certificate of authority **in this state**.

12 (3) *[Whenever it is established to the satisfaction of]* **If** the director **is satisfied** that *[any]* **an**  
 13 out-of-state *[state]* bank or extranational institution[,] **that has had a** *[the]* certificate of authority  
 14 *[of which has been]* revoked under subsection (1) of this section[,] has corrected the cause for revo-  
 15 cation, the director shall restore the out-of-state *[state bank]* **bank's** or extranational *[institution]*  
 16 **institution's** *[to all its]* former rights and privileges in the same manner as the director revoked the  
 17 authority of the out-of-state *[state]* bank or extranational institution.

18 (4) *[Any]* **An** out-of-state *[state]* bank or extranational institution previously authorized to con-  
 19 duct banking business in this state that has had *[its]* **a** certificate of authority revoked and that has  
 20 corrected the cause for revocation under subsection (1) of this section may apply *[for reinstatement*  
 21 *of its]* **to reinstate the** certificate of authority within two years *[of]* **after** the date of revocation.  
 22 The out-of-state *[state]* bank or extranational institution shall pay all fees *[which]* **that** accrued be-  
 23 fore the director revoked the certificate of authority and a reinstatement filing fee of \$100. The  
 24 payment *[shall]* **must** accompany the application for reinstatement. If the director is satisfied that  
 25 **the out-of-state bank or extranational institution has corrected the** cause for revocation *[has*  
 26 *been corrected]*, the director shall file the application for reinstatement *[of the out-of-state state bank*  
 27 *or extranational institution, entitling it to resume its]*, **which entitles the out-of-state bank or**  
 28 **extranational institution to resume** business in this state. The director *[shall]* **may** not file the  
 29 application for reinstatement unless the name of the out-of-state *[state]* bank or extranational insti-  
 30 tution conforms to ORS 713.130 and the application is filed within two years *[of]* **after** the date of  
 31 revocation.

32 (5) Reinstatement under this section relates back to and takes effect as of the effective date of  
 33 the revocation of the certificate of authority, so that the existence of the out-of-state *[state]* bank  
 34 or extranational institution is deemed to have continued without interruption from that date.

35 **SECTION 17.** ORS 713.250 is amended to read:

36 713.250. (1) *[No]* **An** out-of-state *[state]* bank or extranational institution *[conducting]* **that con-**  
 37 **ducts** banking business in this state without a certificate of authority *[shall be permitted to]* **may**  
 38 **not** maintain *[any]* **an** action, suit or proceeding in *[any]* **a** court of this state until *[such]* **the** out-  
 39 of-state *[state]* bank or extranational institution *[shall have obtained]* **obtains** a certificate of au-  
 40 thority.

41 (2) *[The failure of]* **An** out-of-state *[state bank]* **bank's** or extranational *[institution]* **institution's**  
 42 **failure** to obtain a certificate of authority to conduct banking business in this state *[shall]* **does** not  
 43 impair the validity of *[any]* **a** contract or **an** act of *[such]* **the** out-of-state *[state]* bank or  
 44 extranational institution, and *[shall]* **does** not prevent *[such]* **the** out-of-state *[state]* bank or  
 45 extranational institution from defending *[any]* **an** action, suit or proceeding in *[any]* **a** court of this

1 state.

2 (3) An out-of-state [*state*] bank or extranational institution that conducts banking business in this  
 3 state without a certificate of authority [*shall be*] **is** liable to this state for the years or [*parts*  
 4 *thereof*] **partial years** during which [*it*] **the out-of-state bank or extranational institution** con-  
 5 ducted banking business in this state without a certificate of authority. [*in an*] **The amount of the**  
 6 **liability is** equal to all fees, assessments and other charges [*which would have been imposed upon*]  
 7 **that** the out-of-state [*state*] bank or extranational institution **would have paid** under the Bank Act  
 8 had [*it*] **the out-of-state bank or extranational institution** duly applied for and received a cer-  
 9 tificate of authority to conduct banking business in this state [*as required by this chapter and*  
 10 *thereafter*] **and** filed all reports required [*by*] **under** the Bank Act, plus all penalties imposed under  
 11 the Bank Act for failure to pay [*such*] **the** fees and charges. The Attorney General may bring pro-  
 12 ceedings to recover [*all*] amounts due this state under the provisions of this section.

13 **SECTION 18.** ORS 713.260 is amended to read:

14 713.260. [*Whenever*] **If** an out-of-state [*state*] bank or extranational institution that has [*been is-*  
 15 *sued*] a certificate of authority under ORS 713.020 ceases to exist because of a statutory merger or  
 16 consolidation with any other out-of-state [*state*] bank, **an** extranational institution or other entity,  
 17 [*it*] **the resulting institution** shall, within 60 days after the effective date of [*such*] **the** merger or  
 18 consolidation, file with the Director of the Department of Consumer and Business Services a certif-  
 19 icate from the appropriate public officer of the state, territory or country under the laws of which  
 20 [*it*] **the out-of-state bank or extranational institution** is organized, or other evidence satisfactory  
 21 to the director[,] to the effect that [*such*] **the** out-of-state [*state*] bank or extranational institution  
 22 has merged or consolidated and has [*thereby*] ceased to exist.

23 **SECTION 19.** ORS 713.270 is amended to read:

24 713.270. [(1) *Notwithstanding any other provision of the Bank Act, no out-of-state bank may con-*  
 25 *duct banking business at a branch located in this state unless the out-of-state bank has converted from,*  
 26 *has assumed all or substantially all of Oregon deposit liabilities of or has merged with an insured*  
 27 *institution that, by itself or together with any predecessor, has been engaged in banking business or*  
 28 *otherwise has been lawfully accepting deposits at an office in this state for a period of not less than*  
 29 *three years prior to the effective date of the conversion, assumption or merger.*]

30 [(2) *This section does not prohibit an out-of-state bank lawfully conducting a banking business in*  
 31 *this state on October 4, 1997, from continuing to conduct banking business in this state.*]

32 (1) **An out-of-state bank, including a savings bank organized under the laws of another**  
 33 **state, may open, occupy or maintain a branch in this state that results from:**

34 (a) **Acquiring another bank or branch of another bank that is located in this state; or**

35 (b) **Merging with or converting from another bank or branch of another bank that is lo-**  
 36 **cated in this state.**

37 (2) **An out-of-state bank may conduct banking business in this state under the provisions**  
 38 **of subsection (1) of this section or by opening one or more de novo branches in this state if**  
 39 **the laws of the jurisdiction in which the out-of-state bank's principal office is located ex-**  
 40 **pressly permit an Oregon bank to open one or more de novo branches in the jurisdiction**  
 41 **under conditions that are not more restrictive than the conditions this chapter imposes on**  
 42 **an out-of-state bank.**

43 (3) **An out-of-state bank must submit an application for a certificate of authority to**  
 44 **conduct banking business in this state to the Director of the Department of Consumer and**  
 45 **Business Services at the time that the out-of-state bank files with the out-of-state bank's**

1 home state or primary federal regulator for approval to open, occupy or maintain a branch  
2 in this state.

3 (4) At the time the out-of-state bank applies for a certificate of authority, the out-of-  
4 state bank must pay the application fee prescribed in ORS 713.150.

5 (5) If the director authorizes an out-of-state bank to open, occupy or maintain a branch  
6 in this state, the out-of-state bank may exercise the powers and authorities that the laws  
7 of this state authorize for Oregon banks unless the laws of the out-of-state bank's home  
8 state limit the powers and authorities.

9 (6) If the director determines that an out-of-state bank's opening, occupying or main-  
10 taining of a branch in this state is not consistent with the laws of this state or that the  
11 branch would operate in an unsafe or unsound manner, the director shall notify the out-of-  
12 state bank that:

13 (a) The director has denied the out-of-state bank's application for a certificate of au-  
14 thority to conduct banking business in this state; and

15 (b) The out-of-state bank may not conduct banking business at a branch located in this  
16 state.

17 (7) If the director determines that a branch that an out-of-state bank maintains in this  
18 state is being operated in violation of the laws of this state or that the branch is being op-  
19 erated in an unsafe or unsound manner, the director may take all enforcement actions the  
20 director could take with respect to an Oregon bank, except that the director shall notify the  
21 responsible bank supervisory agency of each enforcement action the director takes and, to  
22 the extent practicable, shall consult and cooperate with the responsible bank supervisory  
23 agency in pursuing and resolving the enforcement action.

24 **SECTION 20.** ORS 713.280 is amended to read:

25 713.280. **The Director of the Department of Consumer and Business Services may not**  
26 **deny a certificate of authority to** an out-of-state [state] bank or extranational institution [*shall not*  
27 *be denied a certificate of authority by reason of the fact that*] **solely because** the laws of the state  
28 or country under which [*such*] **the** out-of-state [state] bank or extranational institution is organized,  
29 [*governing its*] **or the laws that govern the** organization and internal affairs **of the out-of-state**  
30 **bank or extranational institution,** differ from the laws of this state. [*Nothing contained in*] This  
31 chapter [*shall be construed to*] **does not** authorize this state to regulate the organization or internal  
32 affairs of [*such*] **an** out-of-state [state] bank or extranational institution.

33 **SECTION 21.** ORS 713.290 is amended to read:

34 713.290. An extranational institution [*shall*] **may** not accept deposits at [*any*] **an** office in this  
35 state in an amount less than [*\$100,000*] **\$250,000,** unless the **Federal Deposit Insurance Corpo-**  
36 **ration insures the** insurable deposits of [*that*] **the** office [*are insured by the Federal Deposit Insur-*  
37 *ance Corporation*] or [*no such insurance is required under*] the Federal Deposit Insurance Act and  
38 the regulations of the Federal Deposit Insurance Corporation [*thereunder*] **do not require**  
39 **insurance.**

40 **SECTION 22.** ORS 716.060 is amended to read:

41 716.060. (1) The guaranty fund [*shall consist*] **or liquidation account consists** of payments in  
42 cash made by the incorporators and of all sums credited to the guaranty fund as required by ORS  
43 716.780 **or federal law.**

44 [(2) *The incorporators shall deposit to the credit of the Oregon nonstock bank in cash as an initial*  
45 *guaranty fund an amount determined by the Director of the Department of Consumer and Business*

1 *Services, which is the limit of their liability to that fund.]*

2 *[(3) Prior to the liquidation of the Oregon nonstock bank, the guaranty fund shall not be used ex-*  
 3 *cept for losses and the repayment of contributions made by incorporators or directors as provided in*  
 4 *ORS 716.800 (2), until the fund, together with undivided profits, exceeds 25 percent of the amount due*  
 5 *depositors.]*

6 *[(4) The amounts contributed to the guaranty fund by the incorporators shall not constitute a li-*  
 7 *ability of the Oregon nonstock bank, except as provided in this chapter. Any loss sustained by the*  
 8 *Oregon nonstock bank in excess of that portion of the guaranty fund created from earnings may be*  
 9 *charged against the contributions pro rata.]*

10 **(2) If a financial institution that is converting to another type of financial institution has**  
 11 **a guaranty fund or liquidation account, the Oregon nonstock bank that results from the**  
 12 **conversion must maintain the guaranty fund or liquidation account and may use the guar-**  
 13 **anty fund or liquidation account only for the purposes for which the financial institution**  
 14 **used the guaranty fund or liquidation account before the conversion.**

15 **SECTION 23. Sections 24 and 25 of this 2011 Act are added to and made a part of the**  
 16 **Bank Act.**

17 **SECTION 24. If the Director of the Department of Consumer and Business Services de-**  
 18 **termines that a financial holding company or a bank holding company is violating the law**  
 19 **or violating an order the director issued, is conducting business in an unsafe or unsound**  
 20 **manner or without a certificate of authority or has refused to submit records for an**  
 21 **examiner's inspection or for the Department of Consumer and Business Services to inspect,**  
 22 **the director may:**

23 **(1) Notify the Federal Reserve Board of the director's determination and of the facts and**  
 24 **circumstances on which the director based the determination;**

25 **(2) Provide the financial holding company or bank holding company with:**

26 **(a) Notice of the charges that form the basis for the director's determination that the**  
 27 **financial holding company or bank holding company is violating the law or violating an order**  
 28 **the director issued, is conducting business in an unsafe or unsound manner or is operating**  
 29 **without a certificate of authority; and**

30 **(b) An opportunity for a hearing before the director or a person the director designates**  
 31 **on a date and in a place the director specifies in the notice to the financial holding company**  
 32 **or bank holding company;**

33 **(3) Conduct a hearing and make findings regarding each of the charges specified in the**  
 34 **notice to the financial holding company or bank holding company under subsection (2) of this**  
 35 **section;**

36 **(4) Direct the financial holding company or bank holding company in a written order to**  
 37 **discontinue a practice that the director finds is a violation of the law or violation of an order**  
 38 **the director issued or is an unsafe, unsound or unauthorized manner of conducting business;**

39 **(5) Direct the financial holding company or bank holding company in a written order to**  
 40 **take an action to affirmatively correct or remedy a condition that results from a violation**  
 41 **of the law or violation of an order the director issued or from an unsafe, unsound or unau-**  
 42 **thorized manner of conducting business;**

43 **(6) Require the financial holding company or bank holding company in a written order**  
 44 **to guarantee for a subsidiary bank capital levels that are appropriate for a depository insti-**  
 45 **tution to maintain safe and sound operations;**

1 (7) Apply for an injunction or other order from a court that has jurisdiction over the  
2 matter to enforce an order the director issues under subsection (4), (5) or (6) of this section;  
3 or

4 (8) Publish notice of an order the director issues under subsection (4), (5) or (6) of this  
5 section.

6 **SECTION 25.** (1) The Director of the Department of Consumer and Business Services by  
7 order may direct the board of directors of a financial holding company or bank holding  
8 company to remove a director or officer of the financial holding company or bank holding  
9 company:

10 (a) For any of the reasons for which the Director of the Department of Consumer and  
11 Business Services may refuse to approve articles of incorporation or grant a charter to an  
12 institution under ORS 707.145; or

13 (b) If the director or officer of the financial holding company or bank holding company  
14 refuses to comply with written requirements or instructions the Director of the Department  
15 of Consumer and Business Services issues.

16 (2) The Director of the Department of Consumer and Business Services shall issue an  
17 order under subsection (1) of this section in writing and may issue the order without an ad-  
18 ministrative hearing. A copy of the order must be served personally or by certified mail on  
19 the director or officer of the financial holding company or bank holding company who is  
20 subject to removal. The order is effective upon receipt and immediately suspends the director  
21 or officer from office in the financial holding company or bank holding company.

22 (3) An order that the Director of the Department of Consumer and Business Services  
23 issues under subsection (1) of this section must notify the director or officer of the financial  
24 holding company or bank holding company that the director or officer has a right to appeal  
25 the order in a contested case hearing under ORS 183.415 to 183.500.

26 (4) The board of directors of a financial holding company or bank holding company by  
27 resolution shall remove a director or officer of the financial holding company or bank holding  
28 company who is subject to an order issued under subsection (1) of this section and shall de-  
29 clare the office vacant after:

30 (a) The period during which the director or officer who is subject to the order may appeal  
31 the order in a contested case hearing under ORS 183.415 to 183.500 expires; or

32 (b) The decision in the contested case hearing affirms the order of the Director of the  
33 Department of Consumer and Business Services.

34 (5) A director or officer of a financial holding company or bank holding company who is  
35 suspended or removed under this section may not act in an official capacity, conduct busi-  
36 ness for a subsidiary bank or have access to books, records or assets of the subsidiary bank  
37 in a manner accorded to an officer, director or stockholder without the permission of the  
38 Director of the Department of Consumer and Business Services.

39 **SECTION 26.** (1) Sections 24 and 25 of this 2011 Act and the amendments to ORS 706.008,  
40 713.010, 713.016, 713.020, 713.090, 713.130, 713.140, 713.150, 713.160, 713.170, 713.190, 713.200,  
41 713.210, 713.220, 713.230, 713.240, 713.250, 713.260, 713.270, 713.280, 713.290 and 716.060 by  
42 sections 1 to 22 of this 2011 Act become operative 91 days after the effective date of this 2011  
43 Act.

44 (2) The Director of the Department of Consumer and Business Services may take any  
45 action before the operative date specified in subsection (1) of this section that is necessary

1 to enable the director to exercise, on and after the operative date specified in subsection (1)  
2 of this section, all of the duties, functions and powers conferred on the director by sections  
3 24 and 25 of this 2011 Act and the amendments to ORS 706.008, 713.010, 713.016, 713.020,  
4 713.090, 713.130, 713.140, 713.150, 713.160, 713.170, 713.190, 713.200, 713.210, 713.220, 713.230,  
5 713.240, 713.250, 713.260, 713.270, 713.280, 713.290 and 716.060 by sections 1 to 22 of this 2011  
6 Act.

7 **SECTION 27.** This 2011 Act being necessary for the immediate preservation of the public  
8 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
9 on its passage.

10