

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on March 16, 2016 by the
Date prior to or same as filing date

Department of Consumer & Business Services, Division of Financial Regulation 441
Agency and Division Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

to become effective Upon Filing through July 29, 2016
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Revises the fee schedule for assessments financial institutions pay to the Director.
Not more than 15 words that reasonably identify the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT:

AMEND: 441-500-0020

SUSPEND:

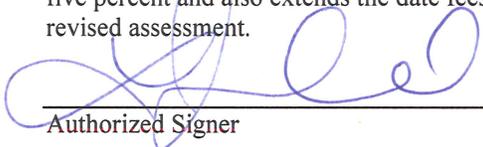
Stat. Auth.: ORS 706.530

Other Auth.: _____

Stats. Implemented: ORS 706.500

RULE SUMMARY

The Department of Consumer and Business Services (DCBS) is revising its rules to ensure that it has sufficient revenue to adequately carry out its supervisory mandates under the Oregon Bank Act, which requires DCBS to determine whether Oregon state-chartered banking institutions are operating in a safe and sound manner. The temporary rule increases assessment rates by five percent and also extends the date fees are due by 15 days to provide banks and trust companies additional time to pay the revised assessment.



Authorized Signer Printed name Date

Laura N. Cali
Printed name

3/16/2016
Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.
ARC 940-2005

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules
accompanies this form

FILED
3-16-16 9:25 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Consumer and Business Services, Finance and Securities Regulation
Agency and Division

441

Administrative Rules Chapter Number

Revises the fee schedule for assessments financial institutions pay to the Director.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending OAR 441-500-0020 to increase assessments paid by state-chartered banks and state chartered trust companies.

Statutory Authority:

ORS 706.530

Other Authority:

Statutes Implemented:

ORS 706.500

Need for the Temporary Rule(s):

see attached

Documents Relied Upon, and where they are available:

see attached

Justification of Temporary Rule(s):

see attached

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Email Address

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Consumer & Business Services, Division of Financial Regulation

OAR 441

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Amending OAR 441-500-0020 to increase assessments paid by state-chartered banks and state chartered trust companies.

Rule Caption: Revises the fee schedule for assessments financial institutions pay to the Director.

Statutory Authority: ORS 706.530

Other Authority:

Stats. Implemented: ORS 706.500

Need for the Temporary Rule(s): The Department of Consumer and Business Services (DCBS) is revising its rules to ensure that it has sufficient revenue to adequately carry out its supervisory mandates under the Oregon Bank Act, which requires DCBS to determine whether Oregon state-chartered banking institutions are operating in a safe and sound manner. The temporary rule increases assessment rates by five percent and also extends the date fees are due by 15 days to provide banks and trust companies additional time to pay the revised assessment.

Documents Relied Upon, and where they are available: Draft rules are available from the division's rules coordinator, located at 350 Winter St. NE, Rm. 410, Salem, OR 97301 and are available on the division's Web site at <http://dfcs.oregon.gov/rulestat.html>.

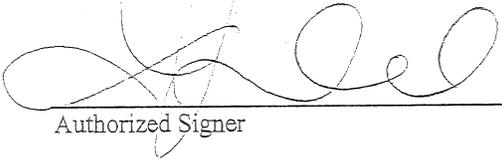
Justification of Temporary Rule(s): Oregon law directs the Director of the Department of Consumer and Business Services to examine the condition and resources of all state-chartered financial institutions to determine that the institutions comply with applicable law (ORS 706.500). Examinations of financial institutions are known as "safety and soundness" examinations, which entail scrutinizing the assets and liabilities of the institution. When all financial institutions are in good overall financial health and complying with the law, customer deposits remain safe, the institutions continue to be able to provide financial services, and the public remains confident in the banking system.

To carry out this mission, the Legislature directs the Director of the Department of Consumer and Business Services to assess financial institutions a fee under a schedule adopted by rule. In adopting the schedule, the Director takes into consideration three factors: the amount of other moneys available for the director to use in performing the director's duties, the costs the director will incur in performing the director's duties in the year in which the director will collect the fee, and the amount the director needs to establish and maintain a reasonable emergency fund (ORS 706.530).

The department has not raised assessments since 2009, though the department did propose permanent rules in late 2014. Since 2010, the revenue for the banking program has dropped significantly due to the declining number of Oregon state-chartered banks, and the challenges created by the financial crisis. As a consequence, and despite best efforts to control expenses, between FY 2009 and FY 2014, expenses have not kept pace with revenue. The department has taken several steps to control expenses during this time period. The department reduced the number of full-time equivalent employees, limited travel expenditures, and only allowed external examiner training on essential topics. Despite these efforts, the department projects that the banking program's expenses will exceed revenues in the current year.

If the department fails to adopt this temporary rule, expenses will quickly outpace revenue. As a consequence, the department will need to explore making programmatic changes to the type and frequency of examinations. Since the core method of ensuring compliance with the law and maintaining confidence of the banking system is the examination process, serious prejudice to the public will result if the department cannot carry out this essential, legislatively-mandated function as effectively. The effect on

the consequences would mainly be felt by financial institutions as well as the institution's customers. If the department is not examining banks and trust companies as much, customer confidence in the state bank system may erode. Without active and regular supervision, there is an elevated likelihood that banks and trust companies may not operate in a safe and sound manner, or may make business decisions contrary to Oregon law. Maintaining the current examination schedule of financial institutions prevents these deleterious effects on financial institutions and customers. Financial institutions remain committed to operating in a safe and sound manner, and customers remain assured that the banking system is sound.



Laura N. Cali

3/16/2016

Authorized Signer

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 945-2005

441-500-0020

Fees for Banks, Trust Companies, Savings Banks, Extranational Institutions, Savings Associations and Call for Reports

(1) Definitions.

(a) As used in this rule, "assets" means;

(A) The average assets of an Oregon based insured institution; or

(B) The average Oregon assets of an extranational institution.

(b) For the purposes of determining averages in subsections (1)(a):

(A) Average assets for an Oregon based insured institution shall be determined from the quarterly Call Reports of Condition and Income filed with the applicable federal supervisory agency for the calendar year immediately preceding the due date of the fee assessment; and

(B) Average Oregon assets in for an extranational institution shall be determined from the quarterly reports of Oregon Assets filed with the Director for the calendar year immediately preceding the due date of the assessment.

(2) Call for Reports. To the extent any report used to determine the fee assessment is not required to be filed or made available to the Director under other Banking Rules, the specific reports shall be provided by the insured institution or extranational institution upon the call of the Director to allow the fee assessments to be determined.

(3) Subject to section (10) of this rule, the annual fee assessment under ORS 706.530 for an insured institution subject to the jurisdiction of the Director, including a savings association, is: If assets are:

(a) Less than \$10 million, \$840 plus .000289 of all assets;

(b) \$10 million or more but less than \$25 million, \$1,706 plus .000210 of all assets;

(c) \$25 million or more but less than \$100 million, \$3,040 plus .000161 of all assets;

(d) \$100 million or more but less than \$500 million, \$10,285 plus .000095 of all assets;

- (e) \$500 million or more but less than \$1 billion, \$23,935 plus .000069 of all assets;
- (f) \$1 billion or more but less than \$2 billion, \$26,035 plus .000067 of all assets;
- (g) \$2 billion or more but less than \$3 billion, \$28,135 plus .000066 of all assets;
- (h) \$3 billion or more but less than \$4 billion, \$31,285 plus .000065 of all assets;
- (i) \$4 billion but less than \$10 billion, \$35,485 plus .000064 of all assets;
- (j) \$10 billion or more, \$950,000.

(4) Subject to section (10) of this rule, the annual fee assessment determined in section (3) of this rule shall include a risk-based assessment calculated on the basis of the CAMELS rating assigned to the insured institution as of December 31 in the calendar year immediately preceding the due date of the risk-based assessment. The rate of the risk-based assessment is as follows: [Table not included. See ED. NOTE.]

(5) Subject to section (10) of this rule, the annual regulatory fee assessment under ORS 706.530 for each trust company subject to the Director's jurisdiction is \$2,100 plus:

- (a) .0000639 of the first \$150 million in managed assets; and .0000319 of managed assets greater than \$150 million;
- (b) .0000160 of the first \$150 million in custodial assets; and .0000080 of custodial assets greater than \$150 million.

(6) Subject to section (10) of this rule, the annual regulatory fee assessment under ORS 706.530 and 713.090 for each extranational institution is: If Oregon assets are:

- (a) Less than \$10 million, \$845 plus .000310 of all assets;
- (b) \$10 million or more but less than \$25 million, \$2,545 plus .000140 of all assets;
- (c) \$25 million or more but less than \$100 million, \$3,545 plus .000100 of all assets;
- (d) \$100 million or more but less than \$500 million, \$6,745 plus .000068 of all assets;
- (e) \$500 million or more, but less than \$1 billion, \$10,245 plus .000061 of all assets;

(f) \$1 billion or more but less than \$2 billion, \$15,245 plus .000056 of all assets;

(g) \$2 billion or more, \$17,245 plus .000055 of all assets.

(7) The fees assessed by this rule are not subject to prorate or refund.

(8) If no fee is assessed during any year under sections (3) or (5) of this rule because an insured institution did not have Oregon assets during the calendar year immediately preceding the due date of the assessment, the insured institution may be charged for actual cost, if the Director participates in any examination of the institution during the same calendar year. Actual cost shall be determined in the same way as provided in OAR 441-500-0030.

(9) All fees assessed under sections (3) to (6) of this rule are due and payable on April 15 of each calendar year.

(10)(a) The Director may by order reduce the fees assessed for any specific year.

(b) When a fee is assessed under sections (3) to (6) of this rule, the assessment shall not be less than:

(A) \$5,000 for an insured institution, including a savings association, under section (3);

(B) \$2,500 for a trust company under section (5) and an extranational institution under section (6).

(11) The charges for special examination and special attention provided in OAR 441-500-0030 are in addition to and not in lieu of the fees assessed by this rule.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 705.620

Stats. Implemented: ORS 706.530

Hist.: FID 2-1986, f. & ef. 3-7-86; FID 3-1986, f. & ef. 5-15-86; FID 4-1986, f. & ef. 7-25-86; FCS 2-1988, f. 1-29-88, cert. ef. 2-1-88; Renumbered from 805-002-0100; FCS 1-1989, f. 1-18-89, cert. ef. 2-1-89; FCS 1-1993, f. & cert. 2-23-93; FCS 4-1994, f. & cert. ef. 4-25-94; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-505-0020; FCS 6-2007, f. & cert. ef. 10-22-07; FCS 1-2008, f. & cert. ef. 1-28-08; FCS 2-2009, f. & cert. ef. 2-3-09; FCS 9-2009, f. 9-15-09, cert. ef. 9-25-09; FCS 2-2010, f. & cert. ef. 3-16-10