

Title 30A

WASHINGTON COMMERCIAL BANK ACT

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30A.04.002 Short title. This title may be known and cited as the Washington commercial bank act. [2014 c 37 § 101.]

30A.04.005 Legislative declarations. The legislature declares that:

(1) Banking institutions and trust companies provide essential and valuable fiduciary management services to consumers, businesses, and nonprofit organizations in the state of Washington;

(2) There is a critical public need to encourage and promote the revitalization and growth of the state's financial sector and realize its potential as an alternative global financial services hub;

(3) The fulfillment of this potential can best be achieved by taking measures to:

(a) Clarify prudential standards of professional fiduciary management to provide assurances to state, national, and international owners and managers of wealth;

(b) Promote flexibility in the management of asset portfolios to respond to ever changing global conditions; and

(c) Provide certainty and clear expectations for owners of wealth, asset managers, and their respective advisors;

(4) Banking institutions and nondepository trust companies in the state of Washington will be better prepared to continue providing professional fiduciary management services effectively if laws of the state's banking institutions and non-

depository trust companies are modernized, clarified, reorganized and, with respect to some situations, amended;

(5) There is a need for improved services and reduced costs for trust institution clients and customers and other consumers in this state through modernization of state law to clarify and thereby promote the delegation by trust institutions of fiduciary functions to qualified third-party professionals, to authorize clients to designate any trust institution to act for them, and to protect the public from excessive fees or undisclosed conflicts of interest of trust institutions and their affiliates;

(6) Properly capitalized and professionally managed trusts and trust companies serving only family members and their affiliated entities, which operate privately and do not hold themselves out to, nor provide services to, the general public, should continue to operate without the necessity of being chartered or regulated by the department of financial institutions;

(7) The authority of the department of financial institutions needs to be clarified, preserved, and assured as the primary instrument of assuring the safety and soundness of banking institutions and nondepository trust companies acting as fiduciaries and engaging in trust business in this state;

(8) Nondepository trust companies should continue to act as fiduciaries and otherwise engage in trust business in this state, so long as they are properly capitalized, competently managed by persons of integrity, and supervised by the department of financial institutions so as to ensure that such trust companies are operated in compliance with law, in a safe and sound manner, and in a manner which protects trust settlors, trust beneficiaries, and the general public in this state; and

(9) The creation of a comprehensive trust institutions act serves the convenience and advantage of Washington state trust settlors and trust beneficiaries, and the state's general public, and preserves and maintains the fairness of competition and parity between Washington state-chartered banking institutions and trust companies, and federally chartered and out-of-state state-chartered banking institutions and trust companies. [2014 c 37 § 1.]

30A.04.007 Notice—Use of internet—Rules. (1) Notwithstanding any provisions of this title, wherever notice by publication is required by a bank, such notice may be undertaken by internet publication upon terms and conditions that the director may adopt by rule.

(2) Notice to shareholders required under this title may be undertaken by electronic means in the same manner as permitted for general business corporations under RCW 23B.01.410. [2014 c 37 § 149.]

30A.04.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Adequately capitalized," "critically undercapitalized," "significantly undercapitalized," "undercapitalized," and "well-capitalized," respectively, have meanings consistent with the definitions these same terms have under the prompt corrective action provisions of the federal deposit insurance act, 12 U.S.C. Sec. 1831o, and applicable enabling rules of the federal deposit insurance corporation.

(2) "Bank," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in banking, other than a trust company, savings association, or a mutual savings bank.

(3) "Bank holding company" means a bank holding company under authority of the federal bank holding company act.

(4) "Banking" includes the soliciting, receiving or accepting of money or its equivalent on deposit as a regular business.

(5) "Branch" means any established office of deposit, domestic or otherwise, maintained by any bank other than its head office. "Branch" does not mean a machine permitting customers to leave funds in storage or communicate with bank employees who are not located at the site of the machine, unless employees of the bank at the site of the machine take deposits on a regular basis. An office or facility of an entity other than the bank shall not be deemed to be established by the bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the bank.

(6) "Corporation," in reference to a bank authorized under this title, means either a corporation operating as a bank authorized under this title or a limited liability company operating as a bank under this title pursuant to the requirements of RCW 30A.08.025.

(7) "Department" means the Washington state department of financial institutions.

(8) "Director" means the director of the department.

(9) "Financial holding company" means a financial services holding company under authority of the federal bank holding company act.

(10) "Foreign bank" and "foreign banker" includes:

(a) Every corporation not organized under the laws of the territory or state of Washington doing a banking business, except a national bank;

(b) Every unincorporated company, partnership or association of two or more individuals organized under the laws of another state or country, doing a banking business;

(c) Every other unincorporated company, partnership or association of two or more individuals, doing a banking business, if the members thereof owning a majority interest therein or entitled to more than one-half of the net assets thereof are not residents of this state; or

(d) Every nonresident of this state doing a banking business in his or her own name and right only.

(11) "Holding company" means a bank holding company or financial holding company of a bank organized under chapter 30A.08 RCW or converted to a state bank under chapter 30A.49 RCW.

(12) "Law firm" means a partnership, professional limited liability corporation, professional limited liability partnership, or similar entity whose partners, members, or shareholders are exclusively attorneys-at-law.

(13) "Person" means an individual or an entity including, but not limited to, a sole proprietorship, firm, association, general partnership or joint venture, limited liability company, limited liability partnership, trust, or corporation, or the plural thereof, whether resident, nonresident, citizen, or not.

(14) The term "trust business," in relation to a bank, shall include the business of doing any or all of the things specified

in *RCW 30B.08.080(1) (b) through (k), together with any other activity authorized for a state trust company by the director pursuant to *RCW 30B.08.080(1)(q) that the director designates as trust business.

(15) "Trust company," unless a different meaning appears from the context, means any corporation or limited liability company, other than a bank, savings bank, or savings association, organized and chartered as a trust company under Title 30B RCW for the purpose of engaging in trust business. [2014 c 37 § 102; 2013 c 76 § 1; 2010 c 88 § 3; 1997 c 101 § 3; 1996 c 2 § 2; 1994 c 92 § 7; 1959 c 106 § 1; 1955 c 33 § 30.04.010. Prior: 1933 c 42 § 2; 1917 c 80 § 14; RRS § 3221. Formerly RCW 30.04.010.]

*Reviser's note: RCW 30B.08.080 was amended by 2019 c 389 § 10, changing subsection (1)(a) through (q) to subsection (1)(a) through (d).

Effective date—2010 c 88: See RCW 32.50.900.

30A.04.017 Director's subpoenas—Unauthorized banking activity.

(1) The director or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

(4) Subsections (1) through (3) of this section are applicable to the director's enforcement authority under this title against persons engaged in unauthorized banking activity and persons, other than a bank authorized under this title, whom the director has reason to believe are in violation of this title. This section does not limit the authority of the director to investigate or examine a bank authorized under this title without applying for or obtaining a superior court order or issuing a subpoena pursuant to this section. [2014 c 37 § 261.]

30A.04.020 Use of words indicating bank or trust company—Penalty.

(1) The name of every bank shall contain the word "bank" and the name of every trust company shall contain the word "trust," or the word "bank." Except as provided in RCW 33.08.030 or as otherwise authorized by

this section or approved by the director, only a national bank, federal savings bank, a bank or trust company, savings bank under Title 32 RCW, bank holding company or financial holding company, a holding company authorized by this title or Title 32 RCW, or a foreign or alien corporation or other legal person authorized by this title to do so, shall:

(a) Use as a part of his or her or its name or other business designation, as a prominent syllable within a word comprising all or a portion of its name or other business designation, or in any manner as if connected with his or her or its business or place of business any of the following words or the plural thereof, to wit: "bank," "banking," "banker," "bank-corporation," "bancorp," or "trust," or any foreign language designations thereof, including, by way of example, "banco" or "banque."

(b) Use any sign, logo, or marketing message, in any media, or use any letterhead, billhead, note, receipt, certificate, blank, form, or any written, printed, electronic or internet-based instrument or material representation whatsoever, directly or indirectly indicating that the business of such person is that of a bank or trust company.

(2) A foreign corporation or other foreign domiciled legal person, whose name contains the words "bank," "banker," "banking," "bankcorporation," "bancorp," or "trust," or the foreign language equivalent thereof, or whose articles of incorporation empower it to engage in banking or to engage in a trust business, may not engage in banking or in a trust business in this state unless the corporation or other legal person (a) is expressly authorized to do so under this title, under federal law, or by the director, and (b) complies with all applicable requirements of Washington state law regarding foreign corporations and other foreign legal persons. If an activity would not constitute "transacting business" within the meaning of RCW 23B.15.010(1) or chapter 23B.18 RCW, then the activity shall not constitute banking or engaging in a trust business. Nothing in this subsection shall prevent operations by an alien bank in compliance with chapter 30A.42 RCW.

(3) This section shall not prevent a lender approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act from using the words "mortgage banker" or "mortgage banking" in the conduct of its business, but only if both words are used together in either of the forms which appear in quotations in this sentence.

(4) Any individual or legal person, or director, officer, or manager of such legal person, who knowingly violates any provision of this section shall be guilty of a gross misdemeanor. [2014 c 37 § 103; 2010 c 88 § 4; 1994 c 256 § 32; 1986 c 284 § 15; 1983 c 42 § 2; 1981 c 88 § 1; 1955 c 33 § 30.04.020. Prior: 1925 ex.s. c 114 § 1; 1917 c 80 § 18; RRS § 3225. Formerly RCW 30.04.020.]

Effective date—2010 c 88: See RCW 32.50.900.

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.04.025 Financial institutions—Loan charges—Out-of-state national banks. Notwithstanding any restrictions, limitations, requirements, or other provisions of law, a financial institution, as defined in RCW 30A.22.040(8), may charge, take, receive, or reserve interest, discount or other points, finance charges, or other similar charges on any loan

or other extension of credit, at a rate or amount that is equal to, or less than, the maximum rate or amount of interest, discount or other points, finance charges, or other similar charges that national banks located in any other state or states may charge, take, receive, or reserve, under 12 U.S.C. Sec. 85, on loans or other extensions of credit to residents of this state. However, this section does not authorize any subsidiary of a bank, of a savings bank, of a savings and loan association, or of a credit union to charge, take, receive, or reserve interest, discount or other points, finance charges, or other similar charges on any loan or other extension of credit, unless the subsidiary is itself a bank, savings bank, savings and loan association, or credit union. [2014 c 37 § 104; 2003 c 24 § 3. Formerly RCW 30.04.025.]

30A.04.030 Rules—Administration and interpretation of title. (1) The director shall have power to adopt uniform rules in accordance with the administrative procedure act, chapter 34.05 RCW, to govern examinations and reports of banks, trust companies, and holding companies and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title.

(2) The director shall have the power, and broad administrative discretion, to administer and interpret the provisions of this title to facilitate the delivery of financial services to the citizens of the state of Washington by the banks, trust companies, and holding companies subject to this title. [2014 c 37 § 105; 2010 c 88 § 5; 1994 c 92 § 8; 1986 c 279 § 1; 1955 c 33 § 30.04.030. Prior: 1917 c 80 § 58, part; RRS § 3265, part. Formerly RCW 30.04.030.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.04.045 Director—Powers under chapter 19.144 RCW. The director or the director's designee may take such action as provided for in this title to enforce, investigate, or examine persons covered by chapter 19.144 RCW. [2008 c 108 § 15. Formerly RCW 30.04.045.]

Findings—2008 c 108: See RCW 19.144.005.

30A.04.050 Duty to comply—Violations—Penalty. (1) Each bank and its directors, officers, employees, and agents, shall comply with:

(a) This title and Title 30B RCW as applicable to each of them;

(b) The rules adopted by the department with respect to banks and trust companies;

(c) Any lawful direction or order of the director;

(d) Any lawful supervisory agreement with the director; and

(e) The applicable statutes, rules, and regulations administered by the board of governors of the federal reserve system, the federal deposit insurance corporation, or their successor agencies, with respect to banks or trust companies.

(2) Each holding company, and its directors, officers, employees, and agents, shall comply with:

(a) The provisions of this title that are applicable to each of them;

(b) The rules adopted by the department with respect to holding companies;

(c) Any lawful direction or order of the director;
 (d) Any lawful supervisory agreement with the director;
 and

(e) The applicable statutes, rules, and regulations administered by the board of governors of the federal reserve system, or its successor agency, with respect to holding companies, the violation of which would result in an unsafe and unsound practice or material violation of law with respect to the subsidiary bank of the holding company.

(3) The violation of any supervisory agreement, direction, order, statute, rule, or regulation referenced in this section, in addition to any other penalty provided in this title, shall, at the option of the director, subject the offender to a penalty of up to ten thousand dollars for each offense, payable upon issuance of any order or directive of the director, which may be recovered by the attorney general in a civil action in the name of the department. [2014 c 37 § 106; 2010 c 88 § 6; 1955 c 33 § 30.04.050. Prior: 1917 c 80 § 58, part; RRS § 3265, part. Formerly RCW 30.04.050.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.04.060 Examinations directed—Cooperative agreements and actions. (1) The director, assistant director, program manager, or an examiner shall visit each bank at least once every eighteen months, and oftener if necessary, or as otherwise required by the rules and interpretations of applicable federal banking examination authorities, for the purpose of making a full investigation into the condition of such corporation, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director, officer, employee, or agent of such corporation.

(2) The director may make such other full or partial examinations as deemed necessary and may examine any bank holding company that owns any portion of a bank chartered by the state of Washington and obtain reports of condition for any bank holding company that owns any portion of a bank chartered by the state of Washington.

(3) The director may visit and examine into the affairs of any nonpublicly held corporation in which the bank or bank holding company has an investment or any publicly held corporation the capital stock of which is controlled by the bank or bank holding company; may appraise and revalue such corporations' investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such corporations for such purposes.

(4) The director may, in his or her discretion, accept in lieu of the examinations required in this section the examinations conducted at the direction of the federal reserve board or the federal deposit insurance corporation.

(5) Any willful false swearing in any examination is perjury in the second degree.

(6) The director may enter into cooperative and reciprocal agreements with the bank regulatory authorities of the United States, any state, the District of Columbia, or any trust territory of the United States for the periodic examination of domestic bank holding companies owning banking institutions in other states, the District of Columbia, or trust territories, and subsidiaries of such domestic bank holding companies, or of out-of-state bank holding companies owning a bank the principal operations of which are conducted in this

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state. The director may accept reports of examination and other records from such authorities in lieu of conducting his or her own examinations. The director may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out his or her responsibilities under this title and assure compliance with the laws of this state.

(7) Copies from the records, books, and accounts of a bank or holding company shall be competent evidence in all cases, equal with originals thereof, if there is annexed to such copies an affidavit taken before a notary public or clerk of a court under seal, stating that the affiant is the officer of the bank or holding company having charge of the original records, and that the copy is true and correct and is full so far as the same relates to the subject matter therein mentioned. [2014 c 37 § 107; 2010 c 88 § 7; 1994 c 92 § 9; 1989 c 180 § 1; 1985 c 305 § 3; 1983 c 157 § 3; 1982 c 196 § 6; 1955 c 33 § 30.04.060. Prior: 1937 c 48 § 1; 1919 c 209 § 5; 1917 c 80 § 7; RRS § 3214. Formerly RCW 30.04.060.]

Effective date—2010 c 88: See RCW 32.50.900.

Director of financial institutions: Chapter 43.320 RCW.

Additional notes found at www.leg.wa.gov

30A.04.070 Costs of examination, filing, and other service fees—Nondirect expenses. (1) In order to cover the costs of the operation of the department's division of banks and to establish and maintain a reasonable reserve for the division of banks, the department may charge and collect the costs of examination, filing and other service fees, and semi-annual charges for recoupment of nondirect expenses related to the examination of financial institutions regulated by the department, as provided for in this section.

(2) The director shall collect from each bank, savings bank, trust company, savings association, holding company under this title, holding company under Title 32 RCW, business development company under chapter 31.24 RCW, agricultural lender under chapter 31.35 RCW, and small business lender under chapter 31.40 RCW:

(a) For each examination of its condition the estimated actual cost of such examination; and

(b) For services in relation to required filings, applications, requests for waiver, investigations, approvals, determinations, certifications, agreements, actions, directives, and orders made by or to the director.

(3) In addition to collecting the estimated actual cost of examination and other fees authorized by subsection (2) of this section, the director may collect a semiannual charge for recoupment of nondirect expenses related to the examination of a bank under this title, a trust company, a savings bank under Title 32 RCW, and a savings association under Title 33 RCW, based upon the assets of the bank, savings bank, or savings association, or assets under management of the trust company, which shall be computed upon the asset value reflected in the institution's most recent report of condition. The rate must be the same for banks, savings banks, and savings associations, and there may be a separate rate for trust companies that must be the same for all trust companies.

(4) Every bank or trust company, savings bank, savings association, holding company, business development company, state agricultural lender, or state small business lender shall also pay to the secretary of state for filing any instru-

ment the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations.

(5) The director shall establish, set, and adjust by rule the amount of all fees and charges authorized by subsections (2) and (3) of this section. [2014 c 37 § 108; 2013 c 76 § 2; 2010 c 88 § 8; 1994 c 92 § 10; 1955 c 33 § 30.04.070. Prior: 1929 c 73 § 1; 1923 c 172 § 16; 1921 c 73 § 1; 1917 c 80 § 8; RRS § 3215. Formerly RCW 30.04.070.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.04.075 Examination reports and information—Confidentiality—Disclosure—Penalty. (1) All examination reports and all information obtained by the director and the director's staff in conducting examinations of banks, trust companies, or alien banks, and information obtained by the director and the director's staff from other state or federal bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 30A.04.060(6), and information obtained by the director and the director's staff relating to examination and supervision of bank holding companies owning a bank in this state or subsidiaries of such holding companies, is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the director may furnish all or any part of examination reports, work papers, supervisory agreements or directives, orders, or other information obtained in the conduct of an examination or investigation prepared by the director's office to:

(a) Federal agencies empowered to examine state banks, trust companies, or alien banks;

(b) Bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 30A.04.060(6), and other bank regulatory authorities who are the primary regulatory authority or insurer of accounts for a bank holding company owning a bank, trust company, or national banking association the principal operations of which are conducted in this state or a subsidiary of such holding company; provided that the director shall first find that the reports of examination to be furnished shall receive protection from disclosure comparable to that accorded by this section;

(c) Officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the director furnishes any examination report to officials empowered to investigate criminal charges, the director may only furnish that part of the report which is necessary and pertinent to the investigation, and the director may do this only after notifying the affected bank, trust company, or alien bank and any customer of the bank, trust company, or alien bank who is named in that part of the examination or report ordered to be furnished unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause;

(d) The examined bank, trust company, or alien bank, or holding company thereof;

(e) The attorney general in his or her role as legal advisor to the director;

(f) Liquidating agents of a distressed bank, trust company, or alien bank;

(g) A person or organization officially connected with the bank as officer, director, attorney, auditor, or independent attorney or independent auditor;

(h) The Washington public deposit protection commission as provided by RCW 39.58.105;

(i) Organizations insuring or guaranteeing the shares of, or deposits in, the bank or trust company; or

(j) Other persons as the director may determine necessary to protect the public interest and confidence.

(3) All examination reports, work papers, supervisory agreements or directives, orders, and other information obtained in the conduct of an examination or investigation furnished under subsections (2) and (4) of this section shall remain the property of the department of financial institutions, and be confidential and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: PROVIDED, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the department of financial institutions is designed for use in the supervision of the bank, trust company, or alien bank. The report shall remain the property of the director and will be furnished to the bank, trust company, or alien bank solely for its confidential use. Under no circumstances shall the bank, trust company, or alien bank or any of its directors, officers, or employees disclose or make public in any manner the report or any portion thereof, to any person or organization not connected with the bank as officer, director, employee, attorney, auditor, or candidate for executive office with the bank. The bank may also, after execution of an agreement not to disclose information in the report, disclose the report or relevant portions thereof to a party proposing to acquire or merge with the bank.

(5) Examination reports and information obtained by the director and the director's staff in conducting examinations, or obtained from other state and federal bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 30A.04.060(6), or relating to examination and supervision of bank holding companies owning a bank, trust company, or national banking association the principal operations of which are conducted in this state or a subsidiary of such holding company, or information obtained as a result of applications or investigations pursuant to RCW 30A.04.230, shall not be subject to public disclosure under chapter 42.56 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the director, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the director.

(7) This section shall not apply to investigation reports prepared by the director and the director's staff concerning an

application for a new bank or trust company or an application for a branch of a bank, trust company, or alien bank: PROVIDED, That the director may adopt rules making confidential portions of the reports if in the director's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the director considers necessary to fully evaluate the application.

(8) Notwithstanding any other provision of this section or other applicable law, a bank, trust company, alien bank, or holding company is not in violation of this section on account of its compliance with required reporting to the federal securities and exchange commission, including the disclosure of any order of the director.

(9) Every person who violates any provision of this section shall be guilty of a gross misdemeanor. [2014 c 37 § 109; 2010 c 88 § 9; 2005 c 274 § 251; 1994 c 92 § 11; 1989 c 180 § 2; 1986 c 279 § 2; 1977 ex.s. c 245 § 1. Formerly RCW 30.04.075.]

Effective date—2010 c 88: See RCW 32.50.900.

Examination reports and information from financial institutions exempt: RCW 42.56.400.

Additional notes found at www.leg.wa.gov

30A.04.111 Limit on loans and extensions of credit to one person—Exceptions—Definitions—Rules—Nonconforming loans and extensions of credit. (1) The total loans and extensions of credit by a bank to a person outstanding at any one time shall not exceed twenty percent of the capital and surplus of such bank. A loan or extension of credit made by a bank does not violate this section if the loan or extension of credit would qualify for an exception to the lending limit for a national bank under rules adopted by the United States office of the comptroller of the currency, or successor federal agency with authority over national banks and federal savings associations.

(2) For the purposes of this section, the terms "borrower," "capital and surplus," "derivative transaction," "loans and extensions of credit," and "person" shall have the same meaning as those terms are defined in section 32.2 of Title 12 of the United States Code of Federal Regulations, 12 C.F.R. Sec. 32.2, except that "loans and extensions of credit" also includes repurchase agreements, reverse repurchase agreements, securities lending transactions, or securities borrowing transactions between a bank and a borrower if the federal deposit insurance corporation requires such treatment for a state insured bank or the board of governors of the federal reserve system requires such treatment for member state banks.

(3) The director may prescribe rules to administer and carry out the purposes of this section, including without limitation rules (a) to define or further define terms used in this section, (b) to establish limits or requirements other than those specified in this section for particular classes or categories of loans and extensions of credit, (c) to determine when a loan putatively made to a person shall, for purposes of this section, be attributed to another person, (d) to set standards for computation of time in relation to determining limits on loans and extensions of credit, and (e) to implement and incorporate other changes in limits on loans and extensions of credit necessary to conform to federal statute and rule required or otherwise authorized by this section. In adopting

the rules, the director shall be guided by rulings of the United States comptroller of the currency, or successor federal banking regulator, that govern limits on loans and extensions of credit applicable to national banks and federal savings associations. In lieu of the adoption by the department of a rule applicable to specific types of transactions, a bank, unless otherwise approved by the director, shall conform to all applicable rulings of the comptroller of the currency, or successor federal banking regulator, which (i) relate to national banks and federal savings associations, (ii) govern such specific types of transactions or circumstances, and (iii) are consistent with this section and the department's adopted rules.

(4)(a) A loan or extension of credit that was within the limit on loans and extensions of credit when made is not a violation but will be treated as nonconforming if the loan or extension of credit is no longer in conformity with the bank's limit on loans and extensions of credit because:

(i) The bank's capital has declined, borrowers have subsequently merged or formed a common enterprise, lenders have merged, or the limit on loans and extensions of credit or capital rules have changed; or

(ii) Collateral securing the loan or extension of credit, in order to satisfy the requirements of an exception to the limit, has declined in value.

(b) A bank shall make reasonable efforts to bring a loan or extension of credit that is nonconforming under (a)(i) of this subsection into conformity with the bank's limit on loans and extensions of credit unless to do so would be inconsistent with safe and sound banking practices.

(c) A bank must bring a loan or extension of credit that is nonconforming under (a)(ii) of this subsection into conformity with the bank's limit on loans and extensions of credit within thirty calendar days, except when judicial proceedings, regulatory actions, or other extraordinary circumstances beyond the bank's control prevent the bank or trust company from taking action.

(d) Notwithstanding any provision of this subsection (4), the director may by rule or interpretation prescribe standards for treatment of nonconforming extensions of credit that are derivatives transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, or securities borrowing transactions, and may, if required for state insured banks or member state banks, rely upon rules or interpretations of the federal deposit insurance corporation or the board of governors of the federal reserve system, as applicable.

(5) Notwithstanding any provision of this section to the contrary, in the event that a bank's capital declines sufficiently to seriously impair the bank's ability to effectively operate in its marketplace or serve the needs of its customers or the community in which it is located, the director may, upon written application and in the exercise of the director's discretion, grant the bank temporary permission to fund loans and extensions of credit in excess of the bank's limit on loans and extensions of credit under this section. In the exercise of discretion, the director may further specify conditions for granting such emergency exception and may limit emergency lending authority under this section to particular types or classes of loans and extensions of credit.

(6) Notwithstanding any provision of this section to the contrary, the director, in the exercise of discretion, may grant

an exception to the limit on loans and extensions of credit otherwise required by this section, based on extenuating facts and circumstances. In deciding whether to grant an exception under this subsection, the director shall consider:

(a) The proposed transaction for which the exception is sought;

(b) How the requested exception would affect the capital adequacy and safety and soundness of the requesting bank if the exception is not granted or, if the exception is granted, if the proposed borrower should ultimately default;

(c) How the requested exception would affect the loan portfolio diversification of the requesting bank;

(d) The competency of management to handle the proposed transaction and any resulting safety and soundness issues;

(e) The marketability and value of the proposed collateral; and

(f) The extenuating facts and circumstances that warrant an exception in light of the purpose of limit on loans and extensions of credit set forth in this section. [2014 c 37 § 110; 2013 c 76 § 3; 2010 c 88 § 10; 1995 c 344 § 1; 1994 c 92 § 12; 1986 c 279 § 3. Formerly RCW 30.04.111.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.04.112 "Loans or obligations" and "liabilities" limited for purposes of RCW 30.04.111. Sales of federal reserve funds with a maturity of one business day or under a continuing contract are not "loans or obligations" or "liabilities" for the purposes of the loan limits established by *RCW 30.04.111. However, sales of federal reserve funds with a maturity of more than one business day are subject to those limits.

For the purposes of this section, "sale of federal reserve funds" means any transaction among depository institutions involving the disposal of immediately available funds resulting from credits to deposit balances at federal reserve banks or from credits to new or existing deposit balances due from a correspondent depository institution. [1989 c 220 § 1; 1983 c 157 § 2. Formerly RCW 30.04.112.]

***Reviser's note:** RCW 30.04.111 was recodified as RCW 30A.04.111 pursuant to 2014 c 37 § 4, effective January 5, 2015.

Additional notes found at www.leg.wa.gov

30A.04.120 Loans on own stock prohibited—Shares of other corporations. The shares of stock of every bank shall be deemed personal property. No such corporation shall hereafter make any loan or discount on the security of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; in which case the stocks so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by any such bank for its own account of any shares of stock of any corporation, except a federal reserve bank of which such corporation shall become a member, and then only to the extent required by such federal reserve bank: PROVIDED, That any bank may purchase, acquire and hold shares of stock in any other corporation which shares have been previously pledged

as security to any loan or discount made in good faith and such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith and stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within two years from the time of its purchase or acquisition. Any time limit imposed in this section may be extended by the director upon cause shown. Banks are authorized to make loans on the security of the capital stock of a bank other than the lending corporation. [2014 c 37 § 111; 1994 c 92 § 13; 1986 c 279 § 4; 1973 1st ex.s. c 104 § 1; 1955 c 33 § 30.04.120. Prior: 1943 c 187 § 1; 1933 c 42 § 9; 1929 c 73 § 5; 1917 c 80 § 36; Rem. Supp. 1943 § 3243. Formerly RCW 30.04.120.]

30A.04.125 Investment in corporations—Authorized businesses. Unless otherwise prohibited by law, any state bank may invest in the capital stock of corporations organized to conduct the following businesses:

(1) A safe deposit business: PROVIDED, That the amount of investment does not exceed fifteen percent of its capital stock and surplus, without the approval of the director;

(2) A corporation holding the premises of the bank or its branches: PROVIDED, That without the approval of the director, the investment of such stock shall not exceed, together with all loans made to the corporation by the bank, a sum equal to the amount permitted to be invested in the premises by RCW 30A.04.210;

(3) Stock in a small business investment company licensed and regulated by the United States as authorized by the small business act, Public Law 85-536, 72 Statutes at Large 384, in an amount not to exceed five percent of its capital and surplus without the approval of the director;

(4) Capital stock of a banking service corporation or corporations. The total amount that a bank may invest in the shares of such corporation may not exceed ten percent of its capital and surplus without the approval of the director. A bank service corporation may not engage in any activity other than those permitted by the bank service corporation act, 12 U.S.C. Sec. 1861, et seq., as subsequently amended and in effect on December 31, 1993. The performance of any service, and any records maintained by any such corporation for a bank, shall be subject to regulation and examination by the director and appropriate federal agencies to the same extent as if the services or records were being performed or maintained by the bank on its own premises;

(5) Capital stock of a federal reserve bank to the extent required by such federal reserve bank;

(6) A corporation engaging in business activities that have been determined by the board of governors of the federal reserve system or by the United States congress to be closely related to the business of banking, as of December 31, 1993;

(7) A governmentally sponsored corporation engaged in secondary marketing of loans and the stock of which must be owned in order to participate in its marketing activities;

(8) A corporation in which all of the voting stock is owned by the bank and that engages exclusively in nondeposit-taking activities that are authorized to be engaged in by the bank or trust company;

(9) A bank may purchase for its own account shares of stock of a bank or a holding company that owns or controls a bank if the stock of the bank or company is owned exclusively, except to the extent directly qualifying shares are required by law, by depository institutions and the bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees. In no event may the total amount of such stock held by a bank in any bank or bank holding company exceed at any time ten percent of its capital stock and paid-in and unimpaired surplus, and in no event may the purchase of such stock result in a bank acquiring more than twenty-five percent of any class of voting securities of such bank or company. Such a bank or bank holding company shall be called a "banker's bank." [2014 c 37 § 112. Prior: 1994 c 256 § 33; 1994 c 92 § 14; 1986 c 279 § 5. Formerly RCW 30.04.125.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.04.127 Formation, incorporation, or investment in corporations or other entities authorized—Approval—Exception. (1) A bank, alone or in conjunction with other entities, may form, incorporate, or invest in corporations or other entities, whether or not such other corporation or entity is related to the bank's business. The aggregate amount of funds invested, or used in the formation of corporations or other entities under this section shall not exceed ten percent of the assets or fifty percent of the net worth, whichever is less, of the bank. For purposes of this subsection, "net worth" means the aggregate of capital, surplus, undivided profits, and all capital notes and debentures which are subordinate to the interest of depositors.

(2) A bank may engage in an activity permitted under this section only with the prior authorization of the director and subject to such requirements, restrictions, or other conditions as the director may adopt by rule, order, directive, standard, policy, memorandum, or other written communication with regard to the activity. In approving or denying a proposed activity, the director shall consider the financial and management strength of the institution, the convenience and needs of the public, and whether the proposed activity should be conducted through a subsidiary or affiliate of the bank. The director may not authorize under this section and no bank may act as an insurance or travel agent unless otherwise authorized by state statute. [2014 c 37 § 113; 2010 c 88 § 11; 1994 c 92 § 15; 1987 c 498 § 1. Formerly RCW 30.04.127.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.04.129 Investment in obligations issued or guaranteed by multilateral development bank. Any bank may invest in obligations issued or guaranteed by any multilateral development bank in which the United States government formally participates. Such investment in any one multilateral development bank shall not exceed five percent of the bank's paid-in capital and surplus. [2014 c 37 § 114; 1985 c 301 § 2. Formerly RCW 30.04.129.]

30A.04.130 Defaulted debts, judgments to be charged off—Valuation of assets. Based on examinations directed pursuant to RCW 30A.04.060 or other appropriate information, all assets or portion thereof that the director may

have required a bank to charge off shall be charged off. No bank shall enter or at any time carry on its books any of its assets or liabilities at a valuation contrary to generally accepted accounting principles. [2014 c 37 § 115. Prior: 1994 c 256 § 34; 1994 c 92 § 16; 1986 c 279 § 6; 1955 c 33 § 30.04.130; prior: 1937 c 61 § 1; 1919 c 209 § 15; 1917 c 80 § 47; RRS § 3254. Formerly RCW 30.04.130.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.04.140 Pledge of securities or assets prohibited—Exceptions. No bank shall pledge or hypothecate any of its securities or assets to any depositor, except that it may qualify as depository for United States deposits, or other public funds, or funds held in trust and deposited by any public officer by virtue of his or her office, or as a depository for the money of estates under the statutes of the United States pertaining to bankruptcy or funds deposited by a trustee or receiver in bankruptcy appointed by any court of the United States or any referee thereof, or funds held by the United States or the state of Washington, or any officer thereof in trust, or for funds of corporations owned or controlled by the United States, and may give such security for such deposits as are required by law or by the officer making the same; and it may give security to its trust department for deposits with itself which represent trust funds invested in savings accounts or which represent fiduciary funds awaiting investment or distribution. [2014 c 37 § 116; 2011 c 336 § 744; 1986 c 279 § 7; 1983 c 157 § 6; 1967 c 133 § 2; 1955 c 33 § 30.04.140. Prior: 1933 c 42 § 24, part; 1917 c 80 § 54, part; RRS § 3261, part. Formerly RCW 30.04.140.]

Additional notes found at www.leg.wa.gov

30A.04.180 Dividends. No bank shall declare or pay any dividend to an amount greater than its retained earnings, without approval from the director. The director shall in his or her discretion have the power to require any bank to suspend the payment of any and all dividends until all requirements that may have been made by the director shall have been complied with; and upon such notice to suspend dividends no bank shall thereafter declare or pay any dividends until such notice has been rescinded in writing. A dividend is payable in cash, property, or capital stock, but the restrictions on the payment of a dividend (other than restrictions imposed by the director pursuant to his or her authority to require the suspension of the payment of any or all dividends) do not apply to a dividend payable by the bank solely in its own capital stock. For purposes of this section, "retained earnings" shall be determined by generally accepted accounting principles. [2014 c 37 § 117. Prior: 1994 c 256 § 35; 1994 c 92 § 17; 1986 c 279 § 8; 1981 c 89 § 1; 1969 c 136 § 2; 1955 c 33 § 30.04.180; prior: 1933 c 42 § 7; 1931 c 11 § 1; 1917 c 80 § 33; RRS § 3240. Formerly RCW 30.04.180.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.04.210 Real estate holdings. A bank may purchase, hold, and convey real estate for the following purposes:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other space in the same building to rent as a source of income:

PROVIDED, That any bank shall not invest for such purposes more than the greater of: (a) Fifty percent of its capital, surplus, and undivided profits; or (b) one hundred twenty-five percent of its capital stock without the approval of the director.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees, liens, or mortgage foreclosures, from debts owed to it.

(4) Such as a trust company receives in trust or acquires pursuant to the terms or authority of any trust.

(5) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(6) Such as shall be purchased, held, or conveyed in accordance with RCW 30A.04.212 granting banks the power to invest directly or indirectly in unimproved or improved real estate. [2014 c 37 § 118. Prior: 1994 c 256 § 36; 1994 c 92 § 18; 1986 c 279 § 9; 1985 c 329 § 4; 1979 c 142 § 1; 1973 1st ex.s. c 104 § 2; 1955 c 33 § 30.04.210; prior: 1947 c 149 § 1; 1917 c 80 § 37; Rem. Supp. 1947 § 3244. Formerly RCW 30.04.210.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Legislative intent—1985 c 329: See note following RCW 30A.60.010.

Adoption of rules: RCW 30A.60.030.

Additional notes found at www.leg.wa.gov

30A.04.212 Real property and improvements thereon. (1) In addition to the powers granted under RCW 30A.04.210 and subject to the limitations and restrictions contained in this section and in RCW 30A.60.010 and 30A.60.020, a bank:

(a) May acquire any interest in unimproved or improved real property;

(b) May construct, alter, and manage improvements of any description on real estate in which it holds a substantial equity interest.

(2) The powers granted under subsection (1) of this section do not include, and a bank may not:

(a) Manage any real property in which the bank does not own a substantial equity interest;

(b) Engage in activities of selling, leasing, or otherwise dealing in real property as an agent or broker; or

(c) Acquire any equity interest in any one to four-family dwelling that is used as a principal residence by the owner of the dwelling; however, this shall not prohibit a bank from making loans secured by such dwelling where all or part of the bank's anticipated compensation results from the appreciation and sale of such dwelling.

(3) The aggregate amount of funds invested under this section shall not exceed two percent of a bank's capital, surplus, and undivided profits. Such percentage amount shall be increased based upon the most recent community reinvestment rating assigned to a bank by the director in accordance with RCW 30A.60.010, as follows:

(a) Excellent performance: Increase to 10%

(b) Good performance: Increase to 8%

(c) Satisfactory performance: Increase to 6%

(d) Inadequate performance: Increase to 3%

(e) Poor performance: No increase

(4) For purposes of this section only, each bank will be deemed to have been assigned a community reinvestment rating of "1" for the period beginning with January 1, 1986, and ending December 31, 1986. Thereafter, each bank will be assigned an annual rating in accordance with RCW 30A.60.010, which rating shall remain in effect for the next succeeding year and until the director has conducted a new investigation and assigned a new rating for the next succeeding year, the process repeating on an annual basis.

(5) No bank may at any time be required to dispose of any investment made in accordance with this section due to the fact that the bank is not then authorized to acquire such investment, if such investment was lawfully acquired by the bank at the time of acquisition.

(6) The director shall limit the amount that may be invested in a single project or investment and may adopt any rule necessary to the safe and sound exercise of powers granted by this section. [2014 c 37 § 119; 1994 c 92 § 19; 1985 c 329 § 5. Formerly RCW 30.04.212.]

Legislative intent—1985 c 329: See note following RCW 30A.60.010.

Adoption of rules: RCW 30A.60.030.

Additional notes found at www.leg.wa.gov

30A.04.214 Qualifying community investments. (1) An amount equal to ten percent of the aggregate amount invested in real estate in accordance with RCW 30A.04.212 shall be placed in qualifying community investments as defined in subsection (2) of this section.

(2) "Qualifying community investment" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low or moderate incomes reside, designed to meet the credit needs of such low or moderate-income areas, or that primarily benefits low and moderate-income residents of such areas. The term includes, but is not limited to, any of the following within the state of Washington:

(a) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that address the needs of the low and moderate-income areas.

(b) Investments in residential mortgage loans, home improvements loans, housing rehabilitation loans, and small business or small farm loans originated in low and moderate-income areas, or the purchase of such loans originated in low and moderate-income areas.

(c) Investments for the preservation or revitalization of urban or rural communities in low and moderate-income areas.

The term does not include personal installment loans, loans made to purchase, or loans secured by an automobile.

(3) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or is wholly owned by an entity that wholly owns the bank is deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section. [2014 c 37 § 120; 1985 c 329 § 6. Formerly RCW 30.04.214.]

Legislative intent—1985 c 329: See note following RCW 30A.60.010.

Adoption of rules: RCW 30A.60.030.

Additional notes found at www.leg.wa.gov

30A.04.215 Engaging in other business activities. (1) Notwithstanding any other provisions of law, in addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank may engage in other business activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of July 28, 2013.

(2) A bank that desires to perform an activity that is not expressly authorized by subsection (1) of this section shall first apply to the director for authorization to conduct such activity. Within thirty days of the receipt of this application, the director shall determine whether the activity is closely related to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe and unsound practice by the bank and whether the applicant is capable of performing such an activity. If the director finds the activity to be closely related to the business of banking and the bank is otherwise qualified, he or she shall immediately inform the applicant that the activity is authorized. If the director determines that such activity is not closely related to the business of banking or that the bank is not otherwise qualified, he or she shall promptly inform the applicant in writing. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the Administrative Procedure Act, chapter 34.05 RCW. In determining whether a particular activity is closely related to the business of banking, the director shall be guided by the rulings of the board of governors of the federal reserve system and the comptroller of the currency in making determinations in connection with the powers exercisable by bank holding companies, and the activities performed by other commercial banks or their holding companies.

(3) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a bank has under the laws of this state, a bank shall have the powers and authorities conferred as of July 28, 1985, or as of any subsequent date not later than July 28, 2013, upon any federally chartered bank doing business in this state. A bank may exercise the powers and authorities conferred on a federally chartered bank after July 28, 2013, only if the director finds that the exercise of such powers and authorities:

(a) Serves the convenience and advantage of depositors, borrowers, or the general public; and

(b) Maintains the fairness of competition and parity between state-chartered banks and federally chartered banks.

(4) Notwithstanding any other provisions of law, a bank has the powers and authorities that an out-of-state state bank operating a branch in Washington has if the director finds that the exercise of such powers and authorities serves the convenience and advantage of depositors and borrowers, or the general public, and maintains the fairness of competition and parity between state-chartered banks and out-of-state state banks.

(5) As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

(2020 Ed.)

(6) The restrictions, limitations, and requirements applicable to specific powers and authorities of federally chartered banks and out-of-state state banks, as applicable, shall apply to banks exercising those powers and authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers and authorities granted banks solely under this section.

(7) The director may require a bank to provide notice to the director prior to implementation of a plan to develop, improve, or continue holding real estate, including capitalized and operating leases, acquired through any means in full or partial satisfaction of a debt previously contracted, under circumstances which a national bank would be required to provide notice to the comptroller of the currency prior to implementation of such a plan. The director may adopt rules or issue orders, directives, standards, policies, memoranda, or other official communications to specify guidance with regard to the exercise of the powers and authorities to expend such funds as are needed to enable a bank to recover its total investment to the fullest extent authorized for a national bank under the national bank act, 12 U.S.C. Sec. 29.

(8) Any activity which may be performed by a bank, except the taking of deposits, may be performed by (a) a corporation or (b) another entity approved by the director, which in either case is owned in whole or in part by the bank. [2014 c 37 § 121; 2013 c 76 § 4; 2010 c 88 § 12; 2003 c 24 § 2. Prior: 1995 c 344 § 2; 1995 c 134 § 2; prior: 1994 c 256 § 37; 1994 c 92 § 20; 1986 c 279 § 10; 1983 c 157 § 8; 1969 c 136 § 7. Formerly RCW 30.04.215.]

Effective date—2010 c 88: See RCW 32.50.900.

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.04.217 Additional powers of a bank—Powers and authorities of savings bank—Definition—Restrictions. (1) Notwithstanding any other provisions of law, in addition to all powers, express or implied, that a bank has under the laws of this state, a bank shall have the powers and authorities conferred upon a savings bank under Title 32 RCW.

(2) As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

(3) The restrictions, limitations, and requirements applicable to specific powers and authorities of savings banks shall apply to banks exercising those powers and authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers and authorities granted banks solely under this section. [2013 c 76 § 5; 2010 c 88 § 13; 2003 c 24 § 1. Formerly RCW 30.04.217.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.04.220 Corporations existing under former laws. Every corporation, which on March 10, 1917, was actually and publicly engaged in banking or trust business in this state in full compliance with the laws hereof, which were in force immediately prior to March 10, 1917, may, if it otherwise complies with the provisions of this title, continue its said business, subject to the terms and regulations hereof and without amending its articles of incorporation, although its

name and the amount of its capital stock, the number or length of terms of its directors or the form of its articles of incorporation do not comply with the requirements of this title: PROVIDED,

(1) That any such bank, which was by the director lawfully permitted to operate, although its capital stock was not fully paid in, shall pay in the balance of its capital stock at such times and in such amounts as the director may require;

(2) That, except with written permission of the director, any bank which shall amend its articles of incorporation must in such event comply with all the requirements of this title. [2014 c 37 § 122; 1994 c 92 § 21; 1955 c 33 § 30.04.220. Prior: 1937 c 31 § 1; 1917 c 80 § 78; RRS § 3285. Formerly RCW 30.04.220.]

30A.04.225 Contributions and gifts. In the absence of an express prohibition in its articles of incorporation, the making of contributions or gifts for the public welfare, or for charitable, scientific, or educational purposes by a state bank is within its powers and shall be deemed to inure to the benefit of the bank. [2014 c 37 § 123; 1986 c 279 § 11. Formerly RCW 30.04.225.]

30A.04.230 Authority of corporation or association to acquire stock of bank or national banking association.

(1) A corporation or association organized under the laws of this state or licensed to transact business in the state may acquire any or all shares of stock of any bank or national banking association. Nothing in this section shall be construed to prohibit the merger, consolidation, or reorganization of a bank in accordance with this title.

(2) Unless the terms of this section or RCW 30A.04.232 are complied with, an out-of-state bank holding company shall not acquire more than five percent of the shares of the voting stock or all or substantially all of the assets of a bank or national banking association the principal operations of which are conducted within this state.

(3) As used in this section a "bank holding company" means a company that is a bank holding company as defined by the Bank Holding Company Act of 1956, as amended (12 U.S.C. Sec. 1841 et seq.). An "out-of-state bank holding company" is a bank holding company that principally conducts its operations outside this state, as measured by total deposits held or controlled by its bank subsidiaries on the date on which it became a holding company. A "domestic bank holding company" is a bank holding company that principally conducts its operations within this state, as measured by total deposits held or controlled by its bank subsidiaries on the date on which it became a bank holding company.

(4) Any such acquisition referred to under subsection (2) of this section by an out-of-state bank holding company requires the express written approval of the director. Approval shall not be granted unless and until the following conditions are met:

(a) An out-of-state bank holding company desiring to make an acquisition referred to under subsection (2) of this section and the bank, national banking association, or domestic bank holding company parent thereof, if any, proposed to be acquired shall file an application in writing with the director. The director shall by rule establish the fee schedule to be collected from the applicant in connection with the applica-

tion. The fee shall not exceed the cost of processing the application. The application shall contain such information as the director may prescribe by rule as necessary or appropriate for the purpose of making a determination under this section. The application and supporting information and all examination reports and information obtained by the director and the director's staff in conducting its investigation shall be confidential and privileged and not subject to public disclosure under chapter 42.56 RCW. The application and information may be disclosed to federal bank regulatory agencies and to officials empowered to investigate criminal charges, subject to legal process, valid search warrant, or subpoena. In any civil action in which such application or information is sought to be discovered or used as evidence, any party may, upon notice to the director and other parties, petition for an in camera review. The court may permit discovery and introduction of only those portions that are relevant and otherwise unobtainable by the requesting party. The application and information shall be discoverable in any judicial action challenging the approval of an acquisition by the director as arbitrary and capricious or unlawful.

(b) The director shall find that:

(i) The bank or national banking association that is proposed to be acquired or the domestic bank holding company controlling such bank or national banking association is in such a liquidity or financial condition as to be in danger of closing, failing, or insolvency. In making any such determination the director shall be guided by the criteria developed by the federal regulatory agencies with respect to emergency acquisitions under the provisions of 12 U.S.C. Sec. 1828(c);

(ii) There is no state bank or national banking association doing business in the state of Washington or domestic bank holding company with sufficient resources willing to acquire the entire bank or national banking association on at least as favorable terms as the out-of-state bank holding company is willing to acquire it;

(iii) The applicant out-of-state bank holding company has provided all information and documents requested by the director in relation to the application; and

(iv) The applicant out-of-state bank holding company has demonstrated an acceptable record of meeting the credit needs of its entire community, including low and moderate-income neighborhoods, consistent with the safe and sound operation of such institution.

(c) The director shall consider:

(i) The financial institution structure of this state; and

(ii) The convenience and needs of the public of this state.

(5) Nothing in this section may be construed to prohibit, limit, restrict, or subject to further regulation the ownership by a bank of the stock of a bank service corporation or a banker's bank. [2014 c 37 § 124; 2005 c 274 § 252; 1994 c 92 § 22; 1987 c 420 § 2. Prior: 1985 c 310 § 2; 1985 c 305 § 4; 1983 c 157 § 9; 1982 c 196 § 7; 1981 c 89 § 2; 1973 1st ex.s. c 92 § 1; 1961 c 69 § 1; 1955 c 33 § 30.04.230; prior: 1933 c 42 § 10; RRS § 3243-1. Formerly RCW 30.04.230.]

Additional notes found at www.leg.wa.gov

30A.04.232 Additional authority of out-of-state holding company to acquire stock or assets of bank or national banking association. (1) In addition to an acquisition pursuant to RCW 30A.04.230, an out-of-state bank holding com-

pany may acquire more than five percent of the voting stock or all or substantially all of the assets of a bank or national banking association, the principal operations of which are conducted within this state, if the bank or national banking association or its predecessor, the voting stock of which is to be acquired, shall have been conducting business for a period of not less than five years.

(2) The director, consistent with 12 U.S.C. Sec. 1842(d)(2)(D), may approve an acquisition if the standard on which the approval is based does not discriminate against out-of-state banks, out-of-state bank holding companies, or subsidiaries of those banks or holding companies.

(3) As used in this section, the terms "bank holding company," "domestic bank holding company," and "out-of-state bank holding company" shall have the meanings provided in RCW 30A.04.230. [2014 c 37 § 125; 1996 c 2 § 3; 1994 c 92 § 23; 1985 c 310 § 1. Formerly RCW 30.04.232.]

Additional notes found at www.leg.wa.gov

30A.04.238 Purchase of own capital stock authorized. (1) Notwithstanding any other provision of this title, a bank, with the prior approval of the director, may purchase shares of its own capital stock.

(2) When a bank purchases such shares, its capital accounts shall be reduced appropriately. The shares shall be held as authorized but unissued shares. [1994 c 92 § 24; 1986 c 279 § 12; 1985 c 305 § 1. Formerly RCW 30.04.238.]

30A.04.240 Trust business to be kept separate—Authorized deposit of securities. (1) A person authorized under this title or Title 30B RCW to engage in a trust business shall maintain in its office a trust department in which it shall keep books and accounts of its trust business, separate and apart from its other business. Such books and accounts shall specify the cash, securities and other properties, real and personal, held in each trust, and such securities and properties shall be at all times segregated from all other securities and properties except as otherwise provided in this section.

(2) Any person connected with a bank who shall, contrary to this section or any other provision of law, commingle any funds or securities of any kind held by such corporation in trust, for safekeeping or as agent for another, with the funds or assets of the corporation is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding any other provisions of law, any fiduciary holding securities in its fiduciary capacity or any state bank or national bank holding securities as fiduciary or as custodian for a fiduciary is authorized to deposit or arrange for the deposit of such securities: (a) In a clearing corporation (as defined in Article 8 of the Uniform Commercial Code, chapter 62A.8 RCW); (b) within another state bank, national bank, or trust company having trust power whether located inside or outside of this state; or (c) within itself. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation or state bank, national bank, or trust company holding the securities as the depository, with any other such securities deposited in such clearing corporation or depository by any person, regardless of the ownership of such securities, and certificates of small denomination may be merged into one or

more certificates of larger denomination. The records of such fiduciary and the records of such state bank, national bank, or trust company as a fiduciary or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Ownership of, and other interests in, such securities may be transferred by book-keeping entries on the books of such clearing corporation, state bank, national bank, or trust company without physical delivery or alteration of certificates representing such securities. A state bank, national bank, or trust company so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state-chartered banks, the director and, in the case of national banking associations, the comptroller of the currency may from time to time issue. A state bank or national bank acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such state bank or national bank in such clearing corporation or state bank, national bank, or trust company acting as such depository for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation or state bank, national bank, or trust company acting as such depository for its account as such fiduciary.

This subsection shall apply to any fiduciary holding securities in its fiduciary capacity, and to any state bank or national bank holding securities as a custodian, managing agent, or custodian for a fiduciary, acting on March 14, 1973 or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation. [2014 c 37 § 126; 2013 c 76 § 6; 2003 c 53 § 184; 1994 c 92 § 25; 1979 c 45 § 1; 1973 c 99 § 1; 1955 c 33 § 30.04.240. Prior: 1919 c 209 § 16; 1917 c 80 § 49; RRS § 3256. Formerly RCW 30.04.240.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

30A.04.260 Legal services, advertising of—Penalty. (1) No person, other than an attorney-at-law or law firm as permitted by other law, which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, shall be permitted to act as executor, administrator, or guardian; and such person whose officers or agents shall solicit legal business shall be ineligible for a period of one year thereafter to be appointed executor, administrator, or guardian in any of the courts of this state.

(2) Any person authorized under this title or Title 30B RCW to engage in a trust business, which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, and any officer, agent, or employee of such person who shall solicit legal business is guilty of a gross misdemeanor. [2014 c 37 § 127; 2013 c 76 § 7; 2003 c 53 § 185; 1974 ex.s. c 117 § 43; 1955 c 33 § 30.04.260. Prior: 1929 c 72 § 4, part; 1923 c 115 § 6, part; 1921 c 94 § 1, part; 1917 c 80 § 24, part; RRS § 3231, part. Formerly RCW 30.04.260.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

30A.04.280 Compliance enjoined—Banking, trust business, branches—Director's authority—Rules. (1)(a) No person shall engage in banking except in compliance with and subject to the provisions of this title, unless it is a national bank or except insofar as it may be authorized so to do by the laws of this state relating to savings banks or savings and loan associations.

(b) A person shall not engage in a trust business except in compliance with and subject to the provisions of this title. This subsection (1)(b) does not apply to: (i) An individual, sole proprietor, general partnership, or joint venture composed of individuals; (ii) a person conducting business as an attorney-at-law or law firm; or (iii) a court-appointed guardian, conservator, trustee, or receiver.

(c) A bank shall not engage in a trust business except as authorized under this title.

(d) A bank or trust company shall not establish any branch except in accordance with the provisions of this title.

(e) Except as authorized by federal law or by another law of this state, a nondepository trust company incorporated under the laws of another state shall not be permitted to engage in a trust business in this state on more favorable terms and conditions than the terms and conditions on which trust companies incorporated under this chapter and savings banks engaged in trust business under RCW 32.08.140, 32.08.142, 32.08.210, and 32.08.215 are permitted to engage in trust business in such other state.

(2) Notwithstanding any other provision of this section, the director may by rule or order prohibit any person from engaging in a trust business in this state contrary to the requirements of this title if the conduct of the trust business in this state by such person harms or is likely to harm the general public, or if it adversely affects the business of trust companies operating in this state. The director may issue a temporary cease and desist order against such person in the manner provided for in *RCW 30.04.455 if the general public or trust companies are likely to be substantially injured by delay in issuing a cease and desist order. An order or rule made by the director pursuant to this subsection may require that any applicable person obtain a trust company charter under this title as a condition of continuing to engage in a trust business in this state, subject to meeting all qualifications for grant of a trust company charter under this title. This subsection does not apply to a person conducting business as an attorney-at-law or law firm or to a court-appointed guardian, conservator, trustee, or receiver. [2013 c 76 § 8; 1998 c 45 § 1; 1996 c 2 § 4; 1955 c 33 § 30.04.280. Prior: 1933 c 42 § 3, part; 1919 c 209 § 7, part; 1917 c 80 § 15, part; RRS § 3222, part. Formerly RCW 30.04.280.]

***Reviser's note:** RCW 30.04.455 was recodified as RCW 30A.04.455 pursuant to 2014 c 37 § 4, effective January 5, 2015.

30A.04.285 Director's approval of a branch—Satisfactory financial condition—Affiliated commercial locations. (1) The director's approval of a branch within the United States or any territory of the United States or in any foreign country shall be conditioned on a finding by the

director that the bank has a satisfactory record of compliance with applicable laws and has a satisfactory financial condition. A bank chartered under this title may exercise any powers and authorities at any branch outside Washington that are permissible for a bank operating in that state where the branch is located, except to the extent those activities are expressly prohibited by the laws of this state or by any rule or order of the director applicable to the state bank. However, the director may waive any limitation in writing with respect to powers and authorities that the director determines do not threaten the safety or soundness of the state bank.

(2) An out-of-state bank may acquire, establish, or maintain a branch in Washington within one mile of an affiliate commercial location only to the same extent permitted for a Washington bank under applicable state and federal law. For purposes of this subsection, "bank" means any national bank, state bank, and district bank, as defined in 12 U.S.C. Sec. 1813(a); "out-of-state bank" means a bank whose home state is a state other than Washington; and "Washington bank" means a bank whose home state is Washington. "Home state" has the same meaning as defined in RCW 30A.38.005. [2014 c 37 § 128; 2007 c 167 § 1; 1996 c 2 § 6. Formerly RCW 30.04.285.]

30A.04.295 Agency agreements—Written notice to director. On or before the date on which a bank enters into any agency agreement authorizing another entity, as agent of the bank, to receive deposits or renew time deposits, the bank shall give written notice to the director of the existence of that agency arrangement. The notice is not effective until it has been delivered to the office of the director. [1996 c 2 § 7. Formerly RCW 30.04.295.]

30A.04.300 Foreign branch banks. A branch of any foreign bank or banker actually and publicly engaged in banking in this state on March 10, 1917, in full compliance with the laws hereof, which were in force immediately prior to March 10, 1917, and which branch has a capital not less in amount than that required for the organization of a state bank as provided in this title at the time and place when and where such branch was established, may continue its said business, subject to all of the regulations and supervision provided for banks. The amount upon which it pays taxes shall be prima facie evidence of the amount and existence of such capital. No such bank or banker shall set forth on its or his or her stationery or in any manner advertise in this state a greater capital, surplus and undivided profits than are actually maintained at such branch. Every foreign corporation, bank and banker, and every officer, agent, and employee thereof who violates any provision of this section or which violates the terms of the resolution filed as required by *RCW 30.04.290 shall for each violation forfeit and pay to the state of Washington the sum of one thousand dollars. A civil action for the recovery of any such sum may be brought by the attorney general in the name of the state. [2011 c 336 § 745; 1955 c 33 § 30.04.300. Prior: 1917 c 80 § 41; RRS § 3248. Formerly RCW 30.04.300.]

***Reviser's note:** RCW 30.04.290 was repealed by 1994 c 256 § 124, without cognizance of its amendment by 1994 c 92 § 27. It has been decodified for publication purposes pursuant to RCW 1.12.025. RCW 30.04.290 was subsequently repealed by 1997 c 101 § 7.

30A.04.330 Saturday closing authorized. Any bank, which term for the purpose of this section shall include but not be limited to any state bank, national bank or association, mutual savings bank, savings and loan association, federal reserve bank, federal home loan bank, and federal savings and loan association, federal credit union, and state credit union doing business in this state, may remain closed on Saturdays and any Saturday on which a bank remains closed shall be, with respect to such bank, a holiday and not a business day. Any act, authorized, required or permitted to be performed at or by or with respect to any bank, as herein defined, on a Saturday, may be performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from such closing. [2014 c 37 § 129; 1955 c 33 § 30.04.330. Prior: 1947 c 221 § 1; Rem. Supp. 1947 § 3292a. Formerly RCW 30.04.330.]

30A.04.375 Investment in stock, participation certificates, and other evidences of participation. Any bank may invest in the stock or participation certificates of production credit associations, federal intermediate credit banks and the stock or other evidences of participation of federal land banks in amounts consistent with safe and sound practice in conducting the business of the bank. [2014 c 37 § 130; 1982 c 86 § 1. Formerly RCW 30.04.375.]

30A.04.380 Investment in paid-in capital stock and surplus of banks or corporations engaged in international or foreign banking. Any bank may invest an amount not exceeding ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered under the laws of the United States, or of any state thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions. [2014 c 37 § 131; 1986 c 279 § 13; 1973 1st ex.s. c 104 § 9. Formerly RCW 30.04.380.]

30A.04.390 Acquisition of stock of banks organized under laws of foreign country, etc. Any bank may acquire and hold, directly or indirectly, stock or other evidence of indebtedness or ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States. [2014 c 37 § 132; 1986 c 279 § 14; 1973 1st ex.s. c 104 § 10. Formerly RCW 30.04.390.]

30A.04.395 Continuing authority for investments. Any investment by a bank other than a loan, if legal and authorized when made, may continue to be held by the bank notwithstanding a change in circumstances or change in the law. [1986 c 279 § 16. Formerly RCW 30.04.395.]

30A.04.400 Bank acquisition or control—Definitions. As used in RCW 30A.04.400 through 30A.04.410, the following words shall have the following meanings:

(1) "Control" means directly or indirectly alone or in concert with others to own, control, or hold the power to vote twenty-five percent or more of the outstanding stock or voting power of the "controlled" entity;

(2) "Acquiring party" means the person acquiring control of a bank through the purchase of stock; and

(3) "Person" means any individual, corporation, partnership, association, business trust, or other organization. [2014 c 37 § 133; 1977 ex.s. c 246 § 1. Formerly RCW 30.04.400.]

30A.04.405 Bank acquisition or control—Notice or application—Registration statement—Violations—Penalties. (1) It is unlawful for any person to acquire control of a bank until thirty days after filing with the director a copy of the notice of change of control required to be filed with the federal deposit insurance corporation or a completed application. The notice or application shall be under oath and contain substantially all of the following information plus any additional information that the director may prescribe as necessary or appropriate in the particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

(a) The identity, banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each person involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(e) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure for management;

(f) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation; and

(g) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition.

(2) Notwithstanding any other provision of this section, a bank or domestic bank holding company as defined in RCW 30A.04.230 need only notify the director of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.

(3) When a person, other than an individual or corporation, is required to file an application under this section, the director may require that the information required by subsection (1)(a), (b), and (f) of this section be given with respect to each person, as defined in RCW 30A.04.400(3), who has an interest in or controls a person filing an application under this subsection.

(4) When a corporation is required to file an application under this section, the director may require that information required by subsection (1)(a), (b), and (f) of this section be given for the corporation, each officer and director of the cor-

poration, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(5) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C., Sec. 77(a)), as amended, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C., Sec. 78(a)), as amended, the registration statement or application may be filed with the director in lieu of the requirements of this section.

(6) Any acquiring party shall also deliver a copy of any notice or application required by this section to the bank proposed to be acquired within two days after the notice or application is filed with the director.

(7) Any acquisition of control in violation of this section shall be ineffective and void.

(8) Any person who willfully or intentionally violates this section or any rule adopted pursuant thereto is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues. [2014 c 37 § 134; 1994 c 92 § 29; 1986 c 279 § 15; 1985 c 305 § 5; 1977 ex.s. c 246 § 2. Formerly RCW 30.04.405.]

30A.04.410 Bank acquisition or control—Disapproval by director—Change of officers. (1) The director may disapprove the acquisition of a bank within thirty days after the filing of a complete application pursuant to RCW 30A.04.405 or an extended period not exceeding an additional fifteen days if:

(a) The poor financial condition of any acquiring party might jeopardize the financial stability of the bank or might prejudice the interests of the bank depositors, borrowers, or shareholders;

(b) The plan or proposal of the acquiring party to liquidate the bank, to sell its assets, to merge it with any person, or to make any other major change in its business or corporate structure or management is not fair and reasonable to the bank's depositors, borrowers, or stockholders or is not in the public interest;

(c) The banking and business experience and integrity of any acquiring party who would control the operation of the bank indicates that approval would not be in the interest of the bank's depositors, borrowers, or shareholders;

(d) The information provided by the application is insufficient for the director to make a determination or there has been insufficient time to verify the information provided and conduct an examination of the qualification of the acquiring party; or

(e) The acquisition would not be in the public interest.

(2) An acquisition may be made prior to expiration of the disapproval period if the director issues written notice of intent not to disapprove the action.

(3) The director shall set forth the basis for disapproval of any proposed acquisition in writing and shall provide a copy of such findings and order to the applicants and to the bank involved. Such findings and order shall not be disclosed to any other party and shall not be subject to public disclosure

under chapter 42.56 RCW unless the findings and/or order are appealed pursuant to chapter 34.05 RCW.

(4) Whenever such a change in control occurs, each party to the transaction shall report promptly to the director any changes or replacement of its chief executive officer, or of any director, that occurs in the next twelve-month period, including in its report a statement of the past and present business and professional affiliations of the new chief executive officer or directors. [2014 c 37 § 135; 2005 c 274 § 253; 1994 c 92 § 30; 1989 c 180 § 3; 1977 ex.s. c 246 § 3. Formerly RCW 30.04.410.]

30A.04.450 Notice of charges—Reasons for issuance—Contents—Hearing—Cease and desist order. (1) The director may issue and serve a notice of charges upon a bank when in the opinion of the director:

(a) It has engaged in an unsafe and unsound practice related to the conduct of business of the bank;

(b) It has violated any provision of RCW 30A.04.050; or

(c) It is planning, attempting, or currently conducting any act prohibited in (a) or (b) of this subsection.

(2) The director may issue and serve a notice of charges upon a holding company when, in the opinion of the director:

(a) The holding company has committed a violation of RCW 30A.04.050(2);

(b) The conduct of the holding company has resulted in an unsafe and unsound practice at the bank or a violation of any provision of RCW 30A.04.050 by the bank; or

(c) The holding company is planning, attempting, or currently conducting any act prohibited in (a) or (b) of this subsection.

(3) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank or holding company. The hearing shall be set not earlier than ten days or later than thirty days after service of the notice unless a later date is set by the director at the request of the bank or holding company.

(4) Unless the bank or holding company shall appear at the hearing by a duly authorized representative it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the bank or holding company an order to cease and desist from the violation or practice. The order may require the bank or holding company, and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the bank or holding company to take affirmative action to correct the conditions resulting from the violation or practice.

(5) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the bank concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court. [2014 c 37 § 136;

2010 c 88 § 15; 1994 c 92 § 31; 1977 ex.s. c 178 § 1. Formerly RCW 30.04.450.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.04.455 Temporary cease and desist order—Reasons for issuance. (1) The director may also issue a temporary order requiring a bank or its holding company, or both, to cease and desist from any action or omission, as specified in RCW 30A.04.450, or its continuation, which the director has determined:

(a) Constitutes an unsafe and unsound practice or a material violation of RCW 30A.04.050 affecting the bank;

(b) Has resulted in the bank being less than adequately capitalized; or

(c) Is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or to otherwise seriously prejudice the interests of its depositors or trust beneficiaries.

(2) The order is effective upon service on the bank or holding company, and remains in effect unless set aside, limited, or suspended by the superior court in proceedings under RCW 30A.04.460 pending the completion of the administrative proceedings under the notice and until such time as the director dismisses the charges specified in the notice or until the effective date of a cease and desist order issued against the bank or holding company under RCW 30A.04.450. [2014 c 37 § 137; 2010 c 88 § 16; 1994 c 92 § 32; 1977 ex.s. c 178 § 2. Formerly RCW 30.04.455.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.04.460 Temporary cease and desist order—Injunction to set aside, limit, or suspend temporary order.

(1) Within ten days after a bank or holding company has been served with a temporary cease and desist order, the bank or holding company may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 30A.04.455.

(2) The superior court shall have jurisdiction to issue the injunction. [2014 c 37 § 138; 2010 c 88 § 17; 1977 ex.s. c 178 § 3. Formerly RCW 30.04.460.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.04.465 Violations or unsafe or unsound practices—Injunction to enforce temporary order.

In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 30A.04.455, the director may apply to the superior court of the county of the principal place of business of the bank for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation. [2014 c 37 § 139; 1994 c 92 § 33; 1977 ex.s. c 178 § 4. Formerly RCW 30.04.465.]

Additional notes found at www.leg.wa.gov

30A.04.470 Order to refrain from violations or practices—Administrative hearing or judicial review. (1) Any

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administrative hearing provided in RCW 30A.04.450 or 30A.12.042 must be conducted in accordance with chapter 34.05 RCW and held at the place designated by the director, and may be conducted by the department. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

(2) Within sixty days after the hearing, the director shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 30A.04.450 or 30A.12.042, as the case may be.

(3) Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected bank under subsection (5) of this section and until the record in the proceeding has been filed as therein provided, the director may at any time modify, terminate, or set aside any order upon such notice and in such manner as he or she shall deem proper. Upon filing the record, the director may modify, terminate, or set aside any order only with permission of the court.

(4) The judicial review provided in this section is exclusive for orders issued under RCW 30A.04.450 and 30A.12.042.

(5) Any party to the proceeding or any person required by an order issued under RCW 30A.04.450, 30A.04.455, 30A.04.465, or 30A.12.042 to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected bank within ten days after the date of service of the order a written petition praying that the order of the director be modified, terminated, or set aside. A copy of the petition shall be immediately served upon the director and the director shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record to affirm, modify, terminate, or set aside in whole or in part the order of the director except that the director may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it shall be subject to appellate review under the rules of court.

(6) The commencement of proceedings for judicial review under subsection (5) of this section shall not operate as a stay of any order issued by the director unless specifically ordered by the court.

(7) Service of any notice or order required to be served under RCW 30A.04.450, 30A.04.455, 30A.12.040, or 30A.12.042 shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state. [2014 c 37 § 140; 2010 c 88 § 18; 1994 c 92 § 34; 1977 ex.s. c 178 § 8. Formerly RCW 30.04.470.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.04.475 Order to refrain from violations or practices—Jurisdiction of courts in enforcement or issuance of orders, injunctions, or judicial review.

(1) The director may apply to the superior court of the county of the principal place of business of the bank affected for the enforcement of

any effective and outstanding order issued under RCW 30A.04.450, 30A.04.455, 30A.04.465, or 30A.12.042, and the court shall have jurisdiction to order compliance therewith.

(2) No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order or to review, modify, suspend, terminate, or set aside any order except as provided in RCW 30A.04.460, 30A.04.465, and 30A.04.470. [2014 c 37 § 141; 2010 c 88 § 19; 1994 c 92 § 35; 1977 ex.s. c 178 § 9. Formerly RCW 30.04.475.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.04.500 Fairness in lending act—Short title. RCW 30A.04.505 through 30A.04.515 shall be known and may be cited as the "fairness in lending act". [2014 c 37 § 142; 1977 ex.s. c 301 § 10. Formerly RCW 30.04.500.]

Unfair practices of financial institutions: RCW 49.60.175.

30A.04.505 Fairness in lending act—Definitions. As used in RCW 30A.04.505 through 30A.04.515:

(1) "Financial institution" means any bank, savings bank, credit union, mortgage company, or savings and loan association which operates or has a place of business in this state whether regulated by the state or federal government.

(2) "Particular type of loan" refers to a class of loans which is substantially similar with respect to the following:

- (a) FHA, VA, or conventional loans;
- (b) Uniform or nonuniform payment;
- (c) Uniform or nonuniform rate of interest;
- (d) Purpose; and

(e) The location of the real estate offered as security for the loan as being inside or outside of that financial institution's lending area.

(3) "Varying the terms of a loan" includes, but is not limited to the following practices:

- (a) Requiring a greater down payment than is usual for the particular type of a loan involved;
- (b) Requiring a shorter period of amortization than is usual for the particular type of loan involved;
- (c) Charging a higher interest rate than is usual for the particular type of loan involved;
- (d) A deliberate underappraisal of the value of the property offered as security. [2014 c 37 § 143; 1977 ex.s. c 301 § 11. Formerly RCW 30.04.505.]

30A.04.510 Fairness in lending act—Unlawful practices. Subject to RCW 30A.04.515, it shall be unlawful for any financial institution, in processing any application for a loan to be secured by a single-family residence to:

(1) Deny or vary the terms of a loan on the basis that a specific parcel of real estate offered as security is located in a specific geographical area, unless building, remodeling, or continued habitation in such specific geographical area is prohibited or restricted by any local, state, or federal law or rules or regulations promulgated thereunder.

(2) Utilize lending standards that have no economic basis. [2014 c 37 § 144; 1977 ex.s. c 301 § 12. Formerly RCW 30.04.510.]

30A.04.515 Fairness in lending act—Sound underwriting practices not precluded. Nothing contained in RCW 30A.04.505 through [and] 30A.04.510 shall preclude a financial institution from considering sound underwriting practices in processing any application for a loan to any person. Such practices shall include the following:

(1) The willingness and the financial ability of the borrower to repay the loan.

(2) The market value of any real estate and of any other item of property proposed as security for any loan.

(3) Diversification of the financial institution's investment portfolio. [2014 c 37 § 145; 1977 ex.s. c 301 § 13. Formerly RCW 30.04.515.]

30A.04.550 Reorganization as subsidiary of bank holding company—Authority. A state banking corporation may, with the approval of the director and the affirmative vote of the shareholders of such corporation owning at least two-thirds of each class of shares entitled to vote under the terms of such shares, be reorganized to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company, as defined in the federal bank holding company act of 1956, as amended. [1994 c 92 § 36; 1986 c 279 § 40; 1982 c 196 § 1. Formerly RCW 30.04.550.]

Additional notes found at www.leg.wa.gov

30A.04.555 Reorganization as subsidiary of bank holding company—Procedure. A reorganization authorized under RCW 30A.04.550 shall be carried out in the following manner:

(1) A plan of reorganization specifying the manner in which the reorganization shall be carried out must be approved by a majority of the entire board of directors of the banking corporation. The plan shall specify the name of the acquiring corporation, the amount of cash, securities of the bank holding company, other consideration, or any combination thereof to be paid to the shareholders of the reorganizing corporation in exchange for their shares of the stock of the corporation. The plan shall also specify the exchange date or the manner in which such exchange date shall be determined, the manner in which the exchange shall be carried out, and such other matters, not inconsistent with this chapter, as shall be determined by the board of directors of the corporation.

(2) The plan of reorganization shall be submitted to the shareholders of the reorganizing corporation at a meeting to be held on the call of the directors. Notice of the meeting of shareholders at which the plan shall be considered shall be given by prepaid first-class mail at least twenty days before the date of the meeting, to each stockholder of record of the banking corporation. The notice shall state that dissenting shareholders will be entitled to payment of the value of only those shares which are voted against approval of the plan. [2014 c 37 § 146; 1994 c 256 § 38; 1986 c 279 § 41; 1982 c 196 § 2. Formerly RCW 30.04.555.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.04.560 Reorganization as subsidiary of bank holding company—Dissenter's rights—Conditions. If the shareholders approve the reorganization by a two-thirds vote

of each class of shares entitled to vote under the terms of such shares, and if it is thereafter approved by the director and consummated, any shareholder of the banking corporation who has voted shares against such reorganization at such meeting or has given notice in writing at or prior to such meeting to the banking corporation that he or she dissents from the plan of reorganization and has not voted in favor of the reorganization, shall be entitled to receive the value of the shares determined as provided in RCW 30A.04.565. Such dissenter's rights must be exercised by making written demand which shall be delivered to the corporation at any time within thirty days after the date of shareholder approval, accompanied by the surrender of the appropriate stock certificates. [2014 c 37 § 147; 1994 c 92 § 37; 1986 c 279 § 42; 1982 c 196 § 3. Formerly RCW 30.04.560.]

Additional notes found at www.leg.wa.gov

30A.04.565 Reorganization as subsidiary of bank holding company—Valuation of shares of dissenting shareholders. The value of the shares of a dissenting shareholder who has properly perfected dissenter's rights shall be ascertained as of the day prior to the date of the shareholder action approving such reorganization by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the acquiring bank holding company, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of the third appraisal, and the acquiring bank holding company shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the appraisal is not completed within ninety days after the effective date of the reorganization, the director shall cause an appraisal to be made which shall be final and binding upon all parties. The cost of such appraisal shall be borne equally by the dissenting shareholders and the acquiring bank holding company. The dissenting shareholders shall share their half of the cost on a pro rata basis based on the number of dissenting shares owned. [1994 c 256 § 39; 1994 c 92 § 38; 1982 c 196 § 4. Formerly RCW 30.04.565.]

Reviser's note: This section was amended by 1994 c 92 § 38 and by 1994 c 256 § 39, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.04.570 Reorganization as subsidiary of bank holding company—Approval of director—Certificate of reorganization—Exchange of shares. The reorganization and exchange authorized by RCW 30A.04.550 through 30A.04.570 shall become effective as follows:

(1) If the board of directors and shareholders of the state banking corporation and the board of directors of the acquiring corporation approve the plan of reorganization, then both corporations shall apply for the approval of the director, providing such information as the director by rule may prescribe.

(2) If the director approves the reorganization, the director shall issue a certificate of reorganization to the state banking corporation.

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(3) Upon the issuance of a certificate of reorganization by the director, or on such later date as shall be provided for in the plan of reorganization, the shares of the state banking corporation shall be deemed to be exchanged in accordance with the plan of reorganization, subject to the rights of dissenters under RCW 30A.04.560 and 30A.04.565. [2014 c 37 § 148; 1994 c 92 § 39; 1982 c 196 § 5. Formerly RCW 30.04.570.]

Additional notes found at www.leg.wa.gov

30A.04.575 Public hearing prior to approval of reorganization—Request. Prior to the approval of the reorganization, the director, upon request of the board of directors of the bank, or not less than ten percent of its shareholders, shall hold a public hearing at which bank shareholders and other interested parties may appear. Notice of the public hearing shall be sent to each shareholder by prepaid first-class mail.

The approval of the reorganization by the director shall be conditioned on a finding that the terms of the reorganization are fair to the shareholders and other interested parties. [1994 c 256 § 40; 1994 c 92 § 40; 1986 c 279 § 44. Formerly RCW 30.04.575.]

Reviser's note: This section was amended by 1994 c 92 § 40 and by 1994 c 256 § 40, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.04.600 Shareholders—Actions authorized without meetings—Written consent. Any action required by this title to be taken at a meeting of the shareholders of a corporation, or any action that may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the shareholders entitled to vote with respect to the subject matter thereof.

The consent shall have the same force and effect as a unanimous vote of shareholders and may be stated as such in any articles or documents filed under this title. [1986 c 279 § 46. Formerly RCW 30.04.600.]

30A.04.605 Directors, committees—Actions authorized without meetings—Written consent. Unless otherwise provided by the articles of incorporation or bylaws, any action required by this title to be taken at a meeting of the directors of a bank or trust company, or any action which may be taken at any meeting of the directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote. [1986 c 279 § 47. Formerly RCW 30.04.605.]

30A.04.610 Directors, committees—Meetings authorized by conference telephone or similar communications equipment. Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the board of directors may participate in a meeting of the board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating

in the meeting can hear each other at the same time. Participation by such means shall constitute presence, in person, at a meeting. [1986 c 279 § 48. Formerly RCW 30.04.610.]

30A.04.650 Automated teller machines and night depositories security. Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title. [1993 c 324 § 10. Formerly RCW 30.04.650.]

Additional notes found at www.leg.wa.gov

30A.04.902 Effective date—2014 c 37. This act takes effect January 5, 2015. The director of financial institutions may immediately take such steps as are necessary to ensure that this act is implemented on its effective date. [2014 c 37 § 5.]

Chapter 30A.08 RCW ORGANIZATION AND POWERS

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30A.08.010 Incorporators—Paid-in capital stock, surplus, and undivided profits—Requirements. When authorized by the director, as hereinafter provided, one or more natural persons, citizens of the United States, may incorporate a bank in the manner herein prescribed. No bank shall incorporate for less amount nor commence business unless it has a paid-in capital stock, surplus and undivided profits in the amount as may be determined by the director after consideration of the proposed location, management, and the population and economic characteristics for the area, the nature of the proposed activities and operation of the bank, and other factors deemed pertinent by the director. Each bank shall before commencing business have sub-

scribed and paid into it in the same manner as is required for capital stock, an amount equal to at least ten percent of the capital stock above required, that shall be carried in the undivided profit account and may be used to defray organization and operating expenses of the company. Any sum not so used shall be transferred to the surplus fund of the company before any dividend shall be declared to the stockholders. [2014 c 37 § 150. Prior: 1994 c 256 § 41; 1994 c 92 § 42; 1986 c 279 § 17; 1973 1st ex.s. c 104 § 3; 1969 c 136 § 3; 1955 c 33 § 30.08.010; prior: 1947 c 131 § 1; 1929 c 72 § 4; 1923 c 115 § 2; 1917 c 80 § 19; Rem. Supp. 1947 § 3226. Formerly RCW 30.08.010.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.08.020 Notice of intention to organize—Proposed articles of incorporation—Contents. Persons desiring to incorporate a bank shall file with the director a notice of their intention to organize a bank in such form and containing such information as the director shall prescribe by rule, together with proposed articles of incorporation, which shall be submitted for examination to the director at his or her office.

The proposed articles of incorporation shall state:

- (1) The name of such bank.
- (2) The city, village or locality and county where the head office of such corporation is to be located.
- (3) The nature of its business.
- (4) The amount of its capital stock, which shall be divided into shares of a par or no par value as may be provided in the articles of incorporation.
- (5) The names and places of residence and mailing addresses of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders.
- (6) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the bank's board of directors from time to time with the approval of the director.
- (7) Any provision granting the shareholders the preemptive right to acquire additional shares of the bank and any provision granting shareholders the right to cumulate their votes.

(8) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the affairs of the corporation, including any provision restricting the transfer of shares, any provision which under this title is required or permitted to be set forth in the bylaws, and any provision permitted by RCW 23B.17.030.

(9) Any provision the incorporators elect to so set forth, not inconsistent with law or the purposes for which the bank is organized, or any provision limiting any of the powers granted in this title.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers granted in this title. The articles of incorporation shall be signed by all of the incorporators. [2014 c 37 § 151; 1999 c 14 § 11; 1995 c 134 § 3. Prior: 1994 c 256 § 42; 1994 c 92 § 43; 1986 c 279 § 18; 1981 c 73 § 1; 1973 1st ex.s. c 104 § 4; 1959 c 118 § 1; 1957 c 248 § 1; 1955 c 33 § 30.08.020; prior: (i) 1923 c 115 § 3;

1917 c 80 § 20; RRS § 3227. (ii) 1929 c 174 § 1; 1923 c 115 § 4; 1917 c 80 § 21; RRS § 3228. Formerly RCW 30.08.020.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.08.025 Limited liability company—Organization or conversion—Approval of director—Conditions—Application of chapter 25.15 RCW—Definitions. (1) Notwithstanding any other provision of this title, if the conditions of this section are met, a bank or a holding company of a bank may be organized as, or convert to, a limited liability company under the Washington limited liability company act, chapter 25.15 RCW. As used in this section, "bank" includes an applicant to become a bank or holding company of a bank and "holding company" means a holding company of a bank.

(2)(a) Before a bank or holding company may organize as, or convert to, a limited liability company, the bank or holding company must obtain approval of the director.

(b)(i) To obtain approval under this section from the director, the bank or holding company must file a request for approval with the director at least ninety days before the day on which the bank or holding company becomes a limited liability company.

(ii) If the director does not disapprove the request for approval within ninety days from the day on which the director receives the request, the request is considered approved.

(iii) When taking action on a request for approval filed under this section, the director may:

- (A) Approve the request;
- (B) Approve the request subject to terms and conditions the director considers necessary; or
- (C) Disapprove the request.

(3) To approve a request for approval, the director must find that the bank or holding company:

- (a) Will operate in a safe and sound manner; and
- (b) Has the following characteristics:
 - (i) The certificate of formation and limited liability company require or set forth that the duration of the limited liability company is perpetual;
 - (ii) The bank or holding company is not otherwise subject to automatic termination, dissolution, or suspension upon the happening of some event other than the passage of time;
 - (iii) The exclusive authority to manage the bank, trust company, or holding company is vested in a board of managers or directors that:
 - (A) Is elected or appointed by the owners;
 - (B) Is not required to have owners of the bank, trust company, or holding company included on the board;
 - (C) Possesses adequate independence and authority to supervise the operation of the bank, trust company, or holding company; and
 - (D) Operates with substantially the same rights, powers, privileges, duties, and responsibilities as the board of directors of a corporation;
 - (iv) Neither state law, nor the bank's or holding company's operating agreement, bylaws, or other organizational documents provide that an owner of the bank or holding company is liable for the debts, liabilities, and obligations of the bank or holding company in excess of the amount of the owner's investment;

(v) Neither state law, nor the bank's or holding company's operating agreement, bylaws, or other organizational documents require the consent of any other owner of the bank or holding company in order for any owner to transfer an ownership interest in the bank or holding company, including voting rights;

(vi) The bank or holding company is able to obtain new investment funding if needed to maintain adequate capital;

(vii) The bank or holding company is able to comply with all legal and regulatory requirements for a federally insured depository bank or holding company of a federally insured depository bank, under applicable federal and state law; and

(viii) A bank or holding company that is organized as a limited liability company shall maintain the characteristics listed in this subsection (3)(b) during such time as it is authorized to conduct business under this title as a limited liability company.

(4)(a) All rights, privileges, powers, duties, and obligations of a bank or holding company, that is organized as a limited liability company, and its members and managers are governed by the Washington limited liability company act, chapter 25.15 RCW, except:

(i) To the extent chapter 25.15 RCW is in conflict with federal law or regulation respecting the organization of a federally insured depository institution as a limited liability company, such federal law or regulation supersedes the conflicting provisions contained in chapter 25.15 RCW in relation to a bank or holding company organized as a limited liability company pursuant to this section; and

(ii) Without limitation, the following are inapplicable to a bank or holding company organized as a limited liability company:

- (A) Permitting automatic dissolution or suspension of a limited liability company as set forth in RCW 25.15.265(1), pursuant to a statement of limited duration which, though impermissible under subsection (3)(b)(i) of this section, has been provided for in a certificate of formation;
- (B) Permitting automatic dissolution or suspension of a limited liability company, pursuant to the limited liability company agreement, as set forth in RCW 25.15.265(2);
- (C) Permitting dissolution of the limited liability company agreement based upon agreement of all the members, as set forth in RCW 25.15.265(3);
- (D) Permitting dissociation of all the members of the limited liability company, as set forth in RCW 25.15.265(4); and
- (E) Permitting automatic dissolution or suspension of a limited liability company, pursuant to operation of law, as otherwise set forth in chapter 25.15 RCW.

(b) Notwithstanding (a) of this subsection:

(i) For purposes of transferring a member's interests in the bank or holding company, a member's interest in the bank or holding company is treated like a share of stock in a corporation; and

(ii) If a member's interest in the bank or holding company is transferred voluntarily or involuntarily to another person, the person who receives the member's interest obtains the member's entire rights associated with the member's interest in the bank or holding company including all economic rights and all voting rights.

(c) A bank or holding company may not by agreement or otherwise change the application of (a) of this subsection to the bank or holding company.

(5)(a) Notwithstanding any provision of chapter 25.15 RCW or this section to the contrary, all voting members remain liable and responsible as fiduciaries of a bank or holding company organized as a limited liability company, regardless of resignation, dissociation, or disqualification, to the same extent that directors of a bank or holding company organized as a corporation would be or remain liable or responsible to the department and applicable federal banking regulators; and

(b) If death, incapacity, or disqualification of all members of the limited liability company would result in a complete dissociation of all members, then the bank, holding company, or both, as applicable is deemed nonetheless to remain in existence for purposes of the department or an applicable federal regulator, or both, having standing under RCW 30A.44.270 or applicable federal law, or both, to exercise the powers and authorities of a receiver for the bank or holding company.

(6) For the purposes of this section, and unless the context clearly requires otherwise, for the purpose of applying chapter 25.15 RCW to a bank or holding company organized as a limited liability company:

(a) "Articles of incorporation" includes a limited liability company's certificate of formation, as that term is used in RCW 25.15.006 and 25.15.071, and a limited liability company agreement as that term is used in RCW 25.15.006;

(b) "Board of directors" includes one or more persons who have, with respect to a bank or holding company described in subsection (1) of this section, authority that is substantially similar to that of a board of directors of a corporation;

(c) "Bylaws" includes a limited liability company agreement as that term is defined in RCW 25.15.006;

(d) "Corporation" includes a limited liability company organized under chapter 25.15 RCW;

(e) "Director" includes any of the following of a limited liability company:

(i) A manager;

(ii) A director; or

(iii) Other person who has, with respect to the bank or holding company described in subsection (1) of this section, authority substantially similar to that of a director of a corporation;

(f) "Dividend" includes distributions made by a limited liability company under RCW 25.15.211;

(g) "Incorporator" includes the person or persons executing the certificate of formation as provided in RCW 25.15.086;

(h) "Officer" includes any of the following of a bank or holding company:

(i) An officer; or

(ii) Other person who has, with respect to the bank or holding company, authority substantially similar to that of an officer of a corporation;

(i) "Security," "shares," or "stock" of a corporation includes a membership interest in a limited liability company and any certificate or other evidence of an ownership interest in a limited liability company; and

(j) "Stockholder" or "shareholder" includes an owner of an equity interest in a bank or holding company, including a member as defined in RCW 25.15.006 and 25.15.116. [2015 c 188 § 119; 2014 c 37 § 152; 2011 c 52 § 1; 2006 c 48 § 2. Formerly RCW 30.08.025.]

Effective date—2015 c 188: See RCW 25.15.903.

30A.08.030 Investigation. When the notice of intention to organize and proposed articles of incorporation complying with the foregoing requirements have been received by the director, together with the fees required by law, the director shall ascertain from the best source of information at his or her command and by such investigation as he or she may deem necessary, whether the character, responsibility and general fitness of the persons named in such articles are such as to command confidence and warrant belief that the business of the proposed bank will be honestly and efficiently conducted in accordance with the intent and purpose of this title, whether the resources in the neighborhood of such place and in the surrounding country afford a reasonable promise of adequate support for the proposed bank and whether the proposed bank is being formed for other than the legitimate objects covered by this title. [2014 c 37 § 153; 1994 c 92 § 44; 1973 1st ex.s. c 104 § 5; 1955 c 33 § 30.08.030. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part. Formerly RCW 30.08.030.]

30A.08.040 Notice to file articles—Articles approved or refused—Hearing. After the director is satisfied of the above facts, and, within six months of the date the notice of intention to organize has been received in his or her office, the director shall notify the incorporators to file executed articles of incorporation with the director in triplicate. Unless the director otherwise consents in writing, such articles shall be in the same form and shall contain the same information as the proposed articles and shall be filed with the director within ten days of such notice. Within thirty days after the receipt of such articles of incorporation, the director shall endorse upon each of the triplicates thereof, over his or her official signature, the word "approved," or the word "refused," with the date of such endorsement. In case of refusal the director shall forthwith return one of the triplicates, so endorsed, together with a statement explaining the reason for refusal to the person from whom the articles were received, which refusal shall be conclusive, unless the incorporators, within ten days of the issuance of such notice of refusal, shall request a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, as now or hereafter amended. [1995 c 134 § 4. Prior: 1994 c 256 § 43; 1994 c 92 § 45; 1981 c 302 § 15; 1973 1st ex.s. c 104 § 6; 1955 c 33 § 30.08.040; prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part. Formerly RCW 30.08.040.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.08.050 Approved articles to be filed and recorded—Organization complete. In case of approval the director shall forthwith give notice thereof to the proposed incorporators and file one of the triplicate articles of incorporation in his or her own office, and shall transmit another trip-

licate to the secretary of state, and the last to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation the secretary of state shall file such articles and record the same. Upon the filing of articles of incorporation approved as aforesaid by the director, with the secretary of state, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by this title, and whose existence shall continue from the date of the filing of such articles until terminated pursuant to law; but such corporation shall not transact any business except as is necessarily preliminary to its organization until it has received a certificate of authority as provided herein. [1994 c 92 § 46; 1986 c 279 § 19; 1981 c 302 § 16; 1957 c 248 § 2; 1955 c 33 § 30.08.050. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part. Formerly RCW 30.08.050.]

Additional notes found at www.leg.wa.gov

30A.08.055 Amending articles—Filing with director—Contents. A bank amending its articles of incorporation shall deliver articles of amendment to the director for filing as required for articles of incorporation. The articles of amendment shall set forth:

- (1) The name of the bank;
- (2) The text of each amendment adopted;
- (3) The date of each amendment's adoption;
- (4) If the amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and
- (5) If shareholder action was required, a statement that the amendment was duly approved by the shareholders in accordance with the provisions of RCW 30A.08.090. [2014 c 37 § 154; 1994 c 256 § 53. Formerly RCW 30.08.055.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.08.060 Certificate of authority—Issuance—Contents. Before any bank shall be authorized to do business, and within ninety days after approval of the articles of incorporation or such other time as the director may allow, it shall furnish proof satisfactory to the director that such corporation has a paid-in capital in the amount determined by the director, that the requisite surplus or reserve fund has been accumulated or paid in cash, and that it has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this title. If so satisfied, and within thirty days after receipt of such proof, the director shall issue under his or her hand and official seal, in triplicate, a certificate of authority for such corporation. The certificate shall state that the corporation therein named has complied with the requirements of law, that it is authorized to transact the business of a bank: PROVIDED, HOWEVER, That the director may make his or her issuance of the certificate to a bank authorized to accept deposits, conditional upon the granting of deposit insurance by the federal deposit insurance corporation, and in such event, shall set out such condition in a written notice which shall be delivered to the corporation.

(2020 Ed.)

One of the triplicate certificates shall be transmitted by the director to the corporation and one of the other two shall be filed by the director in the office of the secretary of state and shall be attached to the articles of incorporation: PROVIDED, HOWEVER, That if the issuance of the certificate is made conditional upon the granting of deposit insurance by the federal deposit insurance corporation, the director shall not transmit or file the certificate until such condition is satisfied. [2014 c 37 § 155; 1994 c 92 § 47; 1986 c 279 § 20; 1981 c 302 § 17; 1973 1st ex.s. c 104 § 7; 1955 c 33 § 30.08.060. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part. Formerly RCW 30.08.060.]

Additional notes found at www.leg.wa.gov

30A.08.070 Failure to commence business—Effect—Extension of time. Every corporation heretofore or hereafter authorized by the laws of this state to do business as a bank, which corporation shall have failed to organize and commence business within six months after certificate of authority to commence business has been issued by the director, shall forfeit its rights and privileges as such corporation, which fact the director shall certify to the secretary of state, and such certificate of forfeiture shall be filed and recorded in the office of the secretary of state in the same manner as the certificate of authority: PROVIDED, That the director may, upon showing of cause satisfactory to him or her, issue an order under his or her hand and seal extending for not more than three months the time within which such organization may be effected and business commenced, such order to be transmitted to the office of the secretary of state and filed and recorded therein. [2014 c 37 § 156; 1994 c 92 § 48; 1986 c 279 § 21; 1981 c 302 § 18; 1955 c 33 § 30.08.070. Prior: 1931 c 9 § 1; RRS § 3229-1; 1915 c 175 § 41; RRS § 3370. Formerly RCW 30.08.070.]

Additional notes found at www.leg.wa.gov

30A.08.080 Extension of existence—Application—Investigation—Certificate—Appeal—Winding up for failure to continue existence. At any time not less than one year prior to the expiration of the time of the existence of any bank, it may by written application to the director, signed and verified by a majority of its directors and approved in writing by the owners of not less than two-thirds of its capital stock, apply to the director for leave to file amended articles of incorporation, extending its time of existence. Prior to acting upon such application, the director shall make such investigation of the applicant as he or she deems necessary. If the director determines that the applicant is in sound condition, that it is conducting its business in a safe manner and in compliance with law and that no reason exists why it should not be permitted to continue, he or she shall issue to the applicant a certificate authorizing it to file amended articles of incorporation extending the time of its existence until such time as it be dissolved by the act of its shareholders owning not less than two-thirds of its stock, or until its certificate of authority becomes revoked or forfeited by reason of violation of law, or until its affairs be taken over by the director for legal cause and finally wound up by him or her. Otherwise the director shall notify the applicant that he or she refuses to grant such certificate. The applicant may appeal from such refusal in the same manner as in the case of a refusal to grant an original

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certificate of authority. Otherwise the determination of the director shall be conclusive.

Upon receiving a certificate, as hereinabove provided, the applicant may file amended articles of incorporation, extending the time of its existence for the term authorized, to which shall be attached a copy of the certificate of the director. Such articles shall be filed in the same manner and upon payment of the same fees as for original articles of incorporation.

Should any bank fail to continue its existence in the manner herein provided and be not previously dissolved, the director shall at the end of its original term of existence immediately take possession thereof and wind up the same in the same manner as in the case of insolvency. [2014 c 37 § 157; 1999 c 14 § 12; 1994 c 92 § 49; 1961 c 280 § 1; 1955 c 33 § 30.08.080. Prior: 1943 c 148 § 1; 1917 c 80 § 27; Rem. Supp. 1943 § 3234. Formerly RCW 30.08.080]

30A.08.081 Shares—Certificates not required. (1) Shares of a bank may, but need not be, represented by certificates. Unless this title expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates. At a minimum, each share certificate must state the information required to be stated and must be signed as provided in RCW 23B.06.250 and/or 23B.06.270 for corporations.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a bank may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the bank.

(3) Within a reasonable time after the issue or transfer of shares without certificates, the bank shall send the shareholder a written statement of the information required to be stated on certificates under subsection (1) of this section. [2014 c 37 § 158; 1994 c 256 § 52. Formerly RCW 30.08.081.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.08.082 Authority to issue preferred or special classes of stock. (1) Notwithstanding any other provisions of law and if so authorized by its articles of incorporation or amendments thereto made in the manner provided in the case of a capital increase, any bank may, pursuant to action taken by its board of directors from time to time with the approval of the director, issue shares of preferred or special classes of stock with the attributes and in such amounts and with such par value, if any, as shall be determined by the board of directors from time to time with the approval of the director. No increase of preferred stock shall be valid until the amount thereof shall have been subscribed and actually paid in.

(2) If provided in its articles of incorporation, a bank may issue shares of preferred or special classes having any one or several of the following provisions:

(a) Subjecting the shares to the right of the bank to repurchase or retire any such shares at the price fixed by the articles of incorporation for the repurchase or retirement thereof;

(b) Entitling the holders thereof to cumulative, noncumulative, or partially cumulative dividends;

(c) Having preference over any other class or classes of shares as to the payment of dividends;

(d) Having preference in the assets of the bank over any other class or classes of shares upon the voluntary or involuntary liquidation of the bank;

(e) Having voting or nonvoting rights; and

(f) Being convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation. [2014 c 37 § 159. Prior: 1994 c 256 § 44; 1994 c 92 § 50; 1986 c 279 § 22; 1981 c 89 § 4. Formerly RCW 30.08.082.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.08.083 Authority to divide classes into series—Rights and preferences—Filing of statement. (1) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series, and fixed and determined the variations in the relative rights and preferences as between series, the board of directors have authority to divide any or all of the classes into series and, within the limitation set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(2) In order for the board of directors to establish a series, where authority to do so is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as is not fixed and determined by the articles of incorporation.

(3) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file and execute in the manner provided in this section a statement setting forth:

(a) The name of the bank;

(b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof;

(c) The date of adoption of such resolution; and

(d) That the resolution was duly adopted by the board of directors.

(4) The statement shall be executed in triplicate by the bank by one of its officers and shall be delivered to the director. If the director finds that the statement conforms to law, the director shall, when all fees have been paid as provided in this title:

(a) Endorse on each of the triplicate originals the word "Filed," and the effective date of the filing thereof;

(b) File two of the originals; and

(c) Return the other original to the bank or its representative.

(5) Upon the filing of the statement by the director with the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation. [1994 c 92 § 51; 1986 c 279 § 23. Formerly RCW 30.08.083.]

30A.08.084 Rights of holders of preferred or special classes of stock—Preference in dividends and liquidation. Notwithstanding any other provisions of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of shares of preferred or special classes of stock shall be entitled to receive such dividends on the purchase price received by the bank for such stock as may be provided by the articles of incorporation or by the board of directors of the bank with the approval of the director.

No dividends shall be declared or paid on common stock until cumulative dividends, if any, on the shares of preferred or special classes of stock shall have been paid in full; and, if the director takes possession of a bank for purposes of liquidation, no payments shall be made to the holders of the common stock until the holders of the shares of preferred or special classes of stock shall have been paid in full such amount as may be provided under the terms of said shares plus all accumulated dividends, if any. [2014 c 37 § 160; 1994 c 92 § 52; 1986 c 279 § 24; 1981 c 89 § 5. Formerly RCW 30.08.084.]

Additional notes found at www.leg.wa.gov

30A.08.086 Determination of capital impairment when capital consists of preferred stock. If any part of the capital of a bank consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based on the value of its stock as established at the time it was issued, or its par value, if any, even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the originally established value or the par value of such preferred stock. [2014 c 37 § 161; 1986 c 279 § 25; 1981 c 89 § 6. Formerly RCW 30.08.086.]

Additional notes found at www.leg.wa.gov

30A.08.087 Authorized but unissued shares of capital stock—Issuance—Consideration. Any bank may provide in its articles of incorporation or amendments thereto for authorized but unissued shares of its capital stock. The shares may be issued for such consideration as shall be established by the board from time to time and all consideration received therefor shall be allocated to the capital stock or surplus of the corporation. [2014 c 37 § 162; 1994 c 256 § 45; 1986 c 279 § 26; 1979 c 106 § 1; 1965 c 140 § 1. Formerly RCW 30.08.087.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.08.088 Authorized but unissued shares of capital stock—When shares become part of capital stock. The authorized but unissued shares shall not become a part of the capital stock until they have been issued and paid for. [1994 c 256 § 46; 1994 c 92 § 53; 1986 c 279 § 27; 1979 c 106 § 2; 1965 c 140 § 2. Formerly RCW 30.08.088.]

Reviser's note: This section was amended by 1994 c 92 § 53 and by 1994 c 256 § 46, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.08.090 Amendment of articles—Procedure. Unless the articles of incorporation provide otherwise, the board of directors of a bank may, by majority vote, amend the bank's articles of incorporation without shareholder action as follows:

(1) If the bank has only one class of shares outstanding, to provide, change, or eliminate any provision with respect to the par value of any class of shares;

(2) To delete the name and address of the initial directors;

(3) If the bank has only one class of shares outstanding, solely to change the number of authorized shares to effectuate a split of, or stock dividend in, the bank's own shares, or solely to do so and to change the number of authorized shares in proportion thereto;

(4) To change the bank's name; or

(5) To make any other change expressly permitted by this title to be made without shareholder action.

Other amendments to a bank's articles of incorporation, in a manner not inconsistent with the provisions of this title, require the affirmative vote of the stockholders representing two-thirds of each class of shares entitled to vote under the terms of the shares at a regular meeting, or special meeting duly called for that purpose in the manner prescribed by the bank's bylaws. No amendment shall be made whereby a bank becomes a trust company unless such bank first receives permission from the director. [2014 c 37 § 163. Prior: 1994 c 256 § 47; 1994 c 92 § 54; 1987 c 420 § 3; 1986 c 279 § 28; 1965 c 140 § 3; 1955 c 33 § 30.08.090; prior: 1923 c 115 § 7; 1917 c 80 § 26; RRS § 3233. Formerly RCW 30.08.090.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.08.092 Increase or decrease of capital stock authorized. A bank may increase or decrease its capital stock by amendment to its articles of incorporation. No issuance of capital stock shall be valid, until the amount thereof shall have been actually paid in. No reduction of the capital stock shall be made to an amount less than is required for capital by the director. [2014 c 37 § 164. Prior: 1994 c 256 § 48; 1994 c 92 § 55; 1987 c 420 § 4. Formerly RCW 30.08.092.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.08.140 Corporate powers of banks. (Contingent expiration date.) Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

(1) To adopt and use a corporate seal;

(2) To have perpetual succession;

(3) To make contracts;

(4) To sue and be sued, the same as a natural person;

(5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation;

(6) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of its affairs;

(7) To invest and reinvest its funds in marketable obligations evidencing the indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures commonly known as investment securities except as may by regulation be limited by the director;

(8) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money secured or unsecured, to issue all forms of letters of credit, to buy and sell bullion, coins and bills of exchange;

(9) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property;

(10) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent. A bank exercising this power may continue to act as an insurance agent notwithstanding a change of the population of the city in which it is located;

(11) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: PROVIDED, HOWEVER, That the director, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as the director may prescribe may authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock and surplus: PROVIDED, FURTHER, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus;

(12) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the director by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the director: PROVIDED, HOWEVER, That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding

in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: PROVIDED FURTHER, That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the director;

(13) To have and exercise all powers necessary or convenient to effect its purposes;

(14) To serve as custodian of an individual retirement account and pension and profit sharing plans qualified under internal revenue code section 401(a), the assets of which are invested in deposits of the bank or are invested, pursuant to directions from the customer owning the account, in securities traded on a national securities market: PROVIDED, That the bank shall accept no investment responsibilities over the account unless it is granted trust powers by the director;

(15) To be a limited partner in a limited partnership that engages in only such activities as are authorized for the bank. [2014 c 37 § 165; 2013 c 76 § 9; 1996 c 2 § 5; 1994 c 92 § 58; 1986 c 279 § 29; 1957 c 248 § 3; 1955 c 33 § 30.08.140. Prior: 1931 c 127 § 1; 1919 c 209 § 8; 1917 c 80 § 23; RRS § 3230. Formerly RCW 30.08.140.]

Contingent expiration date—2014 c 37 § 165: "Section 165 of this act expires when the contingency under section 262 of this act has occurred." [2014 c 37 § 264.]

Contingent expiration date—2013 c 76 §§ 9 and 24: "Sections 9 and 24 of this act expire when the contingency under section 33 of this act has occurred." [2013 c 76 § 34.]

30A.08.140 Corporate powers of banks. (Contingent effective date.) Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

(1) To adopt and use a corporate seal;

(2) To have perpetual succession;

(3) To make contracts;

(4) To sue and be sued, the same as a natural person;

(5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation;

(6) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of its affairs;

(7) To invest and reinvest its funds in marketable obligations evidencing the indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures commonly known as investment securities except as may by regulation be limited by the director;

(8) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money secured or unsecured, to issue all forms of letters of credit, to buy and sell bullion, coins and bills of exchange;

(9) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property;

(10) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent. A bank exercising this power may continue to act as an insurance agent notwithstanding a change of the population of the city in which it is located;

(11) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: PROVIDED, HOWEVER, That the director, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as the director may prescribe may authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock and surplus: PROVIDED, FURTHER, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus;

(12) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the director by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the director: PROVIDED, HOWEVER, That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank

in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: PROVIDED FURTHER, That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the director;

(13) To have and exercise all powers necessary or convenient to effect its purposes;

(14) To serve as custodian of an individual retirement account and pension and profit sharing plans qualified under internal revenue code section 401(a), the assets of which are invested in deposits of the bank or are invested, pursuant to directions from the customer owning the account, in securities traded on a national securities market: PROVIDED, That the bank shall accept no investment responsibilities over the account unless it is granted trust powers by the director;

(15) To be a limited partner in a limited partnership that engages in only such activities as are authorized for the bank;

(16) To conduct a promotional contest of chance as authorized in RCW 9.46.0356(1) [(1)] (b), as long as the conditions of RCW 9.46.0356(5) and 30A.22.260 are complied with to the satisfaction of the director. [2014 c 37 § 166; 2013 c 76 § 10; 2011 c 303 § 7; 1996 c 2 § 5; 1994 c 92 § 58; 1986 c 279 § 29; 1957 c 248 § 3; 1955 c 33 § 30.08.140. Prior: 1931 c 127 § 1; 1919 c 209 § 8; 1917 c 80 § 23; RRS § 3230. Formerly RCW 30.08.140.]

Contingent effective date—2014 c 37 § 166; 2013 c 76 §§ 10 and 25; 2011 c 303 §§ 7 and 8: "Sections 7 and 8, chapter 303, Laws of 2011, sections 10 and 25, chapter 76, Laws of 2013, and section 166, chapter 37, Laws of 2014 take effect when the director of the department of financial institutions finds that a federal regulatory agency has, through federal law, regulation, or official regulatory interpretation, interpreted federal law to permit banks operating under the authority of Title 30A or 32 RCW to conduct a promotional contest of chance as defined in RCW 30A.22.040. If the contingency occurs, the director shall notify the chief clerk of the house of representatives, the secretary of the senate, and the office of the code reviser." [2014 c 37 § 262; 2013 c 76 § 33; 2011 c 303 § 9.]

Findings—Intent—2011 c 303: See note following RCW 9.46.0356.

30A.08.150 Banks engaged in trust business. (1) Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall have the power to engage in trust business and other business the same as a state trust company as set forth in *RCW 30B.08.080(1) (b) through (q).

(2) Notwithstanding the powers of a trust business set forth in *RCW 30B.08.080(1) (b) through (k) and as the director may designate by rule pursuant to *RCW 30B.08.080(1)(q), a bank shall notify the director prior to commencing trust business, and comply with additional preconditions as may be required by the board of governors of the federal reserve system, the federal deposit insurance corporation, or by rule adopted by the director.

(3) A bank under this title is deemed to be a trust company for purposes of authorization to be a personal representative under RCW 11.36.010. [2014 c 37 § 167; 2011 c 336 § 746; 1973 1st ex.s. c 154 § 48; 1955 c 33 § 30.08.150. Prior: 1929 c 72 § 4, part; 1923 c 115 § 6, part; 1921 c 94 § 1, part;

1917 c 80 § 24, part; RRS § 3231, part. Formerly RCW 30.08.150.]

*Reviser's note: RCW 30B.08.080 was amended by 2019 c 389 § 10, changing subsection (1)(a) through (q) to subsection (1)(a) through (d).

Additional notes found at www.leg.wa.gov

30A.08.180 Reports of resources and liabilities.

Every bank shall make at least three regular reports each year to the director, as of the dates which he or she shall designate, according to form prescribed by him or her, verified by the president, manager or cashier and attested by at least two directors, which shall exhibit under appropriate heads the resources and liabilities of such corporation. The dates designated by the director shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations.

Every such corporation shall also make such special reports as the director shall call for. [2014 c 37 § 168; 1995 c 344 § 3; 1994 c 92 § 60; 1955 c 33 § 30.08.180. Prior: 1919 c 209 § 4; 1917 c 80 § 5; RRS § 3212. Formerly RCW 30.08.180.]

30A.08.190 Time of filing—Availability—Penalty.

(1) Every regular report shall be filed with the director within thirty days from the date of issuance of the notice. Every special report shall be filed with the director within such time as shall be specified by him or her in the notice therefor.

(2) The director shall provide a copy of any regular report free of charge to any person that submits a written request for the report.

(3) Every bank which fails to file any report, required to be filed under subsection (1) of this section and within the time specified, shall be subject to a penalty of fifty dollars per day for each day's delay. A civil action for the recovery of any such penalty may be brought by the attorney general in the name of the state. [2014 c 37 § 169. Prior: 1995 c 344 § 4; 1995 c 134 § 6; prior: 1994 c 256 § 51; 1994 c 92 § 61; 1977 c 38 § 1; 1955 c 33 § 30.08.190; prior: 1917 c 80 § 6; RRS § 3213. Formerly RCW 30.08.190.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Chapter 30A.12 RCW

OFFICERS, EMPLOYEES, AND STOCKHOLDERS

Sections

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30A.12.010 Directors—Election—Meetings—Oath

—**Vacancies.** Every bank shall be managed by not less than five directors, who need not be residents of this state. Directors shall be elected by the stockholders and hold office for such term as is specified in the articles of incorporation, not exceeding three years, and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's bylaws. Shareholders may not cumulate their votes unless the articles of incorporation specifically so provide. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each quarter and whenever required by the director. A majority of the then serving board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy.

Each director, so far as the duty devolves upon him or her, shall diligently and honestly administer the affairs of such corporation and shall not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation. Vacancies in the board of directors shall be filled by the board. [2014 c 37 § 170. Prior: 1994 c 256 § 54; 1994 c 92 § 62; 1987 c 420 § 1; 1986 c 279 § 30; 1982 c 196 § 8; 1981 c 89 § 3; 1975 c 35 § 1; 1969 c 136 § 8; 1957 c 190 § 1; 1955 c 33 § 30.12.010; prior: 1947 c 129 § 1; 1917 c 80 § 30; Rem. Supp. 1947 § 3237. Formerly RCW 30.12.010.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Additional notes found at www.leg.wa.gov

30A.12.020 Meetings, where held—Corporate

records. All meetings of the stockholders of any bank, except organization meetings and meetings held with the consent of all stockholders, must be held in the county in which the head office or any branch of the corporation is located. Meetings of the directors of any bank may be held either within or without this state. Every such corporation shall keep records in which shall be recorded the names and residences of the stockholders thereof, the number of shares held by each, and also the transfers of stock, showing the time

when made, the number of shares and by whom transferred. In all actions, suits and proceedings, said records shall be prima facie proof of the facts shown therein. All of the corporate books, including the certificate book, stockholders' ledger and minute book or a copy thereof shall be kept at the corporation's principal place of business. Any books, record, and minutes may be in written form or any other form capable of being converted to written form within a reasonable time. [2014 c 37 § 171; 1994 c 256 § 55; 1986 c 279 § 31; 1969 c 136 § 9; 1955 c 33 § 30.12.020. Prior: 1927 c 179 § 1; 1917 c 80 § 31; RRS § 3238. Formerly RCW 30.12.020.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.12.025 Rights of shareholder to examine and make extracts of records—Penalty—Financial statements. Any person who has been a shareholder of record at least six months immediately preceding his or her demand or who is the holder of record of at least five percent of all the outstanding shares of a bank, upon written demand stating the purpose thereof, has the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, the bank's minutes of the proceedings of its shareholders, its shareholder records, and its existing publicly available records. The person is entitled to make extracts therefrom, except that the person is not entitled to view or make extracts of any portion of minutes that refer or relate to information which is confidential.

Any officer or agent who, or a bank that, refuses to allow any such shareholder or his or her agent or attorney, to examine and make extracts from its minutes of the proceedings of its shareholders, record of shareholders, or existing publicly available books and records, for any proper purpose, shall be liable to the shareholder for actual damages or other remedy afforded the shareholder by law.

It is a defense to any action for penalties under this section that the person suing therefor has, within two years: (1) Sold or offered for sale any list of shareholders for shares of such bank or any other bank; (2) aided or abetted any person in procuring any list of shareholders for any such purpose; (3) improperly used any information secured through any prior examination of existing publicly available books and records, or minutes, or record of shareholders of such bank or any other bank; or (4) not acted in good faith or for a proper purpose in making his or her demand.

Nothing in this section impairs the power of any court of competent jurisdiction, upon proof by a shareholder of proper purpose, irrespective of the period of time during which the shareholder has been a shareholder of record, and irrespective of the number of shares held by him or her, to compel the production for examination by the shareholder of the existing publicly available books and records, minutes, and record of shareholders of a bank.

Upon the written request of any shareholder of a bank, the bank shall mail to the shareholder its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations. As used in this section, "shareholder" includes the holder of voting trust certificates for shares. [2014 c 37 § 172; 1986 c 279 § 32. Formerly RCW 30.12.025.]

(2020 Ed.)

30A.12.030 Fidelity bonds—Casualty insurance. (1) Except as otherwise permitted by the director under specified terms and conditions, the board of directors of each bank shall direct and require good and sufficient surety company fidelity bonds issued by a company authorized to engage in the insurance business in the state of Washington on all active officers and employees, whether or not they draw salary or compensation, which bonds shall provide for indemnity to such bank, on account of any losses sustained by it as the result of any dishonest, fraudulent or criminal act or omission committed or omitted by them acting independently or in collusion or combination with any person or persons. Such bonds may be individual, schedule or blanket form, and the premiums therefor shall be paid by the bank.

(2) The said directors shall also direct and require suitable insurance protection to the bank against burglary, robbery, theft and other similar insurance hazards to which the bank may be exposed in the operations of its business on the premises or elsewhere.

The said directors shall be responsible for prescribing at least once in each year the amount or penal sum of such bonds or policies and the sureties or underwriters thereon, after giving due consideration to all known elements and factors constituting such risk or hazard. Such action shall be recorded in the minutes of the board of directors. [2014 c 37 § 173; 1994 c 92 § 63; 1986 c 279 § 33; 1955 c 33 § 30.12.030. Prior: 1947 c 132 § 1; 1927 c 224 § 1; 1917 c 80 § 32; Rem. Supp. 1947 § 3239. Formerly RCW 30.12.030.]

30A.12.040 Removal of a board director, officer, or employee—Prohibiting participation in bank or holding company affairs—Grounds—Notice. (1) The director may issue and serve a board director, officer, or employee of a bank with written notice of intent to remove the person from office or employment or to prohibit the person from participating in the conduct of the affairs of the bank or any other depository institution, bank holding company, thrift holding company, or financial holding company doing business in this state whenever, in the opinion of the director:

(a) Reasonable cause exists to believe the person has committed a material violation of law, an unsafe and unsound practice, or a violation or practice involving a breach of fiduciary duty, personal dishonesty, recklessness, or incompetence; and

(b) The bank or holding company has suffered or is likely to suffer substantial financial loss or other damage; or

(c) The interests of depositors or trust beneficiaries could be seriously prejudiced by reason of the violation or practice.

(2) The director may issue and serve a board director, officer, or employee of a holding company with written notice of intent to remove the person from office or employment or to prohibit the person from participating in the conduct of the affairs of the holding company, its subsidiary bank, or any other depository institution, bank holding company, thrift holding company, or financial holding company doing business in this state whenever, in the opinion of the director:

(a) Reasonable cause exists to believe the person has committed a material violation of law, an unsafe and unsound practice, or a violation or practice involving a breach of fiduciary duty, personal dishonesty, recklessness, or incompetence; and

ciary duty, personal dishonesty, recklessness, or incompetence; and

(b) The subsidiary bank has suffered or is likely to suffer substantial financial loss or other damage; or

(c) The interests of depositors of the subsidiary bank could be seriously prejudiced by reason of the violation or practice. [2014 c 37 § 174; 2010 c 88 § 20; 1994 c 92 § 64; 1977 ex.s. c 178 § 5; 1955 c 33 § 30.12.040. Prior: 1933 c 42 § 1; 1917 c 80 § 10; RRS § 3217. Formerly RCW 30.12.040.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.12.0401 Written notice of charges under RCW 30A.12.042. The director may serve written notice of charges under RCW 30A.12.040 to suspend a person from further participation in any manner in the conduct of the affairs of a bank or holding company, if the director determines that such an action is necessary for the protection of the bank, or the interests of the depositors of the bank. Any suspension notice issued by the director is effective upon service, and unless the superior court of the county of its principal place of business issues a stay of the order, remains in effect and enforceable until:

(1) The director dismisses the charges contained in the notice served to the person; or

(2) The effective date of a final order for removal of the person under RCW 30A.12.040. [2014 c 37 § 175; 2010 c 88 § 21. Formerly RCW 30.12.0401.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.12.042 Removal of a director, officer, or employee or prohibiting participation in bank or holding company affairs—Notice contents—Hearing—Order of removal or prohibition. (1) A notice of an intention to remove a director, officer, or employee from office or to prohibit his or her participation in the conduct of the affairs of a bank or holding company shall contain a statement of the facts which constitute grounds therefor and shall fix a time and place at which a hearing will be held. The hearing shall be set not earlier than ten days or later than thirty days after the date of service of the notice unless an earlier or later date is set by the director at the request of the director, officer, or employee for good cause shown or of the attorney general of the state.

(2) Unless the director, officer, or employee appears at the hearing personally or by a duly authorized representative, the person shall be deemed to have consented to the issuance of an order of removal or prohibition or both. In the event of such consent or if upon the record made at the hearing the director finds that any of the grounds specified in the notice have been established, the director may issue such orders of removal from office or prohibition from participation in the conduct of the affairs of the bank or holding company as the director may consider appropriate.

(3) Any order shall become effective at the expiration of ten days after service upon the bank or holding company and the director, officer, or employee concerned except that an order issued upon consent shall become effective at the time specified in the order.

(4) An order shall remain effective except to the extent it is stayed, modified, terminated, or set aside by the director or

a reviewing court. [2014 c 37 § 176; 2010 c 88 § 22; 1994 c 92 § 65; 1977 ex.s. c 178 § 6. Formerly RCW 30.12.042.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.12.044 Removal of one or more directors of a bank or holding company—Effect upon quorum—Procedure. If at any time because of the removal of one or more directors under this chapter there shall be on the board of directors of a bank or holding company less than a quorum of directors, all powers and functions vested in or exercisable by the board shall vest in and be exercisable by the director or directors remaining until such time as there is a quorum on the board of directors. If all of the directors of a bank or holding company are removed under this chapter, the director shall appoint persons to serve temporarily as directors until such time as their respective successors take office. [2014 c 37 § 177; 2010 c 88 § 23; 1994 c 92 § 66; 1977 ex.s. c 178 § 7. Formerly RCW 30.12.044.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.12.045 Removal of delinquent officer or employee or prohibiting participation in bank affairs—Administrative hearing—Judicial review. See RCW 30A.04.470.

30A.12.046 Removal of delinquent officer or employee or prohibiting participation in bank affairs—Jurisdiction of courts in enforcement or issuance of orders, injunctions or judicial review. See RCW 30A.04.475.

30A.12.047 Removal of a director, officer, or employee of a bank or holding company—Violation of final order—Penalty. Any present or former director, officer, or employee of a bank or holding company, or any other person against whom there is outstanding an effective final order served upon the person and who participates in any manner in the conduct of the affairs of the bank or holding company involved; or who directly or indirectly solicits or procures, transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations with respect to any voting rights in the bank or holding company; or who, without the prior approval of the director, votes for a director or serves or acts as a director, officer, employee, or agent of any bank or holding company shall upon conviction for a violation of any order, be guilty of a gross misdemeanor punishable as prescribed under chapter 9A.20 RCW, as now or hereafter amended. [2014 c 37 § 178; 2010 c 88 § 24; 1994 c 92 § 67; 1977 ex.s. c 178 § 10. Formerly RCW 30.12.047.]

Effective date—2010 c 88: See RCW 32.50.900.

Additional notes found at www.leg.wa.gov

30A.12.060 Loans to officers or employees. (1) Any bank shall be permitted to make loans to any employee of such corporation, or to purchase, discount or acquire, as security or otherwise, the obligation or debt of any employee to any other person, to the same extent as if the employee were in no way connected with the corporation. Any bank shall be permitted to make loans to any officer of such corporation, or

to purchase, discount or acquire, as security or otherwise, the obligation or debt of any officer to any other person: PROVIDED, That the total value of the loans made and obligation acquired for any one officer shall not exceed such amount as shall be prescribed by the director pursuant to regulations adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, as now or hereafter amended: AND PROVIDED FURTHER, That no such loan shall be made, or obligation acquired, in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, unless a resolution authorizing the same shall be adopted by a vote of a majority of the board of directors of such corporation prior to the making of such loan or discount, and such vote and resolution shall be entered in the corporate minutes. In no event shall the loan or obligation acquired exceed five hundred thousand dollars in the aggregate without prior approval by a majority of the corporation's board of directors. No loan in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, shall be made by any bank to any director of such corporation nor shall the note or obligation in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, of such director be discounted by any such corporation, or by any officer or employee thereof in its behalf, unless a resolution authorizing the same shall be adopted by a vote of a majority of the entire board of directors of such corporation exclusive of the vote of such interested director, and such vote and resolution shall be entered in the corporate minutes. In no event may the loan or obligation acquired exceed five hundred thousand dollars in the aggregate without prior approval by a majority of the corporation's board of directors.

Each bank shall at such times and in such form as may be required by the director, report to the director all outstanding loans to directors of such bank.

The amount of any endorsement or agreement of suretyship or guaranty of any such director to the corporation shall be construed to be a loan within the provisions of this section. Any modification of the terms of an existing obligation (excepting only such modifications as merely extend or renew the indebtedness) shall be construed to be a loan within the meaning of this section.

(2) "Unimpaired surplus," as used in this section, consists of the sum of the following amounts:

- (a) Fifty percent of the reserve for possible loan losses;
- (b) Subordinated notes and debentures;
- (c) Surplus;
- (d) Undivided profits; and

(e) Reserve for contingencies and other capital reserves, excluding accrued dividends on preferred stock. [2014 c 37 § 179; 1994 c 92 § 69; 1985 c 305 § 6; 1969 c 136 § 5; 1959 c 165 § 1; 1955 c 33 § 30.12.060. Prior: 1947 c 147 § 1, part; 1933 c 42 § 22, part; 1917 c 80 § 52, part; Rem. Supp. 1947 § 3259, part. Formerly RCW 30.12.060.]

30A.12.070 Unsafe loans and discounts to directors or officers. The director may at any time, if in his or her judgment excessive, unsafe, or improvident loans are being made or are likely to be made by a bank to any of its directors or officers or the directors or officers of its holding company,

or to any corporation, copartnership or association of which such director is a stockholder, member, co-owner, or in which such director is financially interested, or like discounts of the notes or obligations of any such director, corporation, copartnership or association are being made or are likely to be made, require such bank to submit to him or her for approval all proposed loans to, or discounts of the note or obligation of, any such director, officer, corporation, copartnership or association, and thereafter such proposed loans and discounts shall be reported upon such forms and with such information concerning the desirability and safety of such loans or discounts and of the responsibility and financial condition of the person, corporation, copartnership or association to whom such loan is to be made or whose note or obligation is to be discounted and of the amount and value of any collateral that may be offered as security therefor, as the director may require, and no such loan or discount shall be made without his or her written approval thereon. [2014 c 37 § 180; 2010 c 88 § 25; 1994 c 92 § 70; 1955 c 33 § 30.12.070. Prior: 1947 c 147 § 1, part; 1933 c 42 § 22, part; 1917 c 80 § 52, part; Rem. Supp. 1947 § 3259, part. Formerly RCW 30.12.070.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.12.090 False entries, statements, etc.—Penalty.

Every person who shall knowingly subscribe to or make or cause to be made any false statement or false entry in the books of any bank or holding company, or shall knowingly subscribe to or exhibit any false or fictitious paper or security, instrument or paper, with the intent to deceive any person authorized to examine into the affairs of any bank or holding company, or shall make, state, or publish any false statement of the amount of the assets or liabilities of any bank or holding company, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2014 c 37 § 181; 2010 c 88 § 26; 2003 c 53 § 186; 1955 c 33 § 30.12.090. Prior: 1917 c 80 § 56; RRS § 3263. Formerly RCW 30.12.090.]

Effective date—2010 c 88: See RCW 32.50.900.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

30A.12.100 Destroying or secreting records—Penalty.

Every officer, director, or employee or agent of any bank or holding company who, for the purpose of concealing any fact or suppressing any evidence against himself or herself, or against any other person, abstracts, removes, mutilates, destroys or secretes any paper, book or record of any bank or holding company, or of the director, or of anyone connected with his or her office, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2014 c 37 § 182; 2010 c 88 § 27; 2003 c 53 § 187; 1994 c 92 § 71; 1955 c 33 § 30.12.100. Prior: 1917 c 80 § 56; RRS § 3264. Formerly RCW 30.12.100.]

Effective date—2010 c 88: See RCW 32.50.900.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

30A.12.110 Commission, etc., for procuring loan—

Penalty. No officer, director, agent, employee or stockholder of any bank shall, directly or indirectly, receive a bonus, commission, compensation, remuneration, gift,

speculative interest or gratuity of any kind from any person, firm or corporation other than the bank or as allowed by RCW 30A.12.115 for granting, procuring or endeavoring to procure, for any person, firm or corporation, any loan by or out of the funds of such bank or the purchase or sale of any securities or property for or on account of such bank or for granting or procuring permission for any person, firm or corporation to overdraw any account with such bank. Any person violating this section shall be guilty of a gross misdemeanor. [2014 c 37 § 183; 1986 c 279 § 35; 1955 c 33 § 30.12.110. Prior: 1919 c 209 § 20; RRS § 3290. Formerly RCW 30.12.110.]

30A.12.115 Transactions in which director or officer has an interest. (1) If a transaction is fair to a corporation at the time it is authorized, approved, or ratified, the fact that a director or an officer had a direct or indirect interest in the transaction is not grounds for either invalidating the transaction or imposing liability on the director or officer.

(2) In any proceeding seeking to invalidate a transaction with the corporation in which a director or an officer had a direct or indirect interest in a transaction with the corporation, the person asserting the validity of the transaction has the burden of proving fairness unless:

(a) The material facts of the transaction and the director's or officer's interest was disclosed or known to the board of directors, or a committee of the board, and the board or committee authorized, approved, or ratified the transaction; or

(b) The material facts of the transaction and the director's or officer's interest was disclosed or known to the shareholders entitled to vote, and they authorized, approved, or ratified the transaction.

(3) For purposes of this section, a director or an officer of a corporation has an indirect interest in a transaction with the corporation if:

(a) Another entity in which the director or officer has a material financial interest, or in which such person is a general partner, is a party to the transaction; or

(b) Another entity of which the director or officer is a director, officer, or trustee is a party to the transaction, and the transaction is or should be considered by the board of directors of the corporation.

(4) For purposes of *subsection (3)(a) of this section, a transaction is authorized, approved, or ratified only if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee who have no direct or indirect interest in the transaction. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under *subsection (3)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(5) For purposes of *subsection (3)(b) of this section, a transaction is authorized, approved, or ratified only if it receives the vote of a majority of shares entitled to be counted under this subsection. All outstanding shares entitled to vote under this title or the articles of incorporation are entitled to be counted under this subsection except shares owned by or

voted under the control of a director or an officer who has a direct or indirect interest in the transaction. Shares owned by or voted under the control of an entity described in subsection (3)(a) of this section shall not be counted to determine whether shareholders have authorized, approved, or ratified a transaction for purposes of *subsection (3)(b) of this section. The vote of the shares owned by or voted under the control of a director or an officer who has a direct or indirect interest in the transaction and shares owned by or voted under the control of an entity described in subsection (3)(a) of this section, however, shall be counted in determining whether the transaction is approved under other sections of this title and for purposes of determining a quorum. [1986 c 279 § 36. Formerly RCW 30.12.115.]

***Reviser's note:** The reference to subsection (3) appears to be erroneous. Reference to subsection (2) was apparently intended.

30A.12.120 Loans to officers or employees from trust funds—Penalty. No corporation doing a trust business shall make any loan to any officer, or employee from its trust funds, nor shall it permit any officer, or employee to become indebted to it in any way out of its trust funds. Every officer, director, or employee of any such corporation, who knowingly violates this section, or who aids or abets any other person in any such violation, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 188; 1955 c 33 § 30.12.120. Prior: 1917 c 80 § 53; RRS § 3260. Formerly RCW 30.12.120.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

30A.12.130 Trust company as legal representative—Oath by officer. When any trust company shall be appointed executor, administrator, or trustee of any estate or guardian of the estate of any infant or other incompetent, it shall be lawful for any duly authorized officer of such corporation to take and subscribe for such corporation any and all oaths or affirmations required of such an appointee. [1955 c 33 § 30.12.130. Prior: 1917 c 80 § 50; RRS § 3257. Formerly RCW 30.12.130.]

30A.12.180 Levy of assessments. Whenever the director shall notify the board of directors of a bank to levy an assessment upon the stock of such corporation and the holders of two-thirds of the stock shall consent thereto, such board shall, within ten days from the issuance of such notice, adopt a resolution for the levy of such assessment, and shall immediately upon the adoption of such resolution serve notice upon each stockholder, personally or by mail, at his or her last known address, to pay such assessment; and that if the same be not paid within twenty days from the date of the issuance of such notice, his or her stock will be subject to sale and all amounts previously paid thereon shall be subject to forfeiture. If any stockholder fail within said twenty days to pay the assessment as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such stockholder to be sold to make good the deficiency. The sale shall be held at such time and place as shall be designated by the board of directors and shall be either public or private, as the board shall deem best. At any time after the expiration of sixty days from the expiration of

said twenty-day period the director may require any stock upon which the assessment remains unpaid to be canceled and deducted from the capital of the corporation. If such cancellation shall reduce the capital of the corporation below the minimum required by this title or its articles of incorporation the capital shall, within thirty days thereafter be increased to the required amount by original subscription, in default of which the director may take possession of such corporation in the manner provided by law in case of insolvency. [2014 c 37 § 184; 1994 c 92 § 72; 1955 c 33 § 30.12.180. Prior: 1923 c 115 § 8; 1917 c 80 § 34; RRS § 3241. Formerly RCW 30.12.180.]

30A.12.190 General penalty—Effect of conviction.

(1) Every person who shall knowingly violate, or knowingly aid or abet the violation of any provision of RCW 30A.04.010, 30A.04.030, 30A.04.050, 30A.04.060, 30A.04.070, 30A.04.075, 30A.04.111, 30A.04.120, 30A.04.130, 30A.04.180, 30A.04.210, 30A.04.220, 30A.04.280, 30A.04.300, 30A.08.010, 30A.08.020, 30A.08.030, 30A.08.040, 30A.08.050, 30A.08.060, 30A.08.080, 30A.08.090, 30A.08.140, 30A.08.150, *30A.08.160, 30A.08.180, 30A.08.190, 30A.12.010, 30A.12.020, 30A.12.030, 30A.12.060, 30A.12.070, 30A.12.130, 30A.12.180, 30A.12.190, 30A.16.010, 30A.20.060, 30A.44.010, 30A.44.020, 30A.44.030, 30A.44.040, 30A.44.050, 30A.44.060, 30A.44.070, 30A.44.080, 30A.44.090, 30A.44.100, 30A.44.130, 30A.44.140, 30A.44.150, 30A.44.160, 30A.44.170, 30A.44.240, 30A.44.250, 43.320.060, 43.320.070, 43.320.080, and 43.320.100, and any director, officer, or employee of a bank or holding company who fails to perform any act which it is therein made his or her duty to perform, shall be guilty of a misdemeanor.

(2) A director, officer, or employee of a bank or holding company who has been convicted for the violation of the banking laws of this or any other state or of the United States shall not be permitted to engage in or become or remain a board director, officer, or employee of any bank, trust company, or holding company organized and existing under the laws of this state, or of any other depository institution, trust company, bank holding company, thrift holding company, or financial holding company doing business in this state. [2014 c 37 § 185; 2010 c 88 § 28; 1989 c 220 § 2; 1983 c 3 § 47; 1955 c 33 § 30.12.190. Prior: 1919 c 209 § 18; 1917 c 80 § 80; RRS § 3287. Formerly RCW 30.12.190.]

*Reviser's note: RCW 30A.08.160 was repealed by 2019 c 389 § 103.

Effective date—2010 c 88: See RCW 32.50.900.

30A.12.205 Stock purchase options—Incentive bonus contracts, stock purchase or bonus plans, and profit sharing plans. Subject to any restrictions in its articles of incorporation and in accordance with and subject to the provisions of RCW 30A.08.088, the board of directors of a bank may grant options entitling the holders thereof to purchase from the corporation shares of any class of its stock. The instrument evidencing the option shall state the terms upon which, the time within which, and the price at which such shares may be purchased from the corporation upon the exercise of such option. If any such options are granted by contract, or are to be granted pursuant to a plan, to officers or

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employees of the bank, then the contract or the plan shall require the approval, within twelve months of its approval by the board of directors, of the holders of a majority of its voting capital stock. Subsequent amendments to any such contract or plan which do not change the price or duration of any option, the maximum number of shares which may be subject to options, or the class of employees eligible for options may be made by the board of directors without further shareholder approval.

Subject to any restrictions in its articles of incorporation, the board of directors of a bank shall have the authority to enter into any plans or contracts providing for compensation for its officers and employees, including, but not being limited to, incentive bonus contracts, stock purchase or bonus plans and profit sharing plans. [2014 c 37 § 186; 1986 c 279 § 37. Formerly RCW 30.12.205.]

30A.12.220 Preemptive rights of shareholders to acquire unissued shares—Articles of incorporation may limit or permit—Later acquisition. The articles of incorporation of any bank organized under this title may limit or permit the preemptive rights of a shareholder to acquire unissued shares of the corporation and may thereafter by amendment limit, deny, or grant to shareholders of any class of stock the preemptive right to acquire additional shares of the corporation whether then or thereafter authorized. [2014 c 37 § 187; 1979 c 106 § 8. Formerly RCW 30.12.220.]

30A.12.230 Immunity of shareholders of bank insured by the federal deposit insurance corporation. The shareholders of a banking corporation organized under the laws of this state and the deposits of which are insured by the federal deposit insurance corporation shall not be liable for any debts or obligations of the bank. [1986 c 279 § 50. Formerly RCW 30.12.230.]

30A.12.240 Violations—Director liability. If the directors of any bank or holding company shall knowingly violate, or knowingly permit any of the officers, agents, or employees of the bank to violate any of the provisions of this title or any lawful regulation or directive of the director, and if the directors are aware that such facts and circumstances constitute such violations, then each director who participated in or assented to the violation is personally and individually liable for all damages which the state or any insurer of the deposits of the bank sustains due to the violation. [2014 c 37 § 188; 2010 c 88 § 29; 1994 c 92 § 73; 1989 c 180 § 7. Formerly RCW 30.12.240.]

Effective date—2010 c 88: See RCW 32.50.900.

Chapter 30A.16 RCW CHECKS

Sections

30A.16.010 Certification—Effect—Penalty.

Negotiable instruments: Title 62A RCW.

30A.16.010 Certification—Effect—Penalty. No director, officer, agent or employee of any bank shall certify a check unless the amount thereof actually stands to the credit of the drawer on the books of such corporation and when cer-

[Title 30A RCW—page 33]

tified must be charged to the account of the drawer. Every violation of this provision shall be a gross misdemeanor. Any such check so certified by a duly authorized person shall be a good and valid obligation of the bank in the hands of an innocent holder. [2014 c 37 § 189; 1955 c 33 § 30.16.010. Prior: 1917 c 80 § 44; RRS § 3251. Formerly RCW 30.16.010.]

Chapter 30A.20 RCW DEPOSITS

Sections

- 30A.20.005 Deposits by individuals governed by chapter 30A.22 RCW.
- 30A.20.025 Receipt for deposits—Contents.
- 30A.20.060 Deposits and accounts—Regulations—Passbooks or records—Deposit contract.
- 30A.20.090 Adverse claim to a deposit to be accompanied by court order or bond—Exceptions.

Payment to slayers or abusers: RCW 11.84.110.

Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12.

30A.20.005 Deposits by individuals governed by chapter 30A.22 RCW. Deposits made by individuals in a national bank, state bank[,] or other banking institution subject to the supervision of the director are governed by chapter 30A.22 RCW. [2014 c 37 § 190; 1994 c 92 § 74; 1981 c 192 § 23. Formerly RCW 30.20.005.]

Additional notes found at www.leg.wa.gov

30A.20.025 Receipt for deposits—Contents. Each person making a deposit in a bank shall be given a receipt that shall show or in conjunction with the deposit slip can be used to trace the name of the bank, the name of the account, the account number, the date, and the amount deposited. If specifically requested by the depositor when making the deposit, the receipt must expressly show the name of the bank, the date, the amount deposited, plus either the name of the account or the account number or both the name of the account and the account number. [2014 c 37 § 191; 1985 c 305 § 2. Formerly RCW 30.20.025, 30.04.085.]

30A.20.060 Deposits and accounts—Regulations—Passbooks or records—Deposit contract. A bank shall repay all deposits to the depositor or his or her lawful representative when required at such time or times and with such interest as the regulations of the corporation shall prescribe. These regulations shall be prescribed by the directors of the bank and may contain provisions with respect to the terms and conditions upon which any account or deposit will be maintained by the bank. These regulations and any amendments shall be available to depositors on request, and shall be posted in a conspicuous place in the principal office and each branch in this state or, if the regulations and any amendments are not so posted, a description of changes in the regulations after an account is opened shall be mailed to depositors pursuant to 12 U.S.C. Sec. 4305(c) or otherwise. All these rules and regulations and all amendments shall be binding upon all depositors. At the option of the bank, a passbook shall be issued to each savings account depositor, or a record maintained in lieu of a passbook. A deposit contract may be adopted by the bank in lieu of or in addition to account rules and regulations and shall be enforceable and amendable in

the same manner as account rules and regulations or as provided in the deposit contract. A copy of the contract shall be provided to the depositor. [2014 c 37 § 192; 1996 c 2 § 8; 1986 c 279 § 38; 1961 c 280 § 3; 1959 c 106 § 5; 1955 c 33 § 30.20.060. Prior: 1945 c 69 § 1; 1935 c 93 § 1; 1917 c 80 § 38; Rem. Supp. 1945 § 3244a. Formerly RCW 30.20.060.]

30A.20.090 Adverse claim to a deposit to be accompanied by court order or bond—Exceptions. Notice to any national bank, state bank, savings bank, or bank under the supervision of the director, doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person may be disregarded without liability by said bank unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him or her wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank, in form and with sureties acceptable to it, a bond, in an amount which is double either the amount of said deposit or said adverse claim, whichever is the lesser, indemnifying said bank from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank: PROVIDED, That where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship, and also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant, the bank shall without liability refuse to deliver such property for a period of not more than five business days from the date that the bank received the adverse claimant's affidavit, without liability for the sufficiency or truth of the facts alleged in the affidavit, after which time the claim shall be treated as any other claim under this section.

This section shall not apply to accounts subject to chapter 30A.22 RCW. [2014 c 37 § 193; 1994 c 92 § 75; 1981 c 192 § 25; 1979 c 143 § 1; 1961 c 280 § 4. Formerly RCW 30.20.090.]

Additional notes found at www.leg.wa.gov

Chapter 30A.22 RCW FINANCIAL INSTITUTION INDIVIDUAL ACCOUNT DEPOSIT ACT

Sections

- 30A.22.010 Short title.
- 30A.22.020 Purposes.
- 30A.22.030 Construction.
- 30A.22.040 Definitions.
- 30A.22.041 Definitions.
- 30A.22.050 Types of accounts which financial institution may establish.
- 30A.22.060 Requirements of contract of deposit.
- 30A.22.070 Accounts of minors and incompetents.
- 30A.22.080 Accounts of married persons.
- 30A.22.090 Ownership of funds during lifetime of depositor.
- 30A.22.100 Ownership of funds after death of a depositor.
- 30A.22.110 Controversies between owners.
- 30A.22.120 Right to rely on form of account—Discharge of financial institutions.
- 30A.22.130 Rights as between individuals preserved.
- 30A.22.140 Payment of funds to a depositor.

30A.22.150	Payment to minors and incompetents.
30A.22.160	Payment to trust and P.O.D. account beneficiaries.
30A.22.170	Payment to agents of depositors.
30A.22.180	Payment to personal representatives.
30A.22.190	Payment to heirs and creditors of a deceased depositor.
30A.22.200	Payment to foreign personal representative—Release of financial institution.
30A.22.210	Authority to withhold payment—Vulnerable adults.
30A.22.220	Adverse claim bond.
30A.22.230	Authority to charge a customer for furnishing items or copies of items.
30A.22.240	Records—Disclosure—Requests by law enforcement—Fees.
30A.22.245	Records—Admission as evidence—Certificate.
30A.22.250	No duty to request information.
30A.22.260	Promotional contests of chance—Director's authority.
30A.22.900	Effective date—1981 c 192.
30A.22.902	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

30A.22.010 Short title. This chapter shall be known and may be cited as the financial institution individual account deposit act. [1981 c 192 § 1. Formerly RCW 30.22.010.]

30A.22.020 Purposes. The purposes of this chapter are:

(1) To provide a consistent law applicable to all financial institutions authorized to accept deposits from individuals with respect to payments by the institutions to individuals claiming rights to the deposited funds; and

(2) To qualify and simplify the law concerning the respective ownership interests of individuals to funds held on deposit by financial institutions, both as to the relationship between the individual depositors and beneficiaries of an account, and to the financial institution-depositor-beneficiary relationships; and

(3) To simplify and make consistent the law pertaining to payments by financial institutions of deposited funds both before and after the death of a depositor or depositors, including provisions for the validity and effect of certain nontestamentary transfers of deposits upon the death of one or more depositors. [1981 c 192 § 2. Formerly RCW 30.22.020.]

30A.22.030 Construction. When construing sections and provisions of this chapter, the sections and provisions shall:

(1) Be liberally construed and applied to promote the purposes of the chapter; and

(2) Be considered part of a general act which is intended as unified coverage of the subject matter, and no part of the chapter shall be deemed impliedly repealed by subsequent legislation if such construction can be reasonably avoided; and

(3) Not be held invalid because of the invalidity of other sections or provisions of the chapter as long as the section or provision in question can be given effect without regard to the invalid section or provision, and to this end the sections and provisions of this chapter are declared to be severable; and

(4) Not be construed by reference to section or subsection headings as used in the chapter since these do not constitute any part of the law; and

(5) Not be deemed to alter the community or separate property nature of any funds held on deposit by a financial institution or any individual's community or separate property rights thereto, and a depositor's community and/or separate

property rights to funds on deposit shall not be affected by the form of the account; and

(6) Not be construed as authorizing or extending the authority of any financial institution to accept deposits or to permit a financial institution to accept deposits from such persons or entities or upon such terms as would contravene any other applicable federal or state law. [1981 c 192 § 3. Formerly RCW 30.22.030.]

30A.22.040 Definitions. Unless the context of this chapter otherwise requires, the terms contained in this section have the meanings indicated.

(1) "Account" means a contract of deposit between a depositor or depositors and a financial institution; the term includes a checking account, savings account, certificate of deposit, savings certificate, share account, savings bond, and other like arrangements.

(2) "Actual knowledge" means written notice to a manager of a branch of a financial institution, or an officer of the financial institution in the course of his or her employment at the branch, pertaining to funds held on deposit in an account maintained by the branch received within a period of time which affords the financial institution a reasonable opportunity to act upon the knowledge.

(3) "Agency account" means an account to which funds may be deposited and from which payments may be made by an agent designated by a depositor. In the event there is more than one depositor named on an account, each depositor may designate the same or a different agent for the purpose of depositing to or making payments of funds from a depositor's account.

(4) "Agent" means a person designated by a depositor or depositors in a contract of deposit or other document to have the authority to deposit and to make payments from an account in the name of the depositor or depositors.

(5) "Depositor," when utilized in determining the rights of individuals to funds in an account, means an individual who owns the funds. When utilized in determining the rights of a financial institution to make or withhold payment, and/or to take any other action with regard to funds held under a contract of deposit, "depositor" means the individual or individuals who have the current right to payment of funds held under the contract of deposit without regard to the actual rights of ownership thereof by these individuals. A trust or P.O.D. account beneficiary becomes a depositor only when the account becomes payable to the beneficiary by reason of having survived the depositor or depositors named on the account, depending upon the provisions of the contract of deposit.

(6) "Depositor's funds" or "funds of a depositor" means the amount of all deposits belonging to or made for the benefit of a depositor, less all withdrawals of the funds by the depositor or by others for the depositor's benefit, plus the depositor's prorated share of any interest or dividends included in the current balance of the account and any proceeds of deposit life insurance added to the account by reason of the death of a depositor.

(7) "Director" means the director of the department of financial institutions or his or her designee.

(8) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit

union authorized to do business and accept deposits in this state under state or federal law.

(9) "Individual" means a human being; "person" includes an individual, corporation, partnership, limited partnership, joint venture, trust, or other entity recognized by law to have separate legal powers.

(10) "Joint account with right of survivorship" means an account in the name of two or more depositors and which provides that the funds of a deceased depositor become the property of one or more of the surviving depositors.

(11) "Joint account without right of survivorship" means an account in the name of two or more depositors and which contains no provision that the funds of a deceased depositor become the property of the surviving depositor or depositors.

(12) "Payment(s)" of sums on deposit includes withdrawal, payment by check or other directive of a depositor or his or her agent, any pledge of sums on deposit by a depositor or his or her agent, any set-off or reduction or other disposition of all or part of an account balance, and any payments to any person under RCW 30A.22.120, 30A.22.140, 30A.22.150, 30A.22.160, 30A.22.170, 30A.22.180, 30A.22.190, 30A.22.200, and 30A.22.220.

(13) "Promotional contest of chance" means a promotional contest conducted pursuant to RCW 9.46.0356(1)(b).

(14) "Proof of death" means a certified or authenticated copy of a death certificate, or photostatic copy thereof, purporting to be issued by an official or agency of the jurisdiction where the death purportedly occurred, or a certified or authenticated copy of a record or report of a governmental agency, domestic or foreign, that a person is dead. In either case, the proofs constitute prima facie proof of the fact, place, date, and time of death, and identity of the decedent and the status of the dates, circumstances, and places disclosed by the record or report.

(15) "Request" means a request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this chapter the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(16) "Single account" means an account in the name of one depositor only.

(17) "Trust or P.O.D. account beneficiary" means a person or persons, other than a codepositor, who has or have been designated by a depositor or depositors to receive the depositor's funds remaining in an account upon the death of a depositor or all depositors.

(18) "Trust and P.O.D. accounts" means accounts payable on request to a depositor during the depositor's lifetime, and upon the depositor's death to one or more designated beneficiaries, or which are payable to two or more depositors during their lifetimes, and upon the death of all depositors to one or more designated beneficiaries. The term "trust account" does not include deposits by trustees or other fiduciaries where the trust or fiduciary relationship is established other than by a contract of deposit with a financial institution.

(19) "Withdrawal" means payment to a person pursuant to check or other directive of a depositor. [2014 c 37 § 194.

Prior: 2011 c 336 § 747; 2011 c 303 § 4; 1981 c 192 § 4. Formerly RCW 30.22.040.]

Findings—Intent—2011 c 303: See note following RCW 9.46.0356.

30A.22.041 Definitions. The definitions in this section apply throughout this section and RCW 30A.22.240 and 30A.22.245.

(1) "Customer" means any person, partnership, limited partnership, corporation, trust, or other legal entity that is transacting or has transacted business with a financial institution, that is using or has used the services of an institution, or for which a financial institution has acted or is acting as a fiduciary.

(2) "Financial institution" means state and national banks and trust companies, state and federal savings banks, state and federal savings and loan associations, and state and federal credit unions.

(3) "Law enforcement officer" means an employee of a public law enforcement agency organized under the authority of a county, city, or town and designated to obtain deposit account information by the chief law enforcement officer of that agency. [2014 c 37 § 195; 1995 c 186 § 1. Formerly RCW 30.22.041.]

30A.22.050 Types of accounts which financial institution may establish. The types of accounts in which funds may be deposited with a financial institution include, but are not limited to, the following:

- (1) A single account;
- (2) A joint account without right of survivorship;
- (3) A joint account with right of survivorship;
- (4) An agency account;
- (5) A trust or P.O.D. account; and
- (6) Any compatible combination of the foregoing.

In each case, the type of account shall be determined by the terms of the contract of deposit between the depositor and the financial institution. The financial institution shall describe to a potential depositor the various types of accounts available. [1981 c 192 § 5. Formerly RCW 30.22.050.]

30A.22.060 Requirements of contract of deposit. The contract of deposit shall be in writing and signed by all individuals who have a current right to payment of funds from an account. The designation of an agent, or trust or P.O.D. account beneficiary by a depositor of a joint account without right of survivorship, or the designation of an agent by a depositor of a joint account with right of survivorship or by a depositor of a trust or P.O.D. account does not require the signature of a codepositor. A financial institution may insert such additional terms and conditions in a contract of deposit as it deems appropriate. [1981 c 192 § 6. Formerly RCW 30.22.060.]

30A.22.070 Accounts of minors and incompetents. A minor or incompetent may enter into a valid and enforceable contract of deposit with the financial institution and any account in the name of a minor or incompetent shall, in the absence of clear and convincing evidence of a different intention at the time it is created, be held for the exclusive right and benefit of the minor or incompetent free from the control

of all other persons. [1981 c 192 § 7. Formerly RCW 30.22.070.]

30A.22.080 Accounts of married persons. A financial institution may enter into a contract of deposit without regard to whether the depositor is married and without regard as to whether the funds on deposit are the community or separate property of the depositor. [1981 c 192 § 8. Formerly RCW 30.22.080.]

30A.22.090 Ownership of funds during lifetime of depositor. Subject to community property rights, during the lifetime of a depositor, or the joint lifetimes of depositors:

(1) Funds on deposit in a single account belong to the depositor.

(2) Funds on deposit in a joint account without right of survivorship and in a joint account with right of survivorship belong to the depositors in proportion to the net funds owned by each depositor on deposit in the account, unless the contract of deposit provides otherwise or there is clear and convincing evidence of a contrary intent at the time the account was created.

(3) Funds on deposit in a trust or P.O.D. account belong to the depositor and not to the trust or P.O.D. account beneficiary or beneficiaries; if two or more depositors are named on the trust or P.O.D. account, their rights of ownership to the funds on deposit in the account are governed by subsection (2) of this section.

(4) Ownership of funds on deposit in an agency account shall be determined in accordance with subsections (1), (2), and (3) of this section depending upon whether the principal is a depositor on a single account, joint account, joint account with right of survivorship, or trust or P.O.D. account. [1981 c 192 § 9. Formerly RCW 30.22.090.]

30A.22.100 Ownership of funds after death of a depositor. Subject to community property rights and subject to the terms and provisions of any community property agreement, upon the death of a depositor:

(1) Funds which remain on deposit in a single account belong to the depositor's estate.

(2) Funds belonging to a deceased depositor which remain on deposit in a joint account without right of survivorship belong to the depositor's estate, unless the depositor has also designated a trust or P.O.D. account beneficiary of the depositor's interest in the account.

(3) Funds belonging to a deceased depositor which remain on deposit in a joint account with right of survivorship belong to the surviving depositors unless there is clear and convincing evidence of a contrary intent at the time the account was created. If there is more than one individual having right of survivorship, the funds belong equally to the surviving depositors unless the contract of deposit otherwise provides. If there is more than one surviving depositor, the rights of survivorship shall continue between the surviving depositors.

(4) Funds remaining on deposit in a trust or P.O.D. account belong to the trust or P.O.D. account beneficiary designated by the deceased depositor unless the account has also been designated as a joint account with right of survivorship, in which event the funds remaining on deposit in the account

do not belong to the trust or P.O.D. account beneficiary until the death of the last surviving depositor and the rights of the surviving depositors shall be determined by subsection (3) of this section. If the deceased depositor has designated more than one trust or P.O.D. account beneficiary, and more than one of the beneficiaries survive the depositor, the funds belong equally to the surviving beneficiaries unless the depositor has specifically designated a different method of distribution in the contract of deposit; if two or more beneficiaries survive, there is no right of survivorship as between them unless the terms of the account or deposit agreement expressly provide for rights of survivorship between the beneficiaries.

(5) Upon the death of a depositor of an agency account, the agency shall terminate and any funds remaining on deposit belonging to the deceased depositor shall become the property of the depositor's estate or such other persons who may be entitled thereto, depending upon whether the account was a single account, joint account, joint account with right of survivorship, or a trust or P.O.D. account.

Any transfers to surviving depositors or to trust or P.O.D. account beneficiaries pursuant to the terms of this section are declared to be effective by reason of the provisions of the account contracts involved and this chapter and are not to be considered as testamentary dispositions. The rights of survivorship and of trust and P.O.D. account beneficiaries arise from the express terms of the contract of deposit and cannot, under any circumstances, be changed by the will of a depositor. [1981 c 192 § 10. Formerly RCW 30.22.100.]

30A.22.110 Controversies between owners. *RCW 30.22.090 and 30.22.100 are intended to establish ownership of funds on deposit in the accounts stated, as between depositors and/or trust or P.O.D. account beneficiaries, and the provisions thereof are relevant only as to controversies between such persons and their creditors, and other successors, and have no bearing on the power of any person to receive payment of funds maintained in the accounts or the right of a financial institution to make payments to any person as provided by the terms of the contract of deposit. [1981 c 192 § 11. Formerly RCW 30.22.110.]

*Reviser's note: RCW 30.22.090 and 30.22.100 were recodified as RCW 30A.22.090 and 30A.22.100, respectively, pursuant to 2014 c 37 § 4, effective January 5, 2015.

30A.22.120 Right to rely on form of account—Discharge of financial institutions. In making payments of funds deposited in an account, a financial institution may rely conclusively and entirely upon the form of the account and the terms of the contract of deposit at the time the payments are made. A financial institution is not required to inquire as to either the source or the ownership of any funds received for deposit to an account, or to the proposed application of any payments made from an account. Unless a financial institution has actual knowledge of the existence of dispute between depositors, beneficiaries, or other persons claiming an interest in funds deposited in an account, all payments made by a financial institution from an account at the request of any depositor to the account and/or the agent of any depositor to the account in accordance with this section and RCW 30A.22.140, 30A.22.150, 30A.22.160, 30A.22.170,

30A.22.180, 30A.22.190, 30A.22.200, and 30A.22.220 shall constitute a complete release and discharge of the financial institution from all claims for the amounts so paid regardless of whether or not the payment is consistent with the actual ownership of the funds deposited in an account by a depositor and/or the actual ownership of the funds as between depositors and/or the beneficiaries of P.O.D. and trust accounts, and/or their heirs, successors, personal representatives, and assigns. [2014 c 37 § 196; 1981 c 192 § 12. Formerly RCW 30.22.120.]

30A.22.130 Rights as between individuals preserved.

The protection accorded to financial institutions under RCW 30A.22.120, 30A.22.140, 30A.22.150, 30A.22.160, 30A.22.170, 30A.22.180, 30A.22.190, 30A.22.200, 30A.22.210, and 30A.22.220 shall have no bearing on the actual rights of ownership to deposited funds by a depositor, and/or between depositors, and/or by and between beneficiaries of trust and P.O.D. accounts, and their heirs, successors, personal representatives, and assigns. [2014 c 37 § 197; 1981 c 192 § 13. Formerly RCW 30.22.130.]

30A.22.140 Payment of funds to a depositor. Payments of funds on deposit in a single account may be made by a financial institution to or for the depositor regardless of whether the depositor is, in fact, the actual owner of the funds. Payments of funds on deposit in an account having two or more depositors may be made by a financial institution to or for any one or more of the depositors named on the account without regard to the actual ownership of the funds by or between the depositors, and without regard to whether any other depositor or depositors so named are deceased or incompetent at the time the payments are made. [1981 c 192 § 14. Formerly RCW 30.22.140.]

30A.22.150 Payment to minors and incompetents.

Financial institutions may make payments of funds on deposit in an account established by a depositor who is a minor or incompetent without regard to whether it has actual knowledge of the minority or incompetency of the depositor unless the branch of the financial institution at which the account is maintained has received written notice to withhold payment to the minor or incompetent by the guardian of his or her estate and had a reasonable opportunity to act upon the notice. [2011 c 336 § 748; 1981 c 192 § 15. Formerly RCW 30.22.150.]

30A.22.160 Payment to trust and P.O.D. account beneficiaries. Financial institutions may pay any funds remaining on deposit in an account to a trust or P.O.D. account beneficiary or beneficiaries when the financial institution has received proofs of death of all depositors to the account who pursuant to the terms of the contract of deposit were required to predecease the beneficiary. If there is more than one trust or P.O.D. account beneficiary, financial institutions shall not, unless the contract of deposit otherwise provides, pay to any one such beneficiary more than that amount which is obtained by dividing the total of the funds on deposit in the account by the number of trust or P.O.D. account beneficiaries. [1981 c 192 § 16. Formerly RCW 30.22.160.]

30A.22.170 Payment to agents of depositors. Any funds on deposit in an account may be paid by a financial institution to or upon the order of any agent of any depositor. The contract of deposit or other document creating such agency may provide, in accordance with chapter 11.125 RCW, that any such agent's powers to receive payments and make withdrawals from an account continues in spite of, or arises by virtue of, the incompetency of a depositor, in which event the agent's powers to make payments and withdrawals from an account on behalf of a depositor is not affected by the incompetency of a depositor. Except as provided in this section, the authority of an agent to receive payments or make withdrawals from an account terminates with the death or incompetency of the agent's principal: PROVIDED, That a financial institution is not liable for any payment or withdrawal made to or by an agent for a deceased or incompetent depositor unless the financial institution making the payment or permitting the withdrawal had actual knowledge of the incompetency or death at the time payment was made. [2016 c 209 § 405; 1981 c 192 § 17. Formerly RCW 30.22.170.]

Short title—Application—Uniformity—Federal law application—Federal electronic signatures in global and national commerce act—Application—Dates—Effective date—2016 c 209: See RCW 11.125.010 and 11.125.900 through 11.125.903.

30A.22.180 Payment to personal representatives.

Financial institutions may pay any funds remaining on deposit in an account which belongs to a deceased depositor to the personal representative of the depositor's estate under any of the following circumstances:

- (1) When the decedent was the depositor on a single account; or
- (2) When the decedent was a depositor on a joint account without right of survivorship or the only surviving depositor on a joint account with right of survivorship, and has not designated a trust or P.O.D. account beneficiary of the decedent's interest, and the financial institution has received the proofs of death necessary to establish the deaths of the other depositors named on the account; or
- (3) When the decedent was a beneficiary of a P.O.D. or trust account and the financial institution has received proofs of death of the beneficiary and all depositors to the account who, pursuant to the terms of the contract of deposit, were required to predecease the beneficiary; or
- (4) When consent to the payment has been given in writing by all depositors and beneficiaries of the account; or
- (5) When so ordered or directed by a superior court of the state or other court having jurisdiction over the matter. [1981 c 192 § 18. Formerly RCW 30.22.180.]

30A.22.190 Payment to heirs and creditors of a deceased depositor. In each case, where it is provided in RCW 30A.22.180 that a financial institution may make payment of funds deposited in an account to the personal representative of the estate of a deceased depositor or beneficiary, the financial institution may make payment of the funds to the following persons under the circumstances provided:

- (1) In those instances where the deceased depositor left a surviving spouse, and the deceased depositor and the surviving spouse shall have executed a community property agreement which by its terms would include funds of the deceased depositor remaining in the account, a financial institution

may make payment of all funds in the name of the deceased spouse to the surviving spouse upon receipt of a certified copy of the community property agreement as recorded in the office of a county auditor of the state and an affidavit of the surviving spouse that the community property agreement was validly executed and in full force and effect upon the death of the depositor.

(2) In those instances where the balance of the funds in the name of a deceased depositor does not exceed two thousand five hundred dollars, payment of the decedent's funds remaining in the account may be made to the surviving spouse, next of kin, funeral director, or other creditor who may appear to be entitled thereto upon receipt of proof of death and an affidavit to the effect that no personal representative has been appointed for the deceased depositor's estate. As a condition to the payment, a financial institution may require such waivers, indemnity, receipts, and acquittance and additional proofs as it may consider proper.

(3) In those instances where the person entitled presents an affidavit which meets the requirements of chapter 11.62 RCW.

A person receiving a payment from a financial institution pursuant to subsections (2) and (3) of this section is answerable and accountable therefor to any personal representative of the deceased depositor's estate wherever and whenever appointed. [2014 c 37 § 198; 1989 c 220 § 3; 1981 c 192 § 19. Formerly RCW 30.22.190.]

30A.22.200 Payment to foreign personal representative—Release of financial institution. In each case where it is provided in this chapter that payment may be made to the personal representative of the estate of a deceased depositor or trust or P.O.D. account beneficiary, financial institutions may make payment of the funds on deposit in a deceased depositor's or beneficiary's account to the personal representative of the decedent's estate appointed under the laws of any other state or territory or country after:

(1) At least sixty days have elapsed since the date of the deceased depositor's death; and

(2) Upon receipt of the following:

(a) Proof of death of the deceased depositor or beneficiary;

(b) Proof of the appointment and continuing authority of the personal representative requesting payment;

(c) The personal representative's, or its agent's, affidavit to the effect that to the best of his or her knowledge no personal representative has been or will be appointed under the laws of this state; and

(d) Receipt of either an estate tax release from the department of revenue or the personal representative's, or its agent's, affidavit that the estate is not subject to Washington estate tax. However, if a personal representative of the deceased depositor's or beneficiary's estate is appointed and qualified as such under the laws of this state, and delivers proof of the appointment and qualification to the office or branch of the financial institution in which the deposit is maintained prior to the transmissions of the sums on deposit to the foreign personal representative, then the funds shall be paid to the personal representative of the deceased depositor's or beneficiary's estate who has been appointed and qualified in this state.

(3) The financial institution paying, delivering, transferring, or issuing funds on deposit in a deceased depositor's or beneficiary's account in accordance with the provisions of this section is discharged and released to the same extent as if such person has dealt with a personal representative of the decedent, unless at the time of such payment, delivery, transfer, or issuance such institution had actual knowledge of the falsity of any statement or affidavit required to be provided under this section. Such institution is not required to see to the application of funds, or to inquire into the truth of any matter specified in any statement or affidavit required to be provided under this section. [1988 c 29 § 9; 1981 c 192 § 20. Formerly RCW 30.22.200.]

30A.22.210 Authority to withhold payment—Vulnerable adults. (1) Nothing contained in this chapter shall be deemed to require any financial institution to make any payment from an account to a depositor, or any trust or P.O.D. account beneficiary, or any other person claiming an interest in any funds deposited in the account, if the financial institution has actual knowledge of the existence of a dispute between the depositors, beneficiaries, or other persons concerning their respective rights of ownerships to the funds contained in, or proposed to be withdrawn, or previously withdrawn from the account, or in the event the financial institution is otherwise uncertain as to who is entitled to the funds pursuant to the contract of deposit. In any such case, the financial institution may, without liability, notify, in writing, all depositors, beneficiaries, or other persons claiming an interest in the account of either its uncertainty as to who is entitled to the distributions or the existence of any dispute, and may also, without liability, refuse to disburse any funds contained in the account to any depositor, and/or trust or P.O.D. account beneficiary thereof, and/or other persons claiming an interest therein, until such time as either:

(a) All such depositors and/or beneficiaries have consented, in writing, to the requested payment; or

(b) The payment is authorized or directed by a court of proper jurisdiction.

(2) If a financial institution reasonably believes that financial exploitation of a vulnerable adult, as defined in RCW 74.34.020, may have occurred, may have been attempted, or is being attempted, the financial institution may refuse a transaction as permitted under RCW 74.34.215. [2010 c 133 § 1; 1981 c 192 § 21. Formerly RCW 30.22.210.]

30A.22.220 Adverse claim bond. Notwithstanding RCW 30A.22.210, a financial institution may, without liability, pay or permit withdrawal of any funds on deposit in an account to a depositor and/or agent of a depositor and/or trust or P.O.D. account beneficiary, and/or other person claiming an interest therein, even when the financial institution has actual knowledge of the existence of the dispute, if the adverse claimant shall execute to the financial institution, in form and with security acceptable to it, a bond in an amount which is double either the amount of the deposit or the adverse claim, whichever is the lesser, indemnifying the financial institution from any and all liability, loss, damage, costs, and expenses, for and on account of the payment of the adverse claim or the dishonor of the check or other order of the person in whose name the deposit stands on the books of

the financial institution: PROVIDED, That where the person in whose name the deposit stands is a fiduciary for the adverse claimant, and the facts constituting such relationship, and also the facts showing reasonable cause of belief on the part of the claimant that the fiduciary is about to misappropriate the deposit, are made to appear by the affidavit of the claimant, the financial institution shall, without liability, refuse to deliver the property for a period of not more than five business days from the date that the financial institution receives the adverse claimant's affidavit, without liability for the sufficiency or truth of the facts alleged in the affidavit, after which time the claim shall be treated as any other claim under this section. [2014 c 37 § 199; 1981 c 192 § 22. Formerly RCW 30.22.220.]

30A.22.230 Authority to charge a customer for furnishing items or copies of items. A financial institution may charge a customer for furnishing items or copies of items as defined in RCW 62A.4-104, in excess of the number of free items or copies of items provided for in RCW 62A.4-406(b), fifty cents per copy furnished plus fees for retrieval at a rate not to exceed the rate assessed when complying with summons issued by the Internal Revenue Service. [1993 c 229 § 118. Formerly RCW 30.22.230.]

Additional notes found at www.leg.wa.gov

30A.22.240 Records—Disclosure—Requests by law enforcement—Fees. (1) If a financial institution discloses information in good faith concerning its customer or customers in accordance with this section, it shall not be liable to its customers or others for such disclosure or its consequences. Good faith will be presumed if the financial institution follows the procedures set forth in this section.

(2) A request for financial records made by a law enforcement officer shall be submitted to the financial institution in writing stating that the officer is conducting a criminal investigation of actual or attempted withdrawals from an account at the institution and that the officer reasonably believes a statutory notice of dishonor has been given pursuant to RCW 62A.3-515, fifteen days have elapsed, and the item remains unpaid. The request shall include the name and number of the account and be accompanied by a copy of:

(a) The front and back of at least one unpaid check or draft drawn on the account that has been presented for payment no fewer than two times or has been drawn on a closed account; and

(b) A statement of the dates or time period relevant to the investigation.

(3) To the extent permitted by federal law, under subsection (2) of this section a financial institution shall within a reasonable time disclose to a requesting law enforcement officer so much of the following information as has been requested concerning the account upon which the dishonored check or draft was drawn, to the extent the records can be located:

(a) The date the account was opened; the details and amount of the opening deposit to the account; and if closed, the reason the account was closed, the date the account was closed, and balance at date of closing;

(b) A copy of the statements of the account for the relevant period including dates under investigation and the pre-

ceding and following thirty days and the closing statement, if the account was closed;

(c) A copy of the front and back of the signature card; and

(d) If the account was closed by the financial institution, the name of the person notified of its closing and a copy of the notice of the account's closing and whether such notice was returned undelivered.

(4) Financial institutions may charge requesting parties a reasonable fee for the actual costs of providing services under this chapter. These fees may not exceed rates charged to federal agencies for similar requests. In the event an investigation results in conviction, the court may order the defendant to pay costs incurred by law enforcement under chapter 186, Laws of 1995. [1995 c 186 § 2. Formerly RCW 30.22.240.]

30A.22.245 Records—Admission as evidence—Certificate. Records obtained pursuant to this chapter shall be admitted as evidence in all courts of this state, under Washington rule of evidence 902, when accompanied by a certificate substantially in the following form:

CERTIFICATE

1. The accompanying documents are true and correct copies of the records of [name of financial institution]. The records were made in the regular course of business of the financial institution at or near the time of the acts, events, or conditions which they reflect.

2. They are produced in response to a request made under *RCW 30.22.240.

3. The undersigned is authorized to execute this certificate. I CERTIFY, under penalty of perjury under the laws of the State of Washington, that the foregoing statements are true and correct.

Date

Signature

Place of Signing

Type or Print Name/
Title/Telephone No.

[1995 c 186 § 3. Formerly RCW 30.22.245.]

*Reviser's note: RCW 30.22.240 was recodified as RCW 30A.22.240 pursuant to 2014 c 37 § 4, effective January 5, 2015.

30A.22.250 No duty to request information. RCW 9.38.015 does not create a duty for financial institutions to request the information set forth in RCW 9.38.015(1). [1995 c 186 § 5. Formerly RCW 30.22.250.]

30A.22.260 Promotional contests of chance—Director's authority. (1) If approved by its board of directors, a financial institution may conduct a promotional contest of chance as permitted under RCW 9.46.0356(1)(b).

(2) A financial institution must not conduct a savings promotional contest of chance, if, in the opinion of the director:

(a) It is likely to or does adversely affect the financial institution's safety and soundness;

(b) It is administered in an unsafe and unsound or imprudent manner, or in a manner that is likely to or does result in actual or potential reputational harm to the financial institution; or

(c) It is likely to or has misled the financial institution's members, depositors, or the general public.

(3) The director may examine the conduct of a promotional contest of chance pursuant to his or her supervisory and examination powers under:

(a) *Title 30 RCW, in regard to a bank;

(b) Title 32 RCW, in regard to a mutual or stock savings bank; or

(c) Chapter 31.12 RCW, in regard to a state credit union.

(4) The director may exercise his or her full enforcement powers under the titles and chapter in subsection (3) of this section and may issue a cease and desist order for a violation of this section.

(5) A financial institution must maintain records sufficient to facilitate an audit of a promotional contest of chance, and must provide those records to the director upon request. [2011 c 303 § 5. Formerly RCW 30.22.260.]

*Reviser's note: Title 30 RCW was recodified and/or repealed pursuant to chapter 37, Laws of 2014, effective January 5, 2015.

Findings—Intent—2011 c 303: See note following RCW 9.46.0356.

30A.22.900 Effective date—1981 c 192. This act shall take effect on July 1, 1982. [1981 c 192 § 34. Formerly RCW 30.22.900.]

30A.22.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 76. Formerly RCW 30.22.902.]

Chapter 30A.32 RCW

DEALINGS WITH FEDERAL LOAN AGENCIES

Sections

- 30A.32.010 Membership in federal reserve system—Investment in stock of Federal Deposit Insurance Corporation.
 30A.32.020 Investment in federal home loan bank stock or bonds.
 30A.32.030 May borrow from home loan bank.
 30A.32.040 Federal home loan bank as depository.

30A.32.010 Membership in federal reserve system—Investment in stock of Federal Deposit Insurance Corporation. Any bank or mutual savings bank may become a member of the federal reserve system of the United States and to that end may comply with all laws of the United States

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and all rules, regulations and requirements promulgated pursuant thereto, including the investment of its funds in the stock of a federal reserve bank; and any bank or mutual savings bank, whether a member of the federal reserve system or not, may invest its funds in the stock of the Federal Deposit Insurance Corporation created by the act of congress approved June 16, 1933, and may participate in the insurance of bank deposits and obligate itself for the cost of such participation by assessments or otherwise in accordance with the laws of the United States. [2014 c 37 § 200; 1955 c 33 § 30.32.010. Prior: 1933 ex.s. c 9 § 1; RRS § 3235-1. Formerly RCW 30.32.010.]

30A.32.020 Investment in federal home loan bank stock or bonds. Any savings and loan association, building and loan association, bank, savings bank, or mutual savings bank may become a member of and invest its funds in the bonds and/or the capital stock of a federal home loan bank, and vote such stock in the manner prescribed by its board of directors. [2014 c 37 § 201; 1955 c 33 § 30.32.020. Prior: 1933 c 105 § 1; RRS § 3294-1. Formerly RCW 30.32.020.]

30A.32.030 May borrow from home loan bank. Any such bank, insurance company, or association, may borrow from any home loan bank and as security for borrowing may pledge therewith the notes, mortgages, trust deeds which it holds as shall be required by federal law, and under such rules and regulations as shall be adopted by a federal home loan bank. [2014 c 37 § 202; 1955 c 33 § 30.32.030. Prior: 1933 c 105 § 2; RRS § 3294-2. Formerly RCW 30.32.030.]

30A.32.040 Federal home loan bank as depository. Any such bank, insurance company, or association, may designate a federal home loan bank as a depository for its funds. [2014 c 37 § 203; 1955 c 33 § 30.32.040. Prior: 1933 c 105 § 3; RRS § 3294-3. Formerly RCW 30.32.040.]

Chapter 30A.36 RCW

CAPITAL NOTES OR DEBENTURES

Sections

- 30A.36.010 Definitions.
 30A.36.020 Issuance and sale—Status—Conversion rights.
 30A.36.030 Stock at less than par—Impairment.
 30A.36.040 Impairment to be corrected before retirement of notes or debentures.
 30A.36.050 Not subject to assessments—Liability of holders.

30A.36.010 Definitions. Capital notes or debentures, where used in this chapter, shall mean notes or other obligations issued by a bank or mutual savings bank, for money obtained and used as additional capital or to replace impaired capital stock: PROVIDED, Such notes or other obligations are subordinate to the rights of depositors and other creditors.

The term "capital" where used in this chapter shall mean capital stock and/or capital notes. [2014 c 37 § 204; 1955 c 33 § 30.36.010. Prior: 1935 c 42 § 1; RRS § 3295-1. Formerly RCW 30.36.010.]

30A.36.020 Issuance and sale—Status—Conversion rights. With the approval of the director, any bank or mutual savings bank may at any time, through action of its board of

directors or trustees, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate to the claims of depositors and other creditors. The holders of capital notes or debentures issued by a bank shall have such conversion rights as may be provided in the articles of incorporation with the approval of the director. [2014 c 37 § 205; 1994 c 92 § 76; 1979 c 106 § 5; 1955 c 33 § 30.36.020. Prior: 1935 c 42 § 2; RRS 3295-2. Formerly RCW 30.36.020.]

30A.36.030 Stock at less than par—Impairment.

Where any bank or mutual savings bank has issued and has outstanding capital notes or debentures, it may carry its capital stock on its books at a sum less than par, and it shall not be considered impaired so long as the amount of such capital notes or debentures equals or exceeds the impairment as found by the director. [2014 c 37 § 206; 1994 c 92 § 77; 1955 c 33 § 30.36.030. Prior: 1935 c 42 § 3; RRS § 3295-3. Formerly RCW 30.36.030.]

30A.36.040 Impairment to be corrected before retirement of notes or debentures. Before such capital notes or debentures are retired or paid by the bank or mutual savings bank, any existing impairment of its capital stock must be overcome or corrected to the satisfaction of the director. [2014 c 37 § 207; 1994 c 92 § 78; 1955 c 33 § 30.36.040. Prior: 1935 c 42 § 4; RRS § 3295-4. Formerly RCW 30.36.040.]

30A.36.050 Not subject to assessments—Liability of holders. Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible, as such holders, for any debts, contracts or engagements of such institution, and as such holders, shall not be held liable for assessments to restore impairments in the capital of such institution. [1955 c 33 § 30.36.050. Prior: 1935 c 42 § 5; RRS § 3295-5. Formerly RCW 30.36.050.]

Chapter 30A.38 RCW

INTERSTATE BANKING

Sections

30A.38.005	Definitions.
30A.38.010	Out-of-state bank may engage in banking in this state—Conditions—Director's approval of interstate combination.
30A.38.015	Out-of-state bank without a branch in this state—Options—Director's approval required, conditions.
30A.38.020	Out-of-state bank with host branches—Relocation of head office—Reincorporation—Application—Director's approval required.
30A.38.030	Out-of-state bank may maintain and operate branches—Powers and authorities.
30A.38.040	Examinations of any branch of an out-of-state state bank—Reporting requirements for any branch of an out-of-state bank—Supervisory agreements—Joint examinations or enforcement actions—Assessments.
30A.38.050	Branch of out-of-state state bank—Violations—Unsafe and unsound operations—Enforcement actions—Notice to home state regulator.
30A.38.060	Rules.
30A.38.070	Out-of-state state bank becomes resulting bank—Branches in this state—RCW 30A.49.125(5) does not apply—When established and maintained—Notice to director.
30A.38.080	Application of Washington laws—Declaration of invalidity.

30A.38.005 Definitions. As used in this chapter, unless a different meaning is required by the context, the following words and phrases have the following meanings:

(1) "Bank" means any national bank, state bank, and district bank, as those terms are defined in 12 U.S.C. Sec. 1813(a), and any savings association, as defined in 12 U.S.C. Sec. 1813(b).

(2) "Bank holding company" has the meaning set forth in 12 U.S.C. Sec. 1841(a)(1), and also means a savings and loan holding company, as defined in 12 U.S.C. Sec. 1467a.

(3) "Bank supervisory agency" means:

(a) Any agency of another state with primary responsibility for chartering and supervising banks; and

(b) The office of the comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, and any successor to these agencies.

(4) "Control" shall be construed consistently with the provisions of 12 U.S.C. Sec. 1841(a)(2).

(5) "Home state" means with respect to a:

(a) State bank, the state by which the bank is chartered; or

(b) Federally chartered bank, the state in which the main office of the bank is located under federal law.

(6) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which the bank is chartered.

(7) "Host state" means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain a branch.

(8) "Interstate combination" means the:

(a) Merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(b) Purchase of all or substantially all of the assets, including all or substantially all of the branches, of a bank whose home state is different from the home state of the acquiring bank.

(9) "Out-of-state bank" means a bank whose home state is a state other than Washington.

(10) "Out-of-state state bank" means a bank chartered under the laws of any state other than Washington.

(11) "Resulting bank" means a bank that has resulted from an interstate combination under this chapter.

(12) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(13) "Washington bank" means a bank whose home state is Washington.

(14) "Washington state bank" means a bank organized under Washington banking law.

(15) "Branch" means an office of a bank through which it receives deposits, other than its principal office. Any of the functions or services authorized to be engaged in by a bank may be carried out in an authorized branch office.

(16) "De novo branch" means a branch of a bank located in a host state which:

(a) Is originally established by the bank as a branch; and

(b) Does not become a branch of the bank as a result of:

(i) The acquisition of another bank or a branch of another bank; or

(ii) A merger, consolidation, or conversion involving any such bank or branch. [2005 c 348 § 1; 1996 c 2 § 10. Formerly RCW 30.38.005.]

Additional notes found at www.leg.wa.gov

30A.38.010 Out-of-state bank may engage in banking in this state—Conditions—Director's approval of interstate combination. (1) An out-of-state bank may engage in banking in this state without violating RCW 30A.04.280 only if the conditions and filing requirements of this chapter are met and the bank was lawfully engaged in banking in this state on July 22, 2010, or the bank's in-state banking activities:

(a) Resulted from an interstate combination pursuant to RCW 30A.49.125 or 32.32.500;

(b) Resulted from a relocation of a head office of a state bank pursuant to 12 U.S.C. Sec. 30 and RCW 30A.04.215(3);

(c) Resulted from a relocation of a main office of a national bank pursuant to 12 U.S.C. Sec. 30;

(d) Resulted from the establishment of a branch of a savings bank in compliance with RCW 32.04.030(6); or

(e) Resulted from interstate branching under RCW 30A.38.015.

Nothing in this section affects the authorities of alien banks as defined by RCW 30A.42.020 to engage in banking within this state.

(2) The director, consistent with 12 U.S.C. Sec. 1831u(b)(2)(D), may approve an interstate combination if the standard on which the approval is based does not discriminate against out-of-state banks, out-of-state bank holding companies, or subsidiaries of those banks or holding companies. [2014 c 37 § 208; 2013 c 76 § 12; 2005 c 348 § 2; 1996 c 2 § 11. Formerly RCW 30.38.010.]

Additional notes found at www.leg.wa.gov

30A.38.015 Out-of-state bank without a branch in this state—Options—Director's approval required, conditions. (1) An out-of-state bank that does not have a branch in Washington may, under this chapter, establish and maintain:

(a) A de novo branch in this state; or

(b) A branch in this state through the acquisition of a branch.

(2) An out-of-state bank desiring to establish and maintain a de novo branch or to acquire a branch in this state shall provide written application of the proposed transaction to the director, accompanied by the fee prescribed by the director, not later than three days after the date of filing with the responsible federal bank supervisory agency for approval to establish or acquire the branch.

(3) Subject to the conditions of this chapter, the director shall approve an application under subsection (2) of this section if the out-of-state bank would be permitted to establish or acquire a branch in Washington state if it were a bank chartered in Washington state. [2013 c 76 § 13; 2005 c 348 § 3. Formerly RCW 30.38.015.]

Additional notes found at www.leg.wa.gov

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30A.38.020 Out-of-state bank with host branches—Relocation of head office—Reincorporation—Application—Director's approval required. An out-of-state bank with host branches in this state may relocate its head office in Washington and reincorporate as a Washington state bank if the director finds that the bank meets the standards as to capital structures, operations, business experience, and character of officers and directors, and the bank follows the procedures specified in this section.

The bank shall file with the director on a form prescribed by the director, an application to relocate its head office to Washington. Within six months upon acceptance of a complete application, the director shall notify the bank to file, in triplicate, an executed and acknowledged certificate of reincorporation signed by a majority of the entire board of directors that at least two-thirds of each class of voting stock of the bank entitled to vote thereon has approved the: (1) Head office relocation; (2) change to a Washington state bank; and (3) new articles of incorporation.

Within thirty days after receipt of the certificate and articles, the director shall endorse upon each of the triplicate copies, over the director's official signature, the word "approved" or the word "refused," with the date of the endorsement. In case of refusal the director shall immediately return one of the triplicates, so endorsed, together with a statement explaining the reason for refusal to the bank from whom the certificate and articles were received. The refusal shall be conclusive, unless the bank, within ten days of the issuance of the notice of refusal, requests a hearing under chapter 34.05 RCW. [1996 c 2 § 12. Formerly RCW 30.38.020.]

30A.38.030 Out-of-state bank may maintain and operate branches—Powers and authorities. (1) If authorized to engage in banking in this state under RCW 30A.38.010, an out-of-state bank may maintain and operate the branches in Washington of a Washington bank with which the out-of-state bank or its predecessors engaged in an interstate combination.

(2) The out-of-state bank may establish or acquire and operate additional branches in Washington to the same extent that any Washington bank may establish or acquire and operate a branch in Washington under applicable federal and state law.

(3) The out-of-state state bank may, at such branches, unless otherwise limited by the bank's home state law, exercise any powers and authorities that are authorized under the laws of this state for Washington state banks.

(4) The out-of-state state bank may, at these branches, exercise additional powers and authorities that are authorized under the laws of its home state, only if the director determines in writing that the exercise of the additional powers and authorities in this state will not threaten the safety and soundness of banks in this state and serves the convenience and needs of Washington consumers. Washington state banks also may exercise the powers and authorities under RCW *30A.08.140(16) or **32.08.140(15). [2014 c 37 § 209; 1996 c 2 § 13. Formerly RCW 30.38.030.]

Reviser's note: *(1) RCW 30.08.140, which was subsequently recodified as RCW 30A.08.140 pursuant to 2014 c 37 § 4, was amended by 2013 c 76 §§ 9 and 10, deleting subsection (16).

**⁽²⁾ RCW 32.08.140 was amended by 2013 c 76 §§ 24 and 25, deleting subsection (15).

30A.38.040 Examinations of any branch of an out-of-state bank—Reporting requirements for any branch of an out-of-state bank—Supervisory agreements—Joint examinations or enforcement actions—Assessments. (1)

The director may make examinations of any branch in this state of an out-of-state state bank as the director deems necessary to determine whether the branch is being operated in compliance with the laws of this state or is conducting its activities in accordance with safe and sound banking practices. The provisions applicable to examinations and sharing of information of Washington state banks shall apply to these examinations.

(2) The director may prescribe requirements for reports regarding any branches of an out-of-state bank that operates a branch in Washington pursuant to this chapter. The required reports shall be provided by the bank or by the bank supervisory agency having primary responsibility for the bank. Any reporting requirements prescribed by the director under this subsection shall be consistent with the reporting requirements applicable to Washington state banks and appropriate for the purpose of enabling the director to carry out his or her responsibilities under this chapter.

(3) The director may enter into supervisory agreements with any bank supervisory agency that has concurrent jurisdiction over a Washington state bank or an out-of-state state bank operating a branch in this state pursuant to this chapter to engage the services of that agency's examiners at a reasonable rate of compensation, or to provide the services of the director's examiners to that agency at a reasonable rate of compensation. These contracts are exempt from the requirements of *chapter 39.29 RCW. The director also may enter into supervisory agreements with other appropriate bank supervisory agencies and the bank to prescribe the applicable laws governing powers and authorities, including but not limited to corporate governance and operational matters, of Washington branches of an out-of-state bank chartered by another state or out-of-state branches of a Washington state bank. The supervisory agreement may resolve conflict of laws among home and host states and specify the manner in which the examination, supervision, and application processes shall be coordinated among the home and host states.

(4) The director may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any branch in Washington of an out-of-state state bank or any branch of a Washington state bank in any host state. The director also may at any time take action independently if the director deems it necessary or appropriate to carry out his or her responsibilities under this chapter or to ensure compliance with the laws of this state. However, in the case of an out-of-state state bank, the director shall recognize the exclusive authority of the home state regulator over corporate governance and operational matters and the primary responsibility of the home state regulator with respect to safety and soundness matters, unless otherwise specified in the supervisory agreement executed pursuant to this section.

(5) Each out-of-state state bank that maintains one or more branches in this state may be assessed and, if assessed,

shall pay supervisory and examination fees in accordance with the laws of this state and rules of the director. The director is authorized to enter into agreements to share fees with other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies. [1996 c 2 § 14. Formerly RCW 30.38.040.]

*Reviser's note: Chapter 39.29 RCW was repealed by 2012 c 224 § 29, effective January 1, 2013. See chapter 39.26 RCW.

30A.38.050 Branch of out-of-state state bank—Violations—Unsafe and unsound operations—Enforcement actions—Notice to home state regulator. If the director determines that a branch maintained by an out-of-state state bank in this state is being operated in violation of the laws of this state, or that the branch is being operated in an unsafe and unsound manner, the director has the authority to take all enforcement actions he or she would be empowered to take if the branch were a Washington state bank. However, the director shall promptly give notice to the home state regulator of each enforcement action taken against an out-of-state state bank and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving the enforcement action. [1996 c 2 § 15. Formerly RCW 30.38.050.]

30A.38.060 Rules. The director may adopt those rules necessary to implement chapter 2, Laws of 1996. [1996 c 2 § 16. Formerly RCW 30.38.060.]

30A.38.070 Out-of-state state bank becomes resulting bank—Branches in this state—RCW 30A.49.125(5) does not apply—When established and maintained—Notice to director. (1) Any out-of-state state bank that will be the resulting bank pursuant to an interstate combination involving any bank with branches in Washington, if RCW 30A.49.125(5) does not apply, shall notify the director of the proposed combination not later than three days after the date of filing of an application for the combination with the responsible federal bank supervisory agency, and shall submit a copy of the application to the director and pay applicable application fees, if any, required by the director. In lieu of notice from the out-of-state state bank the director may accept notice from the bank's home state regulator. The director has the authority to waive any procedures required by Washington merger laws if the director finds that the provision is in conflict with the applicable federal law or in conflict with the applicable law of the state of the resulting bank.

(2) An out-of-state state bank that has established and maintains a branch in this state pursuant to this chapter shall give at least thirty days' prior written notice or, in the case of an emergency transaction, shorter notice as is consistent with the applicable state or federal law, to the director of any transaction that would cause a change of control with respect to the bank or any bank holding company that controls the bank, with the result that an application would be required to be filed pursuant to the federal change in bank control act of 1978, as amended, 12 U.S.C. Sec. 1817(j), or the federal bank holding company act of 1956, as amended, 12 U.S.C. Sec. 1841 et seq., or any successor statutes. In lieu of notice from the out-of-state state bank the director may accept notice

from the bank's home state regulator. [2014 c 37 § 210; 1996 c 2 § 17. Formerly RCW 30.38.070.]

30A.38.080 Application of Washington laws—Declaration of invalidity. (1) The laws of Washington applicable to Washington state banks regarding community reinvestment, consumer protection, fair lending, and the establishment of intrastate branches apply to any branch in Washington of an out-of-state national bank or out-of-state state bank to the same extent as Washington laws apply to a Washington state bank. In lieu of taking action directly against an out-of-state state bank to enforce compliance with these Washington laws on host state branches, the director may refer action to the home state regulator, but the director retains enforcement powers to ensure that compliance is satisfactory to the director.

(2) Any host state branch of a Washington state bank shall comply with all applicable host state laws concerning community reinvestment, consumer protection, fair lending, and the establishment of intrastate branches.

(3) In the event that the responsible federal chartering authority, pursuant to applicable federal law, or in the event a court of competent jurisdiction declares that any Washington state law is invalid with respect to an out-of-state or national bank, that Washington state law is also invalid with respect to Washington state banks and to host branches of out-of-state state banks to that same extent. The director may, from time to time, publish by rule Washington state laws that have been found invalidated pursuant to federal law and procedures. This subsection does not impair, in any manner, the authority of the state attorney general to enforce antitrust laws applicable to banks, bank holding companies, or affiliates of those banks or bank holding companies. [1996 c 2 § 18. Formerly RCW 30.38.080.]

Chapter 30A.42 RCW ALIEN BANKS

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30A.42.010 Purpose. The purpose of this chapter is to establish a legal and regulatory framework for operation by alien banks in the state of Washington that will:

(1) Create a financial climate which will benefit the economy of the state of Washington;

(2) Provide a well regulated and supervised financial system to assist the movement of foreign capital into Washington state for the support and diversification of the local industrial base;

(3) Assist the development of the economy of the state of Washington without disrupting business relationships of state and federal financial institutions. [1973 1st ex.s. c 53 § 1. Formerly RCW 30.42.010.]

30A.42.020 Definitions. For the purposes of this chapter, the following terms shall be defined as follows:

(1) "Agency" means an office of an alien bank that is exercising the powers authorized by RCW 30A.42.180.

(2) "Alien bank" means a bank organized under the laws of a foreign country and having its principal place of business in that country, the majority of the beneficial ownership and control of which is vested in citizens of countries other than the United States of America.

(3) "Branch" means an office of an alien bank that is exercising the powers authorized by RCW 30A.42.105, 30A.42.115, and 30A.42.155.

(4) "Bureau" means an alien bank's operation in this state exercising the powers authorized by RCW 30A.42.230.

(5) "Office" means a branch or agency of an alien bank carrying on business in this state pursuant to this chapter. [2014 c 37 § 211; 1994 c 92 § 80; 1983 c 3 § 48; 1973 1st ex.s. c 53 § 2. Formerly RCW 30.42.020.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

30A.42.030 Authorization and compliance with chapter required. An alien bank shall not establish and operate an office or bureau in this state unless it is authorized to do so by the director and unless it first complies with all of the provisions of this chapter and then only to the extent expressly permitted by this chapter. [1994 c 92 § 81; 1973 1st ex.s. c 53 § 3. Formerly RCW 30.42.030.]

30A.42.040 More than one office prohibited. An alien bank shall not be permitted to have more than one office in this state. [1973 1st ex.s. c 53 § 4. Formerly RCW 30.42.040.]

30A.42.050 Acquisition or serving on board of directors or trustees of other financial institutions prohibited. An alien bank shall not take over or acquire an existing federal or state-chartered bank, trust company, mutual savings bank, savings and loan association, or credit union or any branch of any such bank, trust company, mutual savings bank, savings and loan association, or credit union in this state; nor shall any designee, officer, agent or employee of an alien bank serve on the board of directors of any federal or state bank, trust company, savings and loan association, or credit union, or the board of trustees of a mutual savings bank. [1973 1st ex.s. c 53 § 5. Formerly RCW 30.42.050.]

30A.42.060 Conditions to be met before opening office in state. An alien bank shall not hereafter open an office in this state until it has met the following conditions:

(1) It has filed with the director an application in such form and containing such information as shall be prescribed by the director.

(2) It has designated the director by a duly executed instrument in writing, its agent, upon whom process in any action or proceeding arising out of a transaction with the Washington office may be served. Such service shall have the same force and effect as if the alien bank were a Washington corporation and had been lawfully served with process within the state. The director shall forward by mail, postage prepaid, a copy of every process served upon him or her under the provisions of this subdivision, addressed to the manager or agent of such bank at its office in this state.

(3) It has allocated and assigned to its office within this state paid-in capital of not less than two hundred thousand dollars or such larger amounts as the director in his or her discretion may require.

(4) It has filed with the director a letter from its chief executive officer guaranteeing that the alien bank's entire capital and surplus is and shall be available for all liabilities and obligations of its office doing business in this state.

(5) It has paid the fees required by law and established by the director pursuant to RCW 30A.04.070.

(6) It has received from the director his or her certificate authorizing the transaction of business in conformity with this chapter. [2014 c 37 § 212; 1994 c 92 § 82; 1973 1st ex.s. c 53 § 6. Formerly RCW 30.42.060.]

30A.42.070 Allocated paid-in capital—Requirements. The capital allocated as required in RCW 30A.42.060(3) shall be maintained within this state at all times in cash or in director approved interest bearing bonds, notes, debentures, or other obligations: (1) Of the United States or of any agency or instrumentality thereof, or guaranteed by the United States; or (2) of this state, or of a city, county, town, or other municipal corporation, or instrumentality of this state or guaranteed by this state, or such other assets as the director may approve. Such capital shall be deposited with a bank qualified to do business in and having its principal place of business within this state, or in a national bank qualified to engage in banking in this state. Such bank shall issue a written receipt addressed and delivered to the director reciting that such deposit is being held for the sole benefit of the United States domiciled creditors of such alien bank's Washington office and that the same is sub-

ject to his or her order without offset for the payment of such creditors. For the purposes of this section, the term "creditor" shall not include any other offices, branches, subsidiaries, or affiliates of such alien bank. Subject to the approval of the director, reasonable arrangements may be made for substitution of securities. So long as it shall continue business in this state in conformance with this chapter and shall remain solvent, such alien bank shall be permitted to collect all interest and/or income from the assets constituting such allocated capital.

Should any securities so depreciate in market value and/or quality as to reduce the deposit below the amount required, additional money or securities shall be deposited promptly in amounts sufficient to meet such requirements. The director may make an investigation of the market value and of the quality of any security deposited at the time such security is presented for deposit or at any time thereafter. The director may make such charge as may be reasonable and proper for such investigation. [2014 c 37 § 213; 1994 c 92 § 83; 1982 c 95 § 1; 1979 c 106 § 6; 1973 1st ex.s. c 53 § 7. Formerly RCW 30.42.070.]

Additional notes found at www.leg.wa.gov

30A.42.080 Separate assets—Books and records—Priority as to assets. Every alien bank maintaining an office in this state shall keep the assets of its Washington office entirely separate and apart from the assets of its other operations as though the Washington office was conducted as a separate and distinct entity. Every such alien bank shall keep separate books of account and records for its Washington office and shall observe with respect to such office the applicable requirements of this chapter and the applicable rules and regulations of the director. The United States domiciled creditors of such alien bank's Washington office shall be entitled to priority with respect to the assets of its Washington office before such assets may be used or applied for the benefit of its other creditors or transferred to its general business. [1994 c 92 § 84; 1973 1st ex.s. c 53 § 8. Formerly RCW 30.42.080.]

30A.42.090 Approval of application—Criteria—Reciprocity. The director may give or withhold his or her approval of an application by an alien bank to establish an office in this state at his or her discretion. The director's decision shall be based on the information submitted to his or her office in the application required by RCW 30A.42.060 and such additional investigation as the director deems necessary or appropriate. Prior to granting approval to said application, the director shall have ascertained to his or her satisfaction that all of the following are true:

(1) The proposed location offers a reasonable promise of adequate support for the proposed office;

(2) The proposed office is not being formed for other than legitimate objects;

(3) The proposed officers of the proposed office have sufficient banking experience and ability to afford reasonable promise of successful operation;

(4) The reputation and financial standing of the alien bank is such as to command the confidence and warrant belief that the business of the proposed office will be con-

ducted honestly and efficiently in accordance with the intent and purpose of this chapter, as set forth in RCW 30A.42.010;

(5) The principal purpose of establishing such office shall be within the intent of this chapter.

The director shall not grant an application for an office of an alien bank unless the law of the foreign country under which laws the alien bank is organized permits a bank with its principal place of business in this state to establish in that foreign country a branch, agency or similar operation. [2014 c 37 § 214; 1994 c 92 § 85; 1973 1st ex.s. c 53 § 9. Formerly RCW 30.42.090.]

30A.42.100 Notice of approval—Filing—Time period for commencing business. If the director approves the application, he or she shall notify the alien bank of his or her approval and shall file certified copies of its charter, certificate or other authorization to do business with the secretary of state. Upon such filing, the director shall issue a certificate of authority stating that the alien bank is authorized to conduct business through a branch or agency in this state at the place designated in accordance with this chapter. Each such certificate shall be conspicuously displayed at all times in the place of business specified therein.

The office of the alien bank must commence business within six months after the issuance of the director's certificate: PROVIDED, That the director for good cause shown may extend such period for an additional time not to exceed three months. [1994 c 92 § 86; 1985 c 305 § 7; 1973 1st ex.s. c 53 § 10. Formerly RCW 30.42.100.]

30A.42.105 Power to make loans and to guarantee obligations. An approved branch of an alien bank shall have the same power to make loans and guarantee obligations as a state bank chartered pursuant to this title: PROVIDED, HOWEVER, That the base for computing the applicable loan limitation shall be the entire capital and surplus of the alien bank. The director may adopt rules limiting the amount of loans to full-time employees of the branch. [2014 c 37 § 215; 1994 c 92 § 87; 1982 c 95 § 4. Formerly RCW 30.42.105.]

Additional notes found at www.leg.wa.gov

30A.42.115 Solicitation and acceptance of deposits.

(1) Any branch of an alien bank that received approval of its branch application pursuant to RCW 30A.42.090, or that had filed its branch application pursuant to RCW 30A.42.060, on or before July 27, 1978, and any approved branch of an alien bank that has designated Washington as its home state pursuant to section 5 of the International Banking Act of 1978, shall have the same power to solicit and accept deposits as a state bank chartered pursuant to this title, except that acceptance of initial deposits of less than one hundred thousand dollars shall be limited to deposits of the following:

(a) Any business entity, including any corporation, partnership, association, or trust, that engages in commercial activity for profit: PROVIDED, That there shall be excluded from this category any such business entity that is organized under the laws of any state or the United States, is majority-owned by United States citizens or residents, and has total assets, including assets of majority owned subsidiaries, of less than one million five hundred thousand dollars as of the date of the initial deposit;

(b) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(c) Any international organization which is composed of two or more nations;

(d) Any draft, check, or similar instrument for the transmission of funds issued by the branch;

(e) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit;

(f) Any depositor who established a deposit account on or before July 1, 1982, and who has continuously maintained the deposit account since that date: PROVIDED, That this subparagraph (f) of this subsection shall be effective only until July 1, 1985;

(g) Any other person: PROVIDED, That the amount of deposits under this subparagraph (g) of this subsection may not exceed four percent of the average of the branch's deposits for the last thirty days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies, or wholly owned subsidiaries of the alien bank.

(2) As used in subsection (1) of this section, "initial deposit" means the first deposit transaction between a depositor and the branch. Different deposit accounts that are held by a depositor in the same right and capacity may be added together for purposes of determining the dollar amount of that depositor's initial deposit.

(3) Approved branches of alien banks, other than those described in subsection (1) of this section, may solicit and accept deposits only from foreign governments and their agencies and instrumentalities, persons, or entities conducting business principally at their offices or establishments abroad, and such other deposits that:

(a) Are to be transmitted abroad;

(b) Consist of collateral or funds to be used for payment of obligations to the branch;

(c) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to be periodically transferred to the depositor's account at another financial institution;

(d) Consist of the proceeds of extensions of credit by the branch; or

(e) Represent compensation to the branch for extensions of credit or services to the customer.

(4) A branch may accept deposits, subject to the limitations set forth in subsections (1) and (3) of this section, only upon the same terms and conditions (including nature and extent of such deposits, withdrawal, and the payment of interest thereon) that banks organized under the laws of this state which are members of the Federal Reserve System may accept such deposits. Any branch that is not subject to reserve requirements under regulations of the Federal Reserve Board shall maintain deposit reserves in this state, pursuant to rules adopted by the director, to the same extent they must be maintained by banks organized under the laws of this state which are members of the Federal Reserve System. [2014 c 37 § 216; 1994 c 92 § 88; 1985 c 305 § 8; 1982 c 95 § 6. Formerly RCW 30.42.115.]

Additional notes found at www.leg.wa.gov

30A.42.120 Requirements for accepting deposits or transacting business. A branch shall not commence to transact in this state the business of accepting deposits or transact such business thereafter unless it has met the following requirements:

(1) It has obtained federal deposit insurance corporation insurance covering its eligible deposit liabilities within this state, or in lieu thereof, made arrangements satisfactory to the director for maintenance within this state of additional capital equal to not less than five percent of its deposit liabilities, computed on the basis of the average daily net deposit balances covering semimonthly periods as prescribed by the director. Such additional capital shall be deposited in the manner provided in RCW 30A.42.070.

(2) It holds in this state currency, bonds, notes, debentures, drafts, bills of exchange, or other evidences of indebtedness or other obligations payable in the United States or in United States funds or, with the approval of the director, in funds freely convertible into United States funds or such other assets as are approved by the director, in an amount not less than one hundred percent of the aggregate amount of liabilities of such alien bank payable at or through its office in this state. When calculating the value of the assets so held, credit shall be given for the amounts deposited pursuant to RCW 30A.42.060(3) and 30A.42.120(1), but there shall be excluded all amounts due from the head office and any other branch, agency, or other office or wholly-owned subsidiary of the bank, except those amounts due from such offices or subsidiaries located within the United States and payable in United States dollars.

(3) If deposits are not insured by the federal deposit insurance corporation, then that fact shall be disclosed to all depositors pursuant to rules of the director.

(4) If the branch conducts an international banking facility, the deposits of which are exempt from reserve requirements of the federal reserve banking system, the liabilities of that facility shall be excluded from the deposit and other liabilities of the branch for the purposes of subsection (1) of this section. [2014 c 37 § 217; 1994 c 92 § 89; 1982 c 95 § 2; 1975 1st ex.s. c 285 § 2; 1973 1st ex.s. c 53 § 12. Formerly RCW 30.42.120.]

Additional notes found at www.leg.wa.gov

30A.42.130 Taking possession by director—Reasons—Disposition of deposits—Claims—Priorities. The director may take possession of the office of an alien bank for the reasons stated and in the manner provided in chapter 30A.44 RCW. Upon the director taking such possession of a branch, no deposit liabilities of which are insured by the federal deposit insurance corporation, the amounts deposited pursuant to RCW 30A.42.120(1) shall thereupon become the property of the director, free and clear of any and all liens and other claims, and shall be held by the director in trust for the United States domiciled depositors of the office in this state of such alien bank. Upon obtaining the approval of the superior court of Thurston county, the director shall reduce such deposited capital to cash and as soon as practicable distribute it to such depositors.

If sufficient cash is available, such distribution shall be in equal amounts to each such depositor: PROVIDED, That no such depositor receives more than the amount of his or her

deposit or an amount equal to the maximum amount insured by the federal deposit insurance corporation, whichever is less. If sufficient cash is not available, such distribution shall be on a pro rata basis to each such depositor: PROVIDED, That no such depositor receives more than the maximum amount insured by the federal deposit insurance corporation. If any cash remains after such distribution, it shall be distributed pro rata to those depositors whose deposits have not been paid in full: PROVIDED, That no depositor receives more than the amount of his deposit. For purposes of this section, the term "depositor" shall not include any other offices, subsidiaries or affiliates of such alien bank.

The term "deposit" as used in this section shall mean the unpaid balance of money or its equivalent received or held by the branch in the usual course of its business and for which it has given or is obligated to give credit, either conditionally or unconditionally to a demand, time or savings account, or which is evidenced by its certificate of deposit, or a check or draft drawn against a deposit account and certified by the branch, or a letter of credit or traveler's checks on which the branch is primarily liable.

Claims of depositors and creditors shall be made and disposed of in the manner provided in chapter 30A.44 RCW in the event of insolvency or inability of the bank to pay its creditors in this state. The capital deposit of the bank shall be available for claims of depositors and creditors. The claims of depositors and creditors shall be paid from the capital deposit in the following order or priority:

- (1) Claims of depositors not paid from the amounts deposited pursuant to RCW 30A.42.120(1);
- (2) Claims of Washington domiciled creditors;
- (3) Other creditors domiciled in the United States; and
- (4) Creditors domiciled in foreign countries.

The director shall proceed in accordance with and have all the powers granted by chapter 30A.44 RCW. [2014 c 37 § 218; 1994 c 92 § 90; 1973 1st ex.s. c 53 § 13. Formerly RCW 30.42.130.]

30A.42.140 Investigations—Examinations. The director, without previous notice, shall visit the office of an alien bank doing business in this state pursuant to this chapter at least once every eighteen months, and more often if necessary, for the purpose of making a full investigation into the condition of such office, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director or member of its governing body, officer, employee, or agent of such alien bank or office. The director shall make such other full or partial examination as he or she deems necessary. The director shall collect, from each alien bank for each examination of the conditions of its office in this state, the estimated actual cost of such examination. [2001 c 176 § 1; 1994 c 92 § 91; 1982 c 95 § 3; 1973 1st ex.s. c 53 § 14. Formerly RCW 30.42.140.]

Additional notes found at www.leg.wa.gov

30A.42.145 Examination reports and information—Confidential—Privileged—Penalty. See RCW 30A.04.075.

30A.42.150 Loans subject to usury laws. Loans made by an office shall be subject to the laws of the state of Washington relating to usury. [1973 1st ex.s. c 53 § 15. Formerly RCW 30.42.150.]

30A.42.155 Powers and activities. (1) In addition to the taking of deposits and making of loans as provided in this chapter, a branch of an alien bank shall have the power only to carry out these other activities:

(a) Borrow funds from banks and other financial institutions;

(b) Make investments to the same extent as a state bank chartered pursuant to this title;

(c) Buy and sell foreign exchange;

(d) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;

(e) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;

(f) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or of any state or the District of Columbia, to do business in the United States;

(g) In order to prevent loss on debts previously contracted a branch may acquire shares in a corporation: PROVIDED, That the shares are disposed of as soon as practical but in no event later than two years from the date of acquisition;

(h) Issue letters of credit and create acceptances;

(i) Act as paying agent or trustee in connection with revenue bonds issued pursuant to chapter 39.84 RCW, in which the user is: (i) A corporation organized under the laws of a country other than the United States, or a subsidiary or affiliate owned or controlled by such a corporation; or (ii) a corporation, partnership, or other business organization, the majority of the beneficial ownership of which is owned by persons who are citizens of a country other than the United States and who are not residents of the United States, and any subsidiary or affiliate owned or controlled by such an organization; or in which the bank purchases twenty-five percent or more of the bond issue. For the purposes of chapter 39.84 RCW, such an alien bank shall be deemed to possess trust powers.

(2) In addition to the powers and activities expressly authorized by this section, a branch shall have the power to carry on such additional activities which are necessarily incidental to the activities expressly authorized by this section. [2014 c 37 § 219; 1982 c 95 § 5. Formerly RCW 30.42.155.]

Additional notes found at www.leg.wa.gov

30A.42.160 Powers as to real estate. An alien bank may purchase, hold and convey real estate for the following purposes and no other:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other apartments in the same building to rent as a source of income: PROVIDED, That not to exceed thirty percent of its capital and surplus and undivided profits may be so invested without the approval of the director.

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(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of business.

(3) Such as it shall purchase at sale under judgments, decrees, liens or mortgage foreclosures, against securities held by it.

(4) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(5) Such as shall be convenient for the residences of its employees.

No real estate except that specified in subsections (1) and (5) of this section may be carried as an asset on the corporation's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the director. [1994 c 92 § 92; 1975 1st ex.s. c 285 § 3; 1973 1st ex.s. c 53 § 16. Formerly RCW 30.42.160.]

30A.42.170 Advertising, status of federal insurance on deposits to be included—Gifts for new deposits. (1) An alien bank that advertises the services of its branch in the state of Washington shall indicate on all advertising materials whether or not deposits placed with its branch are insured by the federal deposit insurance corporation.

(2) A branch shall not make gifts to a new deposit customer of a greater value than five dollars in total. The value of the gifts shall be the cost to the branch of acquiring said gift. [1973 1st ex.s. c 53 § 17. Formerly RCW 30.42.170.]

30A.42.180 Approved agencies—Powers and activities. An approved agency of an alien bank may engage in the business of making loans and guaranteeing obligations for the financing of the international movement of goods and services and for all operational needs including working capital and short-term operating needs and for the acquisition of fixed assets. Other than such activities, such agency may engage only in the following activities:

(1) Borrow funds from banks and other financial institutions;

(2) Buy and sell foreign exchange;

(3) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;

(4) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;

(5) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or any state or the District of Columbia to do business in the United States;

(6) In order to prevent loss on debts previously contracted, an agency may acquire shares in a corporation: PROVIDED, That the shares are disposed of as soon as practical, but in no event later than two years from the date of acquisition;

(7) Issue letters of credit and create acceptances;

(8) In addition to the powers and activities expressly authorized by this section, an agency shall have the power to carry on such additional activities which are necessarily inci-

dental to the activities expressly authorized by this section. [1973 1st ex.s. c 53 § 18. Formerly RCW 30.42.180.]

30A.42.190 Bonding requirements for officers and employees. All officers and employees of an office shall be subject to the same bonding requirements as are officers and employees of banks incorporated under the laws of this state. [1973 1st ex.s. c 53 § 19. Formerly RCW 30.42.190.]

30A.42.200 Books and accounts—English language. The books and accounts of an office and a bureau shall be kept in words and figures of the English language. [1973 1st ex.s. c 53 § 20. Formerly RCW 30.42.200.]

30A.42.210 Bureaus—Application procedure. (1) Application procedure. An alien bank shall not establish and operate a bureau in this state unless it is authorized to do so and unless it has met the following conditions:

(a) It has filed with the director an application in such form and containing such information as shall be prescribed by the director;

(b) It has paid the fee required by law and established by the director pursuant to *RCW 30.08.095;

(c) It has received from the director a certificate authorizing the applicant bank to establish and operate a bureau in conformity herewith.

(2) Upon receipt of the bank's application, and the conducting of such examination or investigation as the director deems necessary and appropriate and being satisfied that the opening of such bureau will be consistent with the purposes of this chapter, the director may grant approval for the bureau and issue a certificate authorizing the alien bank to establish and operate a bureau in the state of Washington. [1994 c 92 § 93; 1973 1st ex.s. c 53 § 21. Formerly RCW 30.42.210.]

*Reviser's note: RCW 30.08.095 was repealed by 2013 c 76 § 32.

30A.42.220 Bureaus—Approval—Certificate of authority—Time limit for commencing business. If the director approves the application, he or she shall notify the alien bank of his or her approval and shall file certified copies of its charter, certificate, or other authorization to do business with the secretary of state and with the recording officer of the county in which the bureau is to be located. Upon such filing, the director shall issue a certificate of authority stating that the alien bank is authorized to operate a bureau in this state at the place designated in accordance with this chapter. No such certificate shall be transferable or assignable. Such certificate shall be conspicuously displayed at all times in the place of business specified therein.

A bureau of an alien bank must commence business within six months after the issuance of the director's certificate: PROVIDED, That the director for good cause shown may extend such period for an additional time not to exceed three months. [1994 c 92 § 94; 1973 1st ex.s. c 53 § 22. Formerly RCW 30.42.220.]

30A.42.230 Bureaus—Number—Powers. An alien bank may have as many bureaus in this state as the director will authorize. A bureau in this state may provide information about services offered by the alien bank, its subsidiaries and affiliates and may gather and provide business and economic

information. A bureau may not take deposits, make loans or transact other commercial or banking business in this state. [1994 c 92 § 95; 1973 1st ex.s. c 53 § 23. Formerly RCW 30.42.230.]

30A.42.240 Bureaus—Examinations. The director is empowered to examine the bureau operations of an alien bank whenever he or she deems it necessary. The director shall collect from such alien bank the estimated actual cost of such examination. [1994 c 92 § 96; 1973 1st ex.s. c 53 § 24. Formerly RCW 30.42.240.]

30A.42.250 Temporary facilities at trade fairs, etc. An alien bank may operate temporary facilities at trade fairs or other commercial events of short duration without first obtaining the approval of the director: PROVIDED, That the activities of such temporary facility are limited solely to the dissemination of information: AND PROVIDED FURTHER, If an alien bank engages in such activity, it shall notify the director in writing prior to opening of the nature and location of such facility. The director is empowered to investigate the operation of such temporary facility if he or she deems it necessary, and to collect from the alien bank the estimated actual cost thereof. [1994 c 92 § 97; 1973 1st ex.s. c 53 § 25. Formerly RCW 30.42.250.]

30A.42.260 Reports. (1) An office of an alien bank shall file the following reports with the director within such times and in such form as the director shall prescribe by rule:

(a) A statement of condition of the office;

(b) A capital position report of the office;

(c) A consolidated statement of condition of an alien bank.

(2) An office of an alien bank shall publish such reports as the director by rule may prescribe.

(3) An alien bank operating a bureau in this state shall file a copy of the alien bank's annual financial report with the director as soon as possible following the end of each fiscal year and shall file such other material as the director may prescribe by rule. [1994 c 92 § 98; 1973 1st ex.s. c 53 § 26. Formerly RCW 30.42.260.]

30A.42.270 Taxation. An office of an alien bank shall be taxed on the same basis as are banks incorporated under the laws of this state. [1973 1st ex.s. c 53 § 27. Formerly RCW 30.42.270.]

30A.42.280 Directors, officers, and employees—Duties, responsibilities and restrictions—Removal. The directors or other governing body of an alien bank and the officers and employees of its office in this state shall be subject to all of the duties, responsibilities and restrictions to which the directors, officers and employees of a bank organized under the laws of this state are subject insofar as such duties, responsibilities and restrictions are not inconsistent with the intent of this chapter. An officer or employee of the office of an alien bank doing business in this state pursuant to this chapter may be removed for the reasons stated and in the manner provided in RCW 30A.12.040. [2014 c 37 § 220; 1973 1st ex.s. c 53 § 28. Formerly RCW 30.42.280.]

30A.42.290 Compliance—Violations—Penalties. (1) The director shall have the responsibility for assuring compliance with the provisions of this chapter. An alien bank that conducts business in this state in violation of any provisions of this chapter is guilty of a misdemeanor and in addition thereto shall be liable in the sum of one hundred dollars per day that each such offense continues, such sum to be recovered by the attorney general in a civil action in the name of the state.

(2) Every person who shall knowingly subscribe to or make or cause to be made any false entry in the books of any alien bank office or bureau doing business in this state pursuant to this chapter or shall knowingly subscribe to or exhibit any false or fictitious paper or security, instrument or paper, with the intent to deceive any person authorized to examine into the affairs of any such office or bureau or shall make, state or publish any false statement of the amount of the assets or liabilities of any such office or bureau is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(3) Every director or member of the governing body, officer, employee or agent of such alien bank operating an office or bureau in this state who conceals or destroys any fact or otherwise suppresses any evidence relating to a violation of this chapter is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(4) Any person who transacts business in this state on behalf of an alien bank which is subject to the provisions of this chapter, but which is not authorized to transact such business pursuant to this chapter is guilty of a misdemeanor and in addition thereto shall be liable in the sum of one hundred dollars per day for each day that such offense continues, such sum to be recovered by the attorney general in a civil action in the name of the state. [2003 c 53 § 189; 1994 c 92 § 99; 1973 1st ex.s. c 53 § 29. Formerly RCW 30.42.290.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

30A.42.300 Suspension or revocation of certificate to operate—Grounds. If the director finds that any alien bank to which he or she has issued a certificate to operate an office or bureau in this state pursuant to this chapter has violated any law or rule, or has conducted its affairs in an unauthorized manner, or has been unresponsive to the director's lawful orders or directions, or is in an unsound or unsafe condition, or cannot with safety and expediency continue business, or if he or she finds that the alien bank's country is unjustifiably refusing to allow banks qualified to do business in and having their principal office within this state to operate offices or similar operations in such country, the director may suspend or revoke the certificate of such alien bank and notify it of such suspension or revocation. [1994 c 92 § 100; 1973 1st ex.s. c 53 § 30. Formerly RCW 30.42.300.]

30A.42.310 Change of location. An alien bank licensed to maintain an office or bureau in this state pursuant to this chapter may apply to the director for leave to change the location of its office or bureau. Such applications shall be accompanied by an investigation fee as established in accordance with RCW 30A.42.330. Leave for a change of location shall be granted if the director finds that the proposed new location offers reasonable promise of adequate support for

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the office. [2014 c 37 § 221; 1994 c 92 § 101; 1973 1st ex.s. c 53 § 31. Formerly RCW 30.42.310.]

30A.42.320 Rules. The director shall have power to adopt uniform rules to govern examination and reports of alien bank offices and bureaus doing business in this state pursuant to this chapter and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts and otherwise to govern the administration of this chapter. [1994 c 92 § 102; 1973 1st ex.s. c 53 § 32. Formerly RCW 30.42.320.]

30A.42.330 Fees. The director shall collect in advance from an alien bank for filing its application for an office or a bureau and the attendant investigation, and for such other applications, approvals or certificates provided herein, such fee as shall be established by rule adopted pursuant to the administrative procedure act, chapter 34.05 RCW, as now or hereafter amended. The alien bank shall also pay to the secretary of state and the county recording officer for filing instruments as required by this chapter the same fees as are charged general corporations for the filing of similar instruments and also the same license fees as are required of foreign corporations doing business in this state. [1994 c 92 § 103; 1973 1st ex.s. c 53 § 33. Formerly RCW 30.42.330.]

30A.42.340 Alien banks or branches in business on or before effective date. (1) Any branch of an alien bank that is conducting business in this state on July 16, 1973 pursuant to RCW 30A.04.300 shall not be subject to the provisions of this chapter, and shall continue to conduct its business pursuant to RCW 30A.04.300.

(2) Except as provided in subsection (1) of this section, any alien bank that is conducting business in this state on July 16, 1973 shall be subject to the provisions of this chapter: PROVIDED, That any such alien bank which has operated an agency or similar operation in this state for at least the five years immediately preceding such effective date shall not be denied a certificate to operate an agency. [2014 c 37 § 222; 1973 1st ex.s. c 53 § 34. Formerly RCW 30.42.340.]

Chapter 30A.43 RCW SATELLITE FACILITIES

Sections

30A.43.005 Finding—Definition of "off-premises electronic facilities."

30A.43.005 Finding—Definition of "off-premises electronic facilities." The legislature finds that the establishment and operation of off-premises electronic facilities, inside and outside the state of Washington, and the participation by financial institutions in arrangements for the sharing of such facilities, facilitates the delivery of financial services to the citizens of the state of Washington. The term "off-premises electronic facilities" includes, without limitation, automated teller machines, cash-dispensing machines, point-of-sale terminals, and merchant-operated terminals. [1994 c 256 § 57. Formerly RCW 30.43.005.]

Findings—Construction—1994 c 256: See RCW 43.320.007.

Chapter 30A.44 RCW
INSOLVENCY AND LIQUIDATION

Effective date—2010 c 88: See RCW 32.50.900.

Sections

- 30A.44.010 Notice to correct unsafe conditions—Possession may be taken under specified circumstances.
- 30A.44.020 Director may order levy of assessment.
- 30A.44.030 Director's right to take possession may be contested.
- 30A.44.040 Notice of taking possession.
- 30A.44.050 Powers and duties of director.
- 30A.44.060 Notice to creditors—Claims.
- 30A.44.070 Inventory—List of claims.
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- 30A.44.090 Dividends.
- 30A.44.100 Receiver prohibited except in emergency.
- 30A.44.110 Preferences prohibited—Penalty.
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- 30A.44.130 Expense of liquidation.
- 30A.44.140 Liquidation after claims are paid.
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- 30A.44.160 Voluntary closing—Possession of the director—Notice.
- 30A.44.170 Voluntary liquidation—Notice to creditors.
- 30A.44.180 Unclaimed dividends on voluntary liquidation.
- 30A.44.190 Disposition of unclaimed personal property.
- 30A.44.200 Duty of director—Notice to owner.
- 30A.44.210 Final notice after two years—Sale.
- 30A.44.220 Disposition of proceeds—Escheat.
- 30A.44.230 Procedure as to papers, documents, etc.
- 30A.44.240 Transfer of assets and liabilities to another bank.
- 30A.44.250 Reopening.
- 30A.44.260 Destruction of records after liquidation.
- 30A.44.270 Federal deposit insurance corporation as receiver or liquidator—Appointment—Powers and duties.
- 30A.44.280 Payment or acquisition of deposit liabilities by federal deposit insurance corporation—Not hindered by judicial review—Liability.

30A.44.010 Notice to correct unsafe conditions—Possession may be taken under specified circumstances. (1) Under the circumstances set forth in subsection (2) of this section, the director may give to a bank a notice to correct an unsafe condition of the bank; and if such bank fails to comply with the terms of such notice within thirty days from the date of its issuance or within such further time as the director may allow, then the director may take possession of such bank as in the case of insolvency.

(2) The director is authorized to give notice and take possession of a bank, as described in subsection (1) of this section, under the following circumstances:

(a) The obligations to its creditors, depositors, members, trust beneficiaries, if applicable, and others exceed its assets;

(b) It has willfully violated a supervisory directive, cease and desist order, or other authorized directive or order of the director;

(c) It has concealed its books, papers, records, or assets, or refused to submit its books, records, or affairs to any examiner of the department or the federal deposit insurance corporation;

(d) It is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business;

(e) It ceases to have deposit insurance acceptable to the director;

(f) It fails to submit a capital restoration plan acceptable to the department within a time previously called for or materially fails to implement a capital restoration plan that was previously submitted and accepted by the department; or

(g) It is critically undercapitalized or otherwise has substantially insufficient capital. [2014 c 37 § 223; 2010 c 88 § 30; 1994 c 92 § 107; 1955 c 33 § 30.44.010. Prior: 1917 c 80 § 59; 1915 c 98 § 1; RRS § 3266. Formerly RCW 30.44.010.]

30A.44.020 Director may order levy of assessment.

(1) Whenever it shall in any manner appear to the director that any offense or delinquency referred to in RCW 30A.44.010 has resulted in a bank being critically undercapitalized with no reasonably foreseeable prospect of recovery, or that it has suspended payment of its obligations or is insolvent, the director may notify such bank to levy an assessment on its stock or otherwise to make good such impairment or offense or other delinquency within such time and in such manner as the director may specify, or if the director deems necessary, the director may take possession thereof without notice.

(2) The board of directors of any such bank, with the consent of the holders of record of two-thirds of the capital stock expressed either in writing or by vote at a stockholders' meeting called for that purpose, shall have power and authority to levy such assessment upon the stockholders pro rata and to forfeit the stock upon which any such assessment is not paid, in the manner prescribed in RCW 30A.12.180. [2014 c 37 § 224; 2010 c 88 § 31; 1994 c 92 § 108; 1955 c 33 § 30.44.020. Prior: 1923 c 115 § 9; 1917 c 80 § 60; RRS § 3267. Formerly RCW 30.44.020.]

Effective date—2010 c 88: See RCW 32.50.900.

Levy of assessments: RCW 30A.12.180.

30A.44.030 Director's right to take possession may be contested.

Within ten days after the director takes possession thereof, a bank may serve a notice upon the director to appear before the superior court of the county wherein such corporation is located and at a time to be fixed by the court, which shall not be less than five nor more than fifteen days from the date of the service of such notice, to show cause why the director's action taking possession of the bank should not be affirmed. Upon the return day of such notice, or such further day as the matter may be continued to, the court shall summarily hear said cause and shall dismiss the same, if it be found that possession was taken by the director in good faith and for cause, but if it find that no cause existed for the taking possession of such bank, it shall require the director to restore such bank to possession of its assets and enjoin the director from further interference therewith without cause. [2014 c 37 § 225; 2010 c 88 § 32; 1994 c 92 § 109; 1955 c 33 § 30.44.030. Prior: 1917 c 80 § 68; RRS § 3275. Formerly RCW 30.44.030.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.44.040 Notice of taking possession.

Upon taking possession of any bank, the director shall forthwith give written notice thereof to all persons having possession of any assets of such corporation. No person knowing of the taking of such possession by the director shall have a lien or charge for any payment thereafter advanced or clearance thereafter made or liability thereafter incurred against any of the assets of such corporation. [2014 c 37 § 226; 1994 c 92 § 110; 1955 c 33 § 30.44.040. Prior: 1917 c 80 § 61; 1915 c 98 § 2; RRS § 3268. Formerly RCW 30.44.040.]

30A.44.050 Powers and duties of director. Upon taking possession of any bank, the director shall proceed to collect the assets thereof and to preserve, administer and liquidate the business and assets of such corporation. With the approval of the superior court of the county in which such corporation is located, he or she may sell, compound or compromise bad or doubtful debts, and upon such terms as the court shall direct borrow, mortgage, pledge or sell all or any part of the real estate and personal property of such corporation. He or she shall deliver to each purchaser or lender an appropriate deed, mortgage, agreement of pledge or other instrument of title or security. If real estate is situated outside of said county, a certified copy of the orders authorizing and confirming the sale or mortgage thereof shall be filed for record in the office of the auditor of the county in which such property is situated. He or she may appoint special assistants and other necessary agents to assist in the administration and liquidation of such corporation, a certificate of such appointment to be filed with the clerk of the county in which such corporation is located. He or she shall require each special assistant to give a surety company bond, conditioned as he or she shall provide, the premium of which shall be paid out of the assets of such corporation. He or she may also employ an attorney for legal assistance in such administration and liquidation. [2014 c 37 § 227; 1994 c 92 § 111; 1955 c 33 § 30.44.050. Prior: 1933 c 42 § 25; 1917 c 80 § 62; 1915 c 98 § 3; RRS § 3269. Formerly RCW 30.44.050.]

30A.44.060 Notice to creditors—Claims. The director shall publish once a week for four consecutive weeks in a newspaper which he or she shall select, a notice requiring all persons having claims against such corporation to make proof thereof at the place therein specified not later than ninety days from the date of the first publication of said notice, which date shall be therein stated. He or she shall mail similar notices to all persons whose names appear as creditors upon the books of the corporation. He or she may approve or reject any claims, but shall serve notice of rejection upon the claimant by mail or personally. An affidavit of service of such notice shall be prima facie evidence thereof. No action shall be brought on any claim after three months from the date of service of notice of rejection.

Claims of depositors may be presented after the expiration of the time fixed in the notice, and, if approved, shall be entitled to their proportion of prior dividends, if there be funds sufficient therefor, and shall share in the distribution of the remaining assets.

After the expiration of the time fixed in the notice the director shall have no power to accept any claim except the claim of a depositor, and all claims except the claims of depositors shall be barred. [1994 c 92 § 112; 1955 c 33 § 30.44.060. Prior: 1923 c 115 § 10; 1917 c 80 § 63; 1915 c 98 § 4; RRS § 3270. Formerly RCW 30.44.060.]

30A.44.070 Inventory—List of claims. Upon taking possession of such corporation, the director shall make an inventory of the assets in duplicate and file one in his or her office and one in the office of the county clerk. Upon the expiration of the time fixed for the presentation of claims, he or she shall make a duplicate list of claims presented, segregating those approved and those rejected, to be filed as afore-

said. He or she shall also make and file a supplemental list of claims at least fifteen days before the declaration of any dividend, and in any event at least every six months. [1994 c 92 § 113; 1955 c 33 § 30.44.070. Prior: 1917 c 80 § 65; 1915 c 98 § 6; RRS § 3272. Formerly RCW 30.44.070.]

30A.44.080 Objections to approved claims. Objection may be made by any interested person to any claim approved by the director, which objection shall be determined by the court upon such notice to the claimant and objector as the court shall prescribe. [1994 c 92 § 114; 1955 c 33 § 30.44.080. Prior: 1917 c 80 § 67; 1915 c 98 § 8; RRS § 3274. Formerly RCW 30.44.080.]

30A.44.090 Dividends. At any time after the expiration of the date fixed for the presentation of claims, the director, subject to the approval of the court, may declare one or more dividends out of the funds remaining in his or her hands after the payment of expenses. [1994 c 92 § 115; 1955 c 33 § 30.44.090. Prior: 1917 c 80 § 66; 1915 c 98 § 7; RRS § 3273. Formerly RCW 30.44.090.]

30A.44.100 Receiver prohibited except in emergency. No receiver shall be appointed by any court for any bank, nor shall any assignment of any bank for the benefit of creditors be valid, excepting only that a court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of such corporation. Immediately upon any such appointment, the clerk of such court shall notify the director in writing of such appointment and the director shall forthwith take possession of such bank, as in case of insolvency, and the temporary receiver shall upon demand of the director surrender up to him or her such possession and all assets which shall have come into the possession of such receiver. The director shall in due course pay such receiver out of the assets of such corporation such amount as the court shall allow. [2014 c 37 § 228; 2010 c 88 § 33; 1994 c 92 § 116; 1955 c 33 § 30.44.100. Prior: 1917 c 80 § 69; 1915 c 98 § 9; RRS § 3276. Formerly RCW 30.44.100.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.44.110 Preferences prohibited—Penalty. (1) Every transfer of its property or assets by any bank, made (a) in contemplation of insolvency or after it shall have become insolvent, (b) within ninety days before the date the director takes possession of such bank under RCW 30A.44.010, 30A.44.020, 30A.44.100, or 30A.44.160, or the federal deposit insurance corporation is appointed as receiver or liquidator of such bank under RCW 30A.44.270, and (c) with a view to the preference of one creditor over another or to prevent the equal distribution of its property and assets among its creditors, shall be void.

(2) Every director, officer, or employee of a bank making any such transfer of assets is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2014 c 37 § 229; 2010 c 88 § 34; 2003 c 53 § 190; 1955 c 33 § 30.44.110. Prior: 1917 c 80 § 55; RRS § 3262. Formerly RCW 30.44.110.]

Effective date—2010 c 88: See RCW 32.50.900.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

30A.44.120 Receiving deposits when insolvent—Penalty. An officer, director, or employee of any bank who shall fraudulently receive for it any deposit, knowing that such bank or trust company is insolvent, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2014 c 37 § 230; 2003 c 53 § 191; 1955 c 33 § 30.44.120. Prior: 1933 c 42 § 26; 1917 c 80 § 81; RRS § 3288. Formerly RCW 30.44.120.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12.

30A.44.130 Expense of liquidation. All expenses incurred by the director in taking possession, administering and winding up any such corporation, including the expenses of assistants and reasonable fees for any attorney who may be employed in connection therewith, and the reasonable compensation of any special assistant placed in charge of such corporation shall be a first charge upon the assets thereof. Such charges shall be fixed by the director, subject to the approval of the court. [1994 c 92 § 117; 1955 c 33 § 30.44.130. Prior: 1917 c 80 § 64; 1915 c 98 § 5; RRS § 3271. Formerly RCW 30.44.130.]

30A.44.140 Liquidation after claims are paid. When all proper claims of depositors and creditors (not including stockholders) have been paid, as well as all expenses of administration and liquidation and proper provision has been made for unclaimed or unpaid deposits and dividends, and assets still remain in his or her hands, the director shall call a meeting of the stockholders of such corporation, giving thirty days' notice thereof, by one publication in a newspaper published in the county where such corporation is located. At such meeting, each share shall entitle the holder thereof to a vote in person or by proxy. A vote by ballot shall be taken to determine whether the director shall wind up the affairs of such corporation or the stockholders appoint an agent to do so. The director, if so required, shall wind up such corporation and distribute its assets to those entitled thereto. If the appointment of an agent is determined upon, the stockholders shall forthwith select such agent by ballot. Such agent shall file a bond to the state of Washington in such amount and so conditioned as the director shall require. Thereupon the director shall transfer to such agent the assets of such corporation then remaining in his or her hands, and be relieved from further responsibility in reference to such corporation. Such agent shall convert the assets of such corporation into cash and distribute the same to the parties thereunto entitled, subject to the supervision of the court. In case of his or her death, removal or refusal to act, the stockholders may select a successor with like powers. [1994 c 92 § 118; 1955 c 33 § 30.44.140. Prior: 1917 c 80 § 70; RRS § 3277. Formerly RCW 30.44.140.]

30A.44.150 Unclaimed dividends—Disposition. Any dividends to depositors or other creditors of such bank remaining uncalled for and unpaid in the hands of the director for six months after order of final distribution, shall be depos-

ited in a bank to his or her credit, in trust for the benefit of the persons entitled thereto and subject to the supervision of the court shall be paid by him or her to them upon receipt of satisfactory evidence of their right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the director into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action. [2014 c 37 § 231; 1994 c 92 § 119; 1955 c 33 § 30.44.150. Prior: 1923 c 115 § 11; 1917 c 80 § 71; RRS § 3278. Formerly RCW 30.44.150.]

30A.44.160 Voluntary closing—Possession of the director—Notice. (1) Subject to the consent of the director, a bank may voluntarily stipulate and consent to an order taking possession and thereby place itself under the control of the director to be liquidated and be made subject to receivership as provided in this chapter.

(2) Upon issuance of such order taking possession, the bank shall post a notice on its door as follows: "This bank is in the possession of the Director of the Washington State Department of Financial Institutions."

(3) The posting of such notice or the taking possession of any bank by the director shall be sufficient to place all of its assets and property of every nature in his or her possession and bar all attachment proceedings. [2014 c 37 § 232; 2010 c 88 § 35; 1994 c 92 § 120; 1955 c 33 § 30.44.160. Prior: 1917 c 80 § 72; RRS § 3279. Formerly RCW 30.44.160.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.44.170 Voluntary liquidation—Notice to creditors. Any bank may, upon receipt of written permission from the director, go into voluntary liquidation by a vote of its stockholders owning two-thirds of its capital stock. When such liquidation is authorized, the directors of such corporation shall publish in a newspaper published in the place where such corporation is located, once a week for four consecutive weeks, a notice requiring creditors of such corporation to present their claims against it for payment. [2014 c 37 § 233; 1994 c 92 § 121; 1955 c 33 § 30.44.170. Prior: 1917 c 80 § 74; RRS § 3281. Formerly RCW 30.44.170.]

30A.44.180 Unclaimed dividends on voluntary liquidation. Whenever any bank shall voluntarily liquidate, any dividends to depositors or other creditors of such bank remaining uncalled for and unpaid at the conclusion of the liquidation shall be transmitted to the director and shall be deposited by him or her in a bank or trust company to his or her credit in trust for the benefit of the persons entitled thereto, and shall be paid by him or her to them upon receipt of satisfactory evidence of their right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the director into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action. [2014 c 37 § 234; 1994 c 92 § 122; 1955 c 33 § 30.44.180. Prior: 1947 c 148 § 1; Rem. Supp. 1947 § 3281-1. Formerly RCW 30.44.180.]

30A.44.190 Disposition of unclaimed personal property. Whenever any bank shall be liquidated, voluntarily or involuntarily, and shall retain in its possession at the conclusion of the liquidation, uncalled for and unclaimed personal property left with it for safekeeping, such property shall, in the presence of at least one witness, be inventoried by the liquidating agent and sealed in separate packages, each package plainly marked with the name and last known address of the person in whose name the property stands on the books of the bank. If the property is in safe deposit boxes, such boxes shall be opened by the liquidating agent in the presence of at least one witness, and the property inventoried, sealed in packages and marked as above required. All the packages shall be transmitted to the director, together with certificates signed by the liquidating agent and witness or witnesses, listing separately the property standing in the name of any one person on the books of the bank, together with the date of inventory, and name and last known address of the person in whose name the property stands. [2014 c 37 § 235; 1994 c 92 § 123; 1955 c 33 § 30.44.190. Prior: 1947 c 148 § 2; Rem. Supp. 1947 § 3281-2. Formerly RCW 30.44.190.]

30A.44.200 Duty of director—Notice to owner. Upon receiving possession of the packages, the director shall cause them to be opened in the presence of at least one witness, the property reinventoried, and the packages resealed, and held for safekeeping. The liquidated bank, its directors, officers, and shareholders, and the liquidating agent shall thereupon be relieved of responsibility and liability for the property so delivered to and received by the director. The director shall send immediately to each person in whose name the property stood on the books of the liquidated bank, at his or her last known address, in a securely closed, postpaid and registered letter, a notice that the property listed will be held in his or her name for a period of not less than two years. At any time after the mailing of such notice, and before the expiration of two years, such person may require the delivery of the property so held, by properly identifying himself or herself and offering evidence of his or her right thereto, to the satisfaction of the director. [2014 c 37 § 236; 1994 c 92 § 124; 1955 c 33 § 30.44.200. Prior: 1947 c 148 § 3; Rem. Supp. 1947 § 3281-3. Formerly RCW 30.44.200.]

30A.44.210 Final notice after two years—Sale. After the expiration of two years from the time of mailing the notice, the director shall mail in a securely closed postpaid registered letter, addressed to the person at his or her last known address, a final notice stating that two years have elapsed since the sending of the notice referred to in RCW 30A.44.200, and that the director will sell all the property or articles of value set out in the notice, at a specified time and place, not less than thirty days after the time of mailing the final notice. Unless the person shall, on or before the day mentioned, claim the property, identify himself or herself and offer evidence of his or her right thereto, to the satisfaction of the director, the director may sell all the property or articles of value listed in the notice, at public auction, at the time and place stated in the final notice: PROVIDED, That a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is held. Any such property held by

the director, the owner of which is not known, may be sold at public auction after it has been held by the director for two years, provided, that a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is held. [2014 c 37 § 237; 1994 c 92 § 125; 1985 c 469 § 15; 1955 c 33 § 30.44.210. Prior: 1947 c 148 § 4; Rem. Supp. 1947 § 3281-4. Formerly RCW 30.44.210.]

30A.44.220 Disposition of proceeds—Escheat. The proceeds of such sale shall be deposited by the director in a bank to his or her credit, in trust for the benefit of the person entitled thereto, and shall be paid by him or her to such person upon receipt of satisfactory evidence of his or her right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the director into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action. [2014 c 37 § 238; 1994 c 92 § 126; 1955 c 33 § 30.44.220. Prior: 1947 c 148 § 5; Rem. Supp. 1947 § 3281-5. Formerly RCW 30.44.220.]

30A.44.230 Procedure as to papers, documents, etc. Whenever the personal property held by a liquidated bank shall consist either wholly or in part, of documents, letters, or other papers of a private nature, such documents, letters, or papers shall not be sold, but shall be retained by the director for a period of five years, and, unless sooner claimed by the owner, may be thereafter destroyed in the presence of the director and at least one other witness. [2014 c 37 § 239; 1994 c 92 § 127; 1955 c 33 § 30.44.230. Prior: 1947 c 148 § 6; Rem. Supp. 1947 § 3281-6. Formerly RCW 30.44.230.]

30A.44.240 Transfer of assets and liabilities to another bank. A bank may for the purpose of voluntary liquidation transfer its assets and liabilities to another bank, by a vote, or with the written consent of the stockholders of record owning two-thirds of its capital stock, but only with the written consent of the director and upon such terms and conditions as he or she may prescribe. Upon any such transfer being made, or upon the liquidation of any such corporation for any cause whatever or upon its being no longer engaged in the business of a bank, the director shall terminate its certificate of authority, which shall not thereafter be revived or renewed. When the certificate of authority of any such corporation shall have been revoked, it shall forthwith collect and distribute its remaining assets, and when that is done the director shall certify the fact to the secretary of state, whereupon the corporation shall cease to exist and the secretary of state shall note that fact upon his or her records. [2014 c 37 § 240; 1994 c 92 § 128; 1955 c 33 § 30.44.240. Prior: 1953 c 236 § 1; 1923 c 115 § 12; 1919 c 209 § 17; 1917 c 80 § 75; RRS § 3282. Formerly RCW 30.44.240.]

30A.44.250 Reopening. Whenever the director has taken possession of a bank for any cause, he or she may wind up such corporation and cancel its certificate of authority, unless enjoined from so doing, as herein provided. Or if at any time within ninety days after taking possession, he or she shall determine that all impairment and delinquencies have

been made good, and that it is safe and expedient for such corporation to reopen, he or she may permit such corporation to reopen upon such terms and conditions as he or she shall prescribe. Before being permitted to reopen, every such corporation shall pay all of the expenses of the director, as herein elsewhere defined. [2014 c 37 § 241; 1994 c 92 § 129; 1955 c 33 § 30.44.250. Prior: 1917 c 80 § 73; RRS § 3280. Formerly RCW 30.44.250.]

30A.44.260 Destruction of records after liquidation.

Where any files, records, documents, books of account or other papers have been taken over and are in the possession of the director in connection with the liquidation of any insolvent banks or trust companies under the laws of this state, the director may, in his or her discretion at any time after the expiration of one year from the declaration of the final dividend, or from the date when such liquidation has been entirely completed, destroy any of the files, records, documents, books of account or other papers which may appear to the director to be obsolete or unnecessary for future reference as part of the liquidation and files of his or her office. [1994 c 92 § 130; 1955 c 33 § 30.44.260. Prior: 1925 ex.s. c 55 § 1; RRS § 3277-1. Formerly RCW 30.44.260.]

30A.44.270 Federal deposit insurance corporation as receiver or liquidator—Appointment—Powers and duties.

(1) The federal deposit insurance corporation is hereby authorized and empowered to be and act without bond as receiver or liquidator of any bank the deposits in which are to any extent insured by that corporation and of which the director shall have taken possession pursuant to RCW 30A.44.010, 30A.44.020, or 30A.44.160.

(2) In the event of such closing, the director may appoint the federal deposit insurance corporation as receiver or liquidator of such bank.

(3) If the corporation accepts such appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of a bank, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of the federal deposit insurance act, as now or hereafter amended. [2014 c 37 § 242; 2010 c 88 § 36; 1994 c 92 § 131; 1973 1st ex.s. c 54 § 1. Formerly RCW 30.44.270.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.44.280 Payment or acquisition of deposit liabilities by federal deposit insurance corporation—Not hindered by judicial review—Liability.

The pendency of any proceedings for judicial review of the director's actions in taking possession and control of a bank and its assets for the purpose of liquidation shall not operate to defer, delay, impede, or prevent the payment or acquisition by the federal deposit insurance corporation of the deposit liabilities of the bank which are insured by the corporation. During the pendency of any proceedings for judicial review, the director shall make available to the federal deposit insurance corporation such facilities in or of the bank and such books, records, and other relevant data of the bank as may be necessary or appropriate to enable the corporation to pay out or to acquire the insured deposit liabilities of the bank. The federal deposit

insurance corporation and its directors, officers, agents, and employees, and the director and his or her agents and employees shall be free from liability to the bank, its directors, stockholders, and creditors for or on account of any action taken in connection herewith. [2014 c 37 § 243; 1994 c 92 § 132; 1973 1st ex.s. c 54 § 2. Formerly RCW 30.44.280.]

Chapter 30A.46 RCW

SUPERVISORY DIRECTION—CONSERVATORSHIP

Sections

- 30A.46.010 Definitions.
- 30A.46.020 Grounds for determining need for supervisory direction—Abatement of determination—Supervisory direction, procedure—Conservator, immunity.
- 30A.46.030 Supervisory direction—Appointment of representative to supervise—Restrictions on operations.
- 30A.46.040 Conservator—Appointment—Grounds—Powers, duties, and functions.
- 30A.46.050 Costs as charge against bank's assets.
- 30A.46.060 Request for review of action—Stay of action—Orders subject to review.
- 30A.46.070 Suits against bank or conservator, where brought—Suits by conservator.
- 30A.46.080 Duration of conservator's term—Rehabilitated banks—Management.
- 30A.46.090 Authority of director.
- 30A.46.100 Rules.

30A.46.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Unsafe condition" shall mean and include, but not be limited to, any one or more of the following circumstances:

- (a) If a bank is less than well-capitalized;
- (b) If a bank violates the applicable provisions of this title or any other law or regulation applicable to banks or trust companies;
- (c) If a bank conducts a fraudulent or questionable practice in the conduct of its business that endangers a bank's reputation or threatens its solvency;
- (d) If a bank conducts its business in an unsafe or unauthorized manner;
- (e) If a bank violates any conditions of its charter or any agreement entered with the director; or
- (f) If a bank fails to carry out any authorized order or direction of the examiner or the director.

(2) "Exceeded its powers" shall mean and include, but not be limited to the following circumstances:

- (a) If a bank has refused to permit examination of its books, papers, accounts, records, or affairs by the director, assistant director, or duly commissioned examiners; or
- (b) If a bank has neglected or refused to observe an order of the director to make good, within the time prescribed, any impairment of its capital.

(3) "Consent" includes and means a written agreement by the bank to either supervisory direction or conservatorship under this chapter. [2014 c 37 § 244; 2010 c 88 § 37; 1994 c 92 § 133; 1975 1st ex.s. c 87 § 1. Formerly RCW 30.46.010.]

Effective date—2010 c 88: See RCW 32.50.900.

30A.46.020 Grounds for determining need for supervisory direction—Abatement of determination—Supervisory direction, procedure—Conservator, immunity. (1) If upon examination or at any other time it appears to the director that any bank is in an unsafe condition and its condition is such as to render the continuance of its business hazardous to the public or to its depositors and creditors, or if such bank appears to have exceeded its powers or has failed to comply with the law, or if such bank gives its consent, then the director shall upon his or her determination (a) notify the bank of his or her determination, and (b) furnish to the bank a written list of the director requirements to abate his or her determination, and (c) if the director makes further determination to directly supervise, notify the bank that it is under the supervisory direction of the director and that the director is invoking the provisions of this chapter. If placed under supervisory direction the bank shall comply with the lawful requirements of the director within such time as provided in the notice of the director, subject however, to the provisions of this chapter. If the bank fails to comply within such time the director may appoint a conservator as hereafter provided.

(2) A person appointed as conservator by the director pursuant to this chapter is immune from criminal, civil, and administrative liability for any act done in good faith in the performance of the duties of conservator. [2014 c 37 § 245; 2013 c 76 § 14; 1994 c 92 § 134; 1975 1st ex.s. c 87 § 2. Formerly RCW 30.46.020.]

30A.46.030 Supervisory direction—Appointment of representative to supervise—Restrictions on operations. During the period of supervisory direction the director may appoint a representative to supervise such bank and may provide that the bank may not do any of the following during the period of supervisory direction, without the prior approval of the director or the appointed representative:

- (1) Dispose of, convey, or encumber any of the assets, excluding trust assets under management;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property; or
- (6) Incur any debt, obligation, or liability. [2014 c 37 § 246; 2013 c 76 § 15; 1994 c 92 § 135; 1975 1st ex.s. c 87 § 3. Formerly RCW 30.46.030.]

30A.46.040 Conservator—Appointment—Grounds—Powers, duties, and functions. After the period of supervisory direction specified by the director for compliance, if he or she determines that such bank has failed to comply with the lawful requirements imposed, upon due notice and hearing or by consent of the bank, the director may appoint a conservator, who shall immediately take charge of such bank and all of its property, books, records, and effects. The conservator shall conduct the business of the bank and take such steps toward the removal of the causes and conditions which have necessitated such order, as the director may direct. During the pendency of the conservatorship the conservator shall make such reports to the director from time to time as may be required by the director, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such bank, including claims or causes of

actions belonging to or which may be asserted by such bank, and to deal with the same in his or her own name as conservator, and shall be empowered to file, prosecute, and defend any suit and suits which have been filed or which may thereafter be filed by or against such bank which are deemed by the conservator to be necessary to protect all of the interested parties for a property affected thereby. The director, or any newly appointed assistant, may be appointed to serve as conservator. If the director, however, is satisfied that such bank is not in condition to continue business in the interest of its customers under the conservator as above provided, the director may proceed with appropriate remedies provided by other provisions of this title. [2014 c 37 § 247; 2013 c 76 § 16; 1994 c 92 § 136; 1975 1st ex.s. c 87 § 4. Formerly RCW 30.46.040.]

30A.46.050 Costs as charge against bank's assets. All costs incident to supervisory direction and the conservatorship shall be fixed and determined by the director and shall be a charge against the assets of the bank, excluding trust assets under management, to be allowed and paid as the director may determine. [2014 c 37 § 248; 2013 c 76 § 17; 1994 c 92 § 137; 1975 1st ex.s. c 87 § 5. Formerly RCW 30.46.050.]

30A.46.060 Request for review of action—Stay of action—Orders subject to review. During the period of the supervisory direction and during the period of conservatorship, the bank may request the director to review an action taken or proposed to be taken by the representative or conservator; specifying wherein the action complained of is believed not to be in the best interest of the bank, and such request shall stay the action specified pending review of such action by the director. Any order entered by the director appointing a representative and providing that the bank shall not do certain acts as provided in RCW 30A.46.030 and 30A.46.040, any order entered by the director appointing a conservator, and any order by the director following the review of an action of the representative or conservator as herein above provided shall be subject to review in accordance with the administrative procedure act of the state of Washington. [2014 c 37 § 249; 2013 c 76 § 18; 1994 c 92 § 138; 1975 1st ex.s. c 87 § 6. Formerly RCW 30.46.060.]

30A.46.070 Suits against bank or conservator, where brought—Suits by conservator. Any suit filed against a bank or its conservator, after the entrance of an order by the director placing such bank in conservatorship and while such order is in effect, shall be brought in the superior court of Thurston county and not elsewhere. The conservator appointed hereunder for such bank may file suit in any superior court or other court of competent jurisdiction against any person for the purpose of preserving, protecting, or recovering any asset or property of such bank including claims or causes of action belonging to or which may be asserted by such bank. [2014 c 37 § 250; 2013 c 76 § 19; 1994 c 92 § 139; 1975 1st ex.s. c 87 § 7. Formerly RCW 30.46.070.]

30A.46.080 Duration of conservator's term—Rehabilitated banks—Management. The conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this chapter. If

rehabilitated, the rehabilitated bank shall be returned to management or new managements under such conditions as are reasonable and necessary to prevent recurrence of the condition which occasioned the conservatorship. [2014 c 37 § 251; 2013 c 76 § 20; 1975 1st ex.s. c 87 § 8. Formerly RCW 30.46.080.]

30A.46.090 Authority of director. If the director determines to act under authority of this chapter, the sequence of his or her acts and proceedings shall be as set forth in this chapter. However, it is the purpose and substance of this chapter to authorize administrative discretion—to allow the director administrative discretion in the event of unsound banking operations—and in furtherance of that purpose the director is hereby authorized to proceed with regulation either under this chapter or under any other applicable provisions of law or under this chapter in connection with other law, either as such law is now existing or is hereinafter enacted, and it is so provided. [2014 c 37 § 252; 2013 c 76 § 21; 1994 c 92 § 140; 1975 1st ex.s. c 87 § 9. Formerly RCW 30.46.090.]

30A.46.100 Rules. The director is empowered to adopt and promulgate such reasonable rules as may be necessary for the implementation of this chapter and its purposes. [1994 c 92 § 141; 1975 1st ex.s. c 87 § 10. Formerly RCW 30.46.100.]

Chapter 30A.49 RCW

MERGER, CONSOLIDATION, AND CONVERSION

Sections

- 30A.49.010 Definitions.
- 30A.49.020 State bank to resulting national bank—Laws applicable—Vote required—Termination of franchise.
- 30A.49.030 State or national bank to resulting state bank—Law applicable to nationals.
- 30A.49.040 Merger to resulting state bank—Exception—Agreement, contents, approval, amendment.
- 30A.49.050 Merger to resulting state bank—Stockholders' vote—Notice of meeting—Waiver of notice.
- 30A.49.060 Merger to resulting state bank—Effective date—Termination of charters—Certificate of merger.
- 30A.49.070 Conversion of national to state bank—Requirements—Procedure.
- 30A.49.080 Resulting bank as same business and corporate entity—Use of name of merging, converting bank.
- 30A.49.090 Rights of dissenting shareholder—Appraisal—Amount due as debt.
- 30A.49.100 Provision for successors to fiduciary positions.
- 30A.49.110 Assets, business—Time for conformance with state law.
- 30A.49.120 Resulting state bank—Valuation of certain assets limited.
- 30A.49.125 Resulting bank has branches inside and outside of state—Application—Definitions—Combination or purchase and assumption requires director's approval—Deposit concentration limits.
- 30A.49.130 Severability—1955 c 33.

Reorganization as subsidiary of bank holding company: RCW 30A.04.550 through 30A.04.570.

30A.49.010 Definitions. As used in this chapter:
 "Merging bank" means a party to a merger;
 "Converting bank" means a bank converting from a state to a national bank, or the reverse;
 "Merger" includes consolidation;
 "Resulting bank" means the bank resulting from a merger or conversion.

Wherever reference is made to a vote of stockholders or a vote of classes of stockholders it shall mean only a vote of those entitled to vote under the terms of such shares. [1986 c 279 § 43; 1955 c 33 § 30.49.010. Prior: 1953 c 234 § 1. Formerly RCW 30.49.010.]

30A.49.020 State bank to resulting national bank—Laws applicable—Vote required—Termination of franchise. This section is applicable where there is to be a resulting national bank.

Nothing in the law of this state shall restrict the right of a state bank to merge with or convert into a resulting national bank. The action to be taken by such merging or converting state bank and its rights and liabilities and those of its shareholders shall be the same as those prescribed at the time of the action for national banks merging with or converting into a resulting state bank by the law of the United States, and not by the law of this state, except that a vote of the holders of two-thirds of each class of voting stock of a state bank shall be required for the merger or conversion, and that on conversion by a state into a national bank the rights of dissenting stockholders shall be those specified in RCW 30A.49.090.

Upon the completion of the merger or conversion, the franchise of any merging or converting state bank shall automatically terminate. [2014 c 37 § 253; 1955 c 33 § 30.49.020. Prior: 1953 c 234 § 2. Formerly RCW 30.49.020.]

30A.49.030 State or national bank to resulting state bank—Law applicable to nationals. This section is applicable where there is to be a resulting state bank.

Upon approval by the director, state or national banks may be merged to result in a state bank, or a national bank may convert into a state bank as hereafter prescribed, except that the action by a national bank shall be taken in the manner prescribed by and shall be subject to limitations and requirements imposed by the law of the United States which shall also govern the rights of its dissenting shareholders. [1994 c 92 § 142; 1955 c 33 § 30.49.030. Prior: 1953 c 234 § 3. Formerly RCW 30.49.030.]

30A.49.040 Merger to resulting state bank—Exception—Agreement, contents, approval, amendment. This section is applicable where there is to be a resulting state bank, except in the case of reorganization and exchange as authorized by this title.

(1) The board of directors of each merging state bank shall, by a majority of the entire board, approve a merger agreement which shall contain:

(a) The name of each merging state or national bank and location of each office;

(b) With respect to the resulting state bank, (i) the name and location of the principal and other offices; (ii) the name and mailing address of each director to serve until the next annual meeting of the stockholders; (iii) the name and mailing address of each officer; (iv) the amount of capital, the number of shares and the par value, if any, of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the exchange of shares of the merging state or national banks for such consideration as has been agreed to in the merger agreement;

(d) A statement that the agreement is subject to approval by the director and the stockholders of each merging state or national bank;

(e) Provisions governing the manner of disposing of the shares of the resulting state bank if such shares are to be issued in the transaction and are not taken by dissenting shareholders of merging state or national banks;

(f) Such other provisions as the director requires to discharge his or her duties with respect to the merger;

(2) After approval by the board of directors of each merging state bank, the merger agreement shall be submitted to the director for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any merging national bank;

(3) Within sixty days after receipt by the director of the papers specified in subsection (2) of this section, the director shall approve or disapprove of the merger agreement, and if no action is taken, the agreement shall be deemed approved. The director shall approve the agreement if it appears that:

(a) The resulting state bank meets the requirements of state law as to the formation of a new state bank;

(b) The agreement provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting state bank and its other activities which are to continue or are to be undertaken;

(c) The agreement is fair;

(d) The merger is not contrary to the public interest.

If the director disapproves an agreement, he or she shall state his or her objections and give an opportunity to the merging state or national banks to amend the merger agreement to obviate such objections. [1994 c 92 § 143; 1986 c 279 § 49; 1982 c 196 § 9; 1955 c 33 § 30.49.040. Prior: 1953 c 234 § 4. Formerly RCW 30.49.040.]

Reorganization as subsidiary of bank holding company: RCW 30A.04.550 through 30A.04.570.

Additional notes found at www.leg.wa.gov

30A.49.050 Merger to resulting state bank—Stockholders' vote—Notice of meeting—Waiver of notice. To be effective, a merger which is to result in a state bank must be approved by the stockholders of each merging state bank by a vote of two-thirds of the outstanding voting stock of each class at a meeting called to consider such action, which vote shall constitute the adoption of the charter and bylaws of the resulting state bank, including the amendments in the merger agreement.

Unless waived in writing, notice of the meeting of stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each merging state bank is located, at least once each week for four successive weeks, and by mail, at least fifteen days before the date of the meeting, to each stockholder of record of each merging state bank at his or her address on the books of his or her bank; no notice of publication need be given if written waivers are received from the holders of two-thirds of the outstanding shares of each class of stock. The notice shall state that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against

approval of the plan. [2011 c 336 § 749; 1955 c 33 § 30.49.050. Prior: 1953 c 234 § 5. Formerly RCW 30.49.050.]

30A.49.060 Merger to resulting state bank—Effective date—Termination of charters—Certificate of merger. A merger which is to result in a state bank shall, unless a later date is specified in the agreement, become effective after the filing with and upon the approval of the director of the executed agreement together with copies of the resolutions of the stockholders of each merging state or national bank approving it, certified by the bank's president or a vice president and a secretary. The charters of the merging banks, other than the resulting bank, shall thereupon automatically terminate.

The director shall thereupon issue to the resulting state bank a certificate of merger specifying the name of each merging state or national bank and the name of the resulting state bank. Such certificate shall be conclusive evidence of the merger and of the correctness of all proceedings therefor in all courts and places, and may be recorded in any office for the recording of deeds to evidence the new name in which the property of the merging state or national bank is held. [1994 c 92 § 144; 1955 c 33 § 30.49.060. Prior: 1953 c 234 § 6. Formerly RCW 30.49.060.]

30A.49.070 Conversion of national to state bank—Requirements—Procedure. Except as provided in RCW 30A.49.100, a national bank located in this state which follows the procedure prescribed by the laws of the United States to convert into a state bank shall be granted a state charter by the director if he or she finds that the bank meets the standards as to location of offices, capital structures, and business experience and character of officers and directors for the incorporation of a state bank.

The national bank may apply for such charter by filing with the director a certificate signed by its president and cashier and by a majority of the entire board of directors, setting forth the corporate action taken in compliance with the provisions of the laws of the United States governing the conversion of a national to a state bank, and the articles of incorporation, approved by the stockholders, for the government of the bank as a state bank. [2014 c 37 § 254; 1994 c 92 § 145; 1955 c 33 § 30.49.070. Prior: 1953 c 234 § 7. Formerly RCW 30.49.070.]

30A.49.080 Resulting bank as same business and corporate entity—Use of name of merging, converting bank. A resulting state or national bank shall be the same business and corporate entity as each merging state or national bank or as the converting state or national bank with all property, rights, powers and duties of each merging state or national bank or the converting state or national bank, except as affected by the state law in the case of a resulting state bank or the federal law in the case of a resulting national bank, and by the charter and bylaws of the resulting state or national bank.

A resulting state or national bank shall have the right to use the name of any merging state or national bank or of the converting bank whenever it can do any act under such name more conveniently.

Any reference to a merging or converting state or national bank in any writing, whether executed or taking effect before or after the merger or conversion, shall be deemed a reference to the resulting state or national bank if not inconsistent with the other provisions of such writing. [1955 c 33 § 30.49.080. Prior: 1953 c 234 § 8. Formerly RCW 30.49.080.]

30A.49.090 Rights of dissenting shareholder—Appraisal—Amount due as debt. The owner of shares of a state bank which were voted against a merger to result in a state bank, or against the conversion of a state bank into a national bank, shall be entitled to receive their value in cash, if and when the merger or conversion becomes effective, upon written demand made to the resulting state or national bank at any time within thirty days after the effective date of the merger or conversion, accompanied by the surrender of the stock certificates. The value of such shares shall be determined, as of the date of the shareholders' meeting approving the merger or conversion, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the resulting state or national bank, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the merger or conversion becomes effective, the director shall cause an appraisal to be made.

The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of a third appraisal, and the resulting bank shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the resulting bank, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on the number of dissenting shares owned.

The resulting state or national bank may fix an amount which it considers to be not more than the fair market value of the shares of a merging or the converting bank at the time of the stockholders' meeting approving the merger or conversion, which it will pay dissenting shareholders of the bank entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the resulting state or national bank. [1994 c 256 § 58; 1994 c 92 § 146; 1955 c 33 § 30.49.090. Prior: 1953 c 234 § 9. Formerly RCW 30.49.090.]

Reviser's note: This section was amended by 1994 c 92 § 146 and by 1994 c 256 § 58, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Construction—1994 c 256: See RCW 43.320.007.

30A.49.100 Provision for successors to fiduciary positions. Where a resulting state bank is not to exercise trust powers, the director shall not approve a merger or conversion until satisfied that adequate provision has been made for successors to fiduciary positions held by the merging state or national banks or the converting state or national bank. [1994 c 92 § 147; 1955 c 33 § 30.49.100. Prior: 1953 c 234 § 10. Formerly RCW 30.49.100.]

30A.49.110 Assets, business—Time for conformance with state law. If a merging or converting state or national bank has assets which do not conform to the requirements of state law for the resulting state bank or carries on business activities which are not permitted for the resulting state bank, the director may permit a reasonable time to conform with state law. [1994 c 92 § 148; 1955 c 33 § 30.49.110. Prior: 1953 c 234 § 11. Formerly RCW 30.49.110.]

30A.49.120 Resulting state bank—Valuation of certain assets limited. Without approval by the director no asset shall be carried on the books of the resulting state bank at a valuation higher than that on the books of the merging or converting state or national bank at the time of its last examination by a state examiner or national bank examiner before the effective date of the merger or conversion. [1994 c 92 § 149; 1955 c 33 § 30.49.120. Prior: 1953 c 234 § 12. Formerly RCW 30.49.120.]

30A.49.125 Resulting bank has branches inside and outside of state—Application—Definitions—Combination or purchase and assumption requires director's approval—Deposit concentration limits. (1) This section is applicable where the resulting bank would have branches inside and outside the state of Washington.

(2) As used in this section, unless a different meaning is required by the context, the following words and phrases have the following meanings:

(a) "Combination" means a merger or consolidation, or purchase or sale of all or substantially all of the assets, including all or substantially all of the branches.

(b) "Out-of-state bank" means a bank, as defined in 12 U.S.C. Sec. 1813(a), which is chartered under the laws of any state other than this state, or a national bank, the main office of which is located in any state other than this state.

(c) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(3) A bank chartered under this title may engage in a combination or purchase and assumption of one or more branches of an out-of-state bank with an out-of-state bank with the prior approval of the director if the combination or purchase and assumption would result in a bank chartered under this title. Upon notice to the director a bank chartered under this title and an out-of-state bank may engage in a combination if the combination would result in an out-of-state bank. However, that combination shall comply with applicable Washington law as determined by the director, including but not limited to applicable state merger laws, and the conditions and requirements of this section.

(4) Applications for the director's approval under subsection (3) of this section shall be on a form prescribed by the director and conditioned upon payment of a fee prescribed pursuant to RCW 30A.04.070. If the director finds that (a) the proposed combination will not be detrimental to the safety and soundness of the applicant or the resulting bank, (b) any new officers and directors of the resulting bank are qualified by character, experience, and financial responsibility to direct and manage the resulting bank, and (c) the proposed merger

is consistent with the convenience and needs of the communities to be served by the resulting bank in this state and is otherwise in the public interest, the director shall approve the interstate combination and the operation of branches outside of Washington by the applicant bank. This transaction may be consummated only after the applicant has received evidence of the director's written approval.

(5) Any out-of-state bank that will be the resulting bank pursuant to an interstate combination involving a bank chartered under this title shall notify the director of the proposed combination not later than three days after the date of filing of an application for the combination with the responsible federal bank supervisory agency, and shall submit a copy of that application to the director and pay applicable filing fees, if any, required by the director. In lieu of notice from the proposed resulting bank the director may accept notice from the bank's supervisory agency having primary responsibility for the bank. The director shall have the authority to waive any procedures required by Washington merger laws if the director finds that the procedures are in conflict with applicable federal law or in conflict with the applicable law of the state of the resulting bank.

(6) Subject to RCW 30A.38.010(2), the deposit concentration limits stated in 12 U.S.C. Sec. 1831u(b)(2)(B) shall apply to the combination of an out-of-state bank and a nonaffiliated out-of-state bank or bank organized under this title or under the national bank act if the combination is an interstate merger transaction.

(7) A combination resulting in the acquisition, by an out-of-state bank that does not have branches in this state, of a bank organized under this title or the national bank act, shall not be permitted under this chapter unless the bank to be acquired, or its predecessors, have been in continuous operation, on the date of the combination, for a period of at least five years. [2014 c 37 § 255; 1996 c 2 § 9. Formerly RCW 30.49.125.]

30A.49.130 Severability—1955 c 33. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter are declared to be severable. The invalidity of any provision as to a national bank or as to the stockholders of a national bank shall not affect its validity as to a state bank or as to the stockholders of a state bank. [1955 c 33 § 30.49.130. Prior: 1953 c 234 § 13. Formerly RCW 30.49.130.]

Chapter 30A.56 RCW BANK STABILIZATION ACT

Sections

30A.56.010	"Bank" and "directors" defined.
30A.56.020	Postponement of payments on deposits—Order—Posting.
30A.56.030	Business during postponement.
30A.56.040	Deposits received during postponement.
30A.56.050	Plan for reorganization—Conditions.
30A.56.060	Approval of plan—Unsecured claims.
30A.56.070	No dividends until reductions paid.
30A.56.080	Failure to pay in excess of plan, effect.
30A.56.090	New bank may be authorized.
30A.56.100	Chapter designated "bank stabilization act."

(2020 Ed.)

30A.56.010 "Bank" and "directors" defined. In this chapter the word "bank" includes savings banks, mutual savings banks, and trust companies, and "directors" shall include trustees. [1955 c 33 § 30.56.010. Prior: 1933 c 49 § 2; RRS § 3293-2. Formerly RCW 30.56.010.]

30A.56.020 Postponement of payments on deposits—Order—Posting. The director is hereby empowered, upon the written application of the directors of a bank, if in his or her judgment the circumstances warrant it, to authorize a bank to postpone, for a period of ninety days and for such further period or periods as he or she may deem expedient, the payment of such proportions or amounts of the demands of its depositors from time to time as he or she may deem necessary. The period or periods of postponement and the proportions or amounts of the demands to be deferred shall be determined by him or her according to the ability of the bank to pay withdrawals. By the regulations prescribed for deferred payments, the director may classify accounts and limit payments to depositors of the several classes differently. The director's orders, regulations and directions shall be in writing and be filed in his or her office, and copies thereof shall be delivered to the bank and be forthwith posted in a conspicuous place in the banking room. [1994 c 92 § 150; 1955 c 33 § 30.56.020. Prior: 1933 c 49 § 2; RRS § 3293-2. Formerly RCW 30.56.020.]

30A.56.030 Business during postponement. During postponement of payments the bank shall remain open for business and be in charge of its officers, but shall not make any loans, investments or expenditures except such as the director will approve as necessary to conserve its assets and pay the cost of operation. The bank's failure during a period of postponement to repay deposits existing at the commencement of the period, shall not authorize or require the director to take charge of or liquidate the bank, nor constitute ground for the appointment of a receiver. [1994 c 92 § 151; 1955 c 33 § 30.56.030. Prior: 1933 c 49 § 3; RRS § 3293-3. Formerly RCW 30.56.030.]

30A.56.040 Deposits received during postponement. Deposits received during a period of postponement and for sixty days thereafter shall be kept separate from other assets of the bank, shall not draw interest, shall not be loaned or invested except by depositing with reserve banks or investing in liquid securities approved by the director, and shall be withdrawable upon demand. If during a postponement of payments, or at the expiration thereof, the director shall take charge of the bank for liquidation, deposits made during the period of postponement shall be deemed trust funds and be repaid to the depositors forthwith. [1994 c 92 § 152; 1955 c 33 § 30.56.040. Prior: 1933 c 49 § 4; RRS § 3293-4. Formerly RCW 30.56.040.]

30A.56.050 Plan for reorganization—Conditions. At the request of the directors of a bank, the director may propose a plan for its reorganization, if in his or her judgment it would be for the best interests of the bank's creditors and of the community which the bank serves. The plan may contemplate such temporary ratable reductions of the demands of depositors and other creditors as would leave its reserve ade-

quate and its capital and surplus unimpaired after the charging off of bad and doubtful debts; and also may contemplate a postponement of payments as in a case falling within RCW 30A.56.020. The plan shall be fully described in a writing, the original of which shall be filed in the office of the director and several copies of which shall be furnished to the bank, where one or more copies shall be kept available for inspection by stockholders, depositors and other creditors. [2014 c 37 § 256; 1994 c 92 § 153; 1955 c 33 § 30.56.050. Prior: 1933 c 49 § 5; RRS § 3293-5. Formerly RCW 30.56.050.]

30A.56.060 Approval of plan—Unsecured claims. If, within ninety days after the filing of the plan, creditors having unsecured demands against the bank aggregating not less than three-fourths of the amount of the unsecured demands of all its creditors, approved the plan, the director shall have power to declare the plan to be in effect. Thereupon the unsecured demands of creditors shall be ratably reduced according to the plan and appropriate debits shall be made in the books. The right of a secured creditor to enforce his or her security shall not be affected by the operation of the plan, but the amount of any deficiency to which he or she may be entitled shall be reduced as unsecured demands were reduced. If the plan contemplates a temporary postponement of payments, RCW 30A.56.020, 30A.56.030, and 30A.56.040 shall be applicable, and the bank shall comply therewith and conduct its affairs accordingly. [2014 c 37 § 257; 1994 c 92 § 154; 1955 c 33 § 30.56.060. Prior: 1933 c 49 § 6; RRS § 3293-6. Formerly RCW 30.56.060.]

30A.56.070 No dividends until reductions paid. A bank for which such a plan has been put into effect shall not declare or pay a dividend or distribute any of its assets among stockholders until there shall have been set aside for and credited ratably to the creditors whose demands were reduced an amount equal to the aggregate of the reductions. [1955 c 33 § 30.56.070. Prior: 1933 c 49 § 7; RRS 3293-7. Formerly RCW 30.56.070.]

30A.56.080 Failure to pay in excess of plan, effect. The failure of a bank operating under such a plan to pay to a creditor at any time a sum greater than the plan then requires, shall not constitute a default nor authorize or require the director to take charge of or liquidate the bank nor entitle the creditor to maintain an action against the bank. [1994 c 92 § 155; 1955 c 33 § 30.56.080. Prior: 1933 c 49 § 8; RRS 3293-8. Formerly RCW 30.56.080.]

30A.56.090 New bank may be authorized. If the net assets of a bank operating under such a plan are sufficient to provide the capital and surplus of a newly organized bank in the same place, the director, under such reasonable conditions as he or she shall prescribe, may approve the incorporation of a new bank and permit it to take over the assets and business and assume the liabilities of the existing bank. [1994 c 92 § 156; 1955 c 33 § 30.56.090. Prior: 1933 c 49 § 9; RRS § 3293-9. Formerly RCW 30.56.090.]

30A.56.100 Chapter designated "bank stabilization act." This chapter shall be known as the bank stabilization

act. [1955 c 33 § 30.56.100. Prior: 1933 c 49 § 1; RRS § 3293-1. Formerly RCW 30.56.100.]

Chapter 30A.60 RCW COMMUNITY CREDIT NEEDS

Sections

- 30A.60.010 Examinations—Investigation and assessment of performance record in meeting community credit needs.
- 30A.60.020 Approval and disapproval of applications—Consideration of performance record in meeting community credit needs.
- 30A.60.030 Adoption of rules.
- 30A.60.901 Effective date—1985 c 329.

30A.60.010 Examinations—Investigation and assessment of performance record in meeting community credit needs. (1) In conducting an examination of a bank chartered under *Title 30 RCW, the director shall investigate and assess the record of performance of the bank in meeting the credit needs of the bank's entire community, including low and moderate-income neighborhoods. The director shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the director in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the director shall consider, independent of any federal determination, the following factors in assessing the bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community and microenterprise development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) The institution's contribution of cash or in-kind support to local or statewide organizations that provide counseling, training, financing, or other services to small businesses; and

(m) Other factors that, in the judgment of the director, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The director shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

(a) Excellent performance:	1
(b) Good performance:	2
(c) Satisfactory performance:	3
(d) Inadequate performance:	4
(e) Poor performance:	5

[2009 c 486 § 3; 2008 c 240 § 1; 1994 c 92 § 157; 1985 c 329 § 2. Formerly RCW 30.60.010.]

***Reviser's note:** Title 30 RCW was recodified and/or repealed pursuant to chapter 37, Laws of 2014, effective January 5, 2015.

Conflict with federal requirements—Intent—2009 c 486: See notes following RCW 28B.30.530.

Legislative intent—1985 c 329: "The legislature believes that commercial banks and savings banks doing business in Washington state have a responsibility to meet the credit needs of the businesses and communities of Washington state, consistent with safe and sound business practices and the free exercise of management discretion.

This act is intended to provide the supervisor of banking and the supervisor of savings and loan associations with the information necessary to enable the supervisors to better determine whether commercial banks, savings banks, and savings and loan associations are meeting the convenience and needs of the public.

This act is further intended to condition the approval of any application by a commercial bank, savings bank, or savings and loan association for a new branch or satellite facility, for an acquisition, merger, conversion, or purchase of assets of another institution not required for solvency reasons, or for the exercise of any new power upon proof that the applicant is satisfactorily meeting the convenience and needs of its community or communities." [1985 c 329 § 1.] "This act" consists of the enactment of RCW *30.04.212, *30.04.214, *30.60.010, *30.60.020, *30.60.030, *30.60.900, *30.60.901, 32.40.010, 32.40.020, and 32.40.030 and this section and the 1985 c 329 amendment to *RCW 30.04.210.

***Reviser's note:** RCW 30.04.212, 30.04.214, 30.60.010, 30.60.020, 30.60.030, 30.60.900, 30.60.901, and 30.04.210 were recodified as RCW 30A.04.212, 30A.04.214, 30A.60.010, 30A.60.020, 30A.60.030, 30A.60.900, 30A.60.901, and 30A.04.210, respectively, pursuant to 2014 c 37 § 4, effective January 5, 2015.

30A.60.020 Approval and disapproval of applications—Consideration of performance record in meeting community credit needs. Whenever the director must approve or disapprove of an application for a new branch or satellite facility; for a purchase of assets, a merger, an acquisition or a conversion not required for solvency reasons; or for authority to engage in a business activity, the director

shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low and moderate-income neighborhoods. Assessment of an applicant's record of performance may be the basis for denying an application. [1994 c 92 § 158; 1985 c 329 § 3. Formerly RCW 30.60.020.]

30A.60.030 Adoption of rules. The director shall adopt all rules necessary to implement sections 2 through 6, chapter 329, Laws of 1985 by January 1, 1986. [1994 c 92 § 159; 1985 c 329 § 7. Formerly RCW 30.60.030.]

30A.60.901 Effective date—1985 c 329. This act shall take effect on January 1, 1986, but the director may immediately take such steps as are necessary to ensure that this act is implemented on its effective date. [1994 c 92 § 160; 1985 c 329 § 13. Formerly RCW 30.60.901.]

Chapter 30A.98 RCW CONSTRUCTION

Sections

30A.98.010	Continuation of existing law.
30A.98.015	Continuation of existing law.
30A.98.020	Title, chapter, section headings not part of law.
30A.98.030	Invalidity of part of title not to affect remainder.
30A.98.040	Prior investments or transactions not affected.
30A.98.045	Prior investments or transactions not affected.
30A.98.050	Repeals and saving.
30A.98.060	Emergency—1955 c 33.

30A.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1955 c 33 § 30.98.010. Formerly RCW 30.98.010.]

30A.98.015 Continuation of existing law. The provisions of this title, insofar as they are substantially the same as statutory provisions repealed by chapter 37, Laws of 2014 and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [2014 c 37 § 258.]

30A.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1955 c 33 § 30.98.020. Formerly RCW 30.98.020.]

30A.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1955 c 33 § 30.98.030. Formerly RCW 30.98.030.]

30A.98.040 Prior investments or transactions not affected. Nothing in this title shall be construed to affect the legality of investments, made prior to March 10, 1917, or of transactions had before March 10, 1917, pursuant to any pro-

visions of law in force when such investment were made or transactions had. (Adopted from 1917 c 80 § 77.) [1955 c 33 § 30.98.040. Formerly RCW 30.98.040.]

30A.98.045 Prior investments or transactions not affected. This title does not affect the legality of investments, made prior to January 5, 2015, or of transactions had before January 5, 2015, pursuant to any provisions of law in force when such investments were made or transactions had. [2014 c 37 § 260.]

30A.98.050 Repeals and saving. See 1955 c 33 s 30.98.050.

30A.98.060 Emergency—1955 c 33. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1955 c 33 § 30.98.060. Formerly RCW 30.98.060.]