

D R A F T

SUMMARY

Changes amount of credit union assets that require credit union to obtain fidelity bond or irrevocable letter of credit from financial institution and amount of fidelity bond or irrevocable letter of credit required.

Provides that state credit union has powers and authorities of federal credit union, subject to certain findings of Director of Department of Consumer and Business Services.

Removes power of board of directors of credit union to exercise certain functions.

Increases aggregate limit on amount of loan that credit union may make to credit union member.

Specifies limitations on liability of credit union director or officer under particular circumstances.

A BILL FOR AN ACT

1
2 Relating to credit unions; amending ORS 181.871, 723.122, 723.156, 723.276,
3 723.296, 723.326, 723.512 and 723.840; and repealing ORS 723.332.

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

5 **SECTION 1.** ORS 723.122 is amended to read:

6 723.122. (1) A credit union shall obtain and maintain a fidelity bond or
7 irrevocable letter of credit issued by an insured institution, as defined in
8 ORS 706.008, that includes coverage in accordance with rules of the Director
9 of the Department of Consumer and Business Services, to protect the credit
10 union against losses caused by occurrences such as fraud, dishonesty, for-
11 gery, embezzlement, misappropriation, misapplication of duty and all acts of
12 agents, directors, officers, committee members, employees or attorneys of the
13 credit union. The minimum amount of the bond or letter of credit is based
14 on the amount of the credit union's total assets in accordance with the fol-

1 following table:

2

3

4	Total Assets	Minimum Amount
5		of Bond
6		or Letter of Credit
7		
8	\$0 to \$4,000,000	\$250,000 or
9		coverage equal
10		to the credit
11		union's total assets,
12		whichever is less.
13		
14	\$4,000,001 to \$50,000,000	\$100,000 plus
15		\$50,000 for each
16		\$1,000,000 of total assets or
17		fraction <i>[thereof]</i> of total assets
18		over \$1,000,000.
19		
20	\$50,000,001 to \$500,000,000	\$2,550,000 plus
21		\$10,000 for each
22		\$1,000,000 of total assets or
23		fraction <i>[thereof]</i> of total assets
24		over <i>[\$1,000,000]</i>
25		\$50,000,000,
26		with a maximum of
27		\$5,000,000.
28		
29	More than \$500,000,000	1% of the credit
30		union's total assets
31		rounded to the

1 nearest [\$1,000,000]
2 **\$100,000,000,**
3 with a maximum
4 of \$9,000,000.

6 (2) A fidelity bond or letter of credit must include a faithful performance
7 clause to cover the chief financial officer. The director must approve the
8 fidelity bond or letter of credit and may require *[such]* additional amounts
9 as the director considers necessary.

10 (3) Claims upon a fidelity bond or letter of credit that exceed one percent
11 of the credit union's reserves and undivided earnings or that are related to
12 the errors or omissions of an officer, director or committee member must be
13 reported to the director.

14 **SECTION 2.** ORS 723.156 is amended to read:

15 723.156. (1) Notwithstanding any other provision of law, a credit union
16 **has, in addition to the powers and authorities provided under the laws**
17 **of this state, the powers and authorities available as of January 1,**
18 **2013, to a federal credit union.**

19 (2) **Notwithstanding any other provision of law, a credit union, in**
20 **addition to the powers and authorities provided under the laws of this**
21 **state, may, [upon prior] after obtaining** approval *[by]* **from** the Director
22 of the Department of Consumer and Business Services and subject to any
23 limitations *[prescribed by]* the director **prescribes,** exercise any of the pow-
24 ers conferred upon a federally chartered credit union *[doing]* **that does**
25 business in this state **and** that is subject to the regulations of the adminis-
26 trator of the National Credit Union Administration or the successor or suc-
27 cessors of the administrator, **or any of the powers conferred on a credit**
28 **union that is chartered under the laws of another state and does**
29 **business in this state,** if the director finds that *[the exercise of]* **exercising**
30 the *[power]* **powers:**

31 *[(1)]* (a) Serves the public and members' convenience and advantage; and

1 [(2)] **(b)** Equalizes and maintains the quality of competition [*between state*
2 *chartered credit unions and federally chartered credit unions*] **among credit**
3 **unions chartered under the laws of this state, of another state and**
4 **under federal law.**

5 **SECTION 3.** ORS 723.276 is amended to read:

6 723.276. (1) At the organizational meeting of the board of directors and
7 within 60 days [*following*] **after** each annual meeting of the members, the
8 directors shall elect an executive officer, [*who may be designated as chair-*
9 *person*] **whom the directors may designate as chairperson** of the board
10 or president[;], a vice chairperson of the board or one or more vice
11 presidents[;], a treasurer[;] and a secretary. The treasurer and the secretary
12 may be the same individual. The persons [*elected by*] **that** the board of di-
13 rectors **elects** are the executive officers of the corporation.

14 (2) The terms of the officers are one year, or until the successors of the
15 officers are chosen and have duly qualified.

16 (3) The **bylaws must prescribe the** duties of the officers. [*must be pre-*
17 *scribed in the bylaws.*]

18 [(4) *The board of directors may employ an officer in charge of operations*
19 *whose title is president, general manager, or another title that is designated*
20 *in the bylaws of the credit union. The board of directors may instead designate*
21 *the treasurer or an assistant treasurer to be in active charge of the affairs of*
22 *the credit union.*]

23 [(5) *The board of directors may appoint a security officer.*]

24 **SECTION 4.** ORS 723.296 is amended to read:

25 723.296. (1) The board of directors shall manage the business and affairs
26 of the credit union. The duties of the board include, but are not limited to,
27 the duties listed in this section. The board may not delegate duties listed in
28 subsection (2) of this section. The board may delegate the duties listed in
29 subsection (3) of this section to a committee, officer or employee of the credit
30 union, who shall provide appropriate information to the board regarding the
31 exercise of the duties.

1 (2) The board shall:

2 (a) Establish the requirements for membership in the credit union, in-
3 cluding the par value, if any, of a share;

4 [(b) *Declare dividends on shares and share certificates as provided by the*
5 *bylaws;*]

6 [(c)] (b) Authorize interest refunds, if any, to members from income
7 earned and received in proportion to the interest [*paid by them*] **the mem-**
8 **bers pay** on classes of loans and under conditions that the board prescribes;

9 [(d)] (c) Authorize the employment of persons necessary to carry on the
10 business of the credit union and fix the compensation of the manager or chief
11 executive officer;

12 [(e)] (d) Authorize the conveyance of property;

13 [(f)] (e) Suspend members of the credit or supervisory committee for
14 [*failure*] **failing** to perform [*their*] **the members'** duties;

15 [(g)] (f) Appoint any special committees the board considers necessary;

16 [(h) *Perform other duties as the members of the credit union from time to*
17 *time direct, and perform or authorize any action not inconsistent with this*
18 *chapter and not specifically reserved by the bylaws for the members;*]

19 [(i)] (g) Limit the number of shares and the amount of deposits that [*may*
20 *be owned by*] a member **may own** and ensure that limitations adopted under
21 this subsection apply alike to all members; and

22 [(j)] (h) Establish policies and controls regarding the investment of sur-
23 plus funds.

24 (3) In addition to the duties listed in subsection (2) of this section, and
25 subject to subsection (1) of this section, the board shall:

26 (a) Act upon applications for membership. If this duty is delegated, a re-
27 cord of an approval or denial of membership must be made available to the
28 board. A person [*denied membership by*] **to whom** a committee, officer or
29 employee of the credit union **denies membership** may appeal the denial to
30 the board.

31 (b) Purchase a blanket fidelity bond, in accordance with ORS 723.122.

1 (c) Determine from time to time the interest rate or rates that shall be
2 charged on loans.

3 (d) **Declare dividends on shares and share certificates in accordance**
4 **with the provisions of the bylaws and** determine the prospective dividend
5 rate to be paid on shares and share certificates and the interest rate or rates
6 that will be paid on deposits and deposit certificates.

7 (e) Designate a depository or depositories for the funds of the credit un-
8 ion.

9 (f) Borrow or lend money to carry out the functions of the credit union.

10 **SECTION 5.** ORS 723.326 is amended to read:

11 723.326. [(1) *The supervisory committee by a unanimous vote may suspend*
12 *any member of the credit committee and shall report such action to the board*
13 *of directors for appropriate action.*]

14 [(2)] (1) The supervisory committee by a unanimous vote may suspend any
15 [*officer or*] member of the board until the next members' meeting. The next
16 members' meeting must be held not less than 14 nor more than 45 days after
17 the suspension. At the meeting the members shall decide whether to remove
18 the suspended officer or board member.

19 [(3)] (2) **The board may remove** any member of the supervisory com-
20 mittee [*may be removed by the board for failure*] **for failing** to perform duties
21 prescribed in this chapter or in the credit union's articles of incorporation,
22 bylaws or policies.

23 [(4)] (3) A person may not serve as a director if the person has defaulted
24 on payment of a voluntary obligation to the credit union or has otherwise
25 caused the credit union to incur a financial loss.

26 **SECTION 6.** ORS 723.512 is amended to read:

27 723.512. (1) [No] **A credit union may not make a** loan [*shall be made*]
28 to any member in an aggregate amount [*in excess of \$15,000*] **that exceeds**
29 **\$100,000**, or 15 percent of the credit union's equity, whichever is greater. In
30 determining the amount of loans to be made to a member, loans for which
31 that member is a guarantor or surety [*shall*] **must** be included, as well as

1 loans to persons who are not individuals if the individual member is a prin-
2 cipal or owner of the person who is not an individual or the loan is for that
3 member's benefit.

4 (2) The restrictions in subsection (1) of this section do not apply to any
5 loan **that is** fully guaranteed by shares or deposits.

6 **SECTION 7.** ORS 723.840 is amended to read:

7 723.840. (1) A person [*may not be held*] **is not** personally liable for an act
8 or omission [*by*] the person **does or fails to do** in good faith and in com-
9 pliance with a statute, rule or order of the Director of the Department of
10 Consumer and Business Services under this chapter regardless of whether the
11 statute, rule or order is later amended, rescinded or determined to be invalid
12 by judicial or other authority.

13 (2) **A director or officer of a credit union is not personally liable to**
14 **the credit union or to members of the credit union for damages that**
15 **result from the director's or officer's exercising judgment or discretion**
16 **in connection with the director's or officer's duties or responsibilities**
17 **or from the director's or officer's act or omission in rendering service**
18 **to the credit union, except to the extent that the director or officer**
19 **does not exercise judgment or discretion, or does not render service**
20 **to the credit union, in good faith or with due care or in a manner that**
21 **the director or officer reasonably believes is in the best interests of the**
22 **credit union.**

23 (3)(a) **A director, in discharging the director's duties, may rely on**
24 **information, opinions, reports or statements, including financial**
25 **statements and other financial data that any of the following persons**
26 **prepare or present:**

27 (A) **An officer or employee of the credit union that the director**
28 **reasonably believes is competent and reliable with respect to the**
29 **matters the officer or employee prepares or presents;**

30 (B) **Legal counsel, public accountants or other persons with respect**
31 **to matters that the director reasonably believes are within the**

1 **counsel's, accountant's or other person's professional or expert com-**
2 **petence; or**

3 **(C) A committee of the board of directors of which the director is**
4 **not a member if the director reasonably believes that the committee**
5 **merits the director's confidence.**

6 **(b) A director does not act in good faith, with due care or in a**
7 **manner that the director reasonably believes is in the interests of the**
8 **credit union if the director has knowledge concerning a matter that**
9 **makes the director's reliance on the information, opinions, reports,**
10 **statements or data described in paragraph (a) of this subsection un-**
11 **warranted.**

12 **(4) This section does not bar a cause of action against the credit**
13 **union or change any liability of the credit union that arises out of an**
14 **act or omission of a director, officer or other who is exempt from li-**
15 **ability for negligence under this section.**

16 **SECTION 8. ORS 723.332 is repealed.**

17 **SECTION 9. ORS 181.871, as amended by section 2, chapter 28, Oregon**
18 **Laws 2012, is amended to read:**

19 181.871. (1) ORS 181.870 to 181.887 do not apply to:

20 (a) A person certified by the Department of Public Safety Standards and
21 Training as a police officer or a parole and probation officer.

22 (b) A law enforcement officer of the United States.

23 (c) An officer or employee of this state, Oregon Health and Science Uni-
24 versity established by ORS 353.020 or the United States while performing
25 duties of the office or employment.

26 (d) A person appointed or commissioned by the Governor to perform law
27 enforcement or security services.

28 (e) An attorney admitted to practice law in this state while engaged in
29 the practice of law.

30 (f) An insurance adjuster licensed in this state while performing duties
31 authorized by the license.

1 (g) A person who monitors alarm systems that are not designed to detect
2 threats to public safety or personal well-being.

3 (h) A person while protecting the person's property.

4 (i) A person who repairs and installs intrusion alarms while repairing or
5 installing intrusion alarms.

6 (j) A person acting as an investigator as defined in ORS 703.401.

7 (k) A person performing crowd management or guest services, including,
8 but not limited to, a person described as a ticket taker, an usher, a parking
9 attendant or event staff.

10 (L) A person who has a valid service permit issued by the Oregon Liquor
11 Control Commission pursuant to ORS 471.360 and who is an employee of a
12 licensee of the commission when the person is performing age verification
13 and controlling access to premises of the licensee, if the person is not:

14 (A) Armed;

15 (B) Permitted to initiate confrontational activities, including physical
16 contact and the confiscation of property; or

17 (C) Hired with the primary responsibility of taking enforcement action
18 as described in ORS 181.870 (8)(f).

19 (m) A person performing security services at a facility regulated by the
20 United States Nuclear Regulatory Commission if the facility is operated by
21 the person's employer.

22 (n) An individual while on active duty as a member of the armed services
23 or while performing duties as a law enforcement officer.

24 (o) An employee of a financial institution who has been designated as a
25 security officer for the financial institution pursuant to the Bank Protection
26 Act of 1968 (12 U.S.C. 1881 et seq.) and regulations adopted under the act
27 [*or pursuant to ORS 723.276 (5)*].

28 (p) A person who provides security services as a volunteer or for de
29 minimis consideration other than money for an event operated for the benefit
30 of a corporation that is organized not for profit pursuant to ORS chapter 65
31 or any predecessor of ORS chapter 65 or that is exempt from taxation under

1 section 501(a) of the Internal Revenue Code as an organization described in
2 section 501(c) of the Internal Revenue Code.

3 (q) A student enrolled in a community college as defined in ORS 341.005
4 while engaged in nonconfrontational activities that contribute to campus
5 safety under the direct or indirect supervision of a law enforcement profes-
6 sional or private security professional certified or licensed by the Depart-
7 ment of Public Safety Standards and Training, provided the community
8 college has conducted a criminal background check on the student.

9 (2) The exemption provided by subsection (1)(k) of this section applies
10 only:

11 (a) To a person who is not:

12 (A) Armed;

13 (B) Permitted to initiate confrontational activities, including physical
14 contact and the confiscation of property; or

15 (C) Hired with the primary responsibility of taking enforcement action
16 as described in ORS 181.870 (8)(f);

17 (b) If there is at least one person on-site who is certified or licensed under
18 ORS 181.878 for every 10 or fewer uncertified persons performing the services
19 described in subsection (1)(k) of this section;

20 (c) If any enforcement action, as described in ORS 181.870 (8)(f), other
21 than incidental or temporary action, is taken by or under the supervision
22 of a person certified or licensed under ORS 181.878; and

23 (d) During the time when a crowd has assembled for the purpose of at-
24 tending or taking part in an organized event, including pre-event assembly,
25 event operation hours and post-event departure activities.

26 (3) The exemption provided by subsection (1)(L) of this section does not
27 apply during an organized event that is on a scale substantially outside the
28 ordinary course of the licensee's business.

29
